

During a simple walk in the mall, for example, it is easy to notice the use of prints containing illustrations of famous characters and brands, especially in recent years, related to series and works related to the world of science fiction and which can be found in the most varied products, such as backpacks, water bottles and in the most diverse pieces of clothing.



Although the consumer certainly ignores the legal aspects linked to such commercial practice, it is worth mentioning certain legal peculiarities provided for in Law No. 9,610/1998 (Copyright Law) and Law No. 9,279/1996 (Industrial Property Law).

With regard to intellectual works, these are the “creations of the spirit, expressed by any means or fixed in any support, tangible or intangible, known or invented in the future,” a concept in which illustrations and prints from films and fictional characters fit; it is emphasized that, under the terms of the Copyright Law, its holders do not depend on the realization of a specific registration to be entitled to copyright. In particular, moral rights must be respected, relating to the indication of authorship and conservation of the work, and patrimonial rights, relating to the gains associated with the economic exploitation of a

given work.

Regarding moral rights, among others, these are protected through the indication of authorship. The author's name must always be included in the dissemination channels when reproducing and/or adapting the work, making it clear to the consuming public the origin of its creation.

In relation to patrimonial rights, it appears that the reproduction of literary works - even if only of some of its excerpts - as well as the reproduction of characters in various items or any advertising materials (such as heroes of comic books and series characters) will only occur if the Author or whoever holds the patrimonial rights of such creation expressly authorizes the partial or complete reproduction. It is worth remembering that different people can own property and moral rights.

As an example, the reproduction of famous fictional characters such as Aladdin, Frankenstein, Sherlock, Cinderella, and Peter Pan, due to the expiration of the indicated period, does not depend on the express authorization of their owners, which is likely to explain the wide range of products available on the market containing such characters. Even so, it is necessary to respect the moral rights, which are imprescriptible and, therefore, belong to the Author's successors.

In the case of reproduction and imitation of trademarks, such as those that identify superhero comics, the intellectual property rights of the holder or depositor, who have the right to zeal and exclusivity in the national territory, must be respected.

If necessary, the brand's licensing may be reproduced/adapted according to article 139 of the LPI, utilizing a Licensing Agreement, which may provide for the [payment of royalties](#) and must be registered with the National Institute of Industrial Property (INPI) to have effects before third parties.

Alternatively, the holder or the applicant may, if they so wish, authorize the use of a particular brand through a particular contract and for a specific purpose (e.g., dissemination of an advertising campaign with a strategic partner). It is recommended that it contain a series of legal obligations aimed at taking the necessary measures to ensure the care and non-infringement of the trademarks within the scope of the contractual term, with any default subject to the sanctions provided for in the LPI and the Civil Code.

Finally, it is added that any artistic works related to the characters, such as superhero drawings, as well as the names of series and drawings, may be registered as a trademark,

provided that such act is practiced by the copyright holders or by third parties with express authorization for this purpose, as provided for in Art.124, item XVII, of the LPI.