

All Things IP



Eshwars | House of Corporate & IPR Laws

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Ways to protect your trademark against infringing Corporate name

There are various equitable remedies that a proprietor of a Trademark is entitled to seek under the Trademarks Act, 1999 as well as under common law if any third party adopts identical or deceptively similar trademarks. Similarly, the Proprietor is also entitled to certain remedies under the Companies Act, 2013, if any corporate name infringes his/its trademark.

As per Section 4 of the Companies Act, 2013, the Registrar of Companies (“Registrar”) is empowered to preclude companies from being incorporated or changing its name in a manner that infringes the trademarks already applied or registered with the Trademarks Registry.

Ministry of Corporate Affairs
Government of India

Further, Section 16 of the Companies Act, 2013, provides a remedy to registered trademark proprietors by making an application to the government against a company incorporated/registered with a name identical or similar to its registered trademark, within three years of incorporation or change of name of the company, and seek a direction for rectification of name where such company’s name is identical with or too nearly resembles a registered trademark.

The aforesaid remedies under the Companies Act, 2013 are available to a proprietor only if the trademarks are already applied or registered with the Trademarks Registry.

We at Eshwars regularly handle and strategise various infringement and remedial actions that help trademark and brand owners effectively protect their trademarks and other IP’s. For more information please contact saisunder@eshwars.com.





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