



KAY LEGAL & ASSOCIATES LLP

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*Intellectual Property Rights  
of Mobile Applications*

## PROTECT YOUR MOBILE APPLICATIONS- IP RIGHTS

With this pandemic where social distancing is the new norm, the world is now relying on digital to connect with clients, family members and work remotely. There has been a sudden turn of events and we now have made an immediate shift to online platforms, mails and video conferencing apps to connect and communicate. An adversity brings opportunity and this is an opportune time to develop and come up with innovative ideas to bring the world closer.

With a plethora of mobile applications being developed on daily basis and the market being competitive where cloning and replicating unique apps is common, it is worth protecting your work against these practices. Mobile apps currently enjoy protection of a variety of intellectual property rights and these intellectual property rights protect and cover the various facets of a mobile app.

We shall briefly explain the tools that can protect your creation making an investment in these rights would be beneficial in the long-term.

### COPYRIGHT

Copyright comes to immediate effect upon creating something unique, innovative and new. Copyright registration is not mandatory. However, filing for a copyright would be beneficial at the time of copyright infringement. Copyright can be filed for literary work as well as artistic work in a mobile application. One can apply for:

- The source codes of the mobile app as literary work; and
- Movable images, music, sound, video recordings, etc. of the mobile application interface which can be considered as artistic work.

It is highly recommended to obtain these certificates which serve as documentary evidence that can help you initiate immediate and prompt action in the event you want to file a suit for infringement and/or sue for duplication and copying.



## **PATENT**

Mobile Apps. can be patented in India. The patent application has to fulfill the basic criteria's such as:

- Novelty
- Non-Obviousness
- Utility

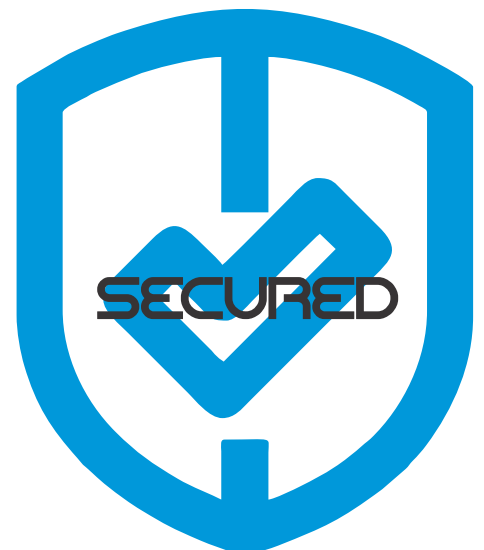
The application for a mobile app has to be aptly worded and not to confuse it with a software application. The above three basic criteria need to be highlighted in the specifications. It is always better to conduct a patent search before going for drafting to find for any similar patents already being registered. Each country has different guidelines and criteria for registration of patents.

Patent application needs to be drafted by a specialist as a vague and ambiguous application is subject to challenge whereas a simple and narrow application may not suffice to be novel. Patent application is time consuming, tedious and expensive. Unless you have a mobile app which is extraordinary and can fix a solution in a non-obvious manner then only you should consider going ahead with the registration process. Even though acquiring a patent registration is expensive, it shall build your IP portfolio and give you more authenticity, credibility and can attract investors.

## **TRADEMARK**

Trademark and brand names play a vital role as they are the source of identification for any entity. Mobile apps can be trademarked. One can apply to register the mobile App name, abbreviation or any other title used to identify the app. The other application can be for the logo of the app which could be a combination of name and logo along with a tagline or symbols to identify the app. Trademark Registration will not only prevent others from infringing on your name or logo but also establish goodwill that would captivate the users to download and use your app.

The process of trademark registration includes various steps such as trademark search to successful trademark registration to renewal of the trademark. Securing the name and the logo of the app becomes mandatory as it shall prevent others from infringing. One should make sure to file the application in as many classes to make it more comprehensive as it shall deter potential passing off or replicating the name or logo. Before filing for a trademark application, it is always better to carry out a trademark search to check the availability of the particular name and logo. It saves a lot of time and you can make sure that there is no other identical or similar name in the market. Once the trademark is filed, the registration is valid for 10 years and can be renewed for further 10 years.



## **TRADE DRESS**

The concept of Trade dress is relatively new but with growing competition it provides a new forum to secure the untouched aspects of business of distinctiveness. Trade Dress protects the look and feel of the mobile app and websites. It refers to the features of visual or sensual appearance which may also include its packaging, shape and combination of colors which can be protected from being misused by your competitors. In context to mobile apps, the main feature to be protected under trade dress would be graphical user interface (GUI). These elements may include the buttons, hyperlinks, menus and arrangement of the icons on the screen. Most of the developers would understand the importance of GUI and how it helps to gain acceptance within the user community. Clone developers purposely replicate the look and feel of the mobile app to create confusion and gain benefit of the reputation. Hence, protecting the look and feel elements of the mobile app is of utmost importance.

One can build an impressive IP portfolio by being smart and registering the important facets of the mobile app. It can attract investors and make you look like a serious and well aware developer. It is better to protect your work rather than fight for it later. The mobile app industry is booming and with this pandemic it is a good time to go through your apps and register them. A good strategy and protection can get you maximum benefit in the long run and shall keep all the competitors at arm's length.



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