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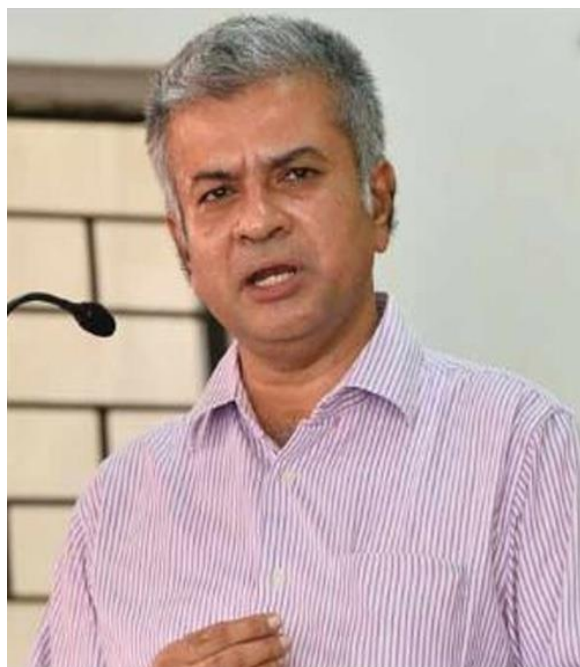
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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

DIFFERENCE BETWEEN COPYRIGHT AND TRADEMARK

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Abstract

This paper explains the concept of Trademark and Copyright in Intellectual property rights and discusses the significance of Intellectual property rights in today's world. It describes Trademark and Copyright in detail, their importance, and the mechanism of these Laws. Intellectual property rights help people to assert ownership of their creativity and innovations in various fields. The paper even highlights the difference between both Trademark and Copyright law. Trademark laws are for products and services to be identified with their maker and provider respectively. Whereas Copyright Law is a legal right given by the judiciary to the creator of his creation. The paper then explores the Copyright and Trademark laws adopted across the globe in several countries. At last, the paper also focuses on the laws of trademark and Copyright, their differences and some of the cases related to trademark and copyright.

Keywords – Intellectual Property Rights, Copyright Law, Trademark Law

Introduction

Intellectual property is a creation of intellect i.e the human mind such as copyright, patent, industrial design, trademark etc. It helps people to assert ownership of their creativity and innovations in various fields and protects what the human mind creates. It could be research, logo, invention, drawing, musical compositions, etc. Where both copyright and Trademark are the branches or aspects of Intellectual Property Rights (IPR) that provide the creator control over the use of their product. Intellectual property rights are widely used for two main reasons. One is to give legal expression to creators' moral and economic rights to their creations and the public's right to access them. The second is to promote, as a deliberate act of government policy, the creation, dissemination and application of policy outcomes and the promotion of fair trade that contributes to economic and social development. The IPR is also defined by the World Intellectual Property Organization (WIPO) as follows: "Intellectual property, in a broad sense, means legal rights arising from intellectual activities in the fields of industry, science, literature and the arts.

Research Objective

The study is based on secondary data. Which is collected through various publications, books, the internet and articles etc.

1. To understand an overview of trademark and Copyright.
2. To know the concept of Trademark and Copyright.
3. To understand the differences of Trademark and Copyright

Trademark

As the name suggests, Trademark means a 'mark' which distinguishes the goods and products of one person from another. Trademark as per Oxford law dictionary means "distinctive to a symbol that identifies the particular product of a trader to the general public. The symbol may consist of device words or combination of this". In simple words, a Trademark is a visual symbol of a sign in the form of a device word for a mark which is used for identification of products and services with its maker and provider respectively.

According to section 2(1)(zb) of the Trademark act 1999, a Trademark is defined as a “mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include a shape of goods, their packaging, and combination of colors.” Whereas the primary objective Trademark act is to provide protection to trademarks.

Trademark Law In India

Trademark act which was enacted in 1999 and is the second legislation regarding trademarks in Independent India came into force after repelling the Trade and Merchandise Marks Act, of 1958 to meet the requirements of the WTO and TRIPS, it is now also the main law governing everything related to Indian trademarks.. However, the trademark act 1999 came into force on 15th September 2003.

To this date, The Trademark Act of 1999 has been amended once after its enactment, which was in the year 2010 and as a result, the Trade Marks Amendment Act of 2010 came into force in India.

India is a signatory member of the Trade-Related Aspects of Intellectual Property Rights (TRIPS) and as a result, Indian Trademark Law has influenced TRIPS and was designed to comply with unified standards of trademark law around the world.



As the name implies, copyright means the right to copy. Copyright as per the Oxford dictionary means " the exclusive right to publish or recorded work ". In simple words, the owner of a copyright has an exclusive right over his work and is entitled to make copies of the same.

The Copyright Act of 1957 provides for three types of relief: administrative, civil, and criminal. Whereas section 14 of the copyright act defines copyright as the exclusive right to do or authorize others to do certain actions to literary, dramatic or musical work, artistic work, cinematography film and sound recording. Copyright law is designed to prevent the copying of existing physical material in art and literary work. The objective is to protect the writer or owner from the unlawful reproduction of their work.

Copyright Law In India

Copyright act which was enacted in 1957 was the first legislation regarding Copyright in Independent India and the main law to govern everything related to copyright in India. However, the act came into force on 21st January 1958.

To this date, The Copyright Act of 1957 has been amended six-time after its enactment. The most latest and recent amendment is in the year 2012. The Copyright (amendment) act 2012, came into force under the 2012 amendment. The main goal of this amendment is to make sure that more trust, fair, and reasonable laws and frameworks exist in India for copyrights and the administration of copyright protection.

World Intellectual Property Organization (WIPO)

The World Intellectual Property Organization (WIPO) was created in 1967 to promote the protection of Intellectual property laws throughout the world. (WIPO) it is one of the 15 specialized agencies of the United Nations (UN).

India became a member to several WIPO conventions and treaties administered by WIPO as detailed below:

1. WIPO Convention (1975).
2. Paris Convention (1998).
3. Berne Convention (1928).
4. Patent Cooperation Treaty (1998)
5. Phonograms Convention (1975).
6. Nairobi Treaty.

India has also signed the TRIPS Agreement on Trade-related Aspects of Intellectual Property Rights.

Difference Between Trademark And Copyright

Both Trademark and Copyright have different and distinct uses. Their Credibility and the requirement for registration also differ as follows:

<u>Categories</u>	<u>Trademark</u>	<u>Copyright</u>
Purpose	The purpose of a company's use of a trademark is to maintain the exclusivity or uniqueness of its product or service.	The purpose of copyright is to protect the interests of the creator and their work by giving them the exclusive right to use or distribute their work..
Registrar	The examination and acceptance of trademark applications is controlled by the General Administration of Patents, Designs and Trademarks, Ministry of Trade and Industry.	The review and acceptance of copyright applications is governed by the Copyright Department, the Higher Education Department, and the Ministry of Human Resources Development.
Validity	A period of validity of 10 years that can be made perpetual by the renewal of the brand every 10 years.	Valid for the life of the author + 60 years after his death.
Identification	Trademarks help businesses and consumers identify the quality and standard of services or products offered by a business, and they enable consumers to identify with a particular brand or business.	Copyright of a work helps to identify the original appearance or nature of the work created by the owner.
Symbols	symbols such as the "®" mark, "™" mark, "SM" mark, and "TMT" mark on products or services that bear the trademark or logo.	The owner or creator may use the symbol "©" or the alphabet "C" on copyrighted works and works without registration.

Conclusion

In Conclusion, the main difference between trademark and copyright is that copyright is used to protect the originality of works of art and other forms of work such as literature, art, music and ideas for the benefit of the owner of the work. Is to be done. Used to distinguish one company's products or services from another, it protects the company's exclusivity and identity for the benefit of business owners and customers. Copyright and trademark rights can be used to protect intellectual property rights, but they protect completely different forms of intellectual property, both comply with completely different laws and have their own registration process. Trademarks and trademark registrations are copyrighted because they have mandatory registration rules, include different classes for registration, find unique trademarks that are not used by anyone else, and take a long time to review. We can conclude from our observation that it is much more complicated than rights. Objections and issuance of certificates, and shortening of validity period

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