

GUARDIANS OF THE GAME: THE INTERPLAY BETWEEN INTELLECTUAL PROPERTY RIGHTS AND THE IPL

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ABSTRACT

The Indian Premier League [“IPL”] stands as one of the most significant and exhilarating sporting phenomena in the modern world, providing the viewers with a thrilling journey of two months of action-packed matches witnessing almost 10 teams compete against each other to be crowned the next champion. However, IPL is not only characterized by its thrilling cricket matches but also by its intricate web of Intellectual Property Rights [“IPR”]. As the IPL gathers large viewing from audiences, both nationally and internationally, and the following for the teams and their players grows unparalleled, the implementation of rights and guarantees included under the IPR law regimes takes a toll raising serious challenges for its implementation.

I. INTRODUCTION

The Indian Premier League has become one of the most famous household names across the world, guaranteeing a full pack of exhilarating sporting phenomena. Taking the audience for a two-month thrilling ride, it witnesses a great reputation preceding itself for being one of the most viewed sporting events¹ to take place around the calendar. With almost 8 to 10 teams fiercely competing for the championship title, the event promises to be one of the most celebrated events indeed. However, having such a high reputation being tied to this event makes it prone to attacks upon its very existence - the format, the rules, the guidelines, the brand value, and everything in between. But the real question that hangs is - what makes it still intact even after so many years and editions?² The answer is the IPRs associated with the games.

The rules and regulations governing IPRs play a key role in defining the system which has remained one of the most viable sporting businesses in a country such as India. The provisions of the Copyright Act of 1957² and the Trade Mark Act of 1999³ aim to protect the very basis of the

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¹ BCCI, *Brand and Content Protection Advisory*, PUBLIC ADVISORY DOCUMENT (2023), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://bcciplayerimages.s3.ap-south-1.amazonaws.com/bcci/documents/1680174721009_Brand&ContentProtectionGuidelines.pdf.

² The Copyright Act, No. 14 of 1957 (Ind.).

³ The Trademarks Act, No. 47 of 1999 (Ind.).

concerned league. While IP Rights were initially associated solely with the manufacturing industry, it has now expanded its ambit to various industries, including the sporting industry, proving to be detrimental. The increased regulation and protection of the IP rights into the sporting industry, specifically, as will be discussed hereinafter, have led to protection of various parties involved into transaction, including the teams, sponsors, broadcasters, regulating body and the league itself, saving up to billions, hence the impact.

As a matter of fact, the protection so guaranteed under these acts and regulations and the increasing significance does highlights the need for versatility of the legislations under question. However, even though the said provisions are impacting the industry heavily, the question of the efficiency of the system so put in place to protect these rights remains unanswered.

The increasing interaction of the IPRs with the IPL business model presents us with a situation that needs to be tested for its ability to secure the system so in place and to examine if it fulfils the very basic promise of protecting the value so created by IPL. This paper delves deeper into the relation between the IPL and the legislation so in place protecting the intellectual property of the IPL. This paper would aim to comprehend and analyze the provisions and methodology so implemented to ensure the same. Along with that, this paper would also take into consideration the IP rules and regulations guaranteed to other sporting events and franchises. Through this paper, the author aims to provide an overview of the effectiveness and efficiency of the IP law regime in India and its interaction with IPL.

II. THE WHY: NECESSITY FOR PROTECTING THE IPR

It is rightly provided that a registered mark provides its owner with the exclusive right to use, license, or sell it in exchange for the goods and services. IPL, being one big brand itself, finds it necessary to invoke such rules and regulations and protect its identity against infringement. Over the time, various precedents have brought to the forefront the growing urgency of getting the brand and its ancillaries registered. Registration of a trademark forbids every other person from using the said mark or obtaining the registration of the same trademark or a confusingly similar trademark in relation to the same goods or services in relation to which the trademark is registered.⁴ Upon the protection being guaranteed under the said provisions, the brands have been able to realize the actual commercial prowess through maintenance of the brand exclusivity, preservation

⁴ *Id.*

of assets and encouragement of innovation. These aspects maintain the essential requirement of implementation of the IPR.

Following the data, one can easily devise the contention that the popularity of the league has opened up various business opportunities which has induced the brand managers to take cognizance of the importance of protecting the intellectual property of the brand and also those still in the imagination realm. The franchises, who benefit the most through participating in the league, direct their attention towards avenues such as protection of intellectual property rights, counterfeiting merchandise, and online piracy, since the franchises so participating are held by for-profit private organizations. Hence, it can be easily factored in that IPL since the very beginning was more than a sporting event and that the ulterior motives, which have so far remained behind the curtains, are the driving forces behind this league. IPL, through its public advisory⁵ too aims to highlight the very necessity of enforcing such rules and regulations, which is provided as:

“Also, in order to maintain the integrity of the IPL brand and to protect the dilution and damages to its reputation and prestige, it is vital that the IPL retains careful control of IPL IPR and their uses.”⁶

Since it has been very well established so far that this sporting league has become more than sports itself, it is worth witnessing the race amongst the franchises to claim the registration. So far, Mumbai Indians has filed for registration in the most classes so identified under the act with the aim of protecting all the aspects the franchises assumed to be beneficial for their brand.⁷ Interestingly the registrations by the teams have far exceeded the classes relating to either sports, clothing or even footwear. The teams are now venturing into various other fields, including tea, coffee, mineral as well as aerated water, establishing all these franchises into a well-established business.⁸ Taking into consideration the Mumbai based franchise, one of the leading American Business Magazines, The Forbes, has held it to be valued at \$ 1.3 Billion USD and amongst all the sources of the revenue, the team earns the most through media rights, sponsorships, stadium ticket sales as well as merchandise sale, all of which are protected under the appropriate forum of IPR.⁹ This being one amongst other teams, it can very easily deduced through these sources that such franchises, being valued in billions, need to be protected to ensure their growth.

⁵ BCCI, *supra* note 1.

⁶ *Id.*

⁷ BCCI, *supra* note 1.

⁸ *Id.*

⁹ CricTracker Staff, *IPL 2023: Mumbai Indians' Net Worth and sources of revenue*, CRIC TRACKER, (11 April, 2023), <https://www.crictracker.com/cricket-appeal/ipl-2023-mumbai-indians-net-worth-and-sources-of-revenue/>.

The concept of IPR has drastically changed over the last few years, which has induced the brands so created to take ample care of the non-sporting aspects of the business and hence keep an exclusive interference in these aspects.

III. IPL IPR

A. IPL IPR and the Trademark Act

Each year IPL releases a public advisory¹⁰ indicating the methodology so adopted by the IPL to protect the brand of the sporting league as well as the participating franchises in order to protect the exclusive rights and privileges in consideration and commercialize the intellectual property. The IPL IPR, terminology coined by the advisory¹¹ issued to protect the guidelines, names, marks, footage. and any other intellectual property so owned by whatever name called or described, arising out of IPL, reflects as to how considerably the sporting event aims to protect their rights. Having \$ 10.7 Billion¹² as standing valuation and being ranked among the top leagues across the world based on revenue, it becomes essential to provide a protective shield of intellectual property rights.¹³ With so much at stake, how enforcement of the rights comes in handy is the question that is bound to be raised, and which shall be addressed in the later part in this article.

The Trademark Act, 1999, is the legislation tasked with protecting the trademark and the ancillaries associated with IPL IPR, and forms the heart and soul of the very existence of the protective measures adopted by IPL to protect its brand. Provisions such as Section 29(2)(c)¹⁴ provides protection against the infringement of registered trademarks, which in the current situation include all the registered trademarks in the league ranging from the very name and logo of the league to every franchise participating herein, namely Chennai Super Kings, Delhi Capitals, Kolkata Knight Riders, Mumbai Indians, Punjab Kings, Rajasthan Royals, Royal Challengers Bangalore, Sunrisers Hyderabad, Lucknow Super Giants, and Gujarat Titans. Along with all the franchises, BCCI also aims at protecting the IPL and the brand it has created out of it in totality and hence provides for protection of all the associated names of the league along with the marks of the current as well as previous editions of the league.¹⁵

¹⁰ *Supra* note 1.

¹¹ *Id.*

¹² Shubham Singh, *In the big leagues now: IPL value grew more than 400% in 15 years!*, INDIA TODAY, (Mar. 23, 2024), <https://www.indiatoday.in/diu/story/in-the-big-leagues-now-ipl-value-grew-by-more-than-400-in-15-years-2518717-2024-03-23>.

¹³ Ayan, *Top 10 Richest Sports Leagues In The World Currently*, BUSINESS OUTREACH, (Aug. 29, 2023), <https://www.businessoutreach.in/richest-sports-leagues-in-the-world/>.

¹⁴ The Trademarks Act, No. 47 of 1999, §29(2)(c), (Ind.).

¹⁵ BCCI, *Supra* note 1.

IPL, over the time, has seen various infringement suits being filed for wrongfully using the trademark so registered, to piggy bank on the brand value so created amongst the general public. The case of 2008 filed by BCCI against Rediff.com¹⁶ formed a major groundbreaking case for IPL IPR, for it upheld the violations of infringement of the trademarks of IPL since they pursued to build an online fantasy game with a similar name and logo, and prohibited the respondent from using such marks. Another precedent of trademark infringement is that of *BCCI v. Grace India Sports Pvt. Ltd.*¹⁷, wherein the Bombay High Court banned GISPL for deceptively creating another league that the people perceived to be associated with the BCCI. Hence, such precedents clearly establish that courts tend to rely verbatim on the Trade Marks Act and the provisions protecting the marks and hence protect the league through wrongful infringements.

In the current league, as per the Public Advisory so issued, it provides protection to core trademarks associated with the league, which in turn further expands the ambit of the registered trademarks under the name of the parent company. The Advisory expands upon the protection of the trademarks of the previous editions of the IPL, the permutations of officially registered names bearing IPL, the trophies, names of the teams and their logos, also including the official websites, Having registered the trademarks across various classes of the Act as per the Trademark Registry and the publication in the advisory in consideration, the franchises and their parent companies avail the benefits of protection under the relevant IPR laws. Interestingly, these trade-marks are not only registered in classes and sub-classes related to sports, but also in various other classes with the aim of seeking exclusivity of the brand.¹⁸ Hence, accordingly, the IPL and associated brands invoke the protection so provided under the Trademark Act devised to ensure the fight against infringement. The advisory further provides that any infringement of the protected marks, are dealt with cautiously and that any unlawful imitation of any such aspect shall be sued for damages and injunctions in order to stop further impediment of the marks so protected.

B. IPL IPR and the Copyright Act

The Copyright Act, 1957 forms another critical aspect in protecting the rights of IPL and providing security against the infringement of the business model. Copyright is essentially protection of the original literary work and the person/entity/organization who creates this work aims to be protected as the rightful owner until the work is licensed.¹⁹ In IPL the original literary work has

¹⁶ Kavitha K. & Filma V., *Intellectual Property Protection and IPL*, MANUPATRA, (May 2011), <https://manupatra.com/roundup/336/Articles/Intellectual%20Property%20Protection.pdf>.

¹⁷ *BCCI v. Grace India Sports Pvt. Ltd.*, Commercial Suit No. 815 of 2017.

¹⁸ Shubham Singh, *supra* note 12.

¹⁹ Nitin J. Srinivas, *Role of Intellectual Property Rights in IPL: An Overview*, 2 IJLLR, (2022).

been described in a wide-ambit including, but not being limited to, website layout designs, team uniforms and jerseys, fixtures, published results, recorded visual representations, commentaries, photographs of the matches and events, rule books, reports and materials used by the administration, and the IPL Title Tracks along with those of the franchises.²⁰

It is noteworthy that the IPL Public Advisory²¹ summarizes all the relevant information on the necessary details protected under the Copyright Act, 1957 and the need for licensing to use the same. They have relayed the general guidelines to be adhered to while using any relevant piece so protected and also with the list of license-holders who are authorized to do the same. This further promotes the brand protection and pushes for proper management of the relevant aspects. It hence becomes necessary to adhere to all the guidelines in order to assess the licensing system, and to avoid breaching the same and being held guilty under S. 37²² and S. 31D²³ of the concerned Act. The interaction of the IPL and the Copyright Act²⁴ has so far bore the fruits, for they have not faced any relevant challenges along the way meanwhile, while also having been in a position to pull down more than 2400 unauthorized live-streaming feeds, over 6,700 unauthorized videos on the web, and over 1,300 pirated blogs and websites.²⁵ However, it is noteworthy that in 2015, the BCCI itself faced the repercussions for violating the relevant provisions of the Copyright Act for having breached the rights owned by the Indian Performing Rights Society [“IPRS”] while playing the music during the opening ceremony in that year’s edition. Following this incident, the BCCI became serious about the need to protect itself against any form of infringement and realized the inefficiency of the system in place, by being on the other side of the table for once.

Hence, analyzing the current regulatory regime, it can rightfully be stated that relevant provisions have come into play for protecting the brand and the value of IPL as a sporting league and the franchises taking part in it. It is owing to these factors in place that the league like such has stayed relevant even after so many years and that its fan following continues to grow. The IPL IPR in question has effectively protected the intellectual property of the league and has succeeded in fostering an environment pure of competition without any issues of infringement of the work and the rights.

²⁰ *Id.*

²¹ BCCI, *supra* note 1.

²² The Copyright Act, No. 14 of 1957, §37 (Ind.).

²³ *Id.*, §31D.

²⁴ *Id.*

²⁵ Arush Mittal, *Intellectual Property Rights in IPL*, IPLEADERS, (Mar. 23, 2020), <https://blog.ipleaders.in/intellectual-property-rights-in-ipl/>.

IV. IPL VS. OTHER SPORTING LEAGUES: EXAMINING THE IPR ASPECT

So far having analyzed the intellectual property rights in IPL and the aspects it aims to cover along with the safeguards being provided to the business, one thing which can be ensured through this is the safe environment it induces. However, it is equally important to consider the intellectual property rights implemented in other sporting leagues around the world and the environment it has so created around the league so as to analyze the efficiency of the system so followed in IPL. It is noteworthy that IPL, being the second largest league around the globe²⁶, is yet to achieve the level of safeguarding methods so adopted by other leagues. The National Football League [“NFL”], the biggest revenue generating league across the world, takes due care to ensure the protection of their intellectual property rights from infringement and counterfeiting. The league in consideration here heavily asserts its intellectual property rights through the court of law,²⁷ The NFL over the past few years has taken various bold steps to ensure their rights are not being infringed and has looped in central agencies to encourage the proper implementation of the laws in question. Considering the news²⁸ for central agencies seizing counterfeiting products worth millions, it can be very well asserted that the NFL takes the protection guaranteed to it seriously and that it has gone to lengths to ensure that their brand value does not take any hit.

The English Premier League [“EPL”], is another famous example of a league that looks after its intellectual property, and can prove to be an important case study for better analysis of the laws and regulations being used in the favor of those inclined to safeguard themselves. EPL, being the third-largest league by revenue, has adopted measures to protect the IP, and the figures so issued by the enforcement agency reflect how efficiently the system so in place is working in favor of the league and its system.

Upon analyzing the data and figures so presented by the leagues, one prospect that emerges is the enforcement of IP rights by the leagues and franchises themselves. The sporting leagues around the world have been providing viewers with entertainment for years and even centuries now, and over the time they have adopted patterns and behaviors that put them on defensive of their intellectual property, and the approach so adopted by these leagues to tackle the issue pertaining to the one in question makes them efficient enough to protect their brand value and grow

²⁶ US Immigration and Customs Enforcement, *NFL partner to prevent fake sports-related merchandise from reaching fans ahead of Super Bowl LVII*, IPRCENTRE, (February 8, 2023), <https://www.ice.gov/news/releases/ipr-center-nfl-partner-prevent-fake-sports-related-merchandise-reaching-fans-ahead>.

²⁷ Johnson, Eric E., *The NFL, Intellectual Property, and the Conquest of Sports Media*, 86 N. D. L. REV. (2010).

²⁸ US Immigration, *supra* note 26.

immensely. IPL, on the other hand, being one of the newer leagues, has gained immense popularity amongst the viewers, making it an overnight success story. However, being one of the most popular leagues in a country such as India, puts them in a situation wherein they are unable to effectively take the fight on against infringement of the rights, which can be further corroborated by the figures and the data so present for the public.

However, with time, the sporting league is graduating towards better enforcement of the rights. As the figures mentioned above provides how the league is progressing towards challenging the other leagues and how the franchises are grossing as multi-billion dollars business models, the intellectual property is seemingly being included as one of the reasons. With the increased IPR enforcement and actions being taken by the franchises as well the impugned league, along with the comprehensive guide over the protection of intellectual property as provided under the Public Advisory, has been seen as a step over increased enforcement of the protected rights. The precedents mentioned herein-above provides for the perfect indication as to how the BCCI is taking proactive measures in order to protect the essence of the sporting league and all the elements attached to it.

As compared to the sporting leagues around the globe, and their enforcement of the rights, one cannot shy away from appreciating the measures adopted by the BCCI and the IPL as a sporting league in itself along with the associated parties, ensuring the brand so created and the products associated to it being protected under the relevant provisions. It is just a matter of time, when the franchises realize the actual essence of the business that can be garnered through efficient protection, resulting in the growth of the league. Inspiring from the methods adopted by the IPL's global counterparts, it can easily be stated that the IPL is slowly treading towards the legal path. However, it is still far away from reaching the point where the legal domain of the sporting league shall be able to protect the brand altogether. The international leagues do form a perfect example for IPL to learn and implement, however, format them in a way to ensure the protection in geographical domain of the country such as India. Hence, starting to tread on the path of IP protection, IPL is still far away from the peak and one aspect which can be assured off is that it will be long and rocky path for the sporting league.

V. CONCLUSION

IPL is a growing concept, and it being a new phenomenon in the sporting league with developments taking place around the clock in the very league, it is imperative to factor in the

developing intellectual property rights legislation around this league. The increasing fandom of the said league along with unprecedented growth witnessed across the previous editions, has rendered the franchises in a volatile condition owing to increased chances of infringement and breach of the licensing system, and through the data and figures as compared to other sporting leagues. Thus, the one thing that can easily be deduced is that IPL is way far from achieving its potential in safeguarding the IP.

As franchises increasingly focus on registering and licensing their rights, they are adopting more effective safeguarding strategies. This proactive approach to protecting their intellectual property enables them to capture a larger market share and maximize their returns. As a result, franchises are experiencing unprecedented growth, which, in turn, drives the league to achieve record-breaking success.

However, to conclude, one thing that needs to be pondered upon is how efficiently the system in place is going to work and how far the league and the franchises are willing to go to ensure the protection of their intellectual property. So far, the IPL IPR has proven its worth, and the precedent so set does reflect that the parties in consideration take their intellectual property seriously, but the question still hangs as to how efficient and effective this system is going to be in the coming future, and that will they be able to learn anything from the sporting leagues around the world or will they just be let by their fate?