

What You Need to Know About Conditional Acceptance of Trademarks.

What Does it Mean?

A trademark is said to be conditionally accepted when the Registrar grants approval subject to the fulfillment of specific conditions. These conditions typically require the applicant to enter a disclaimer or establish an association with another mark.

Conditional acceptance does not amount to a refusal. Rather, it offers the applicant an opportunity to amend, clarify, or address particular conditions imposed on the application before the mark can proceed to publication or registration.

Circumstances Leading to Conditional Acceptance

A trademark may be conditionally accepted due to:

1. Similarity with earlier marks on the Register.
2. Use of descriptive , generic or non-distinctive terms.
3. Presence of Geographical indications or common trade terms.
4. Visual or phonetic similarity with another co-pending or registered mark.

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Disclaimers

This is a common condition imposed during trademark examination, requiring applicants to disclaim exclusive rights to descriptive, generic, or otherwise non-distinctive elements within a mark. Such disclaimers ensure that terms essential to fair competition and everyday commerce remain freely available to all traders.

For example, in the trademark **“STARBUCKS COFFEE,”** the Registrar would require a disclaimer of the word **“COFFEE,”** recognizing it as a generic term for the goods. By disclaiming exclusive rights to such terms, the trademark office preserves public access to common language while maintaining protection for the composite mark in its entirety.



STARBUCKS COFFEE

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Association

The Registrar requires association when two or more trademarks owned by the same proprietor share identical or similar features and are registered in the same class or cover related goods or services. This linkage prevents consumer confusion that could arise if such marks were held by different owners, ensuring consistent brand ownership and market clarity.

Example: **Apple Inc.** holds trademarks like **“Apple”** and **“Apple Watch”** both in Class 9 (electronics). Due to their similarity and classification, these marks are associated to maintain a unified control and brand integrity.

When Do You File?

The issuance of a disclaimer or association is at the discretion of the Registrar of Trademarks. Upon receiving the conditional acceptance letter, the applicant will be explicitly informed of the specific element(s) of the mark required to be disclaimed or the existing mark(s) with which the application must be associated.

The applicant would be required to remit the corresponding disclaimer or association fee within 30 days from the date of the Registrar's notice. Timely compliance with these requirements is essential to avoid the risk of the trademark application being deemed withdrawn or abandoned. Once all conditions are met and fees paid, the application will proceed to publication in the official journal.

Conclusion

Conditional acceptance is a regulatory tool used to ensure that trademarks comply with legal requirements and do not conflict with existing rights. While applicants are encouraged to comply with the conditions imposed by the Registrar, they are not bound to accept them without question.

Where an applicant considers a condition to be unwarranted, they may opt to challenge it by submitting a considered reply in the form of written representation contesting the Registrar's position.

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