



INTELLECTUAL PROPERTY RIGHTS IN SPORTS

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Abstract: Intellectual property (IP) rights stimulate creativity in virtually all aspects of human behavior; sports in no exception. Every sport is well equipped with innovation. Yet sports cannot become a commercially productive asset without Intellectual Property rights the incentives attached thereto. All the sports today have undergone rapid changes and have evolved very much since its inception. To a very large extent, Intellectual property rights have provided the right incentives to continuously inspire advancement in sports. Different kinds of Intellectual property rights stimulate the growth of the sports industry in different ways. This paper examines how intellectual property rights are used in the sports sector to protect assets, generate value, and stimulate growth. The paper also provides an in-depth examination into the role of IP rights in the world of sports. This study also documents the detrimental effects of IP infringement on the sports sector.

Index Terms – Ambush Marketing, Broadcasting rights, Copyrights, Designs, Domain Name, Intellectual Property, Patents, Trade Marks, Trade Secrets, Sports

I. INTRODUCTION

People have made sports part of their existence. They are so imbedded in our lives and have hence become essential part of human life. From the ancient times to this era of science and commercialization it has always been a field of immense importance and significance. Its nature has showed a movement from being considered as leisure activity to an activity which contributes to the economies of the world and generates revenue for individual. Sports is now considered as a multi-billion-dollar global industry- one that generates investment in facilities, employs millions of people around the world, and entertains many more. The sports industry being a enormous sector across the world has helped to bring various cultures and economies together in the past century. The recent example of North Korea and South Korea participating as a single team in the Olympics is the one that helped them cut out their differences to a major extent after a long time. Through marketing, promotion, franchising, merchandising and brand building of professional sports teams, such teams have more crucial part and viability in the economic terms and have tried to only associate with multinational companies to increase their growth and influence.

There has been an evolution of the most popular sports, such as tennis, cricket, basket, football, car racing, and so on into mega international events. These have now evolved into profitable domestic sports events like: Indian Premium League (IPL), Major League Soccer (MLS), the English Premier League (EPL), The Spanish La Liga and many more. The organizers of these sports events on the international level have been able to reap immense financial rewards by inter alia exploiting and leveraging on aggressive marketing campaign taking advantage of the marketable potentials resident in these sports.¹

The Commercialization of Sports seems to be very reassuring and promising, as it will help in making gains not only at individual level but also at country's level which will in turn give power to the business of Sports. People around the world have been able to generate an income through exploitation of aspects of Intellectual Property rights in Sports via different means such as Patents, Trademarks, Copyrights, Merchandising and so on. There is immense importance and scope of Intellectual Property Rights in the sporting arena. Intellectual Property Rights are vested in almost every component of the sports industry. The Intellectual Property powers the business of sports.

World Intellectual Property Organization (WIPO), a Geneva based specialized agency of the United Nations promotes innovation and creativity for the economic, social and cultural development of all countries through a balanced and effective Intellectual Property system. Intellectual property carries commercial value for sporting clubs and organizations and covers the range of intangible assets covered by copyright, trademarks, designs . Intellectual Property Rights such as copyrights, trademarks, and designs became a source of significant value to the sporting arena. Apart from easing the way for protection of Intellectual property around the world, WIPO works to ensure that the benefits of the sports industry are spread wide and deep. Intellectual property carries commercial value for sporting clubs and organizations and covers the range of intangible assets covered by copyright, trademarks, designs.² Sporting gears, may be the subject of patent, design, copyright and trade mark rights. The technology used in a swim wear is inventive in nature and therefore can be

registered as a patent, the logo printed on the swim wear can be a registered trade mark, the designer can get copyright and the physical design can be registered as an industrial design. These registrations help to protect the value of the unique design and marketing capabilities associated with the sporting gear.³ Another example is a simple sports shoe which could be protected by several IP rights: patents protect the technology used to develop the shoe and designs protect the look of the shoe and trademarks distinguish the shoe from similar products and protect the reputation of the shoe and the copyright protects any artwork and audio visual creations used to publicize the shoe.⁴ Also Intellectual Property Rights are associated with many other facets of sporting business, such as sponsorship deals, event promotions, athletes, and merchandising.

Intellectual Property Rights are used as marketing tools towards the branding of sponsorship sporting, games, teams, broadcasting and media deals, celebrity status, etc. Various football clubs around the world such as Barcelona, Real Madrid, Manchester United, and Liverpool are a perfect example of intellectual property brand capitalization. Intellectual Property encourages the growth of the sports industry and enables sporting organizations to finance sporting events and assists in the development of the sports.

II. INTELLECTUAL PROPERTY RIGHTS AND SPORTS IN INDIA

Sports are one of the biggest industries in India. Certain sports are getting an unbelievable mileage over others due to the commercialization and investment interest. The growth of the sports industry unveiled the opportunities for broadcasting, and sponsorship etc. With the acceleration of the Indian economy and with her enhanced participation in the global sport arena there are several Intellectual Property issues to be addressed involving trademarks, broadcasting rights, sponsorship issues, licensing issues etc. In India the government tried to rationalize the sports industry by keeping every parties interest in mind including teams, sponsors and the public at large by introducing the Sports Bill, 2011 which was, however, rejected by the cabinet. In early 2016, a new bill entitled the National Sports Ethics Commission Bill, 2016 was introduced in the parliament. This Bill aimed to bring about legislative reforms to help improve the integrity of sports in India. This Bill if had becomes a reality; it would have been able to control the management of sports to some extent. The organization and smooth execution of a Formula One race in India for the very first time has brought the nation into a select league, putting further focus on the sports laws and the intellectual property rights, which can be used to create branding which in turn, lead to immense value generation. Cricket is one of the most leading and loved sports in India. It has now turned into a commercial game attracting huge capital investments and profits. The initiatives on T20 format and Indian Premier League, Indian Badminton League, Hockey India League, Indian Super League, ProKabaddi and heritage sports such as Gatta Gusthi, Goti, Lagori etc. have proudly announced that it is the commerce, which is now on the forefront of the games and due to which the Intellectual Property rights protection in sporting events is gaining importance. In a legal perception, the intellectual properties in the form of copyrights, trademarks, industrial designs, and patents have acquired immense value for protection due to commercialization and exploitation of commercial aspects of sportsmen and sporting events.

III. ROLE OF INTELLECTUAL PROPERTY RIGHTS IN SPORTS

The main idea of and Intellectual Property right is to give power to a person or to any legal entity to guard their brain power for a certain period of time. In the field of sports, a lot of hard labour and efforts are given by the sportsmen, the squad, the society/club connected with the sports activity, or the organizers of the sports events. Today, both for sportsman as well as sports associations, sports is not just a career or passion, but is looked at as a huge business opportunity. On formation of a sports team, the team is generally recognized by a team name. For the purposes of identification, various artistic and creative logos and fancy taglines are created. Off the field and on the commercial level, sportsmen get into endorsements and advertisements whereas sports associations get into branding, licensing, merchandising, sponsorship and other similar activities. Once all these creative elements are conceived and are put into commercialization, their protection becomes essential. For instance, today intangible assets such as the team names like Kolkata Knight Riders, Manchester United, event such as IPL, Olympics, US Open etc., along with commercial value and are significant components for which legal protection is necessitated to prevent third party infringements. On the other hand, licensing and sponsorships, broadcasting rights, and many other important revenue streams also involve few legal requirements to safeguard the rights.

There is no single law that protects all such proprietary material and resolves all the issues that arise out of them. A set of multiple laws are resorted to in order to safeguard the business interests involved sports. Intellectual property laws are the major part of such laws and are often pressed into service in tackling various legal issues. Intellectual property is an umbrella term used to describe properties created by human intellect and includes patent, trademarks, trade secrets, design and so on.

The various kind of intellectual property that form part of sports and provide spectacular off field action in terms of business topped with some interesting legal face-offs are as follows.

IV. COPYRIGHTS IN SPORTS

Copyright law protects the ideas of any person which is the creativity of its own. Copyright can be given to any person who has done something new in the field of literature, music, art, dramatic, photography and cinemas. Copyright is preserved from that very moment from where the work is created. This gives power to the copyright holder to make a replica, make copies of the work done, put up for sale, make derivative works, adapt the work, authorization and assign the work to other person if needed. Copyright in sports vests in various constituents of a sporting event which, *inter alia*, includes the artwork associated to the logos, trademarks, slogans, promotions, images of a player, event etc. Copyrights give any broadcaster an independent and inherent right over that particular sporting events and they in order to gain that right usually pay large amount of money. There is absolutely no reason why residents of one or two parts of the world should be required to pay to watch what most of the world can see for free, particularly when those areas are characterized by great disparities of wealth within the population. Revenues from broadcasting and media rights are often the main source of funds for sports organizations to build stadiums, host sporting events, and carry out community outreach to maintain high levels of interest.⁵ Most countries have, either through specific legislation or through case law, established that the broadcasting of a sporting event is copyrightable. For example, recognizing the significant economic value in sports broadcasts, the United States enacted its own *sui generis* law entitled The Sports Broadcasting Act of 1961, which regulates and protects the sales and distribution of sports media rights. There is also a substantial body of U.S. precedents on the extent to which sports broadcasting is protected by copyright.

Copyright in sports, like other copyrights, is protected in India under the provisions of the Copyright Act, 1957. Advancement in communication technologies such as cable, broadband, satellites, and easily accessible mobile internet have revolutionized broadcast and sports coverage and in turn enabled people around the world to take part in the excitement of major sports events. The pictures in the logos, the products, and the short story in the advertisement, software used in computer games that are available online and various other things like that are all the subject matter of copyright. Nowadays there is a great craze of video games of different kinds. The avatars (Characters) used in these games, the graphics contained therein and many other like things are also the subject matter of copyright.

India has signed Berne Convention of 1906 for the Protection of Literary and Artistic Works and the International Copyright Order in 1999. Though the registration of copyright is not mandatory in India, it is advisable to register it as the copyright registration certificate is accepted as a proof of ownership of copyrights in courts and by enforcement authorities.

The copyright law in India provides for civil remedies in the form of damages, permanent injunctions or accounts of profits, delivery of the infringing material for destruction and cost of the legal proceedings etc. and also makes an instance of infringement of copyright, which is a cognizable offence punished with a term which shall not be less than six months but may extend to three years with a fine which shall not be less than INR 50,000 but may extend to INR 200,000. The Copyright Act in India gives power to the police to register the First Information Report (FIR) and to act on its own to arrest the accused and to search the premises of the accused and seize the infringing material without any court's intervention.

V. PATENTS IN SPORTS

When there is new invention or a new innovation then the inventor or innovator usually gets it patented to provide protection to its product. Patent is an exclusive right to granted to an inventor or assignee for a limited period of time in exchange for detailed public disclosure of his invention. There are generally two kinds of patents: utility and design patents (design rights, whether protected by patents or specific IP rights, are discussed separately below). The former protects functional aspects of an invention, while the latter protects the ornamental aspects. This system has proved to be a powerful incentive to innovate with a no less important societal benefit of enhancing the common pool of knowledge and stimulating others to build on and improve the current state of the art—setting a virtuous cycle in motion.⁶ There are number of sports methods for which patent are being sought. Inventors have begun to obtain patent protection for sports method inventions like method for putting a Golf ball,⁷ methods for fitness training,⁸ method for training baseball pitchers,⁹ methods for training swings and so on. For example, Fit-bit, the maker of popular fitness trackers, has over 90 U.S. utility patents including both issued and pending, describing different technological aspects of the tracker. A player, team, or league gains significant merits from these exclusive controls over a technique that provides a competitive advantage to it. On the other hand, Industrial Design rights are granted for protecting the aesthetic value or the visual design of an object. Owners can capture considerable cash by dominating sports contests using the invention or license their invention. Thus, patent protection to the new inventions protects against third party infringements as well as enhances commercial interests. Patent rights are granted for 20 and patents in India are governed by the Patents Act, 1970. Registration of patents is not an easy process unlike trademarks and copyrights. It is necessary for the owner(s) who are registering for patent to move towards a proper patent agent / attorney who should be technically and legally sound. Patent rights are approved for 20 years in India and most of the other countries across the globe.

With the development in technology the conceptualization of new games and sports activities has turned reality. Most recently, Inventors have begun to obtain patent protection for sports method inventions. Some very common examples includes: method for fitness training, method for putting a golf ball, multiple type target game, a ball rolling game, body ball tag game and so on.

Furthermore, till the end of 19th century, there was no concept and passion of online gaming. However, with the development of computers and electronic gadgets by the end of 20th century, there was a revolutionary transition in the definition of games. In one example, the newly launched and very popular game “Pokémon go” is a classic example of using augmented reality concept in the field of mobile gaming. In a similar manner, a lot of other sports activities such as car racing and bike racing use advanced safety features which may be patent protected. In some condition, patented technology has given rise to non-traditional sports such as bungee jumping and paragliding. Nowadays, even in traditionally played games such as cricket, are actively utilizing patented products such as the contact sensing stumps.

VI. TRADEMARKS IN SPORTS

Trademarks are identifiable mark, face of design indicator for distinctive services or products of a particular source from that of the others. Trademarks play an important role in brand appreciation all over the globe. Nowadays sports events are quite often branded using taglines, slogans and logos. For instance ‘Champions Rise’ was the tag line of FIFA 2019. These taglines, slogans etc. aids in establishing a worldwide brand value for the sports event. Once a brand is established, huge profits may be encored through live broadcasting and advertising. In some cases, trademarks have been filed on the name of the players considering their popularity and brand image. One such example can be the name of the famous football player “David Beckham,” who has filed for trademark on his own name and earned millions of dollars through innumerable sponsorship deals and endorsements. Trademarks are utilized by sports teams not only to protect the jerseys worn by their individual teams during competitions but also other items that may be associated with or bear the trademark or logos; for instance Kolkata Knight Riders in India apart from being a cricket team exploits their trademark as represented by its team badge is the sale of t-shirts, caps and so on.¹⁰ A professional sport team, sports association and/or event organizer must establish it has a certain level of goodwill or reputation, which it has built up over a period of time that makes consumers (fans, TV broadcasters, etc.) continuously return because of the quality of its brand.¹¹

In *Elida Gibbs Ltd v Colgate Palmolive Ltd*¹² and *Stannard v Reay*¹³ the courts held inter alia that even if an organization has been in business for a relatively short period of time it could still rely on passing off. Symbols and Team names (Barcelona, Real Madrid, Chennai super kings etc.) create a level of association with the public and fans which helps the popularity ratings of any given team, club, and players to rise up. As sports have developed into a global business, so too has the significance of athletes' image rights.

With the growth of online gaming, it has become extremely important to protect the brand name considering the trends of upcoming online games. Online gaming is regarded as one of the best platform for generating revenue. A large amount of these games are evolved from the real life sports leagues played at a global level. For instance the most loved game 'FIFA' is developed and inspired for the real life FIFA. Hence, it becomes crucially important to file trademark protection for the teams participating in these sports leagues to avoid Intellectual property rights conflicts at a later stage. The current revenue model of the football clubs is through advertising and online broadcasting rights. However, it would not be surprising to see huge amount of revenue generated through online games derived from different sports leagues throughout the globe.

VII. TRADE SECRETS IN SPORTS

Typically, a trade secret may be understood as any information which is not generally known or available to public, and by which a person/company/organization obtains an advantage over its competitors. Trade secrets encompass manufacturing or industrial secrets and commercial secrets, practice, formula, process, pattern, instrument, or compilation of information which is not generally known or reasonably ascertainable by other.

In sports, information, such as game plays, analysis of the competitors, statistics, and method of coaching etc. provide a competitive edge over the others. Further, in respect of strategies to maintain this edge, the secrecy has to be maintained. There have been various instances, where there has been a leak of not to be disclosed information by the members of team leading to losses to the team.

In India there is no distinct statute for protection of trade secrets. Indian courts are protecting trade secrets on the basis of principles of equity and common law action of breach of confidence which amounts to a breach of contractual obligation. Thus, having proper agreements and using confidentiality clauses is beneficial in order to avoid trade secret leakage.

VIII. INDUSTRIAL DESIGNS IN SPORTS

Designs in the world of sports are far-reaching. In most of the countries industrial designs must be registered in order to get protection under the industrial designs law. However, protection is given only in that country where the design is registered. Where images and aesthetics are involved, so too is design, and where new materials emerge, aesthetics or designs soon follow up. Registration of a design does not discuss on how it works rather it gives the owner protection for the graphic appearance of the product and to be registered, a design must be new or original.

In present scenario it has been observed that the application of industrial designing is considered as the back bone of any product and equipment used in sports. It is believed because after the enforcement of this Industrial Design Act, 2000 the manufacturers are creating large amount of profits after getting it registered and it is not distinguished only by its worthiness but also by its appearance which too play an vital role in appealing the buyers' and creates curiosity among them about the product which make them to buy.

Therefore, the design of an object and even making of its covering is essential from the economical point of view point. The design act, 2000 serves the object of visual appeal. According, to the act the designing of the product shall have features (shape, configuration, colour pattern or decoration applied or applicable to final product) which will create brand goodwill among the buyers. The companies are approaching the players for the endorsement of the products of their brands so that the public will get attracted by the advertisement and approach the outlets for purchase of that product that will help in creating large amount of profit.

IX. PERSONALITY RIGHTS IN SPORTS

In the current situation, sports celebrities are formed overnight and this celebrity status leads to various forms of brand endorsement, image creation, revenue generation and capitalizing on fame. Thus, endorsements, status and image, utilizing personality are a major source of proceeds for sports celebrities. Personality right may be understood as the right to control any commercial exploitation of one's name, image, likeness, or any other aspect of personal identity. Further, under the Indian Trademark Act, 1999, a sports celebrity may file and acquire a trademark in respect of his or her name. For example, Sachin Tendulkar has registered trademark over his name.

Celebrities and other famous people have the personality right which entitles them, so that their image is not exploited for the wrongful gains. It is however, the practice of some athletes and sports celebrities to extend the scope of the exploitation of their personality rights by establishing enterprises or ventures to produce, market and sell merchandise bearing their image and personality rights. Another example of personality and image rights exploitation is a scenario where a sports team embarks on a merchandising campaign using the most popular players on its team. It is argued however, that the sports enterprises can rightfully exploit only such personality rights, which are based on the fact that the players are members of teams that are participants in their competitions and consequently cannot extend their usage of the personality rights of the sportsman to his individual personal rights. This point has been clarified by the Delhi High Court in *ICC Development (International) Ltd v Arvee Enterprises and Anr*¹⁵, held that:

“The right of publicity has evolved from the right of privacy and can inhere only in an individual or in any indicia of an individual's personality like his name, personality trait, signature, voice, etc. An individual may acquire the right of

publicity by virtue of his association with an event, sport, movie, etc. However, that right does not in here in the event in question, that made the individual famous, nor in the corporation that has brought about the organization of the event. Any effort to take away the right of publicity from the individuals, to the organizer (non-human entity) of the event would be vocative of Articles 19 and 21 of the Constitution of India. No persona can be monopolized. The right of Publicity vests in an individual and he alone is entitled to profit from it. For example if any entity, was to use Kapil Dev or Sachin Tendulkar's name/persona/indicia in connection with the 'World Cup' without their authorization, they would have a valid and enforceable cause of action."¹⁶

X. DOMAIN NAME IN SPORTS

Now a days, internet and associated advertisement activity has contributed significantly to give importance to domain name and its use as business identifier. In sports, massive information is circulated and events were broadcasted through internet, which has in addition incorporated an immense market value in branding. Now a day's all sports club has its own domain from which they do their promotion. Some of the sports personality have their own website for example, www.sachintendulkar.in etc. In Indian context there is not any such separate domain name registration method. Domain names in sports are treated as trademarks by Indian courts. It plays a considerable role in protection of intellectual property rights associated with sports. Domain names forms brand image, portability and search engine optimization. WIPO, among others, operates a quick dispute resolution procedure for website domain names based on internationally-accepted rules.¹⁷

Internet is a cost effective method to reach out to the public and it aid in creating awareness about sports events, players etc. The sponsor companies conduct various kinds of online activity viz. online competitions, online shopping portals, and online ticket sales in an effort to reach out to the public. These websites and the exclusive domain name associated thereto, becomes a great source of advertising as well as brand building. Events broadcasted via internet which also includes online games related to sporting events, have not only acquired an enormous market share in branding and value creation but it gives an opportunity to cyber squatters to take the benefit of the confusion which is attributable solely to domain names.

It is essential to register domain names with various variations and combinations in order to escape from cyber squatters so that sports fans, online information seekers are protected from committing mistakes. Registering domain names with popular gTLDs i.e. .com .net .org .biz .info. .asia. .name. .in. .co.in, etc. could promote and protect against brand abuse and trademark dilution, and Registering low-cost ccTLDs such as .at .be .cc .eu .ch .co.uk .dk .it .nl .ru .tv .us .ws should be mandatorily resorted to. Another guiding principle for domain name registrations include registering multiple variations of trademarks and slogans, including common & silly spelling mistakes.¹⁸

XI. BROADCASTING RIGHTS IN SPORTS

Broadcasting Rights Broadcasting rights may be understood as intellectual property that is created during screening of sporting events and which if further recognized by the Indian Copyright Act, 1957. Broadcasting rights are given for the term of twenty five years. Typically, the broadcasting companies own the broadcasting right, which allows the owner to rebroadcast sporting event. Further, as per the Indian Copyright Act, 1957, any person who re-broadcasts the broadcast or makes any reproduction of such sound recording or visual recording where such initial recording, or sells or hires to the public or offers for such sale or hire, any such sound recording or visual recording, without the license from the owner, is said to have infringed the broadcasting right.

Live broadcasting of sports events is one of the most precious sports commodities. Given the increasing fragmentation of entertainment and wide selection of television and online offerings, live sports is one of the few forms of entertainment in which advertisers are able to reach a true mass audience. Indeed, the biggest sporting events of the year are prime events for advertisers. For example, the U.S. National Football League's main event—the Super Bowl—attracted some 114 million viewers in 2017 and a 30-second slot of advertisement cost about \$5 million on average, over \$166,000 per second.¹⁹ Media rights increasingly represent the fastest-growing segment of the sports market. As mentioned above, in North America this segment is projected to grow by a compound annual growth rate of 4.3% by 2021 and to account for nearly 30% of all sports market revenues by 2021.²⁰ The recent professional boxing match between Floyd Mayweather Jr. and Conor McGregor is estimated to have been viewed illegally by some 3 million viewers (including through social media platforms such as Facebook), generating estimated revenue losses of \$250 million.²¹

Yet recognizing and tackling piracy of live broadcasts of sports events is very difficult. Take for example the multimillion-dollar website "LiveTV.sx". This site streams pirated sports events complete with banners and pop-up ads. The site is the 1,750th-most-popular website in the world, and is administered in Panama with a domain name registered in the Caribbean by a Kazakh national.²² A 2011 report identified tens of thousands of websites, peer to peer filing file sharing networks, and unicasts illegally streaming live broadcasts of sports events.²³ The widespread availability of illegal sports content and the growing number of consumers willing to make use of this content are having a sustained negative impact on legitimate sports broadcasting. In many countries pirated streaming is so widespread that legitimate viewership of live sports broadcasts is declining.²⁴ In fact, a recent survey conducted in the United Kingdom revealed that more than half of all respondents ages 18 to 24 admitted to regularly watching pirated live broadcasts of sports events compared with only 4% of respondents over age 35, and younger viewers are half as likely to purchase a paid subscription for live broadcasting of sports compared with older viewers.²⁵

XII. AMBUSH MARKETING

Ambush marketing refers to the company's attempt to capitalize over the popularity of a well-known property or event without the consent and authorization of the necessary parties.²⁶ According to Sandler and Shani ambush marketing is an attempt by a third party to capitalize on the popularity of a sports event without the prior consent and authorization of the necessary parties (owner/creator).²⁷ However, Michael Payne a former marketing director of the International Olympics Committee described ambush marketing thus 'Ambush marketing is not clever marketing-it is cheating...'. In the view of the present author ambush marketing is simply corporate freeriding. For instance, if *Etisalat* claims to be the official sponsors of the Nigerian Premier League that would be equivalent to Ambush marketing; as it would amount to the telecommunications company capitalizing on the popularity of the league when the lawful and rightful sponsor of the league is actually *Globacom Nigeria Limited*. Protection against ambush marketing is one of the most significant aspects of Intellectual Property Rights in sports. Ambush marketing has acquired a huge space in sporting events and it refers to companies promoting their brands or products by associating them with a team, league or event without paying for the privilege.²⁸

The controversy between Pepsi and Coca Cola in the case of *Pepsi Co., Inc. and Ors. v. Hindustan Coca Cola Ltd*²⁹ is a classic example of ambush marketing in India where in the court issued a permanent injunction to the defendant by restraining its advertisements being broadcasted.

XIII. COUNTERFEIT

Counterfeiting has posed a major threat. The axiomatic and direct harm of counterfeits is to the originators or the creators. They lose income from the sale of illegitimate counterfeited products. For example, footwear and apparel can copycat distinguished features of the brand and its logo but the materials and assembly are generally of lesser quality. The creators also lose goodwill especially because of the poor quality of counterfeit copies, among disappointed buyers unaware of the counterfeit. This undermines a brand's integrity and can result in noteworthy revenue losses. In sum, Intellectual property owners sustain not only direct losses due to decreased market share, but also damage to the brand's reputation and dilution of the brand, along with costs related to defending their rights.³⁰ For example, counterfeit automotive parts are often of very poor quality and lead to failure with, for instance, brake pads malfunctioning and airbags failing to deploy or deploying and releasing metal shrapnel. Similarly, counterfeit clothes and cosmetics can contain excessive levels of dangerous chemicals.³¹ Counterfeit medicines may be composed of dangerous or contaminated substances and sometimes do not contain an active ingredient at all; these medicines can be fatal or cause serious medical problems.³² It is estimated that each year deaths resulting from counterfeit products among the G20 economies bear an economic cost of over \$18 billion, with an additional \$125 million spent on treating counterfeit-product-related injuries.³³ Buying counterfeits also feeds an underground economy that is largely unregulated, adhering to virtually no labor or environmental laws.³⁴ Counterfeiting represents relatively easy and fast funding for organized crime, yielding as high as 900% profit margins.³⁵ Moreover, counterfeiting is increasingly linked to terrorist groups. Seizure records from Interpol and the FBI suggest that millions of U.S. dollars in proceeds from counterfeit goods have been destined for terrorist organizations, such as Hezbollah and Al-Qaeda.³⁶

XIV. CONCLUSION

Commercialization of sports is so widespread that the fight amongst sports clubs or associations is not only limited to field but also in creating huge profit out of it. Most of the sports clubs have business enterprise in exploiting their intellectual property and are also engaged in various businesses such as merchandising, online games, café's, and etc. This adventure of clubs of generating revenue by utilizing their Intellectual Properties makes it necessary for them to effectively protect it. Intellectual Property Rights along with the legal protection to these rights helps to secure the economic value of sports.

The protection of the various classes of Intellectual Property would be in various forms like registrations, agreements with appropriate terms and conditions etc. These days, merchandising is one of the most profitable businesses where the sports clubs have a larger stake. In merchandising, there is lot of small but highly significant issues such as ownership of IP, sharing of revenues, secrecy etc. With the diverse personality rights infringement taking place all around the world, celebrities today are very keen and vigilant about protecting their personality rights. So, the proprietors should also be aware that they do not end up by infringing personality rights of any sportsperson. It is always favored to take a good legal outlook on what can be used and what cannot be used, before starting that business.

In order to maximize economic returns good management of intellectual property is very important. This has been rightly pointed out by Prof. De Werra in his book entitled *Sports and Intellectual Property* in the following words: "If intellectual property has something to learn from the sports industry, it can conversely be considered that the sports industry may have something to gain from the assimilation of the key values of Intellectual property law."

The author feels that there is strong need sports law experts in India so as to promote ethical practices in sports industry. It is indeed the need of the hour that the proprietors or the owners invest resources in proper licenses, registration and contracts in order to protect the value the sports and sporting assets as well as, keenly protecting intellectual property from infringement and abuse. It is recommended that the legal contractual agreements must be in place guarding all forms of intellectual property created in sporting events, teams, individual players etc., so as to safeguard all the stake holders and their financial interests. India should come up with a legislation for protecting personality rights and should also try to build a successful sponsorship program so as to protect the image and status of celebrities of our country.

It is recommended that India should come up with a sports business model which could help in building an effective Intellectual property rights strategy that could address the use of patents, trademarks, designs and other forms of IP in sports. It should also enact a

framework for the administration and protection of use of domain names, which could address media and broadcasting rights. In order to maintain balance Intellectual Property rights with the public interest, free access to on-air sports events is an attractive approach.

It is also recommended to adopt alternative dispute resolution (ADR) methods and techniques for enforcement of intellectual property rights involving sports disputes. As a developing country and having a serious intent to attract and sustain investments, India needs to enact a law to safeguard confidential information particularly in sports industry so to act as an adequate deterrent for potential offenders. In spite of all the obstacles, government of India must try to pass the National Sports Ethics Commission Bill, 2016, which promises to improve the integrity of sports in India.

Protecting and enforcing Intellectual property Rights in the sports industry is an essential factor so as to ensure that sporting events remain a possible financial actuality in India.

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