




# MOOT PROBLEM

1. Indiva is a country with a population of around 100 million people. It is a Democratic Sovereign Republic with its own Constitution and Laws which are in *pari materia* to the Laws of India. Indiva is a developing country with a growing economy which is moving towards digitalization. There is still a lot of scope for progressive reforms in the sphere of Cyber Laws and IPR Laws in Indiva.
2. On 5 January 2020, ViaShare, a software company based in Delica (Capital Region of Indiva) was granted patent protection on its technology for managing Internet affiliate programs. The idea is that a piece of software placed on a merchant's site gives ViaShare the ability to track a user's online behaviour from the moment the user clicks on a banner ad on a referring Web site to the point of a completed transaction on a merchant's site. A commission, payable to the referring site, is then generated when a user clicks on one of these "affiliate links" or banner ads, and then purchases something from the merchant's site.
3. Similar affiliate programs can be found throughout the Internet in the form of buttons that direct users to online stores selling anything from clothes, cosmetics, medicines, software, or other products. In fact, some estimate that hundreds of thousands of sites have added these "affiliate links" that generate a commission if a user clicks on them and then buys something. The significance of the ViaShare patent is that, depending on how broadly it is interpreted, ViaShare may be given the right to block anyone from using such an arrangement of links between sites with commission payments.

- 
- 
- 
4. However, on 5 February 2021, Vamazom, a Multinational Company dealing with B2C retail through its website Vamazom.com, got a patent application published. The published patent application was similar to ViaShare's granted patent, but additionally had structural/hardware limitations over the patent for privacy enhancements. Signing in with user credentials and details to the Vamazom's website is required for the affiliate link to be operable. Thereafter, the referring website started receiving commission of up to 15 percent of the sale price for books that are sold this way and another 5 percent on anything else purchased through the affiliate link.
  5. ViaShare Corporation has filed a Pre-Grant opposition before the Patent office against the application of Vamazom contending that their company that has already been granted the Patent right of such software in India and that Vamazom is attempting to get a similar software patented.
  6. In the midst of these allegations, on 5<sup>th</sup> January 2021, in a major Cyberattack by an anonymous source, all the user data stored by ViaShare based on consumer behaviour and personal details were leaked. This resulted in many people getting fraudulent emails and frivolous calls.
  7. Shortly after this attack, Indiva Cyber Cell (further referred to as Cyber Cell) revealed that a huge chunk of user data was also found "active" on the dark web. The Cyber Cell made attempts to remove the user data and provide protection. However, it still caused many people major issues and resulted in a lot of mental harassment.

8. Viashare has approached the Hon'ble High Court of Delica for an ex-parte interim injunction against Vazamom's usage of software in question. Meanwhile, "Unity Legal Foundation" which is a non-profit organization working for the protection of Consumers' Rights and Privacy in the time where business corporations are trying to encroach upon personal information of consumers by monitoring their activities, on learning of this upcoming suit filed by ViaShare against Vamazom, has addressed the letter to the Chief Justice of High court of Delica expressing their concern about the recent breach of Right to Privacy of Citizens of Indiva and seeking action of the Hon'ble High Court against the grant of patent to these types of software.

#### **ISSUES TO BE RAISED**

1. Whether the suit filed by Viashare against Vamazom is maintainable?
2. Whether an ad interim injunction should be granted in favour of ViaShare?
3. Whether the patent granted to Viashare is valid?
4. Whether patent should be granted to Vamazom's software?
5. Whether these software's violates Right to privacy of citizens?

Note: The Issues are not exhaustive. The participants may as per their own legal acumen add, amalgamate (as sub-issue), change the language of the issues, or remove any issue (if necessary).

Contacting our Knowledge Partner "SS Rana and Co. Advocates" directly for any queries relating to the Moot Problem will result in disqualification. All the queries shall be mailed at [mootcourt@dme.ac.in](mailto:mootcourt@dme.ac.in)