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## Protection of fictional characters in IPR

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*This paper talks about how fictional characters who are a part of our daily lives are protected under the Intellectual Property regime. The opinions of various courts have been examined in-depth to identify the courts' attitudes on this type of protection. This was necessary since there are no specific provisions in the law that may provide characters with protection. Characters may easily transition from one medium to another and even take on new dimensions. As a result, the best strategy to protect the character is to design a complete protection policy that protects the character under both copyright and trademark laws at the same time. When it comes to fictitious characters, the courts have utilized numerous tests evolved through time to decide whether a character is well delineated or not. Only if the character is judged to be exceptionally well-developed, original, and distinct from other characters is copyright protection awarded to such a fictitious figure.*

**Keywords:** *copyright, trademark, fictional, use, unique standard.*

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### INTRODUCTION

Intellectual property, such as a character, a song, a movie, and so on, is the result of a person's creative labor. It, like any other asset, has to be safeguarded. Depending on the nature of the work, we have a multitude of rights to protect it, such as patents, trademarks, and copyrights. This blog will be focusing on the protection of fictional characters. A fictitious character is a fictional figure depicted or represented in a work of fiction, such as a film, play,

or narrative. The relevance of copyright protection for fictional characters stems from the fact that they have separated themselves from their original fiction (e.g., a movie) and developed their own identity. Through movies, comic strips, cartoons, video games, and toys, they have become a part of our daily life. And because of their unique capacity to serve as entertainment and expressive functions as well as advertising, promotional, and recognition purposes, fictional characters are now widely employed in character merchandising. This necessitates the safeguarding of fictional characters<sup>1</sup>. The function of fictional characters in the parent work is frequently eclipsed by their commercial and widespread appeal. As a result, it is critical to guarantee that the authors of these characters are afforded fair and consistent protection against unauthorized use. Not only are these figures at risk of being distorted and exploited, but their creator's rights and reputations are also in jeopardy. Similarly, licensees and advertisers have a financial stake in the characters and have expressed a desire to safeguard them from unauthorized usage<sup>2</sup>.

## INTERSECTION BETWEEN FICTIONAL CHARACTERS AND IPR

A fictional character's name, bodily or visual appearance, physical features, and personality traits or characterization are all recognizable and legally relevant components. In addition, there are four categories of fictional characters: pure, literary, visual, and cartoon. Characters that do not present physically in the included work are known as pure characters. Literary characters emerge from descriptions and acts in novels or plays. Visual characters are those who can be seen in the works, such as in movies. Line drawings of a perceived simplicity are used to create cartoon figures. Among these four categories, pure characters receive little or no protection, but cartoon characters have gotten more protection from the courts.

Original literary, dramatic, and artistic works, cinematographic films, and sound recordings are all examples of works that can be protected under copyright under Section 13<sup>3</sup> of the

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<sup>1</sup> Keerthana S, 'Fictional Characters and Copyright Protection' (*Lexforti*, 10 August 2021)

<<https://lexforti.com/legal-news/copyright-protection-of-fictional-characters/>> accessed 01 March 2022

<sup>2</sup> Triveni Singhal, 'Superheroes Copyright Fictional Characters enjoy protection' (*Ipleaders*, 22 April 2021)

<<https://blog.ipleaders.in/superheroes-copyright-fictional-characters-enjoy-protection/>> accessed 01 March 2022

<sup>3</sup> Copyright Act, 1957, s 13

Copyright Act 1957. In India or at any place, there is no special regulation or provision that protects fictitious characters. Authors have a legal method to restrict the usage and exploitation of the characters they create through copyright protection. Ideas are not copyrightable, according to the Berne Convention, but the manifestation of the idea is. The copyright protection for fictitious characters allows writers to get paid for their work, have a say in how their characters are developed in subsequent works, and prevent others from exploiting their protected invention, the fictional characters. There are 2 types of characters known Fictional Characters and Graphics Characters. A graphic character may be shown in a cartoon or other graphic medium. A fictitious figure, on the other hand, is a word picture whose physical form and characteristics live in the reader's imagination. Pictorial characters are simpler to defend outside of their original context since visuals are more recognizable than textual descriptions. In the field of intellectual property, David B. Feldman believes that fictitious characters are second-class citizens<sup>4</sup>. Characters like Iron Man, Spiderman, Mickey Mouse, ChottaBheem, Shaktiman, Harry Potter, Geronimo Stilton, have become a part of our daily life, from comic books to television and movies. With these imaginary characters obtaining enormous popularity among the general public, their owners and creators have a variety of options for profit and goodwill. Since the creators of these characters employ their imagination, talent, and intelligence to create them and give them their distinct personalities, they must be protected from being infringed upon, misused, or duplicated by unauthorized individuals. Characters like Suppandi and Chacha Chaudhary are still popular among the 25-to-30-year-old group, and Chotta Bheem merchandise has grossed more than Rs.300 crores, with more than 40 million Indian viewers and large international markets<sup>5</sup>.

Even though most storylines and plots are forgotten, a reader's mind is frequently stuck on the features of a fictional character; this fixation may then give the genuine underlying value of a

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<sup>4</sup> Shan Kohli, 'Giving Due Protection To Fictional Characters: The Possibility of 'Copymark' (*Spicyip*, 3 April, 2016) <<https://spicyip.com/2016/04/giving-due-protection-to-fictional-characters-the-possibility-of-copymark.html>> accessed 02 March 2022

<sup>5</sup> Suneet Katarki & Aditi Verma Thakur, 'Chacha Chaudhary And Character Merchandising' (*Mondaq*, 17 December 2014)

<<http://www.mondaq.com/india/x/361128/Trademark/Chacha+Chaudhary+And+Character+Merchandising>> accessed 02 March 2022

literary work or series. Because of the "worth" that a fictional character may have, the creator and/or publisher should always take precautions to safeguard the fictional character. And especially if the fictional figure may be used in book sequels, or if the fictional character could be licensed for use in films, television programs, electronic or other media, or merchandise. Only by preserving control and protection of the fictitious character can the creator/publisher of that character optimize revenue streams. The advantages of a character are scaled. On the surface, the character is only a component in a plot in which he performs a role. This is the second stage when the character's popularity is so high that it becomes the focal point of the whole plot. Marketing and merchandising have been introduced at the third level, when a character with a personality that is different from any given tale may be utilized as the topic of advertisement and marketing. Character merchandising is a secondary use of the character's IP rights<sup>6</sup>. That the abovementioned concept was first proposed by Judge Learned Hand in the case of *Nichols vs Universal Pictures Corp.*<sup>7</sup>, in which he indicated that characters could be entitled to protection if they had an existence separate from the storyline of the narrative. "As a result, the less developed the characters are, the less copyrightable they are; this is the price an author must pay for making them too vague."

## HOW ARE FICTIONAL CHARACTERS PROTECTED?

Copyrights, trademarks, and personality rights can all be used to protect such characters' intellectual property. The availability of Intellectual Property Protection for fictional characters is discussed in this article through the study of various cases. This also highlights the numerous legal tests that courts have used to protect fictitious characters.

## COPYRIGHT PROTECTION

Copyright law is critical in preventing unauthorized use, copying, or replication of creative work by a third party. A creative work that can be tangibly represented, is novel and is a by-product of a person's creativity might be regarded as a copyrighted work. The breadth of what

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<sup>6</sup> 'Let there be right: Rights of Fictitious Characters' (*BIAT Legal*, 3 July, 2020)

<<https://www.biatlegal.com/blog/let-there-be-right-rights-of-fictional-characters/>> accessed 03 March 2022

<sup>7</sup>*Nichols v Universal Pictures Corp.* [1930] 45 F.2d 119

can be protected by copyright law has broadened and developed significantly throughout time. Today, copyright law protects not just a film or a work of literature, but also the fictional characters that appear in the creative work. The existence of fictional characters as a creative work apart from the material from which they arise has been recognized by copyright laws all around the world. While it may appear at first that giving separate copyright to fictional characters is unnecessary duplicative, a closer examination reveals that separate copyright is necessary both to protect the fundamental work and to protect the character – which is itself a unique work of initiation due to the commercial nature and value of the characters. When it comes to the copyright-ability of fictitious characters, the key question is whether a fictional character is an idea or an expression, since it is always a component of previously copyrighted works such as literary, artistic, and cinematographic works. If a fictitious character is awarded copyright protection apart from the work in which it is produced, it restricts the character's usage even in an original work<sup>8</sup>. For example, if there's a movie called 'ABC' is copyrighted along with the fictional character called 'Z' in the movie. Then the movies which are later released with 'Z' as the main character would have amounted to copyright infringement.

### **Copyright Protection in the USA:**

The United States is the only country that has established various standards to evaluate whether fictitious characters are copyrightable. To be protected in the United States, a fictional figure must be original work, have a creative element, and be portrayed in a tangible medium. Since the Act states that copyright protection for an original work of authorship cannot extend to any idea, fictional characters are fundamentally not copyrightable. Despite this, courts have adopted a two-stage test to govern copyright infringement involving a fictitious character. This standard requires courts to determine if the character's expression is copyrightable and, if so, whether there has been an infringement. The 2 tests specified by the US Courts are the '**Distinct Delineation**' test and the '**Story Being Told**' test. Once this is proven, it should be clarified that this fictional figure, which is a "unique piece of expression," has been infringed upon. To establish if the work has been infringed upon, the Court would look for significant

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<sup>8</sup> Keerthana S (n 1)

similarities between the two works. Examining the look, personality features, character sketch, and word portraits of the original work and the infringing work are examples of such parallels. The following are some of the standards used by American courts to assess whether a fictitious character is protected by copyright:

### **Distinct/Character Delineation Test:**

*Nicholas v Universal Pictures Corp.*<sup>9</sup> was the first case to address the copyright-ability of fictitious characters. The plaintiff claimed that Universal, The Cohens, and the Kelleys' film *Abie's Irish Rose* infringed on the character and narrative of the play *Abie's Irish Rose*. For the first time, Judge Learned Hand ruled that fictitious characters can be protected under copyright regardless of the narrative. The copyright law, it was said, might protect imaginary characters if they were well delineated. This delineation test has two stages: first, it determines if the earlier character's expression is sufficiently delineated to be copyrightable, and then it determines whether the infringing character's expression is considerably similar to the earlier character's expression. If the response is yes, the court will rule that this is not just an infringement of the original character, but also of the whole work in which the original character appears. "It follows that the less developed the characters are, the less they can be copyrighted," the worried judge noted, "and that this is the punishment an author must face for designating the characters too indistinctly."

This demonstrates Judge Hand's strong belief that the character's idea should not be copyrighted, and that only the character's delimited expression should be protected. The premise was that as a character develops, it will embrace expression more than a generic idea. *Abie's Irish Rose* was found not to be subject to copyright since the characters were not adequately delineated<sup>10</sup>. In *Arbaaz Khan v Northstar Entertainment Pvt. Ltd.*<sup>11</sup>, the Bombay High Court granted copyright to the character Chulbul Pandey from the film *Dabangg*, reasoning

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<sup>9</sup> *Nicholas* (n 7)

<sup>10</sup> 'Can you obtain a copyright on fictional characters?' (*Kashish World*)  
<<https://www.kashishworld.com/blog/can-you-obtain-a-copyright-on-fictional-characters/>> accessed 03 March 2022

<sup>11</sup> *Arbaaz Khan v Northstar Entertainment Pvt. Ltd.* (2016)

that the character is unique with his style, making it one of a kind and distinctively recognizable from the entire film.

### **Story Being Told Test:**

The United States Court of Appeals is credited with inventing the story being told test,<sup>12</sup> which was first used in *Warner Bros. v Columbia Broadcast System*<sup>12</sup>. In this case, author Hammett gave the copyright to Warner Brothers in his works for *The Maltese Falcon*. The rights to characters from *The Maltese Falcon*, such as Detective Sam Spade, were later transferred to Columbia Broadcasting Systems. WB claimed that CBS' usage of characters was an infringement since the exclusive rights in the works cover the character's rights as well. While debating whether fictional characters are subject to copyright protection, the court concluded that while "it is conceivable that the character truly constitutes the story told," "if the character is only the chessman in the game of telling a story, he is not within the area of copyright protection." The persona Detective Sam Spade was deemed not to be the tale being told, but rather a vehicle for the story told, and hence CBS' usage of the character did not constitute an infringement. A fictitious character is only copyrightable if it "constitutes the tale being conveyed," according to this test. This means that the fictitious figure must have a pivotal and significant part in the story rather than being merely a plot device. This is also known as the 'Sam Spade test,' in which copyright protection is not provided to a character who does not play a crucial part in the narrative of creative work. In the matter of *Universal City Studios vs Kamar Indus*<sup>13</sup>, Universal City Studios took legal action against a manufacturer who began selling items with the name 'E.T. Phone Home.' The court determined that the E.T. persona was an important part of Universal City Studios' film (*E.T. – The Extra-Terrestrial*). Universal was entitled to relief because E.T. was "a unique and distinctive figure about whom the movie revolves, which is copyrightable<sup>14</sup>."

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<sup>12</sup> *Warner Bros. v Columbia Broadcast System* [1954] 216 F.2d 945

<sup>13</sup> *Universal City Studios v Kamar Indus* [1986] 797 F.2d 70

<sup>14</sup> Nicholas (n 7)

## POSITION IN INDIA

At the moment, there are no laws in India that specifically protect fictitious characters. However, unique, artistic, musical, and dramatic works, as well as sound recordings and cinematography pictures, are protected by Section 13 of the Copyright Act of 1957. The protection of fictitious characters may be included in the scope of this clause. However, Indian courts have issued various decisions concerning the copyright ability of fictitious characters throughout the years. Paintings, sculptures, sketches, engravings, and photos have all been classified as "artistic works" in India. A character, on the other hand, is not protected; only the particular layout of a cartoon or episode based on it is. Character qualities, on the other hand, are not copyrightable since they stay in the readers' imaginations, as does the entire tale, which, if read in its entirety, offers a clue of the character. As a result, under Indian statute law, characters are not included in the list of copyrightable items in the Copyright Act. Nonetheless, the courts have expanded the meaning of the term 'work,' and have granted protection to characters in a variety of contexts. *V.T. Thomas v Malayala Manorama*<sup>15</sup> was the first case in India to establish the copyright-ability of fictitious characters. The court avoided delving into the specifics of the standards that must be met for fictitious characters to be eligible for copyright protection. The question, in this case, was who held the characters' copyright. By determining that the characters were developed by Thomas outside of the scope of his work and so he owns copyright over his invention, the court impliedly accepted that fictitious characters can be copyrighted.

The unlawful use of characters from the popular Hindi soap opera "*Kyunki Saas Bhi Kabhi Bahu Thi*" in a detergent commercial was deemed a case of copyright infringement in *Star India v Leo Burnett*<sup>16</sup>. It was alleged that the characters from the soap opera had the copyright and that the producers had not given their authorization to their use in the advertising. It's worth noting that in the aforementioned decisions, the Court has only looked at the copyright that exists on a fictitious character, not the pre-requisite elements that must be met to use copyright laws to protect a character. The entertainment and literary industries, on the other hand, are rapidly

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<sup>15</sup> *V.T. Thomas v Malayala Manorama* AIR 1989 Ker 49

<sup>16</sup> *Star India v Leo Burnett* (2003) 2 BomCR 655



evolving. As a result, Indian courts are expected to propose standards similar to those proposed by American courts shortly to identify the circumstances necessary to copyright fictitious characters. In the matter of *Raja Pocket Books vs Radha Pocket Books*<sup>17</sup>, the defendant duplicated the comic character Nagraj and called his comic 'Nagesh.' "The characters' characteristics were similar, and both the green snakes had a serpentine-like aspect with red belts," the court ruled. The court found that not just the concept, but also the expression, had been copied. For the duration of the lawsuit, the court issued an interim order prohibiting the defendant from disseminating stickers, posters, or other materials praising the persona known as Nagesh.

In *Sholay Media and Entertainment Pvt Ltd. vs Parag Sanghvi and Ors*<sup>18</sup>, the Delhi High Court fined Director Ram Gopal Varma Rs. 10 lacs as damages since he had 'intentionally and deliberately' come out with a remake of the blockbuster 'Sholay,' by violating Sholay Media and Entertainment Pvt Ltd.'s exclusive copyright and misusing the characters Gabbar Singh, Jai, Veeru, Radha.

## MISAPPROPRIATION OF COPYRIGHT

Misappropriation is the idea that an entrepreneur's investment of time and money in creating a marketable product should be protected from abuse by an adversary. The goal of copyright protection is to encourage authors to create works of art that they may not have created if they were afraid of others profiting from their work<sup>19</sup>. The misappropriation theory applies in circumstances where the defendant is seeking to profit from the plaintiff's invention as his own by trading on the creator's reputation or goodwill rather than seeking to earn from the creation's originality or goodwill. If a literary work has copyright, and someone else creates or reproduces the work or any major part of it in any medium, he is infringing on the copyright<sup>20</sup>. Some resemblances to the original are enough to demonstrate that it is a copy and that it is

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<sup>17</sup> *Raja Pocket Books v Radha Pocket Books* (1997) 40 DRJ 791

<sup>18</sup> *Sholay Media and Entertainment Pvt Ltd. v Parag Sanghvi and Ors* AIR 2015

<sup>19</sup> Dr Vandana Mahalwar, 'A Quest for Home of Fictional Characters: A Validation for Change in Copyright Protection' (2014) 2 JCLC, 147

<sup>20</sup> *Fateh Singh Mehta v OP Singhal* AIR 1990 Raj 8

limited to the author's form, style, organization, and presentation of the concept in the copyrighted work. There is copyright infringement when there is a substantial similarity and the opposing party has no proof to refute it in his favor. The validity of a work of fan fiction will be determined primarily by three legal doctrines:

- (1) The underlying source work's copyright ability;
- (2) The derivative work right;
- (3) Fair use.

The words that define the character also conjure up an image in the reader's imagination, one that may be more vivid than reality. A would-be infringing on B's copyright if he borrowed not just the name, but much additional information from the text, such as exact descriptions of the character, or numerous textual details by themselves, infringing on authors that embed the character<sup>21</sup>. "In assessing whether a character in a second work infringes the owner's character, courts have traditionally weighed the entirety of the characters' features and traits," the US court ruled in *Warner Bros., Inc. v American Broadcasting Co.*<sup>22</sup> As a result, determining where characters fit into the theoretical continuum via which expression is eventually linked to an idea is essential. When a fictional figure is separated from its original environment and transported in new vehicles, the practical relevance of such decisions becomes obvious. The episodes and conditions through which a new character manifests itself must also be considered to substantiate the claim that the character is not unique but an infringement.

## TRADEMARK

Although the Copyright Law protects fictional characters, there's a problem when it comes to copyright and that is, it has an expiration date. No matter how indigenous the work is, it has a validity period after which it enters the public domain and the copyright owner's rights

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<sup>21</sup> Shrivatsav N, 'Examine the scope and extent of protection given to fictional characters under the copyright law' (*Legal Services India*) <<http://www.legalservicesindia.com/article/2551/Copyright-Protection-For-Fictional-Characters.html>> accessed 04 March 2022

<sup>22</sup> *Warner Bros Inc v American Broadcasting Cos* [1983] 720 F2d 231

expire. This difficulty is solved by Trademark law, which gives perpetual rights<sup>23</sup>. The only difficulty is that the mark must have a source identification to qualify as a trademark. This implies that the mark must be able to identify itself from other marks. A character cannot be awarded trademark protection on its own, however other features of the character may be protected. If a character's name is the same as the book's title, movie, or series, it might be trademarked. Additionally, any fictitious or actual person's important personality elements, such as their picture, signature, designs, voice, and catchphrases may be protected as trademarks. If it can be proved that the usage of a character or an associated element might cause confusion or diminish the character's brand and economic value, an infringement claim can be filed on these grounds. In the example of trademarking the character of 'Munna Bhai' from the 'Munna Bhai MBBS' and 'Lage Raho Munna Bhai' films, similar feats of trademark protection can be witnessed<sup>24</sup>. According to the Lanham Act (1946), the term "trademark" includes *any word, name, symbol, device or any combination thereof*. *Trademarks are generally words, phrases, logos, and symbols used by producers to identify their goods*. However, due to the requirement for distinctive analysis, the court has widened its boundaries when interpreting the phrase. In the case of *Union Nat'l Bank of Tex., Laredo v Union Nat'l Bank of Tex., Austin*<sup>25</sup>, held that while trademark registration can be perceived as "prima facie" proof of ownership, it was held that ownership can be proven by "use" of the trademark rather than registration. The Trademark Act (1999) is the legislation that governs trademarks in India. "Trademark" implies a *mark capable of being represented graphically and capable of identifying one person's products or services from those of others and may include the shape of items, their packaging, and combinations of colors*, according to Section 2(zb) of the Act<sup>26</sup>.

In *Viacom International v IJR Capital Investments*<sup>27</sup>, the court considered whether certain components inside television programs, other than the show's title, are protected by

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<sup>23</sup> Suneet Katarki & Aditi Verma Thakur (n 5)

<sup>24</sup> Bhishm Khanna, Tejas Gulati, 'IP Protection for Graphic & Fictional Characters in the Indian Regime' (*Naik Naik & Company*, 6 September 2021) <<https://naiknaik.com/ip-protection-for-graphic-&-fictional-characters-the-indian-regime.html>> accessed 04 March 2022

<sup>25</sup> *Union Nat'l Bank of Tex., Laredo v Union Nat'l Bank of Tex., Austin* [1990] 909 F.2d 839

<sup>26</sup> Trademark Act, 1999

<sup>27</sup> *Viacom International v IJR Capital Investments* [2018] 891 F.3d 178

trademarks. The court ruled in favor of trademark protection for some characters, locations, and aspects of an entertainment entity, noting that trademark protection can be awarded to certain characters, places, and elements of an entertainment entity<sup>28</sup>.

Many of Disney's characters enjoy trademark protection thanks to the company's efforts. In the case of *Disney Enterprises INC. & Ors. v Gurcharan Batra & Ors.*<sup>29</sup>, the Delhi High Court acknowledged trademark rights in the device of the characters. The plaintiff's registered trademarks Mickey Mouse, Minnie Mouse, Donald Duck, Daisy Duck, Goofy, and Winnie the Pooh were ascertained to be used by the defendants in connection to or on articles, publications, stationery, and other items in the course of their business, resulting in an infringement of the Plaintiff's registered trademarks and passing off of their business<sup>30</sup>. When a party fails to register a trademark based on a television show that has been broadcasted, protection might be awarded, provided the party can demonstrate consistent "use" of the mark. However, there is a lot of subjectivity in jurisprudence around the understanding of "use." With the increased commercialization of television programs, courts are considering broader considerations such as trademark usage, in addition to core grounds like the mark's look and uniqueness. As a result, broadening the scope of trademark infringement lawsuits by including fictitious companies in the mix is necessary to ensure that trademark owner rights are not violated. Only by including broad standards such as the "use" test can such parties' rights be redressed, which will continue to be a point of controversy in the future.

## PERSONALITY RIGHTS

Personality rights refer to a person's right to privacy or ownership of his or her personality. It can be safeguarded under the right to privacy or as a person's property. It could also apply to fictional characters as a result of goods commercialization, in which potential buyers are persuaded to buy such merchandise instead of expressing their love for the character.

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<sup>28</sup> Tamanna Gupta, 'Trademark Protection to Fictional Elements from Television Shows: An Emergent Reality' (*Lexlife*, 9 November 2020) <<https://lexlife.in/2020/11/09/trademark-protection-to-fictional-elements-from-television-shows-an-emergent-reality/>> accessed 04 March 2022

<sup>29</sup> *Disney Enterprises INC. & Ors. v Gurcharan Batra & Ors.* (2006)

<sup>30</sup> 'Can cartoon characters be protected in India' (*Priya Rao Associates*) <<https://priyaraoassociates.com/can-cartoon-characters-be-protected-in-india/>> accessed 04 March 2022

An actor's image is frequently constructed around the role he portrays. It is hard to separate the character from the actor in such a situation, and as a result, producers do not have total rights to the character to make full use of it since the actor's personality rights come into play. This creates a dispute between the producer's copyright and the actor's rights. A similar circumstance resulted in a fight between an actor and a television network not long ago. Sunil Grover, a prominent Indian comedian, played "Gutthi" in the popular Indian television show (Comedy Nights with Kapil), which was also produced by Colors. Sunil had back then left the show as a result of the argument and established his show on Star. Colors published a statement claiming that as the producer of the programme that originated the character, they own the copyright to "Gutthi." Sunil then made another claim, claiming that people know him as "Gutthi" and that he has gained fame as a result of that character, and that he thus has personality rights over the character. Due to the legal battle, neither party may utilize "Gutthi" as a character in their separate programmes as long as the legal battle continues<sup>31</sup>.

## CONCLUSION

In the last two decades, India has developed to become one of the greatest consumers of such characters' content and items, accounting for a significant portion of the industry. India has evolved as a lucrative market for character merchandise, particularly in the children's area. With figures like Munna Bhai and even Chhota Bheem, we've produced our popular characters. All of these characters have a strong following, and their owners have branched out into character merchandising, which accounts for a significant portion of their earnings. Given the size and scope of the global market, there is a high risk of infringement and violation of trade and other rights, necessitating protection. With the many precedents and judgments stated above, it may be determined that any character who is different and identifiable from the storyline of the film is eligible for copyright protection. Our country's rapid expansion in this sector necessitates the creation of a solid structure for combating infringement and preserving such intellectual property. As distinct components of the IP are

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<sup>31</sup> Shubham Borkar and Sonal Sodhani, 'Intellectual Property Rights In Movie / Comic Characters' (*Mondaq*, 5 June 2019) <<https://www.mondaq.com/india/trademark/811900/intellectual-property-rights-in-movie-comic-characters>> accessed 04 March 2022

controlled by different companies, unique and identifiable characteristics might be awarded protection, and their ownership rights generate significant complications. However, it should be emphasized that the ownership rights of fictional characters do not belong to a single person, and the difficulty in establishing who owns them necessitates the development of law that oversees the characters' intellectual property rights. There is no formal provision for copyrighting movie characters in India's current IP framework, nor is there any distinct category under which such characters can be given copyrights. As a result, a separate category for such characters to be awarded copyright and other IP protection is required. It is highly recommended that unique legislation or categorization that deals with the rights of these characters be implemented to stay up with the interests of artists and producers. As a result, it is critical to secure such IPs today to avoid misuse and protect artists and the money generated as a result.