

IMPORTANCE OF COPYRIGHT AND TRADEMARK IN BUSINESS

Amit Singh*

ABSTRACT

Copyright and trademark laws are critical to businesses because they protect the unique and original ideas, designs, and branding of a company. Copyright provides legal ownership of creative works and empowers businesses to prevent unauthorized use or distribution of their intellectual property. A trademark protects a company's brand, reputation, and distinctive identity in the marketplace against infringement and counterfeiting. Without copyright and trademark protection, businesses would struggle to maintain their creative and competitive edge, lose revenue, damage their reputation, and hinder their growth potential. This article highlights the importance of copyright and trademark in business and underscores the need for businesses to prioritize intellectual property protection to safeguard their future success.

Keywords: copyright, trademark, intellectual property, infringement, protection, businesses.

INTRODUCTION

In this era, around the world today every person no matter their age is creating something be it a product or brand for their businesses. They need to protect their creations, which can be protected in their original form in the way by getting Intellectual Property Rights of it referred to as IP rights. Property here means that the business or the entrepreneur has a right to it and is protected under the law. IP rights are intangible in nature but these are as important assets as any other assets in the business. There are different IP rights in India like- Copyright, trademark, patents, Industrial Design and Geographical Indications. This article will state about copyrights and trademarks. As businesses continue to grow exponentially and the market for goods and services becomes more competitive, companies may find that their intellectual property assets play a crucial role in their success. Copyright and trademark protection are two forms of intellectual property (IP) law that safeguards a company's original work and brand identity, respectively.

*BLS LLB, FOURTH YEAR, VIVEKANAND COLLEGE OF LAW, MUMBAI UNIVERSITY

COPYRIGHT PROTECTION

Copyright protection grants creators of original works, such as artistic or literary works, exclusive rights to use, distribute, and sell their material. Copyrightable works can include books, music, artwork, and computer software. For a business, copyright protection is essential in preventing unauthorized parties from copying or using their intellectual property in ways that may lead to financial loss or damage to their reputation. When a business holds a copyright, it can earn revenue by licensing or selling its work, which can include software or marketing materials. Such original creative works include¹:

- Literary works;
- Musical works, including any accompanying words;
- Dramatic works, including any accompanying music;
- Pantomimes and choreographic works (if written down, or otherwise expressed in a tangible medium);
- Pictorial, graphic, and sculptural works;
- Motion pictures and other audio-visual works;
- Sound recordings;
- Architectural works.

THINGS THAT CAN NOT BE PROTECTED BY COPYRIGHT ARE²

- Ideas, Methods, or Systems- This includes: Making or building things, scientific or technical methods, operations, formulas, and algorithms.
- Widely Known information that is common- Calendars, height & weights, tape measures or rulers these are the things that are known to everyone and cannot be protected by copyright.
- Choreographic works- A choreographic work unless it has been recorded in video format or speeches that have not been put into written or printed form or any other such acts.

¹ Staff, 'What Can Be Copyrighted' (*Legalzoom*), July 15, 2022 <https://www.legalzoom.com/articles/what-can-be-copyrighted> accessed date 13 March,2022

² Heleigh Bostwick, '5 Things You Cannot Copyright' (*Legalzoom*), July 12, 2022 <https://www.legalzoom.com/articles/5-things-you-cant-copyright> accessed date 13 March,2022

- Expression, Short phrases, Names- Though they cannot be copyrighted they can be safeguarded by registering a trademark. These include Names, titles of work, and descriptions of products.
- Fashion- This is interesting because we think all elements of fashion can be safeguarded by copyright but this is not true. Like: A shirt or Jeans cannot be protected by copyright but a particular pattern can be protected. To quote an Example- Three stripes of Adidas are copyrighted and if it is used on any clothes the consumer will identify it as a product of Adidas.

IMPORTANCE OF COPYRIGHT

- Copyright is the legal protection granted to the creator of original work from unauthorized copying or usage by another individual, or corporation. Copyright laws are essential in protecting an individual's or a company's intellectual property and ensuring financial benefit and recognition for their work. In other words, it ensures that creators get credit for their work and prevents others from profiting from their creations without their consent.
- Copyright also plays a significant role in encouraging creativity and innovation, as it provides the creator with the assurance that their work will be protected and recognized. Without copyright laws, creators may be discouraged to invest their time and resources in creating new work if they don't know that they will benefit financially from their effort.
- Fosters innovation: By protecting the work of artists, writers, and inventors, copyright and trademark laws encourage creative and innovative works. Businesses can innovate and compete on a level playing field, knowing that their work is protected.
- Furthermore, copyright helps to facilitate fair competition by prohibiting the illegal use of trade secrets or reproduction of someone else's trademarked work without authorization. This mechanism permits companies and individuals to maintain the exclusivity of their products and services, ultimately encouraging more investment in research and development in a wide range of industries.

In summary, copyright is essential because it stimulates and protects creativity, encourages fair competition, and helps maintain a healthy economy.

TRADEMARK PROTECTION

A trademark is generally considered to protect the brand name in the commercial sector but it safeguards company logos, slogans, taglines, and product names that a brand creates, from unauthorized use by competitors. It serves as a valuable marketing tool for businesses to protect their brand identity and reputation. A trademark can help establish trust and recognition among consumers for a particular business's products and services. By creating a unique brand identity through a trademark, businesses can build customer loyalty and distinguish themselves from competitors. Trademark registration is a legal requirement to protect a company's brand and prevent others from infringing on its trademarks. Businesses can also use trademarks to grow by licensing or franchising their brand to expand their market reach.

In our day-to-day life, we keep seeing live examples of a trademark. To name a few like – Coca-Cola, Subway, and McDonald's and their slogan: Subway (Eat fresh), McDonald's (I'm lovin' it). A trademark holds such strong capability that it immediately connects with the customer's mind in such a way that a customer thinks of the brand name as the actual product. Like – Maggie is just another brand for noodles but over the years the brand has created such a distinguished identity that common people tend to think of only Maggie if they ever crave noodles. This is the potential of a brand's trademark, it helps to create a kind of monopoly in the market which is favorable for any business to get an edge over its competitors.

IMPORTANCE OF TRADEMARKS

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Trademarks are vital assets for businesses of all sizes. It serves as a symbol of a company's brand identity, emanating the quality of its product or service in the market. Trademarks help customers differentiate a particular company and create a reputation for that company to distinctively reflect its values and principles.

Here are some of the reasons why trademarks are important for a business:

Brand Recognition: A trademark provides instant recognition of the company name, logo, and other branding elements. It serves the purpose of differentiation of the product in a crowded market. Customers recognize a company's product by its trademark, which helps to create brand loyalty which is immensely helpful for the brand. Like – the logos of brands Nike, and Apple are so influential that consumers can recognize the product just by seeing the logo at once, this helps the brands to stand out in the market.

Protects the Company's Intellectual Property: A trademark also provides legal protection for a company's name, logo, tagline, and other branding elements. Any attempt to copy or imitate a trademarked name or logo can result in legal consequences. This contributes to smooth business transactions.

Facilitates Business Growth: Trademarks are valuable assets of a business and transferable that can be assigned or licensed to others. This means that a business with a strong trademark can create revenue streams from licensing their trademarks to others which can be additional profit for the business.

Marketing tool: Trademarks serve as an excellent marketing tool to create a brand name and logo awareness. This marketing effort helps to establish brand identity and reputation in the marketplace. By using this method, the brands can utilize the internet and social media effectively to make their presence in any marketplace. To quote an example – Any customer searches the brand name on the internet which brings higher traffic to the brand's website translates into a customer buying the product or availing the services which generates a higher ranking and brings even more traffic to the website.

It's an inexpensive protection for business: If a company gets its registered trademark then it goes for a lifetime if they keep it renewing after completion every ten years from the date of registration, renewal generally can be done at a low cost and serves as an advantage till the business continues as a valuable asset.

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Creates Trust and Credibility: A strong, recognized trademark helps to build trust and credibility with customers. It assures customers that a company is legitimate and committed to providing quality goods and services.

COPYRIGHT INFRINGEMENT AND CASE LAWS

Copyrights are essential for protecting the intellectual property rights of creators, authors, and inventors. Copyright infringement happens when a party uses the creator's work or their exclusive rights on the creation without their prior permission. This can include- using copyrighted creations in their name at any accessible place, selling, broadcasting, adapting, etc. These laws ensure that individuals and organizations have the legal rights to use, sell, distribute, and profit from their creative works and inventions. Below we will discuss some of the significant case laws related to copyright infringement.

Copyright Case Laws:

MGM Studios, Inc. v. Grokster, Ltd. (2005)³: This case is one of the most prominent copyright cases in which the Supreme Court ruled that file-sharing services can be held liable for copyright infringement if users of their software engage in illegal sharing. The case involved the file-sharing service Grokster, which allowed users to download and share copyrighted music and movies without permission from the copyright owners.

Campbell v. Acuff-Rose Music, Inc. (1994)⁴: This case involved the song "Oh, Pretty Woman" by the group 2 Live Crew, which was sued by the copyright owner, Acuff-Rose Music, for using parts of the song without permission. The Supreme Court ruled that 2 Live Crew's parody use of the song was protected under fair use, which allows limited use of copyrighted material for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research.

Tasini v. The New York Times Co. (1999)⁵: This case involved freelance writers who sued The New York Times Co. for an infringement of their rights over their works. The Supreme Court ruled that newspaper publishers could not reproduce freelance authors' works without permission, even if the works were in new electronic databases. It affirmed that the copyright of the work belonged solely to the creator and that they must be compensated for the reuse of their works in any form.

TRADEMARK INFRINGEMENT AND CASE LAWS

McDonald's Corporation v. Joburgers Drive-Inn Restaurant (Pty) Ltd⁶: This case involved McDonald's Corporation challenging Joburgers Drive-Inn Restaurant for using the term "McJob" in their advertising. The South African court ruled that the term "McJob" did not infringe on McDonald's trademark, as it was used as a description of a low-paying, low-skill job and was not associated with a specific product or service.

Mattel v. MCA Records (2002)⁷: This case involved the use of the song "Barbie Girl" by MCA Records, which was accused of using the Barbie trademark without permission for

³ *Metro-Goldwyn-Mayer Studios Inc. (MGM) v. Grokster, Ltd.* [2005], [545 U.S. 913, 125 S. Ct. 2764, 162 L. Ed. 2d 781, 75 U.S.P.Q.2d 1001, 18 ILRD 79, 2005 ILRC 2031, 33 Med. L. Rptr. 1865 \(2005\)](#)

⁴ *Campbell v. Acuff-Rose Music*, [1994], No. 92-1292.

⁵ *New York Times Co. v. Tasini*, [2001], 533 U.S. 483 (2001)

⁶ *McDonald's Corporation v Joburgers Drive-Inn Restaurant (Pty) Ltd. and Another*, [1996], 547/95

⁷ *Mattel, Inc. v. MCA Records*, [2002], 296 F.3d 894 (9th Cir. 2002)

commercial purposes. The court ruled that the use of the Barbie trademark was a parody and not a trademark infringement, as it was not used to sell a product or service.

Apple Inc. v. Samsung Electronics Co. Ltd⁸: This case involved the use of technology patents by Samsung in their smartphones, which were claimed by Apple to be violating their patent. The Supreme Court upheld an earlier ruling that Samsung had indeed infringed Apple's patents and awarded the latter financial damages to the tune of \$539 million.

CONCLUSION

In conclusion, Intellectual property laws provide critical protection for the creative output of individuals and companies. Businesses can use copyright and trademark laws to safeguard their original works and brand identities. By protecting their IP, businesses can mitigate legal disputes, establish their brand, and generate revenue from their original works. Businesses must recognize the importance of copyright and trademark laws in protecting their intellectual property assets. By securing ownership of their original work and brand identity, businesses can benefit from licensing, franchising, and establishing themselves as trustworthy brand. As a business owner, seek the counsel of an experienced attorney to ensure your intellectual property rights are protected. Investing in a strong trademark can provide significant benefits to a business. It can help create a strong brand identity, provide legal protection, facilitate business growth, and create trust and credibility with customers.

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⁸ *Apple Inc. v. Samsung Elecs. Co.*, [2015], 786 F.3d 983