



3. The film industry basically operates through three associations - the Association of Motion Pictures and T.V. Programme Producers (the First Defendant), Film Makers Combine (the Second Defendant) and the Indian Motion Pictures Producers Association (the Third Defendant). The Plaintiff has relied on a custom or trade practice under which a title is registered with one of the associations of which the registrant is a member. Before registering the title the association verifies with the other associations as to whether the same or deceptively similar title has been registered with another association. In the present case, it is contended by the Plaintiff that the title "THANK YOU" was registered by it with the First Defendant in 2005. On this basis, it has been contended that when an attempt was made by the Fifth Defendant to use the same title, objections were lodged by the Plaintiff with its own association, the First Defendant.

4. No statutory basis has been set up for the trade practice or custom which forms the foundation of the suit. Prima facie, there is no copyright as such in a mere title. The Plaintiff has not come before the Court with a case that it has acquired a goodwill or reputation in the use of the title or secondary rights in association with the title. The Court is not inclined to accede to the prayer for the grant of an ad interim injunction since the balance of convenience must weigh against the grant of an injunction at this stage. The Plaintiff was aware as far back as on 5 May 2010 that the Fifth Defendant was using the title "THANK YOU" which is evident from a letter addressed by the Plaintiff to its own association, the First Defendant. The Court has been informed that the film which

has been produced by the Fifth Defendant is due to premiere on 7 April 2011 and is slated for a worldwide release on 8 April 2011. The learned senior counsel for the Fifth Defendant has stated that an amount of Rs.60 Crores has been spent on the making of the film. The music release took place well over a month and a half ago. In this view of the matter, particularly having regard to the fact that there is prima facie no copyright as such in a title, the Court would not be inclined to grant an ad interim injunction especially at this stage. The Plaintiff has an alternate claim in damages. Ad interim relief is accordingly refused.

The Motion is made returnable on 14 June 2011. Replies, if any, shall be filed on or before 7 June 2011.

(Dr. D.Y. Chandrachud, J.)