

PROTECTION OF DOMAIN NAME AS A TRADEMARK VIS A VIS THE PRACTICE OF CYBERSQUATTING

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Abstract

The advancement of cyberspace, information & technology and the internet has provided a new digital market to companies and traders. Internet is day by day helping them to quickly grow to target customers by means of a brand and trade mark. Trademarks no doubt play a very significant role and therefore the protection of the same is vital. The protection of domain names and cybersquatting is another angle which requires protection. The domain names are essential and they reflect the function of online presence of a company or trader. The problem occurs since domain names are provided on a first come - first serve basis. This becomes a lapsing point that leads to Cybersquatting. It is done with a malafide intention to cheat with the needs of a consumer and also infringes the rights of the proprietor of trademarks. In the global space there are numerous protections which provide valid legal protection to the domain name. However, India has no Law or Rule in particular except the Trademark Law, 1999 which provides protection only by passing off rule. This paper discusses and examines the effectiveness of the applicable laws and judicial pronouncement on the question of the violation by means of cybersquatting and the implications.

Keywords: Cybersquatting, Domain Names, Trade Marks, Intellectual Property Rights, and Legal Protection

INTRODUCTION

The globe has become a universal village because of information technology. The Internet has created an indivisible link between people and businesses. The Web has also had a negative impact on its interests, such as cybersquatting, cyberpiracy, and so on, as the notion of globalization, liberalization, and privatization is exploring its significance in the smallest of business exercises in developed, developing, and least developed countries, the significance of the brand name is developing multi-overlay.¹ Individuals distinguish the product of a specific maker through its brand name or trademark.²

¹ Christopher R. Perry, Trademarks as Commodities: The 'Famous' Roadblock to Applying Trademark Dilution Law in Cyberspace, 32 Conn. Law Rev. 1127 (2000).

² J.T. MCCARTHY, MCCARTHY ON TRADEMARKS AND UNFAIR COMPETITION (4th ed., 2001).

With the Internet being utilized incredibly for the commercial purposes either to publicize or to advance any item, therefore companies want to get register themselves virtually as soon they launch their products. After registering the site name, which are called domain names, the pages may be opened and they can conduct their business in virtual world too. The trader usually keeps the same domain name as their name of the company or firm, so that consumers can easily remember the name and it is coined to represent a company's trademark too.³ In virtual world the domain name is similar to a trademark as in offline world.⁴ Domain names, which have the legal insurance of a trademark, are one of the important areas. It serves to distinguish the products/services given by the enterprise.⁵ This is where the cyber Squatting comes in picture. In order to benefit from the goodwill of someone else's trademark, a domain name is registered, owned, sold and even used by another person.⁶

The U.S. Senate in the year 1999 passed an Act namely *Anti-Cybersquatting Consumer Protection Act* which describes Cyber Squatting as, it occurs when a person registers a domain name of a trademark with an malafide intention of earning benefit from that trademark and registers, traffics in, or uses" the same domain name that contains the trade mark either verbatim or in an diluted manner.⁷

The protection of domain names and cybersquatting is becoming an extremely complicated topic due to rapidly evolving internet world and it needs to be understood minutely. Intellectual Property Rights particularity Trademark laws in India play an important part in protection of the same, but since there is no explanation for the protection of a domain names and from cybersquatting in the abovementioned laws, the only remedy available is to cancellation of offending domain name or transferring of the domain name to the real party.⁸

This paper initiates with a brief introduction to the fundamentals of domain name and trademark, to make the reader familiar with the concept. Further it discusses how domain names are considered as a trademark and the legal protection provided to the domain name in the Indian scenario with the help of different provisions of Law and Judicial pronouncement. At latter, the practice of cybersquatting is discussed in detail and the lacunae present in the existing laws are highlighted.

³ DR. N.S. SREENIVASULU, *INTELLECTUAL PROPERTY RIGHTS* 152 (2nd ed., Regal Publication 2011).

⁴ DR. V.K. AHUJA, *LAW RELATING TO INTELLECTUAL PROPERTY RIGHTS* 278 (2nd ed., Lexisnexis 2017).

⁵ Raghendra Singh Raghuvanshi, *Domain Name Piracy – A Threat to Trademarks*, SSRN (Nov. 4, 2020, 11:00 AM), available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=935097 (last accessed on May 10, 2021).

⁶ Christopher Varas, *Sealing the Cracks : A Proposal to Update the Anti-Cybersquatting Regime to Combat Advertising-Based Cybersquatting*, 3 *Jour. of IPR* 246 (2008).

⁷ *Anticybersquatting Consumer Protection Act (ACPA)*, 15 U.S.C. § 1125(d).

⁸ Akansha Srivastava, *Domain Names and Cybersquatting in IP Laws*, (8) *CNLU LJ* 229 (2018-19).

RUDIMENTS OF DOMAIN NAME

Since the time the internet was made as a correspondence network for the US Defense Department during the 1960s, its job has just extended⁹, specifically after the invention of the World Wide Web. All through this advancement, the domain name framework has assumed a significant part in the ascent of the internet's ubiquity by giving a "human-friendly" technique for web navigation.¹⁰ Domain Name System (DNS) assists clients with finding their way around the web. Each computer on the web has an interesting location simply like a phone number, which is a convoluted series of numbers, between 0 to 255 known as Internet Protocol Address (IP Address). This number is partitioned into a bunch of 4 by full stops and is otherwise called Uniform Resource Locator (URL). For Example – 372.36.338.238, where -

372 – Network Number

.36 and .338 – Sub-Networks Number

.238 - Computer Number

This address being hard to recollect, an arrangement of Domain Names was created known as DNS. The DNS makes utilizing the web simpler by permitting a natural series of letters known as a domain name. Rather than typing the IP Address, the website page can be gotten to by typing a domain name. It is a mental helper that makes the address simpler to recollect. For Example – the IP address of Yahoo India is 203.199.70.100 and its domain name is yahoo.co.in. The browser will give the name to one of the DNS computers when the internet user enters a domain name in a browser. The domain server looks at the IP address in its database, which coordinates the domain name and then restores the browser's IP address. If the browser has the IP address then connecting to the server to which the domain name refers can be used very well. That is the explanation for the exclusivity of domain names. In *People Interactive (India) Pvt. Ltd. v. Vivek Pahwa and Ors.*¹¹ the Bombay High Court held that: "domain name is what could be compared to a physical or terrestrial location. It directs a user towards a particular site on the web where a domain name registrant stores and displays his data and provides his facilities." The Hon'ble Apex Court while pronouncing position of domain names and importance held in *Satyam Infoway Ltd. v. Siffynet Solutions (P) Ltd.*¹² that: "12. The original role of

⁹ *History of the Internet*, UNIZIN (Nov. 5, 2020, 10:00 AM), <https://psu.pb.unizin.org/ist110/chapter/1-4-history-of-the-internet/> (last accessed on Sept. 23, 2021).

¹⁰ M. Lissa Sharrock, *The future of domain name dispute resolution: crafting practical international legal solutions from within the UDRP framework*, GALE ACADEMIC ONEFILE (Nov. 2, 2020, 10:00 AM), available at <https://go.gale.com/ps/anonymous?id=GALE%7CA83671357&sid=googleScholar&v=2.1&it=r&linkaccess=abs&issn=0127086&p=AONE&sw=w> (last accessed on Sept. 25, 2021).

¹¹ (2016) 6 AIR Bom R 275.

¹² (2004) 6 SCC 145.

a domain name was no doubt to provide an address for computers on the internet. But the internet has developed from a mere means of communication to a mode of carrying on commercial activity. With the increase of commercial activity on the internet, a domain name is also used as a business identifier. ... Thus a domain name may pertain to provision of services within the meaning of Section 2(1)(z)."

RUDIMENTS OF TRADEMARK

The Trade Marks Act, 1999 defines the word 'trademark' as "A trademark is an imprint fit for being represented graphically and which is fit for recognizing the merchandise or services of one individual from those of others and may incorporate the shape of products, their packaging, and blend of colours."¹³ Further the act goes on to define that "A mark incorporates a gadget, brand, heading, name, ticket, label, signature, word, letter, numeral, shape of products, bundling or mix of tones, or any such mixes."¹⁴ The enrolled owner of a brand name acquires the option to only utilize the mark regarding his merchandise and enterprises that assist to recognize his items from those of his competitors.

Trademark laws assist organizations with promoting their items and administrations by empowering buyers to relate the items they appreciate with a specific mark. The trademark capacities as an assurance to shoppers that they will keep on getting constancy and value in the items they buy.¹⁵ The fast expansion in online business and promoting incited a rising demand for domain names that are connected to specific organizations, products, or services.¹⁶ The crawl to save domain names has caused a few questions concerning trademark encroachment. For example, a couple of businesses who wanted to use their brand name as a domain name noticed it was just taken. The holder has the option of receiving trademark rights when selecting a domain name so that others do not use the same. However, trademark rights in business domain names are more restricted than trademark rights in different areas.

USING DOMAIN NAME AS A TRADEMARK

Once the essential conditions for regeistering a trademark satisfisfied, domain names can be allotted as trademark. Any unique domain name suited to be known and distinguishes its good and services from other domain names and serve as a source of the solid identifier of the goods and services concerned¹⁷, may therefore be registered as a trademark.

¹³ Indian Trademarks Act, No. 47 of 1999, India Code (1999), § 2(zb) [hereinafter Trademarks Act]

¹⁴ Trademarks Act, *supra* note § 2(m).

¹⁵ Pragya Mishra, Cybersquatting and Domain name disputes under Trade Mark Law, PL 79 (July, 2013) .

¹⁶ *Supra* note 4.

¹⁷ GRAHAM J.H. SMITH, INTERNET LAW & REGULATIONS 76-77 (2nd ed., Sweet & Maxwell, London, 1999).

The problem of whether domain names can be defined as intellectual property as a trademark was placed under the Apex Court's constant gaze in *Satyam Infoway Ltd. v. Siffynet Solutions*.¹⁸ It was held that *"the internet has advanced from a simple method of communication to a method of carrying on business activity. With the expansion of business action on the web, a domain name is likewise utilized as a business identifier. In the same lines, the domain name not just acknowledges a location for internet communication however furthermore identifies the specific internet website and identifies explicit organizations or services of various organizations. Subsequently, a domain name as a location must be unconventional and exceptional and where a domain name is used concerning a business, the advantage of keeping up an exclusive identity gets important. Domain names are increasingly relevant and the potential for conflict is high as ever-increasing business enterprises are sharing or promoting their essence on the web."*

In another opinion of the Calcutta High Court in *Rajat Agarwal v. Spartan Online*¹⁹, referring to the *Satyam* case held that a domain name is picked as *"an instrument of commercial enterprise not only because it facilitates the ability of consumers to navigate the Internet to find websites they are looking for, but also at the same time, serves to identify and distinguish the business itself, or its goods or services, and to specify its corresponding Internet location."* The Court has stated that a domain name should be inherently unorthodox and special to the business, as it is important to preserve a selective existence. However, in the instant case, court did not restrict the defendants to using the domain *spartanpoker.com*, unlike the *Satyam* case, since the plaintiffs only registered their domain name and did not expend on creating the website page, the trade dress, and related registration fees.

The courts in number of judgements has time and again held that a domain name recognizes a site as a foundation of inception of merchandise or services in a similar way as a trademark does.

In the renowned *Yahoo! Inc Case*²⁰, the US based Yahoo Inc. sued the defendant in India who enlisted a misleadingly comparable domain name *Yahooindia.com* and utilized [*YahooIndia*] as its trademark. The getup and substance of the site *Yahoo India.com* was like the *Yahoo Inc.* site which established passing off like as if it had a relationship with *Yahoo Inc.* The litigant likewise replicated the html code of *Yahoo Inc's.* website pages. The High Court of Delhi delivered an injunction order limiting the litigant from utilizing 'Yahoo' as a trademark or domain name and utilizing the code substance that encroached *Yahoo Inc's* copyrights in the literary substance on its site. In this issue, the Courts held that *"a domain name is qualified for a similar assurance as a trademark and held that the*

¹⁸ *Supra* note 12.

¹⁹ *Rajat Agarwal v. Spartan Online*, AIR 2017 (NOC 846) 287.

²⁰ *Yahoo Inc. v. Akash Arora*, (1999) PTC 201.

trademark law applies to the virtual world also.” The Court additionally held that the word ‘Yahoo’ has procured uniqueness and is straightforwardly connected with the offended party.

Further, in *Tata Sons Ltd. v. Monu Kosuri and others*²¹, the litigant enrolled a misleadingly comparable domain name enclosing the word ‘Tata’ in it. The court held that “*the domain name is not simply a web address and should be protected like a trademark.*” Henceforth, the court-ordered ad interim injunction for the offended party.

In another case, *Acqua Minerals Ltd. v. Pramod Borse and others*²², the respondent intentionally registered ‘Bisleri.com’ as its domain name. At the point when the offended parties who were the enlisted proprietor of the marks ‘Bisleri’ moved a complaint, the court passed an injunction order laying that a domain name serves a similar capacity as a trademark and consequently requires a like degree of assurance as conceded to a trademark. Also, in *Dr. Reddy’s Laboratories Ltd. v. Monu Kosuri and others*²³, the court held that the respondent’s domain name ‘Dr. Reddy’s Lab.com’ was misleadingly like the offended parties’ trademark ‘Dr. Reddy’s’.

In *Mr. Arun Jaitley v. Network Solutions Private Ltd*²⁴, the Delhi High Court commanded the opposite party no. 3, to permanently restrain from utilizing, advancing, publicizing or holding or parting with the domain name in particular ‘arunjaitley.com’ and controlled from utilizing the imprint in any of the augmentations of the domain name on the internet. The defendant no. 3 was coordinated to move the said domain name to the offended party with immediate impact. The concerned overseeing body under the ICANN Rules was directed to obstruct the said domain name and quickly move the equivalent to the offended party.

RUDIMENTS OF CYBERSQUATTING

Cybersquatting is a type of conjecture where a domain name is enlisted to sell the equivalent. It is a pure infringement of trade mark laws. Any person or business who is not the owner of the trademark and he registers the trademark as a domain is a cybersquatter and by registering the same, breach of the trademark becomes reasonably easily.²⁵ This is can also be termed as dilution of trademarks. The sign of cybersquatters is that they don’t utilize the names of a business item or administration offering that may confound or hoodwink clients or sabotage the peculiarity of a mark. Consequently, the main standards for deciding trademark infringement, the probability of disarray, is totally missing in the case of cybersquatting, as nobody can be confounded by a blank screen. Cyber squatters never

²¹ Tata Sons Ltd. v. Monu Kosuri and others, 2001 PTC 432.

²² Acqua Minerals Ltd. v. Pramod Borse and others, 2001 PTC 619.

²³ Dr. Reddy’s Laboratories Ltd. v. Monu Kosuri and others, 2001 PTC 859.

²⁴ Mr. Arun Jaitley v. Network Solutions Private Ltd, 2011 (47) PTC 1 (Del).

²⁵ ROBERT A. BADGLEY, DOMAIN NAME DISPUTES 4 (1st ed., Aspen Law & Business, New York, 2002).

influence the fact that whose name they are controlling. The problem of cybersquatting is more intensive than it seems to be, since the individual person may be registered with any random name in the internet domain, including any combination of words, letters, numbers, and symbols.²⁶ If anyone tries to re-register a newly listed domain name, they will not be allowed to get registered because domain names are given on first come first serve basis.²⁷

Despite the fact that cybersquatting may appear to be an irritation from a social perspective, we should inspect whether it would be unlawful underneath Indian law or fall inside the realm of safeguard conceded by the Trade and Merchandise Marks Act, 1958²⁸ (TMM). As mentioned above, trademarks are names and signs used by a company to identify the goods and businesses in an industry. It is remarkably clear from the Preamble of the TMM, that, it is adopted for convincing insurance of marks and a forecast for the use of fake marks on the goods.²⁹ Fundamentally, the Act seeks to prevent the misunderstanding between consumers and the sources of a particular product or service by prohibiting a subsequent contending company from using a comparable or equal object or mark as the other competitor.

CYBERSQUATTING IN INDIA

In recent years, there have been several incidents of cybersquatting in India. The *Rediff Communication Ltd. v. Cyberbooth*³⁰ was one of the earliest judgements on cybersquatting in India. In the instant case defendant had owned the 'radiff.com' domain name, which was identical to 'rediff.com' of plaintiff's. The Court while considering this case that a domain name's ownership and value of it is the company and it a an assest further said that Internet domain names are important and can be a valued commodity and that domain names are more important than an internet address and are entitled for trade mark protection.

The cybersquatting problems in India are largely regulated by the passing-off principles as there are no Laws or Statutes for its prevention in country. This is why the theory of passing off is primarily enforced by the courts in such domain name dispute cases. Same was the view of Court in *Yahoo Inc. v. Akash Arora*³¹ case.

²⁶ The European Commission Legal Advisory Board, LAB News (Sept. 1997).

²⁷ Adam Dunn, The Relationship between Domain Names and Trademark Law: Short Thesis, CENTRAL EUROPEAN UNIVERSITY, HUNGARY (2014), available at http://www.etd.ceu.hu/2014/dunn_adam.pdf (last accessed on Sept. 12, 2020).

²⁸ Trade and Merchandise Marks Act, No. 43 OF 1958, India Code.

²⁹ *Id*, Preamble.

³⁰ AIR 2000 Bom 27.

³¹ 1999 (78) DLT 285.

The Delhi High Court while issuing an ex parte ad interim order in *Titan Industries Ltd. v. Tanishq Corporation and Ors.*³² which restricts the accused from using the “Tanishq” name on the internet or any other action that may lead to passing-off of the businesses and merchandise of the Tanishq Corporation and products of the plaintiff. Again in *Tata Sons Ltd. v. Manu Kosuri*³³ the defendant misappropriated the trademark ‘TATA’ which was of the complainant Tata Sons Ltd. Defendant by added a well-known and popular TATA brand name in their series of domain names. The Court while discussing the the cases such as *Rediff Communication Ltd.* and *Yahoo Inc.*, said that domain names are very important property of a company and since the same was not mere a interter address therefore it was entitled for protection as a trademark.³⁴

In *SBI Cards and Payment Services (P) Ltd. v. Domain Active Pty. Ltd.*,³⁵ the Credit Card corporation of State Bank of India (SBI) has won the cybersquatting case against an Australian company namely Domain Active Pty Limited. The judgement was handed down by the Administrative Tribunal established by the World Intellectual Property Organization (WIPO), Geneva. In the instant case, the SBI offers a variety of credit cards and some city affinity cards. The issue arose when the defendant acquired the domain “www.sbicards.com”. Hence the plaintiff lodged a complaint before WIPO. The Administrative Panel found that, the website of the defendant may have drawn interest of people, since the similar name affiliation to the plaintiff’s goods and services. It was also found that the intention was to create confusion with the plaintiff’s products and services lastly it was said that the defendant to be responsible in badfaith for registering with similar domain name.

Another lawsuit was registered with the WIPO over a controversy over the domain name “www.maruti.org”,. It was brought in *Maruti Udyog Ltd. v. Maruti InfoTech Ltd.*³⁶. Maruti Udyog, the popular car maker and owner of the “Maruti” trademark, has proven that his trademark has association with its goods and is believed to have been connected with its domain name. For monetary consideration, the respondent wanted to sell the domain name to the plaintiff. Accordingly, the panel constituted held that the respondent wanted to benefit from the recognition of the plaintiff’s trademark as a domain name and requested that it be transferred to the plaintiff.

The issue of cybersquatting and law related to it is not yet formulated yet, hence much can be said on both sides. It tends to have contended for the cybersquatters that the domain name enrollment

³² WIPO Case No. D2000-1793 (March 14, 2001)

³³ (2001) 90 DLT 659 : 2001 PTC 432.

³⁴ *Id.*

³⁵ (2005) 31 PTC 455 (WIPO).

³⁶ WIPO Case No. D2000-0520.

framework itself is defective.³⁷ At the point when one is genuinely qualified to register a domain name, for what reason should he be punished on the off chance that he tries to trade it. Bringing in pain-free income in itself isn't wrongdoing. From the legitimate point, it can be very well competed that a cybersquatter doesn't transact in any merchandise, and henceforth, his exercises are not prone to create turmoil in the psyches of people in general.³⁸ Such being the situation, it is hard to put cybersquatting inside the domain of passing off, take off alone trademark infringement. The worldwide experience has indicated that even the US has attempted to wad the legal gap by passing the Trademark Cyber Piracy Prevention Act³⁹.

LEGAL PROTECTION OF DOMAIN NAMES IN INDIA

As already discussed in India there is no particular Law for the safety of domain names. However, the equivalent can be ensured by the standards of the Trademark Act, 1999.⁴⁰ Under this Act both criminal and civil remedies are available against the rule violating the passing off a trademark that is too concurrently.

Criminal Remedies

Section 103⁴¹ and 104⁴² of the Trade Marks Act, 1999 give out the penalty for applying for bogus trademarks, trade descriptions, and so forth. It says that, only in cases where the person violating the law establishes that he acted in bonafide manner or without purpose to deceive, be culpable for a period of imprisonment which:

- “Shall not be less than six months but which may exceed to three years, and,
- With fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees.”

Further, the offender can also be brought under the offence of mischief under Section 425⁴³ of the Indian Penal Code, 1960, and punished for the same under Section 426⁴⁴ of the above mentioned Act. If an infringement / passing off of a trademark happens, a criminal case may also be lodged. It would

³⁷ Johnson v. Sosebee, 397 F.Supp. 2d 706,710 n. 1(D.S.C. 2005).

³⁸ Sporty 's Farm v. Sportsman's Market 202 F.3d 489 (2nd Cir. 2000).

³⁹ Sunando Mukherjee, Passing Off in Internet Domain Names- A legal Analysis, Jour. IPR (9) 136-147 (2004).

⁴⁰ Trademark Act, *supra* note 13.

⁴¹ Trademark Act, § 103: *Penalty for applying false trade marks, trade descriptions, etc.*

⁴² Trademark Act, § 104: *Penalty for selling goods or providing services to which false trade mark or false trade description is applied.*

⁴³ Indian Penal Code, No. 45 of 1860, India Code (1860), § 425: *Mischief.*

⁴⁴ *Id.*, § 426: *Punishment for Mischief.*

be pleasing to take into account that the offenses under the Trade Marks Act, 1999 are cognizable and thus the police may file an FIR and arraign the wrongdoers directly. In every single such case, the option is to record a criminal complaint must be documented in the court of Chief Judicial/Chief Metropolitan Magistrate of the capable jurisdiction, on which the court after satisfying itself, would give a General Search and Seizure Warrant, for directing raid, search and capture of the encroaching material from any premises where encroaching material is fabricated, packed, supplied, encroaching names are printed.

In elective, the concerned court can likewise give a direction to Police to do inquiry, research, and prosecute the wrongdoers. Under the Trade Marks Act, 1999, the offenses are culpable with 3 years of detainment or fine. It might please additionally be noticed that however under law, the police is under a duty to register an FIR, investigate and indict the guilty parties, yet by and large they are troubled about starting activity themselves, because of particular nature of the Trade Marks Act, 1999, and absence of information on the law and its pertinence, it is fitting to record a criminal complaint in the court, which after satisfying itself according to law, may give General Search and Seizure warrants, and explore itself or through police.

Civil Remedies

Domain names in India might be conceded assurance as a trademark or administration mark under the arrangements of Trademarks Act, 1999, given that the domain name fulfills all requirements to be appropriately registered under the Act. Additionally, Domain names as marks are licenced and secured worldwide, especially by an exclusive entity, which is Internet Corporation for Assigned Names and Numbers (ICANN), along with national and global rights under the direct national trademark legislation and various trademark treaties around worldwide. In India under the Trademarks Act, 1999 once a domain name is registered, all legal privileges and those of specialists who are also beneficiary of the ownership of registered trademarks or service marks will be available for the requested owner of the domain name in India. This also has the opportunity to sue for violation or passing off.

The High Court of Bombay in *People Interactive (India) Pvt. Ltd. v. Vivek Pahwa and Ors.*⁴⁵, came across a case of passing off where it was alleged that 'shaadi.com' was a trademark of the plaintiff and defendant by registering the domain 'secondshaadi.com' has alleged his intellectual property rights. The court was in the favour of defendant when it held that the word 'Shadi' to be a non-exclusive and normal expression. Furthermore, it was said that to gain an auxiliary significance the term should be

⁴⁵ *People Interactive (India) Pvt. Ltd. v. Vivek Pahwa and Ors.*, (2016) 6 AIR Bom R 275.

beyond its unique meaning, and in the public mind the mark is referred to the specific holder of the mark. The court found that this was not the case, since the online destination was the main importance. Further in 2018, in the Delhi High Court as of late denied the Plaintiffs, owners, and proprietors of the site bookmyshow.com, an interim injunction against the Defendant's utilization of the domain "bookmyshow.com". The court, taking into account that prefix "bookmy" of the Plaintiff's domain name 'bookmyshow' was expressive, not a subjective coupling of words and the Plaintiff's inability to demonstrate that "bookmy" has obtained peculiarity or secondary importance, excused the application for interim injunction recorded by the Plaintiffs.

In an another case before the High Court of Delhi in *Bigtree Entertainment v. Brain Seed Sportainment*⁴⁶, which denied to the claimants, administrators, and owners of 'bookmyshow.com' websites a interim injunction order against the defendant's use of the 'bookmysports.com' domain. Court has again held that given the prefix 'bookmy' of the plaintiff was descriptive and general, and since they had failed to prove that 'bookmy' had acquired special or secondary significance therefore an injunction order was denied.

Taking everything into account according to India, one must be logical and it is to be understood that the virtual universe of the internet requires a law for itself. Bringing cyber piracy inside the structure of the Trade Marks Act would bring about giving trademark holders more broad security than what the present today. The improvement may not be solid in light of the fact that, even though the aim of the Court might be to dishearten cybersquatting and trademark infringement in the cyberworld to check a social fiendishness, it might bring about perilous precedents, where even certified registrants of domain names might be unfavorably influenced.⁴⁷ The basic need of great importance is consequently for the legislation is to find the specialized turns of events and pass a different law restricting cybersquatting or some other malafide enlistment of a domain name. Additionally, it ought to never be overlooked that simply by the enrollment of a domain name it doesn't present any privilege on such registrant.

CONCLUSION

From the above discussion, it's bounteously definite that domain names work as an significant component of trade and every web business. The protection of the domain names is especially important for those organisations which operate on the online stage alone. As the web is quickly

⁴⁶ *Bigtree Entertainment v. Brain Seed Sportainment*, 2018 (73) PTC 115(Del).

⁴⁷ *Morrison & Foerster v. Wick*, 94 F. Supp. 2d 1125.

turning into a monstrously mainstream and exceptionally favored stage for the faster stream of business-related data of all kinds, by individuals and substances in each single financial sector, it is vital that the unique domain names such as trademarks and service marks be protected appropriately. There is a significant function to be played by the Trade Mark Law in India to give uniform safety to domain names as that of the trademark. Even though the recognition of encroachment of Intellectual Property Rights on the internet is simple, yet the powerful law implementation represents an examination. There is a need to form awareness on Intellectual Property Rights through various exercises such as seminars, conferences, workshops, and so on. There should be an Intellectual Property Facilitation Center at each regional level. Industry Associations, for example, ASSOCHAM, CII, and NASSCOM could assume significant function in spreading mindfulness on the advantages of embracing a powerful IP assurance methodology for all e-organizations. The other instruments that can be considered to enroll the domain names are to offer forces to enlistment centers of domain names to investigate the items with which domain names are registered, and to direct/control their utilization through periodical checks. The domain name disagreement between the parties inside the nation can adequately be dealt with by the local courts if the national laws are revised appropriately to determine Domain Name Dispute.