

VOL. 5 No.1
April 2019

ISSN 2320 - 5318



IILS LAW REVIEW

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INDIAN INSTITUTE OF LEGAL STUDIES

UG & Post Graduate Advanced Research Studies in Law
Accredited by NAAC

Affiliated to the University of North Bengal
Approved by the University Grants Commission, New Delhi
Recognised by the Bar Council of India, New Delhi

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IILS Law Review

Volume 5

2019

Number 1

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PROTECTION AGAINST UNAUTHORIZED CHARACTER MERCHANDISING UNDER THE INDIAN LEGAL REGIME

MS. RITUPARNA DE¹

Introduction

The concept of character merchandising basically refers to building of merchantable product about the celebrated character, fictional or in other way. As the vast recognition to lots of fictional and real lives characters, businesses these days are tremendously rising combining their innovative as well as active commodities and services with well-known personality, to influence their recognition. With the passage of time, the area of character merchandising has enlarged in such varied way that what was seen as a derived source of business operation by the entertainment industry, has turn out to be the predecessor in terms of returns. Since, the early time of character merchandising while Walt Disney Studios started licensing of their renowned character in the 1930s to the current day film creation placement for instance, Toy Story where movies are created just about the character to provide as a means of endorsing of the toy characters,² character merchandising has emerged in such a flexible forms that their categorization in an structured way is necessary to understand the factual extent of character merchandising and is an crucial prerequisite to its study.

The Concept of Character

The term 'Character' in the context of Character Merchandising should be understood in the sense of famous characters which can be fictional human characters (like Chota Bheem, Chacha Chaudhary, Superman, Batsman etc.) or non-human characters (like Tom and Jerry, Donald Duck, etc.) and real characters like renowned individualities from different field (for eg. Sachin Tendulkar, Narendra Modi, Sharukh Khan, Arijit Singh and many others). It is mainly the basic characteristics of these famous characters that attract the people and many a times they agree to pay a lot more for the product than their actual price. These characteristics include their name, image, sign, voice and various other features that make them identifiable among the people at large.

The sources from which these characters have derived its origin are for fictional characters they are mainly literary works, strip cartoons, artistic works, cinematographic works (for example Anaconda, King Kong, etc.) in respect of movies, certain motion picture cartoons) and for real characters the source is mainly the works with which they are related to for example, for actors it is the movie or television series in which they have acted.

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²Litwak Mark, Movie merchandising, available at

http://www.marklitwak.com/articles/general/movie_merchandising.html (last visited on 29 Mar. 2011)