

**GUARDIANS OF ANIMATION: EXPLORING TRADEMARK PROTECTION FOR
CARTOON CHARACTERS AND ANIMATED SERIES**

AUTHOR'S NAME : Jaydeep Ramani

UNIVERSITY : Veer Narmad South Gujarat University

ABSTRACT:

The blog explores the influential role of cartoon characters in shaping consumer preferences and trends, extending beyond entertainment to become powerful icons for branding. As these characters are seamlessly woven into consumer items, they significantly impact style choices and consumer preferences. This writing delves into the potency of trademarks within the realm of animated characters, emphasizing their ability to evoke nostalgia and establish enduring connections with consumers. The exploration navigates the intricate legal landscape surrounding animated characters, shedding light on the dual protection afforded by copyright and trademark laws. It aims to clarify the legal nuances, emphasizing the less-known yet robust protection provided by trademark law, ultimately demonstrating how animated characters can benefit from dual-layered legal safeguards.

INTRODUCTION

Cartoon characters are famous in entertainment, captivating people of all ages. These days, looks and brand awareness influence what people buy. As such, these characters are powerful icons for branding. By weaving them into consumer items, they're not just for entertainment but also influence style and shape what people like. From food boxes to snack packets and routine items, these well-liked cartoons have become setters of trends. They add a familiar and nostalgic feel to items that appeal to everyone, regardless of their age.

The power of trademarks in the realm of animated characters lies in their ability to evoke nostalgia and create enduring connections with consumers. Characters like Mickey Mouse, Tom & Jerry, or Square Pants are known all over the world. They are more than entertainment symbols. They represent a trend in culture. Using them in products connects to people's emotions. This makes shopping more than just buying things.

This writing explores the complex laws around animated cartoon characters. It points out two main ways of protection: copyright law and trademark law. Most people know that copyright gives automatic protection. But there is also another protection under the Trademark law, which is not as well-known. This discussion aims to clarify these legal layers, showing how animated characters can get double protection.

DEFINITION AND PURPOSE OF TRADEMARKS

As per the Section 2 (zb) ¹of Trade Marks Act 1999 trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.

Importantly, this definition goes beyond typical symbols and logos. Looking at animated cartoons, this wide description offers lots of ways for trademark protection. To start, the characters can be trademarked. How? Well, based on how they look. Unique character shapes,

¹<https://indiankanoon.org/doc/493060/>

specific color mixes, and even package designs with characters all become potential trademarks. Animated characters being trademarked doesn't just stop at movies or TV shows. It goes further into stuff like consumer goods, merchandise, and package- designs.

Section 2 of this Act shields things like cartoon figures, logos, and other symbols. When a cartoon maker dies, 60 years later their character's copyright ends and it enters the public domain. But, a trademark's life span has no end; it goes on forever. Unlike copyright, trademark law looks after the cartoon's image and name too. It offers better protection for the person who owns the mark and it makes it easier to show reputation.

THE ROLE OF TRADEMARKS IN BRANDING AND MARKETING ANIMATED CONTENT

Trademarks provide animated content with a distinctive identity. By listing specific characters, logos, or even a general style associated with an animated series, creators can create a unique brand identity that sets their content apart in a crowded marketplace on.

e.g. Pikachu from Pokémon

Pikachu's distinctive yellow color, unique shape, and lightning bolt-shaped tail serve as a globally recognized trademark for Pokémon. This distinctive identity has made Pikachu an iconic symbol, instantly associated with the Pokémon brand.

Trademarks are instrumental in building consumer recognition. Iconic characters, logos, or catchy phrases associated with animated content become instantly recognizable, fostering a sense of familiarity and trust among the audience. This recognition is a crucial element in successful branding and marketing strategies.

Animated characters often evoke strong emotional connections with audiences. Trademarks allow creators to capitalize on these emotional ties by transforming characters into powerful brand symbols. This emotional resonance can significantly influence consumer behavior, driving engagement and brand loyalty.

e.g. Simba in "The Lion King"

Simba, the lion cub from "The Lion King," creates a strong emotional connection with viewers. The character's journey resonates emotionally, and Simba's image is used not only in the movie but also across a range of merchandise, leveraging these emotional ties for branding.

Trademarks open up extensive merchandising opportunities. From toys and apparel to accessories and beyond, the application of trademarks on various consumer products allows creators to extend the reach of their animated content into diverse markets. The visual elements associated with trademarks become integral to product design, reinforcing the brand across different mediums.

e.g. Doraemon in Japan

Doraemon, a cat-like robot from the future is not just a popular animated series in Japan but also a merchandising phenomenon. The character's image is featured on a wide array of products, from toys and stationery to clothing, showcasing the expansive merchandising opportunities.

Trademarks serve as a legal shield, protecting the intellectual property associated with animated content. Through trademark registration, creators gain exclusive rights to use their marks in connection with specific goods or services. This exclusivity prevents unauthorized use and imitation, safeguarding the brand's integrity and commercial value.

PROTECTION AGAINST INFRINGEMENT

Trademarks act as a deterrent against infringement. The legal protection afforded by trademarks empowers creators to take action against unauthorized use, imitation, or counterfeiting. This protection is essential in maintaining the integrity of the brand and ensuring that consumers associate the trademarked elements with genuine, quality content.

Trademark owners have a range of legal remedies at their disposal, from cease-and-desist letters to pursuing civil litigation for damages. Working within the framework of intellectual property laws owners can seek injunctions, damages or even criminal prosecution in severe cases of infringement.

In the leading case², Green Gold Animation, the owner of the popular cartoon series 'Chhota Bheem,' has initiated legal proceedings against two sellers, Tech Connect Retail and Acme Housewares. The company alleges trademark infringement and the sale of counterfeit products, such as bed sheets, pillow covers, water bottles, featuring characters from the 'Chhota Bheem' series. The defendants are accused of selling these goods on various e-commerce platforms.

In response to the allegations, Tech Connect Retail and Acme Housewares claim to be mere resellers of products manufactured by other entities. They argue that they should not be held responsible for the alleged infringement as they are not involved in the manufacturing process.

The matter has been scheduled for further hearing on November 13. The case takes place against the backdrop of a broader issue of the sale of counterfeit products on e-commerce platforms in India. The defendants' attempt to evade responsibility by portraying themselves as intermediaries echoes a common defense used by online platforms under Section 79 of the IT Act.

However, a shift in legal interpretation occurred after the Christian Louboutin v. Nakul Bajaj³ judgment. In this case, the Delhi High Court ruled that online platforms actively involved in the sale of trademark-infringing products cannot claim the exemption of being mere intermediaries under Section 79 of the IT Act. This precedent has implications for cases involving online sale of counterfeit goods, placing a greater responsibility on platforms to curb such activities.

In another the case Disney Enterprises Inc. &Anr. vs. Gurcharan Batra &Ors., 2006⁴, Delhi High Court ordered the defendants to give up fake school bags bearing the names and likenesses of the plaintiffs- Mickey Mouse, Goofy, Pluto, and Daisy Duck, Minnie Mouse.

FAMOUS TRADEMARKED INDIAN ANIMATION CHARACTERS

Indian filmmakers are able to register their movie titles as Class 41 service marks. A wide range of entertainment services are covered in this course such as internet music, radio entertainment, film studios, and film production. By adding a layer of legitimacy to judicial procedures and

²<https://economictimes.indiatimes.com/industry/cons-products/fmcg/chhota-bheem-maker-moves-delhi-high-court-over-sale-of-fake-products/articleshow/66529965.cms?from=mdr>

³<https://blog.ipleaders.in/christian-louboutin-sas-vs-nakul-bajaj-ors/>

⁴<https://www.casemine.com/judgement/in/56090dbfe4b014971117a66d>

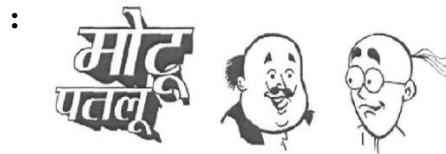
safeguarding intellectual property, trademark registration helps to preserve the allure of those titles.

Given the global nature of the animation industry, enforcing trademark rights internationally requires a strategic approach. Navigating different legal systems, understanding regional nuances, and leveraging international treaties and conventions are crucial elements in the cross-border enforcement of trademark rights.

Here are examples of some historically well-known Indian animated characters that have acquired trademark protection⁵:

MOTU PATLU

(Application no : 2270282)



CHHOTA BHEEM

(Application no :2713218)



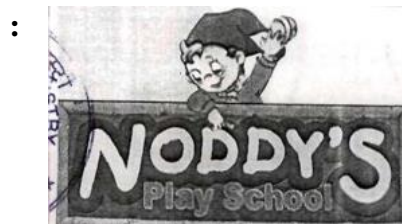
OGGY AND THE COCKROACHES

(Application no : 3104227)



NODDYS (DEVICE OF CARTOON)

(Application no : 1301335)



⁵<https://ipindiaservices.gov.in/tmrpublicsearch/frmmain.aspx>

CONCLUSION

In conclusion, the significance of trademarks in the contemporary business landscape cannot be overstated. These legal instruments serve as invaluable assets by offering protection against infringement, fostering brand awareness, and ensuring product distinctiveness. In the realm of animated content, trademark protection emerges as a linchpin for successful branding and marketing endeavors. It empowers creators to carve out a distinctive identity, cultivate consumer recognition, forge emotional connections, and explore diverse merchandising avenues. Beyond their commercial benefits, trademarks act as a robust legal shield, safeguarding intellectual property and acting as a deterrent against infringement. As animated characters continue to transcend screens and become cultural phenomena, the role of trademarks stands as a guardian, preserving the integrity and commercial value of these cherished creations in a dynamic and competitive marketplace.