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# Monetizing Identity: The Legal Protection of Athletes' Image Rights in a Global Market

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## ABSTRACT

*The increasing commercialization of sports has essentially transformed athletes into assets or marketable commodities, raising serious legal concerns about the protection and enforcement of their image rights. Concerns regarding unauthorized commercial exploitation are raised by the growing dependence of athletes' financial portfolios on sponsorships and endorsements. Do we need a more thorough legal structure, or are athletes adequately shielded from unauthorized use of their name, image, and likeness by the existing frameworks for intellectual property and personality rights? This essay examines the legal basis of image rights, the role of intellectual property laws in different jurisdictions, and key case precedents such as Sourav Ganguly v. Tata Tea Ltd and PV Sindhu's action against prohibited brand associations.*

**Keywords:** *Image Rights, Athlete Endorsements, Personality Rights, Intellectual Property Law, Commercial Exploitation, Sponsorship Agreements.*

## I. INTRODUCTION

Athletes are considered celebrities in today's world; Cristiano Ronaldo, for example, has an astounding 48 million Instagram followers. Like with any other celebrity, an athlete's name attached to a product or organization can significantly grow that entity's fan base and notoriety. Is it really true that anyone may use the ease with which information or even a photo of an athlete can be found online to link them to any certain company or brand? It all comes down to the preservation of athletes' image rights and the power to forbid their non-consensual usage.

## II. LEGAL ISSUES ARISING FROM COMMERCIALIZATION OF SPORTS

A single athletic event currently has multiple sponsors, athletes are contractually obligated to favour a certain business, and broadcasting companies have the sole power to choose what content is aired to viewers. Thus, it is nearly impossible to envision sports in the current digital era without respect to intellectual property rights. IPRs are essential for the upkeep and

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commercialization of athletes' priceless image rights, in addition to being vital to the promotion of athletic events.

Currently, the globe is experiencing one of the most disruptive political, social, and technical times, which is influencing how money is invested in sports, how sports material is produced, and distributed, and how rights holders, sponsors, and fans interact with one another.

It is important to note that athletes are mainly protected by private law principles and regulations established by international non-governmental organizations, forming a regulatory framework for their protection.

The Supreme Court of India, in the case of *Zee Telefilms Ltd. v. Union of India*<sup>2</sup>, recognized sports as an economic activity. The growing commercialization of sports, particularly the images of players, has made sports a major worldwide industry. Large-scale sporting events draw attention to sports as a separate economic sector and offer sponsors visibility and beneficial externalities.

### III. COMMERCIALIZATION OF ATHLETES

India is home to many famous people, both in and out of sports, thus there is still more work to be done to safeguard their commercial publicity rights and image rights, as well as to provide a workable framework for their exercise and enforcement. The most recent instance of this is when 20 brands, including Vodafone Idea, Pan Bahar, Eureka Forbes, and others, received legal notices from PV Sindhu's image rights company Baseline Ventures<sup>3</sup> to remove social media posts that unlawfully linked them to her in an attempt to profit from her win. They have also demanded ₹5 crore in damages.

In the modern era of celebrity culture, the promotion of celebrity personas has become a significant business, with celebrities endorsing various products and services through social media channels like Instagram and Twitter. This trend is highly lucrative for both the celebrities and the brands they endorse. For example, in 2015, NBA star LeBron James signed a lifetime deal with Nike worth over \$1 billion U.S. dollars<sup>4</sup>, demonstrating the enormous importance that companies attach to getting the endorsements of elite athletes, even after their playing days

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<sup>2</sup> (2005) 4 SCC 649

<sup>3</sup> MEENAKSHI VERMA AMBWANI, BASELINE VENTURES SENDS LEGAL NOTICES TO 20 FIRMS FOR UNAUTHORISED USE OF PV SINDHU'S IMAGE, BUSINESSLINE (2021), <https://www.thehindubusinessline.com/news/baseline-ventures-sends-legal-notice-to-20-firms-for-unauthorised-use-of-pv-sindhus-image/article35770116.ece> (last visited Feb 21, 2025).

<sup>4</sup> PAT BENSON, LEBRON JAMES SIGNED WITH NIKE 20 YEARS AGO TODAY, KICKS ON SI (2023), <https://www.si.com/fannation/sneakers/news/lebron-james-signed-with-nike-20-years-ago-today> (last visited Feb 21, 2025).

are over. Because of the way that sports and advertising intertwine, brand promotion is now a standard practice among successful athletes.

Athletes have increasingly realized the potential for commercial earnings beyond their sports careers by endorsing products with which they may not have an obvious connection. For instance, David Beckham endorses Armani fashion products and Pepsi soft drinks, among other products, earning \$75 million in 2014, his first full year of retirement from professional football. Similarly, tennis star Maria Sharapova earned \$23 million in 2015 from endorsement deals alone. These figures highlight the lucrative nature of image endorsements for athletes and their desire to protect and promote their public image.

Because of the great potential for profit from various applications of image rights, there is a feeling that the allocation of rights in player contracts should be free and equitable rather than depriving the player of the opportunity to make much more. Nowadays, the majority of players can make up to 20% of their base pay by licensing their image rights. This can come at a huge financial cost to the clubs, which they seek to recoup through the players' endorsed clubs' commercial deals. Therefore, overregulating these kinds of activities might end up being quite taxing for players as well as clubs.

However, this fame also exposes athletes to the risk of unauthorized commercial exploitation of their character and image. Unauthorized use of an athlete's name, image, or likeness in product advertising without the athlete's consent is a frequent occurrence.

Since intellectual property laws vary by country, there isn't a single, overarching legislation that regulates these matters. Various legal measures have been implemented by various jurisdictions to safeguard celebrity images as commodities. Traditionally, commodities refer to tangible products like copper or coffee, but in the modern era, celebrities and their images have become commodities bought and sold by advertisers, brands, and sports clubs.

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In the *Sourav Ganguly v. Tata Tea Ltd.*<sup>5</sup> case, the tea company was running a campaign encouraging customers to congratulate the plaintiff by sending them a postcard that came with

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<sup>5</sup> CS no. 361 of 1997

their tea. This was being carried out without the cricket player's consent or knowledge. In the Indian market, where Sourav had become well-known, the corporation hoped to promote the sale of their tea packets in a subtle way. Recognizing that Sourav's popularity and notoriety were his intellectual property, the court ruled in his favor.

#### **IV. REGULATING ATHLETES: IMAGE RIGHTS AND SPONSORSHIPS**

Image rights are the means by which a person can regulate how their identity is used or portrayed in public; this is something that should ideally be entirely within that person's control. But the opinions of big businesses and the scant legislative support have demonstrated differently. Image rights provide athletes in particular with a profitable economic potential that can bring in large sums of money for teams, national teams, and even video game businesses. The significance of these rights and their lack of control over their use are now recognized by players, but the protection and handling of athletes' image rights has sparked a debate. Is the current protection of image rights adequate? Big companies like EA Sports have demonstrated a complete disregard for a player's right to manage or even profit from the use of their picture. To regulate athletes' behavior in line with increasing conduct expectations held by sporting organizations, sponsors, and the broader community, **morality clauses** are becoming increasingly common in agreements with athletes. These clauses aim to prevent reputational harm to associated entities by giving the contracting party certain rights when the other party acts in an undesirable manner. These rights can include commencing dispute resolution, terminating the agreement, or imposing penalty provisions. However, any penalty must not be disproportionate to the actual loss or damage suffered or likely to be suffered to be enforceable.

#### **V. RECOMMENDATION**

Establishing an international agreement offers a sensible way to balance athletes' image rights on a worldwide basis as well as in India. This would create a single legal framework for all sports stakeholders, including athletes, federations, sponsors, broadcasters, journalists, and others involved in sport commercialization.

Building on the current harmonization of copyright and related rights, this framework would adhere to recognized legal principles while addressing the distinct issues of picture rights protection. Although the core features of copyright, such as the originality criterion, have historically been handled by national laws, great progress has been made in matching these rights across jurisdictions.

To ensure better legal protection for athletes, a standardized approach to image rights,

supervised by international organizations such as the Olympic and Paralympic Committees, enforced by the Court of Arbitration for Sport (CAS), and implemented by the EU or national federations, would be a significant step. Their business interests would be protected by such a framework, which would also establish uniformity in the way image rights are treated legally in various markets.

## **VI. CONCLUSION**

In a nutshell, because professional sports have a significant economic impact and pose particular legal issues, their legal protection should be comparable to that of other professions. To stop unapproved commercial exploitation, athletes' image rights and sponsorships should be regulated. This will guarantee that athletes maintain control over their public image and can reap the rewards of endorsements and sponsorships. The convergence of sports, advertising, and technology necessitates a strong legal framework to safeguard athletes' rights and encourage equitable competition within the sports sector.

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