

T R A D E M A R K

REGISTERING NAMES OF CELEBRITIES AS A TRADEMARK



Celebrities like Amitabh Bachchan, Shahrukh Khan, Sachin Tendulkar and many others promoting a variety of products and services. A mere mention of their name is enough to draw attention to the products and services they endorse. Have you ever wondered whether a celebrity's name can be trademarked and why it is done?

Who is a Celebrity?

A Celebrity is a person who is well recognized by the general public for his/her accomplishments in a certain field by the general public. The definition of the word "celebrity," with context to Indian intellectual property laws, is ambiguous. Though given a broad meaning, the term 'celebrity' may fall under the definition of "performer" under the Copyright Act 1957.

Legality of registering Celebrity names as Trademark

The Trademarks Act, 1999 does not contain any particular provision allowing or prohibiting registration of names. However, given the large number of celebrities who have registered their names, it can be presumed that the practice is allowed.

Section 14 of the said Act has been useful in limiting the unrestricted use of celebrity names, preventing or restricting the registration of trademarks that falsely suggest a connection with living people or people whose deaths occurred within 20 years of the date of the application for registration of trademarks. The Registrar can provide the option of requesting written consent from such a person who is still alive or from their legal representative (in case the person is deceased).

Indian Celebrities registered their name as Trademark

Indian celebrities like Shah Rukh Khan, Kajol, Sanjeev Kapoor, Alia Bhatt, Amitabh Bachchan and even Sunny Leone have registered their names as Trademarks. Additionally, Bollywood actor Ajay Devgan has registered his signature as a trademark. Sachin Ramesh Tendulkar, has trademarked his initials 'SRT'. Getting a trademark registration allows celebrities to prevent others from using their name for dishonest commercial purposes. In India, the infringement of a trademark is a cognizable offence which means that the infringer may face both civil and criminal charges.

A celebrity may use passing off to protect their rights to exposure. Before a passing off activity can be demonstrated, the following conditions must be met:

1. The person's renowned reputation
2. Any kind of misrepresentation
3. Personal injury that is irreparable.

The jurisprudence of intellectual property is always changing and evolving. There is potential in India to alter the status quo and put new intellectual property regulations into place with foresight that will improve the nation's intellectual property regime.