

ISSN: 2582-6433



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed 6th Edition

**VOLUME 2 ISSUE 7**

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## **ABOUT US**

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# **CYBERSPACE LAWS & EMERGING IPR ISSUES: AN OVERVIEW**

Authored By - Prayag Soni

## **Abstract:**

Cybercrimes are one of the most upsurging crimes across the globe. These white-collar crimes must be given due attention and must be dealt with proper caution by law enforcement agencies. Same as many countries India also has addressed the menace of Cybercrimes and has been constantly persevering to put an end to these crimes. On 30<sup>th</sup> January 1997, General Assembly of the United Nations passed a resolution which took up the Model Law on Electronic Commerce on International Trade Law. This resolution was behind the origin of the Information Technology Act, 2000 in India. Although this Act was successful in establishing essential structure for regulating Cyberspace and it also addressed some pressing issues related to improper use of technology. Yet, it has failed to discuss about some matters which are of utmost significance i.e., issues related to Intellectual Property Rights. Intellectual Property refers to the knowledge or information which has a commercial value. It includes creativity of human mind such as inventions, artistic & literary works, designs, symbols and images which are of some commercial value. These creations are brainchild of a human mind and this is why it is called Intellectual Property. Some of the well-known types of Intellectual Properties are Copyright, Patent, Trademark and Trade Secrets. The Information Technology act, 2000 does not talk a single word about Intellectual Property Rights & its protection whereas tackling with violation of IPR is one of the most uphill tasks to deal in Cyberspace. Infringement of Copyright and Domain names also take place on the Internet but ironically Trademark Act, 1999 & Copyright Act, 1957 are quiet on that whereas these Acts were formulated specifically to deal with these issues. Therefore, we don't have any enforcement mechanism to safeguard against the violation of Domain names on the Internet. It's the need of the hour that now we must bring some special legislations to protect Intellectual Properties in Cyberspace.

**Key Words:** Cybercrime, Cyber Laws, Cyberspace, Information Technology, Intellectual Property, Copyright, Patent, Trademark, Domain Names, IPR.

# **RESEARCH METHODOLOGY**

## **Scope of the Study:**

The scope of this research paper is to take a brief overview on Cyber laws & emerging IPR issues in India. This paper also discusses about the shortcomings of Indian IT laws and how they fail to tackle with the emerging IPR issues. In addition to this, some landmark cases in India related to Domain Names & Trademarks have also been discussed in this paper.

## **Objective of the Study:**

The major objective of this research paper is to obtain a thorough understanding about the Cyber laws & IP laws. Apart from this, the paper also discusses about the loopholes in IT, Trademark & Copyright Acts and increasing IPR issues in Cyberspace.

## **Research Questions:**

These research questions have been broadly addressed in this research paper:

1. What is the meaning of Intellectual Property?
2. What are the types of Intellectual Properties?
3. What are the drawbacks of Information Technology Act, 2000?
4. What Intellectual Property issues are there in Cyberspace?
5. What are the functions of Intellectual Properties?

## **Citation Methodology:**

Harvard Bluebook 20<sup>th</sup> edition citation referencing has been followed in this research paper.

## **INTRODUCTION**

The importance of internet & computers in today's modern world is well understood. These utilities have become so common that they have embedded in the modern commerce as well as in our society. There are many benefits of using computers & internet in modern business & commerce and without these utilities our society cannot think of functioning smoothly & properly. Although internet and computers are advantageous to us but they also have brought along many inevitable drawbacks i.e., misuse of this technology. The improper use of this technology is possible because territorial restrictions cannot be imposed on Computers & Internet and they can be operated from any jurisdiction around the world. Electronic Commerce i.e., E-Commerce is becoming a popular medium to buy & sell products online using the Internet. There are plenty of benefits and scope of publicizing business via E-commerce as it can help your business to reach to all the internet surfers in any jurisdiction of the world at a very fast pace. But along with the advantages, it also has made easier for Cybercrimes to grow expeditiously.<sup>1</sup>

Cybercrimes also refers to computer crimes, is a type of illegal activity where computer is used as an apparatus to commit crime. Government of India enacted the Information Technology Act, 2000 to deal with Cybercrimes which gives legal acceptance to electronic signature & electronic transaction records. Information Technology Act is a legal framework to protect and facilitate the electronic transaction records in the electronic media. This act is based on United Nations Commission on International Trade Law which adopted a uniform law on electronic commerce that advocated e-commerce to switch from paper-based work environment to computer-based work environment.<sup>2</sup>

However, the Information Technology Act, 2000 lacks in dealing with the matters related to Intellectual Property. Intellectual Property means the creation of human intellect and these it includes Patent, Trademark, Copyright, Trade Secret, GI (Geographical Indication) etc. The author of this paper has made an effort to put forward some pressing issues related to Intellectual Property i.e., Copyright infringement, Domain names issues, Trademark violations etc. in Cyberspace and recommendation for the same.

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<sup>1</sup> Harish Chander, Cyber Laws & IT Protection 14 (PHI Learning Pvt. Ltd. Publication 2012).

<sup>2</sup> Vakul Sharma, Information Technology 15 (Universal Law Publishing Company 2013).

## What is Information Technology Act, 2000?

IT Act, 2000 contains 90 sections which are split into 13 chapters. The last four sections 91 to 94 deal with the amendments in the IPC, IEA, The Bankers' Books Evidence Act and RBI Act had been omitted. These sections cover and give an insight about digital signature and its security, e-governance, acceptance & dispatch of electronic transactions and its security, control over certifying authorities, offences and liabilities of Network Service Providers etc.<sup>3</sup>

The Act Comprises of the following objectives:

1. To give legal acceptance to all electronic transaction records or any other electronic means of communication or e-commerce, in lieu of the paper-based environment for communication.
2. To provide legal recognition to digital signatures for the validation of any information or issues necessitating legal validation.
3. To facilitate the electronic repository of data and the electronic filings of documents with government divisions and organizations.
4. To grant legal recognition and also to make easier the electronic transactions between banks and financial organizations.
5. To provide legal recognition to bankers under the IEA, 1891 and the RBI Act, 1934, for store the books of accounts in electronic form.<sup>4</sup>

Sadly, this Information Technology Act does not address the issues related to cybersquatting i.e., theft of domain names from its lawful possessor; regulating the conduct of cyber cafes; internet pornography hosted by foreign websites; taxation of electronic transactions; spamming or conveying unsought commercial electronic mails that is tantamount to violate the right to privacy; cyberbullying; credit card frauds; cyberstalking; jurisdiction in the cyberspace; offence committed by the websites belonging to foreign lands etc.

## IPR Meaning & Types:

The traces of the concept of Intellectual Property can be tracked down in Byzantine Empire (today's Istanbul) where monopoly existed. In 7<sup>th</sup> century the Greece provided monopoly to cooks to exploit new recipes for one year. A statutory legislation passed by Senate of Venice granted exclusive rights to the individuals who created any machine or process to accelerate the silk production. Therefore, we have travelled a journey from an era where Intellectual Property was completely unfamiliar to an era where every novel idea is safeguarded under the

<sup>3</sup> Dr. Gupta & Aggarwal, *Cyber Laws* 324 (Premier Publishing Company 2010).

<sup>4</sup> Dr. Farooq Ahmad, *Cyber Law in India* 28 (New Era Law Publication 2012)

category of Intellectual Property Rights. One of the known Intellectual Properties is Copyright. Before we process further into the details of Copyright and related matters in cyberspace, we need to understand the concept of Intellectual Property and its significance. If we talk about our home, it is a place which is built and filled with the creations of human intellect. From carpet to sofa, from television, radio, refrigerator and telephone to music, books, paintings, photographs everything we see is a brainchild of human intellect and this is the reason of it being called Intellectual Property. Today the Internet is not only used for education & entertainment purposes but also used for commercial activities.

Intellectual Property can be segregated into two categories; one is Industrial Property and the other is Copyright. Industrial Property is concerned with the Patents, Trademark, GI tags, designs etc. On the other side, Copyright deals with artistic, literary & dramatic works, music, movies and sound recording, etc. The specific legislations that deal with the intellectual Property in India are: The Copyright act 1957, The Trademark act 1999, The Geographical Indication act 1999 and The Design act 2000.

### **Cyberspace Matters Related to Copyright:**

The objective of the Copyright is to provide authors, composers and directors with an exclusive right to reproduce and publish their original works for the advantage of people by means of their intellect. When the stipulated term of a Copyrights gets over then the original works become the property of public domain and anyone may recreate them even without seeking permission from anyone. The copyright exists in original literary, artistic, dramatic, musical, cinematographic works and in computer programmes and software as well.<sup>5</sup>

In the present day, Copyright serves in various industries like production and dispatch of books, magazines and newspaper, entertainment industry that is based on dramatic and musical works, publishing musical works and cinematography films etc. Being an Intellectual Property Copyrights moves from country to country and region to region more easily and swiftly than any other types of Property. Technological advancement has made it lot easier and simple to copy the copyright material. Consequently, the regulation of infringement of copyright is very tough and often not feasible. Films or computer programmes recorded in Books, recorded tapes or video cassettes are portable means they can be taken from one part of the world to another without any difficulty and a large number of replicas can be made from it and distributed.

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<sup>5</sup> World Intellectual Property Organization, <https://www.wipo.int/portal/en/index.html> (30/05/2021).

Unauthorized home recording of radio and television shows has become uncontrollable all over the world.<sup>6</sup>

## Copyright Infringement on the Cyberspace:

The modern technology has facilitated and made it possible to take information from one website, modify it and upload it on the other website. This thing has brought new challenges for the traditional interpretation of individual rights and protection. Anyone with a Personal Computer and a Modem is just one click away from becoming a publisher of copyrighted material. There is no much difference between a webpage and a book or a magazine or CD-ROM and webpage is eligible to get copyright protection as it holds texts, graphics, audio and even video too. This intellectual Property gives the owner an exclusive privilege to authorize the recreation of the copyrighted work of preparation of derivative works and distribution etc.<sup>7</sup>

### When a Copyrighted Work is Considered to be Infringed:

As per section 51 of the Copyright Act, 1957, "Copyright in a work shall be deemed to be infringed:

- a) when any person, without a license granted by the owner of the copyright or the Registrar of Copyrights under this Act or in contravention of the conditions of a license so granted or of any condition imposed by a competent authority under this Act:
  - (i) does anything, the exclusive right to do which is by this Act conferred upon the owner of the copyright;
  - (ii) permits for profit any place to be used for the communication of the work to the public where such communication constitutes an infringement of copyright in the work, unless he was not aware and had no reasonable ground for believing that such communication to the public would be an infringement of copyright or;
- b) When any person;
  - (i) makes or sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire; or
  - (ii) distributes either for the purpose of trade or to such an extent as to affect prejudicially the owner of the copyright; or
  - (iii) by way of trade exhibits in public; or
  - (iv) imports into India.

<sup>6</sup> Dr. Gupta & Aggarwal, *supra* note 3, at 148.

<sup>7</sup> Tabrez Ahmad, *Cyber Law and E-Commerce* 25 (APH Publishing Corporation 2003).

In all the above-mentioned cases copyrighted work shall be infringed. The owner of copyrighted work will have to show deceptive similarity, prima facie case and irreparable loss to claim the damages from infringer.<sup>8</sup>

## Copyright Laws on Computer Programmes & Software:

As per the section 2 (ffc) of Copyright Act, 1957, a “computer programme” means a set of instructions expressed in words, codes, schemes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result.<sup>9</sup> Computer software is a set of computer programmes and comes within the ambit of the Copyright Act, 1957. The computer software also come within the scope of copyright protection under the literary works category of Copyright Act, 1957. The owner of the computer software holds several rights including right to give software licenses to someone else. Computer software can be of several types:

### Types of Software Licenses:

- **Free-Software Licenses:** Free software is a copyrighted computer software which can be used for free of cost and for unlimited time period. These kinds of licenses are usually produced and distributed free of charge by software programmers who want to do something good for the society. However, this license has restrictions as well. A free software license is personal in nature as it restrains the use of software for commercial purposes. It is a non-exclusive type of license which does not grant any exclusive right to any specific user. Besides, free software license is non-transferable means it does not allow the licensee to transfer any rights to the third party.
- **Open-Source Licenses:** As we can clearly understand by the word itself that this kind of license is open for all and has no restrictions at all. To be certified as Open-Source software must be in accordance with several terms & conditions. After the development of such Open-Source license, there must be free distribution, redistribution of such software and the possessor of Open-Source license cannot forbid any person from modifying, selling, distributing and utilizing such license for any generic research.
- **Shareware License:** This type of software is also known as Try-Before-Buy software. This kind of software generally comes with full functionality and limited trial period with full functionality. Once the trial period is over the user must either buy the software

<sup>8</sup> The Information Technology Act, 2000, § 51, No. 21, Acts of Parliament, 2000 (India).

<sup>9</sup> The Information Technology Act, 2000, § 2 (ffc), No. 21, Acts of Parliament, 2000 (India).

or delete or uninstall it from his computer. The trial period could be in number of weeks or days.

- **Demoware License:** This software is meant only for demonstration of product's features with some restrictions to its potential users.

The proprietor of copyrighted software holds the right to recreate and produce as many replicas of his work as he wants and distribute them. He also has the authority to upload his work on the Internet which would be equivalent to publicizing his work. The rights of selling, renting, transferring and modifying will be vested in the owner of the copyrighted software. Such copyrighted work cannot be used by anyone for his advantage without seeking the prior permission of the owner and non-compliance with the same would amount to copyright infringement.

Although the software copyright holders relish many exclusive privileges still, they are subject to some limitations in order to safeguard the public interest specifically of the users of the computer software. In some conditions, the use of the copyrighted work is permitted even without seeking the prior consent from its possessor. In our country, certain acts which do not amount to the copyright violation are fair dealing with a literary, dramatic, musical or artistic work for the reason of private use, including research, criticism or review, in order to utilize the computer programme for the purpose of which it was supplied.<sup>10</sup>

## **Domain Names & Trademark Law Issues:**

Trademark is defined in the Trademark Act, 1999 as, "trademark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging and combination of colors."<sup>11</sup>

The followings are the functions of a Trademark:

1. It identifies the product and its origin.
2. It guarantees its quality.
3. It advertises the product.
4. It creates an image of the product in the minds of the people and particularly consumers of such goods.<sup>12</sup>
5. Examples of trademark include Coca-Cola, Adidas, McDonald's, Maggi, Apple, Samsung, Twitter, Instagram, Facebook, Nestle etc.

<sup>10</sup> V.K. Ahuja, Intellectual Property Rights in India 15-16 (Lexis Nexis Butterworth's Wadhwa 2009).

<sup>11</sup> The Trademark Act, 1999, § 2 (1) (zb), No. 47, Acts of Parliament, 1999 (India).

<sup>12</sup> Dr. B.L. Wadhwa, Law Relating to Intellectual Property 134 (Universal Law Publishing Company 2009).

## What Do You Mean by Domain Name?

In simple words, a domain name is a unique name that is associated with a particular website to identify. A domain name is linguistic counterpart of Internet Protocol Address (IP Address). Every desktop has a unique IP address which works in a similar way that of a telephone number. If somebody wants to call up his acquaintance, he has to dial his acquaintance's number to connect. In somewhat the same way if somebody wants to visit a website then he has to type its IP address. But it is very hard for someone to remember a complete address so a system has been developed under which a name is granted to the concerned IP address which is called a domain name. Therefore, in lieu of putting IP address such as 203.163.228.13 in the search bar one can simply access to the website via domain name. For instance, www.apple.com., www.ril.com etc.

The great bard, William Shakespeare once said "What is there in a domain name?" These lines were undoubtedly written during a period when trademark & domain names were not in existence. Shakespeare would have given a second thought before penning down these lines if only he knew that Shakespeare.com had been available for sale. Therefore, the worth of domain names cannot be underrated.<sup>13</sup>

### Conflict Between Domain Names & Trademark:

The legislature enacted the Trademark Act with an objective to rectify and combine the laws relating to trademarks for goods & services and also to forestall the infringement of Trademarks. However, the owners of trademark wished to use their marks as domain names but realized that these domain names have been identified by unlicensed parties, mostly as a vicious attempt to infringe the trademark owner rights. The thing is, domain names get listed on first come first serve basis which leads most of the time to abusive registration i.e., registration of a domain name comprises of a trademark by an individual who has no legitimate authority to do so.

### Types of Trademark Infringement in Cyberspace:

I) **Cybersquatting:** The Courts pass verdicts on many different types of domain names dispute all around the world. Cybersquatting is considered to be one of the most serious types of disputes which involves the use of a domain name by an individual who has neither registered

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<sup>13</sup> S.K. Verma & Mittal, Legal Dimensions of Cyberspace 154 (Indian Law Institute 2003).

nor holds any vested interest to the same. Being similarity between trademark and domain names they get exploited by some individuals who register trademarks of others as domain names and sell them back to the owners of trademark or third parties at high proceeds. This method is called cybersquatting which refers to a person who is sitting in the premises of another person. This practice depicts us the significance of the role played by domain names in order to set up online identity. Cybersquatting is done in order to either obstruct the rightful owner to register his most suitable domain name or desire to sell the domain name in the market to earn some profit. This has led the courts to examine closely the relationship between domain names & trademark. If somebody wants to file a complaint to stop cybersquatting then he will have to show the mala fide intention, want of legal privileges and interests and resemblance of domain name with the trademark.<sup>14</sup>

**II) Reverse Domain Name Hijacking:** This is also known as reverse cybersquatting and it occurs when the owner of trademark attempts to protect a domain name through false claiming of cybersquatting against a legitimate owner of a domain name through lawsuit. Sometimes, the rightful owner of a domain name has to transfer the ownership of the domain name to the owners of trademark to evade exhausting and expensive legal proceedings. Especially, when the domain names belong to the small-scale organisations who are not financially strong enough to fight the case. This practice is mostly carried out by big corporations & renowned wealthy people.

**III) Meta Tags or Elements:** Meta tags also known as Meta Elements are elements of web pages that give the information regarding the page description and other relevant data. In the early stages of Internet, Meta tags were used in search engines to identify the contents of the web page and to help to place the web pages in the suitable categories. In the present times, people are abusing Meta tags to construct bogus page rankings for web pages that are poorly built. Meta tags can be classified into title, keywords and description.

### **Landmark Judgments:**

1) **Yahoo Incorporation v. Akash Arora**<sup>15</sup> : This case was the first case in India to deal with cybersquatting where the defendant started a website which was very identical to the plaintiff's widely known website and also provided the similar services. In this case, the court gave its verdict in the favour of plaintiff (US based Yahoo Inc.) and against the defendant that had

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<sup>14</sup> Harish, *supra* note 1, at 35.

<sup>15</sup> Yahoo! Inc. v. Akash Arora, 1999 Arb L.R. 620.

registered itself as YahooIndia.com. The court noticed that it was an effort made by the defendant to trade on the fame of Yahoo's trademark. A registrant of domain name does not acquire any right or interest to use that specific domain name just because he has registered the domain name and he could still be held liable for the infringement of trademark.

2) **Tata Sons Ltd. v. Arno Palmen**<sup>16</sup> : In this particular case the Delhi High Court dealt with the trademark protection for domain names. The lawsuit was initiated by the plaintiffs against the defendants in order to seek permanent injunction on the use of domain name by defendants i.e., "www.tatainfotech.in or any other mark or domain name which resembles or deceptively similar to the plaintiff's trademark i.e., Tata Sons & Tata Infotech.

### **Brief facts of the case:**

This lawsuit was initiated by Tata Sons Ltd. and its subsidiary Tata Infotech Ltd. It was set forth that the mark "Tata" was obtained from the last name of its founding father J.N. Tata. The plaintiffs submitted before the Hon'ble High Court of Delhi that this mark has continuously been affiliated with and exclusively represent the assemblage of all the companies that form the Tata Group and which is renowned for manufacturing products of high standards and its services under the trademark name of Tata.

The plaintiffs also submitted before the court that Tata group is the conglomeration of more than fifty companies which make use of "Tata" name as a main and essential part in their corporate name. Tata Sons Ltd. is the registered and rightful owner of the trademark related to and consisting the word "Tata" in respect to several goods coming under the different classes in the schedule four of the Trademark Rules, 2002. Therefore, it was argued that Tata Sons Ltd. has the right and interest in the said trademark name. Further, Tata Infotech Ltd. put forth its contention before the court that it is pioneer in the field of Information Technology and it has been using this trademark "Tata Infotech" since 1997 and it also has high goodwill in the market.

The plaintiffs submitted that they got to know about a registration of domain name www.tatainfotech.in from the defendant through email which was sent to Tata Infotech. The defendant informed them that the registration of the disputed mark in his name and he holds the right to use the domain name. It was also submitted that the defendant in the same email divulged that he supposedly had been offered a handsome amount of money for selling the

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<sup>16</sup> Tata Sons Ltd. v. Arno Palmen, (2013) SCC Del. 1216.

domain name that's why he wanted to inform the plaintiffs about this. The plaintiffs submitted that it was crystal clear that the defendant had registered the disputed domain name in order to acquire illicit wealth out of the domain name by selling it either to the plaintiffs or any third parties. It was also submitted that the defendant was conscious of the fact that the plaintiffs had the rights over the trademark of Tata Infotech.

The disputed mark was deceptively identical as a whole to the plaintiff's renowned mark. In addition to this if the defendant or transferee had started to use this trade name by redirecting it to some other website then the probability of a bonafide customer of the plaintiffs reaching to defendant's website would have been highly likely because the challenged domain name was very similar to the plaintiff's domain name i.e., www.tatainfotech.com. Therefore, it was argued that if anyone uses the trade name of plaintiff on the internet can cause huge loss or damage to the business of the plaintiff through passing off and damage to the prestige attached to its trademark.

### **Judgment:**

The Delhi High Court took Supreme Court judgment in **Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.**<sup>17</sup> into account. In this particular case the Supreme Court scrutinized whether domain names are subject to the legal norms relevant to other Intellectual Properties like trademark or not and considered as tradenames which are competent of differentiating the subject of trade or service made available to prospective users of the Internet.

The Supreme Court held that using the same or identical domain name may lead the way to the reallocation of users. This could be the outcome from such users erroneously retrieving one domain name in lieu of another. This could happen in electronic commerce with its quick progress and prompt ease of access to users and prospective customers and especially so in areas of specific overlap. Therefore, it is obvious that that a domain name may possess all the features of a trademark and could file legal action for passing off the trademark.

The court observed that the domain name i.e., www.tatainfotech.in was registered and created in the favour of the defendant in 2005 but the prior user of the mark was plaintiff and it was being used by plaintiff since 1997. The conversation between the lawsuit parties through email showed that the defendant was aware of the plaintiff being the legal and rightful owner and user of the trademark. The challenged domain name was registered with mala fide intention to

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<sup>17</sup> Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd., AIR 2004 SC 3540.

sell to the plaintiffs themselves or to third parties or to take the disadvantage of the distinguishing features and goodwill of the plaintiff's trademark.

The court ordered and put injunctions on the defendant, their employees, agents, staffs and all who were acting on behalf of the defendant from running any business or dealings in any way including using plaintiff's trade/domain name or the word TATA or any other name that consists of the similar or confusingly identical to it regarding any goods & services. The Key-Systems GMBH, who was the other defendant in this lawsuit was directed to annul the registration of this disputed domain name in the favour of the defendant.<sup>18</sup>

### **Trademark, Copyright & Information Technology Act Loopholes:**

Presently, there is no current or proposed provision under the Information Technology Act to punish the cyber-squatters and at best all one can do is to take back the domain name. Although there is no provision for compensation under the IT Act to the organisations who suffer damages from the cybersquatting but .IN registry has taken some bold steps to provide legal compensation to the victim organisations to prevent cyber-squatters from stealing the domain names. Most of the cyber-squatters operate under the garb of obscure names in order to hide their identity. .IN registry comes under National Internet Exchange of India and functions as an autonomous body with first and foremost responsibility is to maintain the country code toplevel domain and safeguard its operational stability, reliability and security. It imposes several components of the new policy proposed by the Government of India and its Ministry of Communication & Information Technology.

The Information Technology Act, 2000 somehow fails in relation to jurisdiction disputes, cybercrimes related to IPR, cyberbullying, cyberstalking etc. Same as IT Act, Trademark Act and Copyright Act are also silent on issues emerging out of cyberspace i.e., Trademark & Copyright infringement. Although computer software & programmes are secured under the Copyright Act, 1957 still it does not give remedies for the piracy of software & programmes online.

### **Conclusions & Suggestions:**

Intellectual Property is considered to be one of the most precious assets of any individual and it should be secured at any cost as these are the result of a person's skills and perseverance. There is an urgent need for some stern legislations to prevent offences related to IPR. The new

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<sup>18</sup> *Id.*

policies on domain name disputes must intend to give trademark owners a legal compensation and remedies against the defendants who acquire domain names with bad or mala fide intent and which are deceptively or confusingly identical to a trademark. The United States have enacted a special legislation US Anti Cybersquatting Consumer Protection Act, 1999 which gives protection to the interest and rights of both the registered and non-registered trademark holders against use of their marks withing domain names and also protect living individuals against use of their private names under some certain circumstances. So, India really needs to lay down some appropriate legislations to tackle the issues related to IPR infringements in Cyberspace.

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