Trademarks related to precious metals and jewellery: Empirical Assessment of Class 14 Trademarks in India

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Origins of trademark systems

- Rooted in practices of marking goods to denote origin, earliest evidences dating back to **4000 BC**.*

- Early examples include pottery, jars, tools and cattle branding across ancient civilizations. (meaning of word brand, meaning “to burn”)

- Classification systems evolved alongside trademark systems to delineate the rights of trademark owners.

- These systems emerged as a response to the structure of the market economy, ensuring clarity and protection for marks.

* Benjamin G. Paster, Trademarks - Their Early History Part I - Articles and Reports, 59 TRADEMARK REP. 551, 552–553 (1969)

Objective of the study

- Why study Class 14 trademarks?
  - To bridge the gap in understanding the historical and regulatory framework of trademarks.
  - Class 14 reflects the historical evolution of trademarks systems from guild-era liability marks to modern intellectual property rights.
  - To analyse trends, prosecution outcomes, and objections under India's Trade Marks Act (1999), using a robust dataset of 4.1 million applications filed between 2009-2022.

- Need for the study.
  - "*Few human institutions can boast a more respectable antiquity. The use of trademarks dates from the very earliest of times of which we have any knowledge*" - Edward S. Rogers *
  - History of trademarks has been "*less well charted than most other areas of intellectual property, and the early developments are particularly obscure.*" - Bently and Sherman **
  - To assess administrative and policy parameters in terms of trademarks applications by the business.

* Edward S. Rogers, Some Historical Matter Concerning Trade-Marks, 9 MICH. L. REV. 29 (1910).
** Lionel Bently & Brad Sherman, Intellectual Property Law (3rd ed ed. 2008).

Outline

- Historical Context
- Dataset and Methodology
- Growth Trends
- Prosecution Timelines
- Objections
- Regional Disparities
- Key takeaways

Historical context: from liability to assets

- By the 15th century, guilds in medieval Europe used marks to ensure quality control and accountability. These early marks were considered liabilities.
- Guild Records: Centralized registries of artisans' marks. (ex: London Goldsmiths' Hall).
- Guilds would designate 'wardens' and 'searchers' to identify violators. Violators could be fined, punished by imprisonment and even excluded from practising the craft.
- Gradually, marks became inheritable property. (ex: widow's claim over a guildsman's mark).

Development of International Classification systems

- Pre-NICE systems:
    - 1883 Paris Convention: First attempt at harmonization (failed).
    - 1934 London Draft: 34-class system (adopted by 16 nations).

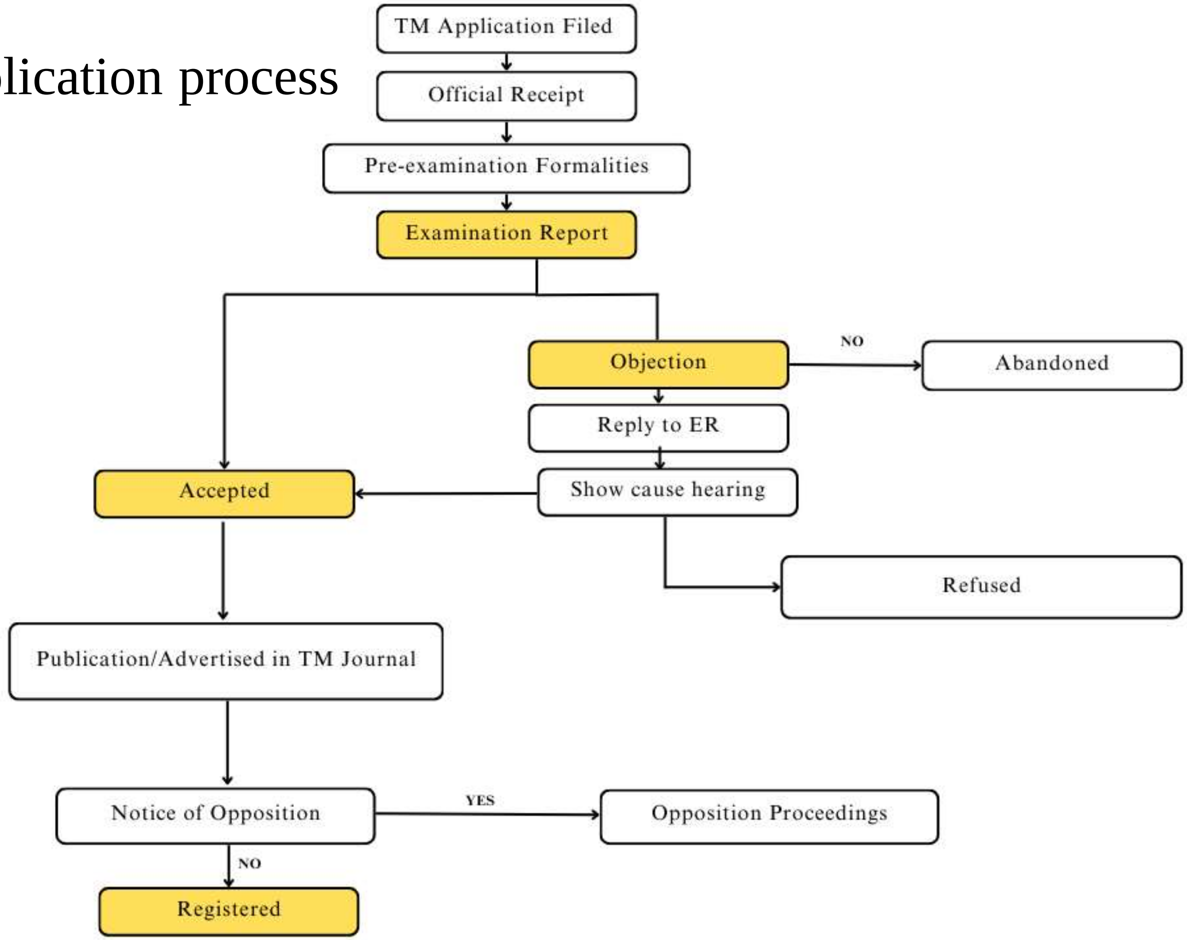
- NICE Agreement (1957):
    - Administered and controlled by WIPO.
    - Stressed the need for regular revisions and updates to the alphabetical list of goods.

The Trade Marks Act, 1999, and Class 14

- Key Provisions of the Trade Marks Act, 1999 :
  - Section 9 : Absolute grounds for refusal (e.g., lack of distinctiveness, scandalous marks, religious susceptibilities).
  - Section 11 : Relative grounds for refusal (e.g., likelihood of confusion, conflict with prior marks).
  - Section 20: Acceptance and advertisement of application.

- 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.

Trademark Application process



Methodology

- Data collection
    - 4.1 million Examination Reports (2009-2022), collected from CGPDTM.
    - Filtered Examination Reports using Regex and identified 47683 Class 14 applications.

- Text Analysis
    - Auto-coded to identify statutory provisions in examination reports.
    - Created equivalencies between statutory language and unique terms/phrases in reports.
    - Section 9(1)(a): “distinctive” AND “ character” within 3 words.
    - Section 11: “likelihood of confusion” OR “well-known mark”.

- Limitations
    - Excludes pre-2009 and post-2022 applications for prosecution window consistency.
    - Potential missing data due to technical constraints (less than 5%).

Variables tracked

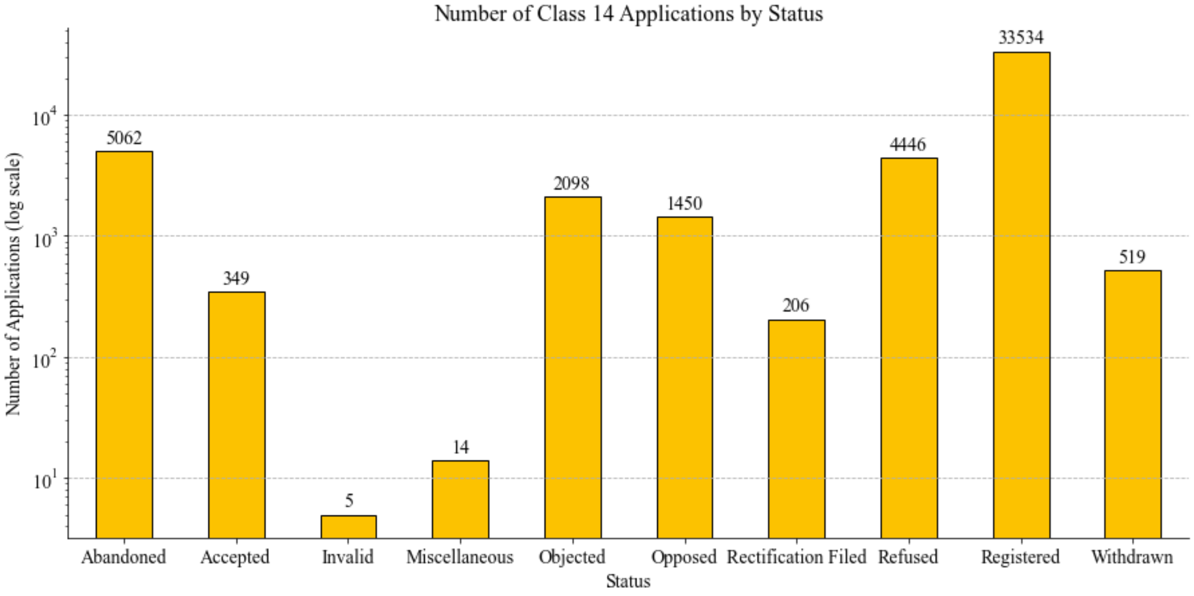
- Application Metadata: Filing date, Office, Mark type.
- Prosecution Status: Abandoned, objected, opposed, registered.
- Examination Reports: Objections under Sections 9/11, statutory language.
- Timelines: Application - Examination - Advertisement - Registration.

Mark typology (2009-2022)

Type	Total Applications	Consists of
Device Marks	33,766 (70%)	Logos/symbols (ex: intricate jewelry designs)
Word Marks	13,555 (28%)	Brand names (ex: Tanishq, Kalyan Jewellers)
Non-traditional Marks	362 (<1%)	Colour, 3D and sound marks.

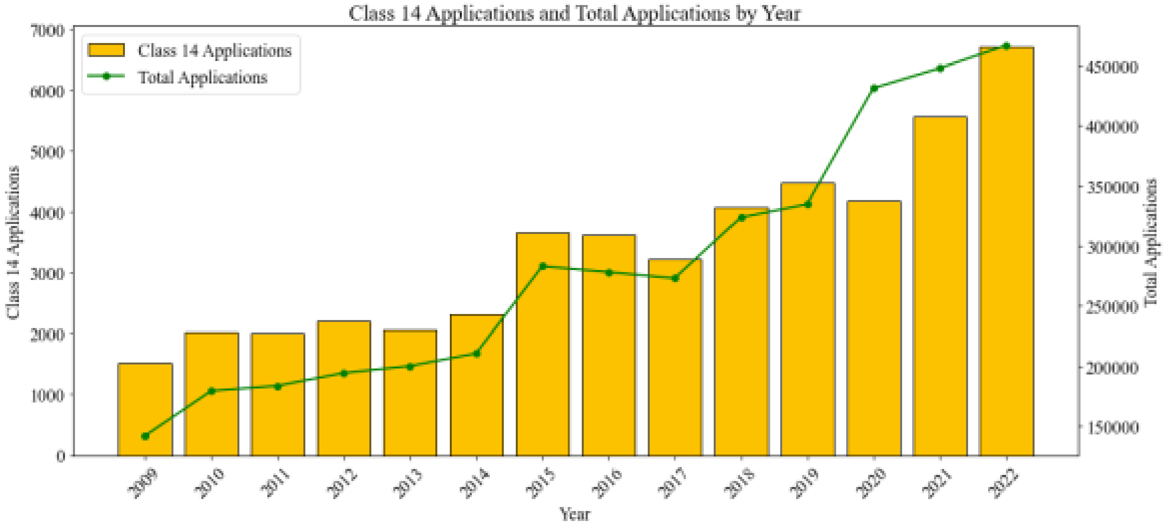
Application outcomes

- Registered: 70.4%
- Abandoned: 10.5%
- Refused: 4.4%
- Objected: 4.3%



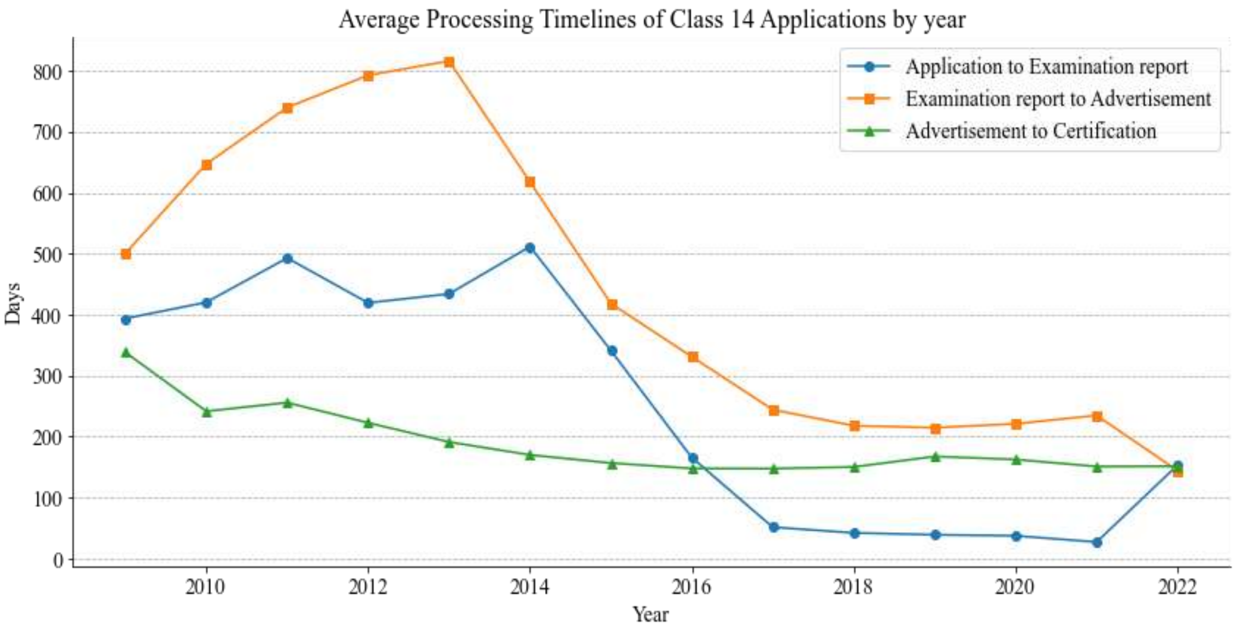
Growth Trends

- Overall growth:
  - CAGR of 12.16% as compared to 9.59% for all trademarks.
- New players coming into the market should note the amount of players in the market.



Prosecution Timelines

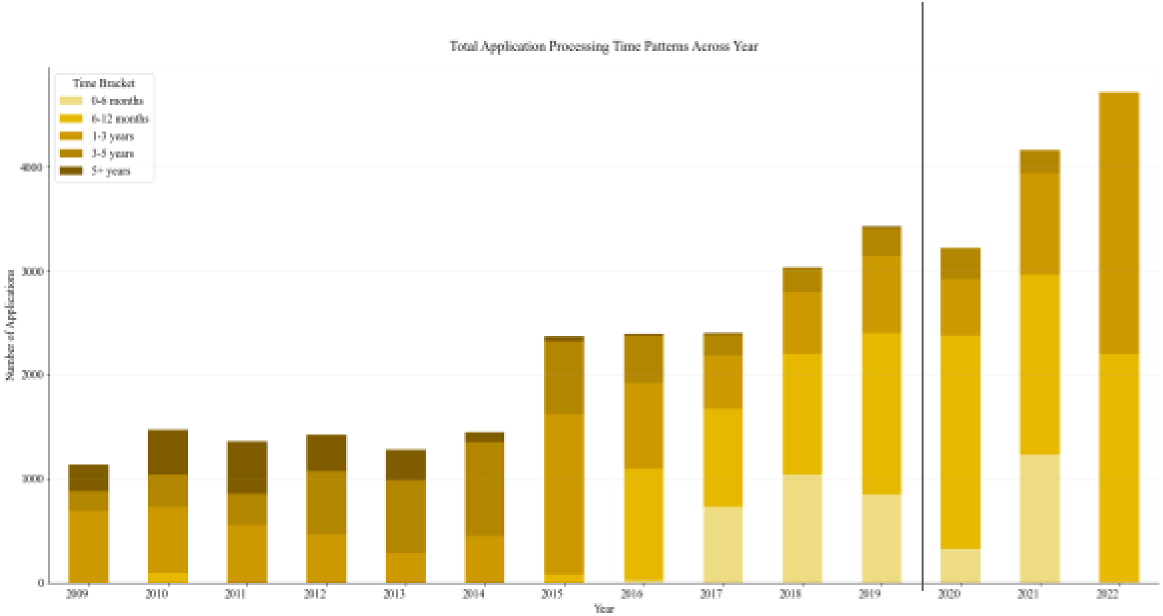
- All stages show significant efficiency improvements.
- Greatest reduction in publication of examination reports.
- Examination to advertisement process is taking the longest time.
- The average processing time has decreased from 1229 days in 2009 to 426 days in 2022.



Prosecution Timelines - Key Bottlenecks

- Shift toward efficiency post-2015:
  - Pre-2015: Majority of applications took 3-5+ years.
  - Post-2015: 70% processed within 1-3 years.

- Outliers & Legacy delays:
  - HCO Trademark (2011): 4505 day (12+ years) due to system errors.
  - Pramukhpujan Jewels (2009): 4874 days (13+ years) due to opposition backlog.

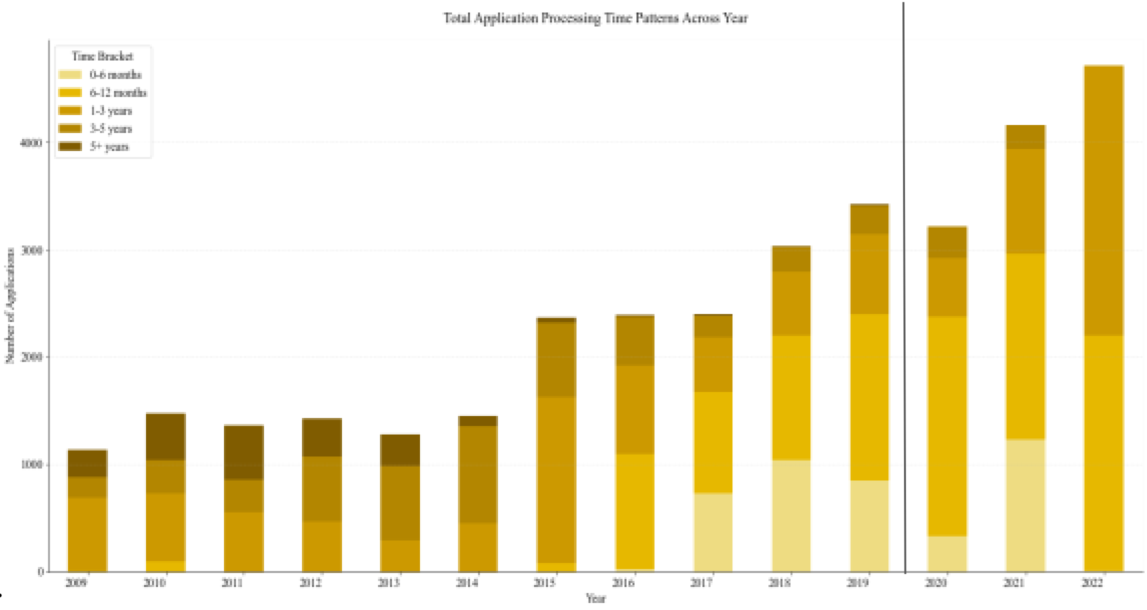


Prosecution Timelines - Key Bottlenecks

- Examination Report delays:
    - 433 applications where examination report was issued >1,000 days post-application.
    - Of these, 131 (30%) were filed post-2015.

- Registration Timelines:
    - 8,384 (25%) of registered marks took > 1,000 days.
    - Post-2015 filings: 3,156 (9.4%) faced > 1,000 day delays.

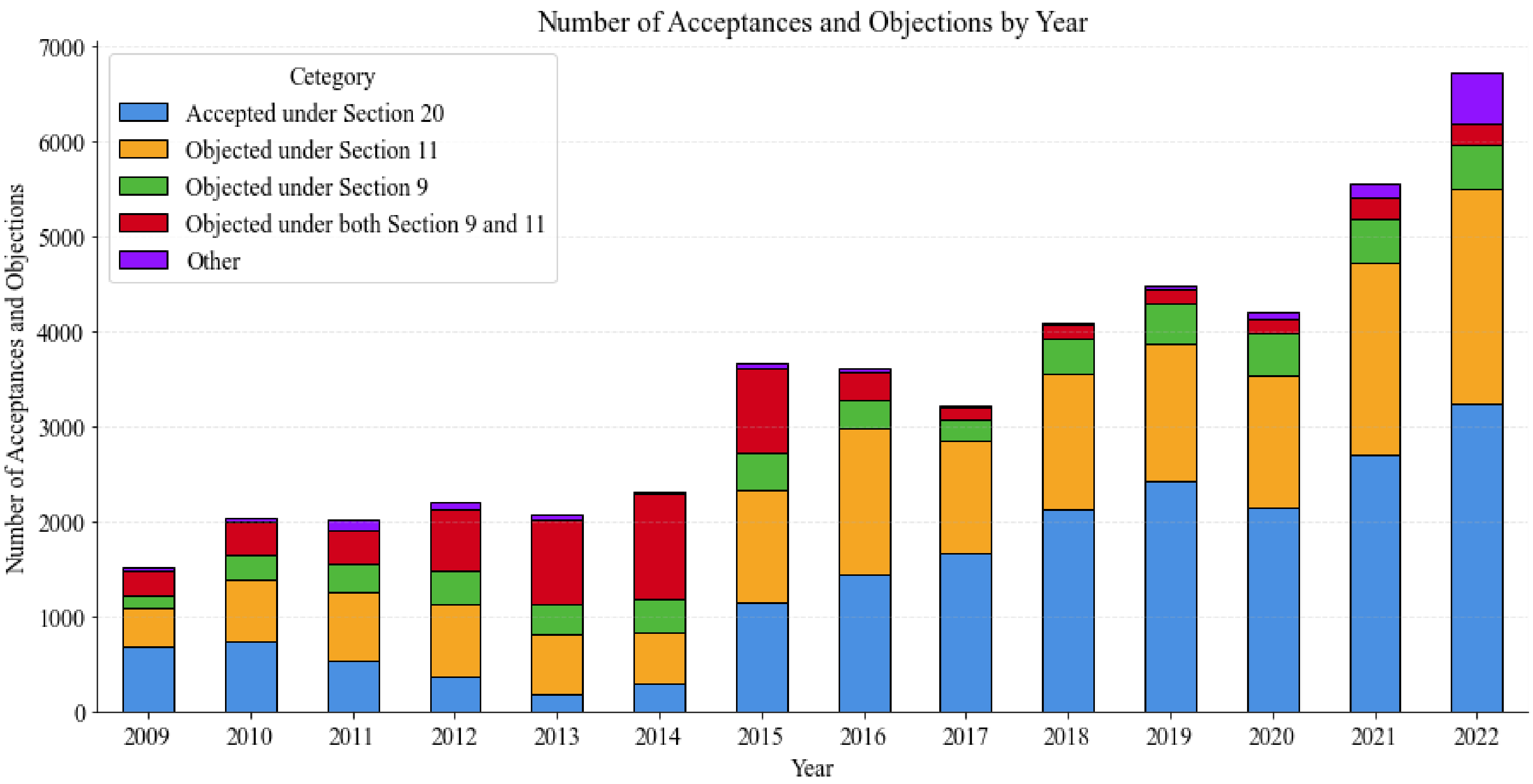
- **Important caveat to note:**
    - Recent applications (2015-2022) may show artificially shorter processing times.
    - Many recent applications still under prosecution.



Objection methodology

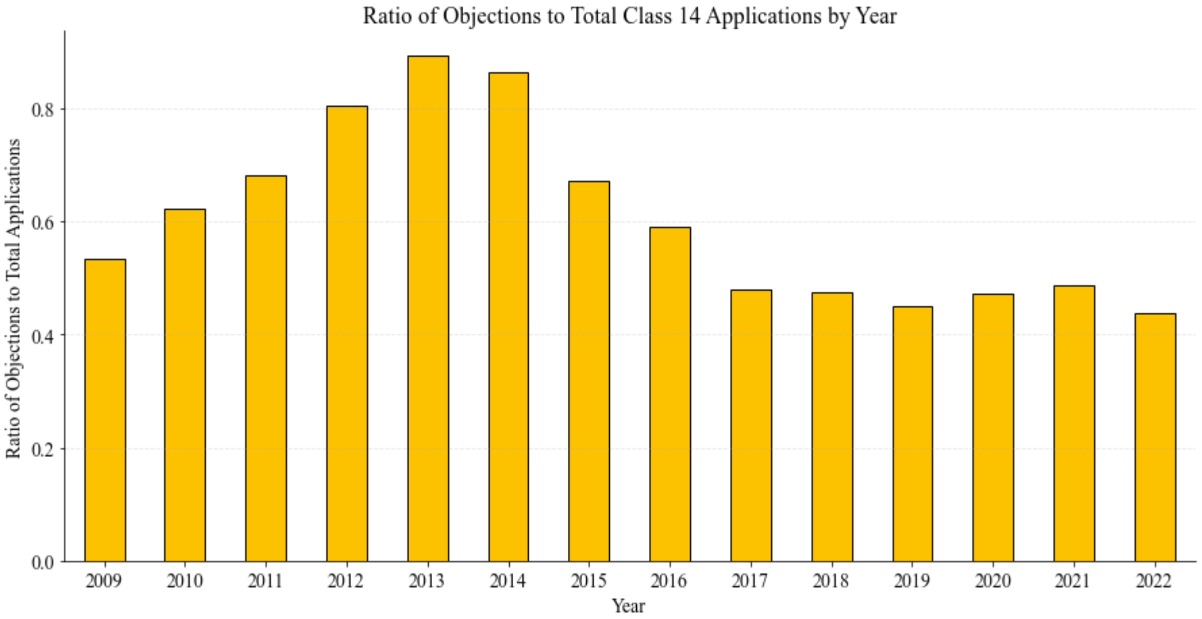
- Coding framework:
  - Used unique terms to map statutory provisions (ex: “scandalous” OR “obscene” for Section 9(2)(c)).
- Categories of Objections:
  - Section 9 (Absolute grounds): 4,816 objections.
  - Section 11 (Relative grounds): 16,166 objections.
  - Concurrent use of Sections 9 and 11: 5,811 applications.
  - Others: 1,220 applications (unexplained objections. Ex: “Radhika Jewellers” was objected without any explanation).

Objection Analysis



Objection analysis

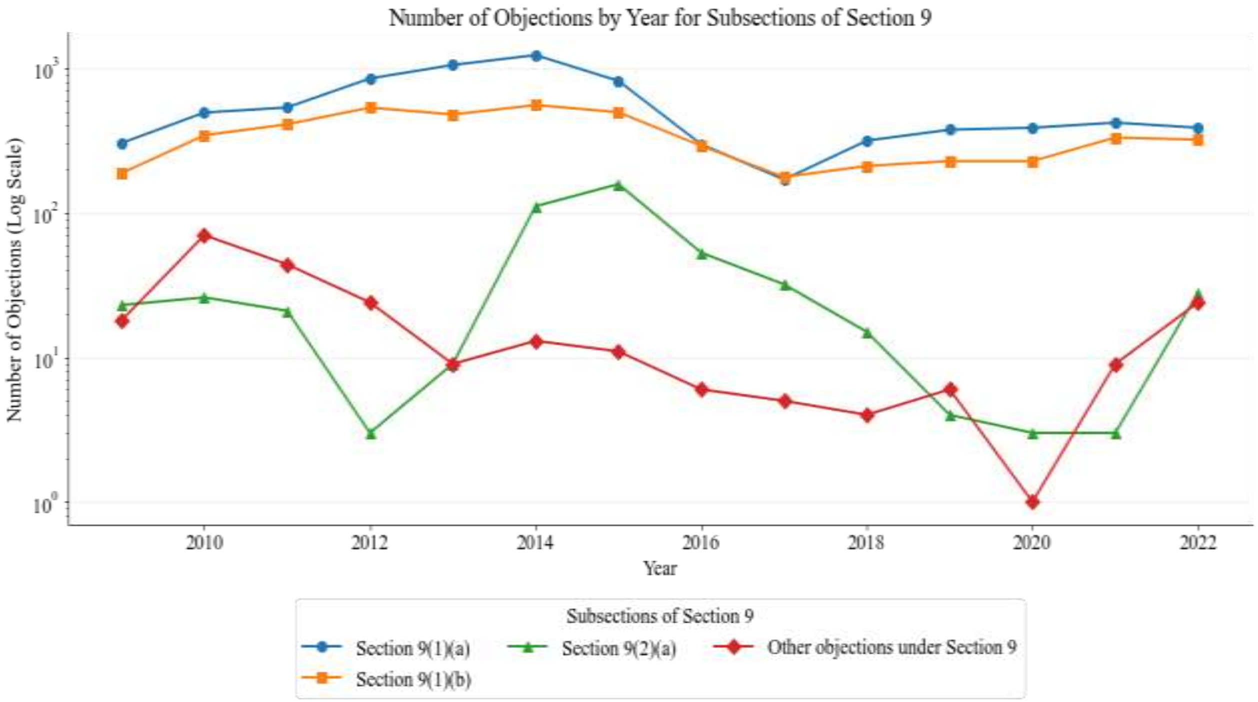
- 60% of applications filed between 2009-2022 faced an objection.
- Particularly pronounced in the 2010-2015 period (75.6% applications received an objection).
- Stabilized post-2015, at roughly 50%.



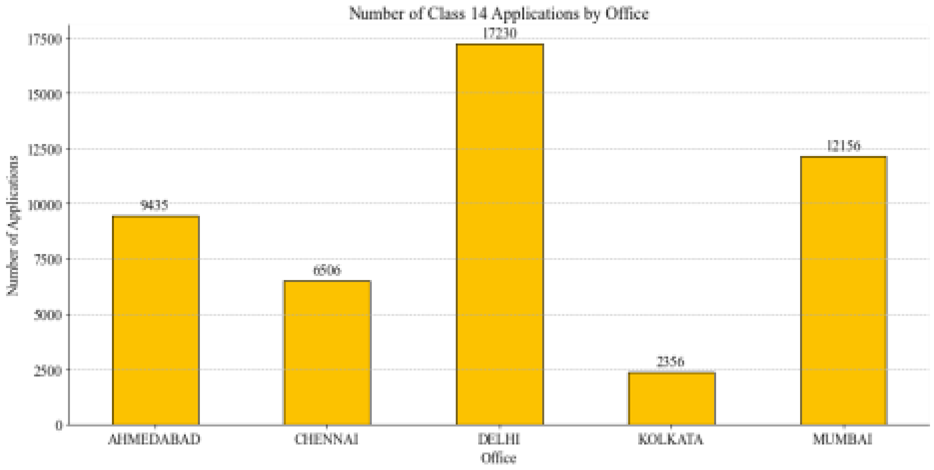
Objection Analysis - Absolute Grounds (Section 9)

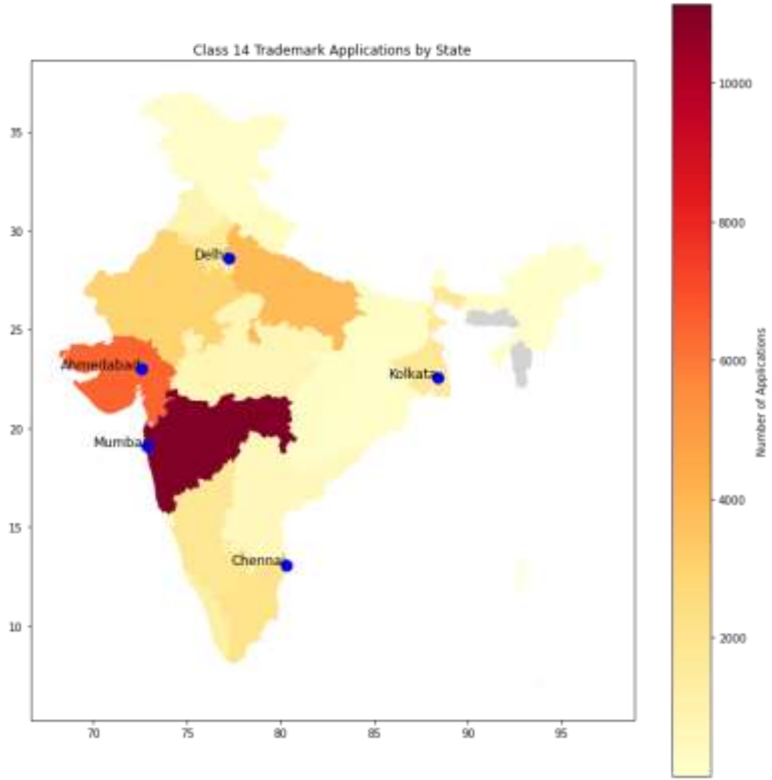
- Most common objections:
  - S. 9(1)(a): Lack of distinctive character.
  - S. 9(1)(b): Marks designating kind, quality, quantity, etc.

- Rare Objections:
  - S. 9(3)(b): Shape marks necessary for technical results. (3 instances)
  - S. 9(3), as a whole was invoked only 12 times across the entire datasets.



Regional Disparities - Office-level insights

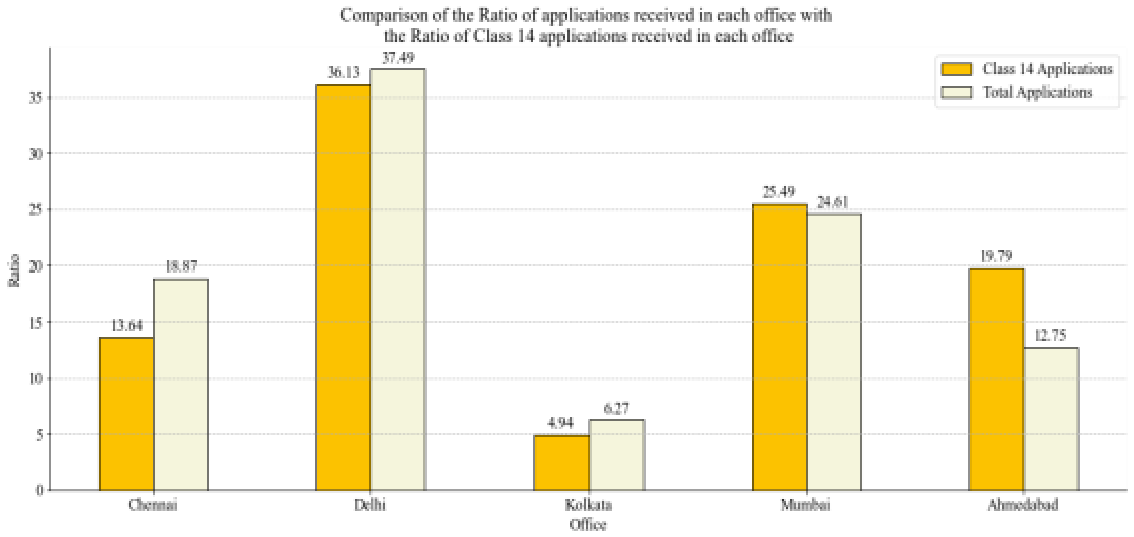




Regional Disparities - Office-level insights

- Ahmedabad: Highest positive deviation (+7.04%).

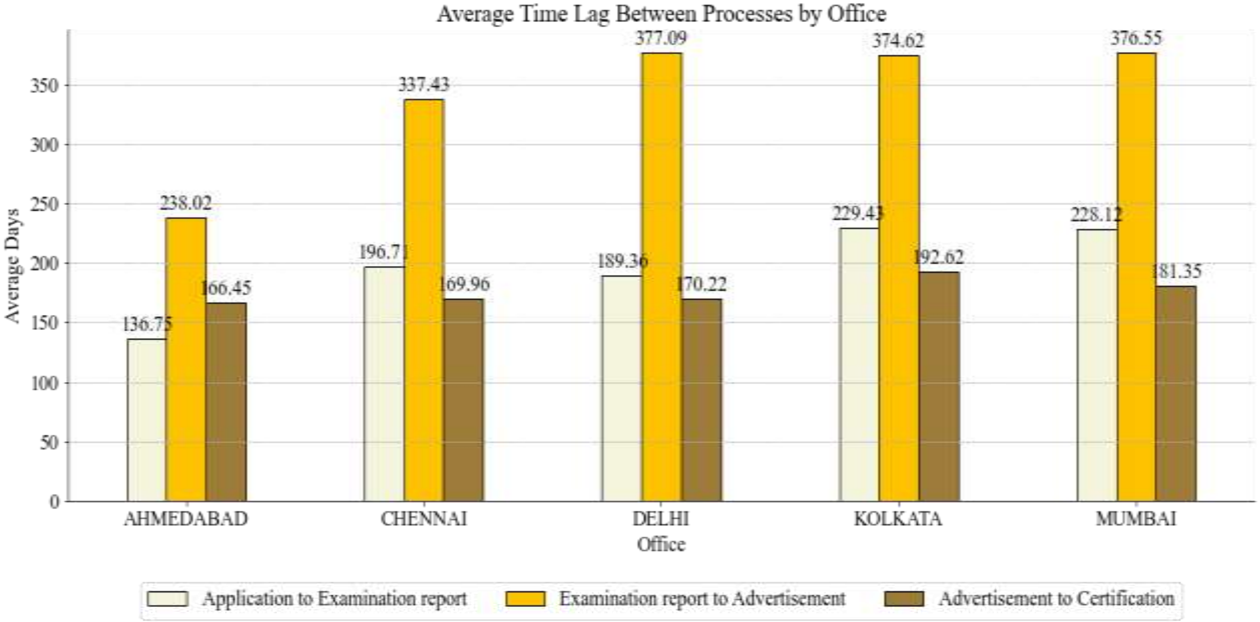
- Chennai: Significant negative deviation (-5.23%)..



Regional Disparities - Office-level insights

- Delhi: Exhibits the **most pronounced** delays, especially between **Examination and Advertisement** stages.

- Ahmedabad: Demonstrates the **most efficient processing** across all stages.



Key takeaways

- Procedural and Processing trends:
  - The majority (70.4%) of Class 14 applications eventually achieved registration, while 10.5% were abandoned, 4.4% refused, and 4.3% remained objected.
  - Average processing time for registrations have improved significantly, from over 1,300 days in 2009 to approximately 500 days in 2022.

- Regional Disparities:
  - The highest number of Class 14 **applications** were prosecuted by Delhi, followed by Mumbai, Ahmedabad, Chennai and Kolkata.
  - The ratio of **objections** to total Class 14 applications are consistent across offices.

- The report provides actionable insights for policymakers, legal-practitioners, and businesses navigating trademark registration processes.

Thank you!

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Link to the report