

BRIEF NOTE

ANALYSIS OF DRAFT TRADE MARKS (HOLDING INQUIRY AND APPEAL) RULES, 2024

The Draft Trade Marks (Holding Inquiry and Appeal) Rules, 2024, introduced by the Ministry of Commerce and Industry on 1st July, aim to update the Trade Marks Rules, 2017. The proposed changes focus on enhancing efficiency, clarity, and accessibility for legal professionals and trademark applicants. Complaints regarding violations under Section 107 of the Trade Marks Act can be submitted electronically using Form-I.

Inquiry Process: -

- 1. Issuance of Notice:** The adjudicating officer issues a notice electronically to the person accused of contravention, specifying a response period of no less than seven days. This ensures that the accused is adequately informed and has time to prepare a defense.
- 2. Details of Allegation:** The notice must clearly outline the specific violation alleged, providing transparency regarding the charges and relevant legal provisions.
- 3. Response and Hearing:** If the adjudicating officer decides to proceed with an inquiry after reviewing the response, a notice is issued for a hearing. The accused can appear in person or through a legal representative. This step ensures fair hearing and due process.
- 4. Explanation and Defense:** During the hearing, the adjudicating officer explains the alleged violation and relevant sections of the Act. Then the accused may submit a counter-statement and present evidence using Form-II.
- 5. Evidence Collection:** The adjudicating officer can summon any person to provide evidence or produce documents pertinent to the inquiry. This ensures comprehensive fact-finding.
- 6. Proceeding in Absence:** If the accused fails to appear, the adjudicating officer may proceed in their absence, provided the reasons are recorded. This prevents unnecessary delays.
- 7. Conclusion and Penalty:** If the adjudicating officer finds the accused guilty based on the evidence, a written order is issued, specifying the violation and reasons for the penalty. This promotes transparency and accountability.
- 8. Order Details:** The final order is dated, signed, and provided free of cost to the concerned party. The inquiry process aims to be completed within three months from the issuance of the notice, ensuring timely resolution.

Appeal Process

- 1. Filing an Appeal:** Aggrieved parties can file an appeal electronically using Form-III within sixty days of the order. The appellate authority may accept late appeals if justified, providing flexibility in exceptional cases.
- 2. Notice to Respondent:** The appellate authority issues a notice to the respondent to file a reply within a specified period, ensuring that both parties are heard.
- 3. Hearing and Decision:** After considering both parties' arguments, the appellate authority issues a reasoned order, typically within sixty days of receiving the appeal. This ensures thorough deliberation and fairness.

Communication and Time Extensions

- 1. Electronic Communications:** All communications are conducted electronically, with proper addressing and transmission considered sufficient proof. This ensures efficient and quick communication.

2. Extension of Time: The adjudicating officer or appellate authority can extend any specified period for reasonable cause, provided the reasons are documented. This flexibility accommodates unforeseen delays.

Orders and Penalties

1. Digital Orders: Orders are dated, digitally signed, communicated to all parties, and uploaded on the Intellectual Property India website, ensuring transparency and accessibility.

2. Allocation of Penalties: Penalties collected are credited to the Consolidated Fund of India, ensuring proper allocation of fines.

Conclusion

The Draft Trade Marks (Holding Inquiry and Appeal) Rules, 2024, propose a clear and efficient framework for handling trademark disputes. By emphasizing electronic processes, timely resolution, and transparency, these rules aim to enhance India's trademark adjudication system's efficiency and fairness. The government has published draft rules for public review. These rules will be considered for implementation 30 days after the Gazette of India containing them becomes publicly available. Members of the public may submit objections or suggestions to the Secretary, Department for Promotion of Industry and Internal Trade, Ministry of Commerce and Industry. Submissions can be sent either by post to Vanijya Bhawan, New Delhi-110001, or via email to ipr4-dipp@nic.in. This notice ensures transparency and allows for public input before the rules are finalized.

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