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THE LEGAL BEAT: NAVIGATING TRADEMARKS IN MUSIC

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I. ABSTRACT

This article explores the importance and complexities of trademark law in the music industry, emphasising its crucial function in safeguarding the identities and brands of musicians, bands, and their related merchandise. Trademarks, encompassing names, logos, and slogans, offer vital safeguarding against unjust competition and counterfeit merchandise, guaranteeing clarity to consumers regarding the source of items. The study also investigates the difficulties and legal intricacies involved in registering non-traditional marks, such as sound markings, as well as the current issues in Indian trademark law in comparison to global standards. The conversation highlights the necessity for more explicit legislative structures to protect the artistic and financial interests of musicians.

II. KEYWORDS

Trademarks, Music Industry, Intellectual Property, Non-Traditional Marks, Indian Legislation

III. INTRODUCTION

Music plays a crucial role in the lives of many individuals. Our favourite music, whether it's pop tunes that energise us during rigorous activity or melodies we sing along to in the car, has the capacity to bring us pleasure throughout the day.

Without the ability of artists to protect their work, the music industry as we know it would likely cease to exist. Fortunately, due to intellectual property rights (IPR), artists and music distributors can gain advantages and safely distribute their music to a global audience. Due to this incentive to create, together with the assurances provided by IP.

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The term "mark" incorporates a device, heading, brand, mark, ticket name, word, letter, numeral shape of merchandise, packaging or mix of any of them. It gives any mark which is 'graphically representable' and is demonstrative of a trade with the proprietor, the protection of the act.

Trademarks lets the consumers identify the source. By this, it means that trademark helps distinguish the origin. It protects the names, titles, phrases and even slogans that would distinguish from one source to another by the consumers. The main purpose of trademark is to prevent unfair competition, which basically means, to avoid confusion that is "similar" to another source of product.

Trademarks in the entertainment industry, particularly in the music industry, are primarily used to safeguard the names of bands or groups, logos, and phrases associated with certain song lyrics. This is in direct opposition to copyright law, which serves to safeguard the origin of music, enabling listeners, fans, or consumers to discern and distinguish between different artists or acts. However, this is not the main theme of the current discussion. Musicians or bands that own legitimate goods can hold others accountable for selling counterfeit products.

Many musicians generate income from their trademarks by entering into licencing agreements, which grant permission to others to use their brand for purposes such as merchandising, collaborations, or endorsements. Establishing robust legal frameworks and unambiguous agreements is crucial in order to prevent conflicts and maintain uniform brand portrayal. This principle is exemplified in the case of Boston Professional Hockey Association, Inc², where the court determined that the unauthorised use of team logos on merchandise constituted a violation of trademark rights.³

When it comes to trademarking a name and registering it, the most crucial step for a brand owner is to perform a comprehensive clearance check for every possible variant of the name. This search aims to determine whether the mark is already in use or if

² BOSTON PRO. HOCKEY ASS'N INC. v. Dallas Cap & E. Mfg., Inc., 360 F. Supp. 459 (N.D. Tex. 1973)

³ Katzarov and Katzarov (2024) 'Trademark registration in music industry - Katzarov,' *Katzarov - Katzarov: Intellectual property boutique firm*, 1 March. <https://katzarov.com/trademark-registration-in-music-industry/>.

someone else is using a similar brand that the Musician (including bands) want to employ. When embarking on a new endeavour, the primary objective is to ensure one's survival and generate financial gains.

The aim of this research is to clarify the intricacies of trademark law in relation to the music industry, providing in-depth understanding of how these legal safeguards work to preserve the authenticity of musical trademarks. Furthermore, the study seeks to identify and resolve the legal obstacles and uncertainties encountered by musicians, pushing for more explicit and strong legislative measures to promote the industry's expansion and long-term viability. This is a brand infringement occurs when a party utilises a mark that is indistinguishable or perplexingly comparable to a registered brand without authorization. This can result in consumer perplexity and weakening of the brand. It is imperative for musicians to officially register their trademarks in order to safeguard their brand names, logos, and other unique indicators.⁴

A musician's brand encompasses more than its name. The goodwill that is established refers to the loyal fan (customer) base. The music and film industries are the two primary sectors of the entertainment industry, which are experiencing significant growth and generating substantial revenues on a global scale. Whenever a legal issue arises, it is necessary to protect the rights and interests in the music or movie.

The shift in attitude about intellectual property concerns has significant impact on many trademark disputes, such as those involving misleadingly similar music/film titles, unauthorised use of film titles that infringe on trademark rights, and remedies for passing off. This article examines the suitability of Indian brand name regulations in the context of the music industry, focusing primarily on existing legal issues.⁵

A trademark, also referred to as a service mark, is a distinctive symbol that distinguishes the goods and services of one organisation from those of another. A band's name represents its reputation in the music industry, and it is typically protected as a trademark. The Beatles, Aerosmith, Jonas Brothers, and The Rolling

⁴ *Matal v. Tam*, 582 U.S. ___ (2017)

⁵ CHASE, C.R., 2007. How the Band Protects Its Brand: The Use of Trademarks to Protect and Promote the Musical Artist. *INTELLECTUAL PROPERTY*, 35.

Stones, PSY, as well as BTS, are just a few examples of musical groups/ bands with distinctive brand names.⁶

Bands/groups can also file trademarks for their albums, apparel, merchandise, and other products. A trademark grants a band/group the sole authority to use its name and entertainment services, as well as greater authority over its brand or the values it embodies. Obtaining a trademark may enable the generation of additional revenue through licencing and merchandise agreements. The Slants, an Asian-American rock band with an unusual name, had a major win in the Federal Circuit Court of Appeals.⁷

Registration is mandatory in order to exercise the right to infringe a brand name. Infringement encompasses the presence of a mark that is either identical or indistinguishable in certain aspects, the goods or services falling under the registered mark, the marks being utilised for commercial purposes, and serving the intended function of being a trademark. The research paper aims to provide an in-depth analysis of trademark law within the music industry, focusing on its essential role in protecting the identities and brands of musicians, bands, and associated merchandise. The scope of the study encompasses the Conceptual Framework of trademarks, Protection Mechanisms used in the Music industry and Non-Traditional Marks, focusing on its protection.

The objective of this research is to clarify the intricacies of trademark law in relation to the music industry, providing in-depth understanding of how these legal safeguards work to preserve the authenticity of musical trademarks. Furthermore, the study's objective is to identify and tackle the legal obstacles and uncertainties encountered by artists, pushing for more explicit and stronger legislative actions to promote the industry's expansion and long-term viability. This paper aims to make a valuable contribution to the wider conversation on intellectual property law by offering practical suggestions for policymakers, legal professionals, and individuals involved in the music industry.

⁶ Singer, B., 1991. A Rose by Any Other Name: Trademark Protection of the Names of Popular Music Groups. *Hastings Comm. & Ent. LJ*, 14, p.331.

⁷ *Matal v. Tam*, 582 U.S. ____ (2017)

IV. SOUND MARKS

According to the Act, sound marks in India are likewise classified as non-traditional marks. The Delhi branch of the Trademark Registry granted India's first sound mark on August 18, 2008. The sound mark consists of Yahoo's three-note yodel and was awarded to Yahoo⁸, a firm based in Sunnyvale, California.

The term 'graphical representation'⁹ in trademark regulations refers to the visual depiction of a brand name for products and services, typically in a physical, paper-based manner. They should be able to be depicted on paper either as sound, where the sound is composed or displayed as an oscillogram, spectrum, spectrogram, or sonogram. When a situation cannot be reduced to writing, there should be a clearly identifiable, yet distinct or distinctive sound, which must be accurately represented in the register.

Registering non-traditional trademarks, such as sound markings, poses distinct obstacles. Aural trademarks are essential in the music sector but can be challenging to safeguard due to their intangible characteristics. This illustrates the intricacies involved in registering a unique sound that is both distinctive and challenging to differentiate from comparable noises created by competitors.¹⁰

Although India grants trademarks for sounds, there is a need for regulations around the description, recording, protection, and insurance of such sounds.¹¹

Music composers, lyricists, and producers utilise brand names and logos to enhance their visibility and distinguish themselves among consumers. They use Certification Marks, as defined in Section 2(e) of the Act¹², to indicate that a company can produce a product that meets set requirements.¹³

⁸ *Yahoo! yodel becomes first registered sound mark.*

<https://www.worldtrademarkreview.com/article/yahoo-yodel-becomes-first-registered-sound-mark>.

⁹ Section 2(1)(zb) – The Trademark Act, 1999

¹⁰ Re NV Organon (79 USPQ2d 1639 (TTAB 2006))

¹¹ Lipede, Iyanu (2022) "Let's Hear it For Sound Marks: Trademark Protection in Copyrighted Songs," Liberty University Law Review: Vol. 16: Iss. 3, Article 5.

¹² The Trademark Act, 1999

¹³ Shuju, FU. (2022). Music Trademark: New Development of Intellectual Property in Digital Economy. World Journal of Social Science Research. 9. p64. 10.22158/wjssr.v9n2p64.

The 'ISO 9000' is a widely recognised set of principles that are routinely used for the issuance of a Certification Mark.

V. IMPORTANCE OF REGISTRATION

A trademark grants a band/group, the sole privilege to utilise its name and entertainment services, along with increased authority over its public perception. Acquiring a trademark can facilitate the generation of additional revenue streams through licencing and merchandising agreements.

By legally protecting the IP, it ensures exclusive rights to the mark. By obtaining a registered trademark, a renowned artist can authorise a clothes manufacturer to use their name and logo, guaranteeing uniform quality and brand representation in many markets. In other words, brand integrity and its market expansion plays a vital role in a musician's career.

The name or title of a song, music or band promotes a sense of identification among the viewers. The makers of a music or song all over the world take great care and attention in selecting a unique exclusively related distinct title or name for their music in order for it to become a popular and successful among all classes of audience. This link encourages audiences to see the listen to the songs and to associate it with the makers. The title can be registered and protected under the Indian Trademark Act, 1999.

Registered trademarks offer legal remedies against unauthorised usage and counterfeit merchandise. This safeguard is crucial in licencing agreements, as it is imperative for the licensor to ensure that the licensee strictly complies with the given terms of usage.¹⁴ For instance, the emblem of a recognised sports club can be granted a licence to many clothing companies, so guaranteeing that any unauthorised usage can be legally contested.¹⁵

¹⁴ Kozinski, A., 1993. Trademarks unplugged. *NYUL Rev.*, 68, p.960.

¹⁵ Dinwoodie, G.B., 2009. Developing Defenses in Trademark Law. *Lewis & Clark L. Rev.*, 13, p.99.

Registered trademarks provide essential exclusive rights in commercial agreements.¹⁶ This exclusivity guarantees that the licensee possesses the necessary legal authorization to utilise the trademark, hence fostering strong business ties.¹⁷

Registering a trademark enables the establishment of income sources through licencing contracts.¹⁸ The licensor can generate revenue from their trademark by granting usage rights in exchange for royalties.¹⁹

For many years, the song title has never been registered as a trademark in India. "Why this Kolaveri Di?" a viral super hit song was the first song in India to receive trademark protection for a song title. In just four days after its official release, this Tamil-English mix song amassed almost 500 million views on all social media platforms. This song was recorded by Sony Music Entertainment India, one of India's most profitable music labels, and a trademark application for "Why this Kolaveri Di?" was filed (the first line of the song). For the protection of song lyrics, a trademark application was filed under Class 9 and Class 41 logos, respectively.

The filing of the trademark application inside these categories would grant Sony Music the authority to oversee and profit from multiple aspects of the song's utilisation, including its duplication, dissemination, and incorporation in media and entertainment merchandise.²⁰ Sony Music sought trademark protection to safeguard against unauthorised use and exploitation of the song's title. This would ensure that any commercial use of the title would require their approval and potentially earn through licencing.

VI. ISSUES

There are two important gaps in this area and needs to be addressed. Firstly, the question of song title protection, due to a lack of clarity in the law. The grey area needs

¹⁶ Cantatore, F. and Crawford-Spencer, E., 2018. *Effective intellectual property management for small to medium businesses and social enterprises: IP branding, licenses, trademarks, copyrights, patents and contractual arrangements*. Brown Walker Press.

¹⁷ Arnerstål, S. ed., 2021. *International Trademark Licensing*. Kluwer Law International BV.

¹⁸ Dratler, J., 2023. *Licensing of intellectual property*. Law Journal Press.

¹⁹ Parr, R., 2012. *Royalty rates for licensing intellectual property*. John Wiley & Sons.

²⁰ Gibson, J., 2006. Risk aversion and rights accretion in intellectual property law. *Yale LJ*, 116, p.882.

to be addressed in such a way that the legislation explicitly mentions about “song title”.

Secondly, with song title protection, if a trademark registration is not utilized for five years, it loses its enforceability rights. The rights should be framed according to the technological development, leaving no space for wrong or misinterpretation of the law.

Indian Trademark law needs to address the above issues, taking the American Music Trademark issues and protections into consideration. It is a well-known fact that American/Korean music is the “hype” now, and to protect the artists and their works, IP plays a vital role. Therefore, Korean and US Trademark laws are evolving with the change in the music popularity, protecting the brand and the band/group.

But, India having such a vibrant history of music, the law has gaps that has yet to be addressed.

The law reveals notable deficiencies in safeguarding song titles, particularly in terms of their distinctiveness²¹, enforcement, and extent of protection. The existing regulatory framework frequently lacks strong safeguards, leaving song titles susceptible to unauthorised utilisation and commercial exploitation.

Song titles frequently face difficulty in meeting this criterion as they are commonly seen as descriptive or general.²² The application of trademark protection for song titles is characterised by a lack of uniformity, as different courts and trademark authorities apply diverse interpretation.²³ The existing legislation does not adequately safeguard song titles against unauthorised utilisation in merchandising and other commercial endeavours, so restricting the extent of protection accessible to copyright holders.²⁴

²¹ Krumper, J., 2022. From Lil Wayne's "Lighter Flick" to Travis Scott's "It's Lit," the Future of Sound Trademark in the Music Industry. *AIPLA QJ*, 50, p.303.

²² Castaldi, C., 2018. To trademark or not to trademark: The case of the creative and cultural industries. *Research Policy*, 47(3), pp.606-616.

²³ Dinwoodie, G.B. and Janis, M.D., 2018. *Trademarks and Unfair Competition: Law and Policy*. Aspen Publishing.

²⁴ Demers, J.T., 2006. *Steal this music: How intellectual property law affects musical creativity*. University of Georgia Press.

VII. WHAT IS ACTUALLY REGISTERED?

A vital aspect of a brand name application is to provide a specimen, which is a demonstration of the mark being used in commerce. These items can include goods such as CDs, digital music, shirts, merchandise, and similar products. The mark on CDs should be clearly visible either on the casing or when examining the CD. The logo should be present on the product label, either on the outside or inside of the shirt or basketball gear. In the case of digital music, the website page should display either the CD or a snapshot of the collection, clearly showing the brand name. The price of the CD should be indicated below it, along with the option to purchase it.

For instance, the popular American singer, Celine Dion, her albums, singles or soundtrack features, etc, are made accessible on Amazon Music²⁵, Apple Music²⁶, Spotify²⁷ etc, showing the photograph of the album showing her stage name, the MRP, multiple options to either purchase or to listen.²⁸

In the music industry, having a registered mark implies that the band/group is/are entitled for the rights of their stage name, the music written or otherwise, or different marks they use. They would have the option to stop the individuals who use marks like name, making it their stage name and sound a novel source-identifier for your crowd.

VIII. CONTEMPORARY ISSUES

According to the Trade Marks Act, 1999, a brand name is defined in a comprehensive and inclusive manner. This means that non-conventional trademarks can be considered as trademarks as long as they meet the requirements of being distinctive and capable of being represented graphically.

²⁵ Celine Dion. <https://music.amazon.com/artists/B000V6FMMO/celine-dion>.

²⁶ Céline Dion on Apple Music. <https://music.apple.com/us/artist/c%C3%A9line-dion/63729>.

²⁷ Céline Dion.

<https://open.spotify.com/artist/4S9EykWxhStSc15wEx8QFK?trackId=11ZulcYY4lowvcQm4oe3VJ>.

²⁸ Rothman, J.E., 2005. Initial interest confusion: standing at the crossroads of trademark law. *Cardozo L. Rev.*, 27, p.105.

These marks are commonly referred to as "non-traditional marks," including Smell Mark, Sound Mark, Taste Mark, Touch Mark, or Colour Mark. They are essential, unparalleled, divergent, and unmistakable.

There are numerous challenges that one must overcome in order to register a non-traditional trademark.²⁹

The registration process for registering for word and device trademarks is straightforward. An insignificant problem arises when a sound trademark needs to be registered. Registering marks without a unique element is quite difficult, although it is possible if valid proof of use of such brand is produced.

A non-conventional trademark is distinctive and lacks utilitarian use, necessitating trademark protection. Unconventional brand names must attract a diverse range of consumers who are particularly connected to the brand's atmosphere.

IX. COMPARITIVE STUDIES

Trademark regulations differ considerably between jurisdictions, affecting the way musicians safeguard their brands on a global scale. An analysis of Indian trademark law in relation to international benchmarks highlights some areas that require enhancement, including the need for more explicit legislation pertaining to non-traditional trademarks and the implementation of more robust enforcement procedures. This comparative analysis helps the identification of optimal methodologies and appropriate legislative revisions.³⁰

A. United Kingdom

It is not compulsory to trademark the artist name, but if there can be a future, it is better to trademark the name, sooner it is registered, it is better for the artist.

But what if there are two artists that have the same name?

²⁹ GML Inc v Mayhew (188 F Supp 2d 891 (MD Tenn 2002))

³⁰ Calboli, I. and Ginsburg, J.C. (eds.) (2020) 'International Aspects of Trademark Protection: Historical Perspectives and Current Developments', in *The Cambridge Handbook of International and Comparative Trademark Law*. Cambridge: Cambridge University Press (Cambridge Law Handbooks), pp. 1-158.

For instance, David Jones. Davy Jones and David Bowie are both stage names, of different people who share the similar name.³¹

So, to answer the question, in the music industry, under the Musician's Union, it does not matter if people with similar names exist, because, the genre and field are going to be different.³²

Looking into the music, the governing bodies would restrict trademarking the song. In other words, elements of the song can be registered, to keep up the essence with merchandise, advertisement etc, but only after the song is released.

Sound cannot always be trademarked. There are new changes in the rules regarding sounds being used in branding and audio logo. It would be registered under goods and services but not as a musician or composer.

Registration would provide ten years of protections and once the time is lapsed, it can always be registered again, with an exception that it is actively known to common people.

To register the trademark, the process can be done online on their official page that is set up for government services and information.

B. United States

Is It Worth It to Register the Music? If a composer-performer, who makes and/or performs music, the answer is probably no. A trademark is not an acceptable form of intellectual property for most unique musical creations. However, it might be useful to trademark the distinctive components of your brand identification, such as your name, the name of your musical group, and the combination of images, typefaces, and colours that make up your unique logo.³³

You can always trademark your brand to protect it and claim your rights in court if someone uses it or something that looks too similar to it. This is important since

³¹ Castaldi, C., 2018. To trademark or not to trademark: The case of the creative and cultural industries. *Research Policy*, 47(3), pp.606-616.

³² Cloonan, M., 2016. *Popular music and the state in the UK: Culture, trade or industry?*. Routledge.

³³ CHASE, C.R., 2007. How the Band Protects Its Brand: The Use of Trademarks to Protect and Promote the Musical Artist. *INTELLECTUAL PROPERTY*, 35.

songwriters, vocalists, and producers depend on brand recognition to have a successful career in the music industry. A registered trademark is granted protection for a period of ten years starting from the date of registration, unless it is subsequently invalidated or cancelled. The duration of protection can be prolonged for an additional decade.

The US Patent and Trademark Office permits the registration of your band's name, logo, and any other associated elements of your brand (USPTO). Trademarks belonging to musicians are typically registered in one or more of the following categories: Class 9, Class 16, Class 25, and Class 41.

C. South Korea

The name of a group is regarded as part of the trademark portfolio. The group's name and logo serve as identifying marks for various goods, and as such, they are registered trademarks in multiple categories of products, such as cosmetics, furniture, telecommunications, education and entertainment software, among others. These registrations are in accordance with the international classification of goods and services in the Republic of Korea. A group's fan base is a highly engaged and influential community both online and in real life. Indeed, it has evolved into a distinct brand with its own legally protected trademark. Certain groups have also sought trademark protection for various manifestations of their connection with fans, such as the term "Aegyo" and words coined by the group or its members. The comprehensive brand strategy also encompasses the registration of trademarks for events and projects organised by the group.

According to data from the South Korean National Assembly, some groups, such as BTS registered more trademarks with the Korean Intellectual Property Office (KIPO) in 2021 than any other pop group, due to their massive rise to international popularity.³⁴

³⁴Ana Clara Ribeiro, Intellectual Property attorney, Curitiba, Brazil, *How BTS is using intellectual property to build its legacy*, WIPO. Available at: https://www.wipo.int/wipo_magazine/en/2022/01/article_0007.html (Accessed: 04 June 2024).

X. FINDINGS

The Indian Trademark Act of 1999 establishes a structure for safeguarding trademarks, encompassing those within the music sector. Nevertheless, it is worth noting that the United States and South Korea have more effective systems in place to safeguard music trademarks, and there are valuable insights to be gained from studying their approaches. The findings of this paper analyses the fundamental elements of trademark rules in the United States and South Korea and proposes enhancements that can be integrated into Indian legislation.

American Approach:

In the United States, trademarks must possess distinctiveness or have obtained additional meaning. This guarantees that only marks that serve as identifiers of the origin of products or services can be legally safeguarded. Indian legislation should provide more explicit criteria for secondary meaning in order to enhance the protection of song titles and other non-conventional trademarks.³⁵

The United States acknowledges a diverse array of unconventional marks, such as sounds and slogans, which are crucial for artists and bands.³⁶ By including specific measures in Indian law to safeguard these marks, the level of protection for musicians can be expanded.

In the American legal framework, there exists a well-defined fair use concept that effectively weighs the rights of trademark owners against the goals of free expression.³⁷ The Indian system would greatly benefit from a more explicit and precise definition of fair use regulations, particularly when it comes to the application of parody and critique in the realm of music.

A. Korean Approach:

³⁵ CHASE, C.R., 2007. How the Band Protects Its Brand: The Use of Trademarks to Protect and Promote the Musical Artist. *INTELLECTUAL PROPERTY*, 35.

³⁶ Lin, M., 2011. Keep on Rockin'in the Free World: Trademark Remedies for Musicians. *J. Pat. & Trademark Off. Soc'y*, 93, p.98.

³⁷ McGeeveran, W., 2008. Rethinking trademark fair use. *Iowa L. Rev.*, 94, p.49.

South Korea combines trademark protection with copyright and design regulations to offer extensive safeguarding for musical compositions.³⁸ India has the potential to improve its legal structure by fostering more coordination between trademark and copyright regulations.

South Korea has strict enforcement of trademark regulations, with significant penalties for any violation.³⁹ Enhancing the efficacy of enforcement mechanisms and escalating penalties in India has the potential to discourage the unauthorised utilisation of trademarks in the music business.

Korean legislation upholds the use of digital rights management (DRM) technologies to safeguard the intellectual property rights of music trademarks in digital formats.⁴⁰ Indian legislation has the capacity to include specific clauses that directly deal with safeguarding music trademarks in the context of digital media and online platforms.

XI. RECOMMENDATIONS

India may improve its trademark rules by studying the methods used by the United States and South Korea to protect music trademarks. This will help safeguard the rights of musicians and the music business. Implementing these suggestions would contribute to the development of a stronger legal framework that promotes creativity and innovation in the music industry.

1. Explicit Recognition of Song Titles as Trademarks
2. Explicit Criteria for Distinctiveness⁴¹
3. Broaden the Scope of Protection⁴²
4. Enhanced Enforcement Mechanisms⁴³

³⁸ Fuhr, M., 2015. *Globalization and popular music in South Korea: Sounding out K-pop*. Routledge.

³⁹ Endeshaw, A., 2005. Intellectual property enforcement in Asia: A reality check. *International Journal of Law and Information Technology*, 13(3), pp.378-412.

⁴⁰ Rosenblatt, B., 2024. THE GLOBAL DIGITAL MUSIC LANDSCAPE.

⁴¹ CHASE, C.R., 2007. How the Band Protects Its Brand: The Use of Trademarks to Protect and Promote the Musical Artist. *INTELLECTUAL PROPERTY*, 35.

⁴² Fuhr, M., 2015. *Globalization and popular music in South Korea: Sounding out K-pop*. Routledge.

⁴³ Lin, M., 2011. Keep on Rockin'in the Free World: Trademark Remedies for Musicians. *J. Pat. & Trademark Off. Soc'y*, 93, p.98.

5. Statutory Licensing and Royalty Frameworks

XII. CONCLUSION

In India, the aspect has changed by dissecting the interpretation which gives another understanding of the Trademarks Act, 1999. The Judiciary should be prepared to manage such issues regarding the entertainment industry and trademark protection in India and furthermore must also provide fitting answers for the issues like, lack of clarity in the laws relating to trademark in the music and film industry.

When naming a music or band, it is important for producers and others in the music industry to carefully consider the test of originality to avoid any potential complications with the title or lyrics. Avoiding this situation is crucial, as it is necessary to find a suitable equilibrium or consensus for artists and music producers who wish to safeguard their work as a trademark.⁴⁴ This is because any novel idea or concept is directly associated with the audience and plays a significant role in branding and advancement.

To address the deficiencies in the protection and enforceability of trademark rights for song titles, it is necessary to make extensive legal modifications. Indian legislation may offer strong protection for song titles by clearly acknowledging them as eligible trademarks, setting precise standards for uniqueness, expanding the range of safeguarded titles, and strengthening measures for enforcement. This would ensure that the legal framework fits well with the practical demands of the music industry.

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⁴⁴ Lin, M., 2011. Keep on Rockin'in the Free World: Trademark Remedies for Musicians. *J. Pat. & Trademark Off. Soc'y*, 93, p.98.

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