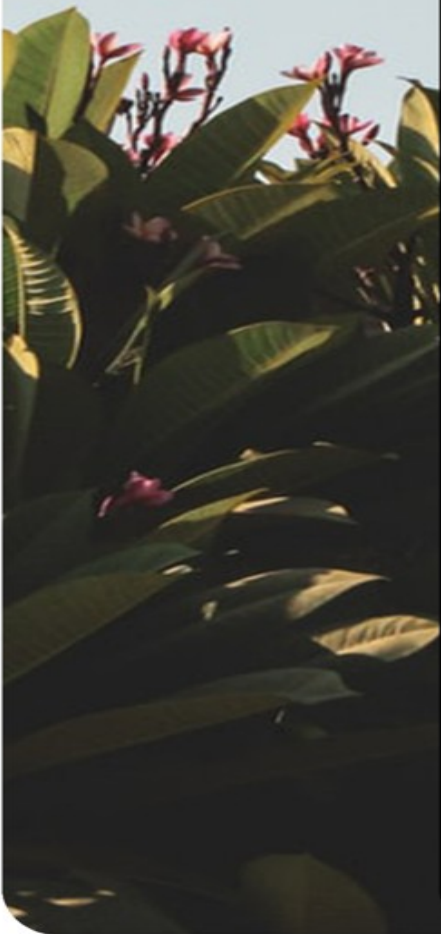


***PARLIAMENT  
OF INDIA***



***TRADE  
MARKS  
ACT,  
1999***



***PARLIAMENT  
OF INDIA***



***TRADE  
MARKS  
ACT,  
1999***

**Parliament of India**

# **Trade Marks Act, 1999**

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Contact: [DigiCat@okpublishing.info](mailto:DigiCat@okpublishing.info)



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Separate paging is given to this Part in order that it may be  
filed as a separate compilation.

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## **MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS**

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### **(Legislative Department)**

*New Delhi, the 30th December, 1999/Pausa 9, 1921  
(Saka)*

The following Act of Parliament received the assent of the  
President on the 30th December, 1999, and is hereby  
published for general information:—

## **THE TRADE MARKS ACT, 1999**

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No.47 OF 1999

[30th December, 1999]

An Act to amend and consolidate the law relating to trade  
marks, to provide for registration and better protection  
of trade marks for goods and services and for the  
prevention of the use of fraudulent marks.

BE it enacted by Parliament in the Fiftieth Year of the  
Republic of India as follows:—

## CHAPTER I

### PRELIMINARY

**1.** (1) This Act may be called the Trade Marks Act, 1999.

Short title,

extent and

commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act, and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

**2.** (1) In this Act, unless the context otherwise requires,—

Definitions and

interpretation.

(a) "Appellate Board" means the Appellate Board established under section 83;

(b) "assignment" means an assignment in writing by act of the parties concerned;

(c) "associated trade marks" means trade marks deemed to be, or required to be, registered as associated trade marks under this Act;

(d) "Bench" means a Bench of the Appellate Board;

(e) "certification trade mark" means a mark capable of distinguishing the goods or services in connection with which it is used in the course of

trade which are certified by the proprietor of the mark in respect of origin, material, mode of manufacture of goods or performance of services, quality, accuracy or other characteristics from goods or services not so certified and registrable as such under Chapter IX in respect of those goods or services in the name, as proprietor of the certification trade mark, of that person;

(f) "Chairman" means the Chairman of the Appellate Board;

(g) "collective mark" means a trade mark distinguishing the goods or services of members of an association of persons (not being a partnership within the meaning of the Indian Partnership Act, 1932) which is the proprietor of the mark from those 9 of 1932. of others; 9 of 1932.

(h) "deceptively similar".—A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion;

(i) "false trade description" means—

(I) a trade description which is untrue or misleading in a material respect as regards the goods or services to which it is applied; or

(II) any alteration of a trade description as regards the goods or services to which it is applied, whether by way of addition, effacement or otherwise, where that alteration makes the description untrue or misleading in a material respect; or

(III) any trade description which denotes or implies that there are contained, as regards the goods to which it is applied, more yards or metres than there are contained therein standard yards or standard metres; or

(IV) any marks or arrangement or combination thereof when applied—

(a) to goods in such a manner as to be likely to lead persons to believe that the goods are the manufacture or merchandise of some person other than the person whose merchandise or manufacture they really are;

(b) in relation to services in such a manner as to be likely to lead persons to believe that the services are provided or rendered by some person other than the person whose services they really are; or

(V) any false name or initials of a person applied to goods or services in such manner as if such name or initials were a trade description in any case where the name or initials—

(a) is or are not a trade mark or part of a trade mark; and

(b) is or are identical with or deceptively similar to the name or initials of a person carrying on business in connection with goods or services of the same description or both and who has not authorised the use of such name or initials; and



(c) is or are either the name or initials of a fictitious person or some person not *bona fide* carrying on business in connection with such goods or services,

and the fact that a trade description is a trade mark or part of a trade mark shall not prevent such trade description being a false trade description within the meaning of this Act;

(j) "goods" means anything which is the subject of trade or manufacture;

(k) "Judicial Member" means a Member of the Appellate Board appointed as such under this Act, and includes the Chairman and the Vice-Chairman;

(l) "limitations" (with its grammatical variations) means any limitation of the exclusive right to the use of a trade mark given by the registration of a person as proprietor thereof, including limitations of that right as to mode or area of use within India or outside India;

(m) "mark" includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof;

(n) "Member" means a Judicial Member or a Technical Member of the Appellate Board

and includes the Chairman and the Vice-Chairman;

(*o*) "name" includes any abbreviation of a name;

(*p*) "notify" means to notify in the Trade Mark Journal published by the Registrar;

(*q*) "package" includes any case, box, container, covering, folder, receptacle, vessel, casket, bottle, wrapper, label, band, ticket, reel, frame, capsule, cap, lid, stopper and cork;

(*r*) "permitted use", in relation to a registered trade mark, means the use of trade mark—

(*i*) by a registered user of the trade mark in relation to goods or services—

(*a*) with which he is connected in the course of trade; and

(*b*) in respect of which the trade mark remains registered for the time being; and

(*c*) for which he is registered as registered user; and

(*d*) which complies with any conditions or limitations to which the registration of registered user is subject; or

(*ii*) by a person other than the registered proprietor and registered user in relation to goods or services—

(*a*) with which he is connected in the course of trade; and

(b) in respect of which the trade mark remains registered for the time being; and

(c) by consent of such registered proprietor in a written agreement; and

(d) which complies with any conditions or limitations to which such user is subject and to which the registration of the trade mark is subject;

(s) "prescribed" means prescribed by rules made under this Act;

(t) "register" means the Register of Trade Marks referred to in sub-section (l) of section 6;

(u) "registered" (with its grammatical variations) means registered under this Act;

(v) "registered proprietor", in relation to a trade mark, means the person for the time being entered in the register as proprietor of the trade mark;

(w) "registered trade mark" means a trade mark which is actually on the register and remaining in force;

(x) "registered user" means a person who is for the time being registered as such under section 49;

(y) "Registrar" means the Registrar of Trade Marks referred to in section 3;

(z) "service" means service of any description which is made available to potential users and includes the provision of services in connection with business of any industrial or commercial matters such as banking, communication, education, financing, insurance, chit funds, real estate,

transport, storage, material treatment, processing, supply of electrical or other energy, boarding, lodging, entertainment, amusement, construction, repair, conveying of news or information and advertising;

(za) "trade description" means any description, statement or other indication, direct or indirect,—

(i) as to the number, quantity, measure, guage or weight of any goods; or

(ii) as to the standard of quality of any goods or services according to a classification commonly used or recognised in the trade; or

(iii) as to fitness for the purpose, strength, performance or behaviour of any goods, being "drug" as defined in the Drugs and Cosmetics Act, 1940, 23 of 1940. or "food" as defined in the Prevention of Food Adulteration Act, 1954; 37 of 1954. or

(iv) as to the place or country in which or the time at which any goods or services were made, produced or provided, as the case may be; or

(v) as to the name and address or other indication of the identity of the manufacturer or of the person providing the services or of the person for whom the goods are manufactured or services are provided; or

(vi) as to the mode of manufacture or producing any goods or providing services; or

(vii) as to the material of which any goods are composed; or

(*viii*) as to any goods being the subject of an existing patent, privilege or copyright, and includes—

(*a*) any description as to the use of any mark which according to the custom of the trade is commonly taken to be an indication of any of the above matters;

(*b*) the description as to any imported goods contained in any bill of entry or shipping bill;

(*c*) any other description which is likely to be misunderstood or mistaken for all or any of the said matters;

(*zb*) "trade mark" means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours; and—

(*i*) in relation to Chapter XII (other than section 107), a registered trade mark or a mark used in relation to goods or services for the purpose of indicating or so as to indicate a connection in the course of trade between the goods or services, as the case may be, and some person having the right as proprietor to use the mark; and

(*iii*) in relation to other provisions of this Act, a mark used or proposed to be used in relation to goods or services for the purpose of indicating or so to indicate a connection in the