

MICKEY MOUSE: CARTOON RIGHTS PROTECTION IN THE US V/S IN INDIA

INTRODUCTION

The infamous and most relished cartoon character whom we grew up watching is coming out in the public domain in the year 2024. This article talks about the whole story behind the coming out of Mickey Mouse and the protection granted by IP Laws in the US. It also deals with the subject of rights given to such cartoon characters from an Indian IP Law perspective. Focus has been brought on rights harbored by Mickey Mouse had he been born in India.

U.S. STORYLINE

Almost a centennial and Disney has been fiercely guarding the rights to the most adored character in the history of cartoons. This is soon going to conclude when the copyright protection granted to the adored character expires in the upcoming year. This move will publicize the use of mickey mouse industrywide without inviting any controversies.

The United States provides copyright protection for a limited period, which lasts up to the author's life plus an additional 70 years. In the case of corporal creations, the bar is set at 95 years from publication. Since Mickey Mouse is a Disney production, its immunity will last for a total period of 95 years. After the termination of the defined period, the creative work will no longer be protected under The Copyright Act of 1976. Such creation will enter the public domain and be open to use by anyone without any legal restriction or formality. So, after the expiry, Disney won't hold the exclusive right to use the iconic character in its curations like a movie, shows, videos, books, or performances. Rather anyone in the public domain will hold akin rights to Disney over Mickey Mouse for producing any creative works mentioned above.

Since the launch of Steamboat Willie in the year 1928, mickey mouse was a triumph in a bat of an eye. Soon enough it was copyrighted by Walt Disney on 16th December 1928 which led to the beginning of a safeguarded era of the legend. Initially, the protection did not extend for 95 years but the time scope of

copyright protection was widened. Steamboat Willie portered one of the initial versions of the character which is inconsistent with the newer or familiar version in today's world. The earlier version was a black-and-white one and diverged in some key features, such as the pointy nose and missing gloves. It is pertinent to note that the mickey mouse who will soon be out in the world is not the one we imagine in a red outfit with a chubby face, rather it is the one with more mouse-like features that appeared in a five-minute short film of Steamboat Willie. Therefore, Disney still has a firm grip on multiple modified and adjusted versions of mickey mouse and will continue to have that till the period of 95 years lapses from the date of publication of the respective mouse. [\[1\]](#)

Protection of cartoon characters involves diversiform laws and does not limit itself to Copyright. More often than not such shielding is strengthened by one more layer of protection which is a trademark. Needless to say, Disney manifestly to solidify the protection of its creation has both copyrighted and trademarked it.

The copyright extended stabilizes the protection of artistic works such as Mickey Mouse from being copied, it can hold back its imagery from entering the public domain without requirements. But trademark protection is granted on the character's name and its likeness. In the given case trademark law will guard the iconic name of Mickey Mouse and its several associated features.

United States trademark law, unlike copyright law, extends the protective arms for an infinite period. As long as Disney wishes to operate and continues to use the name of mickey mouse, not a soul can ride off its right. Trademark protection is awarded for an infinite period which will cover the authentic name of mickey mouse in addition to it Disney owns a trademark to design elements auxiliary to the mouse which include his signature ears. So even if Mickey Mouse will not have a protective blanket of copyright but still the protection granted by way of the trademark will guard Disney's name against any counterfeit.

Therefore, owing to the copyright laws of the US, Steamboat Willie's Mickey Mouse will soon be out in the public domain completing its 95 years of protection. After which Disney will discontinue being the exclusive owner of the

copyright of Mickey Mouse. Although the story does not conclude here, it is of immense importance to note that the trademark protection granted to the legend will continue to protect Disney's honor by not letting any individual or any company use the imagery of Mickey Mouse in a way that might invite a misconception of Disney being associated to the third party. So, even though Disney will lose its copyright protection in the year 2024 but will continue to have Trademark protection.

INDIAN STORYLINE

Now coming to the part where the iconic Mickey Mouse would have been born in India. Protection of such cartoon characters in India will be governed by the Copyright Act, of 1957 and the Trademark Act, of 1957 which will deal with the parts of copyright and trademark.

[Section 13](#) of [The Copyright Act of 1957](#) protects original literary, dramatic, musical, and artistic works, cinematograph films, and sound recordings. [\[2\]](#) For granting protection to Mickey Mouse, it has to be covered under one of the classes of work. The copyright manual on registration of artistic works and incidental issues widens the definition and elaborates the scope of Artistic work. It states “[Copyright shall subsist in any original artistic work comprising of paintings, sculptures, graphics, cartoons, etchings, lithographs, photography, drawings, plans, maps, diagrams, charts, buildings, models of buildings, molds and casts for sculptures.](#)” The definition mentioned in the manual considers cartoon and animation characters as one of the categories under it, therefore it is clear that Mickey Mouse would surely be granted protection under The Copyright Act of 1957.

The dilemma about copyrighting fictional characters has been through extensive discussion in the courts of India throughout the years. One of the key cases in the matter includes Malayala Manorama vs. V T Thomas, 1988[\[3\]](#). The case deals

with the dispute between Mr. Thomas and the publishing house over the cartoon character “Boban and Molly”. Essentially the dispute was about the development of the character, and it ultimately landed by retaining the ownership of the creator. It was one of the earliest cases in which courts hinted at the ownership and protection of cartoon characters under the copyright regime of India.

According to the Copyright Act of 1957 and the verdicts given by the court it is evident that Mickey Mouse would be eligible to be covered under the shield of copyright in India. The Copyright Act of 1957 grants copyright protection for 60 years from the year following the author’s death. In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government, and works of international organizations, the 60 years is counted from the publication date. Therefore, in the case of Mickey Mouse, the total blanket cover of 60 years would have been granted. As mentioned above Steamboat Willie was produced in the year 1928, this will imply that the protection provided to Mickey Mouse had it been produced in India would have only lasted till the year 1988. Even though the Indian copyright structure would have provided immunity to Mickey Mouse, it wouldn’t have lasted even till today and would have been exhausted back in 1988.

The [Trademark Act, of 1999](#) not just protects cartoon characters but also raises a helping hand in protecting characters’ names and likenesses. [Section 2](#) of the act lays down definitions and interpretations under which a mark includes a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging, or combination of colors or any combination thereof. [\[4\]](#) Thus, had Mickey Mouse been born in India not just the logo of its name but the distinct structure, features, or shape and color combination would have been protected. Also, in India, just like in the US the protection of a trademark is granted for a perpetual period. unlike copyright, the trademark protection granted to Mickey Mouse in the US and India is parallel. Such protection is immortal and will survive even after copyright protection has been climaxed.

CONCLUSION

This passive comparison of Mickey Mouse being born in the US and India steers a comparison between laws in both countries concerning cartoon characters. The US has a more generous umbrella of copyright for the protection of such characters, resulting from years of the amendment. Whereas India on the other hand, has limited outstretch, it limits the time of protection to such characters for 60 years. On the other hand, in the case of Trademark law, both countries are on the same page and exercise protection for an infinite period.

Had Mickey Mouse been born in India, the copyright protection would have been extinguished by 1988, unlike in the US, where it stays immortal till 2024. However, the trademark law will continue to guard the legend for the everlasting period and protect it from infringement regardless of which country it would have been born in.

[\[1\]](#) Brooks Barns, The New York Times, Mickey's Copyright Adventure: Early Disney Creation Will Soon Be Public Property, 2022

[\[2\]](#) The Copyright Act, 1957 § 13(2)

[\[3\]](#) V.T. Thomas and Ors. Vs Malayala Manorama Co. Ltd (AIR 1989 Kerala 49)

[\[4\]](#) The Trademark Act, 1999 § 2