

## LEGAL CHALLENGES IN ADAPTATION OF FILMS

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### ABSTRACT

*This article aims to bring to light the legal challenges faced by the entertainment industry in India. It strives to elucidate the significance of laws in the adaptation of films in contemporary society. In today's world, numerous films have been adapted and remade from past works like regional movies, novels, old films, plays etc. Through this exploration, we will endeavor to delve into the legal challenges encountered by the producers of these films. The adaptation of movies possesses unique legal challenges in navigating the intricate web of copyright law and intellectual property rights. This article delves into these complexities by illustrating case studies. The remake of films in the same language or different requires meticulous attention to copyright clearances and licensing agreements to honour the original owners of the rights while infusing contemporary elements. These case studies offer valuable insights into the legal issues inherent in film adaptation, ranging from securing rights and negotiating licenses to navigating the complex web of copyright infringement claims.*

**Keywords:** Copyright Infringement, Case Studies, Licensing Agreements, Intellectual Property Law. Journal of Legal Research and Juridical Sciences

### UNDERSTANDING FILM ADAPTATION AND INTELLECTUAL PROPERTY LAW

Definition of Film Adaptation- A film adaptation is the transfer of a work or story, in whole or in part, to a feature film. Film adaptation is a dynamic and complex practice that involves capturing the essence of a written work while navigating the unique visual and narrative dimensions of the cinematic medium<sup>1</sup>. In recent years there have been many instances of film adaptations in India. An exemplary illustration of film adaptation is evidenced in the transformation of Shakespeare's timeless play, 'Macbeth' into the critically acclaimed Bollywood film 'Maqbool' (2003) directed by Vishal Bharadwaj.

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<sup>1</sup> Suraj Mote, 'The Creative process of Film adaptation: Bridging Literature and Cinema' (Research Gate, July 2023) <<https://www.researchgate.net/publication/372448210> Title The Creative Process of Film Adaptation Bridging Literature and Cinema> accessed 11<sup>th</sup> April 2024

There is a significant difference between a film “adaptation” and a film “remake.” While film adaptations encompass the transformation of a source material, such as a novel, play, or historical event into a cinematic format, film remakes involve the reimagining of an existing film, often with updated visuals, technology, or cultural contexts. While both processes involve reinterpretation and creative license, remakes typically stay faithful to the original film’s storyline, characters, and thematic elements, while adaptations may diverge significantly from the source material to suit the medium of the film.

Intellectual Property Laws are very important concerning film adaptations. Their role is crucial in governing the legal aspects of transforming source materials into cinematic works. Intellectual Property Law encompasses various legal frameworks, including copyright, trademark, and licensing, which are necessary during film adaptation. These were used in the following ways:

➤ Securing Rights and Permission

During the adaptation of Chetan Bhagat’s novel “2 States” into a Bollywood film of the same name, the filmmakers, before production, obtained the rights to adapt the novel into a film, securing permission from the author and negotiating licensing agreements to use the source material so that the case of 2009 is not repeated. In 2009, the film “3 Idiots” was accused of being an unauthorized adaptation of Chetan Bhagat’s best-selling novel “Five Point Someone”. While Bhagat contended that he did not receive due credit for the story, the producers of the film asserted that it was only loosely inspired by the book and they opted not to pursue legal action.<sup>2</sup>

➤ Navigating Copyright Issues

The movie “Raabta” was slapped with a copyright infringement suit by the producers of the Telugu film starring Ram Charan and Kajal Aggarwal “Magadheera”. Later the suit was withdrawn under Order 23 Rule 1 of the CPC as the parties agreed to an out-of-court settlement.<sup>3</sup>

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<sup>2</sup> Manish Jindal, ‘Famous Copyright Infringement Cases in Movies’ (*Bytes Care Blogs*, 12 January 2024) <<https://bytescare.com/blog/famous-copyright-infringement-cases-in-movies>> accessed 9<sup>th</sup> April 2024

<sup>3</sup> Sumeysh Srivastava, ‘From Sholay to Raabta: Copyright in Bollywood’ (*Nyaaya.org*, 4 February 2022) <<https://nyaaya.org/guest-blog/from-sholay-to-raabta-copyright-in-bollywood/>> accessed 9<sup>th</sup> April 2024

➤ Protection of Creative Expression

Intellectual law protects the creative expression of filmmakers and ensures that their original contributions to the adaptation process are safeguarded. The movie "Devdas" directed by Sanjay Leela Bhansali, is an adaptation of the novel of the same name by Sarat Chandra Chattopadhyay. Bhansali's interpretation of the story featured elaborate set designs, costume designs, and choreography which are protected under copyright law as original creative works.

➤ Uncredited Adaptations

Uncredited adaptation refers to the practice of adapting a film or a significant portion of its storyline without obtaining proper permission or giving due credit to the original creators. This practice raises ethical and legal concerns regarding intellectual property rights, copyright infringement, and fair use. Instances of uncredited adaptation can lead to legal disputes, lawsuits, and damage to the reputation of the filmmakers involved. In the case of the Bollywood movie "Knock Out," directed by Mani Shankar, the film faced allegations of uncredited adaptation from the makers of the Hollywood film "Phone Booth." The makers of "Phone Booth" filed a lawsuit against the producers of "Knock Out," alleging copyright infringement and unauthorized adaptation of their original concept. Ultimately, the case was settled out of court, with the producers of "Knock Out" agreeing to pay compensation to the makers of "Phone Booth" and issue a public acknowledgment of the source material.

## **LEGAL PROCEDURES FOR FILM ADAPTATION FROM PLAYS AND BOOKS**

When adapting a film from a play or a book, several legal procedures must be followed to ensure compliance with intellectual property laws and secure the necessary rights. Filmmakers must take care of the following when they want to adapt a film from a play:-

➤ Rights Acquisition

When considering the adaptation of a play, filmmakers typically identify the desired play and determine the ownership of its rights. This process often involves reaching out to the playwright, their estate, or the licensing agency representing the play's rights. Negotiations for the acquisition of adaptation rights are then initiated through an option agreement or licensing

arrangement. During these negotiations, the filmmaker specifies the scope of rights required for the film adaptation, encompassing elements such as the story, characters, dialogue, and other integral components of the play.

➤ Permission from the Estate

In the event of the original author or playwright's demise, filmmakers are required to seek permission from their estate to proceed with the adaptation of the play into a film. This process commonly entails reaching out to the executor or legal representatives of the estate to discuss rights and permissions. It is imperative to ascertain that the estate possesses the authority to grant adaptation rights and to obtain written consent or a formal agreement outlining the terms of the arrangement. The Bollywood movie "Haider," directed by Vishal Bhardwaj, is an adaptation of William Shakespeare's play "Hamlet." Bhardwaj obtained the rights to adapt the play into a film and worked closely with the estate of Shakespeare to ensure legal compliance and artistic integrity.

➤ Chain of Title Verification

To ensure clarity and transferability of rights, filmmakers undertake the task of verifying the chain of title for the play in question. This process entails reviewing past agreements, contracts, or licenses associated with the play's rights to confirm that all requisite permissions have been acquired. Following this, filmmakers compile a comprehensive chain of title reports documenting the legal trajectory of the play.

➤ Copyright Considerations

In assessing the copyright status of the play, filmmakers undertake the task of determining whether it falls within the public domain or remains under copyright protection. This evaluation involves considering factors such as the date of creation and applicable copyright laws. Plays written before a specified date may have entered the public domain, while newer works are typically protected by copyright. In instances where the play is still under copyright, filmmakers must ensure compliance with copyright law by obtaining the requisite permissions and licenses for adaptation, distribution, and public performance. This process involves securing authorization from the copyright holder or their designated representatives, as well as adhering to any stipulated terms and conditions outlined in the licensing agreements. By

fulfilling these legal obligations, filmmakers can proceed with confidence in adapting the play while upholding copyright laws and respecting the rights of the original creator.

➤ Legal Review and Documentation

Filmmakers engage in a thorough review of all agreements, contracts, and legal documents pertinent to the adaptation process, encompassing option agreements, rights assignments, and permissions acquired from the estate or rights holders. This comprehensive assessment aims to verify the clarity and validity of contractual arrangements and ensure adherence to legal requirements. Furthermore, filmmakers seek guidance from legal experts or entertainment attorneys to validate the compliance of their adaptation with intellectual property laws. Through consultations with legal professionals, filmmakers can ascertain that their adaptation respects the rights of the original author and effectively mitigates potential legal risks. This collaborative approach helps filmmakers navigate the intricate legal landscape surrounding adaptations, fostering confidence in the project's legal standing and integrity. The film "Fences," directed by Denzel Washington, is based on August Wilson's Pulitzer Prize-winning play of the same name. Washington secured the adaptation rights from Wilson's estate and collaborated with the playwright's widow to bring the story to the screen while honoring Wilson's legacy.

## **THE ROLE OF ALTERNATIVE DISPUTE RESOLUTION (ADR) IN FILM ADAPTATION CONFLICTS**

When a conflict arises between an author or playwright and a filmmaker regarding the adaptation of a book into a film, Alternative Dispute Resolution (ADR) can serve as an effective mechanism for resolution. ADR encompasses various methods, including arbitration and mediation, which offer advantages over traditional litigation in resolving disputes in a timely, cost-effective, and amicable manner. Alternative dispute processes are normally consensual, meaning that the parties would either need to agree to a contractual ADR provision for future disputes, or voluntarily choose a form of alternative dispute resolution for their existing dispute. ADR can also be mandated by a competent court or established by law or treaty.

Mediation is a confidential negotiation facilitated by a neutral third party. Mediation is typically more efficient in terms of cost and time and has the advantage of being private and confidential. Arbitration is a form of alternative dispute resolution conducted in a private

setting where the parties agree to be bound by the ruling of an arbitrator or a short panel of arbitrators. Unlike mediators, arbitrators do not assist adversarial parties in settling.<sup>4</sup>

In the context of film adaptation conflicts, ADR can offer several benefits:-

- 1) It provides a confidential forum for resolving disputes, allowing parties to maintain privacy and protect sensitive information.
- 2) ADR promotes direct communication and collaboration between the parties, fostering constructive dialogue and reducing hostility.
- 3) ADR offers a more expeditious resolution compared to traditional litigation, saving time and costs associated with protracted court proceedings.
- 4) ADR allows parties to retain greater control over the outcome of the dispute, as they actively participate in the decision-making process and have the opportunity to craft creative solutions tailored to their specific needs and interests.
- 5) Additionally, ADR can help preserve relationships between authors, filmmakers, and other stakeholders, minimizing the potential for reputational damage and future conflicts.

The Bollywood movie “Raazi” featuring Alia Bhatt showcased a prime example of effective ADR in action. During the production of "Raazi," directed by Meghna Gulzar, the filmmakers faced a potential legal dispute with author Harinder Sikka over the rights to his book "Calling Sehmat," on which the film is based. The writer Harinder Sikka accused the director Meghna Gulzar of not honoring the terms of their written agreement.<sup>5</sup> Rather than resorting to litigation, the parties opted for arbitration to resolve the dispute. The arbitration process facilitated discussions and negotiations between the filmmakers and Sikka, ultimately resulting in a settlement agreement that allowed the film to proceed without legal obstacles.

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<sup>4</sup> Judith B. Prowda and Jason Aylesworth, ‘Mediation in Films, Television, Art and Real Life’ (*Sendroff & Baruch*, December 2016) <<https://sendroffbaruch.com/mediation-in-film-television-art-and-real-life/>> accessed 16<sup>th</sup> April 2024

<sup>5</sup> ‘Writer Harinder Sikka launches fresh attack on Raazi director Meghna Gulzar, threatens to reveal texts: ‘Uncle uncle keh ke bewakoof bana gayi’ ( *Indian Express*, 1<sup>st</sup> November 2022) <<https://indianexpress.com/article/entertainment/bollywood/writer-harinder-sikka-launches-fresh-attack-on-raazi-director-meghna-gulzar-8242038/lite/>> accessed 16<sup>th</sup> April 2024

This case highlights how ADR methods such as arbitration, mediation, and negotiations have been instrumental in resolving legal disputes and conflicts in the Bollywood film industry, enabling filmmakers to navigate challenges and ensure the smooth release of their films.

## CONCLUSION

In conclusion, the process of film adaptation presents a myriad of legal challenges that filmmakers must navigate to ensure a smooth and legally compliant production. Through the examination of case studies and exploration of various legal aspects, this research paper has shed light on the complexities inherent in adapting literary works into cinematic form. From securing rights and licensing agreements to addressing copyright infringement claims and resolving disputes through Alternative Dispute Resolution (ADR), filmmakers must navigate a complex legal landscape to bring their creative vision to life.

One of the central legal challenges discussed is copyright, which underpins the entire process of film adaptation. Obtaining the necessary rights and permissions from authors or copyright holders is essential to avoid infringement and potential legal disputes. The case of "2 States" highlights the importance of securing rights and permission while the copyright suit against the makers of "Raabta" shows how crucial copyright is when it comes to adapting films. The case of "Knock Out" highlights the risks associated with uncredited adaptation and the importance of respecting intellectual property rights in film production and in the case of "Devdas", protection of Creative Expressions is proved.

Additionally, the role of Alternative Dispute Resolution (ADR) in resolving conflicts related to film adaptation cannot be overstated. The example of "Raazi" demonstrates how mediation and arbitration can facilitate constructive dialogue and negotiation between parties, leading to mutually satisfactory outcomes without resorting to lengthy court battles.

While film adaptation offers endless opportunities for creative expression and innovation, it also presents significant legal challenges that must be addressed with diligence and care. By understanding and navigating the legal complexities of securing rights, addressing copyright issues, and resolving disputes through ADR, filmmakers can ensure the successful realization of their vision while upholding the integrity of intellectual property rights and fostering a collaborative and respectful creative environment in the film industry.