Copyright Protection for Logos: An International Chart

Copyright Committee, Logos Subcommittee, Terms 2016-2017 and 2018-2019
September, 2019
Asia: Alicia Groos and Elizabeth Zidones
Greater China: Jill Glickstein
Europe: Philip Davison, Valerie Brennan and Deborah Shapiro
Latin America: Maximilien Yaouanc
Middle East & Africa: Ashley Skinner and Deborah Shapiro
North America: Peter Mendelson
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<td>ASIA</td>
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<td>Rights are created when fixed in material form.</td>
<td>Originality - must originate with a human author. Threshold is not high, but requires &quot;independent intellectual effort&quot; of the authors (Telstra Corporation Ltd v Phone Directories Co Pty Ltd (2010) 194 FCR 142; Ice TV Pty Ltd v Nine Network Australia Pty Ltd (2009) 239 CLR 458). Substantiality - copyright will not be held to subsist in insubstantial works. Single words and headlines will often not attract copyright, although simple logos may. The work has to be original and sufficient skill, labor and judgment should have been spent in creating the same. In general, original works in the fields of science, art and literatures are protected. Thought or sentiments are expressed in a creative way in the literary, scientific, artistic or musical domain, which requires the following two elements although they never pose a high bar for a work to be protected. 1) Expression of thought or sentiments: This requirement excludes protection of simple facts or news, unexpressed idea etc. 2) Creativity: This excludes protection of copied work, very short and common expression that requires little creativity.</td>
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- **Sydney Organizing Committee for the Olympic Games v Pam Clarke** (1996) 41 IPR 403 - example of copyright held to be subsisting in a simple logo.
- **The Procter & Gamble Company vs. Mr. Aashish G. Chordia trading as Usha Marketing and Ors.** CS OS 344/2016 before the Hon’ble High Court of Madras. Order dated June 24, 2016.
- **Procter & Gamble (P&G) came across use of packaging by Defendants similar to its packaging:**
  - Copyright existed in the artwork of the Tide packaging of P&G.

**Is copyright registration for a logo possible?**
- **No copyright registration in Australia.**
- Copyright registration for a logo is possible as an artistic work.
- **Probably not. The Copyright Law indicates that a logo that is being commercially used to trade goods or services should only be registered as trademark and not copyright.**
- **Yes**
- **There is no system of registration for copyright in Malaysia.**
- **No system of copyright registration in New Zealand.**

**How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept?**
- Generally, ownership defaults with the author. Primary exception is works made "in pursuance of the terms of his or her employment by another person under a contract of service or apprenticeship" -
- Subject to certain exceptions, the author is the first owner of copyright. ‘Author’ is the (natural) person involved in creating the work and where a team of individuals were involved the head of the team may be designated as the
- If the work is created on a commissioned basis by an independent contractor or vendor, the copyright shall belong to the person who created the work, unless agreed otherwise.
- Generally, author (a person who creates the work) owns the copyright in the work. However, there is an exception to the authorship of a work made by an employee in the course of his duties:
- A copyright in a work vests initially in the author.
- When a work is made by an employee in the course of his employment, unless there is any contrary agreement, the copyright in
- Generally, ownership rests with the author. There are two exceptions:
  1. Works made by an employee in the course of his or her employment (literary, dramatic, musical, or artistic work) - in that
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**Must an author always be a specifically named living individual?**

In that situation the employer is the first owner of copyright (Section 35(6)). This does not include provision for moral rights. Ownership can be varied by agreement, assignment.

Authors must be human. This excludes authorship by non-living individuals and also where the work is wholly generated by computer means.

An author. In case a work is created in the course of author's employment under a contract-of-service, the employer, in the absence of any agreement to the contrary, is regarded as the first owner of copyright vesting in the work. On the other hand, in case the work is made in the course of the author's employment under a contract-for-service (for example, sub-contractor agreements) the employee/external consultant, in the absence of any agreement to the contrary, is regarded as first owner of the copyright vesting in such work.

If the work is created within the course of employment, the copyright shall belong to the employee who created the work, unless agreed otherwise.

However, if the work is created in official service (e.g. employment relationship with a government agency), the copyright shall belong to the government agency, unless otherwise agreed.

If a legal entity announces a copyright work without stipulating the author, then such legal entity should be deemed as the author, unless proven otherwise.

It is not necessary for an author to be a living individual.

**Term of protection varies depending on type of works.**

The term of copyright in a literary, dramatic, musical or artistic work published within the lifetime of the author is lifetime of the author plus 60 years after the author's death. The term of copyright in cinematograph film or sound recording is 50 years after the work is published.

The term of protection depends on the copyright work subject to protection.

Economic rights of the following works will remain valid as long as the author's lifetime plus 70 years after his/her death (commencing from January 1st of the following year):

- a. Books, pamphlets, and all other literary works;
- b. Speeches, lectures, and other similar forms of work;
- c. Props for educational and scientific purposes;

50 years after death of author, starting from creation. In the case of Cinematographic, 70 years after publication, if it is not published.

The term of protection begins with the creation of work and continues to subsist until the end of a period of fifty (50) years following the death of the author. However, copyright of a work for hire continues to subsist until the end of a period of fifty (50) years following the work shall be deemed to vest in the person who commissioned the work or the employer.

The author's right is transferable by assignment, testamentary disposition or by operation of law, in which case the assignee shall be the owner.

The work shall be deemed to vest in the person who commissioned the work or the employer.

Generally, copyright in any literary, musical or artistic work shall subsist during the life of the author plus 50 years after his death. However, if a work has not been published during the lifetime of the author, copyright in the work continues to subsist until the expiration of 50 years, following the year in which the work was first published. In the case of a work with joint authorship, the life of the author who dies last is used for the purpose of calculating the situation the employer is the first owner of copyright (Section 21(2)). Please note this does not include provision for moral rights. 2. Subject to any agreement to the contrary, a person or corporate entity who has commissioned a copyright work will be the first owner of any copyright provided that the commissioning arose before the work was created and the work was created in pursuance of the commission.

Ownership can be varied by agreement and assignment. Authors may be human or a body corporate.

**What is the Term of Protection for a copyrighted work? Does it vary for different types of works?**

Term of protection varies depending on type of works. For artistic works, protection continues until the end of 70 years after the end of the calendar year in which the author of the work died (Section 33(2)).
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d. Music and songs with or without text;  
e. Drama, musical drama, dance, choreography, puppetry/wayang, and pantomimes;  
f. Works of art in the form of paintings, pictures, carvings, calligraphy, sculpture, statues, or collages;  
g. Architecture works;  
h. Maps; and  
i. Batik art or other art motifs.

For the following works, the economic rights will remain valid until 50 years from the first publication:

a. Photographic works;  
b. Pictures;  
c. Cinematographic works;  
d. Video games;  
e. Computer programs;  
f. Paper visualizations;  
g. Translations, interpretations, adaptations, anthologies, database, adaptation, arrangement, modification, and other works as a result of transformation;  
h. Translation, adaptation, arrangement, transformation, or modification of traditional cultural expression;  
i. Compilations of creations or data, whether in a format that can be read by computer program or other media; and  
j. Original compilations of traditional cultural expression as long as the compilation is an original work.

making public of the work or the creation of the work if it has not been made public within a period of fifty years following its creation. Copyright in a cinematographic work continues to subsist until the end of a period of seventy (70) years following the making public of the work or the creation of the work if it has not been made public within a period of seventy (70) years following its creation.

copyright duration of the work.
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Meanwhile, the following types of works have a different length of protection:

a. Applied art is protected for 25 years from the first publication.
b. Traditional expression that is owned by the Government will be protected without any time limitations.
c. Shows or performances are protected for 50 years from the first performance.
d. Sound recording works are protected for 50 years from the first completion of the recording.
e. Broadcasting works are protected for 20 years from the first broadcast.

If a work is owned by a legal entity, the economic rights would be valid for 50 years commencing from the first publication.

Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

Copyright laws are preferred where the infringer is not using the logo "as a trade mark" (that is used in relation to the goods/services to denote trade origin, for example when used in relation to comparative advertising depicting the logo of a trade mark) or where the infringer reproduces the logo in relation to goods and services not covered by a trademark.

In a criminal enforcement under the Trade Marks Act, if a complaint is filed directly with the Police for carrying out the raid/search & seizure operation, the police is required to take an opinion from the Registrar of Trade Marks (envisaged in the Indian Trade Marks legislation) before proceeding in the matter. However, no such requirement is envisaged under the Copyright Act and, therefore, the police is not required to take an opinion.

While it is difficult to obtain copyright protection of a logo, such protection certainly has some benefits if the logo is highly designed (for example, characters) for the following reasons.
1) Copyright protection does not require the similarity of goods/services.
2) Copyright is granted upon creation, which is cost effective for the owner.

Copyright is not limited by classification, so if a party’s logo is used on goods that are not covered by (or related to) those identified in its trademark registration, that party may still obtain relief for copyright infringement.

For logos that also qualify for copyright protection, copyright law may provide the brand owner with greater ammunition and Copyright laws are preferred where the infringer is not using the logo "as a trade mark" (that is used in relation to the goods/services to denote trade origin, for example when used in relation to comparative advertising depicting the logo of a trade mark) or where the infringer reproduces the logo in relation to goods and services not covered by a trade mark specification.
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**Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?**

- **Trade mark specification.**
  - Enforcement actions under the Copyright Act are expeditious.
  - Additional remedies for combating infringement, counterfeiting, dilution and hijacking. Copyright protection may also be useful when the logo cannot be, or has not yet been, protected as a trademark.

- **Copyright enforcement would be a difficult course of action to enforce logo in Japan for the following reasons.**
  1. Copyright protection of a logo has been negated in Japan.
  2. The plaintiff must bear the burden of proof in showing rather subjective act of copying in addition to similarity between the works to enforce copyright while trademark protection can be granted without establishing such subjective element.
  3. Courts tend to closely look at the similarity between the works, narrowing the scope of the copyright protection.

- **Note that artistic works created before 1 April 1963 may not be subject to copyright if they were capable of design registration at that time. Thus a crocodile logo created before this time was held not to be the subject of**

**Special Considerations**

- **Criminal complaints related to infringement will only be processed based on complaints. The criminal complaints could be addressed to police investigators or the investigators at the Directorate of Investigation at**

- **Copyright owners often overlook having the work transferred from the author.**
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the Directorate General of Intellectual Property ("PPNS"). To support the criminal complaint, the copyright holder should submit the proof of copyright ownership (e.g. if the work is created on commissioned basis by third party vendors, the copyright holder should submit the copyright assignment form or affidavit confirming the ownership of the copyright work). In practice, copyright recordal would also be a useful prima facie evidence to support the enforcement. Current practice requires copyright owners to support their criminal complaints by showing the Police or PPNS evidence or supporting documents of the alleged infringers' deliberate and clear intent to infringe their copyright. The law encourages the disputing parties to try to settle their disputes through mediation before taking the criminal route. Therefore, before filing any criminal complaint, the police and PPNS would expect the copyright owner to first raise objections to the alleged infringers by sending cautionary letters or demand letters. If there is no possibility of settlement and the alleged infringers do not comply with copyright (Crocodile International Pte Ltd v Lacoste [2015] NZHC 2432).
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The copyright owners’ demands to cease the possible infringements, the copyright owner would be able to file a criminal complaint. Evidence that the copyright owner has reached out to the alleged infringers demanding that they stop the infringement would be required to show the intent of infringement by the conflicting party. Hence, this step is considered crucial to support the criminal complaint to be lodged by a copyright owner as well as during the criminal case initial assessment by the police or PPNS as the enforcement officials handling the complaint.

Completer: Lai Lynn Choong
Norton Rose Fulbright
Shivam V. Singh (Mr.)
Remfry
Daru Lukiantono / Hadipuntranto, Hadinoto & Partners
Daru Lukiantono / Wiku Anindito / Hesky Ondo
Manurung Manurung
Kazuko Matuo, Nakamura & Partners
hslegal, LLP Tasneem Haq
Lai Lynn Choong
Norton Rose Fulbright

Verifier (if needed): Hogan Lovells -Chikako Hashimoto
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**How is copyright created in the country (creation/fixation/registration)?**

- **Copyright** is created from the moment of **creation**. (Section 172.1 of the Intellectual Property Code)
- Copyright arises immediately upon creation and expression of a work.
- Copyrights arise the moment a work is created. Neither registration nor fixation is required. Rights are created upon fixation (Article 6.1. of the IP Law)

**What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?**

- **Originality** - protected works must be original creations (Section 172.1 of the IP Code).
  - Originality means the material is not copied and evidences at least minimal creativity. (Ching vs. Salinas Sr, G.R. No. 161295, 29 June 2005)(Philippine Supreme Court)
  - Some level of skill or labor and/or judgment used in creating the expression is required.
  - Works must be expressed or fixed. In relation to literary, dramatic, musical and artistic works, there must also exist an identifiable author who is a natural person (Asia Pacific Publishing Pte Ltd v Pioneer & Leaders (Publishers) Pte Ltd [2011] 4 SLR 381).

- Minimum level of originality is required for copyright protection. No procedures or formalities are required for enforcement.

**What statutes or regulations would be applicable to copyright protection for logos?**

- Republic Act 8293 (or the IP Code) as amended.
- Copyright Act Chapter 63, Trade Marks Act Chapter 332.
- The Copyright Act protects works of applied art, which is defined as "artistic works which are able to be copied on products in the same appearance and could be independently recognized apart from the products themselves, including designs."
- The Copyright Act B.E. 2537(1994) as amended by the Copyright Act (No. 2 and No.3) B.E. 2558 (2015).
  1. Literary, artistic and scientific works protected including:
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Identify any important court or other legal decisions (cases where logos were or were not protectable)

No apparent Supreme Court ruling expressly stating that logos can be protected by copyright.

May be able to infer protection of logos in one case decided by Supreme Court involving Levi’s “arcuate design”. The case implies that designs, which may be in a form of a logo, may be subject of a copyright provided the same is original: that is, not a “copycat version of a prior design.” *(Sambar v. Levis Strauss GR 132604 (2002)).*  

Rovio Entertainment Ltd v Kimani's Food Industries Sdn Bhd [2015] SGHC 216  
Wing Joel Loong Ginseng Hong (Singapore) Co Pte Ltd v Qinghai Xinyuan Foreign Trade Co Ltd and Another and Another Appeal [2009] 2 SLR 814; [2009] SGCA 9 (Case no. 2012Da76829, decided on December 11, 2014). There is a recent Supreme Court decision where the copyright ability of the logos below were recognized:

- The case is notable in that the court clearly stated that copyright protection for logos are not to be excluded just because the logos are used as trademarks.

Supreme Court's Decision No. 4588/2552:  
Although the Trademark Act does not provide clearly and precisely to prohibit use of other's copyright work as its own trademark, unauthorized reproduction and adaptation of other's copyright work and use it as its own trademark is contrary to the legislative intent, public order, morality, and public policy. The mark at issue consists of a characteristic prohibited to register under the Trademark Act, Section 8 (9). Therefore, it is not registrable under the Trademark Act, Section 6 and 16.

Not any case, where logos were or were not protectable, was recorded at the courts. There are some cases were recorded at the Copyright Office of Vietnam (COV) as follows:

1. Logos **protectable**
   1.1. Logo Cha ca Thang Long
   1.2. Logo LUNA
   1.3. Logo HB Group
2. Logos **not protectable**: 2.1. Logo WD40 CAN DESIGN

Is copyright registration for a logo possible?

Registration is possible. Copyright is a statutory grant. A logo may be registered under two categories of works that are subject to copyright protection under the IP Code:

(a) works of drawing, painting, architecture, sculpture, engraving, lithography, or other works of art; models or designs for works of art; or  
(b) pictorial illustrations and advertisements.

Yes, as long as the logo is copyrightable.

No; there is not copyright registration in THAILAND.

Copyright registration for a logo is possible in Vietnam

How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author

Generally, copyright belongs to the author. In case of joint authorship, the co-authors own the copyright unless they have an agreement.

Generally, the person who created the work (i.e. the author) owns the copyright in the work. However, there are exceptions to this general rule. Some exceptions are:

Copyleft initially belong to the actual author(s). A legal entity, organization or other person may be the "author" of a work and to own the copyright in a work, if (i) the work was created by an  
Copyright is defined in the Act as the exclusive right to execute any act by virtue of the Act regarding the work created by the author.

Copyright owner is an author who creates his work by using his own time, finance and other physical and technical facilities.

Co-author who co-creates a
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**always be a specifically named living individual?**

- **Employment:** If the work is created by an employee pursuant to the terms of his employment, the employer owns the copyright in the work.
- **Special situation for newspaper/magazine/periodical employees:** Where an employee of a newspaper, magazine or periodical creates a literary, dramatic or artistic work pursuant to the terms of his employment and for the purpose of publication in a newspaper, magazine or periodical, the proprietor of the newspaper, magazine or periodical owns the copyright in respect of publication in or reproduction for the purpose of publication in any newspaper, magazine or periodical. The employee owns the remaining rights that make up the copyright bundle of exclusive rights.
- **Commissioning:** If a portrait/photograph/engraving is commissioned by another party, the commissioner owns the copyright in the work. If the portrait/photograph/engraving is required for a particular purpose, this purpose must be communicated to the commissioned party. While the commissioner is the copyright owner, the employee within the scope of employment, subject to the employer's supervision; and (ii) there is no separate or particular contract or employment regulation providing that the status of author of, or ownership of copyright in, the work-for-hire should belong to the employee.
- **A work made for hire vests in the employer,** unless the author and the employer have agreed otherwise. The author can be a juristic person established under the Thai law.

**work by using his own time, finance and other material conditions shall have the personal rights and property rights as stipulated in the IP Law.**

Copyright owner is an organization, or individual that assigns a duty to or contract with an author. An organization that assigns a duty of creating a work to an author, who is its employee, shall be the owner of the copyright as stipulated in the IP Law, except where otherwise agreed.

An organization, individual that contract with an author who creates a work, shall be the owner of the copyright as stipulated the IP Law, unless otherwise agreed.

An organization, individual that is heir of copyright in accordance with law on inheritance shall be the owner of the copyright as stipulated in the IP Law.

Copyright owner is a copyrights assignee.
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*commissioned party has the right to stop others from doing any act comprised in the copyright, unless such act is done for the particular purpose for which the portrait/photograph/engraving is created.*

For other types of commissioned works:
Ownership belongs to the commissioned party, unless the commissioner and commissioned party otherwise agree.

The author must be a named individual who may transfer his rights by law or contract.

Copyright can be transferred either as an entire bundle, or as a single, distinct right within the bundle. The copyright owner may transfer his rights to another party or entity either partially or wholly.

### What is the Term of Protection for a copyrighted work? Does it vary for different types of works?

The term is the lifetime of the author plus **50 years**. In case of joint authorship, the term is measured from the life of the last surviving author plus **50 years** from his death.

In case of anonymous or pseudonymous works, copyright is **50 years** from date in which the work was first lawfully published. If before this term ends, the identity of the author is revealed,

The duration varies according to the type of copyright work concerned.

Literary, dramatic, musical and artistic works **70 years** from the end of the year in which the author died.

Specifically for photographs, or if the work is published after the death of the author, it lasts for **70 years**, from the end of the year in which the work is made public.

Under the current Copyright Act, economic rights are generally protected for **70 years** from the author's death. The term for works-for-hire, cinematographic works and anonymous or pseudonymous works is **70 years** after the work is made public.

The Term of Protection of a copyrighted work is **50 years** from the death of the author.

In case the author is a juristic person, the term of copyright protection shall be **50 years** as from the authorship; however, if the work is published during such period, copyright protection shall be **50 years** as from the first publication.

Moral rights, namely (i) To name his or her work; (ii) To put his or her real name or pseudonym in the work; to have his or her real name or pseudonym mentioned when his or her work is published or used; and (iii) To protect the integrity of his or her work, to object to any alteration, mutilation, distortion or other modification in any form which prejudice against his or her honor and prestige shall be protected for an **indefinite term**.
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<td>Sound recordings and films 70 years from the end of the year in which the sound recording or film was first published.</td>
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Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

Copyright does not need prior registration in order to be enforced. The execution of an affidavit attesting to copyright Copyright is not limited by classification, so if a party’s logo is used on goods that are not covered by (or related While trademark infringement is recognized only when the designated goods/services of the registered mark are identical or

(1) The court will normally grant a higher fine for copyright infringement; (2) One half of the fine paid in Protection of logo under copyright right law is broader than under the trademark law as it is not limited to the
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Ownership is prima facie evidence of the matters stated therein.

To those identified in its trademark registration, that party may still obtain relief for copyright infringement.

For logos that also qualify for copyright protection, copyright law may provide the brand owner with greater ammunition and additional remedies for combating infringement, counterfeiting, dilution and hijacking. Copyright protection may also be useful when the logo cannot be, or has not yet been, protected as a trademark.

In addition, if copyright infringement is pursued in a timely manner, the prevailing party in a copyright infringement action may be awarded a recovery of civil remedies including statutory damages in lieu of damages of not more than $20,000 which may not be readily available under trademark infringement action.

The range of remedies which the court can order in infringement proceedings includes an injunction, either damages or an account of profits, an order for delivery up and/or disposal of infringing articles in relation to the copyright. In lieu of damages or an account of profits, the copyright owner similar to the goods/services provided by the infringer, copyright infringement is recognized irrespective of the goods/services involved.

Accordingly with the judgment shall be disbursed to the owner of copyright without prejudice the right of the owner of copyright to bring a civil action for damages for the amount which exceeds the fine that the owner of copyright or performer’s rights have received. (3) The offence in this Act is a compoundable offence.
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Can elect for an award of statutory damages, for which the court can grant not more than $10,000 for each work or subject matter in respect of which the copyright has been infringed but not more than $200,000 in the aggregate, unless the owner proves that his actual loss from such infringement exceeds $200,000.

Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?

Copyright protection extends to the expression of an idea but not the idea itself. As long as the defendant can show that his expression (logo) is original, a claim for infringement will fail even if the variations in the contending logos are slight.

In the absence of an arduous examination on the originality of a work and the validity of the date of creation, a claim for copyright protection over a logo is vulnerable to attack.

Yes when it comes to ownership. Brand owners and practitioners need to keep in mind that the ownership of trademarks and copyright is vastly distinct.

Copyright is not a monopoly. It is essentially a negative right to prevent copying. A trade mark right is a monopoly.

Trade mark rights are acquired through being first to file and first to use. Not so for copyright, where there is no use requirement and ownership automatically vests in the original author of the work until it is transferred.

Whether a specific logo meets the minimum level of originality required to be copyrightable under the Copyright Act can be disputed. Copyright protection for works of applied art was broadened by an amendment to the Copyright Act, which became effective July 1, 2000. Thus, especially with respect to logos created before July 1, 2000, it may be difficult to assert copyright protection.

As copyright infringement is a compoundable or private offense, the police officer has no authority to initiate an action without a claim made to them by a copyright owner.

In practice, when a third party use a similar logo, it is more difficult to persuade the Enforcement Authorities of Vietnam that the use is an infringement of the copyright than using the trademark law.

Special Considerations

"Works are protected by the sole fact of their creation, irrespective of their mode or form of expression, as well as of their content, quality and purpose." (Section 172.2 of the IP Code)

"Works are protected by the sole fact of their creation, irrespective of their mode or form of expression, as well as of their content, quality and purpose." (Section 172.2 of the IP Code)

Registration of copyright is not compulsory in Vietnam, however, owner of the copyright is recommended to register for protection of their copyright with the COV. After the registration, it shall be much easier for the owner to prove that he is owner.
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- Is there a concept of an employer owning a work under a work made for hire concept? Yes (please see the above Item 3)
- Must an author always be a specifically named living individual? No

**Completer**
- Alex Ferdinand S. Fider
  - ANGARA ABELLO CONCEPCION REGALA & CRUZ LAW OFFICES
- Sung-Nam Kim and Angela Kim
  - Kim & Chang
- Pavinee Bunyamissara

**Verifier (if needed)**
- Phathrawat Nakaranuruck
- Nguyen Anh Ngoc
  - INVESTIP
How is copyright created in the country (creation/fixation/registration)?

Copyright protection automatically applies to a work when it is created.

What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?

1. independent creation without plagiarism (originality); and
2. the character or uniqueness able to express individual thoughts, spirit and emotions (creativity). Work does not need to be unprecedented as long as there are changes that can distinguish a work from prior works and present its character or uniqueness.

What statutes or regulations would be applicable to copyright protection for logos?

The CO (CAP 528) provides copyright protection for artistic work, which includes graphic work, photograph, sculpture or collage; or work of artistic craftsmanship. The relevant statute is the Copyright Act.

Identify any important court or other legal decisions (cases where logos were or were not protectable)

A logo is protectable so long as it reaches the originality requirement. This has been confirmed by several trademark office decisions or court judgments, for example:

- In 2010-2011, a Chinese animation producer has prevailed in a few civil actions before several Chinese courts based on its various logo designs (such as and ).

In addition to civil actions against pirates with logo copyright, there are a few cases involving refusal of trademark application or invalidation of trademark registration based on prior copyright in logos. Below are some typical cases:

- The PRC Trademark Office has refused to register a third party application for

The Plaintiff was the owner of a designed logo called “ChromeHeart” and had the logo registered as trademark in various goods, which were mostly pearls and jewels. The Plaintiff alleged that the defendant infringed his Trademark rights and Copyright for labeling his trademark on the counterfeit products and selling those products to the public.

The court admitted plaintiff’s claim for trademark infringement and turned to Copyright infringement with further considerations and elaborations and held that the design and the shape of “ChromeHeart” had met the minimum requirements for creativity and originality under Copyright Act, therefore, “ChromeHeart” shall be protected as artistic work.
### Greater China

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- After Coach has proved evidence of copyright ownership over

  ![Coach logo](image)

- The PRC Trademark Review and Adjudication Board has refused registration of a device mark "Lightning Audio" (PRC Application No. 4792225; filed by a Chinese individual) based on prior U.S. copyright registration by the brand owner of "Lightning Audio" (Rockford).

- The Beijing No. 1 People's Court has invalidated a trademark registration for " " (PRC Application No. 8980223) based on prior copyright owned by the creator of the logo. The court stressed that special design of "eyes and nut" over the Chinese character have reached originality requirement and thus should be protected.

The court concluded that the defendant's action not only constituted trademark infringement but also copyright infringement for reproduction, distribution and display the trademark (artistic work) to the public without authorization.

**Intellectual Property Court 2015 Min Ju Shang Yi Tzi No.11 Civil Judgment**

The Plaintiff was the owner of a logo, a combination of words "SUNSHOW" and a pattern. However, the plaintiff did not register the logo as trademark in Taiwan, therefore, the plaintiff claimed for copyright infringement when the defendant registered a similar logo as trademark in Taiwan.

The court concluded that the pattern of the logo had met the requirements for Copyright protection and shall be protected as artistic work and that Defendant's registration for the logo was a reproduction of the pattern (artistic work), and therefore had infringed Plaintiff's Copyrights.

### Copyright Registration for a Logo

| Is copyright registration for a logo possible? | Yes | No. HK does not have a copyright registration system. | There is no copyright registration system in Taiwan for registration of copyright works. |

In the absence of a registration system, an author is responsible for presenting evidence proving that he/she is the author, the time of completion of the work and that the work is completed independently without plagiarism when there are disputes over the work's copyright.
### How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living individual?

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If an artwork (e.g., a logo) is created by an employee, then by default the employee would be copyright owner (author). However, the employer can reach an agreement with the employee to acquire copyright ownership. In practice, a company should register its logo designs as “legal entity’s work,” which can attribute the author to the company (instead of an employee).

A work created by an employee in the course of employment is owned by the employer, subject to any agreement to the contrary. Also, subject to any agreement to the contrary, the employer must pay the employee an award in respect of any exploitation of the work that could not reasonably have been contemplated by the parties at the time the work was created. If the parties cannot agree on the amount of the award, the matter will be determined by the Copyright Tribunal.

In general, copyright in a work is owned by the author who created the work.

Unless otherwise agreed, where a work is completed by an employee within the scope of employment, such employee is the author of the work but the economic rights to such work shall be maintained by the employer.

### What is the Term of Protection for a copyrighted work? Does it vary for different types of works?

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- Life of the individual author plus 50 years. For a “legal entity’s work,” the protection term is 50 years after the first publication of the work.
- Life of the author plus 50 years.
- Life of the author plus 50 years.

**Moral Rights – Perpetual**

Economic rights in general – Lifetime of the author plus 50 years

Economic rights in a work authored by a juristic person - 50 years after its release or 50 years after completion of the creation where the work is not publicly released.

Economic rights for photographic works, audiovisual works, sound recordings and performance - 50 years after its release or 50 years after completion of the creation where the work is not publicly released.

### Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

- Protection for goods and services can be wider than trademark protection. Copyright actions will not consider the goods/services where the logo is affixed.
- Filing copyright registration immediately after the creation of logo design is highly recommended as it will: a) form prima facie evidence of copyright ownership; and b) provide strong evidence showing prior creation of the work, which would be helpful in opposition actions against pirate trademark filings.

- Protection for goods and services can be wider than trademark protection. Copyright actions will not consider the goods/services where the logo is affixed.

- It can be used to protect against many forms of copying, not just copying which causes confusion amongst consumers.
- Unlike trademarks, copyright is also unconstrained by the need to show that the goods or services to which the fake logo is applied are identical or similar. It can therefore be used by brand owners to obtain “cross class” protection for their brands.

### Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?

- The standard of similarity in copyright actions is higher than that in trademark actions. The pirate’s logo must be identical or almost identical to the right owner’s logo; minor changes may make a difference.

- Difficult to build a criminal case based on infringement of copyright in a logo. However, the Hong Kong Customs (the body in charge of IP-related enforcement and criminal investigation) is more willing to take actions involving “false trade description,” the

- Time and costs involved with registration
- Difficult to identify records to prove ownership
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- absolve the pirate from liability
- Risk that the authorities/courts may refuse to acknowledge copyright.
- Even in where the copyright is acknowledged, scope of protection would be narrower

- "forged trade mark" or the "infringing goods" under the Trade Descriptions Ordinance.
- If it is shown that, at the time of the infringement, the defendant did not know and had no reason to believe that copyright subsisted in the work in which the action relates, the plaintiff would not be entitled to damages, but could only claim for other remedies (e.g. injunctions).
- Potentially less damages. For copyright infringement, damage would be based on the depreciation caused by the infringement to the value of the copyright or the actual harm or losses to the plaintiff's reputation. For trademark infringement, however, the plaintiff could choose between damages or account of profits.

**Special Considerations**

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### How is copyright created in the country (creation/fixation/registration)?

**AUSTRIA**

The copyright originates from the *creation* of a work and no formal requirements (e.g., registration on public registers) need to be fulfilled in order for copyright to be acknowledged. For the requirements of a copyrighted work please see next question below.

Copyright comes into existence by and as of the mere *creation* of the work, as long as the work is copyrightable and meets the originality requirement. Protection by copyright law does thus not require registration.

Rights are created upon fixation.

A work of authorship is under copyright protection as soon as it is created. No registration or fixation is needed. Fixation is advised to prove the date of creation but not mandatory.

Copyright protection is obtained automatically in Ireland. Copyright protection arises from the moment the work is created and no registration is required.

Rights are created upon creation.

### What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?

**AUSTRIA**

A copyrighted work under the Austrian Copyright Act has to fulfill the following requirements: the Copyright Act only protects *original* intellectual productions in the fields of literature, music, art and cinematography. If a creation is sufficiently ‘peculiar’ (individual, creative, original) to qualify as a ‘work’ in the legal sense, it is automatically protected by copyright at the moment of creation.

Copyright protection is reserved for works that meet the *originality* requirement. Belgian copyright law does not define or enumerate the types of work that are eligible for copyright protection (copyrightable).

It is generally accepted by case law and legal scholars that copyright protection is reserved for works that have been expressed in a concrete form (whether tangible or intangible) and thus cannot be awarded to mere ideas, procedures, methods of operation or mathematical concepts as such.

Although Belgian law does not define ‘originality’ either, several references are made to “the author’s own intellectual creation” in

Works are protected if they are the author's personal intellectual creation. There is a certain level of *creativity* required, however the level of *creativity* necessary is rather low.

There is no formality requirement for protection or enforcement. Copyright is created and enforceable with *creation*.

A minimum level of *originality* and formalization or shaping is required. An idea of a logo will not be protectable. No formality is needed for enforcement but the plaintiff will have to prove and explain the originality of the logo as well as the date of creation of the logo.

For works to be protected by copyright they must exist in some form and must be *original*. There is no exhaustive list as to what works can be protected by copyright.

**BELGIUM**

Belgian copyright law does not define or enumerate the types of work that are eligible for copyright protection (copyrightable).

Although Belgian law does not define ‘originality’ either, several references are made to “the author’s own intellectual creation” in

Works are protected if they are the author's personal intellectual creation. There is a certain level of *creativity* required, however the level of *creativity* necessary is rather low.

There is no formality requirement for protection or enforcement. Copyright is created and enforceable with *creation*.

A minimum level of *originality* and formalization or shaping is required. An idea of a logo will not be protectable. No formality is needed for enforcement but the plaintiff will have to prove and explain the originality of the logo as well as the date of creation of the logo.

For works to be protected by copyright they must exist in some form and must be *original*. There is no exhaustive list as to what works can be protected by copyright.

**GERMANY**

Copyright protection is obtained automatically in Ireland. Copyright protection arises from the moment the work is created and no registration is required.

Rights are created upon creation.

**FRANCE**

A copyrighted work under the French Copyright Act has to fulfill the following requirements: the Copyright Act only protects *original* intellectual productions in the fields of literature, music, art and cinematography. If a creation is sufficiently ‘peculiar’ (individual, creative, original) to qualify as a ‘work’ in the legal sense, it is automatically protected by copyright at the moment of creation.

Copyright protection is reserved for works that meet the *originality* requirement. Belgian copyright law does not define or enumerate the types of work that are eligible for copyright protection (copyrightable).

It is generally accepted by case law and legal scholars that copyright protection is reserved for works that have been expressed in a concrete form (whether tangible or intangible) and thus cannot be awarded to mere ideas, procedures, methods of operation or mathematical concepts as such.

Although Belgian law does not define ‘originality’ either, several references are made to “the author’s own intellectual creation” in

Works are protected if they are the author's personal intellectual creation. There is a certain level of *creativity* required, however the level of *creativity* necessary is rather low.

There is no formality requirement for protection or enforcement. Copyright is created and enforceable with *creation*.

A minimum level of *originality* and formalization or shaping is required. An idea of a logo will not be protectable. No formality is needed for enforcement but the plaintiff will have to prove and explain the originality of the logo as well as the date of creation of the logo.

For works to be protected by copyright they must exist in some form and must be *original*. There is no exhaustive list as to what works can be protected by copyright.

**IRELAND**

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For works to be protected by copyright they must exist in some form and must be *original*. There is no exhaustive list as to what works can be protected by copyright.
relation to photographs, databases and software. It follows from the European Court of Justice’s (ECJ) landmark judgment in the Infopaq case that the notion of originality must be given an autonomous and uniform interpretation throughout the European Union as meaning “its author’s own intellectual creation” (C 5/08, Infopaq International A/S v Danske Dagblades Forening, July 16 2009, § 37). The ECJ developed the concept by stating that an intellectual creation is an author’s own “if it reflects the author’s personality”. That will be the case “if the author was able to express his creative abilities in the production of the work by making free and creative choices”, “stamp[ing] the work created with his ‘personal touch’” (“his personality”) (C 145/10, Painer v Standard VerlagsGmbH, December 1 2011, § 88-89, 92 and 94).

The Belgian courts apply this ECJ case law quite consistently.

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What statutes or regulations would be applicable to If the logo is an original intellectual production and qualifies as a copyrighted work its protection falls


German "Urheberrechtsgesetz" (Copyright Act).

The French Intellectual Property Code (hereafter "the FIPC") is applicable as well as the EU legislation

The laws in Ireland that govern copyright are the:

• Copyright and Related

Law n. 633 of 22 April 1941 on Copyright protection.
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<td>copyright protection for logos?</td>
<td>under Section 3 of the Austrian Copyright Act (Works for Art).</td>
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<td>such as the EU Directive 2001/29/EC of May 22th, 2001 on the harmonization of certain aspects of Copyrights and related rights in the information society.</td>
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<td>Rights Act 2000;</td>
<td>• Copyright and Related Rights (Amendment) Act 2004;</td>
<td>• Copyright and Related Rights (Amendment) Act 2007;</td>
<td>• sections of the Patents (Amendment) Act 2006; and</td>
<td>• designs are governed by the Industrial Designs Act 2001.</td>
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<td>Identify any important court or other legal decisions (cases where logos were or were not protectable)</td>
<td>There are only a few older decisions in Austria, i.e. &quot;Happy Skiing (OGH 4 Ob 76/89), &quot;Arrow Graphic&quot; (OGH 4 Ob 1131/94), &quot;Kitzbueheler Chamois&quot; (OGH 4 Ob 63/05a), &quot;Tirol Milch-Logo&quot; (OGH 4 Ob49/10z).</td>
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<td>Judgments that recognized copyright protection for logos: Court of Appeal of Brussels 16 January 2012 on the logo of the news paper &quot;La Dernière Heure&quot;; Court of Appeal of Ghent 28 September 2009 on the logo of discount supermarket &quot;Lidl&quot;; President of the Commercial Court of Liège 25 October 2016 on the logo of sunglasses and watch brand “Komono”; Court of Appeal of Antwerp 31 May 2011 on the logo of Tomorrowland. Judgments that did not recognize copyright protection for logos: President of the Commercial Court of Antwerp 31 March 2015 on the logo of a bakery “Konditori”; President of the Commercial Court of Ghent 28 maart 2014 on the logo of IT-company “Made With Higher Regional Court of Munich - Decision of 16.07.2015 Case No. 29 U 4823/13 - Copyright protection for graffiti tag logo “k1x” granted with reference to the decision of November 2013 of the Federal Supreme Court concerning the threshold of creativity for applied art. Higher Regional Court of Cologne - Decision of 23.10.2015 Case No. 6 U 34/15 - Copyright protection granted for “kissing mouth” logo painted on AIDA cruise line ships with reference to the Federal Supreme Court decision. We do not know any fundamental Court decision in this matter. But we can mention a Court decision of the chambre commerciale de la Cour de cassation (Highest court of justice in France) of July 4th, 2006 which states that: “commercial names and commercial logos are not excluded by nature from the protection field of the works of authorship.” Therefore a logo can be protectable if it is original.</td>
<td>No known cases where logos were protected or not protected under copyright law.</td>
<td>Court of Rome, 24 - 12 - 2002 (available in GADI 2004, 330) - a trademark cannot be registered if it violates third parties’ copyright (and, conversely, a logo o simple phrase can be copyright protected). Court of Milan, 23 - 07 - 2003 (available in GADI 2005, 186) - a trademark cannot be registered if it violates third parties’ copyright (and, conversely, a logo o simple phrase can be copyright protected). Court of Verona, 20 - 09 - 2005 (available in dejure.com) - a figurative and graphic logo can be copyright protected and modifications thereof must be authorized by the author or his heirs. Court of Milan, 9 - 06 - 2011 (available in darts-ip.com) - a graphic designer's trademark project is copyright protected;</td>
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**Is copyright registration for a logo possible?**

- No; there is no copyright registration in Austria.
- Since registration and/or deposit are not required for establishing copyright, there is no statutory/mandatory procedure for doing so. There are some voluntary initiatives providing the option of depositing a work – for instance, I-Depot organised by the Benelux Office for Intellectual Property and OnlineDepot offered by SABAM, a copyright collecting society. Alternatively, an author can also deposit his or her work with a notary. As registration or deposit does not create any copyright in itself, the most important advantage of either is that it can procure a date of creation, and/or that it can help asserting ownership in a work.

- No; there is no copyright registration in Germany.
- No, there is no Copyright registration in France.
- No; there is no copyright registration in Italy.
- If a logo is to be registered it will be registered by way of a trade mark registration.
- If a logo is to be registered it will be registered by way of a trade mark registration.

**How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire? Must an author always be a specifically named living individual?**

- The creator of a work is the owner of a copyrighted work. Because of the legal requirement for a work to be a unique, intellectual creation an author can only be a natural person, not a legal entity. For the authorship, it does not matter whether the author has legal capacity or not; therefore, children and mentally disabled people can be authors.

- Article XI.170 of the Belgian Code on Economic Law states that copyright belongs from the start to the natural person who has created the work. Other persons (legal or natural) may come into possession of (the economic) copyrights as a result of a transfer. Under Belgian law the employee or the author of a commissioned work will always be the initial holder of the copyrights in the works.

- The author of the work is the sole owner of the copyright. The author has to be a natural person - companies or other legal persons cannot be owner of the copyright as long as the author lives. Copyright is only transferable upon death of the author to his heirs.

- There is no concept of an employer owning a work made for hire. If an employer wants to use a work he

- Copyright in a logo is owned by its author, an individual. There is no work made for hire concept in France. An employer will not automatically own the work of his employees except for software (article L.113-9 of the FIPC) and collective work (articles L113-2 and L113-5 of the FIPC).

- Collective work is a close concept of work made for hire and needs several

- The owner of the copyright is the author i.e. the person who creates the work. However, there is an exception where an employee in the course of employment creates the work, unless an agreement to the contrary exists, the employer is the owner of such copyright.

- Section 21 of the Copyright and Related Rights Act 2000

- The individual author is the owner of the copyright, at least originally. If the author is an employee, ownership will be immediately and directly transferred to the employer upon creation. If the author is self-employed and working in pursuance of a contract with the customer, ownership will be transferred directly to the customer either upon creation of the work, or its acceptance. However, if not otherwise stated, said
Copyright Act only regulates the allocation of rights between employer and employee in copyrightable works for certain cases (e.g., software). In all other cases, the general rule would apply whereby the copyright remains with the author (the employee) and the employer can only be successor in exploitation rights. If the employee creates a logo as part of his empoyment duties, the copyright remains with the employee but the employer acquires exploitation rights. Regularly, more detailed provisions are part of the employment contract. Copyright expires 70 years after the author’s death. Where several joint authors hold copyright in a work, it expires 70 years after the death of the last surviving author. There is no difference in Term of conditions:
- the work should be initiated by a person (an individual or a company and should involve several contributors working under the instructions of this person;
- the contributions should be merged into this single work without any possibility to identify an individual contribution;
- the work has to be disclosed under the name of the person who initiated the work. If these conditions are met, this person can claim ownership of the work.

The general rule, enshrined in Article XI.165 §1 of the Belgian Code on Economic Law imposes a looser regime for these assignments by declaring inapplicable certain specific obligations that must be respected in the framework of regular assignments. Other rules apply to, among other things, software and databases. The rights in these types of work are presumed to be held by the employer until the contrary is proven. The term of protection starts with the creation of the work and ends 70 years after the end of the civil year of the author's death (article L123-1 of the FIPC). Or, if the logo is a collective work, it will be protected from its publication for an assignment in writing. The employer can acquire the rights by expressly providing for an assignment in writing. The same applies for the person who commissioned a work on condition that this person is active in a non-cultural sector or in advertising. Article XI.167 §3 defines an author by reference to different situations example:
• Sound recording – author is the producer;
• Films – author is the producer and the principal director; and
• Photograph – author is the photographer.

Moral rights belonging to the author (e.g. the right to claim the work's paternity and the right to oppose any deformation and mutilation of the work which may prejudice his honor or reputation) cannot be waived or transferred.
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70 years after the death of the last surviving co-author. If the speech or performance has been recorded on an audiovisual carrier or an audio carrier, the term of copyright protection lasts for 70 years from publication of the recording.

Protection for different types of works.

for 70 years from the 1st January of the civil year following the publication of the work (article L123-3 of the FIPC).

pseudonymous, copyright will expire 70 years after the date on which the work is first lawfully made available to the public. If the author becomes known during that 70 year period, copyright expiration will then extend to 70 years after the date of the author’s death.

The term of protection for an audio-visual work expires 70 years after the death of the last survivor of the following persons: the main director, the author of the screenplay, the author of the dialogue and the author of the musical compositions, with or without words, specifically composed for the work.

Article XI.166 §3 of the Code on Economic Law states that, in the case of anonymous or pseudonymous works, the term of copyright is 70 years from the time the work has lawfully been made accessible to the public. However, where the pseudonym adopted by the author leaves no doubt as to his or her identity or if the author discloses his or her identity during the period referred to in the general rule for anonymous or
### Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

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**We do not see any benefits.** The only benefit is that copyright originates from creation. However, there could be discussions if the production is an original intellectual creation and if the plaintiff has authorization to use the creation. Therefore, if a logo is registered as a trademark you would probably base your logo enforcement on trademark laws. This is because you can rely on a registered right.

- There is no registration requirement in order to be protected.
- No renewal is needed to continue to enjoy protection.
- No proof of use is required.
- Copyright includes moral rights (Article XI.165 §2 of the Code on Economic Law): right of disclosure, paternity right, and integrity right.
- Not limited (in principle) to use in relation to goods or services, use in the course of trade, no criterion of likelihood of confusion or similarity between goods and/or services. The scope of copyright protection is a lot broader in Germany than trademark protection and covers basically all commercial and many private uses of the logo by a third party with very few exceptions.

While it is necessary for the enforcement of a Trademark to show that the logo was used "as a trademark" by the infringer, for an enforcement of copyright a use "as a trademark" is not necessary.

As there is no "fair use" doctrine in German copyright law, there is no need to prove a risk of confusion.

**The main benefits are that:**
1. the plaintiff would not need any registration to file a complaint;
2. no proof of use is needed;
3. protection is granted for any medium and is not limited to certain types of products or services;
4. there is no need to prove a risk of confusion.

**As set out above, if registering a logo, in Ireland the correct process would be trademark registration as a way of protecting a logo and enforcing one's rights over said logo.**

Not really. In Italy it is not common to protect the rights vested in a logo by making use of copyright legislation, whereas the trademark law is a much more efficient system for the protection of logos (and, of course, distinctive signs in general). Although theoretically logos may well be copyright protected, and there is case law regarding this possibility (to which we hinted in the above), copyright protection on logos would not be effective. For instance, trademark law in Italy offers a certain date and a precise chain of titles, it protects the
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Copyright protection is thus (generally speaking) broader. Law but merely an exhaustive list of limitations to copyright, uses of slightly changed logos or of the logo in a different context can often be attacked more easily with copyright than trademark law.

There is also no registration of the logo necessary for copyright so that it can be enforced in Germany even if there is no trademark protection in place (e.g. due to a lack of registration or use of the sign).

The logo does not have to be used in Germany by the owner of the rights to be enforceable under copyright law, which can be a problem with trademark rights.

Copyright protection is also not restricted to certain goods or services so that uses of the logo in completely different areas of business can be attacked.

Copyright protection is also not restricted to certain goods or services so that uses of the logo in completely different areas of business can be attacked.

Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper)

| No, if it is clear that a logo qualifies as a copyright protected work. It is important to know that copyright can not be transferred inter vivos. Copyright may only be transferred by inheritance; it may also be transferred to specific successors in law. |
| • The duration of protection of copyright is limited in time, whereas trademark protection can infinitely be extended (if renewed in time). |
| • Since there is no registration requirement, it is inter alia harder to prove ownership and the date of creation. |

Companies trying to enforce copyright in Germany always face the problem that they are entitled to enforce the rights. It is necessary to prove the complete chain of rights from the author (the natural person) to the entity trying to enforce the right. Quite often this proves to be difficult as there is either no ownership of a registered trademark towards most similar trademarks (which may be also original artworks of their own) and it allows the owner of a renowned trademarks to extend its protection against signs towards which there is no likelihood of confusion.

Conversely, copyright law would essentially protect the logo against identical reproductions and derivative works, only provided it qualified for being a creative artwork. On the other hand, it shall be considered that the Italian IP Code prevents the registration of a trademark which infringes third parties’ copyright. Thus, if a trademark includes a logo or an element which is copyright protected (for example, a device of Mickey Mouse copyrighted by Disney), its validity can be challenged by the right holder.

Main disadvantages are that the defendant might discuss:

1. the originality of the logo
2. the ownership of the logo
3. the date of creation of the logo.

These three things can be difficult to prove.

As outlined above, the appropriate Intellectual Property right for logos would be to register said logo as a trade mark.

In addition to what mentioned immediately above, the rules on ownership (of copyrighted works created in pursuance of an employment relationship or contract) are not expressly stated in the law and have been determined through case-law and scholarly opinions. Thus, there may instances in which the
execution of a testamentary disposition. However, the author may authorize others to use the work by some or all of the methods of exploitation reserved to the author under Sections 14 to 18 Copyright Act (authorization to use). He may also grant to other persons the exclusive right so to do (right to use). Therefore, if an enforcement is based on copyright, first of all the work must be protected by copyright, and secondly the owner must have a respective authorization to use the work.

• An author will only be certain that his work is protected if confirmed by a judge.
• There is no infringement if the judge decides that the logo lacks originality.
• There is no infringement in case of independent creation.

written license for one or more steps or the license is incomplete at one or more steps. Further this proves difficult if the company received the license through an agency or other third party and does not have all license agreements between author and agency. In international cases the enforcing company might not even know who the author is in this case, especially if the work was made in a country with a work made for hire concept.

German copyright law is very author-friendly so that if there are any gaps or ambiguities in the license agreements this will be interpreted in favor of the author. In enforcement proceedings this might lead to the result that the company trying to enforce a right cannot attack all uses of the logo by a third party if the license agreement with the author is ambiguous as to whether the rights to a certain use were licensed to the company or not.

ownership of said copyright is not clear-cut.

Special Considerations

None.
No
Under some very special circumstances printing the (c) sign below or on a work can lead to a reversal of the burden of proof regarding the question of who owns the rights to a work. While None
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<td>BINDER GRÖSSWANG Rechtsanwälte GmbH</td>
<td>Alexander De Bleeckere &amp; Jeroen Muyldermans, ALTIUS</td>
<td>Dr. Eva Vonau, Hogan Lovells International LLP</td>
<td>Guillaume Gomis, Gomis &amp; Lacker Law Firm</td>
<td>Kirsty Farrell with Eversheds Sutherland</td>
<td>Tommaso Giovanni Trabucco and Maria Luce Piattelli, Hogan Lovells International LLP</td>
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<td>Marie McGinley with Eversheds Sutherland</td>
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normally the entity enforcing the right has to prove that it is entitled to do so under some circumstances this is reversed with a (c) and the defendant has to prove that the person named behind a (c) is NOT entitled to enforce the right.
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<td>How is copyright created in the country (creation/fixation/registration)?</td>
<td>Rights are created upon creation, there are no formalities and no possibility of registration</td>
<td>Rights are created upon fixation.</td>
<td>Rights are created upon fixation.</td>
<td>Under Spanish law a work is created from the moment it is expressed in some kind of medium, tangible or intangible. As for its protection, copyright protects works from the very moment of their creation, without requiring any other formality, such as registration or deposit.</td>
<td>Copyright arises automatically with the creation of the work.</td>
<td>Rights are created upon fixation. Registration is not required; no formalities (Article 1259 of the Civil Code of the Russian Federation).</td>
<td>Copyright in literary, dramatic, musical and artistic works arises once such a work is fixed. Registration is not required.</td>
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<td>What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?</td>
<td>&quot;Original in the sense that they are their author’s own intellectual creation&quot; (ECLI:EU:C:2009:465)</td>
<td>The result of human creativity that has an individual character.</td>
<td>Originality and minimum level of creativity.</td>
<td>In order for a work to be protected by copyright, it must have a minimum of originality (in an objective sense) as well as creative height. In any case, the originality of a work is something that has to be examined case by case.</td>
<td>Works protected by copyright are perceivable intellectual creations in the literary or artistic domain that have individual character, irrespective of their value or purpose. Copyright notice is not required by Swiss law.</td>
<td>• Creativity (Article 1257 of the Civil Code of the Russian Federation); • Originality.</td>
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<td>What statutes or regulations would be applicable to copyright protection for logos?</td>
<td>Auteurswet (Dutch Copyright Act)</td>
<td>Act of 4 February 1994 on copyrights and neighboring rights (Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych)</td>
<td>Copyright Law is applicable provided Logos fulfil the requirements of originality and creativity.</td>
<td>In the event that a logo has enough originality and creative height to be protected by copyright, it would be considered an artistic work. The legal provisions applicable to this type of work are the same that apply to any type of work, with some particularities: (i) Regarding the limit of quotation and illustration</td>
<td>Swiss Federal Copyright and Neighbouring Rights Act („Bundesgestz iiber das Urheberrecht und verwandte Schutzrechte“)-</td>
<td>Chapter 70 of the Civil Code of the Russian Federation (Copyright Law).</td>
<td>Copyright, Designs and Patents Act 1988</td>
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of teaching (article 32 of the Law on Intellectual Property), the exception allows the inclusion of the complete artistic work, and not just a fragment. (ii) Article 56 IPL provides that the acquirer of the medium of an artistic work does not acquire by this fact any right over the work, with the exception of the right of exhibition, provided that the author has not expressly excluded this right at the time of the transaction. (iii) Artists of artistic works enjoy the so-called droit de suite or resale right, which is currently regulated in a separate Law (Law 3/2008, of 23 December, relating to the resale right for the benefit of the author of an original work of art) and allows the author of an artistic work under certain circumstances to participate in the profits obtained in the successive sales of the work.

Identify any important court or other legal

| No identified cases. | The ruling of the Court of Appeal in Warsaw of 23 December 2014 (I ACa) | No identified cases. | * Supreme Court ruling of 10 July 2012: The SC considers that the | No identified cases. | 1. Contractual relations (identifying of the subject of the license) | Most cases concerning the copyright in logos relate to a dispute about ownership, |

None

The ruling of the Court of Appeal in Warsaw of 23 December 2014 (I ACa)

*Supreme Court ruling of 10 July 2012: The SC considers that the
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<td>decisions (cases where logos were or were not protectable)</td>
<td>703/14): a logo consisting of 5 images of people which are deprived of an original character and words typed with a standard font can be a copyrightable work if the whole composition, choice of color, graphics and font are taken into consideration.</td>
<td>logo of a beer brand (Cruzcampo) consisting of a drawing of a character holding a beer (&quot;Gambrinus&quot;) is an intellectual work protectable by copyright.</td>
<td>* Asturias Court of Appeal ruling of 10 February 2006: considered that the logo of a telephone directory lacked sufficient originality to be protected by copyright.</td>
<td>* Madrid Court of Appeal ruling of 20 January 2012: considered that the logo of a well-known clothing brand (Trangoworld) constituted an original work that could be protected by copyright.</td>
<td>* Barcelona Court of Appeal ruling of 24 April 2002: It held that the logo of the film production company Metro Goldwin Mayer, consisting of a roaring lion wrapped and surrounded by cinematographic tapes, constituted an original work protectable by copyright.</td>
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<td>Is copyright registration for a</td>
<td>No, there is no copyright registration in the</td>
<td>No, there is no copyright registration in Poland.</td>
<td>There is no “copyright registration” per se, only</td>
<td>Yes, a logo can be registered at the</td>
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**How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire? Must an author always be a specifically named living individual?**

The creator is the owner of the copyright unless he/she has assigned his/her rights to a third party. There are two exceptions to this rule: articles 7 and 8 of the Dutch Copyright Act. According to article 7 the employer is the owner of the copyright. Article 8 states that in case a public institution, an association, a foundation or a company makes a work available to the public as its own without indicating any natural person as the author, it is then considered to be the author of that work unless it is proved that, under the circumstances, the disclosure to the public of the work was unlawful.

In general, a copyright is owned by the individual author of a work. If a work is created by more than one person, a copyright is owned by co-authors jointly. Only a natural person can be an author of a work.

**Employer**

Unless otherwise provided for in an employment contract, the employer whose employee has created a work as part of his/her duties under the employment relationship acquires, upon acceptance of the work, all the economic copyrights within the scope of the purpose of the employment contract and the unanimous intention of the parties.

In principle ownership is determined by the author. There is a concept of an employer owning a work under a work made for hire concept, however typically a company cannot be considered as an author. There are collective works, in which the authors’ rights can also be owned by natural or legal persons that have organised and coordinated the creation of a work and under whose name the work has been published or disclosed.

As a general rule, the ownership of an artistic work (or of any other type) belongs to the author (physical person) as long as there is no transfer of rights. Notwithstanding the foregoing, there are certain cases in which ownership of a work is presumed to have been transferred to the employer:

(i) Works made by employee authors. Article 51 IPL establishes that in the absence of a written agreement, it shall be presumed that the exploitation rights have been assigned exclusively and to the extent necessary for the exercise of the employer’s habitual activity at the time of delivery of the work.

(ii) Artworks may be deposited with the Russian Authors’ Society (RAO) voluntarily but such deposition is not akin to registration.

The author of a scientific, literary or artistic work is an individual by whose creative work it has been created (Article 1257 of the Civil Code of the Russian Federation). Thus, an author can be either a living or dead individual.

The employer has an exclusive right to a work, unless otherwise envisaged by the labor contract or another contract between the employer and the author (Article 1295 of the Civil Code of the Russian Federation) so that this concept is applicable to Russia.

The general rule of ownership is that the author of the work will be the first owner of the copyright, with exceptions including works made in the course of employment, Crown copyright, Parliamentary copyright and copyright owned by international organizations. The author is defined as the person who creates the work.

In the case of a work made by an employee in the course of their employment, the first owner of copyright will be the employer, unless there is an agreement stating otherwise. This applies only to employees employed under a contract of service or apprenticeship and does not include independent contractors.

Where a work is commissioned, the person...
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made by virtue of that employment relationship.

(ii) Collective works. They are those that are created under the initiative and organization of a person (usually a company) that publishes and discloses it under its name. Article 8 IPL establishes that unless otherwise agreed, the rights to the collective work shall belong to the person who edits and discloses it under his or her name.

(iii) The commissioning of work. The Intellectual Property Law does not expressly regulate this figure. Article 59 only establishes that the commissioning of a work is not the object of the publishing contract. However, doctrine and case law understand that when a work is created under the instructions and supervision of a person, the rights belong to the latter, especially once the price of the commission has been paid.

who makes the work (the contractor) will usually be the owner of the copyright, even if the commissioner has paid for it to be done, unless agreed to the contrary. In such cases, the commissioner is likely to have an implied license to use the work. There are even cases where the commissioner is found to be the equitable owner of the copyright in a commissioned logo (e.g. the Doc Marten's logo).

A work can still be protected even if the identity of the author is unknown, however this has implications for the duration of copyright.

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**Term of Protection for a copyrighted work? Does it vary for different types of works?**

37 DCA). Author not indicated: Copyright expires 70 years after the work has been lawfully made available to the public for the first time. (Section 38 DCA).

There are a few exceptions to the rule that the 70-year period is counted from the author's death:

- (a) works of joint authorship – from the death of the last surviving co-author;
- (b) a work whose author is unknown - from the date of the first distribution, unless the pseudonym adopted by the author leaves no doubt as to his identity, or unless the author has disclosed his identity;
- (c) if the economic copyrights are vested in a person other than the author (e.g. in an employer)- from the date of distribution of the work, or if the work has not been distributed - from the date of its creation.

Special provision, copyright expires 70 years after the death of the intellectual creator, even if the work has only been disclosed or published posthumously.

Artistic works (and for any other kind of work) is 70 years after the death of the author. However, the computation of this term changes in the case of collaborative works (computed since the death of the last of the contributors) and collective works (the 70 years are computed from the publication of the work). In the case of works by authors who died before 1987, the term of protection is 80 years p.m.a., since the previous legislation applies to them.

Exclusive rights of the copyright owner and protects the copyright owner from any unauthorized used of the work including the adoption of the creation in terms of its duplication, publication, change and imitation.

- There are variations by law as to the scope of protection and duration of rights to computer software and other types of creations such a literature, paintings etc.

**Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?**

The copyright infringement criterion is not likelihood of confusion and there are no rules in respect of similarity of goods/service. When logo is used for good/services that are dissimilar to those of competitor and the logo is NOT for a famous brand (section 2.20, 1c)

There are following benefits:

- (a) Long term of protection;
- (b) No formalities to obtain and protect copyrights (e.g. no registration for copyrights is required, no fees for protection to be paid);
- (c) Broad scope of protection

No, there are no major benefits because Trademark Law allows unlimited 10 year renewals contrary to the copyrights (which limited validity). Moreover, a trademark registration usually confers a stronger enforcement.

There are no costs and no formalities for the protection of a copyright as the registration is not possible. There are no use requirements for copyrights. Copyrights and trademark rights have different functions so that the logo

1. No formalities. Copyright arises automatically by creation of an artwork and is not subject to mandatory state registration;
2. The safest approach is to have both copyright and trademark protection for logos where possible.

In a copyright case you will not need to engage with arguments about whether there is use of a sign in the course of trade, use in relation to goods/services (and which goods/services), or whether such use affects the functions of the mark. In addition, if you have not used the logo, copyright in the logo will not be subject to legal protection. Therefore, copyright in the logo will not be subject to legal protection.
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**Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?**

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<th>Duration of protection (70 years vs. Forever if the trademark keeps being renewed); evidence of proper (first) ownership (chain of title); opposite party could argue lack of protection because of lack of originality.</th>
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<td>There are following disadvantages: (a) A logo should be individual and creative in order to have protection as a copyrightable work, which may be difficult to prove; (b) Transfer of copyrights is limited to economic copyrights only, moral rights cannot be transferred or waived; a transfer should be made in writing and should refer to precisely described fields of use; (c) The ownership of copyrights may be difficult to establish or enforce (e.g. if the transfer is not made in a proper way or the list of fields of use contained in the transfer agreement does not cover the full scope of possible use).</td>
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<td>Copyright law can be disadvantageous because of the issues of non registered rights and having to comply with requirements of originality and creativity.</td>
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<td>Copyright protection is always more diffuse and more susceptible to interpretation than that offered by trademark law. The concept of originality is not defined in the Law and, therefore, its valuation is always at the discretion of the judge. In the specific case of logos, there is no doubt that this would be their weak point. Being, in general, very simple creations, their originality and/or creative height can be easily challenged.</td>
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<td>Until the copyrights are enforced before the Courts there is no examination procedure so that there remains an uncertainty whether a creation can be qualified as copyrightable. The copyright ownership has to be proven as there is no copyright registration system in Switzerland. The validity period of copyrights is 70 years following the death of the creator resp. the death of the last surviving creator in case of a joint creation (in case of computer programs 50 years following the death of the creator resp. the death of the last surviving creator in case of a joint</td>
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<td>1. The legislation stipulates 70-year term of copyright protection after author's death while trademark protection is not limited (subject to renewal every 10 year); 2. There is the risk of unfair competition if a logo is not registered as a trademark by the logo owner. 3. The difficulty with collection of evidence of authorship while there is no state registration of copyright in Russia.</td>
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**enforcement could be based on both depending whether the adoption of a creation (copyright) or the risk of confusion (trademark rights) are at issue.**

**to a counterclaim for revocation based on lack of use, in contrast to trade marks.**

**Copyright law can be disadvantageous because of the issues of non registered rights and having to comply with requirements of originality and creativity.**

**Duration of protection (70 years vs. Forever if the trademark keeps being renewed); evidence of proper (first) ownership (chain of title); opposite party could argue lack of protection because of lack of originality.**

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**1. The legislation stipulates 70-year term of copyright protection after author's death while trademark protection is not limited (subject to renewal every 10 year); 2. There is the risk of unfair competition if a logo is not registered as a trademark by the logo owner. 3. The difficulty with collection of evidence of authorship while there is no state registration of copyright in Russia.**

**The disadvantages are likely to be exposure to a dispute about subsistence or ownership, if you cannot prove the circumstances of who created the work and how title has passed to you. The onus is also on the copyright owner to prove that the infringing logo was in fact copied from your logo, which can be challenging in the face of compelling evidence about independent creation. If the logo were created independently, this would not be a defense to trade mark infringement. It is also important that the defenses to copyright infringement vary from the defenses to trade mark infringement, which will be relevant in electing which right to pursue in a given case. There is nothing to prevent you running a combined copyright and trade mark infringement claim.**
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creation) while trademark protection is in principle indefinite as long as the trademark registration is renewed.

**Special Considerations**

| Country   | None | N/A | None |

The benefits of copyright protection are obvious, to name a few: (i) no formality is required; the work is protected from the moment it is created, unlike, for example, trademarks, whose rights arise from the registration itself; (ii) the term of protection is maintained for a very long period: 70 years after the death of the author, without the need to carry out renewals or other formalities; (iii) protection is maintained without the need to "use" or "exploit" the work, which is also a difference from trademark law, where the trademark runs the risk of being cancelled if it is not used in the market.

**Completer**

| Jacqueline Schaap, Visser Schaap & Kreijger | Ewa Kacperek, Hogan Lovells International LLP | Ana Fidalgo w/ Clarke, Model & Co. | Patricia Mariscal Garrido-Falla (Elzaburu SLP) | Sandra Przewloka, E. BLUM & Co. AG, Switzerland | Natalia Gulyaeva, Hogan Lovells International LLP | Nick Aries, Bird & Bird LLP |

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**How is copyright created in the country (creation/fixation/registration)?**

- **ARGENTINA**: Copyright exists from creation without further formalities. Registration is not required, but can be advantageous for evidentiary reasons.
- **BOLIVIA**: In Brazil rights originate from the creation.
- **BRAZIL**: Copyright protection is automatic by the mere fact of the creation of a work. Neither registration nor fixation in a tangible medium is required.
- **CHILE**: Copyright protection is automatic upon creation of the work.
- **COLUMBIA**: Rights are created upon creation.
- **COSTA RICA**:

**What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?**

- **ARGENTINA**: The work must be a creation of its author and thus, it must be original.
- **BOLIVIA**: In Brazil copyright rights subsist in original intellectual works fixed on a tangible medium. The underlying principle is originality rather than creativity.
- **BRAZIL**: Expression and a minimum level of creativity (ideas are not protected).
- **CHILE**: The works are protected by the mere fact of creation, no other requirements need to be met.
- **COLUMBIA**: Minimum level of creativity and comply with the definition of the Law (ideas, procedures, methods and mathematic concepts are not protected by copyright).
- **COSTA RICA**: Intellectual Property Act Nº 17,336 (“Act”).

**What statutes or regulations would be applicable to copyright protection for logos?**

- **ARGENTINA**: Law 11.723 and International Conventions approved by Argentina: Buenos Aires, Washington, Geneva (Universal Convention) and Berne, among others.
- **BOLIVIA**: In case of logos, the Brazilian copyright law - Law 96010/98.
- **BRAZIL**: Intellectual Property Act Nº 17,336 (“Act”).
- **CHILE**: The logos are protected, either as artistic works, or works of art applied to industry, under Law 23 of 1982 and Decision 351 of the Andean Community.
- **COLUMBIA**: Copyright Law and its Regulations. Law No. 6683 and Regulation No. 24611-J.
- **COSTA RICA**: E.g. Logo v. Logos

**Identify any important court or other legal decisions (cases where logos were or were not protectable)**

- **ARGENTINA**: There are no court decisions in that sense.
- **BOLIVIA**: The protection of logos as copyright is normally confirmed by the Courts provided it is original. For instance a decision rendered by the Superior Court of Justice (STJ) on the special appeal 57449 in 1997 states that a logo is a sign created to be advertise a product, resulting from an effort of imagination; thus being characterized as an intellectual work. (published in the Official Journal of Sept 8/97)
- **BRAZIL**: We are not aware of any decision regarding logo's copyrightability.
- **CHILE**: A Colombian Brewery, Bavaria S.A., was unable to obtain registration as a Trademark of the logo for its beverage “COLA & POLA”. Therefore, they attempted to register the logo as an artistic work, before the Colombian Copyright Office. However, registration was also refused, in application of the “separability” principle, under which, the artistic merit of the work was not separable from its industrial application. However, a new Copyright Statute, issued in 1993 (Decision 351 of the Andean Community), defined the concept of Work of Art with Industrial
- **COLUMBIA**: E.g. Logo v. Logos
- **COSTA RICA**:
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**Is copyright registration for a logo possible?**

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**How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living individual?**

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**Application, superseding the separability principle, and replacing it for the principle of "Unity of Art", under which one creation may be concurrently protected under copyright and industrial property. Colombian Council of State, Section 1 - Decision Dated February 3, 1995, File No 2925, Plaintiff: Bavaria S.A., challenging decision from the Colombian Copyright Office.**

**Is copyright registration for a logo possible?**

- **Yes, if it is original.**

**In Brazil enforcement of rights is not dependent upon registration, although registration before the local authorities is recommended just to facilitate evidence of authorship and/or seniority in case of disputes.**

**Yes, as long as the logo has a minimum level of creativity (the Head of the Registry of Intellectual Property would decide on a case-by-case basis).**

**Yes, either as artistic works, or works of art applied to industry**

**Yes; there is copyright registration in Costa Rica.**

**Ownership:**
According to the burden of proof general rule, the copyright holder has to prove that is the legitimate holder of a particular copyrightable work. However, the copyright holder has a legal presumption of ownership if: (i) register the work before the Registry of Intellectual Property; or (ii) uses copyright notices such as [© + year of publication + owner].

**Work for Hire:** Work for hire provisions are limited in the Act and are mainly

**The author will always be a physical person, but both a natural person and a corporation may hold economic rights, either as a result of the assignment of rights or as a result of a legal assignment similar to the "work made for hire" concept. Moral rights are not assignable and they remain on the individual.**

**The ownership will depend of the relationship between the author and the other persons involved in the artwork. In Costa Rica, by Law, the copyright belongs to the author (person who make the artwork). However, our regulation includes the concept work for hire and corporate authorship. In the "corporate authorship" (work performed by employee under the direction of the employer) the copyright belongs to the employer, including the moral rights; this is regulated in our Law. In
### Latin America Part I

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- referred to software and, even more restricted, in respect of journalists, photographers and authors who participate in the cinematographic industry. The general rule is that (i) copyright assignment has to be made by means of public instrument or private instrument legalized by a notary public, and (ii) that the respective agreement must registered in the Registry of Intellectual Property within 60 days of its execution.

**Author:** The author has to be a named living individual (the Act grants to him/her moral inalienable rights); despite the fact that the copyright holder can be a legal entity.

- the case of “work for hire” the copyright belongs to the person who order the work, but the moral rights belong to the author. In Costa Rica, the author is a person named living individual, and the copyright (economic rights) could be assigned to a company. There are exceptions to this rule, the case of corporate authorship and software.

---

### What is the Term of Protection for a copyrighted work? Does it vary for different types of works?

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<thead>
<tr>
<th>Region</th>
<th>Term of Protection for a copyrighted work</th>
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<tbody>
<tr>
<td>Latin America</td>
<td>The right lasts for the lifetime of the author, and an additional 70 years thereon for his heirs, counted as of the 1st of January following the author’s. There are Photographic works are protected for 20 years. Phonograms have a protection of 70 years after the 1st of January of the year following its publication, and of 50 years for cinematographic works.</td>
</tr>
<tr>
<td>ARGENTINA</td>
<td>The right lasts for the lifetime of the author, and an additional 70 years thereon for his heirs, counted as of the 1st of January following the author’s. There are Photographic works are protected for 20 years. Phonograms have a protection of 70 years after the 1st of January of the year following its publication, and of 50 years for cinematographic works.</td>
</tr>
<tr>
<td>BOLIVIA</td>
<td>In Brazil copyright derives from a creation of the spirit and the author is necessarily an individual. Consequently the protection is extended for 70 years after the death of the author. The exceptions to this rule are: audiovisual and photographic works, 70 years from the first publication; software, 50 years from the first publication.</td>
</tr>
<tr>
<td>BRAZIL</td>
<td>Copyright protection lasts for the life of the author plus an additional 70 years term. For an anonymous work, a pseudonymous work, works of joint authorship and in the case of software, the copyright endures for a term of 70 years from the year of its first publication.</td>
</tr>
<tr>
<td>CHILE</td>
<td>When the author and owner is an individual, the term of protection is the life of the author and eighty (80) years more after his death. If the holder is a legal entity, the term of protection is fifty (50) years from the first exploitation or commercialization. This is the general rule for most works.</td>
</tr>
<tr>
<td>COLUMBIA</td>
<td>The term of protection is during the life of the author and seventy years after his death. There are not variations depending of the type of work.</td>
</tr>
<tr>
<td>COSTA RICA</td>
<td>The term of protection is during the life of the author and seventy years after his death. There are not variations depending of the type of work.</td>
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<tr>
<td>Latin America</td>
<td>ARGENTINA</td>
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</table>
| Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)? | There is only one benefit which is that protection is immediate against its reproduction and does not have to go through the registration process of a trademark. | In case of unregistered logos copyright law may be helpful, inasmuch as Brazil is a first-to-file Country. It can also be useful in case of similar logos used to identify different goods/services. | Main benefits:  
  • Public Action: Anybody can bring a lawsuit in case of infringement (not only the copyright holder).  
  • Imprisonment: Up to 5 years depending on the felony.  
  • Statutory damages regime alternative: Once the copyright infringement is declared by a Court, the copyright holder may request the replacement of the claimed moral and material damages (i.e. the actual damages regime) for a compensatory sum determined by the Court according to the seriousness of the infringement. | Only with regards to the term of protection, which is longer regarding Copyrights. | No. The only benefit could be economic. The copyright registration fees are cheaper than the trademark registration fees. |
| Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)? | There are disadvantages. The duration of a trademark is no limited, as long as the registration is renewed. Many logos shall not pass, or will be in the risk of being challenged, the originality test or even if it is artistic. The courts that are competent to deal with copyrighted work, are not used to deal with these matters, such as in trademark issues, in which federal courts are competent. There is no impediment however to have both protections. | Trademark rights can be more comprehensive in case of similar logos, as doctrines of likelihood of confusion and association can be more effectively used. | Possible disadvantages:  
  • Questions of proper ownership if registration has not been obtained/copyright notices have not been used.  
  • Limited experience of courts (cases are even fewer than trademarks ones). | The scarcity of any judicial decisions where a logo has been protected under copyrights law may be a disadvantage. | Yes, the difficulty in establishing proper ownership could be a disadvantage. We always recommend to perform contracts when a company wants to do a work for hire (especially with publicity agencies). |
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**Special Considerations**

In Brazil copyright derives from **authorship**, this being the underlying principle of copyright protection in this country. Definitely, Brazilian law does **not prohibit** cumulative protection (trademark rights/copyright), each one having its own function.

- **Part I**
  - **ARGENTINA**
  - **BOLIVIA**
  - **BRAZIL**
  - **CHILE**
  - **COLUMBIA**
  - **COSTA RICA**

- There is neither general nor specific punitive damages system for copyright infringements in Chile.
- The “private copy” figure is not regulated in the Act (e.g. downloading a movie solely for private use will be considered an infringement).
- Fair use institution is not contemplated as an exception to the exercise of copyright exclusive rights.

Software is protected in Costa Rica as Copyright. The owner of the rights, by Law, will be the Company that develop the program.

**Completer**

- **Jorge Otamendi – G. Breuer**
  - Buenos Aires, Argentina
- **Alvaro Loureiro Oliveira, Jose Antonio Faria Correa - Dannemann Siemsen Ipanema Moreira, Brazil.**
- **Rodrigo Lavados - Sargent & Krahn**
- **Wilson Rafael Rios Ruiz**
- **Jessica Salas Venegas**

**Verifier (if needed)**

- **Maximilien Yaouanc - PMI**
- **Maximilien Yaouanc - PMI**
- **MARIA FERNANDA CASTELLANOS - PARTNER**
- **Maria Lupita Quintero Nassar**
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**How is copyright created in the country (creation/fixation/registration)?**

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Copyright arises from creation.

Copyright is created at fixation of the work in a tangible medium regardless of merit, destination or mode of expression. However, a copyright registration is required to initiate an infringement action and claim damages.

Rights are created upon creation.

Rights are hold upon creation.

Rights are created upon creation.

**What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?**

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Originality.

More than creativity or originality, to protect any copyright you have to fulfill the formalities that the Mexican Copyright Law demands, namely, government fees, filing the copyright form application and copies of the material that pretends to be protected.

Certain level of creativity.

Originality.

**What statutes or regulations would be applicable to copyright protection for logos?**

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Law 65-00 of Copyright and article 74 (g) of Law 20-00.

The protection for a logo or design in Mexico is the registration as a pictorial work, drawing or design.

Law No. 64 of October 10, 2012 which regulates Copyright in Panama

Copyright Law No. 1.328/1997 - Article 4 (8). Among other, the following works are specifically included: plastic arts works, including drawings, paintings, sculptures, engravings and lithographic works.

Legislative Decree N° 822, Copyright Law (art.5, inc.f dibujos).

**Identify any important court or other legal decisions (cases where logos were or were not protectable)**

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No relevant case law as regards logos protected as copyright.

None

N/A

No, there is not any important court or other legal decision regarding logos protection by Copyright.

There are no important decisions where logos were or were not protected.

**Is copyright registration for a logo possible?**

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Yes; any artistic work is susceptible of copyright registration.

Yes; there is copyright registration for a logo in Mexico as a drawing or design and this figure can be specified as a graphic design or a logo.

Yes, it is possible.

Yes; there are copyright registration for logos in Paraguay.

Yes, there is copyright registration for a logo in Peru.

**How is ownership of a copyright determined?**

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The copyright would be owned by the author, who

The author of a work is always the original owner of

The original owner of both moral and economic rights

A living individual whose name, signature or sign

Ownership of a copyright is determined by creation.
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<tr>
<td>Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living individual?</td>
<td>would always have the right to be mentioned in any act related to the use of the artistic work. The Law has a provision for work made for hire, the exploitation rights would belong to the employer in that case.</td>
<td>both moral and economic rights to the work. The author may freely assign the economic rights in whole or part, but may not assign or waive moral rights (attribution, right to have work published anonymously or under a pseudonym, and the right to the integrity of the work. There is a concept of work made for hire in Mexico. However, the author of the work must always be a named individual and the author of a work for hire retains the moral rights to the work.</td>
<td>to the work is always the author, a named individual. There is a concept of work made for hire in Panama, but the same has no impact on the original ownership of the rights to the commissioned work (both economic and moral rights). Further, the moral rights to the work for hire remain with the author of the work and cannot be assigned or waived.</td>
<td>identifying such person appears in a work is presumed to be the author of such work, unless there is proof to the contrary. According to Article 14, regarding the works created in compliance of a work agreement or in fulfillment of a contract, the rights that may be transferred shall be subject to an agreement among the parties. Unless there exists an express contractual provision to the contrary, it shall be assumed that the patrimonial rights over a work have been granted to the hirer, depending upon the case, in a measure necessary for the habitual acts [to be performed] at the time of creation; this implies, likewise, that the hirer or constituent has been granted authorization to make public the work and exercise the [respective] moral rights in the measure that is necessary for the exploitation of said work. The author must always be a living individual.</td>
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<tr>
<th>What is the Term of Protection for a copyrighted work? Does it vary for different types of works?</th>
<th>70 years after the death of the author. Yes, photography and audiovisual works 70 after its first publication.</th>
<th>Life of the author plus 100 years.</th>
<th>The term of protection is of the life of author and 70 years more after their death.</th>
<th>Patrimonial right protection is given during author’s life, and upon his death, these rights are transferred to his successors, for seventy years. Some types of work such as collective works, computer programs, and audiovisual and radio</th>
<th>The term of protection of economic rights for a copyrighted work is the lifetime of the author and 70 years following the author’s death.</th>
<th>The term of protection of economic rights for</th>
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Phonic works, the patrimonial right shall extinguish itself **sixty years after its first publication** or after its conclusion.

Anonymous or pseudonymous works is 70 years counted from the year of disclosure of the work, unless the author reveal its identity before such term expires, in which case the term of protection is the lifetime of the author and 70 years following the author's death.

The term of protection of economic rights for collective works, software and audiovisual works lapse after 70 years of its first publication or, in the absence of publication, following completion.

The above-mentioned terms of protection are counted from January 1 of the year following that of the author's death, or where appropriate that of the disclosure, the publication or the completion of the work.

**Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?**

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The copyright can be used for any copy of the logo independently of the type of goods or service it is used for.

Yes, since the Mexican Copyright Law protects copyrights worldwide and the scope of protection is the life of the author plus 100 years and the Trademark Law only recognizes the protection in Mexico for 10 years from the filing date (however such protection can be renewed for equal periods).

There are no substantial benefits to using copyrights for logo enforcement.

No benefit to using copyrights law for logo enforcement instead of trademark law.

The benefits to using trademark law instead copyright law for logo enforcement are that trademark law provides indefinite term of protection if renewed, while copyright law provides protection only for the term stated above.
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**Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?**

The owner of the copyright could not enforce against third parties using a similar logo that can cause likelihood of confusion, but only against exact copies.

No, there are not.

In our opinion, in Panama trademark laws are stronger than copyright laws regarding logos.

If the copyright is registered in our country and valid there are not disadvantages.

No.

**Special Considerations**

In Dominican Republic copyrights do not need to be registered.

Although there are logos registered as Copyright, this form of protection is not very common, usually the logos protection are done by trademark law.

No.

**Completer**

Pamela Hernandez

Diego Enrico González Rossi

Fernando González-Ruiz - Icaza Gonzalez Ruiz Aleman

Hugo T. Berkemeyer

Claudia Valdivia - Barreda Moller

**Verifier (If needed)**

Fernando Barreda - Barreda Moller
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<td>QATAR (Part 2)</td>
<td>QATAR (Part 3)</td>
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<tr>
<td>How is copyright created in the country (creation/fixation/registration)?</td>
<td>Rights are created upon <strong>registration</strong>.</td>
<td>Copyright is granted automatically upon creation of the work.</td>
<td>Rights are created upon fixation in a tangible medium (e.g. stone, wood, canvas, literary works, CDs etc.)</td>
<td>Rights are created upon creation of the artwork.</td>
<td>Rights are created upon fixation of an original work.</td>
<td>Rights are created upon creation and protected upon publication.</td>
<td>Through <strong>registration</strong>, Qatar is member of Berne Convention, however it is also recommended to submit the works to the Copyright Protection Office in Qatar.</td>
<td>By registration</td>
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<tr>
<td>What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?</td>
<td>Creativity, originality, formalities and requirements.</td>
<td>To be afforded copyright protection, a work needs to be an eligible subject matter (e.g. expression vs. abstract ideas). It also needs to be original and reflect a minimal level of creativity.</td>
<td>Requirements for Copyright in Kenya: 1. Originality of authorship; 2. Work must be reduced to a tangible format; 3. Two copies of the work must be presented with the application for registration; 4. Application must be duly commissioned by a Commissioner for Oaths/Notary.</td>
<td><strong>Originality</strong> is required.</td>
<td>A piece of literary, musical or artistic work shall be eligible for copyright if: - <strong>Sufficient effort</strong> has been expended in the making of the work to give it an original character, - The work has been <strong>fixed</strong> in a definite medium of expression, from which it can be perceived, reproduced or otherwise communicated. In addition, for a piece of artistic, it should not be created for use as a model or pattern to be multiplied by any industrial process.</td>
<td><strong>Protection under the Copyright Law</strong> is conferred on authors of original work, irrespective of the value, quality, purpose or mode of expression of the work (Article 2 of the Copyright Law). For protection to apply, the copyright work must be published for the first time in Qatar as per Article 5(2) of the Copyright Law No. 7 of 2002 (&quot;Copyright Law&quot;) or must be published for the first time in another country and then published in Qatar within 30 days of their first publication (Article 5(3) of the Copyright Law). However, if the author of the work is a Qatari citizen, then</td>
<td><strong>Protection is conferred to authors of original works, irrespective of the value, quality, purpose or mode of expression of these works. (Minimum level of creativity.)</strong></td>
<td>Minimum level of creativity.</td>
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**What statutes or regulations would be applicable to copyright protection for logos?**

- Logos are not afforded protection under copyright law.
- The Copyright Act of 2007
  - Article 3 of the law 2-00 and 34-05 does not cite the term “Logos” among the artworks protected by the law. Logos can be protected under the law governing Trademarks and Industrial Designs / models (Industrial Property Law No. 17-97)
- Copyright Act C28, LFN 2004
  - Can be accessed at http://www.nigeria-law.org/CopyrightAct.htm
- Copyright Law No. 7 of 2002.
- Berne Convention for the Protection of Literary and Artistic Works.

**Identify any important court or other legal decisions (cases where logos were or were not protectable)**

- N/A
- In Shivook Albomim v. Dfus Oman (O.M. 4564/94, of December 25, 1994), the District Court of Haifa decided that stylized logos can be the object of copyright protection.
  - Similarly, in Merkel Stav v. Electro Ashad (C.F. 1913/01, of May 24, 2005), the District Court in Tel-Aviv
  - Not reported.
- There is no such case under the Moroccan copyright law.
- No cases reported.
- No cases reported.
- No cases reported.
  - Court of Cassation Case No. 204/2013.
  - Court of Cassation Case No. 130/2008.
  - Court of Cassation Case No. 93/2008.
  - Court of Cassation Case No. 103/2006.
  - Court of Cassation Case No. 86/2006.
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found that copying a registered stylized trademark along with other visual elements, which appeared on a competitor's packaging, constituted copyright infringement.

On the other hand, in Joop! et al. v. Kal perfume et al. (C.F. 1171/97, of June 18, 2006), involved a claim brought by a manufacturer of famous perfumes against an Israeli company engaged in parallel importation of perfumes. The District Court of Tel-Aviv ruled that trademarks are not normally intended to be works of art, but they rather fulfill a functional purpose of indicating a source. Therefore, legitimate use of the trademark by a third party cannot be enjoined on the
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How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living individual?

The author should be a named living individual. The author of a work is the first owner of the copyright. Accordingly, in a work made for hire, the copyright vests in the author (subject to very specific exceptions), unless the parties agreed otherwise, expressly or implicitly.

If a work is published but the identity of the author is unknown, the term of copyright protection is 70 years from the date of publication.

The author of a work and the owner of the copyright can be separate people (or an entity) where the author has been specifically commissioned to create the work or he creates it during the normal course of his employment for the creation of works.

The author must be a named natural person(s).

Ownership in copyright can be proved by any means. The artwork normally belongs to its creator who is always an individual, except in the case where artwork was made by an employee in the context of his duty within a corporation.

Copyright initially vests in the author of a piece of work, unless otherwise stipulated in writing under contract.

The other exceptions are:

- Where a literary, artistic or musical work is made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical for the purpose of publication, the said proprietor shall be the first owner of copyright in the work in so far as the copyright relates to the publication, except there is a contract to the contrary.

- Where a piece of work is made by or under the direction or control of the author, an author of a copyright work is the owner. The author is defined in the Copyright Law as any natural person who conceived and originated the work.

The author of the work will be the owner of copyright unless otherwise specified / transferred through contract.

A Declaration that the applicant is the author of the work should be submitted with register once they file the copyright application.
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What is the Term of Protection for copyrighted work? Does it vary for different types of works?

The rights arising from copyright generally endure for the lifetime of the author and for a further 50 years after his death.

Copyright is protected during the life of the author plus 70 years. If made by several authors, the term is 70 years after the death of the last surviving one. For anonymous and pseudonymous works, the duration of copyright is 70 years from first publication.

The terms varies as follows:

1. **Literary, musical or artistic works (other than photographs)** – Lifetime of author + 50 years after authors death;
2. **Audio-visual works & photographs** – 50 years from the date work was made or first publication whichever date is.

Moral rights are not limited in time. They are transmissible after death to the heirs. Patrimonial rights are in general limited to the whole life of the author in addition to 70 years after his death.

The term of protection for copyrighted work are as follows:

- **Literary, musical or artistic work**
  - seventy (70) years after the end of the year in which the author dies.
- **Cinematograph films and photograph**
  - fifty (50) years after the employer owning a work made under hire. If expressly stated in the employment contract between the employer and employee (Article 33 of the Copyright Law).

An author does not need be a specifically living named individual. If work of a deceased author is first published by his beneficiaries, then the rights of the work shall be protected for 50 years from the date of the works first publication (Article 31 of the Copyright Law).

A person need not be alive to be recognized as the author of a piece of work.

The term of protection for copyrighted work are as follows:

- **Literary, musical or artistic work**
  - seventy (70) years after the end of the year in which the author dies.
- **Cinematograph films and photograph**
  - fifty (50) years after the end of the year in which the author dies.

As provided for under Article 15 of the Copyright Law, the term of protection for the financial rights of a copyrighted work is for the period of the author’s life and for 50 years after his/her death. As opposed Article 17 of the Copyright Law which states that moral rights which are perpetual and transferable by.

The economic rights shall be protected during the life of the Author and for fifty calendar years after his death. Protection for original, artistic or literary work shall be for the following durations:

- In the case of the work of **joint authorship**, the rights shall be protected for fifty calendar years.
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- Sound recordings – 50 years after the end of the year in which the recording was made; and
- Broadcasts – 50 years after the end of the year in which the broadcast took place.

end of the year in which the work was first published.

- Sound recordings: fifty (50) years after the end of the year in which the recording was first published.
- Broadcasts: fifty (50) years after the end of the year in which the broadcast first took place.

inheritance after the authors’ death.

The term of protection for a copyrighted work does vary according to the type of work (Article 15 of the Copyright Law).

calendar years from the date of the death of the last surviving co-author.

- In the case of audio-visual or collective work, the rights shall be protected for fifty years as from the date on which the work was first published. For works that are not published, the term of protection shall run from the first day of the calendar year after the completion date of the work.

- In the case of a work published under a pseudonym or published anonymously, the rights shall be protected for fifty calendar years from the first day of the calendar year following the date on which the work was first published.

Nevertheless, where the pseudonym used by the author leaves no doubt as to the author’s identity, the term of protection shall be calculated as from the first calendar year following the
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Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

|               | N/A              | Yes. Copyright can, in certain cases, provide an additional layer of protection against infringements, especially when the logo in question is not registered as a trademark. | Cost savings as copyright is cheaper to acquire than trademark. | There are no provisions for protecting a logo under copyright law. Therefore use of trademark law is the most efficient manner. | Copyright laws do not envisage the protection of logos. An artistic work shall not be eligible for copyright, if at the time when the work is made, it is intended by the author to be used as a model or multiplied by any industrial process. | Under Article 48 of the Copyright Law, an infringer of a copyrighted work shall be subject to imprisonment for a period no less than six months and no more than 12 months and/or shall be fined between QAR 30,000 and 100,000. Whereas, the Trademark Law No. 9 of 2002 provides that an infringer of a trademark shall face an imprisonment term not exceeding two years and/or a fine not exceeding QAR 20,000. | N/A              | No |

Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as N/A | Trademark protection provides stronger protection when an infringer uses a mark which is confusingly similar to the original trademark, but not | Limited rights protection under the law in comparison to trademark rights. | The provisions of article 133 of the Trademark law grants clear protection to logos. Therefore, it is advisable to opt for protection of a logo | Copyright is limited in years such as 70 years for literary, musical or artistic work, whilst trademarks are perpetual. | Copyright protection applies only if the work is published for the first time inside Qatar or if the work is published for a first time in another country and then | No | No |
<p>| Special Considerations | - | Concerning <strong>artistic works</strong>, copyright will not exist where such work has been created for use as a model or pattern to be multiplied by any industrial process. A person need not be alive to be published in Qatari within 30 days of their first publication (Article 5(2) and (3) of the Copyright Law) – subject to international agreements. However, Article 8(8) of the Trademark Law No. 9 of 2002 protects logos even if not registered in Qatar, so long as they have been registered as a trademark in a different jurisdiction or so long as the logo constitutes a well-known sign (Article 2 of the Paris Convention). Through extensive practice, it is found that logos are registered and protected under the Trademarks Law No. 9 of 2002 more frequently than it is registered and protected under Copyright Law No. 7 | No |
| preclusion or questions of proper ownership? | similar enough to constitute copyright infringement. | Questions of ownership may arise in copyright as to priority when there are similar works but in trademarks, the proprietor is clear and the date of application also clearly stated. Copyright is tied to a single work, whilst trademarks are tied to a range of goods. A disadvantage which could arise, albeit in rare occasions, is a situation where the creator of the logo, seeks to enforce his rights in copyright in a manner which could be detrimental to the rights a brand owner who has trademark protection for his logo. | |
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**How is copyright created in the country (creation/fixation/registration)?**

- Rights are created upon fixation.
- Copyright exists by operation of law and is created as soon as the work in question is (a) an original work and (b) such work has been expressed into a material form.
- Rights are created upon creation, or fixation, or registration. Notably, while copyright through creation and fixation is available to both locals and foreigners, registration of copyright is only available to local Tunisians.
- Copyright work is protected upon its creation with no formality and/or ceremony. While not mandatory, it is possible to register a work which provides proof to help identify ownership and the date of creation for a piece of work. For logos, copyright arises from the moment of creation.

**What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?**

- Original in character; affixation in a definite medium of expression; created by a citizen of Sierra Leone or person who is ordinarily resident in Sierra Leone or by a body corporate; first published in Sierra Leone or in the case of a work first published outside Sierra Leone within 30 days of its publication outside Sierra Leone; or work in respect of which Sierra Leone has an obligation under an international treaty to grant protection.
- There are two general requirements for copyright. The first being originality and the second being expression into a material form (no © in idea).
- Minimum level of creativity. The main legislation on copyright law, "Law No. 5846 on Intellectual and Artistic Works", establishes under Article 1/8 that scientific and literary works, musical works, works of fine art and cinematographic works are copyrightable, provided that they have the characteristic of their author. With regards to works of fine art, in addition to the criteria of the work having the characteristic of its author, Article 4 requires works of fine art to also have aesthetic value. However, the individuality and originality terms and concepts are also debated as to whether 'having characteristic of its author' could imply those. While the registration for literary works, computer software (with the exclusion of video games) and works of fine art is not mandatory, the Regulation No. 26171 (On the Recording and Registration of Intellectual and Artistic Works) stipulates that phonogram producers which make the first fixation of sounds and the producers that make the first fixation of films are obliged to record and register their rights in order to facilitate proof of ownership, to exercise their economic rights, and to prevent the violation of

- The work must be creative. Creativity is defined as the characteristic that gives originality and distinctiveness to the work.
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<td><strong>What statutes or regulations would be applicable to copyright protection for logos?</strong></td>
<td>Copyright Act No. 8 of 2011 Can be accessed at: <a href="http://www.wipo.int/wipolex/en/details.jsp?id=14529">http://www.wipo.int/wipolex/en/details.jsp?id=14529</a></td>
<td>The South African Copyright Act no 98 of 1978. Can be accessed at: <a href="http://www.cipro.co.za/legislation%20forms/Copyright/Copyright%20Act.pdf">http://www.cipro.co.za/legislation%20forms/Copyright/Copyright%20Act.pdf</a></td>
<td>Logos will be automatically protected under copyright law upon their date of creation.</td>
<td>The Copyright Law and the same requirements set forth in Article 1/B shall also be applied to logos. That being said, the logos for which the protection is sought shall also have characteristic of its author. Based on merits of each specific case, it could be possible to assess a logo as a work of fine art provided that it has an aesthetic value in accordance with the Article 4.</td>
<td>UAE Federal Law No. 7 of 2002 Concerning Copyright and Neighbouring Rights (the UAE Copyright Law). Can be accessed at: <a href="http://www.wipo.int/wipolex/en/text.jsp?f">http://www.wipo.int/wipolex/en/text.jsp?f</a> ile_id=124612</td>
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<td><strong>Identify any important court or other legal decisions (cases where logos were or were not protectable)</strong></td>
<td>None reported</td>
<td>No reported cases.</td>
<td>N/A</td>
<td>Supreme Court of Appeals, 11th Circuit of Law, the decision dated 9.12.2015, numbered 2015/5813 E., 2015/13267 K. (<a href="http://www.kazanci.com">http://www.kazanci.com</a>)</td>
<td>No reported cases.</td>
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<td><strong>Is copyright registration for a logo possible?</strong></td>
<td>Yes. A logo may be classified as artistic work which is capable of registration.</td>
<td>No. Other than registration in respect of cinematograph film works, there is no registration for copyright in South Africa. Registration is however not mandatory.</td>
<td>Yes. Copyrights (logos or other formats) are automatically protected in Tunisia. However, registration is only possible for local Tunisians and not for foreigners.</td>
<td>Yes, it is possible.</td>
<td>Yes. Registration is however not mandatory under the UAE Copyright Law but is recommended for enforcement purposes.</td>
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<td><strong>How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living</strong></td>
<td>The ownership is determined through authorship or vesting of economic rights in a copyright through a transfer or transmission. Yes. The copyright of a work shall vest in an employer or person who commissioned the work if the employed author created the work (a) in the course of his employment by the employer or person; (b) under a contract of service; or</td>
<td>The general rule is that ownership of copyright vests in the author/creator of the work. Section 21(c) of the Copyright Act provides that &quot;Where a person commissions the taking of a photograph, the painting or drawing of a portrait, the making of a gravure, the making of a cinematograph film or the making of a sound recording and pays or agrees to pay for it in money or money’s worth, and the work is made in pursuance of that</td>
<td>The ownership of copyright work vests in the author. Even if the work was created in terms of the author's employment with a public or private employer, the copyright vests in the employee. The ownership in this context refers to the economic rights inherent in copyright. The economic rights may be transferred or licensed.</td>
<td>The general principle is that the person who actually creates a work is the author of such work. The ownership of the work is acquired automatically with the creation of the work. There is a specific provision in Copyright Law for works created by an employee. According to Article 18(2) of the Copyright Law &quot;Provided that the contrary is not determined by a private contract between the parties or is understood from the nature of the work. In most cases, the first owner of a copyright work is the author. An author is defined as the person who created the work. It therefore follows that the author must be an identifiable living individual. No concept of a 'work for hire.' There are no provisions that deem that the work of an employee is owned by an employer. In the case of 'Collective Works,' the owner of copyright is the natural or legal owner of service; or</td>
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### Individual?

(c) on **commission** by the person who commissioned the work, in the absence of any enactment or contract to the contrary.

No.

*commission, such person shall, subject to the provisions of paragraph (b), be the owner of any copyright subsisting therein.*

However, the above does not apply to artistic works like logos. As such, ownership in a logo will vest in the **creator**. If for instance, a creative agency is contacted for the specific purpose of creative a once off logo, the agency will own the copyright even where the client has paid for the work.

Regarding employment however, Section 21(d) of the Copyright Act provides that “Where a work is made in the course of the author’s employment by another person under a contract of service or apprenticeship, that other person shall be the owner of any copyright subsisting in the work” *(i.e. the employer).*

In the situation, the rights on the works created by officers, servants and employees while they are performing their jobs shall be used by their employers or by the ones who have assigned them to work. The same rule applies in respect of the executive bodies of legal persons.

### What is the Term of Protection for a copyrighted work? Does it vary for different types of works?

The right of an author shall be protected during the life of the author and for fifty years after his death.

In the case of **joint authorship**, during the life of the last surviving author and for fifty years after his death.

In the case of a **collective work** and audio visual work, for fifty years from the date on which the work was either made, first made available to the public or first published, duration depends on the type of work that has been created.

**Literary, Musical or Artistic Works** – copyright exists for the life of the author plus 50 years, subject to the following:

- Generally, the term of copyright is 50 years, subject to the following:
  - Literary, Musical or Artistic Works – copyright exists for the lifetime of the author plus 50 years. In the case of photographs, the duration is 25 years from the year in which the work was made.
  - The right of an author shall be protected during the life of the author and for fifty years after his death.
  - In the case of all works except photographs, the copyright endures for the lifetime of the author plus 50 years. In the case of photographs, the duration is 25 years from the year in which the work was made.

**FILMS AND PHOTOGRAPHS** – 50

**In the case of all works except photographs, the copyright endures for the lifetime of the author plus 50 years. In the case of photographs, the duration is 25 years from the year in which the work was made.**

**Life of the author, plus 70 years.**

For most works, the term of copyright protection in the UAE is the lifetime of the author plus fifty years from the first day of the calendar year following the author’s death. However, this term varies for different types of works.
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whichever date is latest.
In the case of a work published anonymously or under a pseudonym, for fifty years from the date on which the work was made, first made available to the public or first published, which date is latest, but where the author’s identity is revealed or is no longer in doubt before the expiration of that period then for the life time of the author and for fifty years after his death.
Where the copyright is owned by a public corporation or other public body corporate the term of protection shall be fifty years from the date on which the work was made public.
In the case of a sound recording or broadcast, the rights of the author are protected until the expiry of fifty years from the date of making of the work, or where the work is made available to the public during the period with the consent of the author until the expiration of fifty years from the date of its communication to the public.
In the case of a program carrying signals or photographic work, fifty years from the date of making the work or the signal.

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<th>Are there benefits to</th>
<th>Copyright law (although usually raising more uncertainty than</th>
<th>Copyright is highly enforced in Tunisia and is one of the</th>
<th>Copyright registration can be used for enforcing copyright works before</th>
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**using copyright rights/laws for logo enforcement (instead of trademark law)?**

- **Middle East & Africa**
  - **Part II**
    - **SIERRA LEONE**
      - and institutions readily in place. Whereas copyright law is mostly unenforced.
    - **SOUTH AFRICA**
      - trade mark rights) will benefit a case if used TOGETHER with trade mark rights. The additional claims will serve to strengthen a case of infringement and where trade mark law may fail (due to confusion not being found) copyright law may serve as a valuable back-up.
    - **TUNISIA**
      - **strongest arguments used against third parties in civil court proceedings.**
    - **TURKEY**
      - Customs. Registration certificates can also be used to apply for a customs watch service before the Customs Authorities upon a central recordal of the copyright. The acceptance of the copyright recordal by the Customs Authority will activate the customs monitoring on the passing of possibly pirated goods in order to initiate the suspension of release of such products. The registration certificates of copyrighted works are also very practical and useful tools to prove the ownership and to determine context of the work in possible civil and criminal actions. These certificates are also used during the enforcement of the copyright in case of infringement before the Court. As the framework of the copyrighted work is clearly defined in the certificate, the examination will be carried through more effectively, which increases the chances of obtaining preventive or injunctive measures during such actions.
    - **UNITED ARAB EMIRATES (UAE)**
      - available where a trade mark infringement claim cannot be brought – i.e., where a logo is used by an infringer for goods or services not covered by a trade mark registration.

**Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?**

- Copyright law is largely unenforced. Institutions are not in place and there are no recorded cases on the matter.
  - As there is no registration of copyright, ownership queries surrounding the copyright work will most often need to be dealt with. At the same time, the very existence of copyright (against the previously mentioned requirements) will also be scrutinized. This creates a level of **uncertainty** in enforcement of copyright. Trade mark registrations hold more certain
  - **None**

- No, there are not.
  - It can be difficult to establish ownership of copyright under UAE law. Although the UAE Copyright Law provides that it is not necessary to register copyright in order to bring an infringement claim, it can be very difficult to succeed with an enforcement action without a registration in place.
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Ownership values

The **lifespan** of copyright is **limited** while a trade mark right may be kept in force indefinitely.

Copyright is linked to one single work and protects certain actions surrounding that work. Trade mark rights on the other hand are linked to a variety of goods/services under the registration and is not necessary linked to an exact reproduction of the right, but rather action which is (in most cases) likely to cause confusion and/or deception disadvantages may be encountered if one chooses to make use of copyright INSTEAD of trade mark rights.

Special Considerations

There is **no provision** for the registration of copyright in South Africa, except for cinematograph films. Registration of cinematograph films is however not a requirement in order for copyright to exist.

The **standard of originality** required for copyright is **low**. Whilst a work does not necessarily have to be unique, it must not have been copied from another source. In determining originality, the level of skill and labor involved in creating the work is questioned.

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<th>SABA &amp; CO IP - TUNISIA DEPARTMENT</th>
<th>Ms. Sila Basaran w/ Deris Patent &amp; Trademarks Agency</th>
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Whilst registration is not mandatory, in practice, it can be very difficult to succeed with an enforcement action without a registration place.
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**How is copyright created in the country (creation/fixation/registration)?**

Copyright arises on **creation of a work** without the need for registration or other formalities. The Copyright Act (RSC 1985, c C-42) expressly requires **fixation** for some types of work (and not others); however, the courts have held that a "work" must have some "material form" (see e.g. Théberge v Galerie d'Art du Petit Champlain inc 2002 SCC 34 at para 25, [2002] 2 SCR 336).

A work is protected upon **fixation in a tangible medium of expression**.

**What are the requirements for protection (originality/creativity/formalities or requirements for enforcement)?**

- **Originality**: To be protected by copyright, a work must be "**original**". It must be more than a mere copy of another work, but it need not be creative or novel. What is required is an exercise of skill and judgment that is not so trivial that it could be characterized as a purely mechanical exercise. “Skill” is the use of one’s knowledge, developed aptitude or practiced ability in producing the work. “Judgment” is the use of one’s capacity for discernment or ability to form an opinion or evaluation by comparing different possible options in producing the work. See CCH Canadian Ltd. v Law Society of Upper Canada (2004 SCC 13 at para 16, [2004] 1 SCR 339).

- **Benefits of Registration**: Registration is not required for copyright to arise, or to enforce copyright. However, it can be beneficial to register. A registration is evidence that copyright subsists in the registered work, and that the registered owner is the proper owner of the copyright (Copyright Act, s 53). (Note: even without registration, if the name of someone purporting to be the author is indicated on the work, that person will be presumed to be the author; if no author is indicated but an owner is, that person will be presumed to be the owner (Copyright Act, s 34.1)). Registration also prevents a defendant from taking advantage of section 39 of the Act, which states that a plaintiff is not entitled to any remedy other than an injunction where the defendant can prove that he or she was not aware, and had no reasonable ground for suspecting, that copyright existed in the infringed work (Copyright Act, s 39).

**What statutes or regulations would be applicable to copyright protection for logos?**

- SOR/97-457 - The Copyright Act and the Copyright Regulations.
- The Industrial Design Act (RSC, 1985, c I-9): Sections 64 and 64.1 of the Copyright Act address the interface between copyright protection and industrial design protection. The intent of these sections is to create an exception to copyright infringement for works that are more appropriately protected as industrial designs.
- The Competition Act provides that where intellectual property rights have been used in one of the prohibited, anti-competitive manners listed in s. 32(1) of the Competition Act the Federal Court can, among other things, void any license related to the use, direct the grant of licenses, expunge registrations of trademarks, and direct that "such other acts be done or omitted as the Court may deem necessary to prevent any such use" (Competition Act, RSC, 1985, c C-34, s 32(2)).

**Identify any cases in which copyright infringement of a logo was successfully claimed:**

U.S. courts have generally been willing to recognize the coexistence of trademark and

17 U.S.C. 101 et seq. (the Copyright Act); 37 C.F.R. 201 et seq.; Compendium of U.S. Copyright Office Practices (3d Ed.) 913 (not a binding regulation or source of law, but used by the Copyright Office for examination of applications).
Canadian Tire Corp. v Retail Clerks Union, Local 1518 (plaintiff successfully prevented striking workers from using its logo) (7 CPR (3d) 415, [1985], 36 ACWS (2d) 4 (FCTD)); Tommy Hilfiger Licensing Inc. v International Clothiers Inc. (defendant sold clothing with a crest similar to a crest for which THLI had a trademark and copyright registration. (2003 FC 1087, 239 FTR 260). Note the plaintiff appealed the dismissal of the trademark infringement claim, and the trial judgment was reversed on this point only; 2007 FCA 261 at para 32, [2005] 1 FCR 148); Rotisseries St-Hubert Létre v Syndicat des Travailleurs(esees) de la Rotisserie St-Hubert de Drummondville (CSN) (plaintiff successfully prevented union from using material that infringed its logos during a labour dispute) (17 CPR (3d) 461, [1987] RJQ 443 (Sup Ct)); Corp. Sun Média c S.C.F.P. (employer successfully prevented striking workers from using logo on protest banner) (2007 QCCS 2943, DTE 2007T-630); Cie générale des établissements Michelin - Michelin & Cie v CAW – Canada (plaintiff succeeded in a copyright infringement claim against a union that used images of the "Michelin Man" in its literature) ([1997] 2 FC 306, 68 ACWS (3d) 156); Guillemette v Centre coopératif de loisirs & de sports du Mont Original ("Under the provisions of s. 2 of the Copyright Act, R.S.C. 1970, c. C-30, the plaintiff's logo, which was designed by him, is manifestly an "artistic work." at CPR 411) (15 CPR (3d) 409, 15 CIPR 123 (FCTD)); Spiros Pizza & Spaghetti House Ltd. v Riviera Pizza Inc. (plaintiff "possessed copyright and moral rights in the logo" para 4) (2005 ABOB 80, 377 AR 266); Visa International Service Assn. c Auto Visa Inc. (41 CPR (3d) 77, [1991] RJQ 2197 (QC SC)); Dufour c Langlois (2001 CanLII 16628 (QC CQ)); Wing v Golden Gold Enterprises Co. (66 CPR (3d) 62, 108 FTR 308); E. Remy Martin & Co. S.A. v Magnet Trading Corp. (HK) Ltd. (Remy Martin successfully opposed registration of the applicant’s trademark on the grounds that the applicant could not be satisfied it was the person entitled to register the mark, since it infringed Remy Martin’s copyright in its Centaur design mark (23 CPR (3d) 242, 1988 CarswellNat 1457 (TMOB)); but see also Interactiv Design Pty Ltd. v Grafton-Fraser Inc. (a person may believe they are entitled to registration notwithstanding another’s copyright) (67 CPR (3d) 537, 1998 CarswellNat 3069 (TMOB)); Ace Cafe London Ltd. v Ace Cafe Toronto Ltd. (2012 TMOB 219, 107 CPR (4th) 427) (similar to Remy Martin) and Chery Automobile Co. v Wang (2013 TMOB 104, 113 CPR (4th) 327) (similar to Remy Martin).

Kraft Canada Inc. v Euro Excellence Inc.: Kraft Canada Inc. attempted to prevent "grey market" importation into Canada of genuine goods intended to be sold in a foreign market. It brought an action against Euro Excellence for secondary infringement based on the logos on Toblerone and Côte d'Or chocolate bars (secondary infringement pursuant to s. 27(2) of the Copyright Act prohibits the importation of a copy of a work that a person knew or should have known would infringe copyright if it had been made in Canada by the person who made it). At the trial level (2004 FC 652 at para 8, [2004] 4 FCR 410), the judge held that the Côte d'Or elephant logo and the Toblerone bear in a mountain were sufficiently original to be protected by copyright, but "Côte d'Or" in block script and the red shield (which was a background for the words and elephant) were not. These findings were not challenged at the Court of Appeal (2005 FCA 427, [2006] 3 FCR 91) or the Supreme Court (2007 SCC 37, [2007] 3 S.C.R. 20). Kraft Canada lost at the Supreme Court. The court's reasons were fragmented. Some judges held that Kraft Canada could not rely on section 27(2) because it requires that the work

Kraft Canada Inc. v Euro Excellence Inc.: Kraft Canada Inc. attempted to prevent "grey market" importation into Canada of genuine goods intended to be sold in a foreign market. It brought an action against Euro Excellence for secondary infringement based on the logos on Toblerone and Côte d'Or chocolate bars (secondary infringement pursuant to s. 27(2) of the Copyright Act prohibits the importation of a copy of a work that a person knew or should have known would infringe copyright if it had been made in Canada by the person who made it). At the trial level (2004 FC 652 at para 8, [2004] 4 FCR 410), the judge held that the Côte d'Or elephant logo and the Toblerone bear in a mountain were sufficiently original to be protected by copyright, but "Côte d'Or" in block script and the red shield (which was a background for the words and elephant) were not. These findings were not challenged at the Court of Appeal (2005 FCA 427, [2006] 3 FCR 91) or the Supreme Court (2007 SCC 37, [2007] 3 S.C.R. 20). Kraft Canada lost at the Supreme Court. The court's reasons were fragmented. Some judges held that Kraft Canada could not rely on section 27(2) because it requires that the work

Copyright protection for logos. Although there have been no landmark court decisions in this area, one interesting case is as follows: Frederick Warne & Co. v. Book Sales, Inc., (involving the Beatrix Potter "Peter Rabbit" books and recognizing that "Because the nature of the property right conferred by copyright is significantly different from that of trademark, trademark protection should be able to co-exist, and possibly to overlap, with copyright protection without posing preemption difficulties." and that "Dual protection under copyright and trademark laws is particularly appropriate for graphic representations of characters"). 481 F.Supp. 1191 (S.D.N.Y. 1979)
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would be infringing if made in Canada by the person who made it, and that was not the case here. The logos were applied to the goods by the copyright owner. Kraft Canada Inc. was not the copyright owner, but rather the exclusive Canadian licensee. If the logos had been applied to the goods in Canada by the copyright owner that may have been a breach of the exclusive license but in that case the cause of action is breach of contract. As exclusive licensee, Kraft Canada Inc. would have no claim against the copyright owner for copyright infringement.

- **Cases in which logos were not protected by copyright include:** Data Accessories Corporation v Directory Advertising Consultants Limited (1997 CarswellNat 3344, 1997 CanLII 15887 (TMOB)). Although Data Accessories prevailed in this trademark opposition proceeding, its ground of opposition related to copyright infringement failed. The mark at issue was a logo consisting of a black rectangle with the letters DAC in white within a white rectangular border. The court did not need to consider this ground, but it noted in obiter that "it is doubtful that copyright subsists in the opponent's trademark DAC & Design since there is little, if any, originality in that logo." (para 16)

**Is copyright registration for a logo possible?**

Yes, as long as copyright subsists in the logo. An example of a registered logo was the logo at issue in VIA Rail Canada Inc. c Location VIA-ROUTE Inc. ([1992] RJQ 2109, 96 DLR (4th) 347 (QC CA)).

**How is ownership of a copyright determined? Is there a concept of an employer owning a work under a work made for hire concept? Must an author always be a specifically named living individual?**

- The general rule is that the **author is the first owner of a work** (Copyright Act, s. 13). But if a work is made by a person "under a contract of service or apprenticeship" and it is made in the "course of employment", the author’s employer is the first owner, absent an agreement to the contrary (s. 13(3)). First, the person must be an employee, not an independent contractor. This determination is based on factors such as the terms of any agreement(s), whether the employer controls or directs the employee’s work and whether the employee bears a risk of loss or chance of profit. Second, the work must be completed in the course of employment. This determination is based on factors including the terms of employment (for example, the hours of employment), who owns the tools used to create the work, and where the work is created. Note that where the employer is the first owner, the employee remains the author.

- The author must be a natural person.

- Special rules apply in the case of sound recordings and older photographs. In the case of sound recordings, "the maker of a sound recording has a copyright in the sound recording, consisting of the sole right… (a) to publish it for the first time, (b) to reproduce it in any material form, and (c) to rent it out, and to authorize any such acts." (s. 18). A “maker” of a sound recording is “the person by whom the arrangements necessary for the first fixation of the sounds are undertaken” (s. 2). This maker can be a corporation (s. 18(2)(a)(iii)).

- In the case of photographs, if the plate or other original of an engraving, photograph or portrait was commissioned for valuable consideration before November 7, 2012, the Copyright ownership belongs to the individual who created the work, unless it was created in the scope of his or her employment, in which case the employer is considered the owner. Independent contractors can be hired on a work made for hire basis pursuant to a written agreement, but only with respect to creation of the following types of works: (1) contribution to a collective work, (2) part of a motion picture or other audiovisual work, (3) translation, (4) supplementary work, (5) compilation, (6) instructional text, (7) test or answer material for a test, or (8) atlas (17 U.S.C. 101). If an independent contractor is hired to create any other type of work, then an assignment of rights to the hiring party will be necessary. Under the work made for hire doctrine, corporate entities can be considered authors of copyrightable works.
### What is the Term of Protection for a copyrighted work? Does it vary for different types of works?

- The general rule is that the term of copyright is the **life of the author plus fifty years**, calculated from the end of the year in which the author died (Copyright Act, s. 6). In the case of a work of joint authorship, the relevant life is that of the last author to die (s. 9(1)). If a joint author is from a non-NAFTA country, however, and that country grants a shorter term, copyright persists for only that shorter term (s. 9(2)).

- For anonymous or pseudonymous works, the term is the shorter of fifty years from the end of the year of first publication, or seventy-five years from the end of the year the work was made (however, if the author(s) become(s) known, the general rule then applies) (s. 6.1).

- For government works, the term of copyright is to the end of the year of publication (as that term is used in the Copyright Act) plus 50 years (s. 12).

- For works created after January 1, 1978 by individual authors, the term is life plus 70 years.

- For works created after January 1, 1978, by corporate authors, the term is 95 years from publication or 120 years from creation, whichever is shorter.

- For works created prior to January 1, 1978, the term will vary depending on a number of circumstances, such as whether the work was registered and if the registration was renewed.

### Are there benefits to using copyright rights/laws for logo enforcement (instead of trademark law)?

- Unlike trademark law, "use" is not required to support a claim for violation of copyright. This means that (i) there can be copyright protection for a logo that is not a valid trademark (cannot be registered, has been expunged, or cannot be protected as an unregistered mark), and (ii) it is not a defense to infringement for a defendant to establish that it did not use the logo as a trademark and/or in association with goods or services.

- The **tests for infringement are different**. The test for trademark infringement is likelihood of confusion - the question is whether the use of the defendant's mark likely to lead to the inference by the relevant public that the goods or services associated with that mark are manufactured, sold, performed or endorsed by the plaintiff. The test for copyright infringement is substantial similarity - the question is whether the defendant has reproduced the work or any substantial part thereof.

- While a trademark must be distinctive, there is no similar concept of loss of distinctiveness for a copyright-protected work.

- Statutory damages are available for copyright infringement (Copyright Act s. 38.1), but not for trademark infringement. Note, however, that the range is wide and the amount is ultimately at the discretion of the court.

- Plaintiffs claiming copyright infringement can claim both damages and an accounting of the defendant's profits (Copyright Act, s. 25). In trademark infringement, the plaintiff must elect between damages or an accounting of profits.

- Owners of unregistered copyright can assert rights nationally, while owners of unregistered trademarks are limited to the geographic boundaries within which they can establish a reputation.

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**Note:**
- For works created after January 1, 1978 by individual authors, the term is life plus 70 years. For works created after January 1, 1978, by corporate authors, the term is 95 years from publication or 120 years from creation, whichever is shorter.
- For works created prior to January 1, 1978, the term will vary depending on a number of circumstances, such as whether the work was registered and if the registration was renewed.
Are there disadvantages in using copyright rights/laws to protect or enforce rights in logos (such as preclusion or questions of proper ownership)?

- Proving ownership of copyright can be an issue. If ownership is claimed because the work was created by an employee, the plaintiff may have to prove the author was an employee (as opposed to an independent contractor) and that the work was created in the course of their employment. Where the plaintiff was not the first owner of copyright, the plaintiff must prove an assignment in writing (Copyright Act, s 13(4)), and while the written assignment does not necessarily have to be produced, the court must be satisfied it existed.

- In addition, copyright reverts to an author’s estate 25 years after death where the author of a work is the first owner of copyright. In that case: “no assignment of the copyright and no grant of any interest therein, made by him, otherwise than by will, after June 4, 1921, is operative to vest in the assignee or grantee any rights with respect to the copyright in the work beyond the expiration of twenty-five years from the death of the author.”

- Logos that are dominated by words may not be copyrightable - for example, copyright does not extend to a single word.

- Exceptions and defenses are available to defendants accused of copyright infringement that are not available to defendants accused of trademark infringement. Of particular note for logos are: independent creation, fair dealing, non-commercial user-generated content, and incidental inclusion.

- The Copyright Act includes special rules related to copying by certain entities or for certain purposes, including for example copying by educational institutions (s 29.4-30.04) and libraries, archives and museums (s 30.1-30.21).

- There are different limitation periods for copyright infringement and trademark infringement.

- If a copyright is not registered, a defendant can plead ignorance of the copyright. In that case, an injunction is the only remedy; no monetary relief is available (Copyright Act, s. 39).

Copyright protection for a logo may fall into the public domain, whereas trademark rights in the logo can persist for as long as the logo is being used in a source-identifying manner. The Copyright Act also has a three year statute of limitations, while the Lanham Act does not have a statute of limitations. Per the U.S. Supreme Court’s decision in Petrella v. Metro-Goldwyn-Mayer, Inc., 134 S.Ct. 1962 (2014), laches can form a strong defense to a trademark infringement claim, but may be a weaker defense to a copyright infringement claim.

Special Considerations

Significant amendments to the Trademarks Act have been passed but are not yet in force. Among other things, they will expand the definition of trademark to formally include "non-traditional" trademarks such as scent and sound. The changes are otherwise unlikely to affect the analysis above. Economic Action Plan Act, No. 1, SC 2014 c 20.

A copyright registration is required to initiate federal court litigation for copyright infringement. 17 U.S.C. 411.

Completer

Peter Mendelson, Purdue Pharma L.P.

Verifier (if needed)

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