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The Importance of Intellectual Property Rights in the Sports Industry

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The field of sports is a worldwide visual treat that is pertinent to all communities. It combines gaming, enjoyment, business, and lifestyle. The involvement of Intellectual Property Rights (IPRs) in sporting events is remarkable. Covering nearly every element of the sporting world, IPRs can be found. Intellectual Property (IP) of every kind, as to if trademarks, copyright, industrial designs, or patents, is essential to the industrial sports industry. Patents accelerate digital transformation, resulting in better sporting equipment. Trademarks and industrial designs help to distinguish events, logos, athletes, clubs, and their safety gear. Copyright produces the revenue required for broadcasting companies to engage in the extortionate job of telecasting sports matches to sports enthusiasts all across the globe. As a result, IPRs in the sporting world include protection to prevent any potential conflicts. Professional games like cricket, football, and tennis, among many others, have progressed into international sporting events with large fan bases, allowing organizers to capitalize on massive marketing opportunities. This is the reason sports franchises are trying to tap into and commercialise numerous IPRs formed by sporting events. It would then be used in branding, merchandise sales, licensing, and other ways to build brand recognition and prestige, resulting in massive profits. There are examples of sports franchises or even individual people creating their brand names, logos, and slogans that are trademarked and commercially used to reap advantage. The marketing factor in sports activities has risen dramatically in recent years.

Keywords: *intellectual property, sports, copyrights, trademarks, patents, licensing, franchising.*

INTRODUCTION

Intellectual Property Rights are a worldwide thing that has been recognized globally. The primary objective of Intellectual Property Rights intends to inspire innovation and originality as well as to safeguard a brand's image or goodwill, by guaranteeing the keeper of the Intellectual Property Rights that he receives a valid appreciation for the artistic creation by earning a living from it. An owner of Intellectual Property can even restrict others from utilizing or replicating his creation in the absence of his approval till his creation is easily available to the public as a whole. The period of the protection of Intellectual Property Rights is minimal, in India, copyrights are safeguarded for a duration of 60 years, in addition to the author's lifespan under certain cases, and patents are safeguarded for a duration of 20 years since the time of the patent's registration. Intellectual Property keepers are also allowed to allocate or put on sale their Intellectual Property Rights.

The extent of IP Laws encompasses a variety of sports tournaments, sports labels, and so on. Intellectual Property Rights are granted in all areas of sports. Beginning with copyrights, broadcasters must invest a significant amount of money to broadcast sports tournaments for all sports lovers internationally. Patents that encourage creativity and scientific advancement will eventually result in the invention of sporting devices. A trademark safeguards a sporting brand's goodwill or public image. Finally, designs safeguard the artistic esteem of sporting goods. A kit used by athletes has a wide range of Intellectual Property Rights, including copyright, which safeguards the audiovisual designs that the telecasters use to showcase the kit. A trademark safeguards the image linked along the brand of the kit by distinguishing it from the rest of the products that are alike in nature. The artistic design of the kit is protected by design law. Furthermore, a patent would safeguard the scientific innovation used in the invention of such a kit.

With the commercialization of sports, the sector has been expanding rapidly over time goes by. Sports such as cricket, have gained enormous recognition in South Asian countries over other sports. Cricket, once recognized as a gentleman's game, now has evolved into a profit-oriented sport requiring significant funding. Using the Indian Premier League as an example, this

necessitates a large financial investment, that ultimately leads to major scams comprising gambling. In football, for example, many clubs, like Manchester United F.C., Liverpool F.C., Chelsea F.C., Real Madrid CF, and FC Barcelona, have created a massive industry through brand capitalization. Numerous Intellectual Property Rights, such as trademarks, copyright, and rights of popularity, safeguard the profit-oriented aspect of the world of sports. The lawful system for analyzing the character of Intellectual Property Laws in the sporting world is outlined below.

THE FUNCTION OF COPYRIGHT IN THE SPORTS INDUSTRY

The Copyrights Act of 1957 contains several clauses that permit the safety of many aspects of sports tournaments, including the composition that is connected to the logos, taglines, mottos, etc. It is simple for the artistry to be safeguarded as copyrighted material under the law because the Copyright Act doesn't necessitate the registration of the artwork. In the event of an infringement of the author's artwork, Section 55 of the Copyrights Act of 1957¹ expressly allows for civil remedies like injunctions, accounts of profits or damages, litigation price, etc. Criminal remedies stated in Section 63² of the Copyrights Act are also covered, specifying such a cognizable offence as punishable by imprisonment and a fine.

THE FUNCTION OF TRADEMARKS IN THE SPORTS INDUSTRY

Trademarks play an important role in the sporting world. The time when branding was first attempted by the sports industry, it had elements such as logos, marks, taglines, captions, slogans, and so on, which led to the generation of monetary worth in merchandise, clubs, athletes, and so on. The monetary worth of the teams, clubs, athletes, and merchandise sets up a level of association with the general public, which ultimately benefits a team, athlete, etc. gain popularity.

Section 135, Trademarks Act of 1999³ offers civil and criminal remedies for the infringement of the trademark. The Trademark Act does not require brand registration, and such a person who

¹ Copyright Act 1957, s 55

² Copyright Act 1957, s 63

³ Trademarks Act 1999, s 135

did not register his brand can still enshrine his rights according to the law. Infringing on a trademark is a punishable offence, and the infringer can face criminal charges.

PERSONALITY RIGHTS IN THE SPORTS INDUSTRY

Personality Rights in sporting activities have been demonstrated to play an important role in brand creation among both the individual athletes and the teams. Individual athletes, such as Roger Federer, Cristiano Ronaldo, Virat Kohli, Serena Williams, and Lionel Messi, are now global brands, as a result of their stardom. The players' stardom enables them to develop global popularity, and this popularity quickly turns into financial gain when they do ad campaigns or become brand ambassadors for a company to be the representative of its brand. Federations, coordinators, franchise owners, and sports equipment manufacturers should indeed opt to have their team names and logos licensed as labels under the Indian Trademarks Act of 1999⁴, this makes it easier for them to protect their labels in the court of law.

The practice of requiring athletes to list their names and photos as trade names must become a standard. A simple affiliation of a team's name and logo might provide exceptional benefit to an individual, organization, or company using a name or a logo of the sort. It becomes a burden to the owner of a club or a team, and its athletes, as well as an unfair benefit for the entity partner to use such sort of name or logo for their monetary reason in the absence of consent or giving a license tax. Uncertified utilization of brand names by a third party with no permission of the team owner of these trade names might cause harm to the image of the parties involved, likely to result in unjust competition and reputational harm.

DOMAIN NAME IN THE SPORTS INDUSTRY

In most cases, the Indian courts only consider domain names to be trademarks. It is critical in protecting the Intellectual Property Rights that relate to sports. Numerous pieces of information are being relayed and sports tournaments are also broadcasted via the internet, this did not just procure massive shares in the generation of monetary worth, but also provided numerous

⁴ Trademarks Act 1999

opportunities for cybersquatting. Publicizing and brand creation have become much easier, thanks to websites.

Numerous sponsors participate in the sales of tickets to a sports tournament or event on the internet to increase brand recognition and build a pleasant customer experience. As we all know, the internet is an effective medium to promote information about sports teams, clubs, athletes, and sporting events. The listing of numerous domain names is critical for the safety of online gamers, viewers, merchandise buyers, and others from making mistakes that would eventually result in cybersquatting. It is generally recommended to safeguard against brand infringement and trademark dilution by listing the domain names with prevalent gTLDs such as .com, .gov, .org, and so on.

LICENSING AND FRANCHISING IN THE SPORTS INDUSTRY

Licensing and Franchising are key factors in raising revenue from sporting events, in which the licensee or franchisee obtains the rights to sell premium branded merchandise of the Intellectual Property keeper, that is associated with the elite teams and clubs, having the such purpose of developing a reputation and prestige of the name of the brand. The primary intention of distinctiveness is to create brand recognition and increase merchandise sales.

Profit can also be produced by franchising the Intellectual Property Rights engaged in video games, eatery facilities, broadcasting rights, and so on. Ignorance is a blessing for individuals who seek to profit from the perks of others' Intellectual Property Rights simply by denying the existence of their own. However, ignorance is a burden for IP owners who fail to educate people and even fail to notify the party that is trying to exploit or make plans to utilize their Intellectual Property Rights in the absence of having paid any royalty. The Brand and Content Protection Guidelines,⁵ which highlights the terms and conditions, become an effective element for all IP owners involved in the sports sector. Businesses offering to finance sporting tournaments

⁵ '10 sports marketing trends modern marketers need to watch' (*Forbes India*, 26 May 2022) <<https://www.google.com/amp/s/www.forbesindia.com/amp/article/storyboard18/10-sports-marketing-trends-modern-marketers-need-to-watch/76691/1>> accessed 05 December 2022

typically put money into the organizing of the tournament and the endorsement of the venue. To avert misbranding and the abuse of Intellectual Property Rights, they should consequently include such detailed standards, and this needs to be placed on the official web pages.

AMBUSH MARKETING

The paramount aspect of Intellectual Property Rights in the sporting industry is the protection against Ambush Marketing. The idea of ambush marketing could be extremely well described by the landmark 1995 judgement of *National Hockey League (NHL) v Pepsi-Cola Canada Ltd.*⁶ Here, the NHL agreed to make Coca-Cola the authorized sponsor of the tournament. Coca-Cola ultimately acquired the authority to utilize the NHL logo in its marketing strategy in Canada and the United States, but no television broadcasting rights were acquired. The NHL itself had sold this right to Pepsi-Cola, a competitor of Coca-Cola. The feud between Coca-Cola and Pepsi-Cola erupted after Pepsi-Cola aired a television commercial featuring a well-known celebrity implying that Pepsi-Cola is the authorized beverage of the NHL. Coca-Cola's call for having passed off in opposition to Pepsi-Cola was unsuccessful.

Ambush Marketing is an approach in which companies try to take advantage of the benefits procured by companies that are the authorized sponsors of a specific sporting tournament. Expressly, Ambush Marketing is an attack coming out of a concealed position. The ambusher endorses its label by associating it with the athletes, clubs, or events in the absence of really having paid for the advantages. Even though the ambusher never happens to be an authorized sponsor of the tournaments, it pays out funds publicizing its business. Some ambush marketing methods are as follows:

- Giving away branded merchandise at no cost to the attendees at the sports tournaments.
- Floating commercial barrage balloons above the stadium, which assist in drawing audiences in addition to attracting television coverage.
- During an interval, advertisements wishing the teams "great success" are televised.

⁶ *National Hockey League (NHL) v Pepsi-Cola Canada Ltd.* [1995] 56 B.C.A.C. 1 (CA)

Aside from trying to counter the approach to avoid ambush tactics, it is essential to safeguard the IP owners' trademarks and copyrights by authorization of all marks, brands, logos, and so on affiliated with any sport. To restrict these exercises, explicit terms of service and legal agreements under IP contracts regarding such sporting events should always be properly carried out.

CONCLUSION

Commercial sports raise fundamental IPR concerns including trademark, licensing and franchising, copyright, and so on. Such Intellectual Property Rights necessitate their protection in every sport, such as the ones listed above. To safeguard these IP rights, an appropriate legally valid contract must always be drawn up that helps to safeguard every aspect of IP linked alongside sports tournaments, athletes, and so on. The sports industry might make profits through a range of methods. It's critical for the Government of India to support the sports industry for it to reach global standards.