

## 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!"<sup>1</sup>*

*In this 21<sup>st</sup> 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.<sup>2</sup>*

*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.<sup>3</sup> 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.<sup>4</sup>

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.<sup>5</sup> 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.<sup>6</sup>

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

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

<sup>4</sup> [http://en.wikipedia.org/wiki/Manchester\\_United\\_F.C.](http://en.wikipedia.org/wiki/Manchester_United_F.C.)

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

<sup>6</sup> [http://www.dsr.nsw.gov.au/sportsclubs/ryc\\_legal\\_intellectual.asp](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.<sup>7</sup>

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.<sup>8</sup> 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.<sup>9</sup>



### 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.<sup>10</sup>

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.<sup>11</sup>

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](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



30	Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery, ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces, (condiments); spices; ice		training services; publication of books and texts; rental of sporting equipment; health club services; provision of information relating to football; entertainment services; information, advisory and consultancy services relating to the aforesaid services
33	Alcoholic beverages (except beers)	43	Services for providing food and drink; temporary accommodation
35	Advertising; business management; business administration; office functions; advertising via the Internet; provision of advertising space; provision of space on web sites for advertising goods and services; organisation, arrangement and conducting of exhibitions, events and conferences for commercial or advertising purposes		
36	Insurance; financial affairs; monetary affairs; real estate affairs; provision of financial services; credit card services; charitable fund raising services; financial sponsorship services; information, advisory and consultancy services relating to the aforesaid services		
38	Broadcasting; broadcasting and transmission of radio and television programmes; data transmission and data broadcasting; cellular telephone communication services; cable, satellite and terrestrial broadcasting services; communications by fiber optic networks		
41	Football coaching, football schools and schooling; education and training in relation to football; provision of football instructional courses; sporting management services for footballers; football entertainment services; fitness		

In recent years, with increased competition, organizers and authorities have become more aware of the value of their rights and commercial value, and hence started merchandising on a larger scale worldwide.

For a country where the game of cricket enjoys maximum patronage, the field of branding and exploitation of branding is likely to throw up existing opportunities and at the same time call for a high degree of vigilance on the part of the clubs and associations.<sup>12</sup> The popularity of Indian Premier League (IPL), which has opened up numerous business opportunities, has caused brand managers to take notice of the importance of protecting their IP and seek trade marks for both existing products such as team apparel and those still in the realm of imagination.<sup>13</sup>

#### 6. Indian Premier League (IPL)

One of the most popular topics among the Indians is Indian Premier League. The IPL follows a similar pattern from the EPL (English premier league) in football. It is a perfect blend of cricket and entertainment. It's providing a stage for many youngsters to show their performance and profitable too to Advertisers and broadcasting channels.<sup>14</sup> IPL followed the commercial

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

13 <http://www.livemint.com/2009/05/04005536/IPL-brands-work-on-intellectua.html> last visited on 26<sup>th</sup> April, 2011

14 <http://www.marketing91.com/marketing-mix-ipl/> last visited on 27<sup>th</sup> April, 2011



and popular T20 format of the game where the teams play 20 over each. It is currently contested by 10 teams consisting of players from around the world.

#### IPL Teams – 2011

Franchise	City	Logo
Mumbai Indians	Mumbai	
Royal Challengers	Bangalore	
Deccan Chargers	Hyderabad	
Chennai Super Kings	Chennai	
Delhi Daredevils	New Delhi	
Kings XI Punjab	Chandigarh	
Kolkata Knight Riders	Kolkata	
Rajasthan Royals	Jaipur	
Pune Warriors India	Pune	
Kochi Tuskers	Kerala	

The concept of IPR in Sporting events has changed dramatically over the last few years and the result is organizers of events such as ICC Cricket world cup (by BCCI) and most of the IPL owners also started taking ample care by monitoring some of the avenues such as protection of intellectual property rights, counterfeit merchandise and online piracy by

forming 100 strong anti-infringement team to track those, using directly or deceptively the name, logo and mascot of the event.<sup>15</sup>

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

<sup>15</sup> <http://www.mid-day.com/news/2011/feb/050211-Sachin-Tendulkar-Yuvraj-Singh-BCCI-ambush-marketing.htm>



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

- The DLF-IPL logo;
- The logos of each of the IPL franchises;
- The words "Indian Premier League," "IPLTM," "DLF Indian Premier League," and "DLF-IPL" and variants thereof;
- The names of each of the seven IPL franchises;
- 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](http://www.iplt20.com)

#### 7. Study on Trade mark portfolio by IPL team owners

Proprietor	Logo	Word	Class
INDIAWIN SPORTS PVT. LTD. (Mumbai Indians)	√	√	3, 6, 9, 11, 14, 15, 16, 18, 20, 21, 22, 24, 25, 26, 28, 29, 31, 32, 38, 41
ROYAL CHALLENGERS SPORTS PVT. LTD.(Royal Challengers)	√	×	16, 25, 28, 41, 42, 43
M/S DECCAN CHRONICLE HOLDINGS LTD.(Deccan Chargers)	√	√	25, 28, 29, 30, 32, 33, 34
THE INDIA CEMENTS LTD. (Chennai Super Kings)	√	√	19, 25, 28, 35, 37, 38, 39, 41, 42
GMR SPORTS PVT. LTD. (Delhi Daredevils)	√	√	16, 18, 25, 28, 35, 39, 41, 42
Mr. VIKAS JAIN (Kings XI Punjab)	×	√	16, 25, 28, 41
KNIGHT RIDER SPORTS PVT. LTD. (Kolkata Knight Riders)	√	×	16, 20, 21, 23, 24, 25, 28, 35, 36, 38, 42
JAIPUR IPL CRICKET PVT. LTD. (Rajasthan Royals)	√	√	6, 14, 16, 18, 25, 28, 32, 41
SAHARA ADVENTURE SPORTS LTD. (Pune Warriors India)	√	√	25, 28, 35, 41, 43
KOCHI CRICKET PRIVATE LIMITED (Kochi Tuskers Kerala)	N/A	N/A	Data not available

Among all the teams, Mumbai Indians has filed for trade mark protection in multiple classes aiming for an expanded brand portfolio. Mumbai Indians and Kolkata Knight Riders 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. Besides obvious trade mark classes for clothing, footwear and

sporting articles, Mumbai Indians and Deccan Chargers have filed applications for consumable products such as meat, tobacco products, tea and coffee, mineral and aerated water. It would be interesting to see how proof of use to sustain registration would be provided.

In order to extend optimum value trade mark protection can be sought for other elements besides the word mark and the logo. The teams have a stylised 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 hijacked. Conversely, 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.

#### **8. Conclusion**

Considering the significance of IP protection for sporting events, it is good to note that the franchise owners have taken the first steps towards IP protection. 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 comprehensive protection for the trade mark portfolio and its effective management.

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