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The Concept Of Cyber Squatting

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META DESCRIPTION

In this particular blog the concept of cyber squatting has been discussed and the various facets related to it like-

*What is the concept of Cyber Squatting

*What is squatting in its literal sense

*Effects of Cyber Squatting

*Landmark judgement of Yahoo! Inc. v. Akash Arora and Anr. in the realm of cyber squatting have also been discussed in order to make the reader aware about the concept of Cyber Squatting in detail.

INTRODUCTION

This particular blog is on the subject matter that what is the whole concept of cyber squatting. In this blog the various facets with respect to cyber squatting have been covered in order to make the reader aware of the concept of cyber squatting in detail.

The various facets with respect to cyber squatting covered in this blog are- what is the concept of Cyber Squatting, what is squatting in its literal sense, effects of Cyber Squatting, landmark judgement of Yahoo! Inc. v. Akash Arora and Anr. in the realm of cyber squatting.

My findings and suggestions pertaining to the concept of cyber squatting have been mentioned and explained in the conclusion of this blog.

Tags/ Keywords associated with the article:

- Squatting.
- Cyber Squatting.
- Cyber Law.
- Effects of Cyber Squatting.
- Domain names and IPR.
- Yahoo! Inc. v. Akash Arora and Anr.
- Landmark judgement on Cyber Squatting.
- Cyber squatting and its effects.

MAIN BLOG

Cyber Squatting-

It basically refers to the bad faith, intentional and fraudulent practice of registering, trafficking or using of an Internet domain name with the intention of gaining profit from the goodwill of another person's registered domain name.

In it people register a similar sounding domain name to a famous domain name in order to gain unfair profits as whenever the people will search for some content on the internet many people getting confused with the domain names will be in a belief that this cyber squatted domain name also belongs in some way or the other to the famous domain name hence, will click upon the same and therefore generating unfair profits to such people involved in cyber squatting as they did nothing to generate their own goodwill whereas they are just getting undue profits by creating a domain name similar to the already existing famous domain name.

Squatting in literal sense-

The word squatting in the concept of Cyber Squatting refers to occupying or using of an unoccupied land, building or space which the squatter i.e. the person doing so does not own in his name or does not have the permission to use it.

Similarly cyber squatting is also somewhere or other related to the use of an unauthorized domain name by the squatter in order to gain unfair profits for himself.

Terminology of Cyber Squatting-

The term cybersquatting was many times interchangeably used with different words like 'cyberpiracy', etc. and there was a dilemma with respect to its accurate and correct meaning so as a solution to this:

The World Intellectual Property Organization (WIPO) in its 1999 report gave a particular meaning to the term of cyber squatting which was-

Abusive registration of a domain name.

Effects of Cyber Squatting-

1. When a person registers a similar domain name to that of an established domain name then that person can gain unfair profits for himself without doing any work for making his own goodwill, he is enabled by Cyber Squatting to **take undue advantage** of the goodwill of an established domain name.
2. Sometimes what the people involved in cyber squatting do they redirect the visitors of their domain name to unwanted or unethical websites displaying a totally different content or even at times showing content related to obscenity, etc.

When such a thing happens the visitor of the page may think that what all content is being displayed on the website of the real domain name owner whereas it is not that original site but a cyber squatted site.

Therefore, in this manner **such domains tarnish the image** of the famous domain names.

The landmark judgement in India on Cyber Squatting is that of-

Yahoo! Inc. v. Akash Arora and Anr.¹

This case is related to the use of unauthorized registration or use of domain names which are similar to already established domain names.

Facts:

In this case a person had registered his domain name as 'Yahoo India' which was similar to the

¹ (1999) Delhi High Court

plaintiff's domain name of 'Yahoo!' which was an already well established domain name since years.

The plaintiff (Yahoo!) filed a case against the defendant (Yahoo India) in this case.

Decision:

The High Court of Delhi in this case stated that the domain name of the defendant which is 'Yahoo India' has the ability to create confusion and deceive the internet users into believing that both are either same or belong to the same original owner of domain name i.e. 'Yahoo!'.

The court also held that even if a disclaimer with regards to this is tried to be given to the people at large by the defendant it would be irrelevant and insufficient as they both are too much similar and confusing.

The court also stated that it is irrelevant whether or not the term 'Yahoo' in itself has a distinct meaning as the plaintiff's site is so much famous since years that it has required 'uniqueness' and 'distinctiveness' as required by the law of trademark.

The High court stated that **domain names are used by business groups in the same fashion as a trademark or service mark.**

So by this judgement it can be clearly inferred that any domain name which is similar with an already existing domain name will fall in the category of cyber squatting and will be declared as unauthorized and the owner of such domain name won't be allowed to use it further.

CONCLUSION

In this blog the concept of cyber squatting has been dealt in detail covering the various aspects

of it like- what is the concept of Cyber Squatting, what is squatting in its literal sense, effects of Cyber Squatting, landmark judgement of Yahoo! Inc. v. Akash Arora and Anr. in the realm of cyber squatting.

This particular blog would help the readers to analyze the concept of cyber squatting as all the various aspects related to it have been dealt in depth in this blog.

Findings-

1. The concept of cyber squatting enables the wrongdoers to gain an unfair profit by just using the domain names which are famous and already existing and the people involved in such wrong practices don't need to make a goodwill of their own as they fraudulently use the goodwill of the already existing domain name.
2. The landmark judgement of **Yahoo! Inc. v. Akash Arora and Anr.** clearly stated that such cyber squatting practices should not be allowed and the user of such domain names should be unauthorized from using them further as in this case the Delhi High Court forbid the defendant from using the domain name 'Yahoo India' which was identical to that of the plaintiff's 'Yahoo!'.
3. The problem which I found out while researching on this concept of cyber squatting is that why are even people at the first instance being allowed to use similar domain names to that of already existing famous domain names as this practice not only promotes cyber squatting whereas the time of the courts via litigation is also wasted in this regard as sooner or later that domain name user is going to be declared unauthorized to use such cyber squatted domain name when a case is filed.

Suggestions-

1. In order to address the problem of registration of similar or identical domain names by the wrongdoers involved in cyber squatting **there should be a mechanism set by the government which ensures that at the first instance only when a person tries to register a domain name which is similar to an already existing famous domain name his application for such domain name's registration is discarded.**

This will not only help to curb the practice of cyber squatting whereas it will also help

to minimize the unnecessary litigation which will take place later on when such a case comes to the court and the court after going through the matter discards the wrongdoer from using the identical domain name.

So, if at the end the court is not going to allow the wrongdoer to use the identical domain name why not after scrutinizing the application initially reject the registration of such domain name at the first instance itself.

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