

MANUPATRA INTELLECTUAL PROPERTY REPORTS

- If there was no assignment of copyright, the copyright would continue to vest with its owner. 0040
[*Sree Gokulam Chit and Finance Company (P.) Ltd. v. Johnny Sagariga Cinema Square*]
- A man must be allowed to carry on business in his own name or that of his predecessor and if in the process, some confusion arises, that should not be a ground to restrain that man from carrying on his business in such name which is an inherent right of a man. 0032
[*K.C. Das Pvt. Ltd. and Anr. v. K.C. Dass*]
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Intellectual Property Protection and IPL

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IP rights are usually associated with industry, typically the manufacturing industry. Now IPRs such as copyrights, trade marks and designs have become a source of significant value even to sporting events. With the growth of commercialisation of sports, clubs and associations need to understand the basic concepts of IP so that they can effectively develop, protect and exploit their assets. This article focuses on the importance of Intellectual Property for sports events in the light of IPL.

*"It cannot be stolen by thieves, nor can it be taken away by kings.
It cannot be divided among brothers; it does not cause a load on your shoulders.
If spent, it indeed always keeps growing.
The wealth of knowledge is the most superior wealth of all!"¹*

In this 21st century if someone takes initiative to make new version of this Vidya sloka, he/she would probably seek Intellectual Property (IP) protection for this sloka. It reflects the transformation that has taken place over the last few decades with regard to IP protection. Nowadays, people are aware that knowledge also can be stolen very easily. Commercialisation plays a significant role in most of the creations and that paves way for infringement of anything and everything. The main aim of the IP is predominantly recognised in the commercial world to protect the interest of the mercantile community.²

IP rights are usually associated with industry, typically the manufacturing industry. Now, IPRs such as copyrights, trade marks and designs has become a source of significant value even to sporting events. With the growth of commercialisation of sports, clubs and associations need to understand the basic concepts of IP so that they can effectively develop, protect and exploit their assets.

1. Importance of IP for Sports Events

Human beings have been involved in sports activities since time immemorial. From the initial days of human civilisation till date, sports have evolved from a source of personal entertainment to a global industry encompassing more

than 3 per cent of world trade. In the UK, sports provide employment to more than 4,20,000 people. It is one of the main revenue generating industries of the world and with the propagation of the internet and other forms of media, the sports industry is growing at a faster

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1 Listed in Subhashita Ratnamala by Krishnashastri Bhatavadekara, page 50 sh.4 as Vidya Subhashitam (1913)

2 <http://www.lawyersclubindia.com/articles/The-concept-of-Intellectual-Property-Origin-and-Developments-3244.asp>

tempo.³ 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. Manchester United which is an English professional football club, based in Old Trafford, Greater Manchester and part of English Premier League, is one of the wealthiest and most widely supported football teams in the world. Manchester United 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.⁴

Popular games such as football, golf, tennis, basketball, cricket, yachting, car-racing, etc. have evolved into international events with a huge following, creating gigantic marketing potential for the organizers. The organizers of popular games such as FIFA (football), PGA (golf), NBA (basketball), etc. organize and manage the events, typically international competitions in such a manner to extract maximum value from others who want to exploit the marketing potential the events offer.⁵ Sporting events have an impact on the economy of the countries holding the event as all industries manufacturing, tourism, broadcasting, advertising, etc. directly benefit from it.

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. 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.

2. Types of IP Protection Applicable for Sports Events

The forms of Intellectual Property that routinely intersects sports events are the following:

- Trade mark
- Copyright
- Designs

2.1 Trade marks

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 (Chennai Super kings) and events (Asia Cup) and their logos, colours and emblems hold commercial value and are essential components of branding and merchandising programs.

2.2 Copyright

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.⁶

Copyright might be used to protect:

- Recorded visual images or commentaries of sports events
- Photographs of events, teams and athletes
- Rule books, reports and other materials used in the administration and promotion of sport
- Fixtures

³ <http://lawquestinternational.com/emerging-sports-law-india> last visited on 27 April 2011

⁴ http://en.wikipedia.org/wiki/Manchester_United_F.C.

⁵ <http://EzineArticles.com/5202279> last visited on 27th April, 2011

⁶ http://www.dsr.nsw.gov.au/sportsclubs/ryc_legal_intellectual.asp

- Programs
- Published results
- Computer programs.

2.3 Designs

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: merchandise, bicycles, football boots or cricket bats.⁷

This article focuses on effective trade mark protection for sporting events.

3. Trade Marks and Sports Events

Trade mark registration plays a major role in sporting events to expand the market and gain greater name recognition. The organizers initially create a distinctive logo, emblem or phrase(s) to identify the event. If the logos or emblems are original, they would be protected as trade marks and copyrighted works. As an example, the emblem of the 2010 FIFA World Cup is protected as a trade mark and as an artistic work under Copyright laws. Terms such as "2010 FIFA World Cup South Africa," "2010 FIFA World Cup," "2010 World Cup," "Football World Cup" and similar derivations thereof are also protected against unauthorised use and subject to applicable laws in the various jurisdictions.⁸ The objective is to protect IP, make a profit and increase brand valuation.

As the logo/emblem/phrases (event identifiers) are extensively in the media, they are easily and very quickly associated with the event by the public and thereby acquire a strong trade mark value.⁹



4. Need for registration

A registered trade mark gives its owner the exclusive right to use, license or sell it for the goods and services for which it is registered. Only a registered trade mark can enjoy/avail the benefit of suing the unauthorised use of trade mark for infringement. Registration of a trade mark forbids every other person to use or obtain the registration of the same trade mark or a confusingly similar trade mark in relation to the same goods or services in relation to which the trade mark is registered.

5. Trade mark – Applicable classes for Sports events

It is a fundamental principle of trade mark law that the use of a trade mark should be in relation to the goods/services carried under it.¹⁰

Manchester United has applied for the trade marks "MANCHESTER UNITED"

(word),  (logo),  and (logo)

to merchandise and manufacture numerous products. The following are classes for which these marks have been protected.¹¹

Class	Goods/Services
03	Bleaching preparations and other substances for laundry use; cleaning; polishing; scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions, dentifrices
06	Badges (for vehicles) and bars for use therewith; keys; key blanks; key rings and key chains; locks and ornaments all made of common metals and their alloys

7 Ibid

8 <http://EzineArticles.com/5202279> last visited on 27 April 2011

9 Ibid

10 <http://www.managingip.com/Article.aspx?ArticleID=1321380> last visited on 26 April 2011

11 http://oami.europa.eu/CTMOnline/RequestManager/en_Result_NoReg

08	Manicure sets; cutlery; razors and razor blades; shaving cases; hand tools and implements; penknives		from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal
09	Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishing apparatus	20	Furniture, mirrors, picture frames; goods of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics
11	Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying ventilating, water supply and sanitary purposes	21	Household or kitchen utensils and containers(not of precious metal or coated therewith); combs and sponges; brushes(except paints brushes); brush making materials; articles for cleaning purposes; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware
12	Motor land vehicles and parts and fittings thereof; bicycles; tricycles; boats; parts, fittings and accessories for all the aforesaid goods.	22	Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes) padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials
14	Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and other chronometric instruments	24	Textiles and textile goods, not included in other classes; bed and table covers
16	Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus); plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks	25	Clothing, footwear, headgear
18	Rubber, gutta percha, gum, asbestos, mica and goods made	26	Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers
		27	Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings(non-textile)
		28	Games and playthings, gymnastic and sporting articles not included in other classes; decorations for Christmas trees
		29	Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and milk products; edible oils and fats

