

Intellectual Property Laws: Protection of Celebrities' Identity

Authors : Soumya Chaturvedi

Abstract : Ever since India opened its doors for the world economy to enter, there has not been a single instance of recoil. A consequence of this move by the government of India resulted in India evolving as a consumer-driven market and in order to survive in this era of extreme competition, the corporate houses have employed every possible means to reach out and hit onto the sentiments of the consumers. The most obvious way to ensure a strong perseverance towards the specific product or brand is through celebrity endorsements. In a country like India, whose film industry accounts for the largest sales and output, it is indeed appalling to acknowledge the fact that it lacks an effective mechanism of protection of the commercial exploitation of celebrities' attributes under the ambit of law. The western half of the globe has very well accepted and recognized the rights of the celebrities to decide upon the quantum of commercial exploitation of their own attributes and earn profit out of the same. However, the eastern half seems to be a little reluctant in accepting and enforcing these views per se. A celebrity has a right to publicity over the traits of his personality which involves voice, autographs, reputation, and style, so on and so forth as it is these attributes that are responsible for huge trade profits concerning the products to which such traits are attributed to. This clearly involves the right of the celebrity to benefit himself by commercially exploiting the same and refraining the unauthorized gain to third parties. The market is making it nearly impossible to proceed further with such weak laws considering the escalating rate of celebrity endorsements in the nation. This paper discusses the lacunae in law per se to identify a right as such by a celebrity over his traits that are potentially under the circle of commercial exploitation and the need of a definite legislation that would ensure a change in the paradigm of the Courts in India. Also, it discusses the only remedy available currently for violation, which is, a suit for passing off by Indian Courts under Trademark and Copyright laws and a comparison of the same with the mechanisms adopted by the legal systems across the globe.

Keywords : celebrity, rights, intellectual property, trademark, copyrights

Conference Title : ICMIP 2014 : International Conference on Managing Intellectual Property

Conference Location : Paris, France

Conference Dates : June 26-27, 2014