



December 2022

Delhi High Court recognises an individual's "Personality Rights" and grants interim protection for the misuse thereof

In a recent decision (and first of its kind), the Delhi High Court ("**Delhi HC**") in the matter of *Amitabh Bachchan vs. Rajat Nagi and Ors.*¹, has granted an *ex-parte, ad-interim* order protecting the misuse of the plaintiff's personality rights against the named defendants, as well as 'John Doe' defendants, effectively restraining the world at large from misusing the well-known actor's personality and publicity rights².

Brief Facts

Mr. Amitabh Bachchan ("**Plaintiff**"), is a well-known actor and media personality in India. The Plaintiff filed a suit seeking protection of his publicity / personality rights on the ground that his name, voice and images were being misused by unscrupulous third parties. The suit was filed against the named defendants ("**Defendants**"), as well as unknown 'John Doe' defendants, seeking an injunction against the world at large.

The Defendants were involved in activities misappropriating the Plaintiff's photographs and characteristics by running fake 'Kaun Banega Crorepati' (a famous Indian game show hosted by the Plaintiff) lottery scam, operating websites and mobile apps, publishing general knowledge books bearing the image of the Plaintiff, dealing in clothing items and posters bearing the Plaintiff's images and likeness, and registering domain names containing the name of the Plaintiff.

The Plaintiff has also sought directions to be issued to the Department of Telecommunication ("**DoT**"), the Ministry of Electronics and Information Technology ("**MeitY**") and the telecom service providers to pull down all the weblinks and websites and block access to all phone numbers used by the defendants to circulate WhatsApp messages that unlawfully infringe the Plaintiff's personality and publicity rights.

Order by Delhi HC

In view of the Plaintiff being a well-known actor and media personality and a *prima facie* case being made out against the Defendants, the Delhi HC passed an *ex-parte ad-interim* injunction restraining the Defendants from infringing the Plaintiff's publicity or personality rights by:

- (a) misusing his name "Amitabh Bachchan/ Bachchan/ Big B / AB"; and

¹ C.S. (Comm.) 819 of 2022 dated November 25, 2022

² Personality rights / publicity rights are the rights of an individual to control and safeguard the commercial use of its identity, such as its name, image, etc.

(b) his voice, image and any other attribute which is exclusively identifiable with him, for any commercial or personal gain.

The Delhi HC also issued directions to (a) DoT and MeitY to ensure that respective internet service providers pull down the links and websites ; and (b) the telecom service providers to block access to all phone numbers being used by the Defendants to circulate messages on WhatsApp and other mobile messaging apps, which infringe upon the Plaintiff's personality and publicity rights.

JSA Comment

1. This is not the first-time public figures in India have initiated action to protect their personality rights:
 - a) In fact, the Delhi HC in the case of *Titan Industries Ltd. vs. M/s. Ramkumar Jewellers*³ had earlier recognized Mr. Amitabh Bachchan and his wife, Mrs. Jaya Bachchan's personality rights. In the facts of that case, an advertisement by Titan Industries Ltd., which featured the famous couple, had been infringed by the defendant therein. Not only recognizing the contractual rights of Titan Industries Ltd., but the Delhi HC also went on to recognize the personality rights of Mr. Amitabh Bachchan and Mrs. Jaya Bachchan. The Delhi HC held that the defendants' advertisement itself contained a clear message of endorsement and the message was false and misleading as they had not consented to the same. The Delhi HC had passed an order of permanent injunction against the defendants in the said suit.
 - b) After the Tokyo Olympics in 2021, medal winner PV Sindhu issued legal notices to numerous companies who used her name and pictures in advertisements for moment marketing, without her consent. The legal notice had sought INR 5,00,00,000 (Indian Rupees five crores) in damages for the violation of her intellectual property rights (personality rights) and privacy rights.
2. This decision of the Delhi HC is a welcome judicial recognition of an individual's personality rights, and a positive step to help public figures prevent the commercial exploitation of their persona.
3. While it was important that the Delhi HC passed such an order *in rem* (against the world at large), the enforcement of such an interim order against a 'John Doe' will pose its own challenges, making it incumbent upon the plaintiff to keep a look out for errant parties. It may be open to the plaintiff to not only implead errant parties to the present suit, but also initiate fresh action under the Trademarks Act, 1999 and the Copyright Act, 1957.

³ 2012 SCC OnLine Del 2382

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