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RESEARCH ARTICLE

MENACE OF CYBER SQUATTING DISPUTES WITH THE A VIEW OF INDIAN COURTS- A STUDY

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Abstract

In today's growing and developing world, the Internet and the use of Internet has just become the part of our daily routine in the life of almost every single individual who is living in this world and it is just increasing day by day in developing countries and those part of the world who want to grow and make their nation into a developed one. The development of business exercises on the web has impelled area names to rise as noteworthy business identifiers. Simultaneously, space name questions have likewise expanded. Just as it is becoming a boon for Business entities, communicating through the world with the help of internet. Likewise, there have been occurrences of area name misuse and abuse as digital hunching down. Regardless of having no particular law to deal with space name questions, Indian courts have assumed a noticeable job in settling the nonexclusive top level area debates under the Trademarks Act, 1999. So, we need to build few laws and rules for such a new emerging issue known as cyber squatting because this seems to be the need of an hour in this rapidly growing cyber world.

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Introduction:-

Objectives of the research:

The destinations of this research investigation are:

1. To comprehend the marvel of cyber squatting.
2. To research the justification for prosecution of space name questions in Indian courts.
3. To examine the major digital hunching down cases settled by Indian courts.
4. To distinguish the constraints looked by Indian courts in settling area name questions.

Introduction:

With the development of business movement on the web, a space name can be said to be utilized as a business identifier picture. A trademark, a structure, a logo or a without any problem recollected picture is a contemplatively made character profile of a person, foundation, enterprise, item or administration. Area name clashes emerge most regularly as an outcome of the act of cyber squatting. Cyber squatters, intentionally abuse the main start things out served nature of the space name enlistment framework and afterward the vagrants either offer to offer the space to the individual or organization who possesses an exchange mark contained inside the name at an expanded cost.

In India, there is no rule in law which expressly alludes to contest goals regarding digital crouching or other space name debates. The Trade Marks Act, 1999 utilized for ensuring utilization of trademarks in space names isn't extra-regional, in this way; it doesn't take into consideration satisfactory insurance of area names. This paper extends the

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review of cyber squatting and its noticeable impacts in India. With the current lawful system have been featured out and figured a three pronged methodology which would go far to kill these vagrants.

It was all beautifully said by Daniel J. Boorstin that, 'a picture isn't just a trademark, a plan, a trademark or a handily recollected picture.' It is a contemplatively made character profile of a singular, organization, partnership, item or administration. I might want to extend it to compose that "A trademark, a plan, a motto or a without any problem recalled picture is a diligently made character profile of a person, organization, partnership, item or administration." Web area names have an enormous market of their own. The world seeing another change in the field of interchanges has made interminable new open doors for the residents of the internet. The developing significance on the web has aged it into an incredible asset for organizations to advance, publicize, and sell items and administrations.

Tragically, cybersquatting which is the result of unscrupulous and unlawful direct has likewise expanded.

Cyber Squatting:

Otherwise called area hunching down, as indicated by the United States government law known as the Anti cyber squatting .Buyer Protection Act, is enrolling, dealing in, or utilizing an area name with dishonesty aim to benefit from the altruism of a trademark having a place with another person. The Cyber squatter then begins to offer the area to the individual or organization who possesses a trademark Universal Journal of Information Security and Cybercrime contained inside the name at a swelled cost.

The term is brought from "hunching down", which is the demonstration of possessing a deserted or abandoned space or building that the vagrant doesn't claim, lease, or in any case have authorization to utilize. Cyber squatting, in any case, is somewhat unique in that the space names that are being "hunched down" are (here and there however not continuously) is being paid for through the enrollment process by the cyber squatters. Cyber squatters as a rule request costs far more prominent than that at which they bought it. Some cyber squatters set up censorious comments about the individual or organization the area is intended to speak to with an end goal to urge the subject to purchase the area from them. Others post paid connections by means of publicizing systems to the real site that the client likely needed, in this manner adapting their hunching down.

Domain name disputes:

It is basic to comprehend the specialized foundation against which the issues in the paper have emerged. Every site on the Internet has an IP address behind the name.

Each web server requires a Domain Name Server (DNS) framework to decipher the space name into an IP address. An IP address is a string of numbers, for example, 152.565.52.245. The space name is comprised of characters that are simpler to be recalled.

Illustration- www.apnabank.com.in where:

1. WWW' means the site is connected or linked with the world wide web
2. APNABANK' is the name you chose to your side and ideally is readily identifiable with your organization name
3. COM' tells that your organization name is core business
4. IN' signifies that company is registered in India.

Disseminated databases contains the rundown of area names and their comparing address and play out the capacity of mapping the area names to their IP numeric addresses to coordinate solicitations to associate PCs on the Internet. The DNS is organized in a progressive way which takes into account the decentralized organization of name-to-address mapping. The DNS first come first served strategy is a rearing ground for go getters with not one or the other trademark enrollment, nor any characteristic rights to "pvt" or "squat" over area names. Area name today fills in as an on-line trademark, source identifier, shows quality furthermore, a store of altruism. Since numbers are increasingly hard to recall, in sequential order area names were created to make the addresses simpler for people to recall and use when conveying on the Internet. Such names are frequently snappy words or well known names of people or organizations, for model, "nokia.com" or "samsung.com".

In this manner, an area name is a well known substitute for the all-numeric IP address of a specific server.

Domain names and dispute cyber squatting:

Any business substance might want to convey its own exchange mark as its space name. This is on the grounds that individuals perceive the exchange sign of the organization. Area name fills in as an online trademark and source identifier. It demonstrates nature of an organization and is a vault of altruism.

Along these lines, the well known worldwide footwear and family embellishment producer and retailer Bata would lean toward its space name as www.bata.com. Bata might want to showcase its items web based utilizing this space name. Indeed, even the clients would handily relate www.bata.com to the well-known organization Bata. At least two trademarks can exist together in the physical world; however it is beyond the realm of imagination on account of area names. The area names are enrolled dependent on first-start things out serve formulae. An individual who needs to enroll an area name, can move toward enlistment center of space names and get any accessible space name enrolled. Thus, on the off chance that the area name www.bata.com is accessible for enlistment, at that point any Harmony Journal of Computational Sciences, invested individual can enlist this area. In this online business period, area names have gotten closely resembling exchange stamps yet their enrollment procedure is substantially less stringent.

There is likewise another issue in space name enlistment. There are numerous TLDs and various blends of TLDs. Under these mixes, area names could be enlisted. For instance, Bata could enlist its space name as www.bata.com or www.bata.net or www.bataindia.com or www.bataindia.org. Because of various mixes, any business element can't in any way, shape or form obtain every one of them.

The previously mentioned issues leads to injurious enrollments, along these lines, another gathering registers a trademark without having any genuine enthusiasm for it. This act of enlisting Internet space names without having authentic interests in it is called cyber squatting. In specific cases, digital vagrant attempts to offer the space to the genuine trademark holder at a swelled value. Some digital vagrants set up offending comments on the site about the real trademark holder on the enrolled space name. The design is to constrain them to buy the space from them. Some digital vagrants use space names to contend with genuine organizations. These practices intend to exploit somebody's trademark. Some digital vagrants additionally register comparative choices of a famous and real area name. This training is called grammatical error hunching down.

Cyber squatting mechanism in India:

In India, a few alternatives are accessible for the casualties to battle cyber squatting. Following are the alternatives:

1. Cease-and-stop letters can be sent to the cyber squatter
2. Under ICANN's standards bring a discretion continuing
3. passing a claim in government or state courts

Digital crouching is a significant concern particularly for the domains including money related exchanges because of the cyber squatters exploiting in tricking individuals and ransacking them by getting their Master-card subtleties. There are a few IT groups committed to ideal have a keep an eye on these areas.

The court much of the time understood that the Passing-off activity existed where space names are included and furthermore watched the nearness of all qualities of trademark in the area names. Going off activity is the place the litigant is limited from utilizing the name of the complainant to give the products or administrations to people in general as that of the complainant. It is an activity to protect the generosity of the complainant and furthermore to shield the public. Passing-off is the chief utilized in India for choosing cyber squatting cases. Thus the Passing-off rule is deciphered by the courts in setting to area names.

An urgency to make changes in cyber squatting laws in India:

1. The present circumstance requires a direct need of executing an exacting law so as to have the cyber squatters rebuffed and to maintain a strategic distance from these wrongdoings later on.
2. New law ought to give the trademark proprietors lawful arrangements against the litigants so the offended party can acquire legal harms and increase pay for the harms for enrolling in dishonesty.
3. A law which would act like a weapon for securing the protected innovation of the trademark holders in the online world

Dispute resolution in Indian courts of cyber squatting:

Cyber squatting can make potential damage parties influenced as any wrong dedicated could be effectively communicated to each niche and corner of the world. Along these lines, the act of cyber squatting must be debilitated and halted. The questions identified with GTLDs can be prosecuted before Indian Courts. In any case, there is no particular law in India that manages cyber squatting and area name insurance. The Information Technology Act, 2000 and its change form in 2008 don't address space name issues. Without a particular law in India, the reason for suit could be:

Trademark encroachment:

If the trademark has been enrolled under Trademarks Act, 1999; at that point the influenced party can petition for trademark encroachment in courtroom. The enlistment of the imprint offers title to the enrolled proprietor.

Passing/ Going off:

The lawful sentiment in India with respect to "going off" has originated from N.R. Dongre versus Whirlpool Corporation instance of 1996. The Delhi High court saw that an organization can't sell its merchandise under the affectation that they are products of another organization. So as to decide "going off" cases, the court applies "probability of disarray" test. In the event that it very well may be built up that the area name proprietor is attempting to befuddle people in general by utilizing the name of a set up trademark, at that point court can concede a directive and remove the digital vagrant. The Going off is basically an activity in tort. The legitimate conclusion in India with respect to passing/ going off can be likened to unfair competition by misrepresentation or deception in USA.

Well known case studies related to cybersquatting:

The first case in India related to digital crouching was Yahoo Inc. v. Aakash Arora & Anr. For this situation the respondent propelled a site almost indistinguishable from the offended party famous site and furthermore gave comparable administrations. Here the court decided in favor of trademark privileges of U.S. based Yahoo. Inc (the Plaintiff) and against the litigant, that had enlisted itself as YahooIndia.com. The Court held that it was a push to exchange on the notoriety of hurray's trademark. The court additionally included that an area name registrant doesn't acquire any legitimate option to utilize that specific space name essentially in light of the fact that he has enlisted the area name; he could still be at risk for trademark encroachment.

In Tata Sons Ltd v. Monu Kasuri and others, the litigant enrolled a number of area names bearing the name Tata. It was held by the court that area names are not just addresses however trademarks of organizations and that they are similarly significant.

The Bombay High Court in Rediff correspondence v. Cyber booth and Anr held that a space name resembles a corporate resource of organization. In this case the respondent had enlisted a space name radiff.com which was like rediff.com. The court gave a ruling for the offended party.

In Aqua Minerals Ltd. v. Cyberworld, the Delhi High Court passed a decision for the Aqua Minerals Ltd which possessed the exchange mark "Bisleri" and controlled Cyber world from utilizing the space name, "bisleri.com".

Rediff Communication Ltd. versus Cyberbooth and Anr. (1999) - For this situation, digital vagrant (Cyber booth and Anr.) has enlisted the area name as www.radiff.com, which was like the offended party's space name (www.rediff.com). Bombay High Court saw that space names are an important corporate resource, as it encourages correspondence with a client base. The court expressed that the likeness in site names can befuddle general society, especially new clients. Thus, it controlled the digital vagrant from utilizing the area name www.radiff.com.

In India because of the nonappearance of applicable digital laws, cases are chosen inside the ambit of trademark laws by deciphering the rule of Passing off concerning area names.

Conclusion:-

The Information and technology law in India has yet not found out the solution for the problems related to protection of Domain name. Despite of not having found the laws for Domain name yet, Indian courts have played a role of genuinely protect the interest of the main parties. The main findings are mentioned as under:

Under Trademark Act, 1999; the courts have held area names as business identifiers and corporate resources in current business the internet.

1. The courts have secured real gatherings on grounds of trademark encroachment and making another person's products look like one's own.
2. The courts have controlled digital vagrants from utilizing space names when there has been an endeavor to confound people in general. They have allowed directives against the digital vagrants when there has been phonetic likeness between the space names of real gathering and digital vagrants.
3. The courts have allowed orders against the digital vagrants in the event of damaging enlistsments of area names.
4. The courts have stretched out the space name security to organizations just as individual big names.
5. The Indian courts have had the option to determine area name debates in the event of GLTDs.
6. Most of the area name questions settled by Indian courts have been of business types. This shows digital vagrants have been attempting to misuse the lawful provisos for monetary benefits.
7. There have been examples where courts have guided the digital vagrant to cover the legitimate expenses of the offended party and furthermore forced punishment up Rs. 100,000. Be that as it may, courts have not been predictable on this front. This is most likely because of the way that there is no law to manage the courts in such manner.
8. The Supreme Court of India likewise proposed that the Trade Mark Act, 1999 may not give sufficient assurance to area names. Nonetheless, still the courts have done whatever conceivable to secure the area names and resolve the space name debates.

So as to address the deficiencies looked by the courts to secure the space names, India needs to draft another enactment against digital hunching down and to ensure area names. Such enactment will empower the courts to force punishments and even prison terms on the digital vagrants on a predictable premise. This will make it hard for digital vagrants to escape and guarantee the insurance of interests of the certified gatherings.

Digital squatters have denied organizations of their fortune. Accordingly taking a view at the current circumstance winning on the planet, it very well may be securely expected that digital hunching down is a danger, a hazard which has no limits. By virtue of the issues featured and the different purviews investigated there is a pressing need to draft another enactment in India which would explicitly manage area names.

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