

Protection of IP rights for Mobile Apps

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The investments involved in developing such apps are minimal. Is it worth protecting your mobile apps if getting protection takes longer than producing the app itself? The present article will explain the key tools that can be used to protect Apps from those looking to copy them and will highlight why protecting your mobile application through these tools is worth-while:

Patents

Whether mobile applications are patentable is a question that has been debated for some time. Mobile applications are nothing but software running on a mobile hardware and interacting with various servers. Each country has different criteria for examining patent applications based on computer implemented inventions or software based inventions. There is no one answer as to whether a mobile application is patentable in a particular country or not.

However, in general, mobile applications and the technology behind mobile applications can often be the subject of patents. By way of example, when the virtual keyboard was first introduced in mobile phones, this was a patentable subject-matter. There may be various front end elements of mobile applications which can be novel, inventive and may be out of the excluded subject-matter of patenting. Also, the way a mobile application communicates with a server or another mobile device may be patentable.

Trademarks

For marketing or other usage purposes, a mobile application can have a name or a creative device (logo) or a combination of the two, enabling the mobile application to be identified by the consumer. It is important to mention that a trademark gains strength and distinctiveness through its usage, and with more usage it becomes more vulnerable to duplication.

A mobile application is first promoted online and then downloaded by the user on to a mobile and then continuously used by the user through their mobile. During the promotion phase, the name of the mobile application is used more than the logo; and during the download process, the mobile application is mentioned with both name and logo. Once the mobile application is downloaded on to a user's device it appears more as an icon, which is nothing more than a logo. Hence, the name and logo becomes equally important and needs to be protected by a trademark. It is suggested that one must seek protection for the "name" and "logo" individually. Expert advice is needed to identify the apps usage and marketing pattern to determine a specific trademark protection strategy.

Copyright

Another important form of protection for mobile applications is copyright. Copyright allows protection for creators of original work of authorship for literary and artistic work. Computer codes and presentation of various mobile screens during the working of a mobile application are considered as literary work and artistic work respectively. Other aspects of a mobile application which can be considered artistic are movable images, music, sound, video recordings, etc. of the mobile application interface.

Generally, a copyright is automatically effective after creation and there is no necessity to file for copyright

protection. However protecting various copyrightable aspects of your mobile application would be an essential step when quick preliminary injunction is required. To get a preliminary injunction from a court of law, it is required to establish a prima facie case of infringement. And, to establish a prima facie case, a copyright registration works as an effective tool for the copyright owner to show that it holds the copyright. For various mobile applications, there is a chance that the owner of the application may lose a significant sum of money and business if a preliminary injunction is not received at the earliest.

Whether to file a single copyright for various subject matters like the user interface, images, layout of the application, the screenshots of the application, or just one copyright for all, varies from case to case, and requires an expert's opinion.

Mobile applications are part of a fast moving technology, and these applications can be developed at a very quick pace. Mobile technology may be constantly changing but protecting these applications remains very beneficial for the business in the long run. In some cases, the mobile application is just a part of the business, whereas in other cases the business itself is the mobile application (for example, Uber and Whatsapp). A suitable Intellectual Property Protection strategy is needed for each app in order to enjoy maximum benefits from the mobile application without worrying about competitors who may duplicate the mobile application technology.