

# All Things IP



**Eshwars | House of Corporate & IPR Laws**

4, Aishwarya, 12B/177, 6th Street, Kumaran Colony,  
Vadapalani, Chennai - 600026, India T +91-44-4204 8335 | F +91-44-4204 8235

## AllThings IP Newsletter – June 2019

### **Dual protection is available for an Artistic Work/Logo used in relation to goods or services:**

More often than not brand owners are left with an all-important question of whether their trademarks are comprehensively protected under the various IP Laws and are there any further actions that are to be pursued to safeguard their proprietary rights thereon. In this regard, the importance of protection of a logo trademark additionally as an “Artistic Work” under the Indian Copyright Act, 1958 cannot be undermined. It is indeed important and prudent for IP owners to also seek copyright registration of their logo marks apart from their registration as a trademark in order to comprehensively protect their rights thereon.

Both the Trademarks and Copyrights Act are intertwined when it comes to protection of a logo mark, which possesses artistic quality. The Copyright Office does not grant registration over an Artistic Work that is identical/deceptively similar to that of a trademark applied/registered by a third party under the Trademarks Act. Hence, as a prerequisite to filing of a Copyright application, a No-objection certificate (NOC) needs to be applied for and obtained from the Registrar of Trademarks. Such NOC is required to be furnished in original along with the Copyright Application that is filed with the Copyright Office. This NOC serves as a prima facie evidence that the logo mark being applied for registration as an “Artistic Work” under the Copyrights Act is distinctive and that it is not identical or similar to any other trademark that has been either applied or registered on the records of the Registrar of Trademarks.



It is pertinent to note that the copyright registration over an Artistic Work plays a major role while initiating the infringement suits and passing off action against the counterfeiters and infringers. Further, the recordal of trademark and copyright registration with the Customs Office also easily precludes the importation of counterfeit products. For more details and strategic advice on your trademark and copyright protection please contact [saisunder@eshwars.com](mailto:saisunder@eshwars.com).



eshwars.com

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