



This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Fiction to Asset: Trademark Protection of Film Titles and Character Names in India

Ashish Diju^a Jenmariya George^b

^aChrist Academy Institute of Law, Bengaluru, India ^bChrist Academy Institute of Law, Bengaluru, India

Received 30 October 2025; Accepted 01 December 2025; Published 04 December 2025

The huge success of a film results in a wider reach of the movie among the audience. The film title tends to have a huge goodwill upon its success. The character in a film adds the extra essence to the film in making it a personal connection for the audience. Now, considering the large revenue that these films make, and the names that are capable of generating the same, can these be given trademark protection under the act? Protection of these under IP has been a significant question, considering the immense commercial value they hold. Copyrights, though, hold for the protection of literary, artistic works; they mostly do not hold for the protection of these titles. This paper focuses on whether these titles and character names could be given protection under the Trademark Act, 1999. Also, this study focuses on character names that possess a stronger potential for protection and enforcement than film titles, because they have a greater chance for the public to associate with them. Also, the character names can act as a powerful brand identifier, which generates the merchandising value as well as audience loyalty.

Keywords: *Intellectual Property Rights, trademark, film title, character names, copyrights, public association.*

INTRODUCTION

In today's situation, one of the major sources of entertainment is films and movies. This is one of the huge money-making businesses, with more than a few seeing it as an art form. It

involves crores of money and a lot of hard work to produce one film without any problem. It has a large viewership, which in turn is converted into money.

Now, how are these films identified? The films are identified through their titles as a whole work. Why is the title of a film important? It helps in the marketing of the film to a larger audience, and it gives them an idea of the film and its genre. Further, if it clicks with the audience, it becomes an iconic name, making it easier for them to recognise and identify the film. From a business perspective, it's a significant advantage for producers to create goodwill if the film becomes a hit and a box office success. Film titles and fictional character names are culturally and commercially valuable brand elements.

Due to its value, the producers try hard to get the trademark for these just so that no one else can misuse these titles through any unauthorised merchandising or dilution. The question that arises is: How is it possible to protect a movie with its title in India?¹ Through this study, we will try to analyse how these titles are registered and also look into whether this can be registered as a trademark.

HYPOTHESIS

Character names have a better chance of being protected and enforced as trademarks. In India, it's believed that character names have a stronger potential for trademark protection and enforcement compared to film titles, mainly because they are more distinctive and easier to associate with a single source. Asks than movie titles, primarily because they are more recognisable and simpler to link to a single source.

OBJECTIVE OF THE STUDY

- To study how trademarks on film titles and character names in India are given their protection.
- To understand why character names are considered easier to protect and enforce than film titles.

¹ Dishti Titus, 'Movie Titles — Protected Under Indian Law?' (*Mondaq*, 04 July 2022) <<https://www.mondaq.com/india/trademark/1208372/movie-titles-protected-under-indian-law>> accessed 22 October 2025

- To identify the essential factors influencing registrability and enforcement of rights, such as distinctiveness and secondary meaning.
- To highlight the legal and procedural challenges faced and suggest possible reforms.

REGISTRABILITY OF FILM TITLE

It is generally believed that film titles do not need any kind of registration. However, when we consider the commercial aspect of these film titles or characters, they would have their own value according to their scale and popularity among the audience. This is the main reason why a title would get its trademark, which is further discussed below. The film industry involves crores of money; its benefits can be taken even through its title. To prevent this, there needs to be a registration of these titles.

When it comes to the registration of these film titles, it was given its due recognition in the case of **Sholay Media Entertainment & Ors. v Yogesh Patel & Ors²**, where it was said that film titles can be registered under the Indian trademark laws. This is because the court recognised that these titles serve as a trademark. After all, they have a role to play in the origin of the film and its source. So, due to this, now production houses and filmmakers have the right to protect their titles and prevent them from any kind of unauthorised use and commercial exploitation. This case also served as a very important framework by protecting these from being capitalised on by any businesses or any online portals, preventing online piracy.

These titles will be given a trademark right if they can make their own identity out of it. This is called secondary meaning. It's when the word has lost its original meaning and is now referring to the product or service. Let's understand this with an example: the word 'Baahubali' means 'strong-armed or one with strong arms', but that's not what strikes us when we hear the word; we know what the first thing that we get reminded of. Because of the film's massive success and its impact, it has gained a secondary meaning. Now people would know it as the movie's title rather than its original meaning. Another example is 'Dangal', although it has a different meaning (wrestling competition), most of us would be reminded of the movie rather than its original meaning. This is what secondary meaning

² J V Abhay et al., 'Protection of movie title as a trade mark: The "sholay" protection' (Shardul Amarchand Mangaldas & Co, 14 June 2022) <<https://www.amsshardul.com/insight/protection-of-movie-title-as-a-trade-mark-the-sholay-protection/>> accessed 22 October 2025

basically means. In **Kanungo Media (P) Ltd v RGV Film Factory**³ title 'Nisshabd' was used for a Bengali documentary film by Kanungo Media. Though the movie did not get its commercial release in the theatres, it has been screened in various film festivals. Further, there was another movie titled the same name, which had a theatrical release. So, they filed a suit for a permanent injunction against the RGV film factory.⁴ Now Kanungo media, during the pendency of the suit filed for registration of the title 'Nisshabd.' But the court held that the protection for these titles can only be given if they have acquired a different meaning through their popularity among the public. And that defendant RGV Film Factory had gained the same due to their theatrical release and media popularity. Kanungo Media Ltd could not get its injunction. The importance of these secondary meanings could be clearly seen; where one has not achieved their meaning, it would be difficult for the person to get their title registered.

Another aspect, other than the secondary meaning, which will be given protection, is for those that are **unique and unusual**; these would get their uniqueness through their film recognition itself. For example, Pulp Fiction, The Shawshank Redemption, their uniqueness in their name would create a secondary meaning by itself.

Where it becomes easier for the producers to get a trademark for their titles is when it's a movie series, where it would be easier for them to get their secondary meaning, and over the years, such a title could easily get its source. For example, the Avengers series, the Harry Potter series, or in India, the Golmaal series, or recently, the Housefull series. On the other hand, when the title is more like a common phrase, it would often be considered descriptive, which would need them to show a very strong secondary meaning to get the trademark. The courts would mostly consider the duration of the use of these titles and the number that it has collected through its ticket sales, which is ultimately the number of people who have viewed the work.⁵

So, these are the main aspects that would be viewed when there is a need to get these titles registered as a trademark. Through these, the court would look into the matter and examine

³ *Kanungo Media (P) Ltd v RGV Film Factory & Ors* (2007) 138 DLT 312

⁴ Shamnad Basheer, 'COPYRIGHT OVER FILM TITLES?' (*SpicyIP*, 11 July 2007)

<<https://www.spicyip.com/2007/07/copyright-over-film-titles.html>> accessed 22 October 2025

⁵ 'Case Study - Trademark for Film Titles' (*Intellopedia*, 27 July 2019)

<<https://www.bananaip.com/intellepedia/trademark-for-film-titles-indian-law-case-study/>> accessed 22 October 2025

whether these titles or the character names have their meaning, and if they have its secondary meaning or if they conflict with any other existing mark. By seeing this, they would consider the scope of protection and the evidence provided to establish a reputation and consumer association. In conclusion, this evaluation also focuses on the commercial pull that these titles or the character name has to distinguish them from the others in the industry.

LEGAL AND PROCEDURAL CHALLENGES

When it comes to film titles, earlier, we discussed the secondary meaning of the title or an acquired distinctiveness, which has also been said by the courts in the *Sholey Case*. This has been held by the court in various cases, and it serves as a main factor for these registrations. Having a mere or a generic title would result in making it hard to register the title as a trademark.⁶ For example, a title like *Water* or *Dance* would usually be denied its protection because of its lack of originality and having only a basic meaning, which would make it difficult for them to register the title.

This being related to films, there is a tendency for these titles to be confused with getting them registered with copyright protection, but the courts have drawn a clear line of distinction between the copyright protection and trademark protection of these titles. It usually does not extend to copyright protection.

Another essential aspect to be taken into note is the choice of an appropriate category of goods and services according to the trademark rule. These would be registered under Class 41, which deals with the entertainment and film production, but sometimes the film-makers would want to make their product more commercial, which would result in getting protection in additional classes also. The commercial profits would include merchandising, toys, games, etc. Insufficient coverage across various classes can diminish the enforceability of the trademark.

A major problem that is faced is when a similar or the same product already exists in the market.⁷ Similarly, when a prior mark already exists in the place, it would tend to cause a

⁶ “*Sholay*’ entitled for protection under the Trademark Law: Delhi HC’ (*Lexology*, 03 June 2022) <<https://www.lexology.com/library/detail.aspx?g=7a12d585-a21a-4508-9a46-ba0e651aa362>> accessed 22 October 2025

⁷ Vanshika Arora, ‘*SHOLAY V. SHOLAY.COM – FILM TITLES CAN BE TRADEMARKS*’ (*IPRMENTLAW*, 26 June 2022) <<https://iprmentlaw.com/2022/06/26/sholay-v-sholay-com-film-titles-can-be-trademarks/>> accessed 22 October 2025

conflict during its registration. The trademark registration will be objected to if there's a similar name already registered, or in some cases, the other party can also file an opposing suit, which might lead to a dispute for the party.

It doesn't end there; even after you get the rights to use it, you would need evidence to prove their recognition, as discussed before. This is just to prove that it has been prevented from any kind of confusion or damage to its reputation and that the public has a strong association with the title.

Now, due to a large section using the internet and anyone can make a site. Because of this, it becomes tough to protect these film titles on these online platforms, as they will face piracy, where the titles will be misused as a domain name or even as a streaming title.

Once all these are cleared, other external factors would be a challenge faced by seekers. This is time-consuming as well as expensive. This technical factor is faced due to objections faced for many reasons, such as examination objections or even third-party opposition, as discussed earlier, which leads to a delay in getting approvals. It is expensive mostly cause of the litigation cost, which might be involved to get relief, which would totally depend on the court's assessment of the matter of fact.

This is a very complex process, but to overcome these challenges, the producers or filmmakers should adapt to this proactive approach. These can be such that the trademark could be applied early, including to fulfil all the essentials, and have evidence of the establishment of secondary meaning. Also, have researched the matching domain names and other handles before, just to prevent online misuse. Separate registrations should be obtained for franchises or recurring characters to strengthen rights and facilitate future licensing or merchandising. So, it requires proper planning and monitoring to get their rights enforced.

COPYRIGHT V TRADEMARK: FOR FILM TITLE

The film attorney, also called an entertainment lawyer, handles all the legal aspects related to filmmaking, production, and distribution, and they also deal with numerous legal and procedural obstacles in obtaining protection for titles and character names. But a main problem that they are facing is that copyright law does not acknowledge mere titles or names as protectable works under the Copyright Act 1957.

In India, titles, names, slogans, or brief phrases are not safeguarded by copyright law as they fail to satisfy the criteria of being an original ‘work’ of authorship. The copyright law protects the expression of an idea other than the idea itself. A short title or name is usually considered too simple and not creative enough to be protected by law. And this makes the producers mainly stick to trademark and unfair competition principles. Additionally, registering the film titles with a producer's association is also a common practice in India; it creates a contractual safeguard among members and does not establish an exclusive legal right against external parties. The Bombay HC reiterated this in the LOOTERE case,⁸ determining that mere registration with an association cannot prevent another filmmaker from utilising the same title unless the claimant can demonstrate distinctiveness or reputation through trademark law.

So, in the absence of copyright protection, most of the producers depend on trademark law to safeguard the title of their films. A title can only be said to be qualified for trademark protection if it has a secondary meaning and distinctiveness, as discussed earlier, such that the public associates the title with a particular producer or production house. In other words, we can say that a film must not merely describe the content of the film but must serve as an indicator of its source of origin. So, under class 41 of the Trademark Act of 1999, a film title may be registered as a trademark that covers entertainment services, including film production and distribution.

The Courts in India recognised that even an unregistered film can be protected through the common law action of passing off, provided that the producers can establish goodwill. In *Kanungo Media Pvt Ltd v RGV Film Factory* (2007), as mentioned above, the Delhi High Court held that just a mere adoption of an identical title does not amount to passing off, but the plaintiff must be able to prove that the title has attained distinctiveness and the public relates it exclusively to the film. The court also observed that a single film may not easily get a secondary meaning unless it becomes widely recognised.

Therefore, copyright law fails to provide direct protection to the films and to the character names; trademark registration and unfair competition laws serve as an alternative means of

⁸ “No copyright on film title’: Bombay High Court denies relief to ‘LOOTERE’ film producers against web series with same title’ (SCC Online Blog, 21 August 2025)
<<https://www.scconline.com/blog/post/2025/08/21/bom-hc-no-copyright-on-film-title/>> accessed 26 October 2025

securing this. In practice, the film producers register their film titles as trademarks to maintain strong branding to establish distinctiveness in the market.

So, in India, the film industry mainly depends on the Trademark law for the protection of their films; in other words, the Copyright Act does not support it. Because of the inability of the Copyright Act 1957, which does not cover short titles and names, says that the Indian film industry largely depends on trademark law for the registration and ensuring effective legal protection for titles, so it is very crucial for safeguarding the commercial and artistic interests of filmmakers.

ARE CHARACTER NAMES TO BE PROTECTED?

A story would come to life only if it is portrayed through a great fictional character. A well-written character would connect with the audience and would gain great recognition from their peers. For example, let's see the character 'PK' from the movie PK. It had a great fictional character that connected with the audience; as a result, it got a massive response at the box office. Now, can the production companies, Rajkumar Hirani Films and Vinod Chopra Films, claim a trademark for the character of 'PK'? More than storytelling, they have their own legal challenges, which the producers will have to face to get their rights.⁹

When we look at the character names, these are generally known to be easier to get protection under trademark because of their capacity to function as a distinctive origin. Character names often tend to denote an individual character of the production or a representation of a fictional persona present in the film or the franchise. Now, with this, when the film gets its due recognition through a sequel, promotion, or even merchandise, it gets to develop a secondary meaning in the mind of the general public, fulfilling the essential requirement of getting a trademark. This also indicates the commercial source of goods and services. In *Honda Motors Co. Ltd. v Mr Charanjit Singh and Ors*¹⁰ para 50, the Delhi High Court mentioned and held that 'the mark HONDA connotes distinctiveness, reputation, quality and goodwill acquired by the plaintiff over several years and is understood by the consumers as associated with the plaintiff'. Yet another case that mentions having a separate meaning

⁹ 'Trademark vs Copyright for Literature Character Names' (*Score Detect*)

<<https://www.scoredetect.com/solutions/trademark-vs-copyright-literature-character-names>> accessed 22 October 2025

¹⁰ *Honda Motors Co Ltd v Mr Charanjit Singh and Ors* (2003) (26) PT C1 (Del)

to get establishment of the rights. So, a character must be distinctive and not too similar to existing trademark figures; however, not every character is eligible for trademark protection. Only when it meets certain conditions, the owner file a trademark application.

Under the trademark law, a name or likeness of a fictional character can also be protected if it is used to identify or promote goods and services. A popular example of this is Walt Disney's Mickey Mouse,¹¹ which is well well-known cartoon character across the globe.¹² A wide range of products, including toys, video games, software, frozen foods, and cosmetics, is owned by the company itself as the sole owner. This also includes various other trademarked fictional characters such as James Bond 007, Godzilla, The Pillsbury Doughboy, and The Cat in the Hat.

Character names are mostly considered distinctive, especially when the names are imaginative and purely original. Such names would easily get their distinctive cause due to their public exposure among the audience and their commercial exploitation. Let's look at a character like KRRISH, we all know the character. The legal protection for this character would be easier to get the trademark protection. This would evolve into a commercial value for the character, which would be capable of generating goodwill to a great amount of money.

But what makes character names much more complicated than registering a film title? This is because these names can be a common name, a personal name, or even a celebrity. For example, generic names used, such as Raj, Simran, or Vikram, cannot be monopolised without proving a strong public association with the character. Also, it would generally describe a single artistic work, and there is are chance that they would end up being a generic one or a descriptive one. There are chances of it overlapping with the rights of copyrights, as films are usually related to copyrights, as discussed earlier. It is only when the name has been **strongly associated with the film** and is so unique, or has become well known through its marketing, merchandising, or its repetitive appearances, that makes the registration or its enforcement easy.

¹¹ *Walt Disney Productions v Air Pirates* [1978] 581 F.2d 751

¹² Nidhi Trivedi and Dr Aseem Chandra Paliwal, 'Fictional Characters under Trademark Law' (2025) 8(2) International Journal of Law Management & Humanities <<https://ijlmh.com/wp-content/uploads/Fictional-Characters-under-Trademark-Law.pdf>> accessed 27 October 2025

CONCLUSION

Through this, it can be concluded that though both film titles and character names have equal opportunities for getting their trademarks registered and enjoying their rights, it can be said that character names have a better chance of being registered. This is because, though they have a brand value and an emotional connection with the audience over the passage of time, which leads them to get a commercial value for themselves. Examples such as Harry Potter, Krrish, or even Shakthi Maan have their own commercial value, which is capable of getting them a franchise or a spin-off. The distinctiveness in their names makes them a consumer-associated product or a work that would belong to a particular producer or production house.

Now the question might arise as to why film titles would be a more complex one to be registered as a trademark. This is more of a descriptive and temporary nature. As we have discussed before, a film title is certainly related only to one creative work unless it is a series of films, which could get a secondary meaning. A trademark needs proof that there is a unique association of the title with the audience, and only some titles would have the capacity to achieve it because of their box office run or their popularity.

Why is it that, though the character is a part of the film, there is a high chance of them getting a trademark rather than a film title? This is because once the film's run is over, it will mostly not be used anywhere else, unless it's a part of a series of films. It has a limited commercial use outside the film world, like merchandise, a sequel, or games. But when it's a character name, they have a value beyond the film world. Like for example, they can be used in an advertisement, merchandise, games, or even in comics. They have a more commercial appeal and a presence, which has a greater tendency to be trademarked than the film titles. And from a legal standpoint, there needs to be a popularity among consumers and a distinctiveness that is easier for a character name than these film titles.

Ultimately, through the analysis, character names have a stronger potential to get trademark protection and enforcement of rights in India than film titles. Recently, there has been an acknowledgement of all artistic, cultural works that keep the future of trademark protection in the Film industry as a balanced approach. Strong legal awareness, improved registration strategies, and judicial sensitivity towards evolving creative practices will fully strengthen

the protection for both film titles and character names. However, this does not mean that all characters would get a trademark; they need to have a distinctive and non-generic mark and must not directly describe the character's attribute or story. Also, there must be a recognition among the public mind about the character. So, it can be said that the names are registerable only if they have a commercial value. It is not that all film titles would not get a trademark. This only means that it is a more complex film title than a character name.