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Delhi High Court grants *ex parte* orders against personality rights violation

By Fatema Hussain

Anil Kapoor ('Kapoor') is a well-known actor from the Mumbai film industry with a career spanning nearly 40 years. He has appeared in over 100 films and endorsed several brands. Kapoor is also known in the Mumbai film industry to have popularised the Marathi language slang word, 'Jhakaas' (roughly translated to English as 'fantastic') with his unique delivery of the same. Kapoor claims that the same has become synonymous with him.



In September 2023, the Delhi High Court granted an *ex parte* injunction order in Kapoor's favour and against multiple defendants ('the defendants'). The crux of Kapoor's claim in the suit was that the defendants violated his personality rights, violated his copyrights in movie dialogues, and were guilty of passing off, unfair competition, and dilution. Kapoor claimed in the suit that the defendants are unauthorizedly using his name, image, likeness, voice, personality, and other aspects of his persona to create merchandise, make false endorsements, and make morphed images by employing tools such as artificial intelligence for commercial purposes. The merchandise created

ranged from mobile phone wallpapers and stickers to cups, T-shirts, suits, and key chains. Some of Kapoor's images were used to make cartoon characters and to upload pornographic images of Kapoor with other actors. His voice and dialogues from movies were also used to make ringtones and ring-back tones. The defendants were also guilty of registering domain names using Kapoor's name. Kapoor alleged that the defendants in a manner were utilizing several features of his persona and misusing the same in malicious ways and were earning monetary benefits out of the same.

Having heard Kapoor's arguments, the Court issued notice to the defendants and made the following observations:

- While free speech in respect of a well-known person is protected in the form of right to information, news, satire, parody, and criticism, when the same crosses a line, and results in tarnishing their image, blackening or causes jeopardy to the individual's personality, or attributes associated with the said individual, it would be illegal;
- Using a person's name, voice, dialogues, and images in an illegal manner, that too for commercial purposes, cannot be permitted;
- The celebrity's right to endorsement, being one of their major sources of livelihood cannot be destroyed by permitting unauthorized merchandising activities;
- Technological tools such as AI, freely available today, make it possible for anyone to produce or imitate a celebrity's persona. Use of the persona

in a dark or grim manner, as portrayed on porn websites or morphed along with other actors in videos and images is not merely offensive or derogatory to Kapoor, but also to the third-party celebrities and actors involved;

- There is no reason why the domain names in Kapoor's name that have been registered by the defendants be allowed to be squatted upon;
- Kapoor's name, likeness, image, and persona deserve to be protected, not only for Kapoor's own sake but also for the sake of his family and friends who would not like to see his image, name, and other elements being misused, especially for such tarnishing and negative use, which are actionable torts;

Accordingly, the Court restrained the defendants from:

- Utilizing Kapoor's name, likeness, image, voice, personality or any other aspects of his persona to create any merchandise, ringtones, ring back

tones, or in any other manner misuse the said attributes using technological tools such as AI, machine learning, deepfakes, face morphing, GIFs, either for monetary gains or otherwise to create any videos, photographs, for commercial purposes resulting in a violation of Kapoor's rights;

- The defendants who were domain name registrars were directed to immediately lock and suspend the domain names www.anilkapoor.in, www.anilkapoor.net and www.anilkapoor.com. Additionally, they were directed to inform Kapoor of the respective registrants of these domain names; and
- The Department of Telecommunications and the Ministry of Electronics and Information Technology were also directed to issue blocking orders in respect of all these links and any other links, which may upload pornographic videos of Kapoor.