

Article

# Arbitration in Sports Trademark Disputes: From Athlete Branding to Event Merchandising

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**Abstract:** The sports industry is safeguarded by trademarks for branding, promotion, and broadcasting rights, which help sports develop more like a business rather than a recreational activity. Sports clubs and companies protect their brands and logos by trademarks for their income and competitive advantage. Ambush marketing confronts event organizers and official sponsors, leading to lawsuits and ethical problems. Trademark registration avoids unauthorized affiliations protecting the integrity of brands. With the evolution of digital marketing, regulations and enforcement are necessary to safeguard business interests and ensure the authenticity of sponsorship. In brand dilution, a trademark is not used appropriately, eroding its uniqueness and leading to financial losses. Arbitration is a favorite mode of settling complex trademark cases in the fast-changing international sports regime, providing confidentiality, industry-specific information, and enforceability across borders. This research explores the significance of arbitration in addressing several trademark issues associated with sports, such as image rights, sponsorship deals, and broadcasting and merchandising rights. It examines the pertinent case laws and arbitration precedents and the advantages and disadvantages of arbitration. The study also focuses on the digital innovations like esports, NFTs, and social media in arbitration. By situating the trademark arbitration in the wider themes of sports governance, commercial integrity, and protection of intellectual property, the research highlights fostering fair play and stable market dynamics.

**Keywords:** sports arbitration; trademark disputes; athlete branding; event merchandising; ambush marketing

## 1. Introduction

Sports are a part of human life and society and serve as a meeting point for the industry, where games, entertainment, culture, and, commercial ventures. Since the dawn of civilization, people have enthusiasm for sports activities. The sports industry is a source of economic development in a country and individual economic profit. IPRs have become a valuable asset, utilized as marketing tools to promote sports events by a brand and as a means to develop celebrity status. To avoid unauthorized claims on established names and goodwill, it is necessary to protect the interests of both individuals and teams. The title chain concept encompasses sports contracts, including the legal sale of an athlete's skill for commercial usage. The growth of leagues, particularly the Indian Premier League (IPL), has led to the formation of separate teams by individual owners, who have acquired titles, trademarks, copyrights, and other intangible assets to reap profits. The sports sector includes every aspect of IP (Javali 2017).

With increasing sports activities, the sector has evolved into a formal commercial industry. International events of football, tennis, cricket, golf, hockey, and car racing have created vast commercial opportunities for organizers. Leading federations such as FIFA, PGA, NBA, and IPL manage these events to maximize their commercial value. Franchise owners exploit the intellectual property rights (IPRs) generated by sports franchises. These rights build brand equity and reputation, leading to substantial profits. Many sports clubs have been transformed into valuable brands as Forbes magazine estimates some of these clubs' up to US\$1.86 billion (Ozarian 2024). The IPL in India exemplifies profitability through the protection of IPRs. Taglines, logos, color schemes, licensing agreements, and sponsorship deals, require careful management. However, a single legal system that comprehensively protects all aspects of such IP does not currently exist. An all-inclusive legal framework to safeguard IP resulting from human intellect, including copyrights, trademarks, patents, industrial designs, and trade secrets is important. Third parties try to associate themselves with events without obtaining sponsorship rights. Accordingly, ambush marketing, or unlicensed merchandising, ownership of the image rights of athletes (where third parties make similar

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claims; clubs, agents and sponsors all present); or geographic or linguistic differences in branding emerge at a very significant rate. Often these controversies are transnational: one competition, sports sponsor or merchandise platform can engage legal jurisdictions across borders, thus requiring prompt and enforceable adjudication in the face of commercial exploitation of opportunities.

Strategic marketing, franchising, advertising, and brand development have given sports and athletes a powerful presence, overshadowing traditional challenges in sports. Traditional court litigation is usually unappealing based on its inherent slowness, open and expensive nature and limitations of national procedural and substantive laws. Thus, there is an increasing trend of parties utilizing arbitration and other alternative dispute resolution methods. Arbitration provides an expert judge, flexibility of procedure, confidentiality, and cross-border enforceability, especially with tools such as the New York Convention. However, arbitration presents new issues in the area of sports-IP. These include questions about the arbitrability of specific IP, third-party rights and the public-interest issues such as historic or cultural claims to certain names, and challenges in substantive IP norms between jurisdictions (Mukherjee 2023).

Intellectual Property Rights (IPRs) can be sold or licensed, as their basic features allow. Proving ownership is crucial to legalizing the commercial exploitation of IPR attributes. Registration of IPR is recommended to reduce possible conflicts of ownership. IPR protection is always territorial as it is only confined to the jurisdiction where it is registered. In India, it may take several months or even years for an entity to obtain IP protection, due to registration backlogs. It is necessary to plan IP registration before entry into the market. The companies assess the IP being exposed to the market. If IP has a commercial worth, they proceed to register the IP. The Trademarks Act of 1999<sup>1</sup> protects registered marks, such as names, logos, and brand names belonging to an event, individual team and franchise. The Designs Act of 2000<sup>2</sup> applies to merchandise, equipment, footwear and apparel. The Copyright Act of 1957<sup>3</sup> permits the copyright registration of unique literary, dramatic, musical, and artistic creations, including cinematographic and sound recordings, broadcasting and performing rights. Copyright is for images and comments on sporting activities, including event photography.

## 2. Trademark and Branding in The Sports Industry

A trademark is a recognizable icon, word or design which distinguishes or identifies the origin of goods or services. The trademarks can be the names of teams, team logos, team slogans, and even the names or nicknames of other sports personalities. Such IP creates differences between teams and athletes in the minds of fans. In sports, individuals and teams are renowned not just for their physical abilities but also for their personal brands. These brands symbolize the players' identities, successes, and affiliations, as well as the teams' legacies and achievements. Creating and protecting these brands is essential in today's sports world, and trademarks play a significant role in the process. Trademarks contribute to brand awareness; a properly designed logo or a striking slogan may instantly remind a favorite team or athlete among fans. Popular brands with significant sponsorship deals, can make sales of merchandise, generating endorsement opportunities. Trademarks help athletes and teams develop their own identities, thus making them more marketable. Trademarks deter counterfeit goods development ensuring that they protect their fan base and their revenues.

The nineteenth century marked the beginning of trademarks, which were officially established in the United Kingdom by the Trade Marks Act of 1994, which is compatible with the European Council Trade Mark Regulation. Trademark holders have a global registration system since 2004, to protect them on an international basis (Bhusari 2024). Athletic organizations cannot do without trademarks, as they help in the establishment of additional sources of revenue (Pitofsky 1977). Trademark bullying occurs when the owners become asymmetrical in their rights realization. Ambush marketing in high-profile events like the Olympic Games defeats the traditional sponsorship policies and provokes debate about its implications. The science of sports character merchandising falls at a crossroad between legal fields, such as privacy rights, and unfair competition (Mills and Karen 2020).

Branding, a key element of trade value creation is utilized extensively across the sports industry, with strong brands signaling dependability and favorable prices. Trademarks, affect the brand equity by creating public identity and fan affiliation which recognition can be sold to sponsors and advertisers. Trademarks do not just serve as indicators of the origin, but also quality, which enhances consumer loyalty and trust (Uniyal 2020). Effective branding drives sports fans by associating logos with lifestyle and prestige, during major events like the Olympics or the FIFA World Cup. Licensing and franchise rights to exclusive merchandise in major events increase industry revenues. The internet, websites, and social media are essential for maintaining an online presence, consuming content, and merchandising in the digital era. Introduction of generic top-level domains is an indicator of the changing online marketing environments in sports organizations, and the importance of holistic agreements in protecting IPRs. Stadium areas utilize branding for maximum exposure, forming the basis of both economic and social benefits in the sports industry (Madavani, Najaf and Babak 2020).

### 2.1 Indian Perspective on Sports

The sports market in India has significantly evolved, especially following the commercialization of sports. Cricket, enjoys increased excitement following the introduction of IPL and T20 sports events, which are organized by the Board of Control for Cricket in India (BCCI). The IPL has created a niche as a high-profile popular and profitable event, but it has been facing problems regarding trademark rights (Yadav 2016). In 2008, BCCI sued online gaming company Rediff.com over the IPL trademark and logo violation, which led to a decision by the Madras High Court barring Indian Fantasy League (IFL) from using similar branding. In 2018, the BCCI sued Grace Sports Pvt Ltd (GSPL) because it operated under names that resembled the IPL, which made the Bombay High Court rule against GSPL on the grounds of trademark violations in youth cricket tournaments.

<sup>1</sup> [https://www.indiacode.nic.in/bitstream/123456789/15427/1/the\\_trade\\_marks\\_act%2C\\_1999.pdf](https://www.indiacode.nic.in/bitstream/123456789/15427/1/the_trade_marks_act%2C_1999.pdf)

<sup>2</sup> <https://pakistancode.gov.pk/english/UY2FqaJw1-apaUY2Fqa-apaUY2FobJ4%3D-sg-iiiiiiiiiiiiii>

<sup>3</sup> <https://www.copyright.gov.in/Documents/Copyrightrules1957.pdf>

IPRs are also applied to individual athletes, as illustrated by Sourav Ganguly, the former captain of the Indian cricket team. The case of *“Sourav Ganguly v Tata Tea Ltd”* strengthened the view that personal fame and trademarks are safeguarded rights, as the company used his image in a promotion without his authorization (Basheer 2009). The name and likeness of athletes lies between privacy, personality and intellectual property. India does not have a statutory right of publicity similar to some of the jurisdictions in the United States. Rather, the right to a commercial claim of name and image has developed out of a combination of constitutional privacy case laws, common-law passing-off cases, and breach-of-contract and assignment.

Privacy is guaranteed by the Constitution. The Supreme Court acknowledged privacy as a constitutional right. The *“Justice K. S. Puttaswamy (v.) Union of India, 2017”* strongly supported the doctrinal basis of personality-based claims in India and offered the constitutional structure according to which the commercial rights on publicity can be claimed (Bhatia 2017). Illegal commercial exploitation of athlete images is actionable where it is a misappropriation of reputation or passing-off, and tribunals have frequently affirmed that the clarity of the contract regarding assignment and exclusivity of endorsement, is decisive. The commercial disputes over the rights to endorse Sachin Tendulkar and, the out-of-court settlement of royalties claim against Spartan Sports indicate how athlete image rights are realized in contractual and equity terms, as opposed to being addressed by a specific statutory provision. Cases of athletes who are aiming to prevent the unauthorized creation of images by AI and stop their use online are another indicator that Indian courts are willing to protect the persona and publicity rights of users in the digital era (Bhat and Purna 2025).

## 2.2 Sponsorship in Sports

Modern sports is supported by sponsorship contracts based on exclusivity, territorial boundaries, term and allowed application. These contracts establish exactly which visual images are used on match days, and the types of merchandise that are covered by the license of the sponsor. However, sponsorship agreements face challenges where IPRs, media rights and the image rights of athletes collide. The rights of kit-sponsors conflict with the personally negotiated on-field or event image rights and governing bodies insist on their monopoly of control and the athletes proclaim their residual commercial freedom (Biscaia et al. 2016). In the middle of the 2000s, Sachin Tendulkar case and the use of his likeness by Nike and Adidas, highlights to have clear assignments and license terms that separate the use of a team and individual commercial exploitation. Indian courts and regulators are frequently asked the question whether a claim by a sponsor is confined to displays on match-days to off-field merchandising and advertising. In this situation, the wording of the relevant agreements helps conclude that such public perception is creating a false perception of linkage of the persona of the athlete with the products promoted by the sponsor, and thus a false advantage or confusion. (Weimar, Lisa and Rui 2022).

## 2.3 Broadcasting Rights

Broadcasting rights are one of the key aspects of sports monetization in India, and are addressed in the Copyright Act, which provides broadcasting companies with exclusive rights of fixation, transmission, and exploitation of live broadcasts and highlights. This statutory protection allows transmission and exploitation practices to fall under the rights owner, hence the legal enforcement of broadcast ownership. The sports organizations, such as the Board of Control for Cricket in India (BCCI), traditionally enter into negotiations for exclusive licenses of TV and digital media, thus creating a large stream of revenues. In the Indian Premier League (IPL), the sale of media rights contributes to a huge percentage of the total financial performance of the sports. Enforcement has, in turn, gone a notch higher with the addition of civil, criminal and contractual redress to the issues of piracy. These steps include complicated litigation on sublicensing clauses and territorial jurisdiction in the Indian legal environment. Current legal framework needs to be modified to safeguard IP against anti-counterfeiting by developing robust trademark regimes, carefully drafted licensing contracts, and well-designed enforcement policies to ensure brand integrity. Generally, Indian laws provide a bundle of rights to trademarks and sports branding, which is in tandem with the present-day business demands. However, there are still apparent voids, especially regarding new branding trends and the endemic problem of indirect ambush marketing, which needs legislative and regulatory examination (Khan 2019).

## 3. Arbitration for trademark dispute resolution

Arbitration is an alternative dispute resolution (ADR) process that involves resolving issues through a neutral third party or panel of arbitrators instead of traditional legal proceedings. Unlike litigation, arbitration is a private and flexible process that allows litigants significant influence over the outcome. The arbitrator's decision, known as an arbitral award, is legally binding and enforceable, with limited opportunities for challenge. Arbitration differs from other forms of ADR, such as mediation and conciliation. Mediation involves a neutral facilitator helping parties find a mutually acceptable solution, while conciliation is a non-binding method for parties to discover common ground. An arbitration decision is legally effective and enforceable under both national and international arbitration laws (Shekhawat, and Tanya 2025).

The modern sports business is built on branding as a business, as it is based on athletic performance. Trademarks, have become the basics of this branding paradigm. The issues associated with athlete branding arise when the name, signature, or likeness of players is commercialized without their approval, or the rival parties assert that they have a right to the branding. Since such disputes are often characterized by commercial interests and transnational character, arbitration has become one of the most attractive alternatives to litigation. Arbitration has several advantages. Trademark cases in sports are often sensitive to business matters such as sums of money paid in sponsorship, television deals and endorsements. The litigation in the court openly exposes such information, hence, severing negotiations or ruining reputations. Arbitration, is usually done in secrecy, and thus the privacy of proceedings and awards is maintained. *“Section 42A was specifically added to the Arbitration and Conciliation Act 1996 in 2019 and required that arbitral proceedings remain confidential, which brought the Indian law in line with the international practice.”*

The national courts' litigation, though authoritative, is often not as sector-expert as needed to resolve such complicated sports-IP cases. Arbitration allows parties to have arbitrators with knowledge of IP laws and sports governance. Courts like the Court of Arbitration for Sport (CAS) in Lausanne and the WIPO Arbitration and Mediation Centre in Geneva have panels of such experts, providing t legally valid and commercially realistic results. The Mumbai Centre of International Arbitration (MCIA) and the Indian Council of Arbitration (ICA) are also forming specialized panels in India. With respect to sports-IP disputes, the use of specialized panels is still in its infancy.

Arbitration awards are enforced by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958), and India is bound by it. Considering that sports trademark cases are usually cross-border in nature, such as IPL merchandise that is produced in China and marketed worldwide, an arbitral award has wider enforcement than a court decision, which is confined to a specific territory.

One of the concerns in India is the arbitrability of IP disputes. In *Booz Allen & Hamilton Inc v. SBI Home Finance Ltd*<sup>4</sup>, it was held that rights disputes in which claims were made against the world, i.e. rights in rem, were non-arbitrable, whilst those concerning rights between parties, i.e. rights in personam, were. In *Vidya Drolia v. Durga Trading Corporation*<sup>5</sup>, the Court explained that the doctrine of non-arbitrability only needs to be given a limited interpretation. Therefore, any dispute that touches on the contractual aspect of trademarks, e.g. licensing, merchandising or sponsorship contracts, is actually arbitrable. Arbitration has long been used to settle contractual disputes concerning trademarks, with questions of validity or registration left to IP offices or courts. Arbitration may effectively solve the issues associated with athlete branding, sponsorship and merchandising in the Indian sports sector, without prejudice to statutory adjudication of registration or validity.

#### 4. Institutional Framework

The Court of Arbitration for Sport (CAS), based in Lausanne, Switzerland, is the leading arbitral institution in settling sports disputes. CAS was established in 1984 under the umbrella of the International Olympic Committee (IOC) and became independent with the help of the International Council of Arbitration for Sport (ICAS). Its jurisdiction has been expanded to include commercial disputes, especially those relating to intellectual property and trademarks, as it was initially intended to deal with eligibility cases and disciplinary cases. This growth is heavily based on the arbitration provisions in the contracts of athletes, sponsorship and federation laws, which have made “CAS the dispute resolution medium. The 2023 version of the Code of Sports-Related Arbitration outlines the processes for Ordinary and Appeals Arbitration, making it easier to address first-level disputes and further review them. Even though the awards given by CAS can be subject to review by the Swiss Federal Tribunal in very strictly defined cases, they tend to be deemed final and binding in accordance with the 1958 New York Convention<sup>6</sup>. CAS has provided a growing venue for trademark disputes, particularly where the use of the name or mark of an athlete is used on merchandise without the permission of the athlete. Although CAS does not pronounce on the validity of trademarks as it lies with national IP agencies, CAS can adjudicate on issues of licensing, endorsements and merchandising contracts by reference to the principles of contract law and IP doctrine. The CAS ability to cope with the commercial matters highlights its flexibility in dealing with issues that are not limited to disciplinary problems.

The relationship with CAS, to India, has been mainly indirect, with Indian athletes and federations in cases of eligibility and anti-doping, but not very commonly in trademark cases. However, considering the international sponsorship arrangements of other leagues like the Indian Premier League (IPL), it can be assumed that Indian parties will enter into CAS to settle disputes of foreign sponsors or foreign broadcasters, though arbitration clauses are well-written into the concerned agreements. Domestic arbitral bodies, including the Mumbai Centre of International Arbitration (MCIA)<sup>7</sup> and the Indian Council of Arbitration (ICA)<sup>8</sup>, are becoming avenues of sports-IP dispute resolution through the delivery of procedural flexibility, confidentiality and the chance to use IP-specialized arbitrators. The arbitrability of contract disputes in Indian trademarks is acknowledged by the Indian jurisprudence, including the sponsorship and merchandising agreements, but the statutory questions of trademark validity remain within the court judiciary.

#### 5. Case Studies of Sports Trademark Arbitration

The BCCI v. Kochi Tuskers Kerala<sup>9</sup> shows the legal complexities of sponsorship rights and how arbitral decisions can be upheld in favor of franchisees, reinforcing adherence to the Arbitration and Conciliation Act of 1996<sup>10</sup>. Ambush marketing further complicates the landscape, exemplified by FIFA's successful legal injunction against a South African tavern that illegally utilized World Cup trademarks. However, the Indian judiciary maintains that indirect ambush marketing does not warrant legal action under current trademark laws.

Comparative examination across jurisdictions reveals varying approaches to sports trademark disputes. The United States utilises the Lanham Act for robust trademark protection and favors arbitration in resolving issues, as demonstrated in *Nike, Inc. v. Adidas AG*<sup>11</sup>. In the European Union and the United Kingdom, the Trade Marks Directive and the Trade Marks Act 1994<sup>12</sup> provide comprehensive trademark protections, with arbitration serving as an effective dispute resolution strategy, notably through the Court of Arbitration for Sport (CAS). In India, the Trade Marks Act, 1999<sup>13</sup>, along with the Arbitration and Conciliation Act, 1996<sup>14</sup>, governs trademark disputes, yet it faces challenges, particularly regarding the arbitrability of statutory intellectual property rights.

4 <https://api.sci.gov.in/jonew/judis/37919.pdf>

5 <https://indiankanon.org/doc/121987320>

6 <https://www.newyorkconvention.org/english>

7 <https://mcia.org.in/>

8 <https://icaindia.co.in/>

9 <https://www.drishtijudiciary.com/editorial/bcci-v-kochi-tuskers-kerala>

10 [https://www.indiacode.nic.in/bitstream/123456789/21922/1/the\\_arbitration\\_and\\_conciliation\\_act%2C\\_1996\\_act\\_no.\\_26\\_of\\_1996.pdf](https://www.indiacode.nic.in/bitstream/123456789/21922/1/the_arbitration_and_conciliation_act%2C_1996_act_no._26_of_1996.pdf)

11 <https://law.justia.com/cases/federal/appellate-courts/cafc/14-1719/14-1719-2016-02-11.html>

12 <https://www.legislation.gov.uk/ukpga/1994/26/contents>

13 [https://www.indiacode.nic.in/bitstream/123456789/15427/1/the\\_trade\\_marks\\_act%2C\\_1999.pdf](https://www.indiacode.nic.in/bitstream/123456789/15427/1/the_trade_marks_act%2C_1999.pdf)

14 [https://www.indiacode.nic.in/bitstream/123456789/21922/1/the\\_arbitration\\_and\\_conciliation\\_act%2C\\_1996\\_act\\_no.\\_26\\_of\\_1996.pdf](https://www.indiacode.nic.in/bitstream/123456789/21922/1/the_arbitration_and_conciliation_act%2C_1996_act_no._26_of_1996.pdf)

Courts have ruled that statutory rights are generally non-arbitrable, complicating dispute resolution. Furthermore, enforcement of arbitral awards, especially in international contexts, poses ongoing difficulties.

## 6. Challenges and Emerging Issues

Sports-related trademark arbitration mainly involve cross-border enforcement of arbitral awards. While the 1958 New York Convention<sup>15</sup> allows recognition and enforcement of such awards, states can deny enforcement based on public policy, leading to uncertainty—especially in India, where courts have broadly interpreted this exception. This unpredictability reduces the effectiveness of arbitration for trademark disputes related to international broadcasting and merchandising contracts. Similarly, in ambush marketing, “Despite being acknowledged by courts of India concerning the damage involved, regulatory problems persist under the Trade Marks Act 1999, specifically considering the challenges involved in governing indirect associations.”

Digital branding and esports complicates the situation further, as athletes and teams monetize their images through websites and NFTs. These innovations pose challenges for current trademark protections, especially in virtual disputes involving parties across borders. While arbitration is a preferred solution, its effectiveness across borders and the need for specialized knowledge, along with existing arbitral principles, require refinement to explicitly address digital rights. Although arbitration has been successful with contractual trademark issues, it has been less effective for statutory IP rights. To improve the effectiveness of sports-IP disputes through arbitration, dispute resolution practices should be harmonized at the international level.

## 7. Conclusions

Trademark disputes within the sports underscore the tensions that exist among commercial interests, fan engagement, and legal regulations. Arbitration is a viable avenue due to its elements of confidentiality, expediency, and international enforceability. Challenges persist regarding non-arbitrable statutory IPRs, barriers to cross-border enforcement, and innovative difficulties associated with digital branding. United States and the European Union have successfully incorporated arbitration into sports-related IP disputes. India needs to implement institutional reforms to align with the trends of globalization and digitization. Collaboration between CAS and WIPO is advised to establish harmonized standards that reduce fragmentation and build trust among cross-border sponsors. Strengthening sports agency IP protection is essential, requiring them to include anti-ambush marketing clauses, sponsorship agreements with binding arbitration clauses, and athlete branding guidelines. Improvements to arbitral frameworks are also necessary to address the specific challenges of digital branding and NFTs, encouraging cross-border cooperation in developing model dispute resolution guidelines.

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<sup>15</sup> <https://www.newyorkconvention.org/english>