

PROTECTION OF IPR IN IPL

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Introduction:

The spread of information technology (IT) and networked systems throughout the world has had an enormous positive impact on economies and societies. As we can see that in today's intellectual property laws are fashioned during the industrialization age and developed subsequently raises the advancement of technology in the society. The technology, as well as the laws, goes hand in hand, as more the advancement of technology, the more laws are there for the protection of those intellectual properties. The Sports industry has always been a massive sector across the world, bringing together entertainment, games, culture and monetary business, right from the primitive era through the glorious days of Caesar to the twenty first century money making sports industry. Sports activities which started as a hobby or a pastime event to enable participants to enjoy the sports or as a form of physical exercise; have evolved into giant international events, or more appropriately international businesses. For e.g. Real Madrid which is a Spanish as well as European professional football club, based in Madrid, Spain and part of La Liga League, is one of the wealthiest and most widely supported football teams in the world. Real Madrid has a wide range of commercial incomes, from sponsorship to merchandising and financial services. It operates a TV channel, radio station, publishes a magazine, provides newsletters and another large chunk of its revenues come from tickets to games, hotel and cinema.

The sports nowadays is not related to physical, mental activities of human beings but are related to any sort of entertainment. It also relates to Commercialization of Sports or in other words Corporatization of Sports. Today's marketing plays a vital role not only for the players, but also for the teams too. As, I stated above the example of Real Madrid Players as well as the team how they use to promote the sports and the franchise together. The expansion of sports can be seen around the globe, similar effects can also be seen in India too. In India also, the industry of sports is becoming bigger and bigger over the years with certain sports getting unimaginable mileage over others due to the commercialization and investment interest.

Cricket has for decades been a gentleman's sport, which has now transitioned into a monumental commercial game attracting huge capital, investments and profits.¹ IPR in Cricket is legally protected by a wide variety of means, which include trade mark and design laws, copyright laws, competition and trade practices laws, telecommunications and broadcast laws relating to signal theft, common law and the terms and conditions under which Cricket match tickets are sold and pursuant to which stadium entry is permitted.

Cricket is changing and in many ways Indians are shaping the change and along with this, the need for IP protection in sporting events is gaining more importance. There are three forms of Intellectual Property that routinely intersects sports events:

- a.) Trade Mark,
- b.) Copyright,
- c.) Designs.

Trade Mark²- A trade mark can be a word, phrase, letter, number, sound, smell, shape, logo, picture that is used to distinguish the goods and services of one organisation from those of another. Assets such as a sport's name (IPL), teams (Mumbai Indians) and events (World Cup) and their logos, colours and emblems hold commercial value and are essential components of branding and merchandising programs.

Copyright³- Copyright exists in an "original literary work" and happens automatically when the work is created. The creator owns the copyright, unless commissioned by another, until they assign or license their rights to another individual or company. Copyright might be used to protect:

- Computer programs,
- Published results,
- Programs,
- Fixtures,
- Photographs of events, teams and athletes.

Designs⁴- Registration of a design gives the owner protection for the visual appearance of the product, not how it works. To be registrable, a design must be new or original. Examples: bicycles, football boots or cricket bats.

Indian Premier League (IPL):

The **Indian Premier League (IPL)** is a professional Twenty 20 cricket league in India contested during April and May of every year by franchise teams representing Indian cities. The league was founded by the Board of Control for Cricket in India (BCCI) in 2007.⁵ The last IPL game has leads to various contrivances i.e. the money in the games has led to huge scams in the recent past due to large monetary stakes, fixing, betting, doping and gambling issue. Cricket Association of Bihar V. The Board of Control for Cricket in India & Anr., 2015, the judgment delivered by the apex court is a good attempt at bringing about more amount of transparency in the functioning of cricket. In the opinion of the author, the apex court has rightly laid down that, conflict of interest of people associated or in any way related to the BCCI cannot be accepted for the purpose of cricketing operations in India . Yet, merely taking action against BCCI officials or people related with it cannot be sufficient in order to induce transparency into the sport. In the opinion of the author, the constant reluctance of the apex court in bringing BCCI under the ambit of Article 12 of the Constitution of India and regarding it as instrumentality or agency of “state” in relation to cricketing operations is the primary reason behind the unregulated powers exercised by BCCI and people related to it. Further the absence of a proper cricketing legislation is the biggest reason behind corruption and lack of accountability in the administration of the sport in this country. The question as to whether this was a “Restriction imposed upon people associated with BCCI or a farcical form of justice” cannot be answered in the affirmative only on the basis of this judgment. Hence, it can be concluded that the answer to the question can only be given in the future when this judgment is made applicable in similar cases arising in the future and only if a substantial curtailment on the powers of BCCI takes place.⁶ Cricket is synonymous to sports in India. This game draws the biggest attention and highest amount of revenue than all the other form of sports taken together in India. IPL is providing a stage for many youngsters to show their performance and profitable too to Advertisers and broadcasting channels. It followed the commercial and popular T20 format of the game where the teams play 20 over each. It is currently contested by 8 teams consisting of players from around the world. With eight teams, each team plays each other twice in a home-and-away **Round-Robin format** in the league phase. At the conclusion of the league stage, the top four teams will qualify for the Playoffs. The top two teams from the league phase will play against each other in the first Qualifying match, with the winner going straight to the IPL final and the loser getting another chance to qualify for the IPL final

by playing the second Qualifying match. Meanwhile, the third and fourth place teams from league phase play against each other in an eliminator match and the winner from that match will play the loser from the first Qualifying match. The winner of the second Qualifying match will move onto the final to play the winner of the first Qualifying match in the IPL Final match, where the winner will be crowned the Indian Premier League champions.⁷

IPL Teams in 2017:

Franchise	City
Mumbai Indians	Mumbai
Royal Challenger Bangalore	Bangalore
Kings XI Punjab	Punjab
Kolk7ta Knight Riders	Kolkata
Delhi Daredevils	Delhi
Gujarat Lions	Gujarat
Rising Pune Supergiants	Pune
Sunrisers Hyderabad	Hyderabad

There are two teams which are newly been appointed by the BCCI committee and the old teams i.e. **The Chennai Super Kings and Rajasthan Royals** have been discarded from the IPL for the fixing, betting, doping and gambling issues.

The official names, phrases, trademarks, trade names, logos and designs related to the Indian Premier League are protected by the law in a variety of ways.

The following are some of the current items that make up the IPL Names and IPL Marks:

- The Vivo-IPL logo;
- The logos of each of the IPL franchises;
- The words “Indian Premier League,” “IPLTM,” “Vivo,” and “Vivo-IPL” and variants thereof;
- The names of each of the **Eight IPL franchise;**
- Copyrights for website layout design and uniforms that they may share with companies that manufacture and sell uniforms and sports articles; and
- Domain names like **www.iplt20.com**

How Indian Premier League IPR protected?

The IPL IPR is legally protected by a wide variety of means, which include trade mark and design laws, copyright laws, competition and trade practices laws, telecommunications and broadcast laws relating to signal theft, common law and the terms and conditions under which IPL match tickets are sold and pursuant to which stadium entry is permitted.

Unauthorised use of the IPL IPR may infringe one or more of the intellectual property rights of the BCCI-IPL, the terms of the agreements signed between the BCCI-IPL and official sponsors and partners of the IPL and/or the terms and conditions under which IPL tickets are sold and stadium entry is permitted. While the BCCI-IPL expects full compliance with the above, it is prepared to take all legal action in the case of each and any infringement and violation. This could include an injunction to stop the infringing activity, a suit for damages or compensation or an enforced accounting of profits by the infringer to the BCCI-IPL. Both civil and criminal remedies may be available in the case of intellectual property violations, signal theft and other violations of the BCCI-IPL's rights.

Before the BCCI-IPL initiates legal proceedings, a suspected infringer may receive a legal notice from the BCCI-IPL's lawyers or its designated agent, advising the infringer of violations and unlicensed usage relating to the IPL IPR and/or potential infringements constituting breach of the media accreditation guidelines and/or the news access guidelines and/or the terms and conditions of download and usage of the IPL Marks. In such event, the offending party may be given the opportunity, without prejudice to any rights of the BCCI-IPL to take legal action against the offending party, to refrain from the continued use of the IPL IPR and/or the potential infringements.

If the infringer fails to respond to and adhere to the requirements and conditions set out in the legal notice, the BCCI-IPL will exercise its right to pursue its legal and administrative remedies. No such prior warning, however, is required, and the BCCI-IPL will utilise all resources available to fully protect the IPL IPR and ensure persons are dissuaded from infringing any rights relating to the IPL. ⁸

Team Logo⁹:

Mumbai Indian:



Owner: Reliance Industries

Captain: Rohit Sharma

Gujarat Lions:



Owner: Intex Technologies

Captain: Suresh Raina

Kings XI Punjab:



Owner: KPH Dream Cricket Private Limited, Preity Zinta, Ness Wadia, Mohit Burman, The Oberoi Group, Karan Paul

Captain: Murali Vijay / Glenn Maxwell

Kolkata Knight Riders:



Owner: Shah Rukh Khan (Red Chillies Entertainment), Juhi Chawla, Jay Mehta (Mehta Group)

Captain: Gautam Gambhir

Royal Challenger Bangalore:



Owner: United Spirits

Captain: Virat Kohli

Rising Pune Supergiants:



Owner: RP-Sanjiv Goenka Group

Captain: Steve Smith

Delhi Daredevils:



Owner: GMR Group

Captain: Zaheer Khan

Sunrisers Hyderabad:



Owner: Kalanidhi Maran (Sun Network)

Captain: David Warner

Among all the teams, **Mumbai Indians** is the only team who has filed for various trademark protection aiming for an expanded branded portfolio. Whereas the KKR and MI have applied for trade marks to merchandise and manufacture numerous products.

Interestingly, the trade mark rights are not only limited to the sports-related classes but they are also seeking exclusivity of the brand under many other classes. The teams have a conventionalized logo that is used in conjunction with the team name on all their products and services, and this logo along with the name of the team and the team slogans should be sought to be registered, as very often it is on the basis of tag-lines or slogans that reputation is sought

to be stolen. Equally, most of the teams have gone for protection for both word mark and the logo except **Kings XI Punjab** which has filed only for word and **Kolkata Knight Riders** only for logo.¹⁰

Ambush Marketing¹¹:

Ambush marketing refers the companies to promote their brands or products by associating them with a team, league or event without paying for the privilege. In general Ambush means "**An attack from Hidden Position**". In Ambush Marketing, Company exploit to advertise themselves on the events, in which it's not an **official sponsor**. There have been numerous examples in which other companies dragged the limelight, without being an official sponsors. Some common ambush tactics include the following:

- For example Advertisements and branded blimps around venues, The Vodafone Super Fan Army, Vivo VIP Box, Maruti Suzuki Vitara Brazza, Television coverage.
- Free branded merchandise to spectators in the form of flags and jersey during the entrance of the venue;
- Ads wishing teams "good luck" or "congratulations"- During Champion League 2012, various ads running in television and as well as in the newspapers advertising "Good Luck and Congratulation" to Team India for Champion League Matches.; and
- Using event tickets as prizes in consumer sweepstakes- This basically correlate as Vodafone Super Fan, Vivo VIP Box in IPL 2017.¹²

One of the finest example of ambush marketing is the **famous controversy between Coca Cola and Pepsi** over the official status of the cola for the World Cup Cricket tournament of 1996-97, wherein Coca Cola brought out an ad claiming to be the OFFICIAL COLA of the tournament and Pepsi brought out a competing ad with the slogan "there is NOTHING OFFICIAL about it".

Conclusion:

The new version of commercial sports magnetizes core IPR issues like Trademark, Copyright, Design, licensing and franchising etc. and all these clearly defines that in any events IPR protection are inevitable. Legal contractual agreements must be in place protecting all forms of intellectual property created in sporting events, teams, and individual players etc. so as to protect all the stake holders' financial interests.

There are various ways of revenue generation through the sports industry. Through this revenue the government should promote its national sports and culture to the level of international standards. In India the league like IPL, The Pro Kabaddi league and the ISL (Indian Super League) have paved a platform to the young talent to gain the international exposure.

In view of the huge amount spent on branding and corporatisation of the teams, the sports franchise owners have to take adequate care to ensure widespread protection for the trademark portfolio and its effective management.¹³ And thus IPR Protection in any events play a vital role in the sports industry.

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2 Intellectual property, Intellectual property | Office of Sport, <https://sport.nsw.gov.au/clubs/ryc/legal/intellectualproperty> (last visited May 12, 2017).

3 Ibid

4 Ibid

5 "IPL confirms South Africa switch". BBC. 24 March 2009. (last visited May 26, 2017).

6 Shubhankar Das, Board of Control for Cricket in India vs Cricket Association of Bihar: A Restriction on People Associated with BCCI or A Farical Form of Justice? NSLRBlog (2015), <https://nslrblog.wordpress.com/2015/03/07/board-of-control-for-cricket-in-india-vs-cricket-association-of-bihar-a-restriction-on-people-associated-with-bcci-or-a-farcical-form-of-justice/> (last visited May 15, 2017).

7 Sushant Satghare, Indian Premier League Schedule - IPL 2016 Fixtures Cricket Betting Tips (2015), <http://cricbetlive.co.uk/2015/08/27/indian-premier-league-schedule-ipl-2016-fixtures/> (last visited May 25, 2017).

8 Jyoti Chopra Follow, Ipl 2016 LinkedIn SlideShare (2016), <https://www.slideshare.net/jyotichopra5/ipl-2016> (last visited May 25, 2017).

9 IPL, (<http://www.iplt20.com/teams>) Retrieved 18 May 2017.

10 Kavita K & Filma V, Intellectual Property Protection and IPL - Manupatra, http://www.bing.com/cr?IG=AEB786F370EB421CABF9982DEAB14F8C&CID=3A669C60501365F624CF96ED51156436&rd=1&h=6zKc6Ec1Smnk2ScAeA6aAqXNy3izOsFFO1YKT5M_vnA&v=1&r=http%3a%2f%2fmanupatra.com%2froundup%2f336%2fArticles%2fIntellectual%2520Property%2520Protection.pdf&p=DevEx,5061.1 (last visited May 26, 2017).

11 Christine Chiramel & Vijay Pal Dalmia, India: Intellectual Property Rights In Sports-Indian (2012), <http://www.mondaq.com/india/x/164974/> (last visited May 18, 2017).

12 Ibid

13 Ibid