

## TRADEMARKS AND CELEBRITY NAMES: RIGHTS, BRANDING AND LEGAL ISSUES

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### **Abstract**

*As celebrities become more famous, their names become more important as a brand. In this article, the reader will learn about how famous people turn their names into brands and profit from it. First of all, the article deals with the relationship that exists between the names of celebrities and trademarks. In addition, this paper addresses predicate trademark offenses as well as complexities related to international intellectual property law. Name similarity and problems with registering common names as trademarks are important issues. This article also looks at some of the important court cases on the subject and their outcomes. The article ends with tips for celebrities who want to protect their brands and names under trademark laws. The article discusses the complexity of deciding between personal rights protection and commercial interests when it comes to celebrity branding.*

**Keywords:** trademark, brand, commercial branding, celebrity, similar celebrity names, commercial interests.

Celebrity culture has changed significantly over the past ten years and is becoming an increasingly important part of today's society. Media has turned celebrities not only into entertainers, but also into powerful brands with huge commercial power through the proliferation of online resources, social networks and 24/7 entertainment channels. [14] Celebrity images and names are important resources for building and promoting brands, as today's society puts a lot of emphasis on individuality and personal branding. [9, p.148]

Due to the active introduction of the Internet, social networks, as well as the development and popularization of personal brands, many celebrities and journalists began to use their first and last names, pseudonyms and fictitious names. It is not only a means of self-identification, but also an object of commercial activity. So, singers, actors, and bloggers start selling clothes, and athletes sell sports nutrition and equipment and more that are released under their own names. At the same time, they, as a rule, have no direct relation to commodity production. However, using their name will increase sales and get fans of those people interested in a product. The huge demand has led to attempts by unscrupulous entrepreneurs to counterfeit such products and to use someone else's name and pseudonym without the owner's consent.

Subsequent events emphasized the importance of preserving the name and image of the individual, as they blurred the lines between celebrity and merchandise. In such circumstances, intellectual property rights, in particular trademark rights, come to the fore. Trademarks help to highlight and protect the commercial identity of a product or service. Celebrities use these rights to protect their brand and prevent their names and likeness from being used without their permission. This study examines the legal, ethical and commercial aspects of using celebrity names as trademarks.

The idea that celebrities are more than just entertainers has been reinforced by the development of celebrity culture. Celebrities also use their names as brands, just as companies use trademarks to distinguish and differentiate their products or services in the marketplace. This branding process includes the identification of a person, their values, spirit and traits. A great example is the Oprah Winfrey brand, which is closely associated with her name. He is connected not only to her TV show, but also to her media empire, which includes a magazine, TV channel and more. Likewise, Michael Jordan's name transcends his basketball career. Since the inception of the Nike Air

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Jordan brand, its name and image has become a symbol of billion-dollar footwear and sportswear. [5] Such examples show how a popular name can be a valuable commercial asset.

The economic value associated with celebrity names is clear. Celebrity names have financial value. Counting on the recognition and influence of the name of a celebrity on the motivation of customers, brands are willing to pay huge amounts for advertising contracts. According to a study [2, p.158], celebrity engagement increased brand sales by an average of \$10 million per year. Thus, the brand value of a celebrity can have a significant impact on the market, and both celebrities and companies seek to capitalize on this and protect their interests. When celebrities become brands, they inevitably face a lot of legal challenges to protect their names. The main issue here is trademarks, a legal tool designed to prevent unauthorized use and protect commercial identities. Case Studies: LeBron James and Taylor Swift are prime examples of celebrities who struggle with trademarks James attempted to register phrases like "Taco Tuesday", sparking a trademark controversy. [10] Likewise, Taylor Swift actively trademarks her lyrics and album titles, demonstrating the lengths celebrities can go to protect their brand rights. [3] Unauthorized use of a celebrity's name can lead to legal disputes, especially in commercial cases. For example, a company may be required to pay damages if it uses a celebrity's name to advertise or sell a product without permission. The celebrity must prove that such use misinforms consumers or reduces brand value. [1]

*The Right of Publicity and trademarks:* A person's identity and brand are protected in different ways by the right of publicity and trademark rights, two different but frequently linked areas of law. While both can be used by celebrities to preserve their public image, they have different purposes and provide different levels of security. The inherent right of an individual to manage the commercial exploitation of their name, likeness, and other recognizable characteristics of their persona is the subject of the right of publicity. The primary purpose of this right, according to J.Thomas McCarthy's book "The Rights of Publicity and Privacy," is to acknowledge the potential economic worth that an individual may place on their identity and to give them the ability to manage its commercial exploitation.

Trademark law protect symbols, names, and slogans used in commerce to identify the source of goods or services. A trademark provides defense against competitors who attempt to utilize a mark in a manner that can confuse customers. The names, logos, and other unique marks that celebrities utilize throughout their careers are frequently trademarked. The basic goals of trademark law are to avoid consumer confusion and maintain a mark's goodwill, whereas the right of publicity typically addresses improper utilization. For instance, a celebrity might use the law on trademarks to stop another business from using their name to sell goods, but the same celebrity might use the right of publicity to stop an unlicensed biography that has their likeness on the cover. [12] McCarthy's book elaborates on real-world cases like the "Estate of Presley v. Russen" case to help show this intersection. Both legal concepts can be instruments in a celebrity's legal toolbox, as shown in this instance when the estate of Elvis Presley utilized both the right of publicity and trademark law to halt a live musical concert that featured an Elvis impersonator.

In conclusion, these rights provide important safeguards for public figures, but their fundamental goals are distinct, and their effective implementation necessitates different legal approaches.

*Parody and free speech:* While intellectual property laws are designed to protect the rights of owners, they are not absolute. There is a delicate balance in the field of free speech, especially in parody. Shows like Saturday Night Live often use celebrity names for satire rather than infringement. Courts, recognizing the social value of parody, often defend such works on the basis of free speech doctrines, although the details vary between jurisdictions. [7]

*International Perspective:* There are unique issues with trademarking a celebrity name around the world. Trademark laws differ in each country. Something that is protected in one jurisdiction may not be protected in another. Celebrities should be aware of different legal systems, cultural backgrounds, and when their names are trademarked by others. This makes protecting a celebrity brand around the world a difficult task.

*Similar Celebrity Names:* One possible problem can arise when two celebrities have similar or identical names. For example, actors Chris Evans (famous for his roles in Marvel films) and Chris Evans (famous British TV presenter) may run into problems if one of them tries to trademark his name for certain services or products in the same market. In such circumstances, legal disputes may arise in which courts and patent offices must decide on the notoriety, duration of use of the name, and the likelihood of confusion. [7]

*Trademarks for Common Names:* Another difficult problem arises when celebrity names are also common given names or surnames, such as "Emma Roberts". Although actress Emma Roberts is recognizable in the entertainment industry, another person named Emma Roberts may have reason to use the name in a different commercial context. To prevent monopolization of common names, trademark law is often cautious in this matter. [4]

*Personal rights versus commercial interests:* At the center of these dilemmas is the conflict between personal rights and commercial interests. While celebrities have a legal right to use their fame, it is also in the public interest that personal names, especially common ones, remain available for legitimate use by others. Finding a balance requires a subtle understanding of both individual rights to a commercial identity and the public interest in competition and freedom of expression [8]. The rapidly evolving relationship between celebrity culture and intellectual property requires celebrities to think strategically to protect their personal brand. Here are some recommendations and best practices:

*Things to consider before registering a name as a brand:* Before registering their name, celebrities should conduct thorough market research to understand the potential of their name as a brand. It is important to determine how the target audience perceives the name, how unique it is, and whether it can expand to other markets. It is also useful to learn about the existing rights to the name, even if they belong to people from other realms. [3]

*Importance of Legal Advice:* Intellectual property laws are complex and vary from country to country. Because of these complexities, celebrities should turn to professional lawyers. They will help develop the right legal strategy, warn against mistakes and help you through the registration process. Early communication with lawyers will also help celebrities protect their image rights. [4]

*Balance between personal rights and business opportunities:* Although commercialization provides a lucrative prospect, celebrities need to be careful. Celebrities should be care-

ful though commercialization can be beneficial. If you advertise your name too much, you risk losing its authenticity and alienating your fans. Celebrities need to be critical when choosing promotional deals to match their brand. [11, p.112]

Here are some court cases that are must be considered.

*Kylie Jenner vs. Kylie Minogue*: The American reality TV actress and businesswoman Kylie Jenner applied to trademark the term "Kylie" in the US for advertising and endorsement services in 2014. Kylie Minogue, an Australian singer, challenged the application on the grounds that she already had "Kylie" trademarks and that Jenner's trademark would weaken her reputation. Jenner's application was finally turned down as a result of Minogue's effective resistance. The dispute received a lot of media coverage and served as an example of the difficulties that might occur when two popular figures compete for the same trademark. Since Minogue had been using the name professionally for years, she could more easily claim that Jenner's use could confuse consumers and weaken her brand. [15]

*50 Cent vs. Taco Bell*: In 2008, the rapper 50 Cent (Curtis Jackson) filed a lawsuit against Taco Bell, alleging that the restaurant business had improperly utilized his name in a marketing effort. To match the cost of some of their items, Taco Bell had offered 50 Cent to adopt the names 79 Cent, 89 Cent, or 99 Cent. For an undisclosed sum, the issue was resolved outside of court. This agreement emphasizes how crucial it is for companies to obtain official endorsement or consent before using a celebrity's name for marketing purposes. [16]

*Trump vs. iTrump*: The Trump Organization filed a lawsuit against the creators of the iPhone app "iTrump," claiming that the name of the program violated the trademark for Donald Trump's last name. A U.S. court decided that "Trump" is a generic name when used in the context of trumpet simulation apps, siding with the app creators. The situation offers as an illustration of how the type of good or service in question might have an impact on a trademark dispute. [17]

*Michael Jordan vs. Qiaodan Sports*: NBA star Michael Jordan launched a lawsuit against Chinese business Qiaodan Sports, alleging that the latter was utilizing his famous jersey number 23, coupled with his Chinese name, Qiaodan, to market sports-wear and footwear. The Supreme People's Court of China found in favor of Jordan in 2016 after a protracted legal dispute, finding that Qiaodan Sports had misled customers about its affiliation with the basketball legend. The decision also highlighted the difficulties that foreign businesses and individuals run with when attempting to protect their trademarks in China. [18]

*Lindsay Lohan vs. E\*TRADE*: In 2010, the actress Lindsay Lohan sued E\*TRADE for a Super Bowl commercial that showed a baby named Lindsay who was a "milkaholic" and sought \$100 million in damages. She asserted that the use of her name violated her civil rights as protected by New York state law. The lawsuit was resolved outside of court for an unknown sum. [19]

In the 21st century, celebrity culture is turning into a complex maze where personal identities merge with commercial branding. Celebrities aren't just performing as entertainers these days; they are also becoming powerful brands that have significant social and economic impact. Our research has shown how difficult intellectual property law affects celebrities. Laws originally created for goods are now trying to adapt to intangible things like fame and personal branding. With these laws constantly changing, the challenge is to strike a balance between human rights and the public interest.

However, much remains to be explored. The globalization of celebrity culture, the complex mix of personal and digital identities, and new technologies such as "deep-fakes" (an AI-based image synthesis technique) require additional attention. These topics are of interest to scientists, lawyers and industry professionals. What we can say with certainty is that the relationship between celebrities and brands is only just beginning. This topic will continue to evolve and we are all interested in watching it, researching and understanding how to keep the vibrancy of celebrity culture within intellectual property laws.

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