

Trademark Opposition Checklist (India)

Step-by-step checklist for filing trademark opposition under the Trade Marks Act 1999

HOW TO USE THIS TEMPLATE

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| 1. | This document: Trademark Opposition Checklist (India). |
| 2. | Fill all bracketed fields before use. |
| 3. | Template only — not a substitute for qualified legal advice. |

1. OPPOSITION FUNDAMENTALS

The 4-Month Window. Under Section 21 of the Trade Marks Act 1999, any person may oppose a trademark application within 4 months of publication in the Trade Marks Journal. This deadline is absolute — no extension is available under any circumstances. Monitor the TM Journal weekly for applications that conflict with your marks.

Form and Fees. Form TM-O (Notice of Opposition): Rs. 2,700 per mark per class (startup DPIIT rate); Rs. 4,500 (standard rate). Pay at the time of filing. File online at ipindiaonline.gov.in.

Who Can Oppose. Any person — not just registered trademark owners. A person with common law (unregistered) rights, a competitor, or any interested party may oppose. However, your opposition is significantly stronger with a registered mark.

Grounds Overview. Section 11(1): likelihood of confusion with your earlier mark for identical or similar goods/services. Section 11(2): your mark is well-known — protects across all classes. Section 11(3): passing off basis — common law rights. Section 11(10): bad faith filing. Section 9: absolute grounds — the applied-for mark lacks distinctiveness or is descriptive.

2. EVIDENCE REQUIRED

Evidence of Your Rights. Registration certificate; evidence of use in commerce — invoices, brochures, advertisements, packaging, website screenshots (all dated); evidence of reputation — media coverage, awards, annual turnover data, advertising expenditure by year. Build a chronological evidence file showing use from first use to the present.

Evidence of Conflict. Side-by-side visual comparison; phonetic comparison (how are both marks pronounced?); conceptual comparison (what do both marks mean or suggest?); overlap of goods or services; and if alleging bad faith — evidence of the applicant's awareness of your mark.

Well-Known Mark Evidence. If relying on Section 11(2): evidence of recognition across different consumer segments; survey evidence if available; media and press references showing national or international reputation; and any prior court orders recognising the mark as well-known.

Evidence Strength. Contemporary, dated business records are strongest. Photographs with EXIF metadata, GST invoices, domain registration records, and signed customer contracts all carry weight. Internal documents without independent corroboration carry less weight.

3. THE OPPOSITION PROCEDURE

After Filing. (a) Registrar transmits copy of opposition to the applicant; (b) applicant has 2 months to file a counter-statement — if no counter-statement, application is deemed abandoned and you win by default; (c) if counter-statement filed, parties file evidence by affidavit; (d) hearing scheduled before the Registrar; (e) Registrar issues decision. Total: 1–4 years.

Evidence Stage Sequence. Opponent files evidence first (within time specified by Registrar); applicant files evidence in support; opponent may file evidence in reply. Gaps in evidence are exploited — file all available evidence at the first stage.

Appeal Rights. Registrar's decision can be appealed to the High Court under Section 91. Appeals add 1–3 further years. Budget Rs. 2,00,000–8,00,000 for a contested opposition with appeal.

4. OPPOSITION FILING CHECKLIST

- TM Journal monitored — conflicting application identified and publication date confirmed
- 4-month deadline calculated and calendared from publication date
- Opposition grounds identified — Section 9, 11(1), 11(2), 11(3), 11(10)
- Evidence file compiled — registration certificate, use evidence, reputation evidence
- Form TM-O completed with full particulars of opponent and opposed mark
- Statement of opposition drafted — all grounds stated specifically
- Filing fee Rs. 2,700 per class paid and receipt obtained
- Power of attorney executed for trademark attorney
- Copy of notice filed with all exhibits served on applicant
- Counter-statement deadline (2 months) calendared
- Budget for full opposition proceedings approved

IMPORTANT NOTE

Working template for Trademark Opposition Checklist (India). Verify requirements with a qualified IP advocate.

BUILDING STRONG OPPOSITION EVIDENCE — ADVANCED GUIDANCE

Trademark opposition evidence must be compelling, contemporaneous, and comprehensive. The most effective oppositions combine multiple evidence streams: (1) Documentary evidence of use — GST invoices showing sales under the mark, purchase orders, shipping documents, and bank statements showing revenue from the marked goods are the gold standard. Each document should show the trademark clearly and b

e dated. Compile documents going back as far as possible — the earlier your first use, the stronger your priority claim. (2) Advertising and promotional evidence — marketing materials, social media campaigns, press releases, exhibition participation, and advertising invoices showing expenditure. Google Analytics screenshots showing website traffic to branded pages, when combined with SET-up date e

vidence, establish both use and awareness. (3) Third-party recognition — awards received, media articles, analyst reports, and distributor or customer testimonials that independently confirm the brand's reputation in the market. Awards from industry bodies, government schemes, and startup competitions are particularly effective. (4) Survey evidence — while expensive (Rs. 5 to 15 lakhs for a profes

sional consumer survey), survey evidence directly measuring brand recognition is the most powerful evidence for well-known mark claims under Section 11(2). For disputes involving significant commercial stakes, a consumer survey is worth commissioning. The opponent in a trademark opposition bears the burden of establishing their rights and the conflict. Prepare your evidence file as if every docume

nt will be challenged — because in a contested opposition, it will be. Maintain originals and certified copies of all key documents. Have your trademark attorney review the evidence file before filing the opposition notice. The statement of grounds filed with the opposition sets out the legal framework; the evidence filed subsequently proves the facts. Ensure perfect alignment between the two.

ADDITIONAL COMPLIANCE GUIDANCE AND BEST PRACTICES

ADDITIONAL GUIDANCE ON COMPLIANCE AND BEST PRACTICES. Indian IP law continues to evolve rapidly, with the Patent Office, Trade Marks Registry, and Copyright Office all implementing digital transformation initiatives that affect how IP is filed, prosecuted, and enforced. The Patents Amendment Rules 2024 introduced new provisions for startup fee concessions and updated the examination procedure timelines. The Trade Marks Act 1999 has been interpreted by courts in a growing body of decisions that clarify how confusion is assessed, how well-known

marks are recognised, and how bad faith is established. The DPDP Act 2023 has implications for IP-linked customer data and product development processes. For each IP action described in this document, the Company should consult a qualified IP advocate licensed to practice before the Indian Patent Office and Trade Marks Registry. IP advocates combine technical expertise with legal training specific to Indian IP law. When selecting an IP advocate, assess: their specific experience in your technology sector or product category;

their track record at the relevant Patent Office branch or Trade Marks Registry; and their ability to coordinate international filings through their network of foreign associates. The IP Manager should maintain a master calendar tracking all IP filing deadlines, prosecution response deadlines, renewal dates, and opposition window close dates. IP deadlines are typically non-extendable and missing them can result in permanent loss of rights. Use a dedicated IP management tool or a carefully maintained calendar system with triple-reminder alerts. Document

all IP decisions and the reasoning behind them. When the Company decides not to file a patent application for a particular technology, document the decision and reasoning. When a trademark opposition is decided not to pursue, document the decision. This decision trail is important for investor due diligence, management continuity, and defence of subsequent IP disputes. Build a quarterly IP Committee meeting cadence: the IP Manager, CTO or Head of Product, CFO, and CEO should review IP programme status, upcoming

decisions, and strategic IP priorities every quarter. This keeps IP on the leadership agenda and ensures that commercial and technical strategy is aligned with IP investment decisions. The IP Committee meeting should produce a brief written record of decisions taken and actions assigned. International IP coordination requires proactive management of priority deadlines. The Paris Convention priority period of 12 months for patents and 6 months for trademarks and designs starts from the Indian filing date. If international protection is planned,

calendar these priority deadlines immediately on the Indian filing date. The cost of filing internationally increases significantly if priority is not claimed because prior art in the intervening period may destroy novelty. Budget for professional indemnity insurance for the IP function. As IP becomes a larger component of the Company's value and IP decisions involve significant financial stakes, the IP Manager and the Company's IP counsel should be appropriately insured against errors and omissions. Review the IP programme's documentation quality

annually. The best IP strategy is undermined by poor documentation. Every IP right should have a complete file: the registration or application document, all prosecution history, all renewal receipts, and all related agreements. Files should be backed up in at least two locations and access-controlled to prevent inadvertent deletion. Template only. Not legal advice. Consult a qualified IP advocate for all decisions affecting the Company's intellectual property rights.