
COMMERCIAL EXPLOITATION AND PROTECTION OF ATHLETES' IMAGE RIGHTS IN INDIA

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ABSTRACT

The growing commercialization of sports has turned athletes into important commercial assets, making their identity a crucial source of income. Consequently, image rights—encompassing the use of an athlete's name, likeness, voice, and persona—have acquired significant legal and financial significance. The commercial use of these rights via endorsements, sponsorships, and digital platforms has heightened the necessity for robust legal protection.

Nevertheless, India does not have a defined legal framework that regulates image rights. Indirect protection is offered through constitutional clauses like Article 21 (right to privacy), intellectual property statutes including trademark and copyright, and common law solutions such as passing off. This disjointed method frequently results in ambiguity and insufficient enforcement.

Keywords: Commercial Exploitation, Article 21, Athlete's Rights, Legal Framework, Passing off, Intellectual Property Rights.

1) Introduction

Sports have consistently held an important place in society and human life. Individuals possess have participated in games since ancient times, not solely for entertainment but also for promoting competitiveness, solidarity, and heritage. Sports have evolved into a major commercial industry in the modern world, extending past mere physical activity. Sports now encompass vast financial expenditures, global audience, press coverage, and business opportunities. Athletes are now perceived not only as competitors but also as public personalities and brands because of the rise of marketing. Their names, images, and voices hold significant financial worth, signatures, and even unique techniques. Businesses utilize athletes for promoting their brands, Sponsorships and advertisements are influential due to their impact on consumers. Consequently, the concept of "image" Rights," which denotes an athlete's capacity to control and benefit from their persona, has come to prominence. The use of an athlete's image, nonetheless, may lead to exploitation and financial loss. In India, there are no specific laws that protect image rights. Instead, protection is provided indirectly through various elements of intellectual property law, such as copyright, trademark, and constitutional entitlements to privacy. This fragmented approach often results in miscommunications and judicial matters. Examining how the existing legal framework recognizes and protects athletes' image rights. The aim of the article is to explore the concept of image rights, its economic importance, the role of intellectual property regulations in protecting it, and the need for a unique and separate legal system in India.

1.1)Research Problem

The rapid commercialization of sports in India has led to a huge increase in the value of athletes' names, pictures, likenesses, and personalities through endorsements, sponsorships, and digital media. However, India lacks a unique legal framework to completely protect athletes' image rights. The existing protection is provided by a number of provisions, including Article 21 of the Constitution, copyright law, trademark legislation, and common law ideas like passing off.

This fragmented legal system sometimes leads to a lack of control over an athlete's name, inadequate protection against prohibited commercial use, and abuse on digital platforms. Thus, the research seeks to ascertain whether athletes' image rights can be safeguarded under India's current intellectual property system or whether a different legal framework is required.

1.2) Literature Review

The protection of image and personality rights in the sports sector has been recognized and shaped in large part by Indian court rulings.

The Delhi High Court made it clear in **ICC Development (International) Ltd. v. Arvee Enterprises (2003)**¹ that people, not organizations or inanimate objects, have the right to publicity. The court additionally ruled that the non-commercial use of common or descriptive phrases cannot be prohibited by personality rights. This case is important because it established the fundamental framework for Indian personality rights.

The Delhi High Court upheld athletes' property rights to their name, image, and voice in **Sunil Gavaskar v. Cricket Tak (2025)**². The court strengthened the protection of sportsmen's personality rights in the contemporary digital era by prohibiting the unlawful commercial use of the cricketer's identity on internet media.

The court considered the use of a famous cricket player's name in a commercial setting in **Gautam Gambhir v. D.A.P. & Co. & Anr.**³. Despite acknowledging that personality rights should be protected, the court declined to issue an injunction because there was no possibility of confusion or malicious intent because the defendant also had the same name. This case demonstrates how protection is limited when there is no fraudulent intent.

The protection of sporting events under intellectual property law was covered by **P. Parmar (2010)**⁴. He underlined that big athletic events need significant financial outlays and are susceptible to problems like ambush marketing. The report emphasizes the necessity of more robust legal protections for sponsors, organizers, and other sports sector stakeholders.

In a similar vein, **Rakesh S. Menon (2015)**⁵ examined how different intellectual property rights, such as copyright, trademark, patent, and personality rights, function in sports. He emphasized the necessity for practical measures to stop the unapproved commercial

¹ ICC Development (International) Ltd. v. Arvee Enters., 2003 SCC OnLine Del 9 (India).

² Sunil Gavaskar v. Cricket Tak (Crickettak557), 2025 SCC OnLine Del (India).

³ Gautam Gambhir v. D.A.P. & Co. & Anr., 2017 SCC OnLine Del 12634 (India).

⁴ Parmar, Pariksha. "Sports Events and Their Protection Under IPR." (2010), <https://api.semanticscholar.org/CorpusID:110619359>.

⁵ Rakesh S. Menon (2015, Intellectual Property Rights in Sports, ALLIANCE SCHOOL OF LAW ALLIANCE UNIVERSITY, BANGALORE JUNE, 2020, <http://gnanaganga.inflibnet.ac.in:8080/jspui/bitstream/123456789/314/1/Rakesh%20S%20Menon.pdf>

exploitation of sports-related assets and emphasized the legal difficulties in defending these rights.

1.3) Scope of the Study

This study's focus is on how Indian intellectual property law protects athletes' image rights. It looks at the economic exploitation of an athlete's name, image, likeness, voice, and personality through sponsorships, endorsements, ads, and digital media. The research focuses on India's current legal system, which includes copyright law, trademark law, Article 21 of the Constitution, and the passing off concept. Additionally, it examines pertinent court rulings that acknowledge personality rights and points out weaknesses and restrictions in the existing legal framework. In order to comprehend global norms, a brief comparative analysis of foreign practices is presented. The study emphasizes the necessity of a better organized legal system to successfully protect athletes' image rights in India's developing sports sector.

1.4) Objectives of the Study

- To investigate the Indian legal system that governs athletes' image rights under intellectual property law, including the concepts of passing off, trademarks, and copyright.
- To evaluate the level of protection sportsmen have against their name, image, personality, and persona being used for profit without permission.
- To research Indian legal interpretations as well as pertinent global trends concerning personality and image rights.
- To find legal loopholes that prevent players from being adequately protected in the expanding sports sector.
- To make recommendations for legislative and policy changes aimed at bolstering India's protection of athletes' image rights.

1.5) Research Question

- How are picture rights now protected under Intellectual Property Law in India, and what is their legal status?

- To what degree are athletes' names, images, and likenesses protected by current laws like trademarks, copyright, and passing off?
- In significant rulings, how have Indian courts construed image and personality rights?
- What obstacles must athletes in India overcome to stop illegal commercial exploitation of their image rights?
- In the age of digital media and sports marketing, is the existing legal system adequate to safeguard athletes?
- What legislative changes or policies may be implemented to improve the defense of Indian athletes' image rights?

1.6) Hypothesis

The paper asserts that India's present Intellectual Property Law framework only partially and indirectly protects athletes' image rights, primarily through the ideas of trademarks, copyright, and passing off. It further assumes that, notwithstanding judicial recognition of personality rights, athletes' names, photographs, and likenesses are not explicitly protected by law. The increasing commercialization and exploitation of sports stars on the internet is expected to lead to a rise in the unauthorized use of image rights. The study also assumes that further significant legal reforms and a particular statutory framework are necessary to ensure the effective protection of athletes' image rights in India.

1.7) Research Methodology

The study uses a doctrinal research technique, concentrating on the examination of current legislation, court rulings, journals, publications, and reports pertaining to Indian athletes' image rights. Primary sources include important case laws on personality rights as well as pertinent aspects under intellectual property law, such as trademarks, copyright, and passing off principles. To comprehend the changing legal situation, secondary materials including books, research papers, articles, and internet legal databases are also utilized. The goal of the analytical and descriptive study is to find weaknesses in the existing legal system and make recommendations for appropriate changes to improve the protection of athletes' image rights in India.

Chapterisation of the Study

1) Meaning of Image Rights

The legal right to restrict how a sportsperson's name, face, voice, likeness, signature, and other aspects of their identification are exploited for profit is known as image rights⁶. The term "likeness" refers to a person's distinguishing visual characteristics, such as their general appearance and facial features. It implies that an athlete's identity or appearance cannot be used for branding, marketing, or advertising without their consent. In addition to helping athletes safeguard their reputations, these rights allow them to make money through marketing deals, endorsements, and sponsorships. Image rights are crucial for protecting an athlete's identity and making sure they receive just compensation for their notoriety and success in the modern world of sports commercialization and digital media.

The commercialization of sports is very promising since it strengthens the sports sector and produces economic advantages at the individual and national levels. Sports stakeholders use intellectual property rights (IPR) through trademarks, copyrights, patents, designs, and merchandising to generate income all around the world. Since the majority of the industry's components are related to intellectual property and sports are significantly influenced by it, IPR plays a critical role in the sports sector. Through an efficient IP system for global development, the Geneva-based World Intellectual Property Organization (WIPO), a United Nations body, fosters creativity and innovation. Because it encompasses intangible assets like branding, broadcasting rights, and designs, intellectual property in sports has substantial commercial worth for teams and organizations. This ensures that the advantages of sports are widely distributed economically around the world.

It's also important to realize that a player's contractual worth includes a substantial amount of image rights. For example, on the first day of Brazilian superstar Neymar's presentation, Paris Saint-Germain ("PSG") made close to one million euros from the sale of his jerseys.⁷

Furthermore, both Lionel Messi and Cristiano Ronaldo have their own companies that market clothing, underwear, and even fragrances. This, in addition to their strong social media

⁶ <https://ijlsi.com/wp-content/uploads/Intellectual-Property-Protection-in-the-Sports-Industry.pdf>

⁷ Fernanda Chamusca, Image Rights of Footballers, LEX SPORTIVA (Aug. 23, 2019), <https://lexsportiva.blog/2019/08/23/image-rights/>.

presence, allows their individual teams to sell items and earn enormous sums of money.

The view that there should be a free and fair method for assigning rights in player contracts, rather than excluding the player from the possibility of earning much more, stems from the great potential to profit from these image rights applications.

Nowadays, the majority of players may make up to 20% of their base pay by licensing their image rights, which can cost teams enormous sums of money that they aim to recoup through player endorsed commercial partnerships. As a result, excessive regulation of these kinds of activities may be quite taxing on players and teams alike.

2) Commercialization of Sports

Sports have become a highly structured, multibillion-dollar worldwide industry due to the commercialization of sports, which has drastically changed athletic activities from traditional forms of recreation and physical competition. The commercialization of sports through corporate sponsorships, branding tactics, television rights, and player endorsements is what propels this growth and makes sports a significant part of the global entertainment and economic sector.

The foundation of sports revenue is corporate sponsorship, where businesses make significant investments in stadium naming rights, jersey branding, and exclusive alliances with clubs, leagues, and athletic events. Additionally, athlete sponsorships have become a significant source of revenue, with athletes sometimes earning more from brand partnerships than from their actual athletic accomplishments. Because live sports material has enormous economic value, media and broadcasting rights play a significant role in generating cash. Major competitions like the IPL, for example, show how important broadcasting agreements are to the economy. Similar to this, the commercial reach of sports into consumer markets has been increased through the licensing and merchandising of sports products, such as jerseys and branded equipment.

Today's sporting events are also planned as worldwide entertainment venues, with commercial interests influencing presentation formats, scheduling, and commercial breaks. Infrastructure development, athletes' financial security, and the international recognition of sports have all benefited from commercialization, but it has also sparked worries about over-

commercialization, increased performance pressure on athletes, moral dilemmas like doping and match-fixing, and unequal funding for various sports.

Athlete branding and personal image monetization have been further reinforced in the digital age by the growth of social media, influencer marketing, and direct fan interaction. Sports marketing tactics and fan experiences are becoming more and more influenced by technologies like digital analytics and artificial intelligence. In general, commercialization has increased sports opportunities, but it has also made the legal protection of players' intellectual property and image rights even more crucial.

3) Legal Framework in India

The protection of athletes' image rights is not specifically governed by any statute in India. However, a mix of common law principles, intellectual property statutes, and constitutional safeguards safeguard such rights. Article 21 of the Constitution, which protects the right to life and individual liberty, serves as the cornerstone of image rights. According to the judiciary's interpretation, this clause encompasses both the right to privacy and the right to publicity, allowing people to regulate how their name, image, appearance, and voice are used for commercial purposes. The Supreme Court's decision in *R. Rajagopal v. State of Tamil Nadu* (1994) 6 SCC 632⁸, sometimes referred to as the *Auto Shankar* case, was the first significant decision in India to recognize personality rights. The Court ruled that every person has the right to regulate how their identity is used for commercial purposes, and that this right is derived from the right to privacy guaranteed by Article 21 of the Constitution.

Different areas of intellectual property rights (IPR) offer indirect protection in the absence of a specific regulation. By permitting the registration of names, logos, autographs, and distinguishing characteristics, trademark law protects athletes' commercial identities and stops unlawful commercial exploitation. As seen in cases like *Titan Industries v. Ramkumar Jewellers*⁹, where unapproved use of celebrity pictures was prohibited, copyright law protects creative works including photos, commercials, promotional content, and audiovisual recordings involving sports.

Additionally, the common law remedy of passing off is sometimes employed to stop

⁸ *R. Rajagopal v. State of Tamil Nadu*, (1994) 6 SCC 632.

⁹ *Titan Indus. Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382 : (2012) 50 PTC 486 (Del)

misrepresentation or misleading association, particularly when an athlete's reputation is used without permission for commercial advantage. In order to safeguard goodwill and stop market deceit, courts have relied on this theory. Furthermore, it is acknowledged that publicity rights, or personality rights, are an extension of the right to privacy. These rights provide athletes the ability to manage and profit from their identities. However, because these rights are uncoded, judicial interpretation plays a major role in their implementation.

Trade secrets and confidentiality agreements also aid in the preservation of sensitive knowledge, such as sports strategies, training plans, and technological developments, even if there isn't a specific legislation governing them in India. Additionally, endorsement agreements, licensing agreements, and morality clauses are contractual processes that set obligations between parties and regulate the commercial use of an athlete's image.

Despite these protections, issues like unauthorized endorsements, ambush marketing, and digital abuse persist because a comprehensive legal framework is lacking. There is fragmented protection because most disputes are resolved under copyright and trademark rules. Therefore, even if the current legal system offers certain protections through intellectual property laws and constitutional rights, a specific and complete piece of legislation is clearly needed to fully protect athletes' image rights in India.

4) Judicial Recognition in India

Notably in the lack of particular law, Indian courts have been crucial in identifying and defending personality and image rights. The Delhi High Court made it clear in *ICC Development (International) Ltd. v. Arvee Enterprises & Anr.* (2003)¹⁰ that personality rights are exclusive to people and cannot be asserted by businesses or organizations. The Court ruled that personal characteristics including name, picture, voice, and likeness are protected by the right of publicity, which is derived from the right to privacy.

In the 2015 case of *Shivaji Rao Gaikwad v. Varsha Productions*¹¹, the court upheld actor Rajinikanth's personality by prohibiting unapproved use of his name and identify, highlighting the significant financial worth of a celebrity's image. In a similar vein, the Delhi High Court

¹⁰ *ICC Development (International) Ltd. v. Arvee Enters.*, 2003 SCC OnLine Del 9 (India).

¹¹ *Mr. Shivaji Rao Gaikwad v. M/S. Varsha Productions*, (2015) 62 PTC 351 (Mad.)

ruled in *Titan Industries Ltd. v. Ramkumar Jewellers* (2012)¹² that unapproved use of celebrity photos constitutes deception and violates personality rights, hence strengthening people's economic sovereignty over their identities.

In *Amitabh Bachchan v. Rajat Nagi & Ors.* (2022)¹³, the Court expanded the extent of personality rights in the digital realm by protecting voice and likeness and preventing their exploitation in online frauds. This strategy was further reinforced in *Anil Kapoor v. Simply Life India* (2023)¹⁴, where the Court affirmed rights to name, picture, voice, and signature expressions and acknowledged protection against AI-generated exploitation, including deepfakes.

Aishwarya Rai Bachchan v. AishwaryaWorld.com (2025)¹⁵ and *Jaya Bachchan v. Bollywood Bubble Television* (2025) are two recent rulings that demonstrate the judiciary's awareness of digital misuse and confirm that personality rights apply to online platforms, albeit with restrictions like copyright ownership.

Furthermore, in *Raj Shamani v. John Doe*, the Delhi High Court recognized personality rights in the context of content providers and gave protection against unlawful commercial exploitation of identity, including digital impersonation.

5) Commercial Exploitation of Image Rights

The use of a person's name, likeness, voice, signature, and personality for profit through endorsements, sponsorships, and licensing agreements is known as commercial exploitation of image rights. These rights are a major source of income for the sports sector, allowing players to profit from their reputation and brand value. Partnerships with companies are involved in endorsements and sponsorships, which are frequently restricted by contracts containing morality provisions to protect reputation. Similar to this, brand agreements and commercials—which can range from regional campaigns to global promotions—use an athlete's persona to increase awareness and market reach.

Athletes and influencers may now make money from sponsored content and brand partnerships

¹² *Titan Indus. Ltd. v. Ramkumar Jewellers*, 2012 SCC OnLine Del 2382 : (2012) 50 PTC 486 (Del)

¹³ *Amitabh Bachchan v. Rajat Nagi*, 2022 SCC OnLine Del 4110 (India).

¹⁴ *Anil Kapoor v. Simply Life India & Ors.*, CS(COMM) 652/2023 (Del. H.C. Sept. 20, 2023) (India).

¹⁵ *Aishwarya Rai Bachchan v. Aishwaryaworld.com & Ors.*, CS(COMM) 956/2025 (Del. H.C. Sept. 9, 2025).

on social media, which has become a significant venue for image rights monetization in recent years. In order to provide both legal clarity and financial gain, licensing agreements also permit the permitted use of name, picture, and likeness in products, video games, and digital content. In order to prevent unlawful use and guarantee that people maintain control over the economic exploitation of their identity, intellectual property laws, contractual agreements, and privacy principles are the main tools used to defend these rights.

6) Challenges and New Emergences

(A) Sports and IPR Ownership

Determining and defending intellectual property rights is one of the biggest issues facing the sports sector. IPRs can be licensed, transferred, and monetized since they are valuable business assets. Therefore, in order to prevent conflicts, ownership must be clearly identified and registered. Even if intellectual property is recognized internationally, it must be registered in a particular jurisdiction, like India, since intellectual property protection is territorial in nature.

However, a major problem in India is registration delays brought on by backlogs in the legal system. Before entering the market, it is important for stakeholders to prepare and get registration.

The Trademarks Act of 1999 for names and logos, the Designs Act of 2000 for sporting goods and equipment, and the Copyright Act of 1957 for broadcasts, performances, and audiovisual works are just a few of the laws that offer protection. In spite of this, ownership and protection remain unclear due to ignorance and enforcement delays.

(B) Sports Development via IPR

The sports industry's expansion and development depend heavily on intellectual property rights. Through sponsorship agreements, broadcasting rights, and merchandising, the efficient use of IPR contributes to revenue generation. Additionally, it encourages investment in sports-related goods and services, which fosters innovation, entrepreneurship, and job development.

Furthermore, a robust intellectual property system attracts foreign investment, fosters international trade, and improves a nation's standing abroad. Local and international sporting events support social development, tourism, and cross-cultural exchange. They promote virtues

like cooperation, self-control, and togetherness. However, a strong legal and regulatory framework supporting the commercialization and protection of intellectual property is necessary to fully exploit these advantages. Recognizing this potential, a number of nations are incorporating sports and intellectual property strategies into their development plans.

7) Comparative Study

Despite image rights' increasing commercial significance, their protection is not governed by a unified worldwide framework. In contrast to intellectual property systems like the Berne Convention, image rights are mostly regulated by domestic legislation, which causes notable differences between jurisdictions.

Legal Status in the United Kingdom

Image and personality rights are not independently recognized in the UK. Celebrities do not control their image alone, according to court rulings. It was noted in *Douglas v. Hello*¹⁶ that a monopoly on one's appearance is not granted by English law. People are forced to rely on other legal remedies, such as passing off, breach of confidence, or misrepresentation. These remedies, however, have a high burden of proof and need for unambiguous proof of dishonesty or fraudulent endorsement. Protection is still indirect and restricted because there is no particular regulation.

Legal Status in the United States

A well-established "right of publicity" that safeguards an individual's identity's economic worth is recognized in the United States. The court recognized that people had proprietary rights over their images in *Haelan Laboratories v. Topps Chewing Gum*¹⁷, which was the first instance of this idea being accepted. Furthermore, it was stressed in *Cardtoons v. MLB Players Association*¹⁸ that no one should profit financially from another person's identity without that person's consent. The U.S. strategy offers athletes and celebrities robust protection, enabling them to efficiently manage and profit from their name, image, and likeness.

¹⁶ *Douglas and Ors. v. Hello Limited*, [2001] 2 WLR 992.

¹⁷ *Haelan Laboratories v. Topps Chewing Gum*, 202 F.2d 866 (1953).

¹⁸ *Cardtoons, L.C. v. Major League Baseball Players Ass'n*, 838 F. Supp 1501 (N.D. Okla. 1993)

Legal Status in the Germany

Personality rights are safeguarded in Germany as part of constitutional rights, especially under the concepts of individual autonomy and human dignity. An individual has discretion over how their identity and image are used, according to the law. In *Kahn v. Electronic Arts*¹⁹, the court upheld the need for prior authorization by prohibiting the unapproved use of a sportsperson's picture. By considering personality rights as basic rights and protecting them from abuse and commercial exploitation, the German approach offers strong legal support for these rights.

8) Suggestions

Sports are currently being commercialized on a massive scale. The conflict between clubs and teams has now extended beyond the field. In order to expand their reach to a worldwide audience and boost their earnings, several teams or clubs are engaging in intellectual property exploitation. Teams and groups are better able to obtain economic benefit when intellectual property is properly protected. Additionally, it grants them the ability to get accounting of earnings and injunctions against the violators.

In India, there is an urgent need to advance intellectual property protection in sports. It is a good idea as it helps them connect with the fans and strengthen their standing in the market.

9) Conclusion

The swift commercialization of sports has greatly enhanced the economic worth of athletes' image rights, making them a crucial aspect of the contemporary sports sector. Athletes are now viewed as powerful brands rather than just performers, with their identity driving significant income through sponsorships, endorsements, and online platforms. Nonetheless, the lack of a distinct legal framework in India leads to ambiguity and makes these rights vulnerable to misuse and unapproved commercial exploitation.

Currently, protection comes from a mix of Article 21 of the Constitution, intellectual property legislation, and common law solutions like passing off. Although court rulings have been essential in acknowledging and safeguarding personality rights, the current methodology continues to be disjointed and uneven. This ambiguity frequently results in difficulties in

¹⁹ *Kahn v. Electronic Arts GmbH* Unreported, 13 January 2004, O

enforcement and insufficient protection.

Consequently, a strong requirement exists for thorough and specific legislation that explicitly delineates and protects athletes' image rights in India. Such a framework would guarantee not only proper safeguards against misuse but also encourage equitable business practices and economic development in the sports industry.

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