



TRADEMARK LAW IN THE DIGITAL AGE: INDIA'S APPROACH TO DOMAIN NAMES, META-TAGS, AND SEO IN COMPARISON WITH GLOBAL TRENDS

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ABSTRACT

In today's digital world, there are constant discoveries and advancements in technology, especially in India, which is rapidly evolving as a global tech hub. However, present governing laws on trademark protection, particularly under the Trademarks Act 1999, must also evolve to counter modern challenges. In the age of Artificial Intelligence (AI), e-commerce, and digital marketing, the traditional legal framework must ensure robust protection of intellectual property rights (IPR) online. This article will focus on the emerging challenges within the trademark law and how domain names, meta-tags, and search engine optimization are being used to illegally manipulate the digital identity with malicious intent. Trademarks, once limited to the physical logos and names, now extend to online commercial identity and digital brand reputation. As digital business was found to be gaining dominance in profit, and as a way to expand across global markets. However, trademark infringement in cyberspace through cybersquatting, deceptive meta-tagging, and keyword advertising has tested the limits of existing trademark jurisprudence in India. Currently, India's legal framework for handling such digital infringements is compared with more evolved approaches adopted by countries like the United States and the European Union. And highlights the key judicial decisions, enforcement mechanisms, and suggestions for reforms in India to strengthen its landscape in IPR governance, and this article explores all the above scenarios, especially in the digital trademark infringement, which is the current emerging issue.

Keywords: Trademark Act 1999, Digital Trademark Infringement, IPR Governance.

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THE CONCEPT OF DIGITAL TRADEMARK

Before analyzing the infringement of a digital trademark, it's essential to know what a digital trademark is. A digital trademark refers to the protection of a brand's identity and intellectual property in a digital environment, including the metaverse. These trademarks play a crucial role in helping consumers distinguish the goods or services of one entity from another in the online or virtual space. It also helps in the navigation of the product or service of the brand.

Domain Names: Internet addresses that often reflect a brand name. Unauthorised use of a similar domain can mislead consumers and divert business.

Meta-Tags: Hidden HTML code used to define keywords for search engines. Inserting a competitor's trademark can unfairly boost the search visibility.

SEO and Keyword Ads: bidding on a competitor's trademark as a keyword in paid search ads can draw users under false pretences. When one of these aspects of a brand is misrepresented or misused, it can confuse, dilute brand value, and amount to infringement, though it is not always visible to consumers. In *Cable News Network, Inc. v. Anshu Jain*, the domain name of the well-known CNN brand was used by the defendant in the name of CNN DIGITAL, but to protect the integrity and reputation of the company, the Delhi High Court stated that the fair and honest trader will not give a misleading name to his product to the continuing detriment of a plaintiff who has built up his goodwill in the business after years of hard work. ... It is this intangible right to property that the law seeks to protect¹. This judicial precedent officially protects the reputation of the brand in the digital environment in India.

INDIAN LEGAL FRAMEWORK ON DIGITAL TRADEMARK INFRINGEMENT

In the Indian legal framework, the trademark laws were enacted in 1999 with the Indian Trademark Act of 1999, so at that time, there were no domain names, meta-tags, or SEO. However, now some of the sections from the Act are interpreted to address the misuse, Under **Section 2(zb)**: 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 a combination of colours². In simple terms,

¹ *Cable News Network, Inc. v. Anshu Jain* [2017] SCC Online DEL 11885

² The Trade Marks Act 1999, s 2(zb)

this section means that trademarks include names, labels, and devices that can distinguish goods or services.

Section 29: Section 29 of Trademarks act 1999, is detailed section on infringement of registered trademark, let me break it down how it helps deal with the digital misuse, it specifies that using a registered trademark in the course of trade, without authorization, and in a way of using identical or deceptively similar marks for related goods or service which likely to confuse or takes an unfair advantages of marks reputation, thus constitutes infringement.³ These general clauses have been judicially interpreted to address digital misuse. Some landmark India's leading precedent on the DOMAIN NAME RIGHTS is, *The Satyam Infoway Ltd V. Sifynet Solutions Pvt Ltd.*, The Supreme court of India held that the domain name as the same characteristic of a trademark, they are the identifiers of business and deserve the same rules of the passing off as laid in the Trademarks Act 1999 will apply.⁴ Hence, the Apex court of India recognized cybersquatting and misuse or deceptively similar use of a domain name as a legitimate form of infringement and applied passing-off principles to domain name disputes. Now that we know India's judicial framework officially recognises the domain name as a Trademark, however, it doesn't stop there, the Indian courts have also extended protection even to hidden trademark use like META-TAGS and SEO in *People Interactive (I) Pt. Ltd. v. Gaurav Jerry & Ors.* The Bombay High Court, interestingly, had the 'meta-tags' which had not been defined in any Indian case, were defined for the first time in this case. Meta-tags, being a special line of code, are embedded in the webpages and are often used by the search engines in deciding the relevant websites to show in a search result. The court held that using the name 'Shaadi.com' in meta-tags by a competing matrimonial site was prima facie infringing, as it diverted online traffic deceptively and almost diverted 10.33% of the internet traffic away from the plaintiff to his domain name. Thus defendant's action was termed as 'online piracy' and the court granted Intern injunction to the plaintiff.⁵ Another precedent on *Consim Info Pvt Ltd v. Google India Pvt Ltd.* The Madras High Court addressed the legality of using trademarks as keywords in Google Ads. The court hesitated to rule the keyword advertising as illegal, but it stressed that misleading and causing confusion would constitute infringement.⁶

³ The Trade Marks Act 1999, s 29

⁴ *Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.*, AIR 2004 SC 3540

⁵ *People Interactive (I) Pt. Ltd. v. Gaurav Jerry & Ors* MIPR 2014(3)101

⁶ *Consim info Pvt Ltd v. Google India Pvt Ltd.* (54) PTC 578 (Mad)

COMPARATIVE JURISPRUDENCE: USA AND EU

United States of America (USA): As the issues of digital trademark infringements and other trademark-related issues in trademark continue to rise, countries like the United States (US) have developed a detailed legal framework for tackling new emerging problems. In the US, the trademarks are protected by the LANHAM Act, which protects the unauthorized use of trademarks in commerce, including in meta-tags and domain names. In 1999 *Brookfield Communications V. West Coast Entertainment*, case the court ruled that using a competitor's trademark in meta-tags constituted "initial interest confusion," even if users later realized the website was unrelated and instructed West Coast to refrain from using "moviebuff.com" in its metatag.⁷ another landmark case in the realm of trademark law and internet advertising. Decided by the United States Court of Appeals for the Ninth Circuit in 2004, the *Playboy Enterprises, Inc. v. Netscape Communications Corp.* In the case of *Playboy Enterprises, Inc. (PEI)* discovered that Netscape was using its trademarks, "Playboy" and "Playmate," as keywords to trigger ads from competing adult entertainment companies. It was held to be misleading and hence infringing. The court granted Playboy an injunction and also prevented Netscape from using Playboy's trademarks to generate banner ads and remanded the issue of trademark dilution to the district court for further fact-finding.⁸ Now you know the landmark cases that protect the domain name trademarks and meta tags trademarks by the LANHAM Act in the US, but several other acts protect the domain name in the US, such as the Anti-Cybersquatting Consumer Protection Act (ACPA). The ACPA protects trademark owners and consumers from bad-faith registration of domain names. A key element is the requirement of bad faith intent to profit from the trademark's goodwill, not just registering a similar name. The Act addresses both cybersquatting and typo squatting. And the Uniform Domain-Name Dispute-Resolution Policy (UDRP) provides a global mechanism for resolving such disputes outside court, such as the arbitration tribunals.

European Union (EU): In the EU there are strong polices and acts to protect the digital trademarks and the various landmark cases that dealt with the infringement of trademark such as the *Google France SARL v. Louis Vuitton Malletier SA* (ECJ, C-236/08) The European Court of Justice held that using trademarks in Google AdWords is not infringement, unless it confuses the goods or services, As Court held the Google isn't automatically responsible for

⁷ *Brookfield Communications v. West Coast Entertainment*, 174 F.3d 1036 (9th Cir. 1999)

⁸ *Playboy Enterprises, Inc. v. Netscape Communications Corp* 354 F.3d 1020 (9th Cir. 2004)

advertisers using trademarks as keywords, but advertisers can be sued if their ads confuse customers. Google could be liable if it actively helps or ignores trademark infringement after being told about it⁹. The EU adopts a context-sensitive approach in digital use when this is examined based on the likelihood of confusion, origin misrepresentation, or unfair advantage. And the latest Digital Services Act (DSA) and Digital Markets Act (DMA), the EU is increasing platform accountability and digital transparency by providing support to trademark enforcement in cyberspace and the digital environment.

COMPARATIVE ANALYSIS

The India the legal framework in India like its primarily through the trademarks act 1999 which does not address digital uses such as meta tags or keyword advertising, some cases judicial interprets the act applies application like section 29 and in contrast, with the US which as the more structured framework Lanham act and Anti-Cybersquatting Consumer Protection Act (ACPA), which directly targets domain name abuse. The EU, which relies on a mix of landmark rulings and EU Directives and the European Court of Justice (ECJ), offers flexible but evolving guidance for digital trademark use. In Domain Name Protection, India recognizes domain names as trademarks in Supreme Court judgments such as *Satyam Infoway v. Sifynet Solutions*, and also the US provides stronger domain name protection through the ACPA and dispute resolution UDRP (Uniform Domain-Name Dispute-Resolution Policy). The EU also enforces domain name rights through UDRP and additional national laws. In Meta-Tag Use and SEO, **Indian courts held that the use of trademarks in meta-tags can amount to infringement if it causes consumer confusion, as in the *Shaadi.com* case. In the US, such use is generally held to be infringing, especially where initial interest confusion arises, as in *Brookfield v. West Coast*. The EU takes a more context-specific approach, examining whether the use of meta-tags is unfair or misleading, but does not treat it as an infringement.** Keyword advertising in India the legality of keyword advertising not recognized, and whether using a competitor's trademark in sponsored ads amounts to infringement. Then, in contrast, the US often considers use as infringing if it is found to mislead consumers. The EU follows stricter consumer protection for keyword ads, as they infringe when they confuse the source. And in terms of remedies, India offers civil remedies and INDRP, which is often very slow, but the

⁹ *Google France SARL v. Louis Vuitton Malletier SA* (ECJ, C-236/08)

US provides injunctions, damages, and UDRP mechanisms, while the EU enables injunctions, platform-level moderation, and robust dispute resolution.

ENFORCEMENT CHALLENGES IN INDIA

India still faces a number of major challenges in the successful enforcement of digital trademark rights, despite its progressive case law. The absence of statutory clarity is one of the main problems; the Trade Marks Act of 1999 does not clearly define the digital trademark use or the criteria for detecting online infringement. Furthermore, if infringers run websites or register domain names from outside India, jurisdictional issues occur that make it even more challenging for Indian courts to enforce their Issues. Section 79 of the Information Technology Act, 2000, in India, provides a "safe harbour" provision for intermediaries, which protects them from liability for their actions as long as they are unaware of any illegal activity¹⁰. To qualify for safe harbour, intermediaries should operate passively and with due diligence, generating only information and not modifying it.

This section protects intermediaries like Google and other search engines from misuse of the provision, causing enforcement challenges of trademark regulation in the digital environment. Cases like the *MySpace Inc. v. Super Cassettes Industries Ltd*, the division bench of the Delhi High Court dealt when the website aware of the infringement of the trademark or misuse the website should remove the infringing content, and held section 79 of the IT Act supersedes the Trade Marks Act if there is inconsistency, the use of meta-tags to use another's trademark name does not give protection¹¹. There is a limited dispute resolution procedure in India is another major issue. When compared to the international UDRP system under ICANN, the NIXI-administered system is. In Domain Name Dispute Resolution Policy (INDRP) is frequently less effective and reliable, resulting in delays and weaker enforcement. Strong punishment is also lacking in India because cybersquatting and the misuse of trademarks in meta-tags and SEO strategies are not sufficiently penalized by current legislation. The Digital trademark protection in India is lagging behind international best practices in the absence of awareness, education, legislative changes, and technological enforcement tools.

¹⁰ Information Technology Act 2000, s 79

¹¹ *MySpace Inc. v. Super Cassettes Industries Ltd* (2017) 236 DLT 478 (DB)

RECOMMENDATIONS AND REFORMS

To make India aligned with global standards like the US and EU, several proactive reforms are needed. Firstly, there needs to be a statutory amendment to the Trademarks Act 1999, like the recently amended Companies Act 2013, which should include the concept of the digital environment within sections 2 and 29 and recognise the use of meta-tags, search engine manipulation, and keyword bidding as potential forms of trademark infringement. Secondly, the existing INDRP mechanism is very slow and requires substantial reform. It should match the efficiency and enforcement standards of the UDRP, with binding and time-bound rulings to ensure justice for domain name disputes is timely. This responsive dispute resolution system will increase confidence among digital businesses.

Thirdly, India should establish a new regulatory framework in parliament for governing SEO practices and platform behaviour. Drafting new guidelines for ethical digital marketing practices and establishing cooperation with search engines and hosting platforms will help facilitate the identification and takedown of infringing content or domains. Finally, brand protection must be encouraged. Businesses should be advised to register their trademarks across various domain extensions (such as .in, .com, etc.) to avoid cybersquatting. Using AI tools for real-time monitoring of trademark misuse, such as unauthorised use in meta-tags or online ads, can serve as a cost-effective and modern approach to brand protection in the digital era.

CONCLUSION

As the technology develops, new types of issues are rapidly raised, and the offenders are going to seek new ways to misuse the laws, but we should act more efficiently to protect the consumers and the businesses. Trademarks must be protected, not just the names, labels, and symbols, but also in search engines, URLs, and code. India has made judicial rulings on digital trademarks, especially with *the Satyam Infoway* and [Shaadi.com](https://www.supremecourt.gov.in/Shaadi.com) rulings, but the statutory reforms are the need of the hour to align with international standards. While the US leads with strong enforcement and the EU adopts a balanced, consumer-centric model, India must also make its tech-friendly path in enforcing the digital trademark. The future of brand protection in India lies in recognising digital threats, codifying new laws for protection in digital environments, and empowering enforcement mechanisms. As India expands its digital

economy, trademark protection will be essential to ensuring innovation, trust, and fair competition online.