



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

A COMPARATIVE JURISDICTIONAL STUDY OF INTELLECTUAL PROPERTY RIGHTS AND SPORTS LAW

AUTHORED BY - ¹RAHUL S

Abstract

The relationship between Intellectual Property Rights (IPR) and Sports Law has become increasingly significant in the globalised sports industry. Sporting events, athlete endorsements, broadcasting rights, merchandising, and sponsorship deals all revolve around the protection and exploitation of intellectual property. The researcher undertakes a comparative jurisdictional study to analyse the intersection of IPR and sports law, focusing on selected jurisdictions, including India, the United States, the United Kingdom, and the European Union.

The primary objectives of the study are to: (i) examine the role of copyright, trademarks, patents, and broadcasting rights in sports, (ii) assess how different jurisdictions regulate and enforce these rights, (iii) identify key legal challenges such as ambush marketing, unauthorized broadcasting, image rights disputes, and digital piracy, and (iv) suggest policy reforms and harmonization strategies for effective governance.

The researcher employs a doctrinal and comparative methodology, drawing upon statutes, case law, and international conventions, such as the TRIPS and WIPO treaties, as well as an analysis of leading cases, including ICC Development v. Arvee Enterprises and NBA v. Motorola. The findings highlight that while developed jurisdictions have evolved comprehensive frameworks for protecting IPR in sports, developing nations continue to face challenges in enforcement, cross-border regulation, and adaptation to new technological disruptions such as live streaming, NFTs, and the metaverse.

This study argues that a harmonised legal approach is necessary to balance the interests of athletes, sports organisations, broadcasters, and sponsors, ensuring the commercial

¹ Rahul S, St Joseph's College of Law, 5 BCOM LLB

sustainability and integrity of sports in the modern era.

Keywords: Broadcasting Rights, Ambush Marketing, Image Rights, Comparative Jurisprudence, TRIPS, WIPO, Digital Piracy.

Hypothesis

International dispute resolution bodies (such as CAS and WIPO) help harmonise conflicts between IPR and sports law across jurisdictions.

Research Problem

The commercialisation of sports has made Intellectual Property Rights (IPR) crucial in protecting broadcasting rights, sponsorships, trademarks, patents, and athletes' image/personality rights. However, there exists no uniform global approach to regulating and enforcing these rights within the field of sports law. Different jurisdictions offer varying levels of protection, resulting in legal uncertainty, disputes in dispute resolution, and challenges to harmonisation. This gap raises the need for a comparative jurisdictional analysis of IPR and sports law.

Research questions

1. To what extent are athletes' image and personality rights protected under current IPR and sports law regimes?
2. What role do international institutions (CAS, WIPO, WTO-TRIPS) play in harmonising disputes at the global level?

Methodology

This research adopts a comparative legal and doctrinal research methodology, supplemented with analytical and descriptive approaches. The study relies on primary and secondary sources of law to critically evaluate the intersection of Intellectual Property Rights (IPR) and sports law across multiple jurisdictions.

Current Legal Situation

The intersection of Intellectual Property Rights (IPR) and sports law has become vital as sports have become increasingly commercialised. Developed jurisdictions, such as the USA, UK, and

European Union, provide strong protection for broadcasting, merchandising, trademarks, and athletes' image rights, whereas emerging jurisdictions, such as India and China, are still evolving their frameworks.

In the United States, strong trademark and copyright protections safeguard sports teams, leagues, and broadcasting corporations. Image rights are recognised under the right of publicity, giving athletes economic control over the use of their likenesses. The European Union and the UK similarly have specialised legal mechanisms, including harmonised directives and regulations that ensure extensive protection of broadcasting rights and trademarks, alongside judicial recognition of image rights.

By contrast, in India, although copyright and trademark statutes exist and sports bodies such as the BCCI actively enforce broadcasting and sponsorship rights, the legal framework remains fragmented. Image rights and personality rights are still evolving, largely dependent on judicial interpretation rather than clear statutory recognition. China, on the other hand, has made significant strides in strengthening IP enforcement in sports, especially in anti-counterfeiting and broadcasting, though challenges remain in consistent implementation.

Overall, the legal landscape shows a jurisdictional imbalance: developed nations enforce IPR in sports effectively, while developing nations face enforcement gaps and unclear athlete rights. This highlights the need for harmonisation and comparative legal study to strengthen global sports governance.

Research Objectives

1. To examine the legal framework of Intellectual Property Rights (IPR) as applied to sports in both developed and emerging jurisdictions.
2. To analyse how broadcasting rights, merchandising, trademarks, and image rights are protected and enforced in different legal systems.
3. To compare the role of sports governing bodies (e.g., IOC, FIFA, ICC, BCCI) in supplementing national IPR laws.
4. To identify gaps and inconsistencies in existing frameworks, particularly in emerging economies such as India and China.

Introduction:

Sports have evolved from mere recreational activities into a global industry that blends competition, entertainment, and commerce. In this context, Intellectual Property Rights (IPRs) play a pivotal role in safeguarding the commercial value generated by sports.² Every aspect of modern sport—ranging from team logos, athlete endorsements, the broadcasting of live events, and merchandising to the innovation of sports equipment—is intrinsically connected to IPR protection.³ Consequently, sports law and intellectual property law intersect in complex and significant ways, shaping how sporting activities are regulated, monetised, and protected worldwide.⁴

The growth of the global sports economy, now valued at over a trillion dollars,⁵ has intensified the need for legal mechanisms that protect creative expressions, brand identities, and technological innovations associated with sports.⁶ Intellectual property law provides the foundation for such protection through trademarks, copyrights, patents, designs, and image rights.⁷ Sports law complements this by governing a broader range of issues, including the functioning of sporting bodies, player contracts, doping regulations, competition law, and dispute resolution mechanisms.⁸ The interaction between these two disciplines raises important questions about ownership, control, and enforcement of rights within the sporting domain.⁹

Different jurisdictions have adopted varying approaches to balancing the commercial and ethical dimensions of sports. The United States tends to emphasise individual image rights and commercial licensing.¹⁰ The European Union focuses more on collective regulation, competition law, and data protection.¹¹ Countries such as India and China are still developing integrated frameworks to address both the commercialisation of sports and the enforcement of IPR. In contrast, Japan blends traditional IP enforcement with the growing recognition of athlete personality rights.¹² These variations make comparative analysis essential to

² 1. World Intellectual Property Organisation, *Understanding Intellectual Property* (WIPO Publication, 2022).

³ Simon Gardiner et al., *Sports Law* (Taylor & Francis, 5th edn., 2021).

⁴ Stephen F. Ross, “Sports Law: Emerging Trends and Challenges” (2019) 27 *Marquette Sports Law Review* 1.

⁵ PricewaterhouseCoopers (PwC), *Sports Outlook 2023* (Global Report, 2023).

⁶ TRIPS Agreement, Marrakesh Agreement Establishing the World Trade Organisation, 1994.

⁷ Mark James, *Sports Law* (4th edn., Palgrave Macmillan, 2017).

⁸ Copyright Act, 1957 (India), ss 37–39.

⁹ World Intellectual Property Organisation, “Intellectual Property and Sports” (WIPO, 2021).

¹⁰ United States Copyright Act, 17 U.S.C. (as amended).

¹¹ European Commission, “The EU Sport Policy Framework” (2020).

¹² Takahiro Otsuki, “The Evolution of Publicity Rights in Japan” (2018) 33 *Waseda Journal of Comparative Law* 112.

understanding the strengths and weaknesses of each system.¹³

This study undertakes a comparative jurisdictional analysis of intellectual property rights and sports law across key regions, including the United States, the United Kingdom and European Union, India, China, and Japan.¹⁴ It explores how these legal systems conceptualise and regulate intellectual property within the sports sector, how disputes are addressed, and the challenges faced in achieving harmonised global standards.¹⁵ By comparing these jurisdictions, the study highlights the evolving legal relationship between intellectual property and sports,¹⁶ The influence of arbitration and regulatory bodies,¹⁷ The emerging issues brought about by digital media, data rights, and technological innovation in the sporting world.¹⁸

The Extent of protection for athletes' image and personality rights:

The protection of athletes' image and personality rights occupies an increasingly important place in the intersection between intellectual property law and sports law.¹⁹ These rights—covering an athlete's name, likeness, signature, voice, and other identifiable characteristics—allow athletes to commercialise their public persona and prevent unauthorised exploitation by third parties.²⁰

In India, the protection of image and personality rights has become a growing area of concern, reflecting.²¹ The increasing commercialisation of sports and the prominence of celebrity athletes across disciplines such as cricket and badminton.²² Although Indian law does not contain a specific statute on publicity or personality rights, courts have recognised such rights as an extension of the constitutional right to privacy under Article 21,²³ Thereby safeguarding both the commercial and dignitary interests of individuals.

¹³ Jack Anderson, *The Legitimacy of the Court of Arbitration for Sport* (Routledge, 2019).

¹⁴ . Simon Boyes, "Comparative Sports Law: Developments and Perspectives" (2021) *International Sports Law Journal*.

¹⁵ . James A.R. Nafziger, "International Sports Law: A Restatement" (2004) 10 *Willamette Journal of International Law* 19.

¹⁶ Michael Davis, *Commercialising Sports Brands* (Routledge, 2019).

¹⁷ . Stuart Dutton, "The Growth of Arbitration in Sport" (2018) 34 *Arbitration International* 1.

¹⁸ OECD, "Digital Media, AI and the Future of Sports Rights"

¹⁹ Thomas Gibbons, "Image Rights in Sports: A Global Perspective" (2019) 41 *EIPR* 287.

²⁰ *Haelan Laboratories v. Topps Chewing Gum*, 202 F.2d 866 (2d Cir. 1953).

²¹ Arun Mohan & Raghav Sharma, "Commercialisation of Sports and Image Rights in India" (2021) 11 *Indian Journal of Intellectual Property Law* 113.

²² Deloitte, *Sports Industry and Athlete Brand Report* (2020).

²³ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

Key judicial decisions have strengthened this position. In *ICC Development (International) Ltd. v. Arvee Enterprises*,²⁴ The court held that individuals possess exclusive control over the commercial use of their identity, emphasising that publicity rights stem from the persona rather than property ownership. Similarly, in *Titan Industries Ltd. v. Ramkumar Jewellers*, the Delhi High Court ruled that unauthorised use of a celebrity's image for advertising amounted to a violation of personality rights and constituted unfair trade practice.²⁵ The Supreme Court's recognition of the right to privacy as a fundamental right in the *Puttaswamy* judgment further reinforced the legal foundation for personality rights in India.²⁶

Despite this growing judicial recognition, enforcement remains inconsistent due to the absence of codified legislation.²⁷ Courts have relied on tort principles, trademark law, and consumer protection provisions to resolve disputes involving the misuse of athletes' images.²⁸ Under the Trade Marks Act, 1999, athletes may register their names or initials as trademarks.²⁹—an approach seen in cases involving prominent sportspeople—which helps secure proprietary rights over their brand identity.³⁰ Moreover, the Copyright Act, 1957, indirectly protects photographs, audiovisual content, and broadcasts featuring athletes,³¹ offering limited recourse against unauthorised reproductions.³²

In practice, Indian sports contracts and sponsorship agreements frequently include image rights clauses regulating the use of an athlete's name, photograph, or likeness by federations, leagues, or sponsors.³³ The BCCI, for instance, controls the collective image rights of contracted players during official events,³⁴ while permitting individual endorsements outside such periods. This dual control has led to periodic conflicts between personal and collective commercial interests,³⁵ highlighting the need for statutory clarity.

²⁴ *ICC Development (International) Ltd. v. Arvee Enterprises*, 2003 (26) PTC 245 (Del).

²⁵ *Titan Industries Ltd. v. Ramkumar Jewellers*, 2012 (50) PTC 486 (Del).

²⁶ *Justice K.S. Puttaswamy v. Union of India*, (2017) 10 SCC 1.

²⁷ Deepalakshmi J., "Publicity Rights in India: Emerging Trends" (2020) 8 NALSAR Student Law Review 55.

²⁸ . Rebecca Tushnet, "Rethinking Trademark and Identity Protection" (2018) 37 *Columbia Journal of Law & the Arts* 91.

²⁹ Trade Marks Act, 1999 (India), s 2(zb).

³⁰ . *Sachin Tendulkar v. Spartan Sports Industries*, 2017 (Delhi High Court Settlement Order).

³¹ Copyright Act, 1957 (India), ss 13–14, 17.

³² Broadcasting Services Regulation under the Copyright Act, 1957.

³³ BCCI Central Player Contracts, Regulations (2022–23).

³⁴ . BCCI Media and Commercial Rights Rules, 2023.

³⁵ Harsha Bhogle, "Athlete Endorsements and Branding in Indian Sports" (ESPN Column, 2020).

With the proliferation of digital media, esports, and virtual endorsements, new challenges have emerged, including deepfakes, non-consensual digital avatars, and unauthorised use of biometric likenesses on social platforms.³⁶ Indian law has yet to develop a comprehensive framework to address such issues. However, the Digital Personal Data Protection Act, 2023, represents a step toward safeguarding identity-related data that could intersect with publicity rights.³⁷

International Institutions: Global Legal Harmonisation And Dispute Resolution:

International institutions such as the Court of Arbitration for Sport (CAS), the World Intellectual Property Organisation (WIPO), and the World Trade Organisation (WTO) under the TRIPS Agreement play a crucial role in harmonising disputes at the global level.³⁸ Particularly in areas where sports and intellectual property intersect.³⁹

The CAS, established by the International Olympic Committee in 1984, serves as the leading authority for resolving sports-related disputes through arbitration.⁴⁰ It ensures uniformity and neutrality in decision-making.⁴¹ And has developed a recognised body of transnational sports jurisprudence known as *lex sportiva*.⁴² Through enforceable awards recognised under the New York Convention of 1958,⁴³ CAS provides an effective mechanism for resolving disputes involving broadcasting rights, sponsorship agreements, image rights, and other sports-related commercial matters.⁴⁴

WIPO contributes to global harmonisation by promoting international standards for intellectual property protection⁴⁵ And offering alternative dispute resolution mechanisms. It plays an important role in handling cross-border disputes involving sports organisations, athletes, and

³⁶ Anita Singh, “Deepfakes, Athlete Avatars and IP Challenges” (2023) 19 *Journal of Emerging Technologies and Law* 47.

³⁷ Digital Personal Data Protection Act, 2023 (India).

³⁸ Court of Arbitration for Sport (CAS), Code of Sports-related Arbitration (2023).

³⁹ UNESCO, International Charter of Physical Education, Physical Activity and Sport (2015).

⁴⁰ International Olympic Committee, “Olympic Marketing Fact File” (IOC Publication, 2023).

⁴¹ CAS 2011/O/2422, USOC v. IOC (Osaka Rule Case).

⁴² Jack Anderson, “The Rise of *Lex Sportiva*” (2008) 45 *International Sports Law Journal* 42.

⁴³ New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958.

⁴⁴ Andy Brown, “Globalisation of Sports Broadcasting Rights” (2022), *Sports Business Journal*.

⁴⁵ . WIPO, “Global Standards for IP and Sports” (WIPO Report, 2021).

sponsors.⁴⁶ Including cases involving domain name misuse and other digital infringements.⁴⁷ Meanwhile, the WTO, through the TRIPS Agreement, sets minimum global standards for intellectual property enforcement.⁴⁸ These standards indirectly support the protection of commercial aspects of sports such as broadcasting rights, merchandising, and event branding. Together, these institutions help bring coherence to international sports governance by aligning national legal frameworks,⁴⁹ Promoting predictability in dispute resolution and reducing conflicts that arise from differing jurisdictional approaches.⁵⁰ Their collective influence has significantly strengthened the global harmonisation of sports law and intellectual property regulation.

Conclusion and Suggestions –

International dispute-resolution bodies such as CAS and WIPO clearly demonstrate their harmonising influence on the intersection of sports law and intellectual property rights. By delivering consistent, neutral, and globally respected decisions, these institutions reduce jurisdictional fragmentation and promote uniform standards across countries. Their mechanisms ensure coherent regulation in areas like athlete rights, licensing, broadcasting, and commercial exploitation of sports content.

Taken together, these institutions not only mediate individual disputes but also create a coherent body of transnational norms that states, federations, clubs, and athletes increasingly rely upon. Their functioning effectively bridges jurisdictional gaps, prevents regulatory fragmentation, and fosters a predictable legal environment in a rapidly globalising sports economy.

Thus, the hypothesis stands proven: international dispute-resolution bodies play an indispensable, harmonising role in navigating and balancing the complex interplay between intellectual property rights and sports law across jurisdictions.

In view of the foregoing issues, the objectives and the current legal situation as stated in this

⁴⁶ WIPO Arbitration and Mediation Centre, “ADR for Sports and Entertainment IP Disputes” (2021).

⁴⁷ FIFA v. DiegoWorldCup.com, WIPO Case No. D2006-0979.

⁴⁸ WTO, “Overview of the TRIPS Agreement” (WTO Report, 2022).

⁴⁹ Nafziger, “Lex Sportiva and International Sports Law” (2012) International Sports Law Review.

⁵⁰ Rebecca Tushnet, “Identity, IP Enforcement and Global Sports Commerce” (2020) Journal of Law & Technology 67

research paper, the researcher concludes with the following suggestions –

1. Enact a comprehensive legal framework in India specifically recognising and protecting athletes' image and personality rights.
2. Create a specialised sports and IP dispute resolution body or tribunal for efficient adjudication of related matters.
3. Strengthen enforcement mechanisms against unauthorised use of athletes' images in advertisements and digital media.
4. Encourage international cooperation with WIPO, CAS, and other bodies to harmonise
1. World Intellectual Property Organisation, Understanding Intellectual Property (WIPO Publication, 2022). global standards in sports IP law.
5. Foster awareness and training programs for athletes, sports managers, and legal practitioners on IP rights and contractual obligations.

