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SIX SIGMA QUALITY INTERNATIONAL

Letter No.: SSQI/CO/ADM/L/11-12/92

To,
Delegates,

Sub: TRADE-MARK & COPYRIGHT SERVICES

Six Sigma Quality International, Mumbai

PRESENTS

TRADE-MARK & COPYRIGHT SERVICES

Dear Sir/Madam,

Six Sigma Quality International, Mumbai is pleased to offer Six Sigma **TRADE-MARK & COPYRIGHT SERVICES** at lowest fees within short duration.

Why Trademark Registration

Those who choose to register trademarks will benefit hugely from the security and legal protection that a registered mark provides. Your registered mark will be protected against the unauthorized use of the mark by third parties and you will have the right to sue for damages in cases of passing off or infringement. Having a registered trademark will help you achieve greater deterrence from competitors adopting your mark as their own, or from companies using confusingly similar marks. An official mark is also an effective marketing tool and helps companies achieve effective brand loyalty and protection. One of the main reasons to register a mark is so you can hold exclusivity over a particular identity which ultimately adds value to your company and brand.

LEGISLATION (INDIA TRADEMARK LAW)

The Indian law of trademarks is enshrined the new Trade Marks Act, 1999 came into force with effect from September 15, 2003. The old Trade and Merchandise Marks Act, 1958 was repealed at the same time. The new Trademarks Act of 1999 is in line with the WTO recommendations and is in conformity with the TRIPS Agreement to which India is a signatory.

MAIN FEATURES OF NEW LEGISLATION IN INDIA

Under the new Trademarks Act of 1999:

- Registration of Service Marks allowed in addition to Trademarks for goods.
- No separate application necessary for each category/class of goods or services; a single application would do, however filing fee will be charged separately for each class of goods/services.
- The term of registration of trademark is ten years, subject to renewal thereafter.
- The system of maintaining registration of trademark in Part A and Part B with different legal rights, dispensed away.
- Registration of trademarks which are imitations of well known trademarks not permitted.
- Registration of Collective Marks owned by associations allowed.
- Offences relating to trademark made cognizable.
- Filing Fees enhanced by more than 8 times.
- Extension of application of convention countries.

TRADEMARKS IN INDIA - FAQ'S

WHAT IS A TRADEMARK

A 'Mark' may consist of a word or invented word, signature, device, letter, numeral, brand, heading, label, name written in a particular style, the shape of goods other than those for which a mark is proposed to be used, or any combination thereof or a combination of colors and so forth. Subject to certain conditions, a trademark may also be symbolized by the name of a person, living or dead.

For the purpose of registration, a mark chosen should be capable of distinguishing goods or services of one person from those of the others. Further it should not be deceptively similar to an existing mark of another person and not the one expressly prohibited under the Act.

The marks devoid of any distinctive character, or which are only indicative of the kind, quality, quantity, purpose, value or geographical origin of the goods, or which are marks already in vogue in the trade due to their customary use may not be registered. But these disqualifications do not apply to marks, which have already acquired distinction due to their popularity and consistent use. Internationally acclaimed brand names are freely available for use in India.

WHAT IS COVERED UNDER TRADEMARKS

A trademark is a mark used in relation to goods or services so as to indicate a connection in the course of trade between the goods or services and some person having the right as proprietor to use the mark.

WHAT IS THE FUNCTION OF A TRADEMARK

Under modern business condition a trade mark performs four functions:

- It identifies the goods / or services and its origin.
- It guarantees its unchanged quality

- It advertises the goods/services
- It creates an image for the goods/ services.

HOW TO SELECT A TRADEMARK

- If it is a word it should be easy to speak, spell and remember.
- The best trade marks are invented words or coined words.
- Please avoid selection of a geographical name. No one can have monopoly right on it.
- Avoid adopting laudatory word or words that describe the quality of goods (such as best, perfect, super etc)
- It is advisable to conduct a market survey and a search at Trademark office to ascertain if same/similar mark is used in market.

WHAT ARE THE TYPES OF TRADEMARKS THAT CAN BE REGISTERED

Under the Indian trademark law the following are the types of trademarks that can be registered:

- Product trademarks: are those that are affixed to identify goods.
- Service trademarks: are used to identify the services of an entity, such as the trademark for a broadcasting service, retails outlet, etc. They are used in advertising for services.
- Certification trademarks: are those that are capable of distinguishing the goods or services in connection with which it is used in the course of trade and which are certified by the proprietor with regard to their origin, material, the method of manufacture, the quality or other specific features
- Collective trademarks: are registered in the name of groups, associations or other organizations for the use of members of the group in their commercial activities to indicate their membership of the group.

WHAT ARE DIFFERENT TYPES OF TRADEMARKS AVAILABLE FOR ADOPTION

- Any name (including personal or surname of the applicant or predecessor in business or the signature of the person), which is not unusual for trade to adopt as a mark.
- An invented word or any arbitrary dictionary word or words, not being directly descriptive of the character or quality of the goods/service.
- Letters or numerals or any combination thereof.
- The right to proprietorship of a trade mark may be acquired by either registration under the Legislation or by use in relation to particular goods or service.
- Devices, including fancy devices or symbols
- Monograms
- Combination of colors or even a single color in combination with a word or device
- Shape of goods or their packaging
- Marks constituting a 3- dimensional sign.
- Sound marks when represented in conventional notation or described in words by being graphically represented.

WHO CAN APPLY FOR A TRADEMARK

A person who claims to be the proprietor of the trademark can apply for the registration of its mark for goods as well services.

A person may apply for registration of a trade mark to the Trademark office under whose jurisdiction the principal place of the business of the applicant in India falls.

In case, the principal place of business is outside India, then the application can be filed in the Trademark office under whose jurisdiction the office of the lawyer appointed by you is located.

In case of a company about to be formed, anyone may apply in his name for subsequent assignment of the registration in the company's favor.

Before making an application for registration it is prudent to conduct a trademark search in the Trademark office in context of the already registered trademarks to ensure that registration may not be denied in view of resemblance of the proposed mark to an existing one or prohibited one.

WHO CAN USE A TRADEMARK

The right to use a mark can be exercised either by the registered proprietor or a registered user.

WHAT ARE LEGAL REQUIREMENTS FOR REGISTRATION OF TRADEMARK IN INDIA

The legal requirements to register a trade mark under the Legislation are:

- The selected mark should be capable of being represented graphically (that is in the paper form).
- It should be capable of distinguishing the goods or services of one undertaking from those of others.
- It should be used or proposed to be used mark 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 and some person have the right to use the mark with or without identity of that person.

WHAT IS THE DURATION OF A TRADEMARK IN INDIA?

Term of registration of a trademark is ten years, which may be renewed for a further period of ten years on payment of prescribed renewal fees.

Non-user of a registered trademark for a continuous period of five years is a ground for cancellation of registration of such trademark at the behest of any aggrieved party.

CONVENTION APPLICATION AND INTERNATIONAL TREATIES

India has declared certain countries as convention countries, which afford to citizens of India similar privileges as granted to its own citizens. A person or company from a convention country, may within six months of making an application in the home country, apply for registration of the

trademark in India. If such a trademark is accepted for registration, such foreign national will be deemed to have registered his or her trademark in India, from the same date on which he or she made application in the home country.

Where the applications have been made for the registration of trademark in two or more convention countries, the period of six months would be reckoned from the date on which the earlier or earliest of those applications was made.

Although the recovery of damages for infringement of a trademark is possible only if the infringement takes place after the date of filing application for registration with the concerned trademark office in India, yet the deemed seniority in making application in home country may entitle the applicant to initiate an action in India for injunction, delivery of impugned labels and so on.

WHAT ARE BENEFITS OF TRADEMARK REGISTRATION

The registration of a trade mark confers upon the owner the exclusive right to the use of the registered trade mark and indicate so by using the symbol (R) in relation to the goods or services in respect of which the mark is registered and seek the relief of infringement in appropriate courts in the country. The exclusive right is however subject to any conditions entered on the register such as limitation of area of use etc. Also, where two or more persons have registered identical or nearly similar mark due to special circumstances such exclusive right does not operate against each other.

REMEDIES FOR INFRINGEMENT OF TRADEMARK IN INDIA AND PASSING-OFF

Two types of remedies are available to the owner of a trademark for unauthorized use of his or her mark or its imitation by a third party. These remedies are:

- an action for infringement' in case of a registered trademark; and
- an action for passing off' in the case of an unregistered trademark

While former is a statutory remedy, the latter is a common law remedy. In an action involving infringement or passing off, a court may grant relief of injunction and/or monetary compensation for damages for loss of business and/or confiscation/destruction of infringing labels and tags etc. Although registration of trademark is prima facie an evidence of validity of a trademark, yet the registration can not upstage a prior consistent user of trademark, for the rule is 'priority in adoption prevails over priority in registration` .

HOW TO APPLY FOR REGISTRATION OF A TRADEMARK IN RESPECT OF PARTICULAR GOODS OR SERVICES

Goods and services are classified according to the International Classification of goods and services. Currently schedule IV of the Legislation provides a summary of list of such goods and services falling in different classes which is merely indicative. The Registrar is the final authority in the determination of the class in which particular goods or services fall. The Schedule IV of the Legislation is annexed at the end of this questionnaire on trade marks.

WHAT PURPOSE THE TRADEMARK SYSTEM SERVES

- It identifies the actual physical origin of goods and services. The brand itself is the seal of authenticity.
- It guarantees the identity of the origin of goods and services.
- It stimulates further purchase.
- It serves as a badge of loyalty and affiliation.
- It may enable consumer to make a life style or fashion statement.

WHO BENEFITS FROM TRADEMARK REGISTRATION

The Registered Proprietor: The Registered Proprietor of a trade mark can stop other traders from unlawfully using his trade mark, sue for damages and secure destruction of infringing goods and or labels.

The Purchaser and ultimately Consumers of trademarks goods and services.

The Government: The Trademarks Registry is expected to earn a substantial annual revenue, which is perpetually on the rise.

WHAT DOES THE REGISTER OF TRADEMARK CONTAIN

The register of trade mark currently maintained in electronic form contains inter alia the trade mark the class and goods/ services in respect of which it is registered including particulars affecting the scope of registration of rights conferred or disclaimers, if any; the address of the proprietors; particulars of trade or other description of the proprietor; the convention application date (if applicable); where a trade mark has been registered with the consent of proprietor of an earlier mark or earlier rights, that fact.

CAN ANY CORRECTION BE MADE IN THE APPLICATION OR THE REGISTER OF TRADEMARKS

Yes. But the basic principle is that the trade mark applied for should not be substantially altered affecting its identity. Subject to this changes are permissible according to rules detailed in the subordinate legislation.

CAN A REGISTERED TRADEMARK BE REMOVED FROM THE REGISTER

It can be removed on application to the Registrar on prescribed form on the ground that the mark is wrongly remaining on the register. The Registrar also can suo moto issue Notice for removal of a registered trade mark. Non use of a registered trademark for continuous period of 5 years is also a ground of removal.

CAN I APPLY FOR A DESIGN/LOGO REGISTRATION FOR SAME GOODS AND SERVICES IN BLACK & WHITE AS WELL AS COLOR

Yes. You can do so in one application as India recognizes the system of series application.

WHAT RECOURSE I HAVE IF A COMPETITOR HAS ALREADY REGISTERED MY MARK IN INDIA

The Indian trademark law provides for invalidation proceedings and you have the right to initiate a cancellation action should a competitor have registered your trademark in India. You also have the right to initiate either a civil or a criminal action against any party that is violating your mark in India.

WHO CAN USE SYMBOL ® IN INDIA

Only the proprietor of a trademark whose trademark has been registered in India can use the symbol ® in India. Using the symbol ® unless your mark has been registered in India is unlawful.

WHEN CAN THE SYMBOL ™ BE USED IN INDIA

Using this symbol with your trademark simply implies that you claim to be the proprietor of the trademark. There is no prohibition on the use of the symbol ™ in India.

WHAT IS THE PENALTY PRESCRIBED UNDER CRIMINAL LAWS FOR INFRINGEMENT OF A TRADEMARK IN INDIA

The penalty for selling or providing services using a false trademark is a minimum of six months and maximum of three years and with fine not less than Rupees fifty thousand but which may extend to Rupees two lakh.

AS A FOREIGN INVESTOR HOW CAN I REGISTER MY TRADEMARK IN INDIA

Registration of trademarks is one of the important protections that businesses should avail in India. Many foreign and domestic Applicants have been able to successfully register their marks in India. Indian courts have upheld many of those registrations and granted favorable decisions to rights holders.

In addition to the registering of their trademarks in India, businesses need to adopt other strategies for protecting their trademarks. Some of them are mentioned below:

- Get trademark searches conducted in the Indian Trade Marks Registry in the classes that are of interest to you including the ancillary classes.
- Get common law searches (this includes the internet, market surveys, yellow pages and directories) conducted to ascertain whether third parties are using your trademarks and if so, the extent of such use.
- Based on this information and after seeking the local counsel's opinion decide if the trademark is available for use or not.
- Should the trademark be available for use, immediately apply for the registration.
- The rights holder should also consider hiring a watching service to monitor the trademark journals in order to alert them to any published, deceptively similar trademarks or descriptive trademarks that might be of concern.
- Should the rights holder own a trademark that has been used and has acquired goodwill and reputation, it is advisable that along with filing of the trademark application in India, they should also make press releases, publish cautionary notices and advertise the mark to ensure that the relevant section of the public is aware that they are entering the Indian market and are protecting their trademark from any kind of third party violation.
- The rights holder should also take immediate steps to register their domain names including country coded top level domain names in India, as there have been many instances of third parties registering domains for certain well known marks with the intention of extracting money by selling these domain names to the rights holders.
- Should the rights holder discover that their trademark is being infringed, they should take immediate steps to protect their trademark, either by the means of filing oppositions, cancellations, conducting investigations, sending cease and desist notices or initiating appropriate civil and criminal actions.

AS A FOREIGN CORPORATION CAN I FILE A SINGLE APPLICATION FOR USE OF MY MARK ON MORE THAN ONE GOOD OR IN ASSOCIATION WITH MORE THAN ONE SERVICE IN INDIA

Yes. India recognizes the system of multi-class applications and follows the International Classification. There are 42 classes in which the goods and services have been divided in India and you can file for multi-class applications both for goods and services.

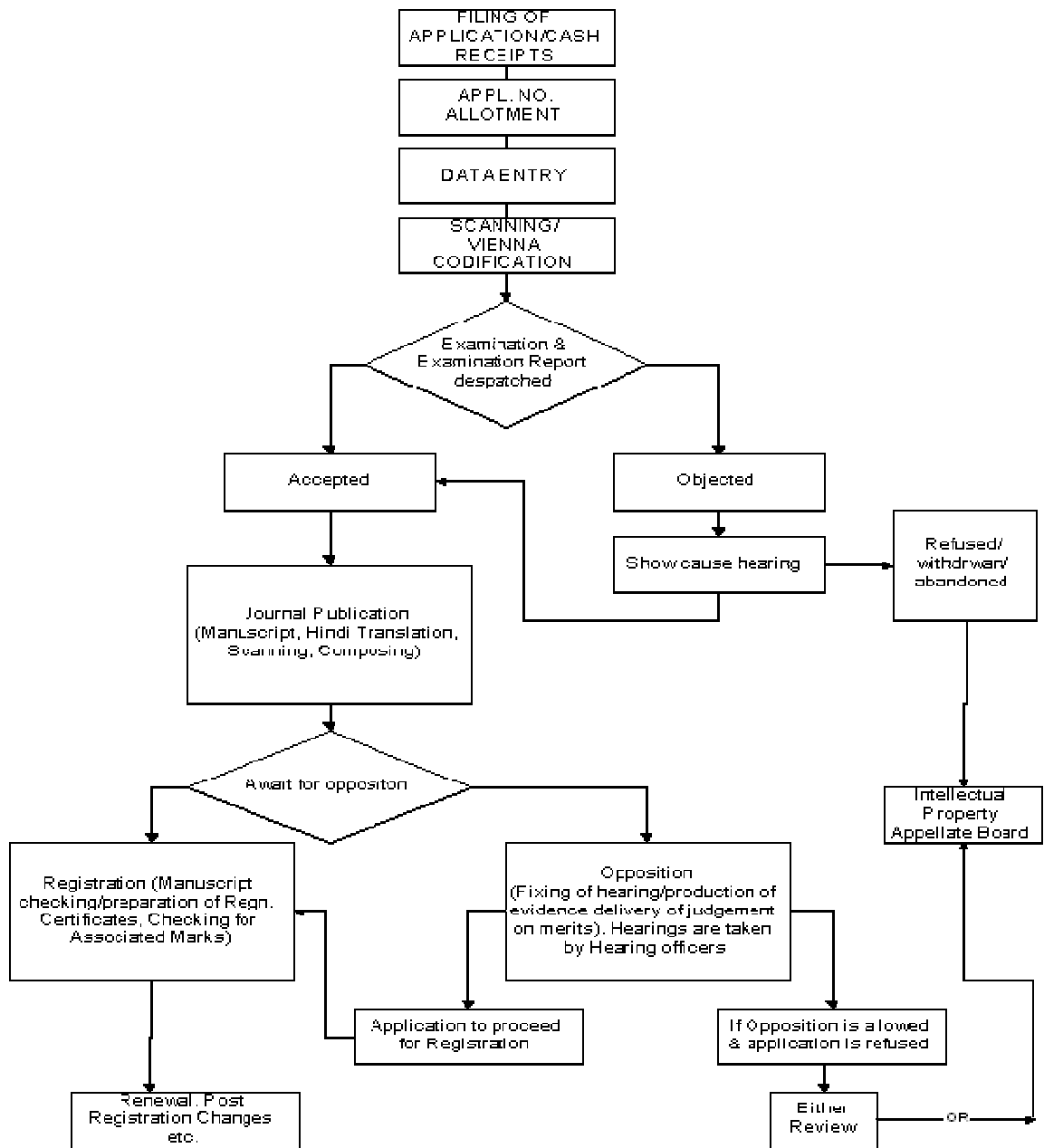
BEING A FOREIGN CORPORATION, MUST I SELL MY PRODUCTS OR SERVICES IN INDIA BEFORE SEEKING TRADEMARK REGISTRATION

No, Indian trademark law allows filing of a trademark application in India on an 'intent-to-use' basis. However the registered proprietor of the trademark in India has to commence use of the mark within 5 years and 3 months of the date of registration. Otherwise the registered trademark is open to invalidation proceedings.

WHAT ARE THE SOURCES OF TRADEMARK LEGISLATION

- The national statute i.e., the Trade Marks Act,1999 and rules made there under .
- International multilateral convention.
- National bilateral treaty.
- Regional treaty.
- Decision of the courts.
- Office practice and rulings
- Decision of Intellectual Property Appellate Board.
- Text books written by academician and professional experts.

TMR Flow Chart



Select the class, where your goods and service best suite. **Tick one or more class**

THE FOURTH SCHEDULE TO TRADE MARKS RULES, 2002

Classification of goods and services – Name of the classes

(Parts of an article or apparatus are, in general, classified with the actual article or apparatus, except where such parts constitute articles included in other classes).

Class 1. Chemical used in industry, science, photography, agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesive used in industry

Class 2 . Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordents; raw natural resins; metals in foil and powder form for painters; decorators; printers and artists

Class 3 . Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices

Class 4 . Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels(including motor spirit) and illuminants; candles, wicks

Class 5 . Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; materials for stopping teeth, dental wax; disinfectants; preparation for destroying vermin; fungicides, herbicides

Class 6. Common metals and their alloys; metal building materials;

transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores

Class 7 . Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements other than hand-operated; incubators for eggs

Class 8 . Hand tools and implements (hand-operated); cutlery; side arms; razors

Class 9 . Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus

Class 10 . Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopaedic articles; suture materials

Class 11 . Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes

Class 12 . Vehicles; apparatus for locomotion by land, air or water

Class 13 . Firearms; ammunition and projectiles; explosives; fire works

Class 14 . Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and other chronometric instruments

Class 15. Musical instruments

Class 16 . Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks

Class 17 . Rubber, gutta percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal

Class 18 . Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides, trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery

Class 19 . Building materials, (non-metallic), non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

Class 20 . Furniture, mirrors, picture frames; goods(not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother- of-pearl, meerschaum and substitutes for all these materials, or of plastics

Class 21 . Household or kitchen utensils and containers(not of precious metal or coated therewith); combs and sponges; brushes(except paints brushes); brush making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes

Class 22 . Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes) padding and stuffing materials(except of rubber or plastics); raw fibrous textile materials

Class 23 . Yarns and threads, for textile use

Class 24 . Textiles and textile goods, not included in other classes; bed and table covers.

Class 25 . Clothing, footwear, headgear

Class 26 . Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers

Class 27 . Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings(non-textile)

Class 28 . Games and playthings, gymnastic and sporting articles not included in other classes; decorations for Christmas trees

Class 29 . Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats

Class 30 . Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice

Class 31 . Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt

Class 32 . Beers, mineral and aerated waters, and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages

Class 33 .Alcoholic beverages(except beers)

Class 34 . Tobacco, smokers' articles, matches

SERVICES

Class 35 .Advertising, business management, business administration, office functions.

Class 36 .Insurance, financial affairs; monetary affairs; real estate affairs.

Class 37 . Building construction; repair; installation services.

Class 38 . Telecommunications.

Class 39 . Transport; packaging and storage of goods; travel arrangement.

Class 40 . Treatment of materials.

Class 41 . Education; providing of training; entertainment; sporting and cultural activities.

Class 42 . Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

Class 43 . Services for providing food and drink; temporary accommodation.

Class 44 . Medical services, veterinary services, hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

Class 45 . Legal services; security services for the protection of property and individuals; personal and social services rendered by others to meet the needs of individuals.

DURATION:

Approx 1 to 2 weeks to get your registration receipt [Timings: 10.00 am to 7.00 pm]

a) FEES:

Standard Market Fees: 10000.00 per trademark/service mark

Special Discount 30% off

Payable Amount: Rs. 6500.00/per class only including search charge of Rs 600/- for limited period only

Plus Service tax @10.3% extra

Cheque / DD in favour of **“Six Sigma Quality International, Mumbai”**

b) REGISTRATION:

You may send in your duly filled form to the co-ordinator, SSQI, on the Registration form at the following address along with the fees.

Mukesh Singh

107/108, Mehta Chambers, Station Road

Vasai (W), Thane(Mumbai)-401202

Email : info@sixsigma-tqm.com

Tel: 0250-2341170 Fax : Ext 206

Mob : 9322728183/9323717375

Fees once paid will not be refunded, however it could be adjusted against the next course for the same financial year.

c) TERMS & CONDITIONS:

- I. SIX SIGMA Quality International general terms and conditions will be applicable for qualification of personnel.
- II. Registration Fees shall be send in advance through cheque / DD in favor of **“Six Sigma Quality International”** Payable at Mumbai
- III. Travel & Subsistence will be charged on actual for outstation registration except Mumbai.

Mukesh Singh

For Six Sigma Quality International

ADDITIONAL REPRESENTATION

(Affix your logo/brand name which you want to register)

NAME OF APPLICANT :

ADRESS :

CLASS :

SERVICE :

TRADE DISCRIPTION :

USER :

PLACE :

DATED :

NAME OF COMPANY:

SIGNATURE:

NAME

(PROPRIETOR)

CONTACT NO.
STAMP.