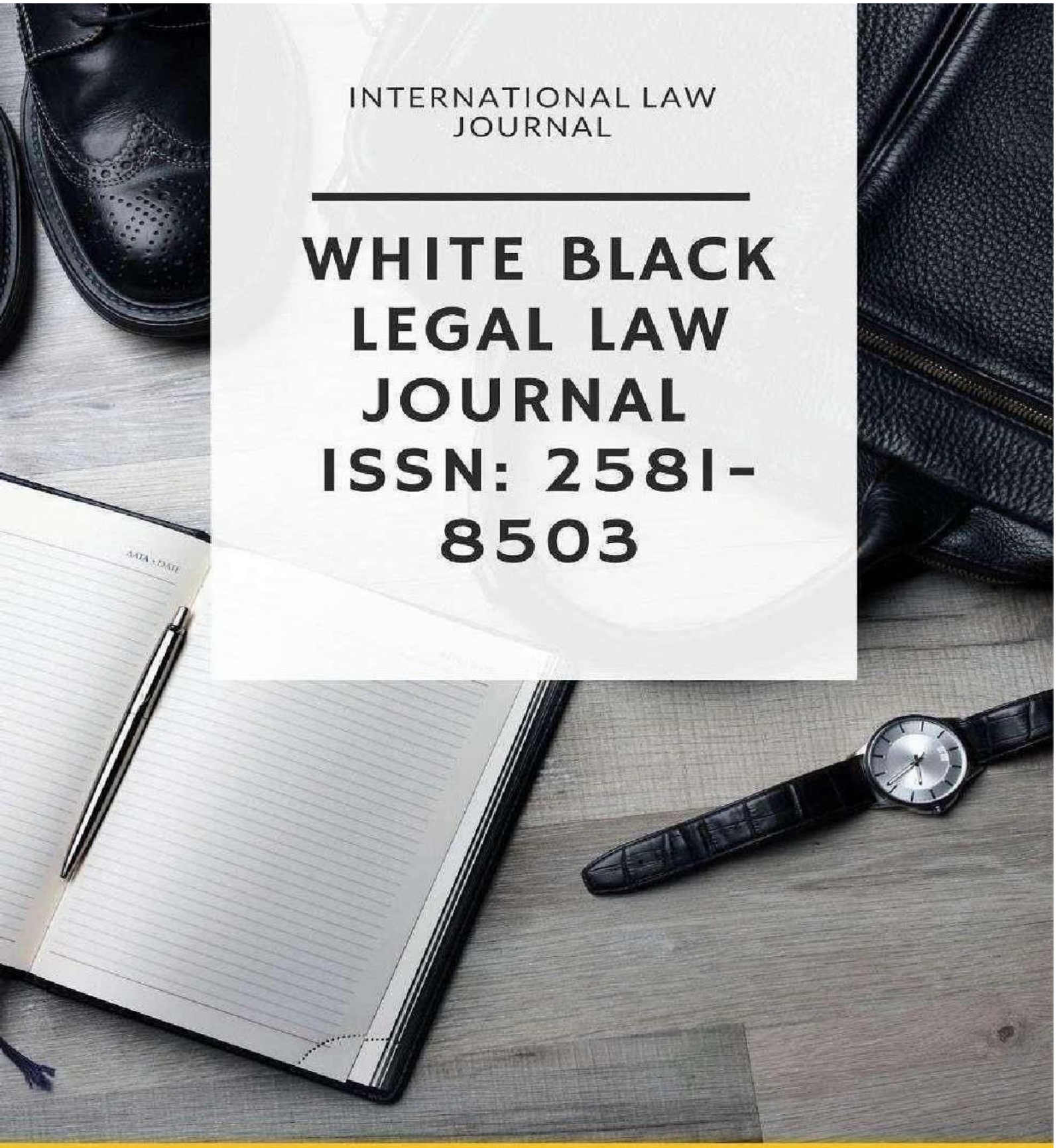


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The scope of the journal includes, but is not limited to:

- Constitutional and Administrative Law
- Criminal Law and Criminal Justice
- Corporate, Commercial, and Business Laws
- Intellectual Property and Technology Law
- International Law and Human Rights
- Environmental and Sustainable Development Law
- Cyber Law, Artificial Intelligence, and Emerging Technologies
- Family Law, Labour Law, and Social Justice Studies

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IMPACT OF CYBERSPACE ON IPR

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Introduction

When we talk about cyberspace, it means it includes everything related to computer. Which means it include everything from searching to sharing thought (i.e., social media). Now days, Internet or we can say cyberspace is used not only to connect people virtually but it is also used for promoting goods, companies etc. in simple words we can say through cyberspace things get easy on one click we can do anything.

Due to cyberspace although things get easy but along with that privacy is getting threaten because everyone's data is now available on Internet which may be misused, not only data is on peril but money (bank accounts) are also on risk. India is the second largest internet user in the world so, it is impossible that we all are safe because every user information is with them.

In simple words we can say cyberspace is a kind of new world where we exist in which person can go anywhere.

When we talk about cyberspace in Intellectual Property Right then it means we are talking about protection of intangible property on Internet (i.e., domain name of company). Now days due to similar or identical domain name many companies use to do fraud. On Internet not only by using domain name but also by other sites or application software they breach Intellectual Property Rights.

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Cyberspace

What is Cyberspace?

Cyberspace means virtual computer world, which includes social media for sharing information, sharing thoughts or we can say to connect people with each other with geographical boundaries, shopping application, searching anything, programming etc. the people who use it is known as netizen which means citizen of Internet.

In simple words we can say it includes everything which is done by use of computer.

Ways to enter in Cyberspace –

There are few common ways to enter into Cyberspace world, which are as follows –

1. According to section 2 sub section (1) clause (ha) of Information Technology Act, 2000 – cell phones can be used to communicate or share thought through audio, text, video means.
2. Computer device can be used to communicate or exchange data with the help of internet connection.
3. According to section 2 sub section (1) clause (na) of Information Technology Act, 2000 – Cyber Café provide facility (paid offer because it is their ordinary course of business) to use internet, by the help of it people reach in cyberworld.

Advantage of Cyberspace[1] –

There are few advantages of cyberspace which are laid down as follows –

1. Information Resources – on internet every information is available 365 days (i.e., 24 hours 7 days of week), it is kind of e – library. On single click we can get any information, any data.

2. Communication – now communication become easy due to internet not only it become easy but also become cheap (only internet data recharge is needed). Earlier, we use to communicate either through post or phone call but then also we were unable to see each other but due to internet facility we can interact each other on video call, more than 100 people (video conference on google meet, zoom application etc.) at one virtual call and by e – mail we can send data many people at same time without any pecuniary loss and delay (anywhere whether within or outside the geographical boundaries).

On single click we can connect or share information anyone virtually through Facebook, Tweeter, WhatsApp, telegram, Instagram, E- mail id, google meet, zoom etc.

3. Entertainment – with the help of internet entertainment become easy, we can download or play game online, play music online or download favourite songs. Earlier we use to by CDs for music and games. So, in this way it not only become cheaper but also get easily available.

4. Opportunities – internet provide job opportunities or opportunity to earn money to jobless people by online websites or cybercafé (by Aadhar cards, passport, e-ticketing, filling forms etc).

5. Advertisement – with the help of internet one can advertise their products or company online, which reduce their advertisement cost and along with that easily it gets advertised also.

[1] Available on: https://www.vapulus.com/en/cyberspace-advantages-and-disadvantages/ (visited on August 09th, 2021 at 03:48 PM)

Intellectual Property Rights

What are Intellectual Property Rights?

When we talk about **Intellectual Property Law** (IP) it means we are talking about rights of intangible property. This law gives protection to Copyright, Patent, Trade Marks, Industrial Designs, Geographical Indication, Trade Secrets etc. Intellectual Property law give protection so that no one can copy others work without permission of owner of the work (except open accessible platform).

When we look in cyber world, we found so many availabilities of information or data which are too much similar to each other so, it become very difficult to protect everyone's right. In case of CIT v. Oracle Software India Ltd. (2010 (2) SCC 58) it was held that – "duplicating of CD may amount to piracy and violation of section 14 of Copyright Act, 1957".[2]

Negative effects of Cyber world in Intellectual Property Rights: –

As we know internet provide opportunity everyone to express their view, provide advertisement platform also provide entertainment facility like game, music. Due to lot of sites, risk of infringement of copyright protected site gets increased. In this way cyberspace become threat to IP protected sites, applications, etc.

Copyright[3] –

Copyright give protection to the original work so that no one can copy without permission of original owner (copyright protected person). There are few examples of violation of copyright which are as follows -

1. Cache - Copyright give protection to original work and along with that it also gives permission to publish to work in public but with that it can impose direction also like any website which is paid but through using any Virtual Proxy Network application anyone is using it then it shall be considered as violation of Intellectual Property Right.

Caching is a violation of copyright because Copyright Act,1957, section 14 clause (a) sub – clause (1) says - reproduction has to be in a material form includes storing of it in any medium by electronic means. In caching, files are get stored temporarily, because it is the essential part

[2] Available at: https://www.ijlmh.com/wp-content/uploads/2019/03/Intellectual-Property-Rights-And-The-Internet-World.pdf (page 2, easy infringement of IPR in Internet Age) (visited on August 09th, 2021 at 11:38 PM)

[3] Available at: https://www.lkouniv.ac.in/site/writereaddata/siteContent/20200413150518205 0sanjana_mittal_law_IPR_and_Cyber_law.pdf (visited on August 10th, 2021 at 12:25 PM)

of the transmission process through internet, without which messages cannot travel through the networks and reach their destinations.

2. Plagiarism - Due to advanced technology copying and modification become easy. Although on one hand it provides benefits in copying but on other hand it also creates difficulty to IP law from protecting copyright protected material from Plagiarism.

Trademark –

Trademark is the distinct mark of different goods and services. It helps to identify the goods and services with their mark. In simple words we can say by the help of registered mark even illiterate person can recognise the goods or service. Mark can be any shape, symbol, colour or combination of colours, music, sound recorded.

Trademark is always different, if it seems similar or identical then it may get rejected to registered on either absolute or relative grounds. But in Domain Name many times it was found similar which creates confusion in the mind of people and it leads to fraud also.

Domain Name System –

A domain name is a unique, easy-to-remember address used to access websites, such as 'google.com', and 'facebook.com'.[4] for registering Domain Name we need to register in ICANN.

Dispute between Domain Name System and Trademark –

Although both register the mark of product (in Domain Name as xyz.com and in Trademark any mark which indicate particular goods or services) but due to similar domain name it creates confusion in the mind of people which results into fraud. Following are the points on which disputes arise –

Cybersquatting – the term cybersquatting refers to the registration of a domain name containing another person's trademark and setup a website. The person who registers is known as cyber squatter. In this the intention behind registration are always evil.

In India the first case related to Cybersquatting was Yahoo Inc. v. Aakash Arora (1999 II AD Delhi 229), in this case it was held that - the service rendered by the plaintiff on the internet had become recognized and accepted globally. The Court agreed that though "Yahoo!" was a

[4] Available at: https://www.cloudflare.com/en-in/learning/dns/glossary/what-is-a-domain-name/ (visited on August 10th, 2021 at 09:04 PM)

dictionary word, it had acquired sufficient uniqueness and distinctiveness to enable the plaintiffs to be protected against passing off[5], further it was held that – a domain name registrant does not obtain any legal right to use that particular domain name simply because he has registered the domain name, *he could still be liable for trademark infringement.*[6]

In the case of Google Inc. v. Herit Shah (2009) teenager Herit registered a domain name googblog.com due to creating confusion WIPO ordered to transfer the right of domain to Google Inc. (Google).[7]

It is done basically to take gain illegal benefits by using unauthorised domain name.

Conclusion

Cyberspace is umbrella under this every thing covers from storing data to sharing thoughts, information. In today's time no one is left who is untouched cyberspace.

Firstly, I would say It made our work easy, through this everything we can gets available on single click. It not only provides easy facility but it also reduces monetary expenses and time because we have to just recharge internet data pack on that data, we can do anything like sending e- mail, video conference with more than 100 people at once.

Secondly, I would say, for one matter we can get lot of information on different sites. Although we get advantage of it but along with that, we also suffer from infringement of Intellectual Property Rights.

So, we can say Cyberspace is a virtual world in which everyone can participate by sharing their views.

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