Getting the Deal Through: Trademark

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Safir Anand and Swati Sharma provide an overview of the trademark regime in India, and the efforts rights owners must undertake to protect, preserve and monetise their intellectual property. The sweeping discussion covers aspects essential when considering trademark protection. Who can apply, what can be protected and to what extent, and the registration time frame and costs are important considerations. The guide examines the procedure and legislation relevant in the registration of a mark in India. Moreover, it explains remedies available to applicants in case the application is denied or when the it faces opposition pursuant to publication. Successful registration of a mark confers benefits on right holders, such as exclusive right to use the mark and obtain relief in respect of infringement of the mark. That said, a person claiming to be the sole proprietor of an unregistered trademark can enforce rights in the said mark through a passing off action during which common law rights acquired through use of the mark in India will have to be demonstrated. Whereas self-adoption is but one business model, licensing, assignment and security in registered marks are effective monetisation options. *This chapter was published in Getting the Deal Through: Trademark 2017.*

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