

REPLY FOR TRADE OBJECTION

To,

Date: DD.MM.YY

The Registrar of Trade Marks,

Trademark Registry, _____

Sub: Reply to Examination Report Dated on: DD.MM.YY

Ref: Application Number – _____ in class __

We are in receipt of the Examination Report in respect of the Trademark Application bearing the Application Number as “_____” of the Hon’ble Trademark Office.

In view of the above, we most humbly submit our Para wise reply to the objections raised by the Learned Examiner/and which are outlined below for your most kind perusal please.

At the outset, we would like to draw your most kind attention to the following:

The mark that is applied for registration under Application No. “_____” is a Device mark.

The mark that is applied for registration under application no. “_____” caters to provides services which are given below:

Class 45: Legal and Security Services

- It is pertinent to mention here that the mark used in the application for registration is distinctive in its character as it has varied features that are distinguishable in nature. The mark in any manner is not showcasing the intended purpose of the services rendered by our firm as we deal in other key areas as well such as Financing, Audit, Income Tax return, and is not only limited to provide legal services
- The word “XYZ” used in the Logo together the combination of words has acquired distinctiveness by virtue of prior, continuous and extensive use and therefore is protected. The detail explanation of trademark identified in the annexed exam report is as follows:

The objection is raised under Section 9(1) (b) of the Trade Marks Act 1999, as the mark consists exclusively of words or indications which may serve in trade to designate the Intended Purpose of the goods or other characteristics of the goods or service:

- The trademark law stipulates that a trademark which has secured a secondary meaning or secondary significance shall not be refused registration even if it falls under the categories as stated under Section 9. It is a well-settled law that common language words or descriptive words or common words and names cannot be trademarked by any trader unless and until such trade names have acquired such a great reputation and goodwill in the market that the common language word has assumed a secondary significance.
- The Symbol of law consist of _____ which describe law is equal for all but our logo has different characteristics it consist of _____ which is different from symbol of law and our logo does not show any intended purpose of our services rendered.

Related Case Law

- **Godfrey Philips India Ltd. v. Girnar Food and Beverages Pvt. Ltd., Supreme Court, 2004**

HELD: A descriptive trademark may be entitled to protection if it has assumed secondary meaning which identifies it with a particular product or as being from a particular source.

Conclusion : Common words of a language and/or descriptive words can be trademarked, when they have acquired distinctiveness/ secondary meaning.

- **Globe Super Parts v. Blue Super Flame Industries, Delhi High Court, 1985**

HELD: In this case two words "SUPER" and "FLAME", which are descriptive dictionary words, the combination of which were declared by the court as coined words and accordingly protection was granted.

Both the words "SUPER" and "FLAME" may be individually descriptive and may not be monopolized by any user. But together the combination of words has acquired distinctiveness by virtue of prior, continuous and extensive use and therefore is protected.

- **Laxmikant V. Patel v. Chetanbhat Shah and Anr, Supreme Court,2002**

Held: Together the combination of words has acquired distinctiveness by virtue of prior, continuous and extensive use and is therefore, protected.

Conclusion: Combination of two words has acquired distinctiveness. Same in our case using of word “Litigation Simplified” together has acquired distinctiveness and has secondary meaning. Therefore liable to be protected.

PRAYER

In respect of the above, we humbly request the Learned Registrar:

1. To take our aforesaid submissions on record and allow the subject mark to proceed to advertisement in the forthcoming issues of the Trademarks Journal at the earliest.
2. The Hon’ble registrar of Trade Mark is requested not to pass any adverse order without giving an opportunity of being heard.