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Personality Rights and Digital Misappropriation in the Age of AI: A Case Study of Jackie Shroff vs. The Peppy Store

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Abstract

The current case comment examines the famous temporary order issued by the Delhi High Court in the case of Jackie Shroff v. The Peppy Store & Ors. (2024), which deals with the misuse of celebrities' personalities through AI-generated impersonations and the unauthorised commercial use of these personalities in digital format. The Court recognised personality rights, including rights to name, image, voice, and mannerisms, as falling within the right to privacy under Article 21 of the Indian Constitution, despite the lack of detailed statutory provisions in this area. The analysis is structured around three main aspects: (i) legal arguments presented by the parties, (ii) doctrinal foundations upon which the Court relied, and (iii) the Court's reasoning, especially in relation to Indian precedents, statutory overlaps including the Information Technology Rules 2021 and the Data Protection and Privacy in Digital Personal Data Act 2023 and comparisons with U.S. legal and policy frameworks related to publicity rights and the EU General Data Protection Regulation. The comment critiques the Court's reasoning adversely, highlighting issues related to intermediary liability and the challenges posed by deepfakes and AI mimicking technology. It concludes with a call for legislation that is more comprehensive in safeguarding digital identity in the era of generative content and synthetic media.

Keywords: *Data Protection, Digital Misappropriation, Personality Rights, Privacy Rights*

1.0 Introduction

The personality of each individual is unique and often sufficiently attractive to capture the attention of others. Personality rights are granted to individuals to protect the commercial use of their identity, which includes their name, likeness, or any distinctive aspect of their personality they wish to safeguard. In India, these rights are not codified in any specific legislation. They are not recognised as a single right but rather as a set of rights, fundamental rights, constitutional principles, and public. The Supreme Court has observed that every individual should have the right to control the usage of their identity, which further enhances the scope of personality rights in India (International Lawyers Network, 2024).

The rise of social media also intersects with data protection, which is governed by the Digital Personal Data Protection Act, 2023 (DPDP Act). The act requires the consent of an individual before their identity can be used for commercial purposes. It also grants individuals the right to control their data by allowing them to delete or modify uploaded content, which protects their rights

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and imposes penalties on those who violate the principles of the act. Therefore, personality rights encompass a broad scope that includes the DPDP Act, the Trademark and Copyright Act, and constitutional principles.

The concept of personality rights developed alongside the right to privacy. In the 1995 case of R. Rajagopal v. State of Tamil Nadu (Reddy, n.d.) The right to privacy was recognised as a fundamental right under Article 21 of the Indian Constitution, marking the first acknowledgement of personality rights. Although the ruling primarily addressed privacy, it also affirmed individuals' ownership of their personal data, thereby laying the groundwork for personality rights.

Later, in 2003, with the case of Icc Development (International) Ltd. v. Arvee Enterprises (Icc Development (International) Ltd. vs Arvee Enterprises and Anr: on 1 January, 2003, n.d.) The Delhi High Court recognised the commercial significance of personality rights as the concept continued to evolve. Since then, the notion of personality rights has been gaining increasing attention, especially alongside advancements in artificial intelligence and global development.

1.1 The Interplay between Digital Content Creation, Celebrity Rights, and AI-Driven Platforms

The recent cases coming up serve as a perfect example of how Content creation, AI and celebrities' rights are interlinked. In other words, the interplay between the former can be understood as content creation is rapid, especially with the inclusion of AI and at times with the help of AI. There are various content creators on the platform, such as YouTube, Instagram, and other social media platforms.

To gain more views, the content creators often recreate content from public figures who are already famous and to whom the general audience will be more likely to stick. The process of content creation and the fight of the creators to attract more audience at the same time, knowingly or unknowingly, use some tactics which might infringe upon the personality rights of an individual or a public figure.

The recent judgments, including that of Jackie Shroff v. The Peppy Store, also demonstrate the same trend as discussed above, which highlights the interplay of AI, content creation and personality rights. Therefore, the celebrities turn to the court to protect their personality rights against AI and content creation done in a manner that will lead to infringement of their personality rights.

1.2 Rise of AI Tools and Misuse of Celebrity Identity

AI technology like GANs and voice cloning technology has enabled the cloning of celebrities in ads, films, and memes, with new concerns regarding ownership, consent, and control over one's online persona. In India, where personality rights law is judicially evolved, the issue of safeguarding individuals, especially celebrities, from digital misappropriation is urgent. The advent of AI-based content has further muddied the line between fair use, satire, parody, and sheer exploitation.

It is in this fast-evolving technological and legal environment that the recent Delhi High Court ruling in the case of Jackie Shroff v. The Peppy Store acquires seminal importance. The suit is with regard to the unauthorised usage of the veteran actor's name, image, and personality characteristics for commercial purposes, supposedly by AI-driven or replicative digital content. The acknowledgement by the court of Shroff's right to regulate his digital image and its attempt to prevent such misappropriation is a milestone in Indian law. Not only does this ruling reaffirm the existence of personality rights as part of the constitutional right of privacy, but it also displays the courts' sensitivity to new threats emerging from AI and digital technologies. Against this context, this case comment attempts to analyse the facts, legal issues, and judicial logic in the Jackie Shroff case, and raise doubts over the wider implications for digital rights, personality rights, and the pressing need for legal change. In this sense, the case appears to be a watershed moment for assessing how Indian law needs to change to address the reality of identity theft, deepfake culture, and unauthorised commercial exploitation in the age of AI.

2.0 Legal Framework Governing Personality Rights in India

2.1 Common Law Recognition

In India, personality rights or the right to publicity have developed judicially by interpretation rather than through codified law. Based on tort law and principles of the Constitution, Indian courts have considered that a person, *i.e.*, a celebrity, has a right over the commercial

use of his or her personality. It includes the name, image, voice, signature, mannerisms, and other identifying attributes.

One of the key cases in this area is Icc Development (International) Ltd. v. Arvee Enterprises (Icc Development (International) Ltd. vs Arvee Enterprises and Anr: on 1 January, 2003, n.d.), in which the Delhi High Court held that unauthorised use of a celebrity's image, especially for advertisement, constitutes unjust commercial exploitation. The court noted that the right of publicity is not only a proprietary right but a component of the right to privacy, which applies even to non-Indian citizens.

In Titan Industries Ltd. v. Ramkumar Jewellers, 2012 (Singh, n.d.), the Delhi High Court reasserted the same stance by permanently enjoining the defendants from employing the pictures of actors Amitabh Bachchan and Jaya Bachchan for jewellery advertising. The court ruled that commercial exploitation of a celebrity's picture without permission for financial gain was a clear violation of their right of publicity, even if the original pictures were publicly displayed.

These choices demonstrate how Indian common law has evolved over the years to incorporate the commercialisation of persona as a protected interest, particularly in misappropriation and false endorsement.

2.2 Statutory Bases

Although personality rights are not implemented in India under any independent legislation, certain constitutional and legislative provisions provide partial protection:

Article 21 of the Indian Constitution ensures the right to life and liberty, which the Supreme Court in Justice K.S. Puttaswamy v. Union of India (Bhatia, 2017) interpreted to comprise the right to privacy. Personality rights, especially the right over one's image and personal information, gain much strength from such an interpretation.

Copyright Act, 1957: Although this act is mainly for copyrighting creative work, Section 38 of the Act safeguards performers' rights, including governing the broadcast and commercial use of their performances. Although restricted, it gives a basis for action against unauthorised digital impersonations, particularly through voice or likeness recorded in performances.

Trade Marks Act, 1999: Section 2(1)(zb) of the Trade Marks Act, 1999, defines "trademark" to include the use of names and likenesses for brand identification. Courts have extended passing off actions where names or likenesses of celebrities have been used to impersonate product endorsement, viewing it as unfair competition.

However, these regimes of legislation are still patchy and do not explicitly cover digital or AI-based offences like deepfakes, morphing, or synthetic mimicry that cross boundaries of infringement defined by law.

2.3 International Context

At the international level, personality rights have developed more formally. The Right of Publicity is founded in the United States in state statutes and common law. The doctrine shelters individuals against the unauthorised commercial exploitation of their identity. High-profile cases like Zacchini v. Scripps-Howard Broadcasting Co. (Zacchini v. Scripps-Howard Broadcasting Co., 433 U.S. 562 (1977), n.d.), reaffirmed that such rights are different from privacy and are necessary to promote artistic work and performance.

In contrast, the European Union has dealt with the problem primarily in the context of data protection. The General Data Protection Regulation (GDPR), Articles 4(1) and 9, regards biometric and facial data as "special categories of personal data." (Linden *et al.*, 2020). The collection, processing, or disclosure of that data, particularly for AI-created likenesses without consent, risks incurring legal liability. The GDPR does not provide a publicity right in the form of a free-standing right, but its focus on personal control of personal data is in harmony with the goals of personality rights. These global norms reflect the lacuna in the Indian legal structure. The absence of a codified system introduces doubt regarding safeguarding personal identity in the light of advanced AI technology capable of mimicking appearance, voice, and body language.

3.0 Factual Matrix and Legal Issues in Jackie Shroff v. The Peppy Store

3.1 Background

The plaintiff, Jaikishan Kakubhai Saraf, popularly known as Jackie Shroff, is a well-known actor and a public personality. His mimicry has also been noticed in different comedy and entertainment shows. The plaintiff

sought protection for safeguarding several facets of his personhood, including his name, voice, picture, likeness, unique mannerisms, gestures, and delivery of words. A petition was sought against several parties, and the court stopped several parties from making unauthorised use of the actor's names and voices.

The plaintiff gained a strong presence in the film industry by making its presence in over 220 films, including the super hit films such as Ram Lakhan, Tridev, Devdas and Parinda. The plaintiff has also received the National and Filmfare Awards and is also the registered owner of the trademark 'Bhidu' under 3227968 number 3227968 in class 25 (prepared clothes, hosari, clothing shirt articles; jeans, cotton trousers, garments. Apart from this, the plaintiff is also the registered proprietor of the mark "Bhidu ka khopcha" under No. 4362494 in Class 41 (Education; Providing of Training; Entertainment; Sporting and Cultural Activities) (Narula, n.d.)

The present case concerns various defendants for violating the plaintiff's personality rights by infringing the plaintiff's registered trademarks and name "JACKIE SHROFF" by means of selling printed goods on an online store, also making disparaging YouTube videos and using it for content creation. The defendants also opened a restaurant called "Bhidu Shawarma and Restaurant," and are also accused of publishing links that sold goods and explicit pornographic content under the name "JACKIE SHROFF" without the plaintiff's prior consent. The plaintiff in this case wants to safeguard his rights to publicity, personality, and other aspects of his identification, Copyright in photographs, literary, musical, artistic, and dramatic works, sound recordings, cinematographic films, and other related works; (c) common law rights encompassing protection against passing off, misappropriation, and unfair competition; trademark infringement concerning its registered marks "BHIDU" in classes 25 and 41, as well as the mark "Bhidu Ka Khopcha" in class 4.

3.2 Legal Claims and Relief Sought

As far as we are concerned, the legal battle mounted by the legal consortium of Mr Jackie Shroff is crystallised into three main axes of doctrines. First, the plaintiffs claimed personality misappropriation, as in this case, unauthorised reproduction of the likeness, facial expressions, and characteristic voice of the actor amounted to a misappropriation of the personality rights, which, as per the Indian common law, can be understood as an extension of Article 21 (Right to Privacy) (Article 21 in Constitution of India, n.d.).

Second, they described an action of unreasonably commercial utilisation by stating that defendants took advantage of the actor persona to make money with direct sales, marketing, or monetisation through the means of social networks, thus committing an act of false endorsement, and, at the very least, deceiving consumers.

Third, and most importantly, they claimed that uncontrolled uses of the image and the persona created by Shroff, especially in non-serious or non-commercial settings, downplayed the worth of his brand and made him vulnerable to any reputational damage, especially whenever the content was offensive or did not align with the image of the actor.

Correspondingly, the pleadings aimed to subject the platforms to the theory of intermediary liability, according to which platforms would be answerable under the Indian Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, to terms and conditions of hosting or authorising infringing content that makes use of Shroff. (Pathak, 2013)

In terms of relief, the plaintiffs asked the court to grant permanent injunction restraining all defendants with immediate effect to take and use the name, image, voice, catchphrases, and likeness of Mr. Shroff to trade commercially in the absence of their express consent and in so doing the court enjoined that this injunction expressly applied to the conjectured generated AI-imitations, deepfake, or synthetic content and likeness related to and appearing to be Mr. Shroff.

The complementary measures encompassed take-down orders against the infringing content platform to platform damages, and a profit account. The plaintiffs further sought instructions from intermediaries, namely, social media platforms and hosting firms, to proactively identify and remove infringing content in a manner consistent with Rule 3 of the 2021 IT Rules.

Then, in the aftermath of the filed complaint, the Delhi High Court adopted an urgent interim order to restrain the Defendants from reproducing, commencing, distributing, publishing, or advertising any content that would violate Mr Shroff's rights, indicating that serious irreparable damage was about to occur.

On April 20, 2024, the Delhi High Court issued an ex parte ad interim injunction in favour of Jackie Shroff. The

court found that the actor had a strong case for protecting his personality rights and stressed that the right to publicity is a logical extension of the right to privacy under Article 21. It ordered the defendants and intermediary platforms to remove all infringing content, including memes, films, and deepfake content that replicated the actor's image.

The court was especially concerned about the "unchecked proliferation" of AI-based impersonations and acknowledged the critical need to balance technical advancement with fundamental rights. This interim ruling marks a watershed moment in Indian personality rights law, especially in light of growing AI and digital dangers.

4.0 Judicial Reasoning

In the case of Jackie Shroff v. From the Peppy Store, the interim order pronounced by the Delhi High Court develops the infant doctrines of personality rights in India, particularly in the realm of the digital space. The court upheld that a name, likeness, voice, or any other unique features of a celebrity are a part of the right to publicity, which is a component of the constitutional right to privacy, citing Article 21A. In citing the earlier precedent, the court reiterated that this right is not relinquished when fame is attained and that a lack of express approval puts a third party under an obligation not to commercially exploit the persona of celebrities. The court found that Shroff had put forward a powerful prima facie case of digital misappropriation, as his catchphrases, vocal inflexions, mannerisms, and video forced visual likeness have been used in AI-based content and promotional memes. According to the court, such misappropriation gave a wrong impression of endorsement and posed a threat of misleading the masses.

To address such violations, the court ordered an interim injunction obliging all the defendants mentioned, including the digital intermediaries, to take down infringing content, as well as prohibiting any further use of the persona by Shroff in a commercial or promotional fashion without express authorisation. The ruling also reaffirmed the existence of a heretofore unknown threat of deepfake technologies, saying that the judicious application of deepfake technologies is malevolently utilised to influence the image of the populace and enforce the necessity of legal supervision. In this regard, it is mentioned that the court has issued directions to digital platforms urging them to strengthen content-filtering systems or mechanisms that protect personality rights by referring to the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. This case displays a proactive judicial strategy for integrating technology freedoms with personal dignity, managing the increasing contradiction between free expression, parody, and satire, as well as the individual's right to protect their identity from distortion and unlawful monetisation.

5.0 Critical Analysis

The decision of the Delhi High Court was passed in the case of Jackie Shroff. The case is a powerful precedent in the constitutional jurisprudence of India, reiterating that the right to seek the protection of image, voice, and likeness is part and parcel of the right to privacy in general under Article 21 of the Constitution of India. The case is generally viewed as an essential input to the modern field of theoretical discussion of protecting rights to personality, given new technological conditions, including deep-fakes, advanced AI-driven impersonation, and synthetic media. The Court has been able to provide normative clarity by extending the right to personality rights as a facet of the right to privacy under Article 21 of the Constitution. However, it stops at procedural aspects and needs to remain untouched in substantive areas, the most significant one being the extent of personality rights in the face of public interest, satire, or parody. Furthermore, the Court has failed to provide a clear criterion by which courts can distinguish between the lawful and the unlawful use of the likeness of a person and the doctrine of transformative use has not been touched by the Court.

Simultaneously, the ruling reveals that the pits of the Indian legal system, namely, the lack of a particular law on the regulation of personality or publicity rights, have created confusion in language and law. The trend towards the increasing consideration of personality rights should be balanced to avoid abuse in the form of means of censorship, since influential people can rely on personality rights to preclude any criticism, parody, or artistic creation that should not be encouraged. As such, the case necessitates the necessity of a consistent legislative action and judicial precision, providing that the right of control

over oneself does not override the liberties of expression, artistic pursuit or technological research.

6.0 Conclusion

Jackie Shroff v. Peppy Store is a critical step in the evolution of the jurisprudence of personality rights in India, especially in AI, deepfakes, and the rest of the digital impersonation. The High Court went further to offer constitutional protection to personal identity even though that protection was not expressly provided in the statutes by assuming that the name, image, voice, and likeness of an individual amount to a part and parcel of the right to privacy under Article 21 of the Constitution. This decision reflects the extent to which the judicial system might be ready to respond to a new form of technological evil and acknowledge the importance of a conflation of synchronous personal and business concerns related to a digital identity.

The ruling, however, also throws light on issues of substantive doctrinal gaps as well as legislative weaknesses. Indian legislation does not provide a coherent legal structure to define, protect, and enforce personality rights, in the case of AI-generated content, at least. In the absence of clear standards of transformative use, express advertising, or fair expression boundaries, the risk may present itself as personality rights being used as the means to discourage satires, parodies, or opposition. As a result, the ruling is progressive but does not give subtle tests to overcome the conflict between the interests of the community and artistic freedom.

The case also demonstrates the urgent necessity of creating a legal framework that is aimed at expressing a concise personality rights framework of sorts, one that will have the capacity to measure the needs of privacy, publicity, and digital rights against the demands of artistic and technological creativity. The statutory guidance should outline intermediate duties, establish limits of infringement when it comes to AI-related matters, and establish a procedure to safeguard against excessive and disproportionate implementation. Digital platforms' self-regulation, the use of watermarking of AI-generated content, and funding of forensic-detection tools must also be parts of a broader policy response.

In short, Jackie Shroff v. The Peppy Store can be viewed simultaneously as a doctrinal landmark and as an invaluable warning model, appealing to lawmakers and the court to act proactively in creating a rights-based digital future where identity, creativity, and innovation will coexist in a state of mutual accommodation.

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