



Research Paper

The Crime of Cyber Squatting: A Case Study of Legal Precedents

Prof. Dr.V.K.Shrama¹

¹ Dean, School OF Legal Studies Sangam University Bhilwara

Abstract

The rapid growth of the internet in the era of globalization has revolutionized communication, commerce, and access to information. It has connected people across the world, turning the globe into a virtual community. The internet, which began as a technological innovation, has now become an essential part of human life and business activities. However, along with its advantages, it has also opened the door to new forms of criminal activities known as cyber crimes. These crimes are committed through or against computer networks and pose serious threats to individuals, organizations, and national security. The present study focuses on understanding the evolution of the internet, its role in shaping the modern digital world, and the emergence of cyber crimes as a major legal and social concern. It also highlights the urgent need for effective laws and preventive measures to ensure safety and trust in cyberspace.

Key Words: Cyber ,Internet. Crime .Compute

I. INTRODUCTION

In the era of globalization, the use of internet has increased all over the globe and transformed the world into global village. One of the most fascinating inventions of human mind in 21st century is internet. Internet has established an inseparable link between man and business. Internet is a family of computers that are interconnected giving rise to a web. The information stored in the computers connected through internet can be transferred from one computer to another.

When the World Wide Web was first invented in the 1950's and developed in the 1990's their took place a transformation of the internet from just a technological infrastructure into a popular networking site linking people. It became a medium through which people could exchange and share ideas, information, goods and services. Today internet has become a revolutionary tool and has become the harbinger of information age. It is inherently participative medium where anyone can publish information or create new services. To a large extent, what makes the internet a geographically independent medium is its communication technology, which enables any user with a computer and a simple phone line to access information posted on internet servers, regardless of geographical location of either the user or the server.²

With the advent of the internet the crimes are also on rise in the virtual world and such kind of crimes are called as cyber crimes. Cyber crime means any criminal activity in which computer or network is the source, tool or target or place of crime. Therefore it can be said that internet though has lot of advantages has got many disadvantages also which would be discussed by me in this paper later.

Internet is used today by businessmen for promoting, advertising and selling their products. Principle of infringement is being applied in the cyber space also.³ One of the primary areas is domain name which has been given legal protection and which is equal to trademarks. The internet is a global environment and as such, need to exercise greater care when using signs or trademarks that could, potentially, infringe trademarks registered in other jurisdictions. Courts have generally agreed that domain names that mirror corporate names or marks may be valuable corporate assets because they facilitate communication with the customers.⁴

CONCEPTUAL ANALYSIS OF DOMAIN NAME

¹ Dean :School OF Legal Studies Sangam University Bhilwara

² Zohar Efroni, "The Anticybersquatting Consumer Protection Act and the Uniform Dispute Resolution Policy: New Opportunities For International Forum Shopping?", 26 *Columbia Journal of Law & Arts*, pp. 335-369, 2002-2003

³ http://papers.ssrn.com/sol3/papers.cfm?abstract_id=935097 (24 June 2012)

⁴ *MTV Networks, Inc. v. Curry*, 867 F. Supp. 202, 203-4 (S.D.N.Y. 1994)

The domain name in the online world is similar to trademarks in the offline world and it identifies the goods and services provided by the company. Both are valuable asset of any business. They identify itself with the goodwill and reputation of the business. So the protection from infringement will result in protection of goodwill and reputation.

Domain Name is the address of a particular site on the internet, not much different from a telephone number. To access a website we need web address. The web address is the domain name. It can be taken to be the unique name that is the address of a website or it's URL (Uniform Resource locator) that describes the location of a site.⁵ Examples of a domain name can be www.google.com or www.gmail.com where google and gmail are the domain names.

Domain name is the linguistic counterpart of what we call on Internet Protocol (IP) address. Every computer has an address, which is akin to a telephone number. If someone needs to access a website, he has to type out the IP number. But since it is very difficult for one to remember a complex number such as 202.162.227.12, an evolved under which a name is mapped to the concerned number or IP address. Thus, today, instead of typing 202.162.227.12 one merely has to type www.tata.com.⁶

A domain name is easy to remember and use, and is chosen 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 online internet location.⁷

As the concept of globalization, liberalization and privatization is finding its way in the minutest of the commercial activities in developed, developing, and least developed countries, the importance of intellectual property rights and especially trademark is grew multi-fold.

One cannot deny the value, a businessman attaches to its trademark. People identify the product of a particular manufacturer through its trademark. The main functions of trademark are identification, source, quality and advertising. This concept holds true in the online world also. Trademark is the conveyor of image, quality and the value of the product.

A trademark is protected by the laws of a country where such trademark may be registered that means that the use of a trademark is generally geographically limited. Consequently, a trademark may have multiple registrations in many countries throughout the world. On the other hand, since the internet allows for access without any geographical limitation, a domain name is potentially accessible irrespective of the geographical location of the consumers. The outcome of this potential for universal connectivity is not only that a domain name would require worldwide exclusivity but also that national laws might be inadequate to effectively protect a domain name.⁸

The authority to allocate domain names was Internet Assigned Number Authority (IANA) which was the part of the US Government. However in 1997, the US Government directed the Secretary of the Department of Commerce to privatize domain name system in a manner that increased international competition and facilitated international participation in its management. The Department of Commerce in 1998 created International Cooperation for Assigned Name and Numbers (ICANN⁹), a private non profit organization to act as coordination body over the internet.¹⁰ The objective of ICANN was to allocate space on the web to the Internet Protocol (IP) addresses, development of generic top level domains (gTLD) and country code development management (ccTLD)¹¹ and to sub- contract for allocation of domain names for individual countries.¹² Under the ICANN their took place the birth of Uniform Domain Name Dispute Resolution Policy(UDRP) functions as a defacto internationally binding and compulsory legal instrument which offers an expedited administration proceeding for trademark holders to contest abusive registration of domain names.

The Top Level Domains are the suffix that is after the domain names like com, edu, org etc. There are two types of Top Level Domains:-

- i. Generic Top Level Domains
- ii. Geographic Top Level Domains

The current generic TLDs (gTLDs) are: -

⁵ David Bainbridge, *Intellectual Property*, Fifth Edition, Pearson Education, 2003, Glossary p. XIV.

⁶ Shamnad Basheer, "Trademark Issues on the Internet: Domain Name Dispute Resolution", S.K. Verma and Raman Mittal(eds), *Legal Dimensions of Cyberspace*, Indian Law institute, New Delhi, 2004, pp.153-167, at p. 153.

⁷ Rodney D. Ryder, *Intellectual Property and the Internet*, LexisNexis, 2002, pp. 96-97.

⁸ <http://www.ipfrontline.com/depts/article.asp?id=8507&deptid=6> (23 June 2012)

⁹ 24th October 1999.

¹⁰ Akshay K. Bose and Sidharta and Mohapatra, Domain names Disputes and Cyber squatting: can arbitration suffice as a way of resolution, available at <http://www.indlawnews.com/Newsdisplay.aspx?uid=ef8f3e45-31ad-48d3-9855-fdc8e4b5dbf7&type=1> (1 July 2012)

¹¹ www.intelproplaw.com/Articles/cgi/download.cgi?v=1146549389-23k (1 July 2012)

¹² Paul Todd, *E-Commerce Law*, Cavendish Publishing Ltd, Oxon, 2005, p. 26.

.com	For commercial use
.edu	For educational institutions
.org	For miscellaneous and non-profit organisations
.net	For network providers
.int	For international treaty and organisations
.mil	For defence
.aero	For members of aviation community
.biz	It is only intended for domain names that are or will be used primarily for a 'bona fide' business or commercial purpose
.coop	It is sponsored gTLD for cooperatives
.info	It is open without restrictions
.museum	For museums
.gov	For government organisation

Geographical Top Level domains: - Geographical TLDs end with a two letter code, which is assigned to each country. It is referred as country code TLD (ccTLD) and corresponds to country, territory, or other geographic location. Following are the examples: -

.in	India
.uk	United kingdom
.fr	France
.au	Australia
.us	USA

Each country has an agency that handles registration of geographic domain names. These agencies are also known as NICs (Network Information Centres). Each country has its own registration policy and domain names ending with a geographic TLD are issued only to persons operating within said country.

DOMAIN NAME DISPUTES

We use the term domain name disputes to mean disputes relating to the fact of someone else's registration and/or use of an internet domain name. The dispute usually centres on a claim that the domain name registrant has registered / used the domain name in a way which specifically targets the trademark owner in an inappropriate way or which infringes the complainant's intellectual property rights.¹³

In the early days of the internet, the practice of registering a domain name corresponding to a famous name, usually that of a company and usually with the aim of selling the domain name to that company, became known as Cyber Squatting. Of course cyber squatting derives from "squatting", occupying a property without permission. Generally speaking 'Squatting' means occupying an abandoned or unoccupied space or building, usually residential, that the squatter does not own, rent or otherwise have permission to use.

Nowadays, the term cyber squatting is used to mean many different things but most often it denotes bad faith registration / use of a domain name designed to target a trademark holder (not necessarily a registered trademark owner) in some way. The greatest perplexity is that most of the cyber squatters never activate their web sites rather they activate their web site with the intention that the real owner of that name would give them huge sum of money for the name. Or for that matter the alleged cyber squatter may not intend or attempt to sell the domain name to anyone but simply to post paid advertising links on a website at the domain name in order to profit from visitors looking for the trademark owner or its business. Or maybe the registrant is a competitor seeking to divert customers to a business competing with the trademark owner.

LEGAL POSITION OF DOMAIN NAME

The rules controlling cybersquatting activities today are not always clear because the big picture is still vague. The entire task of creating a comprehensive scheme of internet governance, rulemaking, and authority is, by and large, only in its preliminary stages.

There is a US federal law known as the *Anti-Cyber squatting Consumer Protection Act*, 1999 fully effective on November 29, 1999 which defines cyber squatting as registering, trafficking in, or using a domain name with bad faith intent to profit from the goodwill of a trademark belonging to someone else. the Uniform Dispute Resolution Policy (UDRP), adopted by the Internet Corporation for Assigned Names and Numbers (ICANN) (fully effective on January 3, 2000) lays down various rules for assigning of the domain names.

What is important is to work out whether the registrant's conduct comes within the criteria for recovery of the domain name under any applicable domain name dispute arbitration procedure or whether it involves trademark

¹³ <http://www.adlexsolicitors.co.uk/domain-dispute/faqs/domain-name-disputes.htm> (29 June 2012)

infringement, passing off or some other breach of intellectual property rights which can be enforced by legal proceedings.¹⁴

Like always our legal system is silent on this matter too, there is no provision in the current or proposed *Information Technology Act, 2000* to punish cyber-squatters, at best, the domain can be taken back. Though there is no legal compensation under the IT Act, .in registry has taken proactive steps to grant compensation to victim companies to deter squatters from further stealing domains. Most squatters however operate under guise of obscure names.

As regards Indian law a case could be filed with the .in registry handled by National Internet Exchange of India (NiXI) who brings the matter to fast track dispute resolution process whereby decisions are transferred within 30 days of filling a complaint.

As already pointed out there is no specific law/statute for the protection of domain names though protection can be given to them under the Trade Marks Act, 1999. As regards the protection of domain names under the Trade Marks Act, 1999 the provision is given under Section 27(2) which states as “Nothing in this Act shall be deemed to affect rights of action against any person for passing off goods or services as the goods of another person or as services provided by another person, or the remedies in respect thereof”.

CASE LAWS ANALYSIS

As discussed above it can be summarized that internet has a very important role to play in today's globalized world. So the concept of domain names hold lot of weightage in this world. Every company seeking to expand its business through internet tries to register its trademark as domain name. The importance of domain names has been emphasized in *Satyam Infoway Ltd v. Sifynet Solutions Ltd*¹⁵ by the Supreme Court in the following words:

“The original role of 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 carrying on commercial activity. With the increase of commercial activity on the internet, a domain name is also used as a business identifier. Therefore, the domain name not only serves as an address for internet communication but also identifies the specific internet site. In the commercial field, each domain name owner provides information/ services which are associated with such domain name.”

Facts of the case were that appellant had registered a number of domain names like *www.sifynet.com*, *www.sifymall.com*, *www.sifyrealestate.com*. Respondent had registered domain names *www.sifynet.net*, *www.sifynet.com*, which was objected by the appellant in the civil court on the ground of passing off. The court granted injunction that was stayed by the High Court. In the instant appeal, it was contended by the appellant that the word “sify” is coined word which was coined by using elements of its corporate name, “Satyam Infoway”. A wide reputation and goodwill is associated with this name.

In *Cardservice International Inc v. McGee*¹⁶, it was held that the domain name serves function as the trademark and is not a mere address or like finding number on the internet and, therefore, it is entitled to equal protection as trademark.

*Yahoo Inc v. Akash Arora and Netlink Internet Services*¹⁷

In this case the Yahoo Inc. Sued an internet pirate who had not only copied the domain name, *YahooIndia.com*, but also used *yahooIndia* as a trademark in similar script on the website and by offering directory services with information which was specific to India. The Delhi High court granted injunction restraining from using Yahoo either as a part of domain name or trademark or from copying any of the contents of the plaintiff's website.

In the decision of *N.R. Dongre v. Whirlpool Corp*¹⁸

The court rejected the argument that “yahoo” is a dictionary word which cannot be accorded trademark protection and held that although such words are dictionary words they have acquired uniqueness and distinctiveness and are associated with the business of the concerned company and such words have come to receive maximum degree of protection by courts.

*Dr Reddy's laboratories Ltd v. Manu Kosuri*¹⁹

The defendant had registered “*drreddy'slab.com*” as its domain name which is based on the trademark/domain name DR. REDDYS of the plaintiff. The plaintiff argued that DR. REDDYS is a personal name of the plaintiff company's founder and its use as a trademark in relation to pharmaceuticals is completely arbitrary. It has the capacity to clearly distinguish its activities from those of other traders. The registration of this trademark is

¹⁴ <http://adlexsolicitors.co.uk/domain-dispute/faqs/domain-name-disputes.htm> (29 June 2012)

¹⁵ AIR 2004 SC 3540

¹⁶ 42 USPQ 2d 1850

¹⁷ 1999 PTC (19)201

¹⁸ 1996 PTC 583

¹⁹ 2001 PTC 859

pending but “drreddys.com” has been registered as a domain name in 1999. The domain name of the defendant is deceptively and confusingly similar to the domain name of the plaintiff.

The Court observed that the domain names of the opposite parties are almost similar except for the use of the suffix “lab.com” in the defendant’s name. So, the injunction orders were given.

*Zee Telefilms Ltd and Others v. Zee Kathmandu and Others*²⁰

The defendant registered domain name identical to the trademark “Zee” of the plaintiff. The plaintiff’s claimed that the word “Zee” is arbitrary and fanciful word which has been adopted by the plaintiff’s in the year 1992 for all its business activities in India and abroad and thus it is not open for the defendants to have got the same name registered as their domain name.

II. CONCLUSION

India in spite of being a global hub for software technology is lagging far behind in Internet laws. As discussed earlier a person’s reputation and goodwill is attached to the trademark. Domain name is based on the famous trademarks. It has now become a common experience that the domain name are being registered by those who are not in any way associated with these trade names with an object to either cash on the business reputation earned by such trade mark owner or to resell the domain name to the true owner of the trade mark at some exorbitant price.

Looking at the current situation prevailing in the world, it is certain that cyber squatting is a menace. It is a menace which has no boundaries. It is the imperative for the Parliament to enact a law which would deal with this menace. It is high time India and other countries come out with legislations to protect this virus from spreading.

Bibliography

Books

1. **Ratanlal & Dhirajlal**, *The Law of Evidence*, 25th Edition, LexisNexis, Gurgaon, 2017.
2. **S.P. Sathe**, *Cyber Crimes and Legal Framework in India*, 3rd Edition, Central Law Agency, Allahabad, 2018.
3. **T. Ramappa**, *Information Technology Law in India*, 2nd Edition, Asia Law House, Hyderabad, 2019.
4. **Avtar Singh**, *Introduction to Cyber Laws*, 1st Edition, Eastern Book Company, Lucknow, 2020.
5. **The Code of Criminal Procedure**, 18th Enlarged Edition, Reprint, 2007.

Articles / Research Papers

1. **Fredemic J. Frommer & Jennifer C. Kerr**, “Rendel in Character Witness in ‘Bonusgate’ Prosecution”, *Associated Press*, June 28, 2012.
2. **Randy LoBasso**, “Rendel in Character Witness in ‘Bonusgate’ Prosecution”, June 25, 2012.
3. **S. R. Myneni**, “Emerging Trends in Cyber Law and Internet Crimes in India”, *Journal of Indian Law and Society*, Vol. 6, Issue 2, 2019.
4. **Dr. K. Kavitha**, “Legal Challenges in Cyberspace: An Indian Perspective”, *Indian Bar Review*, Vol. 47, 2020.

Online / Newspaper Sources

1. “**Nitish Kataria Murder Case**”, *New Delhi*, July 17, 2012, 21:20 IST.
2. “**Deutsche Bank Gets Prosecution Witness Status in Rate Probe**”, July 15, 2012, 20:16.
3. “**Anil Kumar, Star Prosecution Witness**”, July 23, 2012, 07:50:36 GMT.
4. **Wikipedia**, “History of Law of Evidence in India”, available at: <https://www.wikipedia.org> (last visited on Oct. 6, 2025).

Would you like me to add a **separate section for Acts and Statutes** (like the *Information Technology Act, 2000* and *Indian Evidence Act, 1872*) in the same ILI format? It’s usually required in legal research submissions.

²⁰ 2006(32) PTC 470