

STRATEGIES TO AVOID TRADEMARK OBJECTIONS

Trademark objections are common but can be avoided by keeping in mind the following:

1. Trademark search: Before applying for a trademark, the appellant or the applicant's attorney must conduct a **thorough trademark search** to ensure that there are no marks that are identical or similar to the mark for which the registration is sought.

2. Fanciful/Arbitrary names: To avoid a trademark objection, **avoid using common names** for the trademark. **An arbitrary name has no meaning.** For example, the fashion brand **"Uniqlo"** is a new word that was coined by the proprietor (Tadashi Yanai, a Japanese billionaire businessman, the founder and president of Fast Retailing, the parent company of Uniqlo) for his course of business.

3. Non-descriptive names: One should always **avoid using descriptive names** for their trade of business. A word that **describes the nature of the goods** or services is called a **descriptive word**. For example, using the name **"XYZ apparels"** for a clothing brand is descriptive and hence, **would attract section 9 objection** from the Trade Marks Act, 1999.

4. Combination of well-known marks: One should **avoid using words that are in a combination of well-known marks** such as "Nestlé clothing" or "Apple footwear" as "Nestlé" and "Apple" are famous and well-known marks. Using such **famous marks/names** **would attract trademark objection** as well as opposition that may cause the removal of the trademark in future.

5. Clerical errors: Lastly, while applying, one **must check the application for any clerical errors**. One must ensure that **all the information provided in the application is true and correct** regarding relevant class in which the goods and services fall for which registration is sought.