

INTELLECTUAL PROPERTY AND THE INTERNET: REGULATING THE DIGITAL LANDSCAPE

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INTELLECTUAL PROPERTY AND THE INTERNET: COUNTERFEITING IN THE DIGITAL LANDSCAPE

- The Legal Framework in Cyberspace: the Indian Information Technology Act, 2000 [‘Regulating Indian Cyberspace’]
- Intermediary Liability and Online Marketplaces
- Trademarks on the Internet: First Generation Issues – Domain Names; Second Generation Issues - Metatags, Linking
- Monitoring Intellectual Property Online: Best Practices

THE INFORMATION TECHNOLOGY ACT AND INTELLECTUAL PROPERTY [I]

- The Information Technology Act, 2000 – in a phrase: ‘functional equivalence’
- Amends the Indian Evidence Act, 1872 and the Indian Penal Code
- Understanding the role of the medium – ‘connects’ traditional evidence law to the Internet
- Adaptability and Enforcement of Indian law – Sections 65B inserted in the Evidence Act on the production of electronic documents

THE INFORMATION TECHNOLOGY ACT AND INTELLECTUAL PROPERTY [II]

- The Basics: the “machine” and the “medium” – What is a Cybercrime?
- The criminal act – discovery [detection] and analysis
- The Cybercrime Manual – fostering preparedness
- Focussing on ‘relevant’ issues and appropriate classification of offences
- Facilitates Cyber forensics and the collection of evidence
- Crisis management [internal and external]

DUTIES UNDER THE INDIAN INFORMATION TECHNOLOGY ACT

- Duty of the Organization “... maintain reasonable security practices and procedures” [Section 43A] – What is a reasonable Corporate Security System? [ISO 27001/27002]
- “Offences by Companies” [Section 85] – “... every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company...”
- ‘Duties’ – may be interpreted to include the management of confidential information and intellectual property

THE INFORMATION TECHNOLOGY ACT, 2000 [AMENDED 2008]

< INTERMEDIARIES: LIABILITY >

Section 2 [w] of The Indian Information Technology Act, 2000 [Amended in 2008] defines 'Intermediary': Intermediary, with respect to any particular electronic records, means any person who on behalf of another person receives, stores or transmits that record or provides any service with respect to that record.

And includes telecom service providers, network service providers, internet service providers, web-hosting service providers, search engines, online payment sites, online-auction sites, online-market places and cyber cafes.

Intermediary Liability - Distribution of content: [a] copyright violations [music, films, images]; [b] prohibited content [hate, racism, pornography]

Case Study / Illustration: Baazee Case [Sale of the MMS Clip]

INTERMEDIARY LIABILITY – NOTICE AND TAKE-DOWN PROVISIONS

- All ‘intermediaries’ must appoint ‘Grievance Officers’
- Liability from ‘Knowledge’ – Response to the Notice – Acknowledgement within 36 hours [mandatory under the Rules]
- Time given to respond in full measure – a maximum of 30 days under the Rules
- Non-Compliance would mean that the intermediary is liable for the offence for which the notice is issued

- Counterfeit production of technology devices and their parts reduces revenues, puts customers at risk.
- Unauthorized reproduction of copyrighted material.
- Use of branding on rogue or independent websites, often registered using false WHOIS details and in challenging territories, which display clear trademark infringements and offer counterfeit goods for sale, are a clear and present threat to brand owners .
- Unauthorized profiles on social media sites steals customers and sell counterfeit goods, resulting in loss of revenue and reputation s damage.
- Unauthorized applications on mobile app marketplaces lead to customers being defrauded or buying counterfeit goods
- Channel compliance in the online space is essential for controlling distribution and maintaining brand equity.

Finds and Removes Counterfeit Listings	By monitoring marketplaces for unauthorized listings and liaising directly with site owners to remove listings
Takes Action Against Domain Name Infringements	Through unique relationships with Registrars, ISPs and law enforcement allows for suspension of Domain Names and content on a global basis.
Detects and Enforces Against	Third parties using brand or copyrighted material on general internet content, including social media sites.
Monitors and Takes Down	Rogue apps on marketplaces minimising the risk of fraud for customers.
Provides Clear Return on Investment	By analysing and reporting in clear customized formats to allow for complete visibility of brand protection actions.

INDIAN E-COMMERCE PORTALS

 **MYNTRA**.com

FASHION AND YOU
Indulge

 **ZOVI**

 **babyoye**.com
Your baby's online store

 **ZANSAAR**

Yebhi.com

 **inkfruit**.com

 **flipkart**.com

PEPPERFRY

 **HOME 18 SHOP**.COM

 **Craftsvilla**.com
Handcrafted Concepts

zivame

 **FASHIONARA**

 **FREECULTR**

REPORTING COUNTERFEIT ITEMS ON INDIAN E-COMMERCE SITES: PRACTICE AND PROCEDURE FOR RIGHTS HOLDERS

- Collection of Evidence – From ‘Screenshots’ to placing an order – as evidence for an enforcement action
- Notice under Section 79 [Information Technology Act] and the Intermediary Guidelines
- The Indian E-Commerce Site could be liable if it does not have a written policy in compliance with the Intermediary Guidelines or has not appointed a Grievance Officer
- Response from the E-Commerce Site – [a] take-down of infringing articles; [b] details of the activities of the illegal seller/infringer
- If no response or unsatisfactory response – a legal action can be filed in a court in India

COLLECTING EVIDENCE FROM INDIAN E-COMMERCE SITES: PRACTICE AND PROCEDURE FOR RIGHTS HOLDERS

- A screenshot of a key Web page is like taking a photograph of the image as it appears on the monitor. It can be admitted as evidence under Indian law.
- If proper steps are not taken to admit the evidence, however, the value of this information may be lost, as courts are highly suspicious of evidence taken from the Internet. The evidence must be accompanied by an affidavit pursuant to Section 65B, Indian Evidence Act, 1872.
- This testimony typically must answer the following questions: [a] What was actually on the Web site? [b] Does the exhibit or testimony accurately reflect it? [c] If so, is it attributable to the owner of the site?

COLLECTING EVIDENCE FROM INDIAN E-COMMERCE SITES: PRACTICE AND PROCEDURE FOR RIGHTS HOLDERS

- Section 65B – lays the foundation – ‘... any information in electronic form is deemed to be a document.’
- Conditions under Section 65B – [a] the computer output containing the information should have been produced by the computer during the period in questions; [b] information derived was fed into the computer, ‘... in regular course.’ [c] during this period the computer should have been operating properly; [d] the information should be a ‘reproduction’ of information in the computer resource.
- The affidavit relating to the computer resource and its output should be signed by a person – occupying a responsible official position in relation to the operation of the device

ELECTRONIC EVIDENCE – CASE LAW

- Amitabh Bagchi v. Ena Bagchi (AIR 2005 Cal 11) Video Conferencing and 'Digital Evidence' allowed
- Dharambir v. Central Bureau of Investigation (148 (2008) DLT 289) – a hard disk once used becomes an electronic record – a computer output – must be produced in its entirety in court
- State (NCT of Delhi) v. Navjot Sandhu (AIR 2005 SC 3820) Cross Examination of a competent witness sufficient to prove the authenticity of an electronic document
- Bodala Murali Krishna v. Smt. Bodala Prathima (2007 (2) ALD 72) – the amendments recognise electronic records and digital signatures as 'admissible evidence'

INTERMEDIARY LIABILITY [CASE STUDY]: T-SERIES v. MYSPACE [DELHI HIGH COURT]

- An intermediary must generally not: [a] originate a communication of an information by itself or, [b] select by itself, the originator or the recipient of the communication or, [c] alter or modify the content of the communication.
- MySpace had: [a] illegally authorized the infringement of T-Series' titles; [b] had a clear and participative role in such infringement; [c] exercised some degree of control over any such activity constituting infringement.
- On receiving notice - an intermediary “must expeditiously remove or disable access to that material on that resource without vitiating the evidence in any manner,”

WHAT IS 'TRADEMARKABLE'? TRADEMARKS AND THE INTERNET

The function of [the] mark as an indicator of source/origin – must be distinctive

Generic [The BookStore for a retail store selling books!]

Descriptive [Washbright for soaps describing a characteristic, function or attribute]

Suggestive [a simile – *Lux* for soap or *Whirlpool* for washing machines]

Arbitrary [*Apple* for Computers; *Orange* for telecommunications service network]

Invented [Coined] – *Kodak*; George Eastman and the letter 'K' [Enhelion and Scriboard]

UDRP/EUDRP: FIRST TRULY GLOBAL ONLINE DISPUTE RESOLUTION SYSTEM

- Consent [the arbitration clause]
- Enforcement [through convention in the context of structured arbitral processes]
- Due Process Safeguards – [a] procedures must be supported by agreement; [b] If third parties are involved as facilitators or decision-makers, they must be impartial and independent; [c] Both parties must be duly notified of the proceedings; [d] Both parties must, within the scope of the procedure, be given sufficient opportunity to present their case; [e] If the proceedings can result in binding decisions, such decisions should only be based on facts that had been part of the proceedings; [f] Any such decisions should provide reasons; [g] There should be an internal or external appeal mechanism, or at least means to control compliance with due process safeguards.

UDRP/EUDRP: FIRST TRULY GLOBAL ONLINE DISPUTE RESOLUTION SYSTEM

- This procedure assists the resolution of disputes between a trademark owner and a registrant of a domain name [the UDRP is binding on the registrant of the domain name: it is incorporated into the contract between the registrant and the registrar of the domain names].
- Contractual and Mandatory
- Direct Enforcement
- International
- Scope [Limited to 'Cybersquatting']
- Streamlined Proceedings [One Set of Filings from Either Side]
- Due Process Safeguards – [a] Neutrality; [b] Notice - UDRP Rules, paragraph 2(a); [c] Burden of Proof - UDRP, paragraph 4(a); [d] Impartiality and Independence; [e] Reasoned Decisions; [f] Appeal; [g] Fees

TRADEMARKS, DOMAIN NAMES AND THE INTERNET: THE DISPUTE RESOLUTION SERVICE



Approved Providers for Uniform Domain Name Dispute Resolution Policy

The [uniform dispute resolution policy](#) is now in effect. See the [implementation schedule](#) for details.

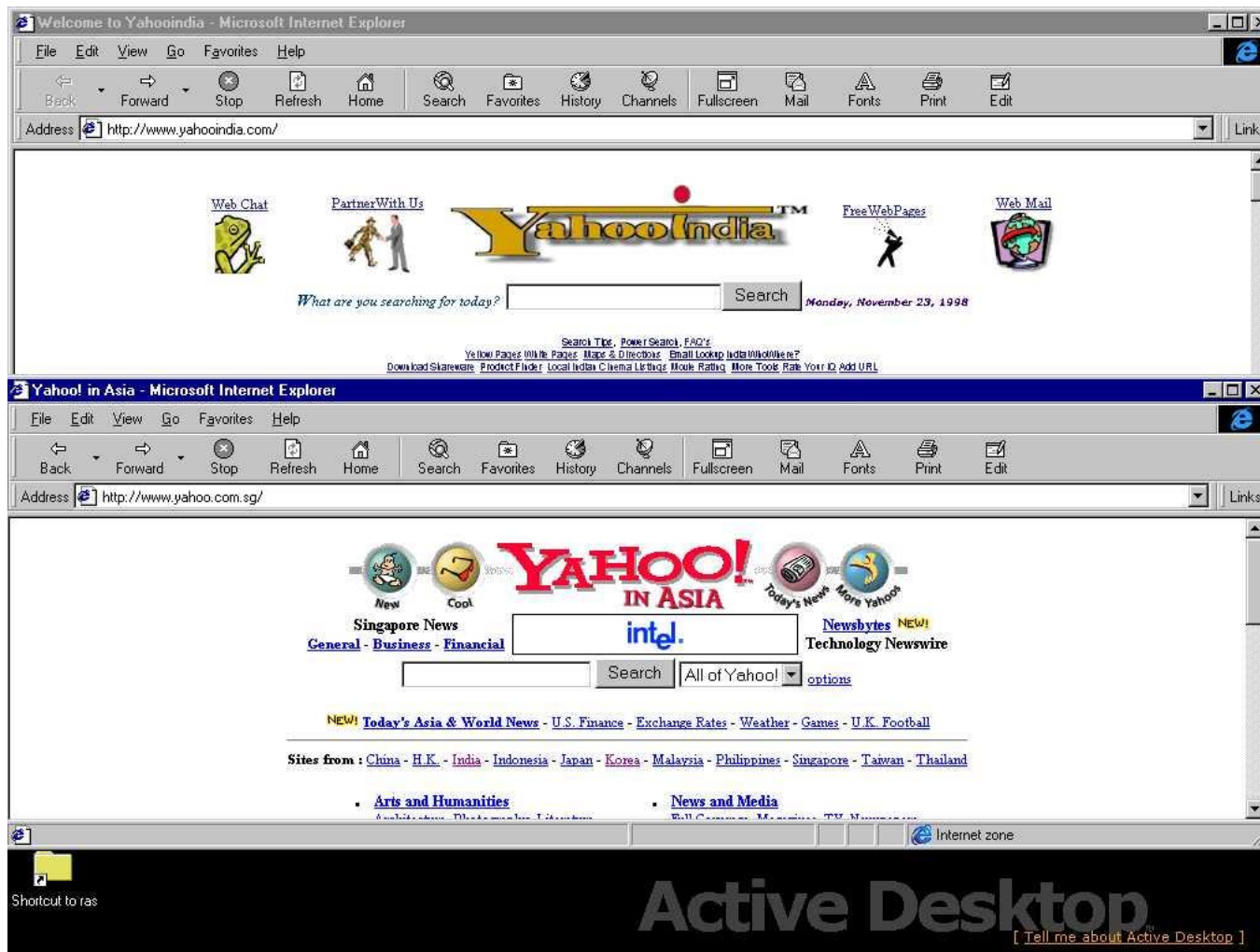
Complaints under the policy may be submitted to any approved dispute-resolution service provider listed below. Each provider follows the [Rules for Uniform Domain Name Dispute Resolution Policy](#) as well as its own supplemental rules. To go to the web site of a provider, click on its name below:

- [Disputes.org/eResolution Consortium](#) (approved effective 1 January 2000). Click [here](#) to see its supplemental rules.
- [The National Arbitration Forum](#) (approved effective 23 December 1999). Click [here](#) to see its supplemental rules.
- [World Intellectual Property Organization](#) (approved effective 1 December 1999). Click [here](#) to see its supplemental rules.

Additional providers may be approved soon. The above approvals are in effect until further notice at this web page.

CYBERSQUATTING IN INDIA: THE YAHOO! CASE

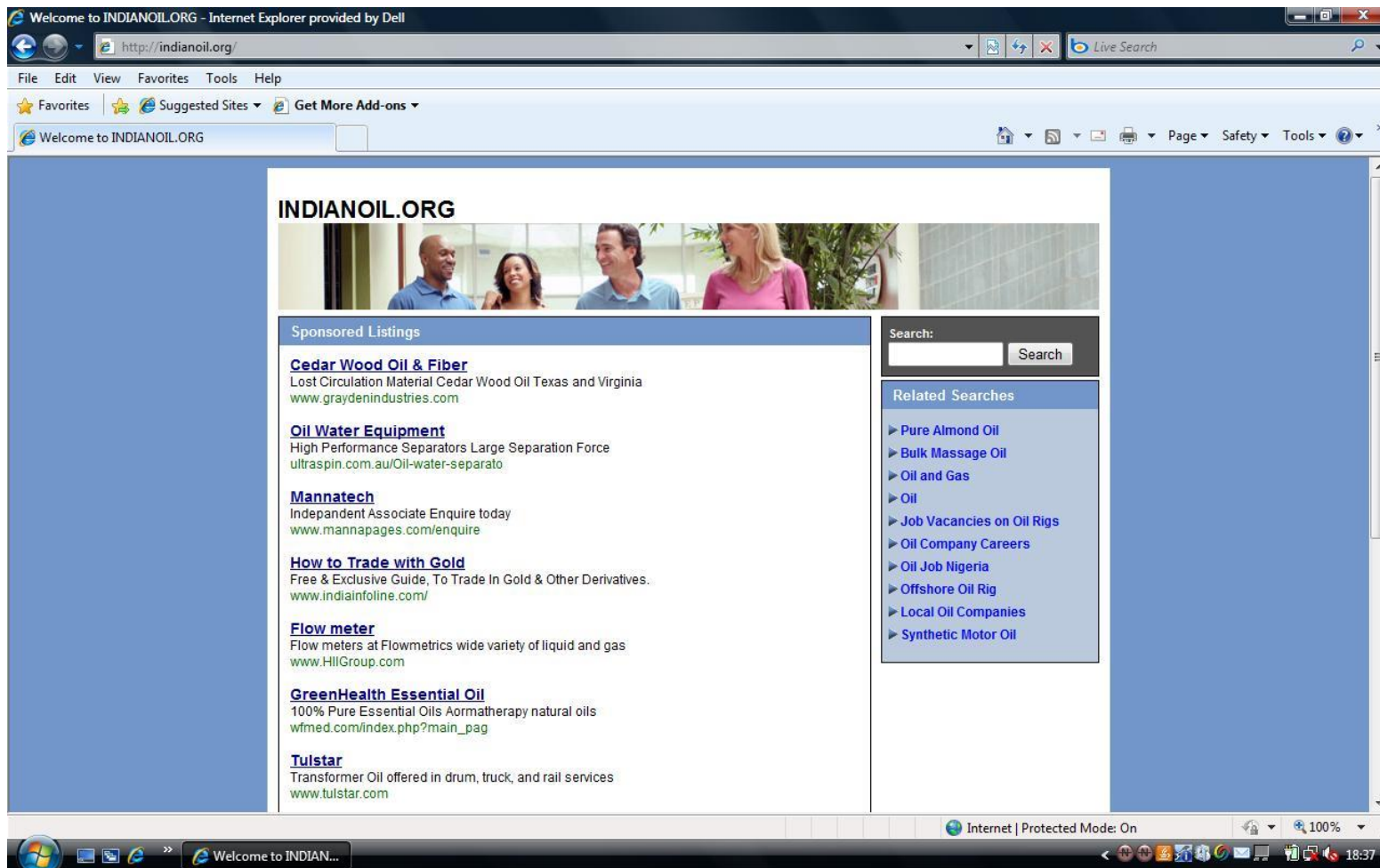
[YAHOO! INC. v. AKASH ARORA & ANR.,; 78 (1999) DLT 285]



CYBERSQUATTING IN INDIA: THE YAHOO! CASE [YAHOO! INC. v. AKASH ARORA & ANR,; 78 (1999) DLT 285]

- The High Court of Delhi for the first time observed the direct link between trademarks and domain names. The Respondent registered – www.yahooindia.com which was held to be an infringement of the Yahoo! trademark
- Domain Names entitled to protection under Indian trademark law – despite no direct provision in the Trade Marks Act, 1999 - reiterated by the Hon'ble Supreme Court of India on domain names [*Satyam Infoway Ltd. v. Sifynet Solutions Pvt. Ltd.*; (2004) 6 SCC 145].
- In addition to domain name infringement, the Court observed that the similarities in 'look and feel' and content were violations of copyright – in addition to trademark violations

INDIAN OIL CORPORATION LIMITED v. NITIN JINDAL [WIPO CASE NO. D2010-2003]



INDIAN OIL CORPORATION LIMITED v. NITIN JINDAL [WIPO CASE NO. D2010-2003]

- The disputed domain name <indianoil.org> is identical to the Complainant's registered trademark 'INDIAN OIL', except for the addition of the ".org" designation. The addition of a ".org" designation or other type of designation do not serve to distinguish a domain name from a registered trademark.
- 'INDIAN OIL' trademark and corresponding business is well-known and has developed a significant reputation.
- The Respondent was aware of the Complainant's trademark rights when it registered a confusingly similar domain name, and when it began operating a website in connection with that confusingly similar domain name which provides links to websites of other companies, of which some are direct competitors of the Complainant.

TRADEMARKS AND PARODY ON THE INTERNET PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS – WWW.PETA.ORG



The screenshot shows the PETA website homepage with a blue header and navigation bar. The main content area features a large 'BREAK-THROUGH SURVEY!' banner for vegetarianism, a 'NEWS RELEASES' section for fake leather, and a 'THIS WEEK' section with a video 'Meet Your Meat'. The footer includes a search bar, a 'Popular Features' dropdown, and a 'PEOPLE'S VOICE AWARD' section.

PETA
PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS

Action Alerts Campaigns Living PETA Kids PETA Mall Donate Now

Saturday, June 29

BREAK-THROUGH SURVEY!
AMERICA IS READY FOR VEGETARIANISM!

ACTION ALERTS

- Lawrence County Animal "Shelter" Is a Living Hell for Homeless Animals
- San Francisco Files Lawsuit Against Petco for Mistreatment of Animals

[MORE ACTION ALERTS](#)

PETA TV >> THIS WEEK
Meet Your Meat
PETA TV'S TOP FOUR VIDEOS

NEWS RELEASES

FOR FAKE LEATHER

ZOGBY POLL MAKES IT OFFICIAL:
[MEDIA CENTER](#)

SUMMER 2002 **ANIMAL TIMES**

An Open Letter from **Sir Paul McCartney**

New Recipes! PETA Eats **NEW! PETA auctions** **DOMINATRICES** Whip Up Support for Fake Leather **STARVING ARTIST? CONTEST!** **Soccer Star** Fights Animal Cruelty **Elephantgate**

[CLICK HERE FOR OTHER RECENT FEATURES](#)

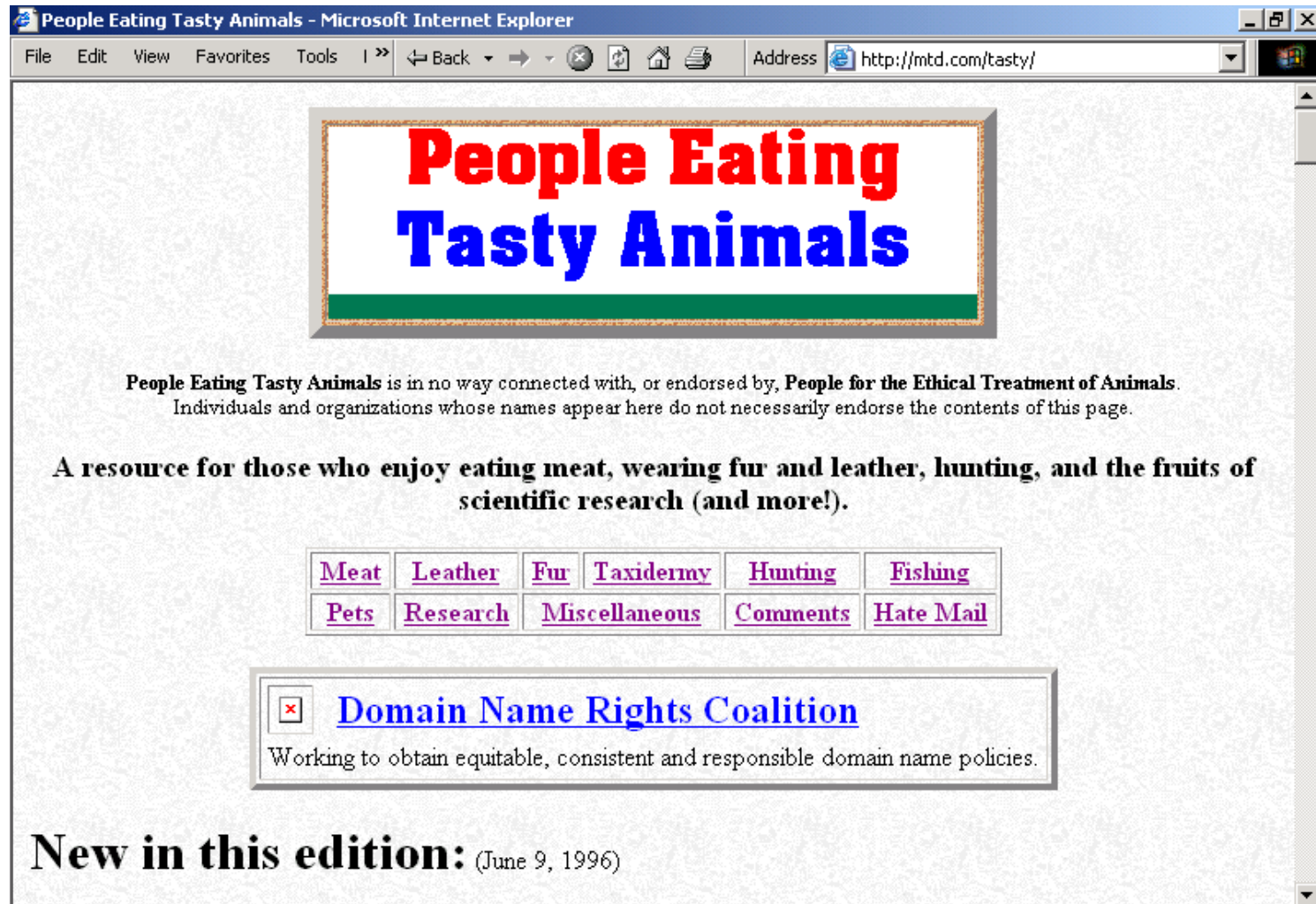
SEARCH
 GO! Popular Features [Other PETA Sites](#)

6th Annual Webby Awards **PETA.org AWARDED!**
PEOPLE'S VOICE AWARD

Free Veg Starter Kit | Successes for Animals | Frequently Asked Questions
PETA Business Friends | Donors: Update Your Address | Job Openings

[PETA EN ESPAÑOL](#) [WORLDWIDE](#)   

TRADEMARKS AND PARODY ON THE INTERNET PEOPLE EATING TASTY ANIMALS! [WWW.PETA.COM]



CASE STUDY: MAKEMYTRIP v. MAKEMYTOURS

NOTICE: This domain name expired on 04/24/2011 and is pending renewal or deletion.



Domains, websites & everything* in between!

WELCOME TO: makemytours.com

Is this your domain?
Renew Now

Ads

[Trip Around The World Itinerary](#) [Seabourn.com/Destinations](#)
Seabourn visit the most elegant and unique locations.

[Cheap Airfare to India](#) [www.NovaTravel.com](#)
Discount Tickets to India BOM, BLR, DEL, HYD, MAA, CCU and mor

[Guided Russia Vacations](#) [TauckVacations.com/World-Discovery](#)
Tauck® All-Inclusive Russia Travel. Request Your Free 2011 Brochure!

[Easy Jet Tickets Sale](#) [www.OneTravel.com/Easy-Jet-Airlines](#)
Round Trip Fares Starting at \$56*. Get Your Free Coupon Now!

[Goa trip book](#) [www.enchanting-india.com/Goa](#)
Tailor-made Travels to India. Design your Dream Holidays now!

[Discount Business Class](#) [www.cooktravel.net](#)
Book the Same Seat For Less. Save on Biz Airfare w/ Cook Travel

[Family Trip Ideas](#) [FamilyVacationCritic.com](#)
Find reviews of family vacations & special deals just for families.

[Cheap Caribbean](#) [www.CheapCaribbean.com/AllInclusive](#)
Home of the 99 Hour Sale. New Deals Each Week. Hurry, Sale Ends Soon!

[European River Tour Trip](#) [vantagetravel.com/EuropeRiverTour](#)
12 Day Europe River Cruises Start at Just \$1,849. Get \$400 Off Now

[Disney® Vacations](#) [www.DisneyVacations.com](#)
Order a Free Vacation Planning DVD. Plan Your Disney Vacation Today!

 This Web page is parked for FREE, courtesy of [GoDaddy.com](#)

Domains

- Register [domain names](#) – up to 70% less with the world's #1 registrar!
- [GoDaddy Auctions](#) – bid on, buy and sell domains.

 Get the domain you really want with a **.CO!**
Perfect for individuals, businesses & organizations.

Register a new **.COM** for \$11.99 **\$7.49*** per year! **Save 37%***

Websites

- Build it yourself with one of our easy [sitebuilders!](#)
- Reliable [website hosting](#) keeps your site up and running.
- Let our [Web pros](#) build your website, logo and more.

Affordable Web Hosting
4th Generation Hosting from the world's largest hostname provider!

Starting at \$4.99/mo

What's Bob saying now? 5 minutes is all it takes.
Be a decision maker. Rule the world!

 **BOB PARSONS**
CEO & Founder of GoDaddy.com

VIEWER DISCRETION ADVISED

Get a FREE domain!

INDRP [MANAGED BY THE NATIONAL INTERNET EXCHANGE OF INDIA]

Welcome to .IN Registry : | Registry.In - Internet Explorer provided by Dell

http://www.registry.in/

File Edit View Favorites Tools Help

★ Favorites | ★ Suggested Sites | Get More Add-ons

Google Apps | Welcome to .IN Registr... x

Tuesday, February 8, 2011



INRegistry
India's Official .IN Domain Name Registry!

Home Registrar Relations Login Contact Us Help Sitemap

WHOIS Search

www. .in GO

Main Menu

- About .IN
- How to Register
- Accredited Registrars
- Policies
- FAQs

Welcome to .IN Registry :



The INRegistry has been created by NIXI, the National Internet eXchange of India. NIXI is a Not-for-Profit Company under Section 25 of the Indian Companies Act, 1956, with the objective of facilitating improved Internet services in the country.

Under NIXI, the INRegistry functions as an autonomous body with primary responsibility for maintaining the .IN ccTLD and ensuring its operational stability, reliability, and security. It will implement the various elements of the new policy set out by the

News & Press

- NIXI Launches Fellowship Programme for qualified young Internet professionals**
- Hyperlocal Aggregator Outside.in Raises \$7 Million From CNN, Others**
- [More Press](#)

Done

Internet | Protected Mode: On

100%

13:53

THE INDRP AS A MODEL FOR INDIA

- Modeled on the UDRP/eUDRP – a quick and effective procedural mechanism. Dispute Resolution with 60 days from the Notification of Commencement of Proceedings
- The insertion of the provision on ‘damages’ raises an enforceability question
- The INDRP [unlike the eUDRP] is not entirely online. Paper filings still accepted

INDRP CASE STUDY: SCHLUMBERGER LIMITED v. MANOJ KUMAR

Schlumberger.co.in - gilbarco Resources and Information. - Internet Explorer provided by Dell

http://www2.searchresultsdirect.com/parking.php?domain=schlumberger.co.in®istrar=348972&keyword=gilbarco&eq=2bab68d68820ed168c

File Edit View Favorites Tools Help

★ Favorites | ★ Suggested Sites | Get More Add-ons | Customize Links

Schlumberger.co.in - gilbarco Resources and Info...

Related Searches: Tokheim Pumps | Gas Prices | Veeder Root | Gas Pumps Utah | Gilbarco Veeder | Gilbarco Crind | Fuel Pumps | Gas Station | Gilbarco B7C | Standard Pumps

SCHLUMBERGER.CO.IN

Coming Soon! This website is under construction.

Sponsored listings

Veeder-Root Counters
UK Leading Suppliers of Veeder-Root Counters
jdhengstler.co.uk

Industrial pumps
Pumps for industrial applications Air operated or electrical
www.TapFlo.com

Veeder-Root Industrial
industrial counters, timers on-line ordering or call for help
www.veederroottimers.com

Blue Sky Co., Ltd
Fuel dispenser Controller Professional Manufacturer
www.lantiandz.com.cn

Tachograph programmer
DTCO1381,SE5000,SmarTach,VR2400 MTCO1324/1390,FTCO1319,EGK100
www.cdconcept.be

RELATED SEARCHES

- ✦ Tokheim Pumps
- ✦ Gas Prices
- ✦ Veeder Root
- ✦ Gas Pumps Utah
- ✦ Gilbarco Veeder
- ✦ Gilbarco Crind
- ✦ Fuel Pumps
- ✦ Gas Station
- ✦ Gilbarco B7C
- ✦ Standard Pumps

Internet | Protected Mode: On

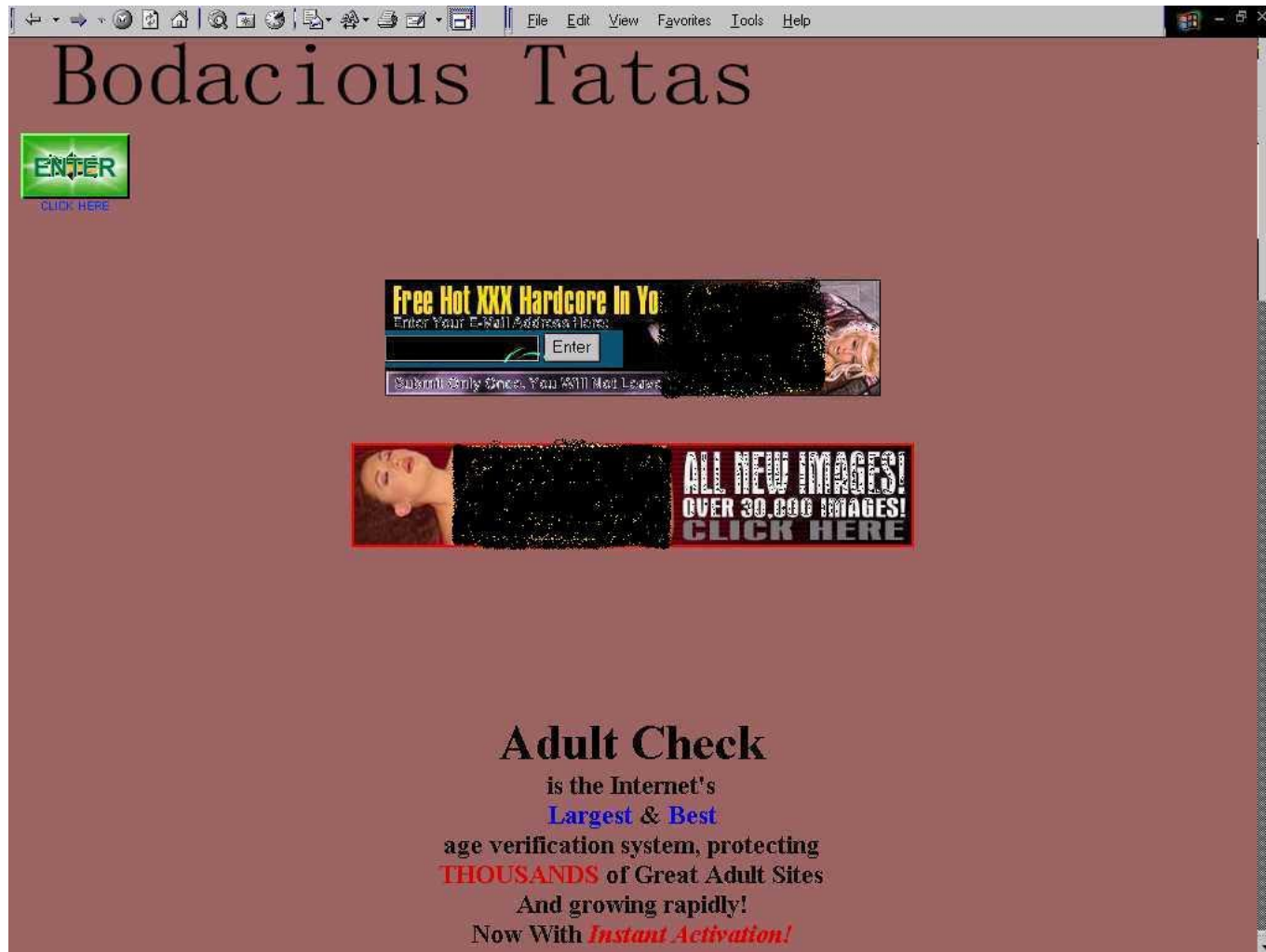
Schlumberger.co.in ...

19:38

INDRP CASE STUDY: SCHLUMBERGER v. MANOJ KUMAR

- The INDRP Procedure is streamlined – one set of filings – from the Complainant and the Respondent
- The Complainant [Schlumberger] was able to prove a global brand – with trademark registrations in numerous countries
- The Respondent did not reply – could not prove rights to the mark [Schlumberger] or to the domain name
- Domain Name was being misused in a recruitment scam
- No credible website or credible use of the domain name

SECOND GENERATION TRADEMARK ISSUES: METATAGS [*TATA SONS v. D AND V ENTERPRISES*; WIPO CASE NO: D2000 – 0479]



SECOND GENERATION TRADEMARK ISSUES: METATAGS



```

<html>

<head>
<meta name="description" content="See the most Bodacious
It's where every Babe is Simply Bodacious!!!">
<meta name="keywords" content="Bodacious,Tatas,Sexy,Babe,
Nude,Pictures,Sexy,Beautiful,Bodacious,babes,sexy,nude
pictures,erotic,erotic,pictures,graphic pictures,Ho
">
<meta name="title" content="Bodacious Tatas">
<title> Bodacious&nbsp; Preview</title>
</head>

<body BGcolor="#996666" link="#FF0000" vlink="#FF0000">
<!-- The table is not formatted nicely because some br
returns in a TD. -->

<table Border="0" CellSpacing="0" CellPadding="0">
  <tr>
    <td Width="26" Height="14"></td>
    <td Width="570" Height="14"></td>
  </tr>
  <tr>
```


'METATAGS' AND TRADEMARKS: : INDIAN LAW

[TATA SONS V. D AND V ENTERPRISES; DELHI HIGH COURT]

- A meta tag is an HTML [hypertext markup language] code embedded on a Web page that is used by the website owner to identify the site content. Meta tags are powerful tools because they have a direct effect on the frequency with which many search engines will find a website.
- The main concern with regard to meta tags is the use of a third-party trademark in one's metatags.
- Often website owners will embed third-party trademarks in meta tag data to attract Internet traffic to their own website, diverting it from the trademark owner's website.

'METATAGS' AND TRADEMARKS: : INDIAN LAW

[TATA SONS V. D AND V ENTERPRISES; DELHI HIGH COURT]

- The Court was of the view that a 'misuse' of metatags in as far as a misleading or wrongful attribution is concerned would be a trademark violation
- Under Indian law, according to the High Court of Delhi; metatags were entitled to the same protection as domain names
- In this case, the Court also noted that the conduct of the Defendants amounted to dilution and tarnishment of the 'Tata' brand
- This was the first time that an Indian Court had moved 'beyond' domain names to metatags

'METATAGS' AND TRADEMARKS: MATTEL INC & ORS. V. JAYANT AGARWALLA & ORS. 2008 (153)

DLT 548

- Plaintiff was a leading manufacturer of toys and board games including 'Scrabble'.
- The plaintiff had trademark rights in 'Scrabble' in various countries across the world.
- The defendants developed and launched an online version of the game titled 'Scrabulous' as an application [app] available on www.facebook.com.



'METATAGS' AND TRADEMARKS: MATTEL INC & ORS. V. JAYANT AGARWALLA & ORS. 2008 (153) DLT 548

- The defendants also used the following meta tags on their websites and online application – ‘Scrabble Online’, ‘Play Scrabble Online’, ‘Free Scrabble Online’, ‘Play Scrabulous Live’ etc.
- The defendants were restrained from infringing the plaintiffs’ registered trademark ‘Scrabble’ and using the mark ‘Scrabulous’, or any other mark deceptively or confusingly similar to ‘Scrabble’, in any manner, including by using it as part of a domain name, or any other use such as hyperlinking, metatagging, advertisement, etc.

'METATAGS' AND TRADEMARKS: PEOPLE INTERACTIVE V. GAURAV JERRY & ORS. NMS (L) NO. 1504 OF 2014 IN SUIT (L) NO. 622 OF 2014



- The Defendant registered and started using the domain name 'ShaadiHiShaadi.com' for providing online matchmaking and matrimonial services.
- Both the domain name as well as the services offered through it were identical to Plaintiff's 'Shaadi.com'. 'Shaadi.com' was a registered trademark of the plaintiff through which it provided online matrimonial services.
- It was also found that the Defendant was using 'Shaadi.com' as a metatag on its website.
- The High Court ordered the Defendant to stop using the 'Shaadi.com' mark and further ordered the domain name Registrar to cancel the Defendant's domain name registration.

GOOGLE ADWORDS – KEYWORDS

CONSIMINFO V. GOOGLE INC.

Bharat Matrimonial

www.shaadi.com/Register-Free!

The World's #1 Matrimonial Service 10,000 New Members Daily.Join Free!
306 people +1'd Shaadi.com

Bharatmatrimonial

www.simplymarry.com/Bharatmatrimonial

Search 100s of Profiles with Photos Register Free. Chat & Get Alerts

Ads - Why these ads?

Google [Advanced Search](#)

Search: ☒ the web ☐ pages from India

Web [Show options...](#) Results 1 - 10 of about 920,000 for [bharat matrimony](#). (0.10 sec)

[BharatMatrimony.com](#) [Sponsored Link](#)

[BharatMatrimony.Com/Join-Free-Now](#) The most trusted **matrimony** service With exclusive regional portals

Bharat Matrimony

BharatMatrimony.com - India's No.1 Regional **Matrimony** (ISO Certified **Matrimony** Portal).
Click here to Register FREE and receive FREE Matches.
www.bharatmatrimony.com/ - [Cached](#) - [Similar](#)

[Login](#) [Contact Us](#)

[Search](#) [Payment Options](#)

[Register](#) [Virtual Matrimony Meet](#)

[Edit Profile](#) [Matrimony Widget](#)

[More results from bharatmatrimony.com »](#)

BharatMatrimony - Begin your search for an Ideal Life Partner

BharatMatrimony.com, the Perfect Place to begin your search for a partner. View 1000s of profiles from your community. Click here to Register Free.
www.bharatmatrimony.com/regular_search.shtml - [Similar](#)

Login - Bharatmatrimony

BharatMatrimony TV - **Matrimony** Wedget - **BharatMatrimony** Centres - **Matrimony** Gift ...
Please enter your **Matrimony** Id / Email. **Matrimony** ID / E-mail. Password ...
profile.bharatmatrimony.com/login/memlogin.php - [Similar](#)

BharatMatrimony - View thousands of Bharat Profiles

View 1000s of Bharat Profiles & Contact. Click here to Register Free ...

[Sponsored Links](#)

[Jeevansathi Matrimonial](#)
10 Lakhs+ Indian **Matrimony** Profiles
Join Free and Start Searching Now!
Jeevansathi.com

[Shaadi.com Matrimony](#)
Millions of Members with Photos.
Register & Contact Free. Join Now.
www.Shaadi.com

[Second Marriage](#)
Looking for a Second Marriage?
Search, Browse and Chat for Free!
SecondShaadi.com

[Bharat Matrimony](#)
Find a partner from your Community
Search 1000s of profiles with photo
CommunityMatrimony.Com/RegisterFree

[Bharat Matrimonials Site](#)
Over 5 lakh Validated Profiles !
Register to Access, Chat & Marry.
SimplyMarry.com/Register-Free-Now!

GOOGLE ADWORDS – KEYWORDS

CONSIMINFO V. GOOGLE INC.

- While Searching for Bharatmatrimony [and other trademarked keywords of the Company] on Google, ads from competing companies would show up.
- The Supreme Court directed Consim's [BharatMatrimony] competitors including People Interactive [Shaadi.com], Times Business Solutions [SimplyMarry], and Info Edge [JeevanSathi] to restrain from using keywords similar to Consim's trademarks in Google's "AdWords" programme.
- This means that text ads of rival matrimony sites cannot be displayed if a user enters the search keyword 'bharat matrimony' or related variations.

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Lufthansa AG, Germany

"The extension of our investment is based on our good experiences with SAP business solutions. Furthermore, we believe that the products offered by SAP are forward looking in particular in terms of their openness to Internet applications."

Dr. Bernd Voigt, CIO, Lufthansa AG, Germany

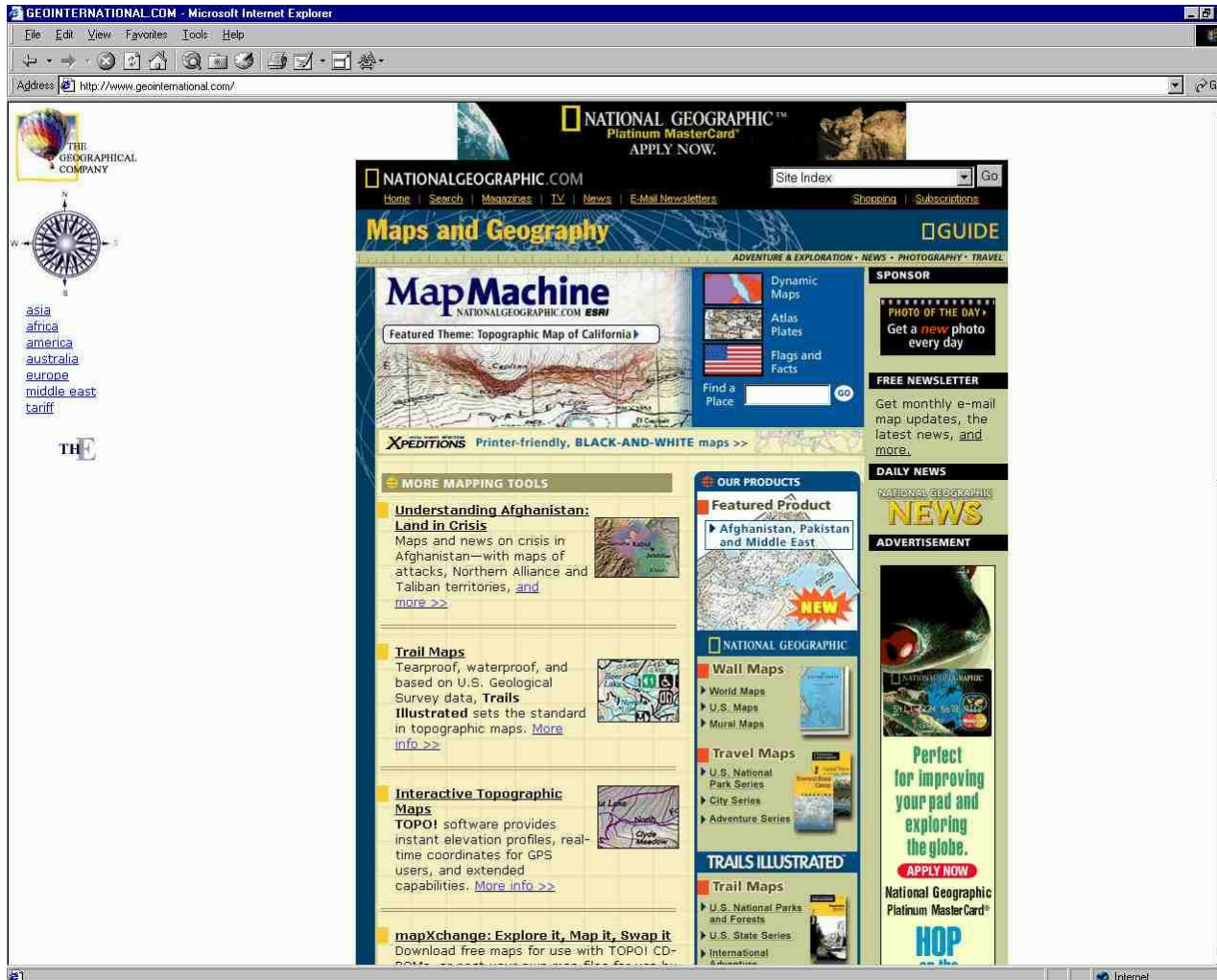
Lufthansa AG is operating as a commercial passenger airline with more than 250 subsidiaries and associated companies. It is the largest company of the group with a staff of some 28,000. The companies in the Group are either in the air industry or supplying backup - as airlines or as logistics, maintenance, catering or IT service provider, in the tourist or airport ground handling business. In 1998, 40.5 million passengers were transported, generating revenues of 22.7 billion DM

[... full story](#)
[... homepage](#) Lufthansa AG



HYPERLINKING AND FRAMING

NATIONAL GEOGRAPHIC SOCIETY V. MULLA YAFFE AND ORS. [MANU/DE/2073/2002 (DELHI HIGH COURT)]



NATIONAL GEOGRAPHIC SOCIETY V. MULLA YAFFE AND ORS. [MANU/DE/2073/2002 (DELHI HIGH COURT)]

- Respondent [Mulla Yaffe] was ‘linking’ to the official domain name and website of the Complainant [National Geographic]
- The act of linking without permission – is akin to ‘wrongful attribution’ – held by courts to be trademark infringement [a hyperlink could *misrepresent* something about the website. For example, if the link and surrounding text falsely stated that a website is affiliated with another site or sponsored by the linked company]
- Framing of the National Geographic Page – held by the Delhi High Court to be copyright infringement – in addition to the misuse/infringement of the National Geographic trademark in the home page

COPYRIGHT LAW AND 'TECHNOLOGY': A HISTORICAL TIMELINE

- Technology and the Law – the stages of copyright law
- The 'monastic' or 'gurukul' [oral tradition]
- The birth of copyright [Gutenberg and the Printing Press]
- The era of promiscuity: the Internet and Technology [the WIPO Copyright Treaty and the 'DMCA']
- The 'World's Biggest Copying Machine' [PC Week; January 27, 1997]

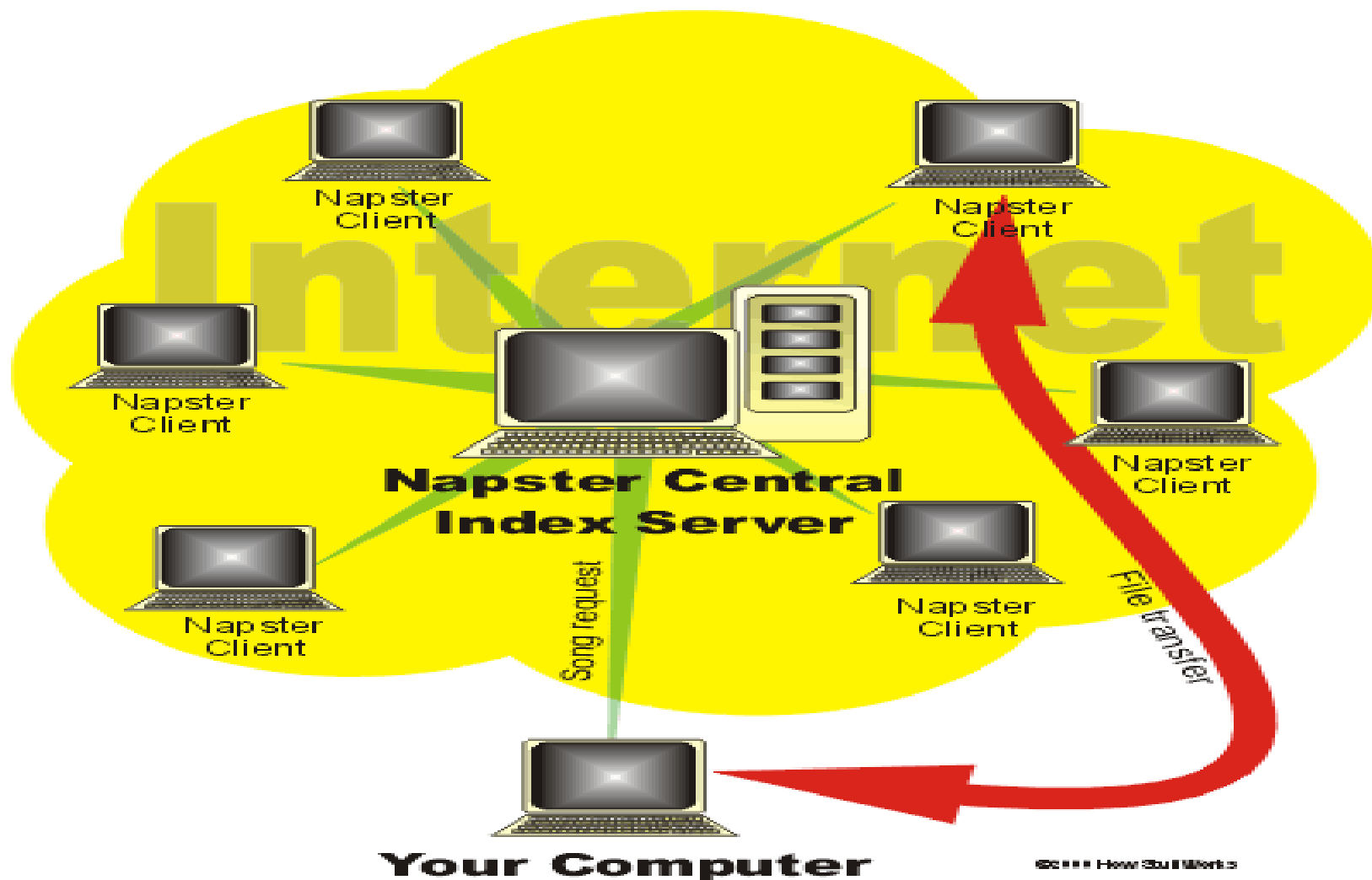
COPYRIGHT AND THE INTERNET

[TECHNOLOGICAL DEVELOPMENTS AND THE LAW]

- Digitisation [unlike analogue copies, which degrade with each copy; digital media allows perfect copies to be made indefinitely]
- Digital Compression Technologies [MP3/MP4 for music – large media files can be compressed without a loss in quality]
- Bandwidth [increased availability of high-speed internet connectivity further aids distribution of high quality digital files]

NAPSTER – THE FILE SHARING MECHANISM

[A & M RECORDS, INC. V. NAPSTER, INC.; 239 F.
3D 1004; 9TH CIR. 2001]

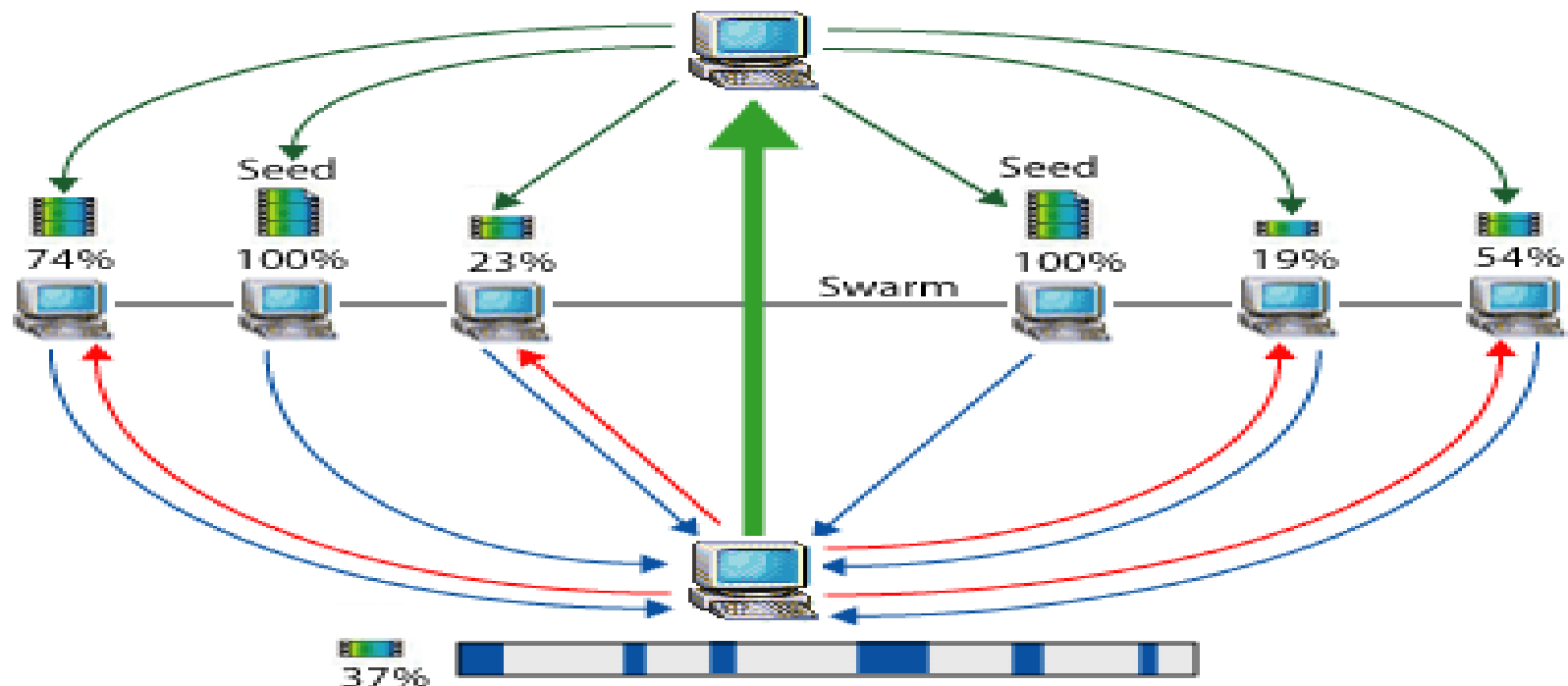


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- Napster [in India] would violate the copyright owners right to 'communicate the work' to the public.
- *Garware Plastic & Polyester v Telelink*: which pertained to the showing of video films over a cable network, the Indian Supreme Court held that such an action amounted to broadcasting or communicating material to a section of the public.
- 'Knowledge' - Napster would not be able to claim immunity as a 'network service provider' since it knew about the infringement taking place.

BIT TORRENT – THE TRACKER DEVICE

BitTorrent tracker identifies the swarm and helps the client software trade pieces of the file you want with other computers.



Computer with BitTorrent client software receives and sends multiple pieces of the file simultaneously.

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PREVENTING PIRACY [I] – TECHNICAL MEASURES

Copy Protection [Encryption – encoding digital content to prevent it from being viewed; Copy Control Flags – digital ‘flags’ inserted as indicators; CD Copy Protection – insertion of an ‘additional’ track to prevent unauthorised recording]

Copyright Protection [Digital Watermarking – digital signals embedded to detect or verify originality; Digital fingerprinting – digital signal embedded in the file containing information on the buyer]

Cross-industry protection measures [Secure Digital Music Initiative [SDMI] – developed by a consortium of music companies; uses watermarking and copy protection]

PREVENTING PIRACY [II] – CIRCUMVENTION MEASURES

- Circumvention Technologies – primarily aimed at bypassing the range of technical measures [described in the previous slide]
- Software approaches include the decryption and translation of files
- DeCSS [and similar programmes] that allows users to decrypt DVD files
- Programme designed to remove protection from Adobe's e-Book Reader [Dmitry Skylarov]

DIGITAL RIGHTS MANAGEMENT, ANTI-CIRCUMVENTION AND THE INDIAN LAW

The Indian Copyright Amendment Act, 2012 - Prohibition on Circumvention:

- i) Making the technology/device for bypassing
 - ii) Selling the Circumvention technology/devices
 - iii) Publishing information on the circumvention technology/device.
- Section 65A introduces 'technological measures of protection' into Indian copyright law.
 - The new section criminalizes the circumvention of an effective TPM with the intention of infringing any of the rights conferred by the Act. Offenders shall be punishable with imprisonment for up to two years and fines (section 65A(1)). Clause (2) carves out a number of exceptions to this rule.

e-Mark



Electronic Copyright
Management system



What are Intellectual Property Rights?

Intellectual property rights are the rights (like reproduction, distribution, etc) given to persons over the creations of their minds.

Digital Technology - boon or bane ?

In the past, copying intellectual works was time consuming, laborious and resulted in inferior reproduction of the original. The digital technology has changed all this - copying is instantaneous, effortless and costless and the quality of the copies is identical to the original, leading to widespread piracy (making illegal copies) of digital documents.

What is a Digital Watermark ?

A digital watermark is a hidden message within a digitized image, video or audio recording.

The digital watermark is integrated with the content itself and does not require any new format standards. Unlike a traditional watermark on paper, which is generally visible to the eye, digital watermarks can be made invisible. The software can however, read these invisible watermarks.

What is e-Mark?

e-Mark is a software tool which casts and detects electronic watermarks on intellectual property in digital form.

How is e-Mark useful?

e-Mark is useful for casting watermarks on digital images and then detecting the watermarks. These watermarks act as means to prove copyright ownership of the digital masters. A copyright owner can cast any alphanumeric text (name, id-number, etc) or image (logo, etc) as a watermark on digital images. When a suspected illegal copy of an image is found, the owner can use e-Mark to check whether it contains his/her own watermark. It can be used as legal proof.

e-Mark supports both visible and invisible watermarking. Visible watermarks are visible translucent images that are overlaid on the original images. Invisible watermarks are contained in the images but are not visible to the human eye.

ELECTRONIC MARK: AN ILLUSTRATION

e-Mark Features

- Casts both visible and invisible watermarks
- Text watermark takes alphanumeric characters (invisible)
- Logo watermark can be images of any color or B/W
- No proprietary image format
- Supports popular image formats like BMP, JPEG and GIF
- Supports Batch Water marking
- No significant change to the original data



Original Image



Watermarked Image - Visible



Watermarked Image - Invisible



For Further Information, Contact:

Head
Centre of Excellence for E-Commerce
CMC Centre - R&D
Old Mumbai High Way
Gachibowli
Hyderabad - 500 019
INDIA

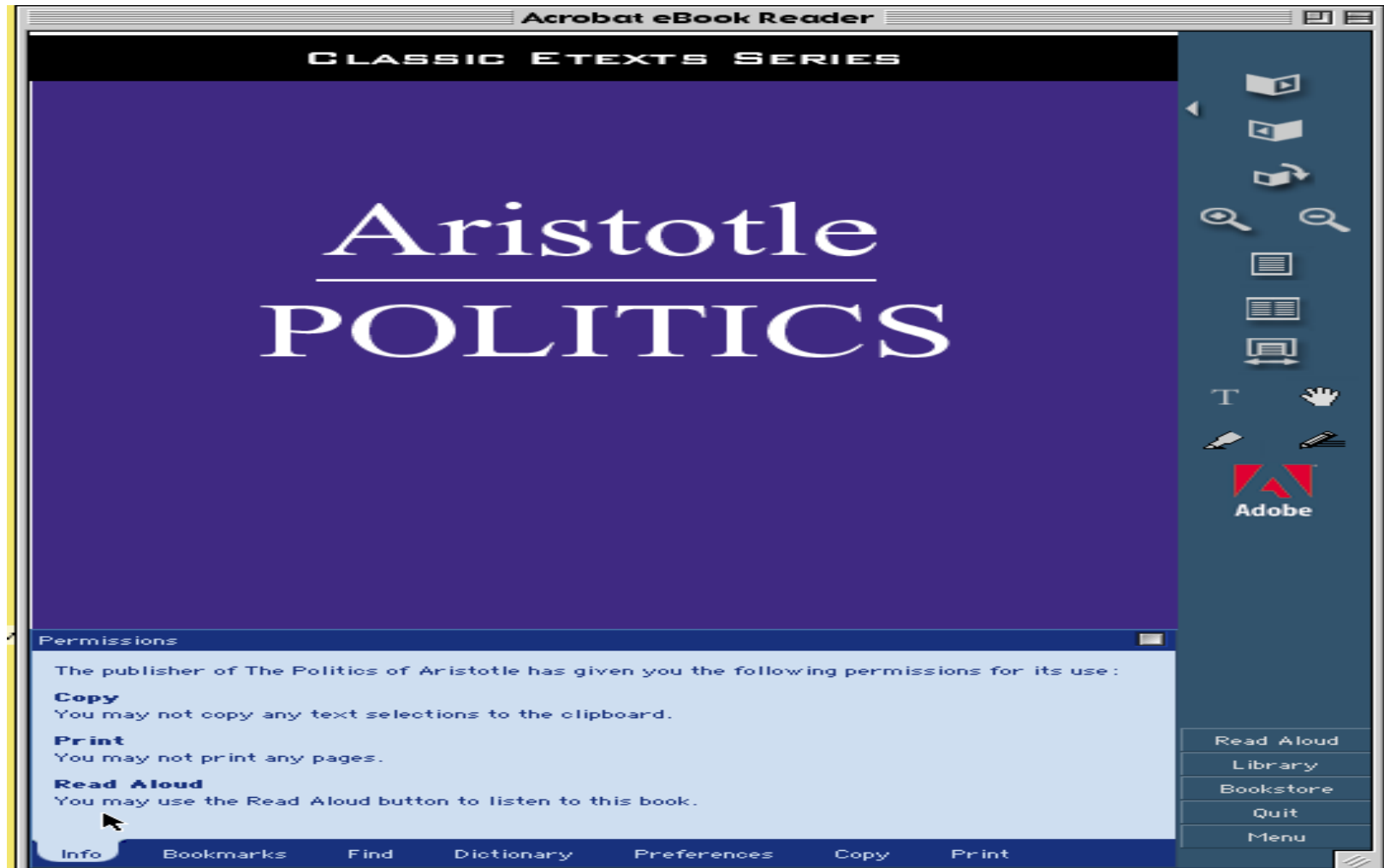
Telephone: 91- 40 - 3000401/501

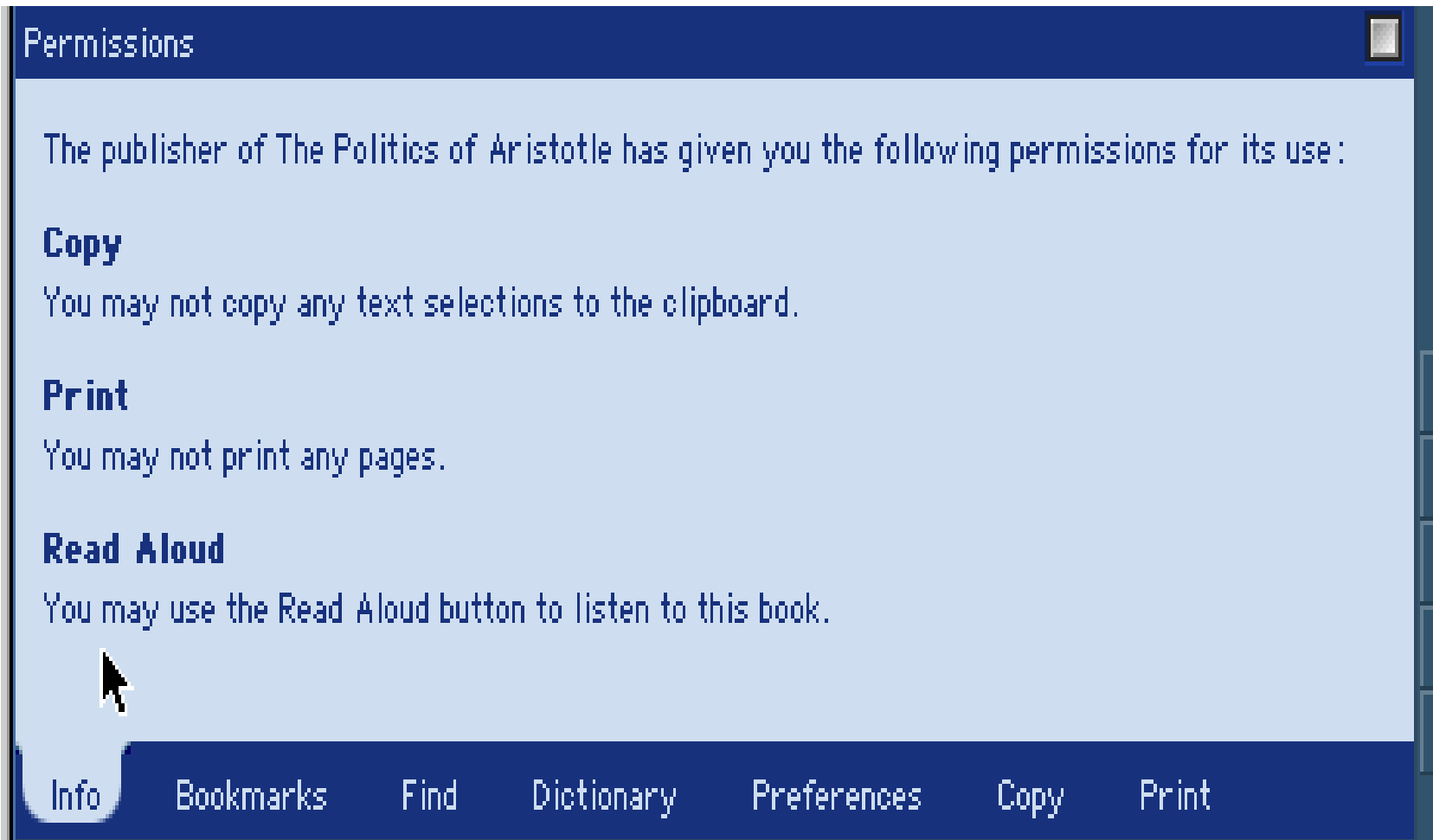
Fax: 91- 40 - 3000509

E-Mail : ecom@cmcltd.com

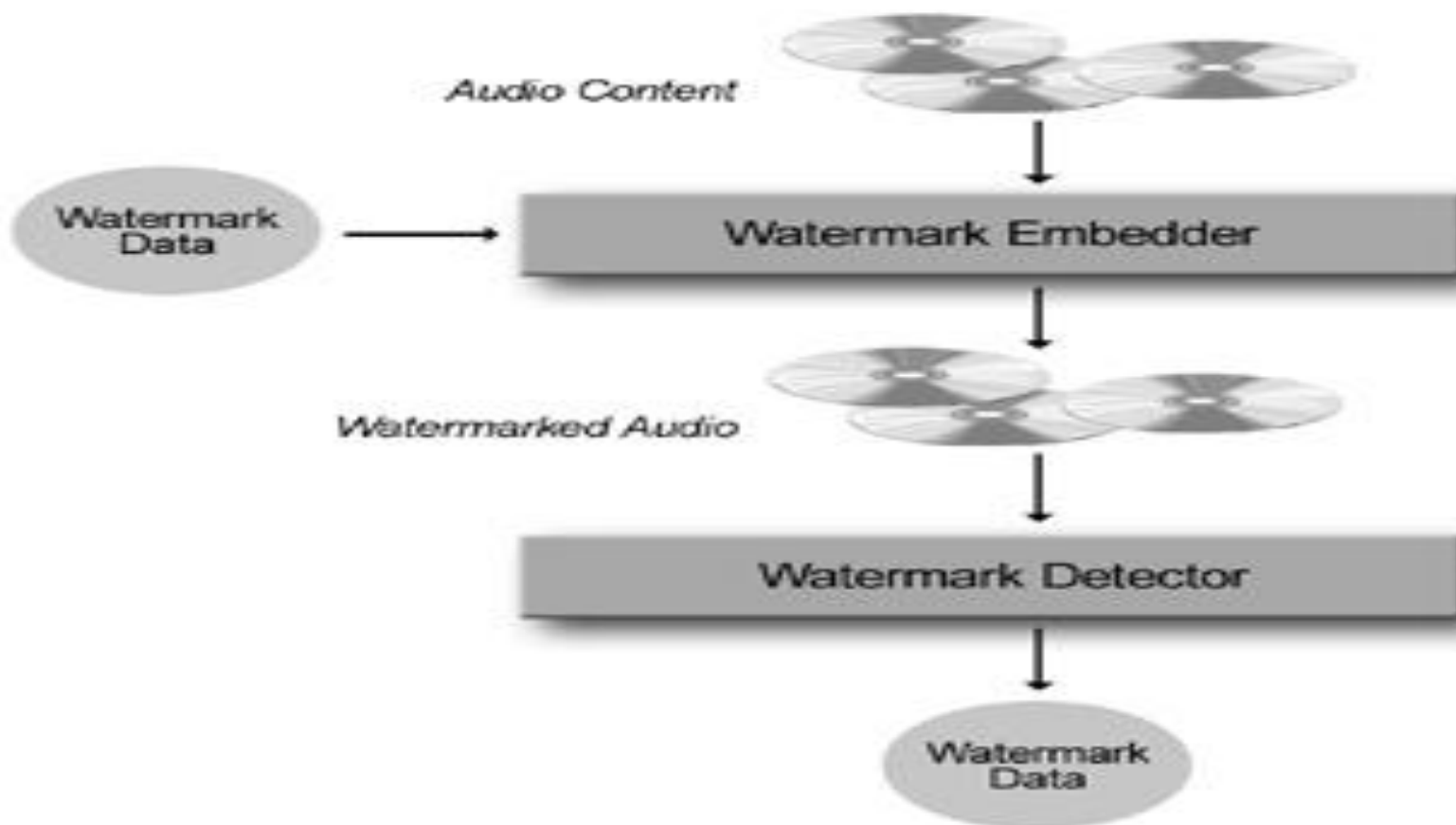
Web: www.cmcltd.com

* All Trademarks and Logos are acknowledged





DIGITAL RIGHTS MANAGEMENT: THE LAW AND TECHNOLOGY PARTNERSHIP



Metarion provides the full spectrum of domain name services for medium and large businesses . Our services are fully tailored and designed to manage the entire lifecycle of our clients' domain portfolio.

Domain Portfolio Strategy and Optimization	Full audit and optimization of existing domain portfolios, and development of a fully tailored domain registration strategy, including preparing for the new gTLDs.
Domain Registration and Management Services:	A global registration service covering any domain name available worldwide, and the most comprehensive tools and services for the management of corporate portfolios, including dedicated account management.
Domain Name System [DNS] Solutions	The most resilient DNS infrastructure in the world, offering ultimate protection against security threats - Metarion are the only domain name management specialist to do this at no additional cost.
Domain Acquisition and Recovery Services	Expert assistance with acquiring or recovering domain names from third party owners, or selling unwanted domain names.

ANY QUESTIONS?



Technology, Media and Communications



INTELLECTUAL PROPERTY AND THE INTERNET: TRADEMARKS, BRANDS, DOMAIN NAMES AND COPYRIGHT IN THE DIGITAL LANDSCAPE

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