



COURSE MANUAL

Name of the Elective Course: *Comparative Celebrity Laws: Personality, Publicity and Free Speech*

Course Code: L-EL-0398

Name of the responsible Faculty Instructor:
Dr. Aakanksha Kumar, Associate Professor, JGLS

**FALL 2025
(AY2025-26)**

This document is prepared by the course instructor and contains basic information relevant to the execution of the course. It is the official record for all intents and purposes as far the elective course, **Comparative Celebrity Laws: Personality, Publicity and Free Speech**, is concerned.

This course manual can be used as a general guide to the subject. However, the instructor can modify, extend or supplement the course (without tampering its basic framework and objectives) for the effective and efficient delivery of the course. The instructor will provide students with reasons for such changes.

Part I

Course Title: **Comparative Celebrity Laws: Personality, Publicity and Free Speech**

Course Code: L-EL-0398

Course Duration: **One Semester (14 Weeks)**

No. of Credit Units: 04 **Credits**

Level: **IX Semester, Undergraduate, 5 Year Programmes, LLM [General - Residential], Semester 1 only [LLM IPR&Tech, Residential, shall study this course in Spring semester with a different name]**

Medium of Instruction: **English**

Pre-requisites (if applicable): **Completion of General IPR course and compulsory Constitutional Law/Constitutional Governance courses [UG level]**

Equivalent Courses: N/A

Part II

1. Acknowledgement of Course Ideators

This course is ideated and structured by the course instructor herself, and is largely modelled on the unpublished Doctoral work of the instructor (NLU Jodhpur, 2025) as well as, is loosely adapted from, heavily modified and Indian-ised version of the Spring 2012 course curriculum for *Entertainment Law: Popular Iconography and the Celebrity* taught by Prof. David Tan, NUS, Faculty of Law. E-mail of permission to adapt is available with the instructor.

Earlier versions of this course have been administered at NALSAR [Jul-Dec, 2019] and since Spring 2021 at JGLS. This course in a modified version and with a different name, is a compulsory specialization course for the Residential LLM (IPR and Tech.) at JGLS. A capsule version of this course was also administered for HNLU's Lex Osmose one credit course series, in February-March 2024.

2. Course Description

Celebrity today has become all pervasive. We are all fans. Celebrities rule our world – telling us what to eat, what to wear, what to read, where to travel and if famous enough to push social change – also tell us whom to vote for.

Today thus celebrity personality is understood widely today as a semiotic sign and thus brands endorsed by celebrities, and some celebrities in themselves are recognized to represent the values of a majoritarian public. A counter to encoded ideals may be then available by using the same signs in a “recoded” manner, and such use can therefore be categorized as “political speech,” protected by the Constitutional guarantee of *freedom of speech and expression*. What is the right the celebrity enjoys due to their personality? Are these rights enjoined to them because of his

celebrity status absolute? It seems wrong to allow someone else to take pecuniary benefit of a celebrity's unique personality traits. However, does that entitle them to legally preempt others from using similar voices/looks/mannerisms for any purpose whatsoever? While the law on copyright or trademarks may not allow a celebrity to preempt use of his voice or other personality traits, law recognises “personality rights” or “celebrity rights”. These rights have developed as an offshoot to ‘core’ intellectual property rights, as the celebrity personae, are important and expressive *economic* resources – they enhance the commercial values of commodities they are associated with, thus lending what has been described as the *economic associative value* of a celebrity persona - i.e. “*the perceived ability to confer value on that which might be associated with the celebrity*”.¹

This economic associative value is protected in law, under the *right of publicity*. The right of publicity, most simply put, protects any individual's *marketable image or persona*. This formulation, however, has been most succinctly put forth by McCarthy in his seminal work as – “*The right of publicity is **not merely a legal right of the “celebrity”, but is a right inherent to everyone** to control the commercial use of identity and persona and recover in court damages and the commercial value of an unpermitted taking.*”²

This course aims at asking and consequently answering, the above questions and more, both with the celebrity realm and otherwise, through a comparative law lens. Its also aims to equip the students with a better understanding of how “personality” and “personality indicia” are “propertised” and therefore protected in law / open to protection in law.

3. Course Aims

- To analyse key aspects of a modern entertainment industry with a focus on claims brought by celebrities and rights owners of well-known popular iconography in the United States, United Kingdom, Australia and India
- To examine the production, circulation and consumption of celebrity personality and iconic brands in contemporary society, and understand its economic value that calls for legal protection.
- To introduce students to the operation of the six prominent causes of action in the United States and India [along with United Kingdom and EU to understand Privacy and Passing Off], brought by celebrities and rights owners in the entertainment industry: (i) copyright infringement; (ii) trademark infringement/dilution; (iii) passing off; (iv) right to privacy tort; (v) breach of confidence, misuse of private information and other dignitary torts [defamation] (vi) right of publicity
- Identify the “personality rights” claims made in India e.g. by Amitabh Bachchan, Rajinikanth, Anil Kapoor, Jackie Shroff, Karan Johar etc. and situate the same in the trademark and copyright law context versus the enunciation of the right of publicity tort and the tort arm of the right to privacy
- To understand what amounts to “fair use”/ “exempted use” in light of personality rights, and appreciate the contours of the free speech guarantees protecting the consuming audience's right to “re-code”.

¹Sheldon W Halpern, *Publicity Rights, Trademark Rights and Property Rights*, in OVERLAPPING INTELLECTUAL PROPERTY RIGHTS 321-339, 325 (Neil Wilkof and Shamnad Basheer, eds., 2012).

² J. THOMAS MCCARTHY, *RIGHTS OF PUBLICITY AND PRIVACY* § 1:3 (2nd ed).

- The course shall also address more specific questions under these six broad causes of action, for example – protection and claim for rights over sporting actions by celebrities, rights of persons who are subjects of memes, NFTs (Non-Fungible Tokens) as tools to protect personality rights, rights of celebrities over their body parts and impressions, moral rights of celebrity persons and deepfakes, rights of actors over repeat portrayal of characters on film, rights and DUTIES of content creators on social media [India's ASCI Influencer Guidelines and Compliance Advisory], Dark Pattern Guidelines and effect on unauthorised use of persona - as recoders of celebrity personality rights and celebrity personality rights in cyberspace – with personal name domain name cyber squatting case studies etc.
- At the end of the course, students shall be able to identify the salient transnational similarities and differences in the protection of IP rights relating to popular iconography, and to compare and critique legal concepts across different jurisdictions (in particular understand the key similarities and differences between American, English /European/Australian and INDIAN approaches in copyright, trademark and personality rights laws) and the emergence of Indian jurisprudence on personality rights; and shall be equipped to use their knowledge and skills to work more effectively in a multi-jurisdictional professional intellectual property practice, undertake cross-jurisdictional research in an advanced academic setting or further post-graduate-level studies either in India or overseas.

4. Teaching Methodology

This course shall mostly be taught using classroom lecture+discussions, alongside using visual aid tools : slides, videos and audio [with audio descriptions of videos as applicable, best attempted to increase accessibility for any differently abled students]

Assessments shall also be used as teaching-learning tools, with students attempting client opinions, case-law re-imagination and mock role-play negotiations on celebrity talent contracts, endorsements and media engagements etc.

5. Intended Learning Outcomes

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
By the end of the course students should be able to:		Pre- class Reading, followed by in – class discussion—of book chapters, law review articles from not just law, but also sociology, celebrity studies and branding and marketing, and real world case studies. Students shall be made to also watch some videos during the class hours to help comprehend real world	Internal Assessment component - [70%] – 2 tests of 35 marks each, in weeks 4 and 9- formats and sample questions shall be explained during classroom teaching
<ul style="list-style-type: none"> •analyse and critically evaluate, key aspects of a modern entertainment industry with a focus on claims brought by celebrities and rights owners of well-known popular iconography in the United States, United Kingdom, Australia, Canada and India 	--		

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
		“taking” of celebrity personality indicia Power Point Slides will be used as teaching aids.	End Term Exam – [30%]
<ul style="list-style-type: none"> critically examine and appreciate the production, circulation and consumption of the celebrity personality and iconic brands in contemporary society, and understand its economic value that calls for legal protection 		<p>Pre- class preparation from students requiring Reading and discussion of book chapters, law review articles from not just law, but also sociology, celebrity studies and branding and marketing, and real world case studies. Focus shall be on comprehending, through previously available studies, the cultural phenomenon of the ‘celebrity’ and its value as a ‘semiotic sign’</p> <p>Students shall be made to also watch some videos and exercises shall be conducted to help students apply their theoretical learning to real “cases”</p>	Conducted as an in class open book exam. – 30 marks
<ul style="list-style-type: none"> Recognise and distinguish, and thereby apply and [hypothetically] claim, the operation of the six prominent causes of action in the United States and the United Kingdom (mostly) along with comparisons in the Indian law,[with selected references to other jurisdictions, brought by celebrities and rights owners in the entertainment industry: (i) copyright infringement; (ii) trademark 		<p>Each cause of action shall be taught as a separate module/topic. Students will be required to complete pre-class reading of prescribed portions of case law(s) texts, and a few texts for mandatory reading, per topic, per jurisdiction.</p> <p>Classes shall focus on comparatively analysing and</p>	

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
infringement/dilution; (iii) passing off; (iv) right of privacy tort; (v) breach of confidence/ misuse of private information and other dignitary torts (defamation) (vi) right of publicity		<p>discussing the cause(s) of action in the chosen jurisdictions and then hypothetical/real world case studies shall be used to understand appropriate application of the law points.</p> <p>Slides and videos shall be used as teaching aids where-ever required.</p>	
<ul style="list-style-type: none"> Identify the “personality rights” claims made in India e.g. by Amitabh Bachchan, Sunny Deol, Rajinikanth, Anil Kapoor, Jackie Shroff, Karan Johar <i>etc.</i> and situate the same in the trademark and copyright law context versus the enunciation of the <i>right of publicity</i> tort and the tort arm of the right of privacy 		<p>Students will be required to complete pre-class reading of prescribed portions of case law(s) texts, and a few texts for mandatory reading.</p> <p>Case law and case-studies from INDIA alone shall be discussed, and then situated against the earlier discussions on principles to comprehend the unique position of the law(s) in India. Critical discussion of Indian case law, especially rulings on the Right of Publicity and the Right of Privacy from HCs and the apex court shall be undertaken during this portion of the course.</p> <p>Slides and videos shall be used as teaching aids where-ever required.</p>	

Course Intended Learning Outcomes	Weightage in %	Teaching and Learning Activities	Assessment Tasks/ Activities
<ul style="list-style-type: none"> Identify which acts of “taking” of personality indicia amounts to “fair use” and appreciate the contours of the free speech guarantees protecting the consuming audience’s right to “re-code”. 		<p>Students will be required to complete pre-class reading of prescribed portions of case law(s) texts, and a few texts for mandatory reading, that address the question of “fair use” of personality rights across jurisdictions. Classes shall focus on comparatively analysing and discussing the hosen jurisdictions andmanner in which the court(s) define the contours of the fair use exception, and its roots in the free speech guarantee, then hypothetical/real world case studies shall be used to understand appropriate application of the law points, to help students appreciate the limits of the fair-use/free-speech style defense. These will then be compared against the IP-Rights defenses available in statute and common law, discussed in the earlier modules.</p>	

6. Grading of Student Achievement

To pass this course, students shall obtain a minimum of 40% in the cumulative aspects of coursework, i.e., internal assessment (including moot court, mid-term exam, research paper internal assignment) and end term examination. Internal assessments shall carry a total of 70

marks. **End of semester exam shall carry 30 marks out of which students have to obtain a minimum of 30% marks to fulfil the requirement of passing the course.**

The details of the grades as well as the criteria for awarding such grades are provided below:

PERCENTAGE OF MARKS	GRADE	GRADE VALUE	GRADE DESCRIPTION
80 and above	O	8	Outstanding – Exceptional knowledge of the subject matter, thorough understanding of issues; ability to synthesize ideas, rules and principles and extraordinary critical and analytical ability
75 – 79	A+	7.5	Excellent - Sound knowledge of the subject matter, thorough understanding of issues; ability to synthesize ideas, rules and principles and critical and analytical ability
70 – 74	A	7	Very Good - Sound knowledge of the subject matter, excellent organizational capacity, ability to synthesize ideas, rules and principles, critically analyze existing materials and originality in thinking and presentation
65 – 69	A-	6	Good - Good understanding of the subject matter, ability to identify issues and provide balanced solutions to problems and good critical and analytical skills
60 – 64	B+	5	Fair – Average understanding of the subject matter, limited ability to identify issues and provide solutions to problems and reasonable critical and analytical skills
55 – 59	B	4	Acceptable - Adequate knowledge of the subject matter to go to the next level of study and reasonable critical and analytical skills.
50 – 54	B-	3	Marginal - Limited knowledge of the subject matter and irrelevant use of materials and, poor critical and analytical skills
45 – 49	P1	2	Pass 1 – Pass with basic understanding of the subject matter
40 – 44	P2	1	Pass 2 – Pass with rudimentary understanding of the subject matter
Below 40	F	0	Fail - Poor comprehension of the subject matter; poor critical and analytical skills and marginal use of the relevant materials. Will require repeating the course
Absent	Ab	0	Absent - “Extenuating circumstances” preventing the student from taking the end-

PERCENTAGE OF MARKS	GRADE	GRADE VALUE	GRADE DESCRIPTION
			semester, or re-sit, examination as the case may be; the Vice Dean (Examinations) at their discretion assign the “Ab” grade. If an "Ab" grade is assigned, the student would appear for the end-semester, or re-sit examination, as the case may be, as and when the subsequent opportunity is provided by the University.

7. Criteria for Student Assessments

Internal assessment of the participants will be based on the following criteria. In case any of the participants miss the IA tests, alternative internal assessments will be conducted only in exceptional circumstances, as prescribed by the Academic Policies and Procedures. Unless the Academic Policies and Procedures provide contrary instructions, the assessments shall be tentatively conducted thus:

Assessment	Weightage	Remarks
Internal Assessment 1 – Take home test in week 5 Research Assessment requiring analysis and application of concepts and principles and case law discussed in class	35 Marks	2 Questions – 20 Marks+15 Marks [1700 Words+1300words] – Total 35 marks, 3000 words. Tentative Question Paper Release on UMS – 2300HRS on August 30, 2025 Tentative Submission deadline on UMS – 2359HRS on Sept 07, 2025
Internal Assessment 2 – In class, 2 hour / 1.5 Hour [As per exam office instruction] test in week 10. Open book, printed and hand-written materials permitted. No laptops, phones, smartwatches. [simulation like end sem exam] Assessment requiring analysis and application of concepts and principles and case law discussed in class	35 Marks	2 Questions – 20 Marks+15 Marks [1700 Words+1300words] – Total 35 marks, 3000 words. Tentative Date: [Week 10, during class hours as per time-table, i.e. one teaching day between Sept 29-Oct 3, 2025]
End Semester Examination	30 marks	Modes and Formats – TBC Date TBC [in week 14 – decided by Exam Office] Sit down exam, in class, 2 Questions – 15 Marks+15 Marks [1500 Words+1500words] – Total 30 marks, 3000 words.

Course/Class Policies**Cell Phones, Laptops and Similar Gadgets**

Laptops are permitted while class is being taught, as long as these devices are used as learning tools and not for other distractions during class.

In a fully physical class, students are strongly discouraged from using laptops and cell phones for purposes other than taking class notes/ specifically engaging in workshop-style classes where laptops and internet is required [for example – the TM Search and WhoIS search classes]/ searching for content specifically asked by the course instructor [Some classes will entail looking at Instagram and Facebook, for memes, deepfakes, celebrity endorsements and other materials to study]. Technological tools must be used judiciously to **support** the learning endeavours, and not to disrupt/discredit course instruction.

Academic Integrity and Plagiarism

Learning and knowledge production of any kind is a collaborative process. Collaboration demands an ethical responsibility to acknowledge who we have learnt from, what we have learned, and how reading and learning from others have helped us shape our own ideas. Even our own ideas demand an acknowledgement of the sources and processes through which those ideas have emerged. Thus, all ideas must be supported by citations. All ideas borrowed from articles, books, journals, magazines, case laws, statutes, photographs, films, paintings, etc., in print or online, must be credited with the original source. If the source or inspiration of your idea is a friend, a casual chat, something that you overheard, or heard being discussed at a conference or in class, even they must be duly credited. If you paraphrase or directly quote from a web source in the examination, presentation or essays, the source must be acknowledged. The university has a framework to deal with cases of plagiarism. All form of plagiarism will be taken seriously by the University and prescribed sanctions will be imposed on those who commit plagiarism.

Use of Artificial Intelligence

[Policy Awaited]

Disability Support and Accommodation Requirements

JGU endeavours to make all its courses inclusive and accessible to students with different abilities. In accordance with the Rights of Persons with Disabilities Act (2016), the JGU Disability Support Committee (DSC) has identified conditions that could hinder a student's overall well-being. These include physical and mobility related difficulties, visual and hearing impairment, mental health conditions and intellectual/learning difficulties e.g., dyslexia, dyscalculia. Students with any known disability needing academic and other support are required to register with the Disability Support Committee (DSC) by following the procedure specified at <https://jgu.edu.in/disability-support-committee/>

Students who need support may register before the deadline for registration ends, as communicated by the DSC via email each semester. Those students who wish to continue receiving support from the previous semester, must re-register every semester prior to the deadline for re-registration as communicated by the DSC via email. Last minute registrations and

support are discouraged and might not be possible as sufficient time is required to make the arrangements for support.

The DSC maintains strict confidentiality about the identity of the student and the nature of their disability and the same is requested from faculty members and staff as well. The DSC takes a strong stance against in-class and out-of-class references made about a student's disability without their consent and disrespectful comments referring to a student's disability. With due respect for confidentiality, faculty and students are encouraged to have honest conversations about the needs of students with disabilities and to discuss how a course may be better tailored to cater to a student with disability.

All general queries are to be addressed to disabilitysupportcommittee@jgu.edu.in

Safe Space Pledge

This course may discuss a range of issues and events that might result in distress for some students. Discussions in the course might also provoke strong emotional responses. To make sure that all students collectively benefit from the course, and do not feel disturbed due to either the content of the course or the conduct of the discussions. Therefore, it is incumbent upon all within the classroom to pledge to maintain respect towards our peers. This does not mean that you need to feel restrained about what you feel and what you want to say. Conversely, this is about creating a safe space where everyone can speak and learn without inhibitions and fear. This responsibility lies not only with students, but also with the instructor.

P.S. The course instructor, as part of introducing the course manual, will discuss the scope of the Safe Space Pledge with the class.

Specific Content Warning for this course

Some of the themes and case studies we discuss in this course contains mature (nudity, sex tapes, bondage, sexual domination, fetish etc.) and violent content (suicidal ideation, alcoholism, revenge porn)– that might be unpleasant / triggering for some of our learners. The inclusion of this content is imperative to understanding several case law holdings/nature of rights that we will be covering. Instructor shall actively ensure that appropriate content warnings, with sensitive details of the disturbing element(s) are revealed in advance of such content being shown and/or discussed in synchronous classes, and student(s) are free to leave the classroom if they believe the content might be triggering, and are welcome to discuss the same, separately with their instructors – learning these materials is not optional, and alternative learning avenues, may be explored with the instructor *if* in-class content is triggering for a learner.

Other Classroom Policies for this course

- Show Up to class on time, late entrants are strongly discouraged, Ideally, Show Up to class, “Prepared”
- Participate, Engage, Supplement
- ATTENDANCE POLICY – Attendance will be marked within 10 minutes of class start time– however that doesn't mean you may misuse this leeway. Attendance shall be awarded only to those students who are **present in person, physically throughout the duration of the class.**
- Complete Assignments on Time
- Notify emergencies/ exigencies as soon as is possible.
- Observe the classroom code of conduct and the safe space pledge
- In case of Doubts – Please send an email to the instructor [aakanksha@jgu.edu.in]. The instructor will reply via email or address it in the following class, as the case may be. The instructor may also relay the mail to the entire class if it is appropriate.

- Office Hours – Subject to time table constraints, Office Hours shall be scheduled for two hours a week [TBC]. In any case, students may send an email at aakanksha@jgu.edu.in [AT LEAST] 24 hours prior to wanting a meeting – and we may THEN schedule a mutually suitable time.
- There are no marks for class participation [however a different incentive/award shall be explained in classes]. An MS Teams group will be created for the cohort that shall work as discussion forum/chat forum for the entirety of this course.
- Question Paper formats and samples [alongside a sample case comment] shall be shared in the course Share Point, and a grading rubric, shall be explained in week 4, closer to the start of the first internal assessment.

Part V

Keywords Syllabus

Celebrities, cultural consumption, meaning transfer, image rights, personality rights, right of publicity, passing off for persona, commercial misappropriation, name, image, likeness, evocative misappropriation, privacy, post mortem image rights

Course Design and Overview (Weekly Plan)

WEEK	TOPIC
1	Module 1 - The Entertainment Industry: Celebrity as a Brand and Value Symbol
1 -2	Module 2 - Introduction to issues in Entertainment Industry in India
2	Module 3- Scope of Celebrity Laws course
3-4	Module 4 - Introduction to Copyright in the Entertainment Industry and Copyright over personality traits.
5	Module - 5 Fair Use Doctrine in Copyright IMPORTANT – week 5 is a TAKE-HOME TEST WEEK, 1 ST TEST FORMING INTERNAL ASSESSMENT OF 35 MARKS WEIGHTAGE.
5 and 6	Module 6 – Trademark Protection in Entertainment Industry and Trade-mark over Personality Traits
7 and 8	Module 7 – Trademark Infringement, Dilution and Trademark Fair Use
9 to 11	Module 8 - Passing Off, The Right to Privacy and Breach of Confidence IMPORTANT – week 10 - 2 nd TEST FORMING INTERNAL ASSESSMENT OF 35 MARKS WEIGHTAGE, In class test, open book [simulation like end semester exam]
11 to 13	Module 9 - The Right of Publicity [USA and India Centric]
13	Module 10 - New Technology and Challenges for Personality Rights [Last lecture in week 13]
14	Revision and Review

Module Descriptions

Module 1 - The Entertainment Industry: Celebrity as a Brand and Value Symbol

- Understanding contemporary celebrity ‘
- Well-known-ness’ of a celebrity and celebrity as a cultural phenomenon
- Economic Value of Celebrity and its protection

Module 2 - Introduction to issues in Entertainment Industry in India

This module shall bring to fore the different issues that have emerged in the recent past in the entertainment industry in India vis a vis free speech rights. Students shall be made aware of the idea

of “celebrity” going beyond TV and Films – Sports and Political Icons, Authors and Book characters, Defamation and Plagiarism claims made, , Internet Memes and Free Speech etc.

Module 3- Scope of Celebrity Laws course

Introduction of the six common causes of action frequently used by celebrities, i.e.

1. copyright infringement;
2. trademark infringement/dilution;
3. passing off;
4. right to privacy torts;
5. breach of confidence, misuse of private information and other dignitary torts (civil defamation)
6. right of publicity tort

Module 4 - Introduction to Copyright in the Entertainment Industry and Copyright over personality traits.

- Nature and subsistence of copyright – i.e. what is “copyright”, what material may be the subject of copyright protection : is there copyright over distinctive voice?
 - idea-expression dichotomy.
 - Does copyright also cover personality traits? – Discussion about live celebrity and fictional characters
 - Are bodily features and body parts open to Copyright protection? - Video Games and Virtual Reality, Tattoos, Social Media Photograph Re-shares, Memes and Personality Rights, Revenge Porn etc. –copyright protection for sports moves - personality rights v performer rights

Module - 5 Fair Use Doctrine in Copyright

- Basics of the fair use doctrine in US and India
 - *De Minimis Rule*
 - ‘Transformative’ fair use : USA and India : Similarities and Differences
 - Examples and Cases of Celebrity Taking : Copyright and Persona overlaps infringement or fair use – Tattoo copyright cases
 - Re-visit voice cases
 - Caricaturing, and the free speech exception

Module 6 – Trademark Protection in Entertainment Industry and Trade-mark over Personality Traits

- Celebrity traits and trademark – defeating the specific ‘class of goods or services’ requirement
 - Protection of celebrity names – Elvis, Lady Diana
- Barbie as a ‘fictional anthropomorphized celebrity’ – cases in TM and Copyright infringement
 - o Case Study - “Tendulkar” and “SRK” Trademarks – case study of Shah Rukh Khan and the opposition by Shilpa Raj Kundra
 - o Akshay Kumar’s application for registration of “Khiladi”
- Protection of catch-phrases associated with celebrities
 - o Case Study – Donald Trump’s move to trademark “Let’s Make America Great Again’
- Can ‘actions’, ‘Gestures’ and sounds be protected as celebrity marks?
- Case Studies:
 - o The “C’Mon” and “The Vicht” tennis victory hand gestures
 - o Harbhajan Singh’s “Doosra” bowling action, etc.
- Infringement actions for ‘celebrity marks’

Module 7 – Trademark Infringement, Dilution and Trademark Fair Use

- Lanham Act (USA) 15 USC § 1125(c)(2)(B) – dilution by blurring
- Lanham Act (USA) 15 USC § 1125(c)(2)(C) – dilution by tarnishment
- Lanham Act (USA) 15 USC § 1125(c)(3)(C) – non-commercial use exemption
- Lanham Act (USA) 15 USC § 1125(c)(3)(A)(ii) – parody/commentary exception

- European Community Trade Mark regulation (EC Regulation 207/2009) Article 9(1)(c)
- Indian Trade Marks Act. S. 29 – Dilution and S. 30 – What is ‘not’ infringement
- ‘Unfair advantage’ of marks with established reputation
- Successful dilution claims and chilling effect on competition in the market

Module 8 - Passing Off, The Right of Privacy and Breach of Confidence

This module will discuss how, outside the US, especially in India celebrity personalities whose images have been appropriated for commercial use have to bring an action in passing off or for engaging in misleading and deceptive conduct contrary to specific statutory provisions. There are three key elements in a passing off action:

(1) goodwill or valuable reputation; (2) deceptive conduct; and (3) damage. Generally, a defendant may escape liability for passing off where his or her products exhibit a clear statement that indicates their true origin or otherwise disclaims any association or connection with the plaintiff. This module shall also address how celebrities in other countries like Singapore have turned to the tort of defamation instead of passing off for redress against unauthorised uses of images in advertising. The second part of this module shall look at The notion of privacy as a legal right in the United States, which has the most developed literature amongst all common law jurisdictions, dates back to a 1890 article by Samuel Warren and Louis Brandeis. In the UK, despite the reluctance of the courts to recognise a tort of privacy, the breach of confidence action has been significantly expanded to give effect to the right of privacy guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has been incorporated into UK law by the Human Rights Act 1998. The cases concerning Naomi Campbell and Michael Douglas/Catherine Zeta-Jones decided by the House of Lords clearly indicate the broad ambit of the revitalised breach of confidence action to protect celebrity privacy. In the absence of a statutory tort of privacy in Australia, it appears that courts may also develop the breach of confidence action in a similar manner. Students shall be introduced to the Strasbourg jurisprudence of the European Court of Human Rights and, in particular, the Court’s controversial decision in upholding the privacy of Princess Caroline von Hannover in public places, may influence the development of English law and the laws in other Commonwealth common law jurisdictions. Discussions shall end with case studies from India with respect to lessened privacy for celebrities, the infamous Ibiza pictures of Ranbir Singh and Katrina Kaif, freedom of speech protections in light of the Deepika Padukone-Times of India controversy etc

The newer debate in India surrounding the descendability of the rights of PRIVACY versus DEFAMATION versus PUBLICITY will also be discussed to understand and re-visit the “nature of the right” question [property style or inherent-inalienable style?] -case law and case studies about the Movies/Web series based on deceased celebrities like Jayalalitha, Phoolan Devi, Sushant Singh Rajput, Sridevi, Gangubai Kathiawadi will be revisited/re-discussed

Module 9 The Right of Publicity [USA and India Centric] This module investigates how the United States protects the commercial value of the celebrity personality. With its origin in privacy, the right of publicity was subsequently recognised as a property right by a majority of state courts and legislation. The module shall also cover the First Amendment defence which protects the freedom of speech and the freedom of press. Discussion shall build on Prof. Tan’s article - - David Tan, ‘Political Recoding of the Contemporary Celebrity and the First Amendment’ (2011) 2 Harvard Journal of Sports & Entertainment Law 1, 1-17

The course shall then look at the similar emergence of the right in India through case law from the Delhi, Bombay and Madras HC, and the implications of the Puttaswamy decision that has one judge elevate the right of publicity to a fundamental right

Module 10 - New Technology and Challenges for Personality Rights’ :

- Deepfakes and NFTs

- Social Media and endorsements : the duty to “#hashtag” – Indian Rules and Guidelines [Role of the ASCI and Consumer Protection Authorities]

Revision and Review

Part V Relevant Readings / Essential Readings

- Compulsory readings to be undertaken, highlighted in green
- Case law and article summaries shall be shared in advance of each class, via class slides that shall be treated as the first point of “readings” to be undertaken.
- All primary and secondary readings, with relevant portions highlighted/indicated, shall be shared with the cohort via a course Specific Share-Point folder and better discussed and explained during classroom teaching.

Module 1, Week 1

COMPULSORY READINGS:

- David Tan, The Commercial Appropriation of Fame (Cambridge Intellectual Property and Information Law) (Cambridge University Press, Kindle Edition, 2017). [READ FULL CHAPTERS 1 AND 2]
- Patricia Loughlan, Barbara McDonald, Robert Van Krieken, Celebrity and the Law (The Federation Press, New South Wales, 2010) [READ CHAPTER 1 – RELEVANT SCANNED PAGES PROVIDED]

OTHER SUGGESTED READINGS

- Chris Rojek, Celebrity (FOCI) (Reaktion Books. Kindle Edition) (ebook) [READ CHAPTER 1, PAGES 10 TO 27 OF THE PDF]
- Rein I, Kotler P, Hamlin M and Stoller M (2006), High Visibility. Transforming Your Personal and Professional Brand, 3rd Edition (New York: McGraw-Hill). – Read portions on Cultural Producers in the Visibility Industry
- Hamish Pringle, Celebrity Sells (2004) xxi-xxv, 5-10, 67-74, 269-277 [Scans]
- The Definition of the Contemporary Celebrity, Richard Dyer, Stars (2nd ed, 1998) 1-4, 16-29
- Graeme Turner, Understanding Celebrity (2004) 34
- Hajo Rupp, Who owns Celebrity: Law and Formation of Fame, 12 ESLJ xx 2014
- David Tan, ‘Beyond Trademark Law: What the Right of Publicity Can Learn From Cultural Studies’ (2008) 25 Cardozo Arts & Entertainment Law Journal 913

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COMPULSORY READINGS

- Kroll, Celebrity Brand Valuation Report 2023 – Brands, Business and Bollywood [Released June 2024] - [Details of 2024 report awaited, to be released in June end, 2025]
- The Impact of Influencer Marketing in India, May 2023, Dentsu, Asia Pacific (June 6, 2023) <https://www.dentsu.com/sg/en/insights/the-impact-of-influencer-marketing-in-india.>

OTHER SUGGESTED READINGS

- Abhishek Arvind Sahay, Role of culture in celebrity endorsement: Brand endorsement by celebrities in Indian context , W.P. No. 2013-07-01 July 2013, IIM Ahmedabad, http://www.iimahd.ernet.in/assets/snippets/workingpaperpdf/1208772975_2013-07-01.pdf

- Jaideep Mukherjee, PUBLIC IMAGES, PRIVATE LIVES: THE MEDIATION OF POLITICIANS AROUND THE GLOBE: Celebrity, Media and Politics: An Indian Perspective, *Parliam Aff* (2004) 57 (1): 80-92.

Module 3, Week 2

COMPULSORY READINGS

- Huw Beverley-Smith, *The Commercial Appropriation of Personality* (2002) 1-24
- **PRIVACY, PROPERTY AND PERSONALITY: CIVIL LAW PERSPECTIVES ON COMMERCIAL APPROPRIATION**, Huw Beverley-Smith, Ansgar Ohly, Agnes Lucas-Schloetter, Cambridge University Press, (2005) , Chapter 1 “Commercial Value of aspects of personality”

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- Porcher L Taylor III, Fernando M Pinguelo and Timothy D Cedrone, ‘The Reverse-Morals Clause: The Unique Way to Save Talent’s Reputation and Money in a New Era of Corporate Crimes and Scandals’ (2010) 28 *Cardozo Arts & Entertainment Law Journal*
- David Tan, ‘The Semiotics of Alpha Brands: Encoding/Decoding/Recoding/Transcoding of Louis Vuitton and Implications for Trademark Laws’ (2013) 32 *Cardozo Arts & Entertainment Law Journal* 221, 221-224

Module 4 - Weeks 3 and 4

- **Leslie A. Kurtz, *Fictional Characters and Real People*, 51 U. LOUISVILLE L. REV. 435 (2013).**
- Leslie A Kurtz, ‘The Independent Lives of Fictional Characters’ (1986) 1986 *Wisconsin Law Review* 429, 453-5
- Michael Todd Helfand, ‘When Mickey Mouse is as Strong as Superman: The Convergence of Intellectual Property Laws to Protect Fictional, Literary and Pictorial Characters’ (1992) 44 *Stanford Law Review*
- Dawn H Dawson, “The Final Frontier : Right of Publicity in Fictional Characters” [2001, *University of Illinois Law Review*]
- Angela D. Cook, Should Right of Publicity Protection be Extended to Actors in the Characters Which They Portray, 9 *DePaul J. Art, Tech. & Intell. Prop. L.* 309 (1999)[To be revisited for RoPub module]
- Jasmina Zecevic, Distinctly Delineated Fictional Characters That Constitute The Story Being Told: Who Are They And Do They Deserve Independent Copyright Protection?, 8 *Vanderbilt Journal of Entertainment and Technology Law* 365 (2020) Available at: <https://scholarship.law.vanderbilt.edu/jetlaw/vol8/iss2/4>

CHARACTER COPYRIGHT

USA CASES

- **Nichols v. Universal Pictures Corporation, 45 F.2d 119 (2d Cir. 1930)**
- **Murray v National Broadcasting Company Inc, 844 F 2d 988 (2nd Cir, 1988)**
- **Anderson v Stallone, 1989 WL 206431, *6-*11 (CD Cal, 1989) (‘Rocky case’)**
- **Warner Bros Entertainment, Inc v RDR Books, 575 F Supp 2d 513 (SD NY, 2008)**
- **Peters v West, 692 F 3d 629 (7th Cir, 2012)**
- **Feist Publications v Rural Telephone Service Co, 499 US 340, 345-350 (1991)**
- **Newspaper Licensing Agency Ltd & anor v Meltwater Holding BV & anor [2011] EWCA Civ 890**
- **Warner Bros Pictures Inc v Columbia Broadcasting System Inc, 216 F 2d 945, 950-51 (9th Cir, 1954) (‘Sam Spade case’)**

Characters

(i) James Bond

- Metro-Goldwyn-Mayer Inc v American Honda Motor Co, 900 F Supp 1287, 1295-97 (CD Cal, 1995) ('James Bond case')

(ii) Superman

- Detective Comics Inc v Bruns Publications Inc, 111 F 2d 432 (2nd Cir, 1940) (Wonderman)

- Warner Bros Inc v American Broadcasting Co, 654 F 2d 204 (2nd Cir, 1981) (The Greatest American Hero)

(iii) Mickey Mouse and other Disney characters

- Disney Productions v Air Pirates, 581 F 2d 751 (9th Cir, 1978) – read only Part I on copyright infringement

Case Study – Pop Music – Rihanna's Music Video 'S&M'

- LaChapelle v Fenty, 812 F Supp 2d 434, 440-442, 445-448 (SDNY, 2011)

Newer holdings on character copyright

- DC Comics v Mark Towle
- Daniels v. Walt Disney Co.(C.D. Cal. May 9, 2018)
- Blizzard Entertainment, Inc. v. Lilith Games (Shanghai) Co. Ltd. - District Court, N.D. California, March 8, 2018
- Conan Doyle Estate v. Nancy Springer et al – settled in Dec 2020.
- Activision v Call of Duty Character Copyright – On going saga
- Marvel's Avengers character copyright dispute

INDIA CASES

- V.T Thomas v Malayala Manorama; AIR 1989 Ker 49
- Star India Private Limited v. Leo Burnett (India) Private Limited (2003) 27 PTC 81
- Raja Pocket Books v. Radha Pocket Books 1997 (40) DRJ 791
- Sholay Media And Entertainment Pvt. Ltd and Anr v Parag Sanghavi and Ors. Delhi HC, 24 Aug 2015
- Arbaaz Khan Production Private Limited v. Northstar Entertainment Private Limited and Ors., 2016 SCC OnLine Bom 1812
- Disney Enterprises v. Pankaj Aggarwal, 2018 SCC OnLine Del 10166
- Problem : DO REAL PERSONS HAVE COPYRIGHT IN THEIR IMAGE? DO THEY HAVE COPYRIGHT IN CHARACTERS THEY PORTRAY ON SCREEN?
 - IF NO, THEN WHAT RIGHT CAN THEY CLAIM?
 - WHAT ABOUT CHARACTERS THEY HELP WRITE? IS CO-AUTHORSHIP AN OPTION?
- Refer – Case study of “Gutthi” in India
- Unpublished Ph.D Excerpts of the instructor shall be assigned here to supplement classroom discussion.

“COPYRIGHT” IN “LIFE-STORY”?

- Deepa Jayakumar V. A L Vijay And Ors. [Madras Hc, 12 Dec 2019,]
- Telangana High Court, M/S Super Cassettes Industries Private Limited V. Nandi Chinni Kumar And Ors – 19 Oct 2020 - Approved By The Supreme Court In Slp No. 12886-87/2020. – Special Leave Petition Dismissed Without Notice.
- Babuji Shah Vs Hussain Zaidi And Others| SLP(C) 15711/2021

COPYRIGHT OVER SPORTS CELEBRATION MOVES

- F. Scott Kieff, Robert G. Kramer, and Robert M. Kunstadt, It's Your Turn, But It's My Move: Intellectual Property Protection for Sports Moves, 25 Santa Clara High Tech. L.J. 765 (2012).

- Loren J. Weber, Something in the Way She Moves: The Case for Applying Copyright Protection to Sports Moves, 23 COLUM.-VLA J.L. & ARTS 317, 362 (1999).
- Hennry M. Abromson, The Copyrightability of Sports Celebration Moves: Dance Fever or Just Plain Sick? , 14 Marq. Sports L. Rev. 571 (2004)
- Refer : UK LAW CASES C 403/08 & C 429/08, FOOTBALL ASSOCIATION PREMIER LEAGUE ET AL. V QC LEISURE ET AL. & MURPHY V MEDIA PROTECTION SERVICES LTD ('FAPL') [2012] 1 CMRL 29, CJEU JUDGMENT OF THE COURT (GRAND CHAMBER) 4 OCTOBER 2011 [SPORTS MOVE Versus FUNCTIONAL ACTION]
- Refer India case – Kuchipudi choreography copyright - copyright infringement suit had been filed before the District Court, Trivandrum, against Facebook India. (CNR Number: KLTVO10019372021)

COPYRIGHT, TATTOOS AND BODYART

- Meredith Hatic, Who Owns Your Body Art?: The Copyright and Constitutional Implications of Tattoos, 23 Fordham Intell. Prop. Media & Ent. L.J. 396 (2013).
- Quentin Cregan, Roving injunctions and John Doe orders against unidentifiable defendants in IP infringement proceedings 6(9) Journal of Intellectual Property Law & Practice 623 (2011)
- Yin Harn Lee, Putting a face to the game: the intellectual property implications of using celebrity likenesses in videogames
- Copyright Act (USA) 17 USC §§ 102-103
- Copyright Act (India) Sections 12- 14

Tattoo Cases:

- Whitmill v Warner Bros. [Settled] – US Distt Court, Eastern Distt of Missouri, 2011
- Solid Oak Sketches, LLC v. 2K Games, Inc., (S.D.N.Y. March 26, 2020)
- Sedlik v Kat Von Drachenberg [2022 – revisit during fair use]
- Sedlik v. Von Drachenberg, Jury Award, January 2024, Los Angeles
- IMPORTANT : Catherine Alexander v Take Two, Southern District of Illinois, Sept 2022
- India – case study of the Don “D” Tattoo and misleading news items

Case Studies : Body Parts, Voice

Kim Kardashian and her apparent claim to copyright her “butt”

The Big Butt in Kim Kardashian’s Claim, KEEP CALM AND TALK LAW (March 17, 2015)

<http://www.keepcalmtalklaw.co.uk/the-big-butt-in-kim-kardashians-claim/>

Timothy Geigner, Attention Kim Kardashian: You Can't Sue Another Woman For Having A Big Ass And An Instagram Account, TECH DIRT (Nov

4, 2014) <https://www.techdirt.com/articles/20141104/04581429032/attention-kim-kardashian-you-cant-sue-another-woman-having-big-ass-instagram-account.shtml>

Sunny Deol’s announcement to copyright his voice

Gaurav Malani, Sunny Deol to copyright his voice, THE TIMES OF INDIA (Dec 7, 2010)

<https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/Sunny-Deol-to-copyright-his-voice/articleshow/7059873.cms>

Amitabh Bachchan’s claim to copyright his voice

Chandana Arora, Big B to copyright his voice!, THE TIMES OF INDIA (Nov 9, 2010)

<https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/Big-B-to-copyright-his-voice/articleshow/6888630.cms>

The settled matter of Jaanbaaz Julia in the film Rangoon v Fearless Nadia

Inika Charles, Copyright-ing Fictional Characters: Bombay HC Permits Release of ‘Rangoon’, Spicy IP (March 6, 2017) <https://spicyip.com/2017/03/copyright-ing-fictional-characters-bombay-hc-permits-release-of-rangoon.html>

<https://spicyip.com/2017/03/copyright-ing-fictional-characters-bombay-hc-permits-release-of-rangoon.html>

- Case Study : Amitabh Bachchan and his move to copyright his voice – refer latest Dec 2022 Delhi HC Ex parte interim order

- Dreamgirl 2 movie Teaser and Release announcement – voice artist using SRK’s voice [Jayvijay Sachan]
- Chandni – mimic and voice artist – Alia Bhatt
- Arijit Singh and AI Voice sound alike
- A R Rahman and his “compensation” to the family of deceased singers for an AI Sound Alike song used in Laal Salaam

PERFORMERS’ RIGHTS AND SINGERS’ RIGHTS IN INDIA : CASES FOR POTENTIALLY PROTECTING “VOICE”?

- Neha Bhasin v. Anand Raj Anand And Anr ..[Delhi HC 20 April, 2006]Summary from JIPR, Vol 11, Nov 2006 pp 436-442 [Zakir Thomas Editorial on IP Case Developments] <http://14.139.47.50/bitstream/123456789/3606/1/JIPR%2011%286%29%20436-442.pdf>
- COPYRIGHT ACT, 2012 AMENDMENT w.r.t. “live” requirement– 2013 Rules -Rule 68 –Executive dilution of statutory requirement the procedural rules, manifested itself in the ISRA Cases
- ISRA V. CHAPTER 25 BAR AND RESTAURANT DELHI HC EX PARTE ORDER OF AUGUST 12, 2016
- ISRA V NIGHT FEVER CLUB AND LOUNGE DELHI HC EX PARTE ORDER SEPT 30, 2016
- May 17, 2017 Single bench of Delhi High Court passed identical orders in CS (COMM) No. 1547/ 2016 [ISRA vs Deepak Arora]& CS (COMM) No. 1624/ 2016) ISRA vs A.D. Singh & Ors]
- ISRA ORDERS APPEALED BY SAREGAMA INDIA LIMITED AND SUPER CASSETTES INDUSTRIES PVT. LTD

Module 5, Week 5

Indicative Readings [Compulsory Readings highlighted in Green]

A. Statutory Provisions

- Copyright Act (USA) 17 USC § 107
- Copyright Act 1968 (Cth – Australia) s 41A – parody and satire exception
- Copyright Act, India – S. 52. Copyright Amendment Act 2012.

B. Case Law :

USA De Minimis Rule

Sandoval v. New Line Cinema Corp., 147 F.3d 215 (2d Cir. 1998)

Ringgold v. Black Entertainment Television, Inc., 126 F.3d 70 (2d Cir. 1997)

Gayle v. Home Box Office, 2018 WL 2059657 (S.D.N.Y. May 1, 2018), appeal docketed, No. 18-1536 (2d Cir. May 21, 2018).

De Minimis Rule: India, Copyright Act : **S.52(1)(u)**

India Tv Independent News Service v. Yashraj Films Pvt. Ltd. [Delhi HC, 21 August, 2012] – 2 cases appealed before Delhi HC DB.

Saregama India Ltd. v. Viacom 18 Motion Pictures and Ors., 2013, High Court of Calcutta 2019, Delhi High Court in *Super Cassettes Industries Ltd. v. Shreya Broadcasting Pvt. Ltd*

C. USA Fair Use Case Law

Campbell v Acuff-Rose Music Inc, 510 US 569 (1994)

- *Rogers v Koons*, 960 F 2d 301 (2nd Cir, 1992) (‘Koons I’)
- UNITED FEATURE SYNDICATE, INC. V. JEFF KOONS (S.D.N.Y. 1993)
- *Blanch v Koons*, 467 F 3d 244 (2nd Cir, 2006) (‘Koons II’)
- *Leibovitz v Paramount Pictures Corp*, 137 F 3d 109 (2nd Cir, 1998)
- *Suntrust Bank v Houghton Mifflin*, 268 F 3d 1257 (11th Cir, 2001)
- *Warner Bros Entertainment Inc v RDR Books*, 575 F Supp 2d 513, 540-46, 549-51 (SDNY, 2008)
- *Cariou v Prince*, 714 F 3d 694 (2nd Cir, 2013)

- DR. SEUSS ENTERPRISES, L.P. V. COMICMIX LLC, (9TH CIR. DEC. 18, 2020).
- The Andy Warhol Foundation for the Visual Arts v. Lynn Goldsmith, US CA 2nd Circuit, decided on 26-03-2021 – USSC Appeal pending
- Jeff Koons in Paris [Paris Court of Appeal] 17 December 2019, Paris CoA
- Hayden v. Koons - Copyright case filed on December 2, 2021 in the New York Southern District Court. [On-going]

D. Case Law: India

- India Tv Independent News Service v. Yashraj Films Pvt. Ltd. [Delhi HC, 21 August, 2012] – 2 cases appealed before Delhi HC DB.
- Saregama India Ltd. v. Viacom 18 Motion Pictures and Ors., 2013, High Court of Calcutta
- 2019, Delhi High Court in Super Cassettes Industries Ltd. v. Shreya Broadcasting Pvt. Ltd,
- Fair Use in India – case law – Blackwood And Sons Ltd. And Ors. vs A.N. Parasuraman And Ors. AIR 1959 Mad 410 [argued under 1911 Act]
- Civic Chandran v. Ammini Amma, Kerala HC, 1996
- Problem for news broadcasters - ESPN Stars Sports v. Global Broadcast News Ltd. and Ors, 2008, Delhi HC [DB]
- Super Cassette Industries Ltd. v. Hamar Television Pvt. Channel, (2010, Delhi HC)
- The Chancellor, Masters & Scholars of the University of Oxford & Ors. v. Rameshwari Photocopy Services & Ors. [DU Photocopying Case], Delhi HC DB, Dec 09, 2016]

ARTICLES

- David Tan, 'The Transformative Use Doctrine and Fair Dealing in Singapore: Understanding the "Purpose and Character" of Appropriation Art' (2012) 24 Singapore Academy of Law Journal 832, 839-849
- David Tan, 'What Do Judges Know About Contemporary Art?: Richard Prince and Reimagining the Fair Use Test in Copyright Law' (2011) 16 Media & Arts Law Review 381, 384-388

MEMES AND FAIR USE

- Patel, R. (2013). First World Problems: A Fair Use Analysis of Internet Memes. UCLA Entertainment Law Review, 20(2).
- David Tan and Angus J. Wilson, Copyright Fair Use and the Digital Carnavalesque: Towards A New Lexicon of Transformative Internet Memes, 31 Fordham Intell. Prop. Media & Ent. L.J. 864 (2021). Available at: <https://ir.lawnet.fordham.edu/iplj/vol31/iss3/3>
- Grumpy Cat Ltd.V.Grenade Beverage Llc, C.D. Cal. May. 31, 2018
- Philpot V. Alternet Media, United States District Court, N.D. California., November 30, 2018.
- Hladki, Joseph, "Copyright is Not a Laughing Matter in Stand-Up Comedy" (2014). Law School Student Scholarship. Paper 494. http://scholarship.shu.edu/student_scholarship/494
- May, S. (2013) 'Take My Gag, Please! Joke Theft and Copyright in Stand-Up Comedy', Comedy Studies. 4(2): 195-204
- Deborah Halbert, THE STATE OF COPYRIGHT: THE COMPLEX RELATIONSHIPS OF CULTURAL CREATION IN A GLOBALIZED WORLD, Routledge, 2014. Chapter 7 "Mass Culture and the Culture of the Masses"
- Dotan Oliar and Christopher Sprigman, "The Emergence of Intellectual Property Norms in Stand-Up Comedy" https://www.law.berkeley.edu/files/Oliar_Sprigman_o82608.pdf
- Charles C Goetsch, "Parody As Free Speech The Replacement Of The Fair Use Doctrine By First Amendment Protection" 3 Western New England Review 39 (1980).

Module 6, Weeks 5 and 6

- US Lanham Act, §43(a), 15 USC §1125(a)
 - India Trademark Act, Section 28.
 - “TARZAN” Trade Mark [1970] FSR 245, [1970] RPC 450
 - Elvis Presley Trade Marks [1997] RPC 543
- P.E.T.A. VERSUS .DOUGHNEY (4TH CIR. 2001)
- Difference between “brand” and “trademark” – read tan, 2010 [Sg Louis Vuitton Case Comment]
 - Christian Louboutin SA v Yves Saint Laurent America Holding Inc, 696 F 3d 206, 212-214 (2nd Cir, 2012)
 - David Tan, ‘Aesthetic Functionality Back In Vogue: Clash of the Fashion Titans’ (2013) 18 Media & Arts Law Review 164
 - Cairns v Franklin Mint Co, 107 F Supp 2d 1212 (CD Cal, 2000)
 - Mattel v Sussane Pitt
 - Mattel Inc v MCA Records Inc, 296 F 3d 894 (9th Cir, 2002)
 - Mattel Inc v Walking Mountain Productions, 353 F 3d 792 (9th Cir, 2003)
 - Tushnet, R. (2014). Make me walk, make me talk, do whatever you please: Barbie and exceptions. In R. Dreyfuss & J. Ginsburg (Eds.), Intellectual Property at the Edge: The Contested Contours of IP (Cambridge Intellectual Property and Information Law, pp. 405-426). Cambridge: Cambridge University Press.
 - Patricia Day v. Wonderama Toys et al, filed Dec 2010, Indiana state RoPub case – dismissed in part for lack of jurisdiction over a part, settled otherwise
 - Donna Douglas v Mattel, filed May 2011 – Louisiana RoPub and Federal Lanham Act false endorsement claim – settled
 - Walt Disney v Air Pirates (9th Cir, 1978)
 - Hormel Foods Corporation v Jim Henson Productions, 73 F 3d 497 (2nd Cir, 1996)
 - Warner Bros v Global Asylum Inc (Cal, 2012) - (9th Cir. 2013)
 - Michael Todd Helfand, ‘When Mickey Mouse is as Strong as Superman: The Convergence of Intellectual Property Laws to Protect Fictional, Literary and Pictorial Characters’ (1992) 44 Stanford Law Review 623
 - Jack Daniels v. VIP Products [USSC, 2023, Arizona court, Jan 2025]

Module 7, Weeks 7 and 8

- David Tan, ‘Going Gaga: Intellectual Property and Pop Culture’ (2012) 4 WIPO Journal 56
- Ate My Heart Inc v Mind Candy Ltd [2011] EWHC 2741 (Ch)
- Roberts, Alexandra Jane, Athlete Trademarks: Names, Nicknames, & Catchphrases (January 1, 2017). Book Chapter In The Oxford Handbook Of American Sports Law (2018)

Trademarks and Celebrity Names (Indian Law)

- Aakanksha Kumar, Celebrity Domain Name Arbitration: Enforcing The Right of Publicity Through Private Dispute Resolution in India". [2022] Vol. 11, No.2 NTUT J. of Intell. Prop. L. & Mgmt
- Arun Jaitley v Network Solution (Delhi HC Cyber Squatting case)
- WIPO Arbitration And Mediation Center administrative Panel Decisionms. Barkha Dutt V. Easyticket, Kapavarapu, Vascase No.D2009-1247
- Kenneth Cole Productions Inc v. Viswas Info media
- G.A. Modefine S.A. v. Naveen Tiwari trading as MKHOJ
- Ray Marks Co. LLC v Rachel Ray Techniques Pvt. Ltd
- Tata v. Greenpeace (Delhi High Court (IA 9089/2010 in CS(OS) 1407/2010), Single Judge, Justice Ravindra Bhat, order of 28 January, 2013
- Tata Sons Ltd.& Anr. v. Mr. Dharmendral (Civil Suit No. 2963/2011 | 01?12?2011)

- Tata Sons Limited & An v. Aniket Singh
- WIPO Arbitration And Mediation Center Administrative Panel Decision Tata Sons Ltd. V. Ramadasoft Case No. D2000-1713

• Mattel, Inc. & Anr V Ms. Aman Bijal Mehta & Ors - Order Of Single Judge, Delhi Hc. 22 Nov 2017

India: TM And The Celebrity Name TM Case - Law

- Warner Bros. Entertainment Inc. V. Harinder Kohli , Delhi Hc, 22 Sep 2008
- Sourav Ganguly v. Tata Tea,
- Delhi High Court - Mr. Gautam Gambhir Vs D.A.P & Co. & Anr. On 13 December, 2017
- Shanti Sagar v New Shanthi Sagar, IPAB, 2004 SCC OnLine IPAB 89
- Shri Adepu Surrender v M/s Adepu Ramaiah Narayana & Co, IPAB, 2012 SCC OnLine IPAB 60
- Karan Johar v India Pride, Bom HC, 2025
- Gautam Gambhir v Gautam Gambhir, Delhi HC, 2013
- Ratan Tata Trust case, Delhi HC, Justice Mithee Bhanot, March 2025

Module 8, Weeks 9 to 11

• David Tan, 'The Fame Monster Reloaded: The Contemporary Celebrity, Cultural Studies and Passing Off' (2010) 32 Sydney Law Review 291, 293-95, 309-10

Chapter 7 "Cultural Studies and the Common Law Passing Off Action" in David Tan, Commercial Appropriation of Fame, CUP, 2017

CHAPTER 4 "Goodwill in personality: the tort of passing off in English and Australian law" in Huw Beverley-Smith. The Commercial Appropriation of Personality (Cambridge Intellectual Property and Information Law)

• Peter K Yu, 'No Personality Rights for Pop Stars in Hong Kong' in Andrew Kenyon, Ng-Loy Wee Loon & Megan Richardson (eds), The New Law of Brands and Reputation in the Asia-Pacific Rim (Cambridge University Press, 2012)

• Irvine v Talksport Ltd [2002] 2 All ER 414; [2002] 1 WLR 2355, 2358-2368

• Gary Scanlan, 'Personality, Endorsement and Everything: The Modern Law of Passing Off and the Myth of the Personality Right' (2003) 25(12) European Intellectual Property Review 563

Henderson v Radio Corp (NSW SC, 1960) – reported in 1969 RPC

• Hogan v Koala Dundee Pty Ltd (1988) 20 FCR 314; (1988) 12 IPR 508

• Pacific Dunlop Ltd v Hogan (1989) 23 FCR 553; (1989) 14 IPR 398

Newton-John, O. v Scholl-Plough (Australia) Ltd [1986] FCA 221; 11 FCR 233

Re 10th Cantanae Pty Ltd; Heathcliff George Teal and Concord Advertising & Marketing Pty Ltd v Shoshana Pty Ltd and Sue Smith [1987] FCA 421,

• Honey v Australian Airlines Ltd (1990) 18 IPR 185

Talmax and Perkins v Telstra [1997] 2 Qd R 444 (swimmer Kieren Perkins);

Rosina Zapparoni, Propertising Identity: Understanding The United States Right Of Publicity And Its Implications - Some Lessons For Australia. [- Read Part I "Introduction" And Part II "The Australian Position On The Protection Of 'Identity'"]

• Robyn Rihanna Fenty v Arcadia Group Brands Ltd (t/a Topshop) [2013] EWHC 2310 (Ch) (High Court) and [2015] EWCA Civ 3 (Court of Appeal)

Right to be left alone – Warren & Brandeis

[WILLIAM L. PROSSER, PRIVACY, 48 CAL. L. REV. 383 (1960)]

• Galella v Onassis, 487 F 2d 986 (2nd Cir, 1973)

• Michaels v Internet Entertainment Group Inc, 5 F Supp 2d 823 (CD Cal, 1998)

Time v Hill (US Sup Ct, 1967)

Sipple v Chronicle Publishing Co 201 Cal. Rptr. 665 (Cal. App. 1984)–

102 Yale L.J. 747 - OUTING, PRIVACY, AND THE FIRST AMENDMENT by John P. Elwood
 Harvard Civil Rights-Civil Liberties Law Review - CELEBRITY PRIVACY RIGHTS AND FREE SPEECH: RECALIBRATING TORT REMEDIES FOR "OUTED" CELEBRITIES by Hilary E. Ware [1997]

- David Rolph, 'Playing Away from Home: Sportspeople, Privacy and the Law'(2011) 6 Australian & New Zealand Sports Law Journal 35
- **Shulman v Group W Productions**, 18 Cal 4th 200, 214-230 (Cal. Sup. Ct. 1998)

Diaz v. Oakland Tribune, Inc., 188 Cal. Rptr. 762 (Cal. Ct. App. 1983)

- Daniel J Solove, 'A Taxonomy of Privacy' (2006) 154 University of Pennsylvania Law Review 477, 479-491
- Theoretical Foundations for Breach of Confidence (UK) - Gavin Phillipson, 'Transforming Breach of Confidence? Towards a Common Law Right of Privacy under the Human Rights Act' (2003) 66 Modern Law Review 726,
- **Breach of Confidence – Claims by Celebrities**

- A v B plc [2002] 2 All ER 545; [2003] QB 195
- Campbell v MGN Ltd [2004] 2 All ER 995; [2004] 2 AC 457
- Douglas v Hello! Ltd [2005] 4 All ER 128; [2005] 3 WLR 881
- Von Hannover v Germany (2005) 40 EHRR 1
- Reklos and Davourlis v. Greece (Application No. 1234/05, ECtHR Judgment of 15 Jan 2009)
- Von Hannover (No.2 - von Hannover v. Germany (no. 2), Grand Chamber judgment of 7 February 2012,)
- Mosley v News Group Newspapers Ltd [2008] EWHC 1777 (QB)
- Axel Springer Ag Versus. Germany, Ecthr 7 Feb 2012 [Same Day As Von Hannover 2]
- Von Hannover V Germany (No. 3) Reference: Application No.8772/10 Ecthr Sept 2013
- DUPATE V LATVIA (APPLICATION NO. 18068/11) NOV 19, 2020
- Murray v Express Newspapers plc [2008] EWCA Civ 446; [2008] 3 WLR 1360
- The Duchess of Sussex v. Associated Press Limited, [2021] EWCA Civ 1810 – A case of "misuse of private information"
- Hilary E Ware, 'Celebrity Privacy Rights and Free Speech: Recalibrating Tort Remedies for 'Outed' Celebrities' (1997) 32 Harvard Civil Rights-Civil Liberties Law Review 449
- > **ECTHR FACTSHEET - Right to the protection of one's image -**
https://www.echr.coe.int/documents/fs_own_image_eng.pdf
- Ronald J. Krotoszynski Jr., Reconciling Privacy and Speech in the Era of Big Data: A Comparative Legal Analysis, 56 Wm. & Mary L. Rev. 1279 (2015)

Module 9, Weeks 11 to 13

- Restatement (Third) of Unfair Competition §§ 46-49 (1995)
- Haelan Laboratories Inc v Topps Chewing Gum Inc, 202 F 2d 866 (2nd Cir, 1953)

DAVID TAN'S BOOK – CHAPTER 3 "RIGHT OF PUBLICITY IN THE UNITED STATES"

- Alice Haemmerli, Whose Who? The Case for a Kantian Right of Publicity, 49 Duke L.J. 383, 386 (1999).
- Counter – Michael Madow, Private Ownership of Public Image: Popular Culture and Publicity Rights : California Law Review , Jan., 1993, Vol. 81, No. 1 (Jan., 1993), pp. 125+127-240
- Sheldon W. Halpern, Publicity Rights, Trademark Rights And Property Rights, Chapter 15 In Overlapping Intellectual Property Rights 321-339 (Neil Wilkof And Shamnad Basheer, Eds., 2012)
- David Tan, 'Beyond Trademark Law: What the Right of Publicity Can Learn From Cultural Studies' (2008) 25 Cardozo Arts & Entertainment Law Journal 913, 927-38
- DeClemente v Columbia Pictures Industries Inc, 860 F Supp 30 (ED NY, 1994) –
- Pesina v Midway Manufacturing Co, 948 F Supp 40 (ND Ill, 1996)
- David Tan, 'Much Ado About Evocation: A Cultural Analysis of Well- Knownness and the Right of Publicity' (2010) 28 Cardozo Arts & Entertainment Law Journal 313, 321-334

- Elaine Windholz, Whose Voice is It Anyways - Milder v. Ford Motor Co. , 8 Cardozo Arts & Ent. L.J. 201 (1989)
- Abdul-Jabbar v General Motors Corporation, 85 F 3d 407 (9th Cir, 1996)
- Onassis v Christian Dior (NY Sup Ct, 1984)
- Carson v Here's Johnny Portable Toilets Inc, 698 F 2d 831 (6th Cir, 1983)
- Midler v Ford Motor Company, 849 F 2d 460 (9th Cir, 1988)
- White v Samsung Electronics America Inc, 971 F 2d 1395 (9th Cir, 1992)
- David Tan, 'Affective Transfer and the Appropriation of Commercial Value: A Cultural Analysis of the Right of Publicity' (2010) 9 Virginia Sports & Entertainment Law Journal 272, 276-290
- Eastwood v Superior Court for Los Angeles County, 149 Cal App 3d 409 (1983)
- Elvis Presley Enterprises Inc v Capece, 950 F Supp 783 (SD Tex, 1996)
- Newsworthiness/Matters of Public Interest - Dora v Frontline Video Inc, 18 Cal Rptr 2d 790 (Cal Ct App, 1993); Downing v Abercrombie & Fitch, 265 F 3d 994 (9th Cir, 2001)
- Parody/Satire - Parks v LaFace Records, 329 F 3d 437 (6th Cir, 2003);
- White v Samsung Electronics America Inc, 971 F 2d 1395 (9th Cir, 1992) – see
- Burck v Mars Inc (SDNY, 2008)
- Comedy III Productions Inc v Saderup Inc, 25 Cal 4th 387 (2001)
- Doe v TCI Cablevision, 110 SW 3d 363 (Mo banc, 2003)
- Grant v Esquire (NY, 1973)
- Ali v Playgirl 447 F. Supp. 723 (S.D.N.Y. 1978)
- Hoffman v Capital Cities/ABC (9th Cir, 2001)
- Cardtoons LC v Major League Baseball Players Association, 95 F 3d 959 (10th Cir, 1996)
- ETW Corp v Jireh Publishing Inc, 332 F 3d 915 (6th Cir, 2003) – read Part IV B on
- the First Amendment Defense and the dissent on this issue - Is the “Transformative Elements” test a good test?
- Tan, 2011 – “Political Recoding Of The Contemporary Celebrity And The First Amendment
- Hilton v Hallmark Cards, 599 F 3d 894 (9th Cir, 2010)
- Keller v Electronic Arts Inc, 724 F 3d 1268 (9th Cir, 2013)
- Hart v Electronic Arts Inc, 717 F 3d 141, 158-176 (3rd Cir, 2013)
- Winter v DC Comics (CA, 2003)
- Recent case study – Stan Lee’s CGI Look Alike being used in Marvel movies – post mortem right of publicity license [2022]
- Michael Schoeneberger, ‘Unnecessary Roughness: Reconciling Hart and Keller with a Fair Use Standard befitting the Right of Publicity’ (2013) 45 Connecticut Law Review 1875
- Tan (Harvjsel 2011 – “Political Recoding Of The Contemporary Celebrity And The First Amendment
- ZACCHINI v. SCRIPPS-HOWARD BROADCASTING CO., 433 U.S. 562, USSC
- SOME RECENT CASES AND CASE STUDIES FROM USA ABOUT NIL RIGHTS**
- OLIVIA De Havilland v. FX Networks, LLC - 21 Cal. App. 5th 845, 230 Cal. Rptr. 3d 625 (2018)
- Roy Den Hollander v. Pressreader, Inc.[SDNY, MAY 20, 2020]
- KEVIN MICHAEL BROPHY JR. V. BELCALIS ALMANZAR, C.D. CAL., NO. 17-1885, VERDICT 10/21/22.
- INDIA**
- D.M. Entertainment Pvt. Ltd. v Baby Gift House and Ors, CS(OS) 893/2002, Delhi HC Decision of April 29, 2010
- ICC Development (International) v Arvee Enterprises and Anr 2003 (26) PTC 245 (Del)
- Mr.Shivaji Rao Gaikwad v M/S.Varsha Productions, CS 598 of 2014, Madras HC Decision of February 3, 2015 at para 21
- R. Rajagopal v State of Tamil Nadu, (1994) 6 SCC 632.
- Phoolan Devi vs Shekhar Kapoor And Ors. 1 December, 1994 [Delhi HC]

- Titan Industries Ltd.v M/s Ramkumar Jewellers, CS(OS) No.2662/2011, Delhi HC Decision of April 26, 2012.
- Arun Jaitley v Network Solutions Private Limited, CS(OS) 1745 OF 2009, Delhi HC Decision of July 4, 2011
- Deepa Jayakumar v. A.L Vijay MANU/TN/3107/2021
- Ramgopal Varma And Another Vs Perumalla Amrutha On 6 November, 2020
- Gautam Gambhir v. D.A.P & Co & Anr., CS(COMM) 395 of 2017, Delhi HC Decision of December 13, 2017.
- **Post Mortem Right of Publicity case** – Chitra Jagjit Singh v Panache Media, Notice of Motion (L) 499 of 2016 in Suit (L) 111 of 2016) 2016, Bombay HC
- K.K. Singh v. Sarla Saraogi [“SSR Case”]
- MANISH JAMADAR MISHRA V. SARLA W/O. ASHOK SARAOGI
- Kirtibhai Raval & Ors v. Raghuram Jaisukhram Chandrani Appeal from Order No. 262 of 2007, 20th January 2010 by the Gujarat High Court.
- Krishna Kishore Singh v. Sarla S. Sarogi & Ors., CS(COMM) 187 OF 2021, Decision of Delhi HC on June 10, 2021.
- Amitabh Bachchan vs. Rajat Nagi and Ors, C.S. (Comm.) 819 of 2022 dated November 25, 2022, Delhi HC
- RUBA AHMED & ANR. v. HANSAL MEHTA & ORS., DELHI HC, OCT 14, 2022
- PC Solanki vs. Bhanushali Studios Limited Mumbai and Others (CNR NO. RJJIJoE0004032023) (Sirf Ek Bnada Kaafi Hai)
<https://www.dnaindia.com/bollywood/report-pc-solanki-who-inspired-manoj-bajpayee-s-sirf-ek-bandaa-kaafi-hai-sends-legal-notice-for-rights-violation-3044390>
- Phoolan Devi vs Shekhar Kapoor And Ors. 1 December, 1994 [Delhi HC]
- Rajat Sharma v. Zee Telefilms., CS(COMM) 15 OF 2009, Delhi HC Decision of January 11, 2019.
- Khushwant Singh and Anr. v. Maneka Gandhi [AIR2002Delhi58],
- Shreya Singhal v Union of India, Writ Petition (Criminal) No 167 OF 2012, SC Decision of March 24, 2015
- Subramanian Swamy v Union of India and Ors., MANU/SC/0621/2016, SC Decision of May 13, 2016.
- Justice K S Puttaswamy (Retd.) and Anr. v Union Of India And Ors., (WP (Civil) 494 of 2012) SC Decision of August 24, 2017 .
- **Post Mortem Privacy Claims [Cases]**
- Deepa Jayakumar v A L Vijay and Ors. [Madras HC, 12 Dec 2019 – Mad HC DB, 16 APRIL 2021]
- A.Balakrishnan Vs. R.Kanakavel Kamaraj, 1999 SCC Online Mad 563; Madras High Court, Aug 1999
- Paramjit Kaur and Ors. v Union of India (UOI) and Ors, Civil Writ Petition No. 8820 of 2002, Punjab & Haryana High Court, July 2003
- Raghu Nath Pandey And Anr. V. Bobby Bedi And Ors. CS (OS) No.1212 of 2005, Delhi High Court
- Bharatiya Minorities Suraksha Mahasangh & anr v. Balaji Motion Pictures & ors, Appeal from Order No. 813 of 2010 with Civil Application No. 1015 of 2010, Bom HC, July 2010
- Vadlapadla Naga Vara Prasad v Chairperson, Central Board of Film Certification, Bharat Bhavan, Mumbai and seven others, Writ Petition No. 30376 of 2011, High Court of Andhra Pradesh, Dec 2011
- Akshaya Creations vs V.Muthulakshmi; C.R.P(PD)Nos.3943 and 3944 of 2012) [1 Feb 2013, Madras HC]
 - Ajit Pramod Talpade and Ors. Vs Rajesh Banga and Ors., Writ Petition (L) NO.199 OF 2015, Bom HC, Jan 2015
 - Vijay Singh Rawat v Sandhya Entertainment and Ors; Citation: (W.P.(C) 1317/2018 & CM Nos.5512 & 5513/2018, Delhi HC, Feb 2018
 - Babuji Shah V Hussain Zaidi and Ors., Bom HC, Feb 2021 – SC appeal dismissed on 24 Feb 2022
 - **India – Breach of Confidence**

- John Richard Brady v. Chemical Process Equipments Private Limited, AIR 1987 Delhi 372 (Delhi High Court)
- *Petronet LNG Ltd. v. Indian Petro Group and Another*, [2009, Delhi HC]
- *Zee Telefilms Limited v. Sundial Communications Private Limited* 2003 (5) BomCR 404
- Pierce Brosnan – Pan Bahar Case Study

• **India – Civil Defamation [for persona and reputation]**

- Shilpa S. Shetty vs Magna Publications Co. Ltd. & Ors. on 12 January, 2001, Bom HC
- Manisha Koirala vs Shashilal Nair And Ors. on 30 August, 2002, Bom HC Single Judge
- Manisha Koirala vs Shashilal Nair And Ors. on 17 October, 2002, Bom HC DB
- Magna Publishers Co. Ltd. & Ors vs Shilpa S. Shetty on 14 December, 2007, SC
- Shivaji Rao Gaekwad v Varsha Production, Madras HC, 2015

Understanding the Nature of Right of Publicity in USA and learnings for India

> J. THOMAS MCCARTHY, RIGHTS OF PUBLICITY AND PRIVACY § 10:6 to 10:13

> Rothman, Jennifer E.. *The Right of Publicity: Privacy Reimagined for a Public World* (pp. 116-117). Harvard University Press. Kindle Edition.

> Justice K S Puttaswamy (Retd.) and Anr. v Union Of India And Ors., (WP (Civil) 494 of 2012) SC Decision of August 24, 2017 – Decision of Justice Kaul and its consequences for Right of Publicity – Criticism by Prashant Reddy - <https://spicyip.com/2017/08/the-supreme-courts-privacy-judgment-elevates-personality-rights-to-the-constitutional-plane.html>

> Digital Collectibles v. Galactus Funware, DELHI HC SINGLE JUDGE, APRIL 26, 2023 [JUSTICE BANSAL]

> Aakanksha Kumar, *Celebrity Domain Name Arbitration: Enforcing The Right of Publicity Through Private Dispute Resolution in India*. [2022] Vol. 11, No.2 NTUT J. of Intell. Prop. L. & Mgmt

> Applause Entertainment Pvt. Ltd. V. Meta Platforms Inc., Interim Application No. 10257 In Commercial Suit No. 10238 Of 2023, Bombay Hcorder Dated 2-5-2023 - Interim Application (Lodging) No. 10257 Of 2023 In Commercial Ip Suit (Lodging) No. 10238 Of 2023]

> ANIL KAPOOR v. SIMPLY LIFE MEDIA AND ORS. [Justice Pratibha Singh, Delhi HC, 20 Sept 2023]

> T-Series v. Dreamline Reality Movies, Mohali, 2024 SCC OnLine P&H 661, decided on 22-02-2024

> Jaikishan Kakubhai Saraf Alias Jackie Shroff v The Peppy Store & Ors (CS(COMM) 389/2024), Delhi HC Order of May 15, 2024; 2024 SCC OnLine Del 3664

> Vishnu Manchu v Arebumdum, Delhi HC, 1 Oct 2024

> Rajat Sharma v Tamara Doc, Delhi HC, 18 Dec 2024

> Mohan Babu v Phantu Mantu, Delhi HC, 20 Dec 2024

> Delhi HC, Andaz Apna Apna case, Interim Order of May 14, 2025

Module 10, Week 13, Last Lecture

- Alix C Heugas, *Protecting image rights in the face of digitalization: A United States and European analysis* 24 (5-6) JWIP 344-365 (Nov 2021).
- Niharika Salar and Rhea Reddy, *Personality Rights and NFTs: Another Intellectual Property Law Conflict? What is the NFT buzz all about?*, IJLT Blog, Sep 8, 2021 <https://www.ijlt.in/post/personalityrightsandnfts>
- The Current Status of NIL Rights and a Review of NFT Trends, August 2021, <https://www.haugpartners.com/article/the-current-status-of-nil-rights-and-a-review-of-nft-trends>
- Combatting Deepfakes through the Right of Publicity By Jesse Lempel, March 2028
- Face/Off: “DeepFake” Face Swaps and Privacy Laws By: Erik Gerstner
- *New York’s Right to Publicity and Deepfakes Law Breaks New Ground* By Matthew F. Ferraro and Louis W. Tompros
- Understanding copyright issues entailing deepfakes in India, Purvi Nema, *International Journal of Law and Information Technology*, 2021, 29, 241–254

- ASCI Guidelines for Social Media Endorsements in India
 - *Marico Limited v Abhijit Bhansali (2020(81) PTC 244(Bom) [‘Social Media Influencer’] – Brief comparison with the UK’s Code of Non-broadcast Advertising, Sales Promotion and Direct Marketing (CAP Code).*
 - *Central Consumer Protection Authority (Prevention of Misleading Advertisements and Necessary Due Diligence for Endorsement of Advertisements) Guidelines, 2020*
 - Statement of Jennifer E. Rothman Nicholas F. Gallicchio Professor of Law University of Pennsylvania Before the Subcommittee on Courts, Intellectual Property, and the Internet Committee on the Judiciary U.S. House of Representatives February 2, 2024 Artificial Intelligence and Intellectual Property: Part II – Identity in the Age of AI
 - BENJAMIN RODRIGUES - NAVIGATING ACTORS’ PUBLICITY RIGHTS IN THE AGE OF DEEPFAKES AND A.I.
<http://www.fordhamiplj.org/2023/03/30/navigating-actors-publicity-rights-in-the-age-of-deepfakes-and-a-i/#:~:text=the%20right%20of%2>
 Amitabh Bachchan Forays into Generative AI with IknoZ
<https://variety.com/2023/digital/news/amitabh-bachchan-generative-ai-ikonZ-1235653944/>
- INDIA CASES:
- > Delhi HC (Justice Bansal) order of May 26, 2025 in favour of plaintiff Ankur Warikoo
 - > Dr Devi Prasad Shetty & Anr. v. Medicine Me & Ors. [Case No. CS(COMM) 1053/2024]
 - > Global Health Limited & Anr v John Doe & Ors, CS(COMM) 6/2025]
 - > Sadhguru Jagadish Vasudev & Anr. v Igor Isakov & Ors. CS (COMM) 578/2025
 - Order dated 30 May 2025, Delhi High Court
 - > Devinder Singh Kalra vs Meta Platforms Inc. & Ors [CRM No. 1680/2025], [Stay by P&H HC]
 - > Princy Francis vs M.J. Antony [O.S.879/2017], the Munsiff Court at Chalakudy in Thrissur

Week 14, Revision and Review

[NOTE: There shall be teaching classes scheduled during the fourteenth week subject to the JGU Academic Calendar circulated by the Office of the Registrar, JGU and any official declaration of non-working days by the JGU Registrar.]

[Since this course is an advanced taught elective, readings are expected to be undertaken diligently by students, the course manual is a dynamic document and more readings/case studies will be discussed/suggested during the course of teaching – clear demarcation of mandatory and suggested readings, along with case and article summaries shall be shared before each class]

3 Main Textbooks/Monographs:

- DAVID TAN, THE COMMERCIAL APPROPRIATION OF FAME: A CULTURAL ANALYSIS OF THE RIGHT OF PUBLICITY AND PASSING OFF (Cambridge, 2017) (Kindle ebooks edition, full eBook provided by instructor to students on Class SharePoint)
- HUW BEVERLEY-SMITH, ANSGAR OHLY, AGNES LUCAS-SCHLOETTER, PRIVACY, PROPERTY AND PERSONALITY: CIVIL LAW PERSPECTIVES ON COMMERCIAL APPROPRIATION (2005) (full eBook provided by instructor to students on Class SharePoint)
- JENNIFER E ROTHMAN, PRIVACY RE-IMAGINED FOR A PUBLIC WORLD (2018) (full eBook provided by instructor to students on Class SharePoint)

Other Indicative Readings

Statutes/Conventions/Treaties/Draft Legislations

India

- .IN Domain Name Dispute Resolution Policy
- Constitution of India, 1950

- Consumer Protection Act, 2019, No. 35, Acts of Parliament, 2019 (India).
- Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).
- Trademarks Act, 1999, No. 47, Acts of Parliament, 1999 (India).
- Trade Marks Rules 2017 (replacing Trademarks Rules 2002)

USA

- 2013 Hawaii Revised Statutes: Title 26. Trade Regulation And Practice, Section 482P-1
- 2014 New York Laws - CVR - Civil Rights [NYCRL]
 - ARTICLE 3. Penal Damages [3344 - 3346] (Article 3 enacted 1872.)
 - Article 5 - (50 - 52) Right of Privacy [As amended by Senate Bill Senate Bill S5959D]
- CALIFORNIA CIVIL CODE – CIV [CCC]
 - CHAPTER 2. Measure of Damages [[3300.] - 3361] (Chapter 2 enacted 1872.)
- Digital Millenium Copyright Act of 1998, 17 U.S.C
 - DIVISION 4. GENERAL PROVISIONS [3274 - 9566] (Heading of Division 4 amended by Stats. 1988, Ch. 160, Sec. 16.)
- ELVIS Act or Ensuring Likeness Voice and Image Security Act, signed into law by Tennessee Governor Bill Lee on March 21, 2024
- Federal Copyright Act of 1976, 17 U.S.C.
- Federal Trademark Dilution Act of 1995, 15 U.S.C
- Indiana - IN ST 32-36-1- Section 17. IC 32-36-1-1 [Amendments To Sections 1 and 8 Effective July 1, 2012]:
- Lanham (Trademark) Act of 1946, 15 U.S.C.
- Draft No Artificial Intelligence Fake Replicas And Unauthorized Duplications Act (No AI FRAUD Act), H.R.6943, 118th Cong. (2024).
- Draft Nurture Originals, Foster Art, and Keep Entertainment Safe (NO FAKES) Act of 2023
- South Dakota : Title 21, Chapter 21-64, Section 21-64(1) (2) read with (3)
 - TITLE 2. COMPENSATORY RELIEF [3281 - 3361] (Title 2 enacted 1872.)
- Trademark Law Revision Act of 1988 (“TLRA”), Pub. L. No. 100–667, 102 Stat. 3935 (codified at 15 U.S.C. § 1051 (2006))
- Washington: WA ST 63.60.040, Title 63. Personal Property, Chapter 63.60. Personality.

United Kingdom

- Human Rights Act 1998, c. 42

European Union

- European Convention on Human Rights

Australia

- Trade Marks Act 1995 (Cth) (Austl.).

China

- Civil Code of the People’s Republic of China (Adopted at the Third Session of the Thirteenth National People’s Congress on May 28, 2020)
 - Book Four Personality Rights

Other International Legal Materials

- Uniform Domain Name Dispute Resolution Policy (‘UDRP’), 1999 <https://www.icann.org/resources/pages/policy-2024-02-21-en>

- Domain Name Dispute Resolution Service for Generic Top-Level Domains, WIPO *available at:* <https://www.wipo.int/amc/en/domains/gtld/>

Guidelines

India

- Guidelines For Celebrities In Advertising ('Celebrity Guidelines ASCI'), *in* Advertising Standards Council of India, The Code For Self-Regulation Of Advertising Content In India https://www.ascionline.in/wp-content/uploads/2024/04/Code-Book_Codes_Webready.pdf.
- The Information Technology (Intermediary Guidelines And Digital Media Ethics Code) ('Intermediary Guidelines'), *In* Digital Media Guidelines And Policies By Ministry Of Information And Broadcasting <https://www.meity.gov.in/writereaddata/files/Revised-IT-Rules-2021-proposed-amended.pdf>

Case Law

India

- A.Balakrishnan v.. R.Kanakavel Kamaraj, 1999 SCC Online Mad 563; Madras High Court, Aug 1999
- Academy of General Education, Manipal v. B. Malini Mallya [AIR 2009 SC 1982]
- Ajit Pramod Talpade and Ors.v. Rajesh Banga and Ors., Writ Petition (L) NO.199 OF 2015, Bom HC, Jan 2015
- Akshaya Creations v V.Muthulakshmi; C.R.P(PD)Nos.3943 and 3944 of 2012) [1 Feb 2013, Madras HC]
- Alokesh Lahiri @ Bappi Lahiri v. Kireet Khurana & Ors, CS(OS) 2590/2010, Delhi HC Decision of August 17, 2012.
- Amit R. Kalyanaraman v. Gurfateh Films, (2016) SCC 2367.
- Amitabh Bachchan v. Rajat Nagi and Ors. MANU/DEOR/195516/2022
- Anupama Mohan v State of Kerala, WP(C). No. 22790 of 2015
- Anupama Mohan v The Director, Kerala High Court decision of January 19, 2016 and February 28, 2022
- Anil Kapoor Film Co (P) Ltd v Make My Day Entertainment 2017 SCC OnLine Bom 8119
- Anil Kapoor v. Simply Life Media And Ors., CS(COMM) 652/2023 Delhi High Court Decision of 20 September, 2023.
- Applause Entertainment Pvt. Ltd. v. Meta Platforms Inc., Interim Application No. 10257 in Commercial Suit No. 10238 of 2023, BOMBAY HC Order dated May 2, 2023 in Interim Application (Lodging) No. 10257 of 2023 In Commercial IP Suit (Lodging) No. 10238 of 2023
- Arbaaz Khan Production Private Limited v. Northstar Entertainment Private Limited, (2016) SCC 1812.
- Arun Jaitley v. Network Solution, CS(OS) 1745/2009 Delhi HC Decision of 4 July 2011.
- Associated Publishers (Madras), v. K. Bashyam Alias 'Arya' And Anr (1962) 1 MLJ 258.
- Babuji Shah v. Hussain Zaidi and Ors., Bom HC, Feb 2021 – SC appeal dismissed on 24 Feb 2022
- Barbara Taylor Bradford & Anr. v. Sahara Media Entertainment Ltd. & Ors, (2004) 28 PTC 474
- Barkha Dutt v. Easyticket, Kapavarapu, Vas, WIPO Case No.D2009-1247

- Beyond Dreams Entertainment Pvt Ltd & Ors. v. Zee Entertainment Enterprises Ltd & Anr., (2015) SCC 4223.
- Bharatiya Minorities Suraksha Mahasangh & anr v. Balaji Motion Pictures & ors, Appeal from Order No. 813 of 2010 with Civil Application No. 1015 of 2010, Bom HC, July 2010
- Biswaroop Roy Choudhary v. Karan Johar, 131 (2006) DLT 458.
- Blackwood And Sons Ltd. And Ors. v. A.N. Parasuraman And Ors., AIR 1959 Mad 410.
- Chitra Jagjit Singh v. Panache Media, 2016 SCC OnLine Bom 2364
- Chorion Rights Limited, v. M/S Ishan Apparel & Ors., CS(OS) 1154/2009, Delhi HC Decision of April 15, 2010.
- Christian Louboutin Sas v. Nakul Bajaj, CS(OS) 2995/2014, Delhi HC Decision of September 26, 2014.
- D.M. Entertainment Pvt. Ltd. v. Baby Gift House and Ors, CS(OS) 893/2002, Delhi HC Decision of April 29, 2010.
- Deepa Jayakumar v. AL Vijay and ors., O.S.A.No.75 of 2020.
- Diamond Comic Private Limited & Another v. Raja Pocket Books & Others, CS (OS) 1104/1999, Delhi HC Decision of September 16, 2005.
- Diamond Comic Private Limited & Another v. Raja Pocket Books & Others, LNIND 2005 DEL 641.
- Digital Collectibles PTE Ltd and Ors v. Galactus Funware Technology Private Limited and Anr., CS (COMM) 108/2023, Delhi HC Decision of April 23, 2023.
- Disney Enterprises, Inc. & Anr. v. A.M Siddiqui & Anr, CS (COMM) 120/2018, Delhi HC Decision of July 22, 2019.
- Disney Enterprises, Inc. & Anr. v. Pankaj Aggarwal & Ors., (2018) SCC 10166.
- Espn Star Sports vs Global Broadcast News Ltd. & Ors, RFA (OS) No.25/2008, Delhi High Court Decision of 26 September 2008.
- Fortune Films v. Dev Anand, AIR 1979 Bom 17
- G.A. Modefine S.A. v. Naveen Tiwari trading as MKHOJ, NIXI Award dated February 20, 2009
- Garapati Prasad Rao v Parnandi Saroja & Ors, AIR 1992 AP 230.
- Gautam Gambhir v. D.A.P. and Co.and Ors., CS(COMM) 395/2017 Delhi High Court Decision of 13th December, 2017
- Gautam Gambhir v D.A.P., RFA(OS)(COMM) 2/2018 & CM APPL. 1871-1872/2018 before the Delhi High Court, Division Bench
- Green Gold Animation (P) Ltd. v. Thirupathy Brothers media (P) Ltd., 2019 SCC OnLine Mad 13395.
- Havells India Limited and Ors. v. Vivek Kumar and Ors., CS(OS) 164/2016, Delhi HC Decision of April 30, 2016.
- ICC Development (International) ... v. Arvee Enterprises And Anr, 2003 VIIAD Delhi 405, Delhi HC Decision of January 1, 2003.
- ICC Development (International) v. Arvee Enterprises and Anr, 2003 (26) PTC 245 (Del).
- India Tv Independent News Service ... vs Yashraj Films Pvt. Ltd., AIR 2013 (NOC) 315 (DEL.)
- Jaikishan Kakubhai Saraf Alias Jackie Shroff v The Peppy Store & Ors (CS(COMM) 389/2024), Delhi HC Order of May 15, 2024; 2024 SCC OnLine Del 3664 (Next listed for October 15, 2024)
- Janata Pictures v. A V M Productions, LNIND 1973 KANT 60.
- J.K. Rowling & Others v. City Publication & Another, CS(OS) NO.1785 OF 2007, Delhi HC Decision of 13 January 2010.
- John Richard Brady v. Chemical Process Equipments Private Limited, AIR 1987 Delhi 372.

- Justice K.S. Puttaswamy & Anr. vs. Union of India & Ors., AIR 2018 SC (SUPP) 1841
- Karan Johar v. India Pride Advisory Pvt. Ltd., Interim Application (L) No.17865 Of 2024 in Com IPR Suit (L) No.17863 Of 2024.; Delhi HC Order of Justice R.I. Chagla, June 13, 2024
- K.K. Singh v. Sarla Saraogi, CS (COMM) 187/2021 Delhi High Court Decision of July 11, 2023.
- Kenneth Cole Productions Inc v. Viswas Info media, INDRP Dispute Case no: INDRP/093.
- Khushwant Singh and Anr. v. Maneka Gandhi, AIR 2002 Delhi 58
- King Features Syndicate Inc. & Ors. v. Sunil Agnihotri & Ors., LQ 1997 HC 9051.
- Kirtibhai Raval & Ors v. Raghuram Jaisukhram Chandrani Appeal from Order No. 262 of 2007, 20th January 2010 by the Gujarat High Court
- K.P. Selvah @ Panner Selvam v/s Atlee (Director & Writer) & Others C.R.P (NPD) No. 3331 of 2019, Madras HC - Decided On, 22 October 2019
- Krishna Kishore Singh v. Sarla S. Sarogi & Ors., CS(COMM) 187 OF 2021
- Krishna Kishore Singh v. Sarla S. Sarogi & Ors., [Order of Justice Hari Shankar, Delhi HC, July 11, 2023]
- Magna Publishers Co. Ltd. & Ors v Shilpa S. Shetty, AIR 2008 SC 681
- Manisha Koirala v. Shashilal Nair And Ors. , Bom HC Single Judge Order of August 30, 2002 (Justice Rebello), 2003 (2) BOMCR 136
- Manisha Koirala v Shashilal Nair and Ors, BOM HC DB Order of October 17, 2002 (Justice Lodha and Justice Bhosale), 2003 (2) BOMCR 647
- Mr. Sonu Nigam v. Mr. Amrik Singh (alias Mr. Mika Singh) & Anr., MANU/MH/0517/2014, Bombay High Court decision of April 26, 2014.
- Mr. Shivaji Rao Gaikwad v. M/S. Varsha Productions, Madras HC Decision of February 3, 2015.
- M/S. Kaleidoscope (India) P. Ltd.v. Phoolan Devi And Others, Delhi HC DB Decision of Jan 19, 1995, AIR 1995 DELHI 316
- M/S Super Cassettes Industries Private Limited v. Nandi Chinni Kumar and Ors – 19 Oct 2020, Telangana HC
- Neha Bhasin v Anand Raj Anand & Anr, 2006 (32) PTC 779 (Del)
- Paramjit Kaur and Ors. v Union of India (UOI) and Ors, Civil Writ Petition No. 8820 of 2002, Punjab & Haryana High Court, July 2003
- Percept Picture Company Pvt Ltd v. Karma Productions Pvt Ltd, (2010) SCC 7302.
- Petronet LNG Ltd. v. Indian Petro Group and Another, [2009] 95 SCL 207(Delhi)
- Phoolan Devi v. Shekhar Kapoor and Ors., 57 (1995) DLT 154.
- QRG Enterprises and Ors. v. HPL (India) Limited and Ors., CS(COMM) No. 1218/2016, Delhi HC Decision of December 20, 2016.
- R.G. Anand v Deluxe Films 1979 SCR (1) 218
- R. Rajagopal v. State of Tamil Nadu, (1994) 6 SCC 632.
- Radhey Shyam v. Sunder Dass Lnind, 29(1986)DLT 276, Delhi HC Decision of November 7, 1985.
- Raghu Nath Pandey And Anr. v. Bobby Bedi And Ors. CS (OS) No.1212 of 2005, Delhi High Court
- Raja Pocket Books v Radha Pocket Books 1997(40)DRJ791
- Rajat Sharma v. Zee Telefilms, CS(COMM) 15/2019, Delhi High Court Decision of 11 January, 2019.
- Ramgopal Varma And Another vs Perumalla Amrutha, CMA 351 of 2020, Telangana High Court on 6 November, 2020.
- Ray Marks Co. LLC v Rachel Ray Techniques Pvt. Ltd., NIXI Award dated July 9, 2011

- Re: Measures for Prevention of fatal accidents of small children due to their falling into abandoned bore wells and tube wells, (2010) 15 SCC 224.
- Royal Challengers Sports Private Limited v Sun Pictures a Division of Sun TV Network Ltd and Anr; CS(COMM) 581/2023 and I.A. 15859/2023-15864/2023.
- Ruba Ahmed & Anr v. Hansal Mehta & Ors, MANU/DE/4011/2022.
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- Yin v. Defendants - April 23, 2024, Announcement by Beijing Internet Court of China which ruled against a defendant that used a dubber's voice to train a generative AI.
- Zhongjia Travel Agency case - On April 11, 2022, China's Supreme People's Court (SPC) released the Typical civil cases of judicial protection of personality rights after the promulgation of the Civil Code - The case of "AI companion" software infringing on personality rights

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- OVERLAPPING INTELLECTUAL PROPERTY RIGHTS (Neil Wilkof and Shamnad Basheer, eds., 2012) - Chapter 15 of this book, titled *Publicity Rights, Trademark Rights and Property Rights* by Sheldon W Halpern succinctly summarises the beginnings of the *right of publicity* in USA through the *right of privacy* tort, the protection of the economic associative value of celebrity persona, overlaps with trademark passing off and dilution regime and the first amendment defences to right of publicity infringement.
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Reports

- a. Kroll, *Celebrity Brand Valuation Report 2022: “Beyond the Mainstream.”* ; *Celebrity Brand Valuation Report, 2023 : “Brands, Business, Bollywood”*
- b. Influencer.in Report – *Influencer Marketing Report 2022*
- c. Dentsu Asia Pacific- *The Impact of Influencer Marketing in India*, June 2023

Social Media accounts/Blogs to follow for US Law Entertainment / Right of Publicity updates:

- a. Prof Jennifer Rothman's blog - <https://rightofpublicityroadmap.com/>
- b. Tony "Prof. T" Iliakostas (@theipprofessor) on Instagram
- c. Prof Alexandra J Roberts (@lexlanham) on Twitter [Now, X]
- d. Lawyer – Vivek Jayaram (@vivekjayaram) on Instagram [Instructor for the course *BLANK SPACE: IP Law through the Lens of Taylor Swift's Career* at Miami Law]
