

Copyright Registration: Why is it a comprehensive legal tool for brand protection in Vietnam?

*A brand is a weapon for brand recognition, an invention is a key to open the door of technology. Everyone knows their importance. But **copyright** - a form of protection that is no less important, is often overlooked and underestimated. Many people mistakenly think that copyright is as natural as breathing, and registration is just a superfluous procedure. Although the law of many countries, including Vietnam, recognizes that copyright arises automatically from the moment a work is formed in a certain physical form, however, ignoring the legal value of the copyright registration procedure can lead to a significant decline in the effectiveness of protecting the legitimate rights of the owner. KENFOX IP & Law Office, would like to share our perspective on the aspects related to copyright registration in Vietnam.*

Consider the case of a multinational brand, for example, "Ice Dream Delights", widely known to the public for its highly recognizable penguin logo. This company has completed the trademark registration procedure. However, an important legal question arises: has the company **optimized the scope of IP protection** for the artistic work of creating the penguin symbol through the legal mechanism of **copyright**? The fundamental legal question posed is: **is copyright registration merely a formality, or does it truly hold significant legal power in the context of today's complex competitive market?** The answer may surprise many. **Copyright registration plays a crucial role in establishing a solid legal foundation, increasing the ability to prove ownership, and enhancing the effectiveness of IP rights enforcement.**

Evidentiary Value of Copyright Registration Certificate: Beyond Formal Significance

In general perception, copyright is often regarded as a natural right arising from the act of creation, meaning that copyright is automatically established when an individual or organization creates an original work - including literary, artistic, and scientific works. This view reflects part of the current legal regulations. However, a less noticed but profoundly practical aspect is that **the copyright registration (or related rights registration) brings superior legal value in terms of evidence, transforming copyright from a potential right into a effectively protected right with the ability to be clearly proven.**

It can be said that the Copyright Registration Certificate (**CRC**) is like a legal document that formalizes the owner's request to protect their rights. According to Vietnamese law, the CRC issued by a competent state agency has the value of certifying the copyright owner of the work, while also recording information about the work, the author, and the filing date. This evidentiary value is particularly important in legal situations where disputes or lawsuits arise regarding copyright infringement.

In the context of legal disputes regarding copyright infringement, the CRC plays the role of initial evidence with high legal value. A copyright owner with a CRC does not have to prove their ownership of the work, **but the person suspected of infringing copyright will have the burden of proof to the contrary.** This simplifies the litigation process, reduces the burden of proof for the rights holder, and significantly increases the advantage of the rights holder in legal cases. Imagine, in the absence of a CRC, the rights holder would face a major challenge in collecting and providing evidence to prove their copyright, especially for works created many years ago. Thus, copyright registration is truly a measure to solidify a solid legal position for the rights holder in any dispute situation.

Copyright and Trademark: Differentiating for Effective Protection

A key point to clarify is that although copyright can protect a logo as a work of applied art, this protection mechanism **cannot replace trademark registration.** Confusion between these two forms of intellectual property protection can lead to serious errors in building a strategy to protect legitimate rights. It must be affirmed that the legal mechanisms of copyright and trademark are established with different objectives and scopes of protection, therefore, they cannot and should not replace each other. The fact that a logo is protected by copyright does not mean that the logo is automatically protected as a trademark, and vice versa.

Trademark law focuses on protecting signs that distinguish goods and services of different business entities, aiming to prevent consumer confusion about the commercial origin of products and services. Meanwhile, copyright protects the creative expression of authors in the fields of literature, art, and science, focusing on protecting the unique, original form of expression of the work. Attempting to use the **copyright protection mechanism to completely replace the function** of a trademark would be similar to using an unsuitable tool for

a specific purpose, which is not only ineffective but can also cause negative consequences for the general intellectual property legal system.

Copyright Enforcement in Practice: Diverse Infringement Scenarios

So, in practice, when does registering copyright for a logo become particularly important in enforcing rights? The answer lies in the ability to protect the work itself (the logo) against acts of unauthorized copying, regardless of the context of the work's use.

It is necessary to expand the scope of consideration of infringing acts beyond the scope of direct competition in the same business field. It is conceivable that the penguin logo of the "Ice Dream Delights" brand is used illegally in the following situations:

- **Counterfeit goods:** The logo is copied and attached to counterfeit products such as t-shirts, cups, toys... sold rampant online and offline.
- **Use in promotional activities of unrelated businesses:** A car dealer uses the penguin logo in advertising publications with the aim of creating an association, benefiting from the prestige and reputation that the "Ice Dream Delights" brand has worked hard to build.
- **Inherently unrelated products:** A furniture company uses the penguin logo image to decorate children's chairs, simply considering it as a decorative, artistic image.

In all of the above situations, although there is no risk of confusion about the origin of the ice cream product (the core issue of trademark law), **copyright infringement can still occur**. The infringing parties have committed acts of illegally copying the penguin logo applied art work that is protected by the copyright of "Ice Dream Delights". In these cases, the CRCC will act as a sharp legal document, giving the rights holder a solid basis to sue, demand the termination of infringing acts, and claim compensation for damages caused by the infringing acts, even if those acts occur in business areas not directly related to the core business activities of the rights holder.

Optimizing Global Protection Scope: The Value of Registration in Vietnam

Although international treaties on copyright, such as the Berne Convention, create a cross-border protection mechanism to some extent, relying solely on copyright registration in other countries (for example, China or the United States) may pose many challenges in the enforcement process in Vietnam. Practice shows that Vietnamese law enforcement agencies and courts tend to prioritize considering and recognizing IP rights that have been officially established in Vietnam.

Registering copyright in Vietnam brings the following practical advantages:

- **Favorable legal procedures:** Creates conditions for the dispute resolution and enforcement process to take place more quickly and efficiently within the framework of Vietnamese law.
- **Solid evidentiary position:** Provides direct, widely recognized legal evidence of lawful ownership of the work, simplifying litigation procedures.
- **Improved enforcement efficiency:** Reduces legal and administrative barriers, facilitating requests for functional agencies to intervene and handle infringing acts.

For brands operating in Vietnam, registering copyright for logos and other creative works in Vietnam is a strategic step, demonstrating proactivity and seriousness in protecting intellectual property assets in the target market.

Copyright and Trademark: The Perfect Combination

In order to achieve **comprehensive and optimal** intellectual property protection, the rights holder needs to establish an **overall strategy**, which **closely combines** the **trademark registration mechanism** and **copyright registration**. Trademarks play a role in protecting brand identity in the market, preventing unfair competition and consumer confusion. Meanwhile, copyright ensures the protection of the artistic expression of the brand, including logos, designs, and images, against unauthorized copying on a wider scope, **beyond the limits of protection according to the core business line** of the rights holder, thereby establishing a multi-layered, solid protection system for intellectual property assets.

For the "Ice Dream Delights" brand, a comprehensive IP protection strategy should include:

- **Trademark Registration:** Proceed with trademark registration for the brand name "Ice Dream Delights," and possibly the logo in the form of a trademark, for core business products and services (ice cream, beverages, desserts...).
- **Copyright Registration (in Vietnam and other countries):** Register copyright for the penguin logo applied art work, in order to establish a solid legal basis to combat acts of copying and unauthorized use of the work, regardless of the field of application.

Copyright Registration: An Important Legal Tool for Protecting Intellectual Property Assets

The role and **legal value** of copyright registration should not be underestimated. Although **not a substitute** for the trademark protection mechanism, copyright registration constitutes an **effective and indispensable legal tool** in the comprehensive intellectual property protection system of an enterprise. Copyright registration not only **strengthens the legal standing** of the rights holder, but also **expands the scope of protection** for the work, **allowing the rights holder to actively apply legal measures** to effectively prevent infringing acts of legitimate rights in many different contexts.

Are the logo and other creative works of the enterprise being protected only "automatically" without being officially registered? Perhaps it is time for businesses to **recognize and fully exploit the legal potential** of copyright, by proactively taking the registration steps in accordance with the law at the Copyright Office. This action is not only aimed at **establishing a solid and comprehensive intellectual property protection system** for the brand, but also **ensures that the legitimate rights of the enterprise are protected in the most optimal way** in an increasingly fierce competitive environment.

QUAN, Nguyen Vu | Partner, IP Attorney
HONG, Hoang Thi Tuyet | Senior Trademark Attorney
LY, Dinh Trang | Associate

Contact

KENFOX IP & Law Office

Building No. 6, Lane 12/93, Chinh Kinh Street, Nhan Chinh Ward, Thanh Xuan District, Hanoi, Vietnam

Tel: +84 24 3724 5656

Email: info@kenfoxlaw.com / kenfox@kenfoxlaw.com