
TRADEMARK INFRINGEMENT IN CYBERSPACE: DOMAIN NAME DISPUTES UNDER INDIAN LAW

Vinothini. V BA LLB, LLM, VELS University (VISTAS) Pallavaram, Chennai¹

Jaishree. K, BBA LLB (Hons), Crescent Institute of Science and Technology. ²

ABSTRACT

The exponential growth of the internet and digital commerce has transformed domain names into valuable commercial identifiers, often functioning as trademarks in cyberspace. This development has led to a surge in domain name disputes, particularly cases of cybersquatting, typo squatting, and unauthorized use of trademarks as domain names. In India, the absence of a specific statutory framework governing domain names has resulted in the application of trademark law principles and judicial interpretation to resolve such disputes. This research critically examines trademark infringement in cyberspace with specific reference to domain name disputes under Indian law. It analyses the legal nature of domain names, the applicability of the Trade Marks Act, 1999, and the role of judicial precedents in shaping the protection of trademark rights in the online environment. The study also evaluates the effectiveness of dispute resolution mechanisms such as the .IN Domain Name Dispute Resolution Policy (INDRP) and compares them with international frameworks like the Uniform Domain Name Dispute Resolution Policy (UDRP). By examining landmark Indian cases, this research highlights key challenges, including jurisdictional issues, enforcement difficulties, and the evolving standards of bad faith and likelihood of confusion in cyberspace. The legal and policy reforms to strengthen trademark protection in the digital domain while balancing legitimate commercial use and freedom of expression. It determining bad faith, likelihood of confusion, jurisdictional complexities, and enforcement limitations in the digital environment. It concludes by emphasizing the need for clearer legislative guidelines and harmonization with international best practices to ensure effective protection of trademark rights while maintaining fairness and accessibility in cyberspace.

Keywords: Trademark Infringement, Cyberspace, Domain Name Disputes, Cybersquatting, Trade Marks Act, 1999, INDRP, UDRP, Indian Law.

¹ Vinothini. V BA LLB, LLM, VELS University (VISTAS) Pallavaram, Chennai

² Jaishree. K, BBA LLB (Hons), Crescent Institute of Science and Technology.

Introduction

The advent of the internet and the rapid growth of digital commerce have fundamentally transformed the manner in which businesses identify, promote, and protect their brands. In this digital ecosystem, domain names have emerged as crucial commercial identifiers, often serving the same source-identifying function as trademarks in the physical marketplace. A domain name not only enables users to locate a business online but also plays a vital role in establishing brand identity, consumer trust, and market reputation. Consequently, conflicts between domain names and trademark rights have become increasingly common, giving rise to complex legal issues in cyberspace. This system has facilitated practices such as cybersquatting, typosquatting, and bad-faith registration of domain names that are identical or deceptively similar to well-known trademarks. Such practices often result in consumer confusion, dilution of brand value, and unfair exploitation of the goodwill associated with established trademarks. As a result, trademark owners are frequently compelled to seek legal remedies to protect their rights in the online environment. In India, there is no specific legislation governing domain names or addressing domain name disputes. Consequently, courts have extended the principles of trademark law, particularly those enshrined in the Trade Marks Act, 1999, to resolve disputes arising in cyberspace. Indian judiciary has consistently recognized domain names as more than mere internet addresses and has accorded them protection akin to trademarks, especially when they function as business identifiers. Landmark judicial pronouncements have played a pivotal role in shaping the legal framework governing domain name disputes, emphasizing concepts such as passing off, likelihood of confusion, and bad-faith registration. Alongside judicial intervention, alternative dispute resolution mechanisms have also evolved to address domain name conflicts efficiently. The introduction of the .IN Domain Name Dispute Resolution Policy (INDRP) has provided a specialized forum for resolving disputes involving Indian country-code domain names. “Additionally, international mechanisms such as the Uniform Domain Name Dispute Resolution Policy (UDRP) offer comparative insights into global best practices in handling domain name disputes.”³ Against this backdrop, the present study seeks to critically examine trademark infringement in cyberspace with specific reference to domain name disputes under Indian law. It aims to analyze the legal status of domain names, assess the adequacy of existing judicial and administrative mechanisms, and identify emerging challenges in enforcing trademark

³ EduRev, *Domain Name Disputes: Intellectual Property Rights (IPR)* §§ 1-1 to 1-2 (2025), <https://edurev.in/t/468731/Domain-Name-Disputes>.

rights in the digital domain. The study further explores the need for legal and policy reforms to ensure effective protection of trademarks while balancing the interests of innovation, competition, and freedom of expression in cyberspace.

Conceptual Understanding of Trademarks and Domain Names

A **trademark** is a distinctive sign, symbol, word, logo, or expression used by a business to identify and distinguish its goods or services from those of others. Under the **Trade Marks Act, 1999**, a trademark serves as an indicator of the source and quality of goods or services and helps protect the goodwill and reputation of a brand. “A **trademark** is a distinctive sign or mark used by a person or enterprise to identify and distinguish its goods or services from those of others in the marketplace.”⁴ It may consist of words, names, symbols, logos, labels, numbers, shapes of goods, packaging, or combinations of colours. In India, trademarks are governed by the **Trade Marks Act, 1999**, which provides statutory recognition and protection to registered marks. The primary function of a trademark is to act as an **indicator of origin**, enabling consumers to identify the source of goods or services and associate them with a particular standard of quality. Trademarks also serve important commercial functions by safeguarding the **goodwill and reputation** of a business, promoting fair competition, and preventing consumer confusion or deception.⁵ Registration of a trademark grants the proprietor **exclusive rights** to use the mark in relation to the goods or services for which it is registered and to seek legal remedies against infringement. Even unregistered trademarks are protected under the common law remedy of **passing off**, provided the owner can establish goodwill, misrepresentation.

Domain Names in Trademark Law

A **domain name** is a unique alphanumeric address used to identify and access a website on the internet. In the context of **trademark law**, domain names have acquired significant legal importance because they often perform the same **source-identifying function** as trademarks. When a domain name reflects a business name, brand, or trademark, it becomes closely associated with the goodwill and reputation of that enterprise. “Although domain names are not expressly defined as trademarks under the **Trade Marks Act, 1999**, Indian courts have

⁴ Dhruv, *What Is a Trademark, and How Can You Apply For It?*, PayU Blog (Jan. 17, 2022), <https://payu.in/blog/what-is-a-trademark-and-how-can-you-apply-for-it/>

⁵ Koushik Banerjee, *The Influence of Trademarks on Consumer Perception*, Mondaq (Mar. 12, 2024), <https://www.mondaq.com/india/trademark/1435512/the-influence-of-trademarks-on-consumer-perception>

consistently recognized that domain names can function as trademarks when they distinguish the goods or services of one entity from those of others.”⁶ Unlike trademarks, which are registered after statutory examination, domain names are allotted on a **first-come-first-served basis** without checking prior trademark rights. This system has led to conflicts where domain names identical or deceptively similar to trademarks are registered in bad faith.

The misuse of trademarks as domain names gives rise to practices such as **cybersquatting**, **typo squatting**, and domain name hijacking. Indian courts have addressed these issues by applying trademark infringement and **passing off principles** to domain name disputes. In landmark cases, courts have held that unauthorized use of a trademark as a domain name may cause consumer confusion and dilute brand value, thereby violating trademark rights. “To address such disputes efficiently, specialized mechanisms like the **IN Domain Name Dispute Resolution Policy (INDRP)** and international frameworks such as the **Uniform Domain Name Dispute Resolution Policy (UDRP)** have been established.”⁷ These mechanisms recognize the trademark-like nature of domain names and provide remedies such as transfer or cancellation of infringing domain names. Thus, in modern commercial practice, domain names are increasingly treated as an integral component of trademark protection in the digital environment. Trademarks grant exclusive rights to their owners and prevent unauthorized use that may cause consumer confusion or deception in the marketplace. A **domain name** is a unique alphanumeric address used to identify and locate a website on the internet. Initially designed as a technical tool for online navigation, domain names have evolved into important commercial identifiers in the digital economy.⁸ They often reflect a business name or trademark in online branding, marketing, and consumer recognition. This difference frequently leads to conflicts when domain names incorporate or imitate registered trademarks. Consequently, courts have recognized that domain names performing a trademarklike function deserve legal protection to prevent infringement, passing off, and unfair competition in cyberspace.

⁶ Nikhil Mishra & Damini Sharma, *Cybersquatting and Trademark Issues: An Analysis With Reference to India* art. (May 5, 2021), Manupatra, <https://articles.manupatra.com/article-details/Cybersquatting-and-Trademark-Issues-An-analysis-with-reference-to-India>

⁷ Bhavpreet Soni, *Trademark and Domain Name Disputes in India*, Sonisvision (Apr. 20, 2024), <https://www.sonisvision.in/blogs/trademark-and-domain-name-disputes-in-india>

⁸ *Cloudflare Learning Center*, Cloudflare, <https://www.cloudflare.com/en-in/learning/dns/glossary/what-is-adomain-name/>

Trademark Infringement and Cybersquatting

Trademark infringement and cybersquatting are two interrelated phenomena that have gained prominence in the digital era, arising out of the intersection between traditional intellectual property rights and the unregulated nature of the internet. **Trademark infringement** traditionally occurs when a person uses a mark that is identical or deceptively similar to a registered trademark in relation to goods or services, in a manner likely to cause confusion among consumers about the source of the goods or services.⁹ The core objective of trademark law is to protect the **distinctive identity**, reputation, and goodwill associated with a mark, thereby preserving consumer trust and ensuring fair competition. However, the rise of digital commerce and online branding has shifted the battleground from physical markets to **cyberspace**, where the same principles of trademark protection must now contend with the unique dynamics of domain name allocation and usage.

Domain names serve as the digital address of businesses in cyberspace and, increasingly, as elements of brand identity. A domain name that incorporates or echoes a trademark can function in the marketplace much like the trademark itself, signaling to users the origin and quality of goods and services offered at the corresponding website. Unlike trademarks, which are registered and examined for conflicts before they are granted, domain names are typically assigned on a **first-come-first-served basis** by domain name registries without substantive review of prior trademark rights.¹⁰ This allocation system creates a fertile environment for **cybersquatting**, a practice whereby individuals or entities register domain names that are identical or confusingly similar to well-known trademarks with the intent to profit from the goodwill of established brands.

Cybersquatting manifests in various forms, including **typosquatting** where slight misspellings of famous trademarks are registered to capture traffic from users who inadvertently mistype the intended domain and **bad-faith registrations**, where cybersquatters seek to sell the domain name back to the trademark owner at an inflated price or use it to divert customers to competing goods or unrelated content. The underlying harm in both trademark

⁹ *Deceptive Similarity in Trademark*, IP & Legal Filings, Dec. 19, 2022, <https://www.ipandlegalfilings.com/deceptive-similarity-in-trademark/>

¹⁰ <https://www.accoladegroup.com.hk/en/domain-registration/#:~:text=A%20domain%20name%20is%20an%20internet%20address.,name%20the%20status%20of%20being%20a%20%E2%80%9Cproperty%E2%80%9D.>

infringement and cybersquatting arises from **consumer confusion, dilution of brand value, and unfair exploitation** of intellectual property that the original trademark owner has developed through investment and reputation.¹¹

Trade Marks Act, 1999

The **Trade Marks Act, 1999** constitutes the principal statutory framework governing the protection of trademarks in India. The Act aims to safeguard the exclusive rights of trademark proprietors, prevent consumer confusion, and protect the goodwill and reputation associated with trademarks. Although enacted before the widespread expansion of internet-based commerce, the Act has proved sufficiently flexible to address emerging challenges in the digital environment, including **domain name disputes**. Even though domain names are not expressly mentioned in the Act, Indian courts have consistently interpreted its provisions to extend to **cyberspace**, thereby ensuring effective protection of trademark rights online. Under the Act, **trademark infringement** occurs when a registered trademark is used by an unauthorized person in a manner that is identical or deceptively similar to the registered mark and is likely to cause confusion among the public (Sections 29(1) and 29(2)).¹² In the context of domain names, courts have held that when a domain name incorporates a registered trademark and is used for commercial purposes, it performs the same source-identifying function as a trademark. Consequently, such unauthorized use may amount to infringement if it misleads consumers regarding the origin of goods or services offered through the website.

One of the most significant judicial pronouncements extending trademark law to domain names is **Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd. (2004)**. In this landmark decision, the Supreme Court of India unequivocally recognized that domain names are not merely internet addresses but valuable corporate assets entitled to protection under trademark law.¹³ “The Court observed that domain names function as business identifiers and that misuse of a domain name similar to a trademark could lead to passing off. This case laid the foundation for applying the Trade Marks Act, 1999 to domain name disputes in India.”

“The doctrine of **passing off**, though not codified in the Act, is expressly preserved under

¹¹ *Cybersquatting and Trademark Issues – Uniform Domain Resolution Policy*, E-Justice India Legal Articles (Mar. 28, 2024), <https://www.ejusticeindia.com/cybersquatting-and-trademark-issues-uniform-domainresolution-policy/>

¹² Trade Marks Act, 1999 § 29(1)-(2) (India)

¹³ *Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.*, (2004) 6 SCC 145 (Supreme Ct. India)

Section 27, which protects unregistered trademarks.”¹⁴ Passing off plays a crucial role in domain name disputes, particularly where the trademark is not registered or where infringement provisions may not strictly apply. To succeed in a passing off action, the plaintiff must establish goodwill, misrepresentation, and damage. Indian courts have frequently applied this doctrine to restrain deceptive use of domain names. In **Yahoo Inc. v. Akash Arora (1999)**, the Delhi High Court restrained the defendant from using the domain name “yahooindia.com,” holding that such use was likely to deceive internet users into believing an association with the plaintiff. The Court emphasized that the principles of passing off apply equally to domain names.¹⁵

Even slight similarities between domain names and trademarks can result in confusion. In **Rediff Communication Ltd. v. Cyberbooth (1999)**, the Bombay High Court held that the use of the domain name “radiff.com” was deceptively similar to “rediff.com” and was likely to cause confusion among users, thereby constituting passing off.¹⁶ The Trade Marks Act also provides for remedies such as **injunctions, damages, accounts of profits, and delivery-up of infringing material**, which courts have extended to domain name disputes. In many cases, courts have ordered the transfer or cancellation of infringing domain names as an equitable remedy, aligning judicial relief with the realities of digital infringement.

“The **doctrine of passing off** is a common law remedy designed to protect the goodwill and reputation of a business against misrepresentation by another party.”¹⁷ Unlike trademark infringement, which is a statutory remedy available only to registered trademark owners, passing off protects **unregistered trademarks** as well. The underlying principle of the doctrine is that no person is entitled to represent their goods or services as being associated with those of another, thereby causing deception or confusion among consumers. In India, the doctrine of passing off is expressly preserved under **Section 27(2) of the Trade Marks Act, 1999**, which recognizes the right of action against passing off even in the absence of trademark

¹⁴ *Passing off of Trademark in India*, S.S. Rana & Co. (2026), <https://ssrana.in/uFAQs/passing-off-of-trademark-in-india/> (explaining the common law basis of passing off and its recognition under Section 27 of the Trade Marks Act, 1999).

¹⁵ *An Analytical Legal Study* 1–182 (M.Phil. diss., Sikkim University Jan. 2018) (on file with Sikkim University), <https://dspace.cus.ac.in/jspui/bitstream/1/6136/1/Tshering%20Choden%20Bhutia.pdf>.

¹⁶ *Rediff Communication Limited v. Cyberbooth*, Notice of Motion No. Nil of 1999 in Suit No. 1881 of 1999 (Bomb. H.C. Apr. 23, 1999)

¹⁷ *Reverse Passing Off Overview*, LegalClarity (Jun. 24, 2025) (defining reverse passing off as selling or marketing products of another as one’s own by removing or altering original source identifiers), <https://legalclarity.org/what-is-reverse-passing-off-a-form-of-unfair-competition/>

registration.¹⁸

It establish a successful action for passing off, the claimant must satisfy the classical trinity test, namely **goodwill**, **misrepresentation**, and **damage**. “Goodwill refers to the reputation and recognition of the mark in the market; misrepresentation occurs when the defendant’s conduct leads or is likely to lead the public to believe that their goods or services are connected with those of the claimant; and damage involves actual or probable injury to the claimant’s business or goodwill.” These elements have been consistently applied by Indian courts in both traditional and digital contexts.

In the realm of **domain name disputes**, the doctrine of passing off has assumed particular significance. Courts have recognized that domain names function as business identifiers and that deceptive use of a domain name may mislead internet users regarding the source or affiliation of a website. “In **Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.**, the Supreme Court affirmed that passing off principles apply to domain names, emphasizing that misrepresentation in cyberspace can cause substantial harm to goodwill. Similarly, in **Yahoo Inc. v. Akash Arora**, the Delhi High Court restrained the defendant from using a deceptively similar domain name, holding that such use constituted passing off. Thus, the doctrine of passing off remains a vital legal tool for protecting brand identity and consumer trust in the digital environment.”¹⁹

The Information Technology Act, 2000

In India’s primary legislation governing electronic commerce, digital transactions, and cyber activities. Although the Act does not specifically address trademark infringement or domain name disputes, it **supportive and indirect role** in the enforcement of trademark rights in cyberspace. The Act provides legal recognition to electronic records and digital evidence, which is crucial in establishing online trademark misuse and infringement.

“Provisions relating to **intermediary liability**, particularly under Section 79, are significant in cases where online platforms, hosting services, or registrars are involved in

¹⁸ Passing Off Trademark: Meaning, Characteristics & Remedies, IndiaFilings (Nov. 11, 2025), <https://www.indiafilings.com/learn/passing-off-trademark/>

¹⁹ Anurudh Upadhyay, *A Case Comment on Yahoo! INC v. Akash Arora: A Milestone in Extending Trademark Law Protection to the Domain Names in India*, 7 Int’l J. For Multidisciplinary Rsch. 1 (May-June 2025), <https://www.ijfmr.com/papers/2025/3/46150.pdf>

facilitating infringing activities. The Act also empowers authorities to address cyber offences such as identity theft, phishing, and unauthorized access, which are often associated with deceptive online practices, including misuse of trademarks.”²⁰ Further, the Information Technology Act strengthens the overall legal framework by enabling courts to effectively adjudicate internet-related disputes. By recognizing the validity of electronic communication and evidence, the Act complements trademark law and assists in addressing trademark infringement and passing off in the digital environment.

Further Reforms in Domain Name Dispute Resolution Mechanisms

Despite the availability of mechanisms such as the **IN Domain Name Dispute Resolution Policy (INDRP)** and the **Uniform Domain Name Dispute Resolution Policy (UDRP)**, domain name dispute resolution in India faces several procedural and substantive challenges. To enhance efficiency, fairness, and consistency, certain reforms are necessary.²¹

Firstly, “there is a need to **statutorily recognize domain name disputes** within the trademark framework. Explicit legislative provisions addressing domain names under the Trade Marks Act, 1999 would provide greater clarity and reduce reliance solely on judicial interpretation. Such recognition would also strengthen enforcement of dispute resolution outcomes.”²²

Secondly, the **INDRP framework requires procedural strengthening**. Introducing clear timelines for each stage of the proceedings, greater transparency in the appointment of arbitrators, and publication of reasoned awards in a centralized database would promote consistency and predictability in decisions. Regular training of arbitrators in evolving trademark and digital law issues is also essential.

Thirdly, the scope of remedies under dispute resolution policies should be expanded. In addition to transfer or cancellation of domain names, limited monetary compensation or cost awards could deter bad-faith registrations and repetitive cybersquatting.

Fourthly, effective **enforcement mechanisms** should be established to ensure prompt

²⁰ Information Technology Act, 2000, §§ 43, 43A, 65, 66, 66C, 66D (India)

²¹ *Dispute Resolution Policy/INDRP in India*, S.S. Rana & Co. (concluding that INDRP is an effective arbitration-based mechanism resulting in domain transfers such as www.pizzahut.in, www.gmail.co.in, www.nescafe.co.in, and www.starbucks.co.in)²² Under Section 2(zb) of the *Trade Marks Act, 1999*.

compliance with dispute resolution decisions, particularly in cases involving foreign registrants. Coordination between domain name registries, courts, and enforcement authorities would enhance implementation. Finally, greater **harmonization with international best practices**, especially UDRP standards, and increased awareness among businesses and individuals regarding domain name rights can significantly reduce disputes and strengthen trademark protection in cyberspace.

Conclusion

The rise of digital commerce and the increasing reliance on the internet for business have transformed domain names into critical commercial identifiers, often functioning like trademarks in cyberspace. This shift has given rise to complex legal issues, particularly **trademark infringement** and **cybersquatting**, which can cause consumer confusion, dilute brand value, and undermine goodwill. In India, although domain names are not explicitly governed by legislation, courts have effectively extended the provisions of the **Trade Marks Act, 1999** and the principles of **passing off** to protect trademark rights in the digital domain. Alternative mechanisms like the **.IN Domain Name Dispute Resolution Policy (INDRP)** provide cost-effective and timely remedies, complementing judicial intervention. However, challenges such as cross-border disputes, enforcement limitations, and emerging digital practices highlight the need for **explicit legislative recognition, procedural reforms, and harmonization with international standards**. Strengthening these frameworks will ensure robust protection of trademarks online, maintain consumer trust, and foster a fair and competitive digital marketplace.

Suggestions

To strengthen the protection of trademarks in domain name disputes, several measures can be considered. First, there is a need for **explicit legislative recognition of domain names** under the Trade Marks Act, 1999 or through a dedicated statute. Clear legal recognition would reduce reliance on judicial interpretation and provide uniformity in adjudicating disputes. Second, the **.IN Domain Name Dispute Resolution Policy (INDRP)** should be reformed to enhance procedural efficiency, including strict timelines, transparency in arbitrator appointments, and the creation of a centralized database of past decisions to ensure consistency. Third, remedies under dispute resolution mechanisms should be expanded beyond transfer or cancellation of domain names to include **monetary compensation and legal costs**, thereby

detering bad-faith registrations. Awareness programs for businesses and entrepreneurs are crucial to educate them about domain name rights, proactive registration, and available remedies. Harmonization with **international standards like UDRP**, judicial training in digital and IP law, and adoption of **technology-based monitoring tools** to detect infringement early are also essential. Collectively, these measures would strengthen trademark protection, prevent misuse of domain names, and promote a fair, secure, and innovation-friendly digital marketplace.