

# All Things IP



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### A BRIEF ANALYSIS ON PROTECTION OF SERIES TRADEMARKS

Registrations of trademarks as a series have recently gathered momentum and are fairly new to the trademark game. Series trademarks are believed to have potential to offer next level of protection to powerful Industries and brands.

A trademark owner may use a variety of marks with a common prefix, suffix or syllable or for instance in case of a beverage brand with various flavours of the drink, the trademark may remain constant with only few variables such as that of the specific flavour name of the drink or the colour and theme of the representation etc. In this case the overall impression of the trademark on the consumer does not change and remains constant.

The mark can prove its strength by establishing that it has a family of marks, all of which have a common prefix, suffix or syllable. Series of trademarks basically means multiple variations of a trademark that fall under one single family of marks. Section 15 of the Trademarks Act, 1999 deals with trademark as a series which states that if the proprietor of a trademark claims to be entitled to the exclusive use of any part thereof separately, he can apply to register the whole and the part as separate trademarks. Series marks help form an association among the products under a single range or brand as they fall within the same family of marks and distinguish them from the other range of products. One must know that trademarks as a series only differ either in colour, quality, flavour in case of food stuff, location, etc.

These series of marks can be registered within one application whereby certain characters that form part of the trademark can be granted additional protection, thus acquiring distinctiveness and exclusive right over them. Under a trademark series, any variation in the non-distinctive features of each mark must have their visual, oral and conceptual identity largely the same and any variation in those material particulars should not affect the visual and conceptual identity of each of the mark in the series. Scrutiny falls on that part of the mark that is being changed each time. If the part that is being altered is descriptive or non-distinctive, and does not substantially affect the identity of the trademark, the series may be accepted. The alternative to applying for a series trademark is to apply for multiple trademarks application for each mark but it may not offer a broader protection.

Some of the examples of series trademarks include Uber's, Uber Eats, Uber Pool and UberX and McDonald's family of trademarks including Egg McMuffin, McChicken, McDonuts, McPizza, McCafe, Chicken McNuggets, McDouble Chicken McBites etc.

