

Editorial

Trade marks contain substantial monetary value for a business which is generally ignored by the entrepreneurs. This value can be realised through strategic legal protection and exploitation of brands. This edition of our trade mark newsletter is focused on meaning and significance of brands for business and customers from the point of view of quality, monetary value and publicity considerations. However, legal implications of a registered trade mark have also been provided here for better understanding. We welcome your comments and feedback on contents of this newsletter. You can mail us your comments at ipr@saraswatnet.com

Kind regards,

Dr. Ruchi Upadhyay, *Editor*

Topics

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- ▶ Functions of Trade Marks
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- ▶ Quality Assurance
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Trade Mark & its Benefits

A "Trade Mark" is one of the most valuable assets of a business. The owner of a registered trademark has the "exclusive right" to use the Trade Mark in relation to the goods or services in respect of which it is registered.

A Trade Mark is a visual symbol in the form of a word, a device or a logo or a combination of all applied to articles of commerce with a view to specify the purchasing public that they are the goods manufactured by a particular person or company distinctive from goods manufactured by others.

The Trade Mark owners can create brand loyalty and establish product differentiation by advertising campaigns and other modes of publicity. This results in establishing a desirable goodwill in market and a strong consumer base in order to succeed in cut throat competition posed by new entrants.

Functions of Trade Marks

Trade Marks give indication to the consumer or prospective consumer regarding the manufacture or

quality of goods or services. It offers to the consumer a satisfactory assurance of the mark and quality of the article he is buying.

A Trade Mark performs the following functions:

1. It identifies the goods or services and their origin.
2. The brand itself is the seal of authenticity and goodwill of business.
3. Trade mark guarantees its consistent quality.
4. It advertises the good or services.
5. It creates an image to the business in which it is used.
6. It stimulates prospective consumers.
7. It serves as a symbol of loyalty and affiliation.
8. It may enable consumer to make a life style or fashion statement.

Finally, the registration of a trade mark confers upon the owner the exclusive right to the use of the registered trade mark and indicates so by using the symbol ® in relation to the goods or services in respect of which the mark is registered and seek the relief of infringement in appropriate courts.

Financial Benefits

From an economic point of view, a Trade Mark is a symbol that allows a person to identify goods or services that have been satisfactory in the past, and reject goods or services unable to satisfy the consumer at large.

Microeconomic theory contemplates that trademarks perform at least two important market functions-

1. Encouraging the production of quality products; and
2. Reducing the consumer's shopping cost and enable him to make purchasing decisions.

Hence, Trade Marks play a vital role in our economic system.

Quality Assurance

Trade Marks fix responsibility and assures quality of a particular product being sold under a brand name. In this regard, trademarks perform following functions:

1. In the absence of marks, the sale of low quality products by the vendor would be untraceable to their source.
2. Trademarks create an incentive to keep up a good reputation as to quality of goods.
3. It protects the investment of trademark owner in maintaining the quality of mark and the quality of the goods or services the mark identifies.
4. A certain amount of image differentiation also helps consumers to purchase products of desired quality.

5. Trademark motivates manufacturers, traders or service providers to maintain adequate quality standards.

Publicity Considerations

A trademark is a sort of advertisement which fixes the identity of the article and the name of the producer in the minds of people. For example, Surf, Dalda etc. In this way, they may afterwards use such information themselves and for public at large having similar needs or interests for the article.

If the owner of a mark succeeds in creating a favorable image for its trademark in market, the mark itself can become a significant factor in stimulating sales. This ability of a mark to generate goodwill through publicity has also gained legal recognition.

A trade mark offers following two types of property rights-

1. All the rights attached to the Trade Mark constitute intangible property.
2. The goodwill associated with trademark is a distinct form of property. It can be sold or bought as well as be shared by way of licensing for royalty. For example, McDonalds, Café Coffee Day, Pizza Hut, Haldiram, Delhi Public School etc.

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FACT FILE

The economic importance of brands has become undeniable at both national and international level. For example, when the GDP of Thailand was around \$115 billion in 2001, the combined value of the world's two most valuable brands (Coca-Cola and Microsoft) was \$134 billion.

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