

## EVOLUTION OF INTELLECTUAL PROPERTY RIGHT LITIGATION IN INDIA

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**BEST CITATION** – SANCHITA SANAND, EVOLUTION OF INTELLECTUAL PROPERTY RIGHT LITIGATION IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (1) OF 2025, PG. 1392-1402, APIS – 3920 – 0001 & ISSN – 2583-2344.

### CHAPTER 1 – SYNOPSIS

#### ABSTRACT:

The core of human behavior is invention. Every period has its own inventions. In many ways, the products of the human brain are distinct from one another. In today's fast-paced and dynamic world, innovation, the concepts and new methods is what sets one apart from another. The creator retains certain rights known as intellectual property rights over these novel concepts, inventions, and works of art in order to protect them. The creator is granted such rights over his intellectual property and is intended to protect its uniqueness and stop others from using it under their own name. Conflicts arise when these rights are violated and are brought before courts as IPR litigations, which are decided by the courts, which may be either specialized courts or courts with jurisdiction over intellectual property-related issues. This paper emphasize around the scope of intellectual property litigation in India and its development over the recent years.

**KEYWORDS:** Intellectual Property Rights, Intellectual property litigation, developments, Innovation, Creator

#### INTRODUCTION

Intellectual Property (IP) rights are crucial for fostering innovation<sup>2700</sup> and creativity by granting exclusive rights to creators and inventors. It is every person's right to keep his creations safe from unauthorized access. The International Declaration of Human Rights<sup>2701</sup> outlines these rights, including the right to have one's physical and moral interests resulting from one's own work, whether it be an artistic or literal creation—protected. In order to obtain a final decision or judgment, a case or matter of dispute must be brought before the court through the process of litigation. Litigations pertaining to intellectual property are those that result from works created by human minds. There are various types of intellectual property litigation<sup>2702</sup>, such as patent infringement lawsuits, which also cover designs

and inventions. In general, intellectual property is covered and protected by specific laws that govern the subject matters of patents. In India, criminal law has no jurisdiction over IPR cases involving patents and designs. However, criminal law is applied in those cases and disputes involving trademark and copyright counterfeiting<sup>2703</sup>. There may even be lawsuits for copyright or trademark infringement, such as those involving words, symbols, and so forth. In India, IP laws encompass various domains including patents, trademarks, copyrights, and designs. These rights enable creators to control the use of their inventions, brands, and artistic works, thereby incentivizing further innovation and contributing to economic growth. Over the past few decades, India has seen a marked evolution in its approach to IP enforcement.

Trade secret misappropriation is another type of lawsuit. The confidentiality of businesses is

<sup>2700</sup> Allain, M. L., Chambolle, C. and Rey, P. (2010). Vertical integration, innovation and foreclosure

<sup>2701</sup> <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

<sup>2702</sup> B.L. Wadhwa, "Law Relating to Intellectual Property"

<sup>2703</sup> Intellectual Property Laws in India" by Dr. T. Ramappa

inherent in these trade secrets. Intellectual property lawsuits also include cyber squatting and knockoff. Different intellectual property rights have different litigation strategies, and each aspect has a distinct process. Only when their trademark is registered can a trademark owner file a lawsuit in a court with local jurisdiction; otherwise, they cannot. However, in patent and design cases, the court must be selected at the defendant's residence or the place where the goods are sold.

#### OBJECTIVES OF THE RESEARCH:

This paper focuses on explaining the concept of Intellectual Property Litigation in India, the scope and the development of the system of litigation of Intellectual Property over the years. It not only focus on acknowledging the system of IPR litigation in India but also lays down various steps to comprehend the courts of IPR along with its working. Then, the evolution of the litigation is also obtained by capturing the historic establishments and then the amendments which have been made over the years.

#### RESEARCH QUESTIONS

- 1) What is the concept of IPR Litigation in India?
- 2) What is the scope of IPR Litigation in India?
- 3) How has the system of litigation evolved over the years?

#### STATEMENT OF PROBLEM:

While preparing this paper, we came to the conclusion that though the development of the litigation of Intellectual Property Rights is touching great heights yet there remain certain grey areas which are still not focused upon. The cost incurred is quite high because specialized courts require judges with extensive training, the infrastructure<sup>2704</sup> and resources which are required to establish these courts are also expensive. Despite the IP sector's significant expansion, people still lack a thorough understanding of their intellectual property

rights, which is why there aren't enough cases to warrant the creation of a distinct special court. By giving IPR special status through the establishment of separate courts, the scope of intellectual property-related topics will be reduced because judges with specialized knowledge will not attempt to consider IP litigations within the broader legal framework and will instead confine them to the current IP laws, which will cause the laws to stagnate and not evolve.

#### RESEARCH METHODOLOGY:

This study is based on the doctrinal research wherein the research method is analytical and descriptive. The data and literature used for this paper is primary as well as secondary. The primary data used for this research work includes information provided by the online marketplaces and the data storage while secondary data used are various books, e-journals and websites.

#### REVIEW OF LITERATURE:

In an increasingly globalized economy, the protection of innovations, creations, and inventions is directly impacted by intellectual property rights (IPR) litigation, making it a crucial area of law in India. A thorough grasp of the legal framework, difficulties, and significant advancements in the defense and enforcement of intellectual property can be gained from the literature on IPR litigation in India. An overview of the main research topics, findings, and observations regarding IPR litigation in India can be found below.

#### India's Legal Structure and Development of IPR Laws

Laws like the Indian Patents and Designs Act of 1911 and the Copyright Act of 1957 laid the groundwork for IPR law in India during the colonial era. However, India implemented important legal reforms after joining the World Trade Organization (WTO) in 1995 and committing to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). To address IPR issues, important legal tools

<sup>2704</sup> Intellectual Property and the Law of Patents in India": K. P. Ramesh

have been created, including the Patents Act of 1970, the Trade Marks Act of 1999, the Designs Act of 2000, and the Geographical Indications of Goods (Registration and Protection) Act of 1999.

#### **Important Research Works:**

Sivakumar (2010) highlights how India's legal landscape underwent a significant change with its accession to TRIPS, bringing its laws into compliance with international norms.

Rao and Rao (2008) talk about the effects of the 1970 Patents Act and how the 2005 amendment allowed India to adjust to international patent standards while taking public interest concerns into account.

#### **Prominent Case Studies:**

The 2013 case *Novartis AG v. Union of India*<sup>2705</sup> dealt with the patentability of the medication Glivec in light of Section 3(d) of the Patents Act, 1970. The Supreme Court's ruling restricted the ability to patent small changes to well-known compounds.

*Sanjay Dalia v. Indian Performing Right Society Ltd.* (2015)<sup>2706</sup>: The Bombay High Court addressed the territorial reach of performance rights in public performances as well as copyright enforcement.

#### **Significant Research:**

Patel (2016) looks at the increasing use of alternative dispute resolution (ADR) in IPR cases, especially when multinational corporations are involved. According to Singh (2020), ADR can help reduce the backlog in IPR cases by offering speedier resolution procedures, particularly in cases involving cross-border or small-scale infringers.

#### **International Aspects of Intellectual Property Rights Cases**

Since many cases involve multinational corporations or cross-border patent disputes, international legal standards are having an increasing impact on India's IPR litigation. The

litigation landscape is also impacted by issues pertaining to regional IPR treaties, international trademark infringement, and parallel imports.

#### **Notable Findings:**

Ramachandran (2017) talks about how regional conventions and international trade agreements like the TRIPS Agreement affect India's enforcement of intellectual property rights.

The intricacies of international patent law are examined by Verma (2021), with a focus on the function of the Patent Cooperation Treaty (PCT) and how it affects Indian IPR litigation.

#### **Current Patterns and Prospects**

IPR enforcement has increased recently, especially in industries like information technology, biotechnology, and pharmaceuticals. High-profile IPR cases are now frequently resolved in the Delhi High Court and Bombay High Court. In addition, trademark and copyright cases pertaining to the digital economy are on the rise in India.

#### **Current Studies:**

The increasing number of IPR cases in the digital sphere, especially those involving software copyrights and domain name disputes, is examined by Sharma and Agarwal (2023). IPR litigation is expected to grow even more important in the upcoming years due to the expansion of the digital economy and India's growing involvement in international trade, according to Khan (2023).

#### **HYPOTHESIS:**

To comprehend the dynamics, difficulties, and patterns of India's Intellectual Property Rights (IPR) litigation system, a number of hypotheses can be developed. With an emphasis on the efficacy, efficiency, and equity of the legal system, these theories seek to investigate different aspects of IPR enforcement and litigation in India. The following are some possible theories regarding India's IPR litigation system:

<sup>2705</sup> <https://indiankanoon.org/doc/165776436/>  
<sup>2706</sup> <https://indiankanoon.org/doc/51545606/>

**Hypothesis 1:** Innovation and economic growth are hampered by IPR litigation delays.

Justification: The backlog of cases and court proceedings delays, especially in patent and trademark disputes, are major issues in India's IPR litigation. Economic growth may be impacted by these delays since they may deter creators and innovators from pursuing intellectual property protection.

Anticipated Result: Delays may deter a sizable portion of IPR litigants from seeking legal action, especially in the patent area. This may have an impact on innovation in fields where intellectual property is crucial, such as technology, entertainment, and pharmaceuticals.

**Hypothesis 2:** Individuals and small enterprises are deterred from exercising their rights by the high expense of IPR litigation.

Justification: Pursuing IPR litigation in India carries a significant financial cost, particularly in intricate patent disputes. Individual inventors, startups, and small enterprises frequently lack the financial means to pursue legal action, which makes it more difficult for them to successfully defend their intellectual property.

Anticipated Result: Despite infringement, small companies and individuals are less likely to file IPR lawsuits. Smaller organizations may file fewer cases as a result, creating an imbalance where the litigation landscape is dominated by large corporations with substantial financial resources.

**Hypothesis 3:** The litigation's outcome is greatly impacted by the caliber of legal counsel in IPR cases.

Justification: The knowledge and experience of legal counsel can have a big impact on the outcome of complicated IPR cases, particularly those involving patent and copyright disputes. Attorneys who specialize in intellectual property law have a higher chance of helping their clients achieve successful results.

Anticipated Result: In IPR litigation, parties who have access to knowledgeable attorneys may

be more successful than those who don't. This could lead to differences in the way IPR rights are applied in various industries.

## CHAPTER 2

### 2.1 INTELLECTUAL PROPERTY LITIGATION:

A crucial component of India's legal and economic framework, intellectual property rights (IPR) litigation serves to protect the innovative works, inventions, and intellectual creations of both individuals and organizations. A strong IPR system is becoming more and more necessary as India continues to integrate into the global economy. The protection of technological and creative innovations depends on intellectual property, which includes patents, trademarks, copyrights, designs, and geographical indications (GIs)<sup>2707</sup>. Over the past few decades, IPR litigation has become increasingly prominent due to India's emergence as a global economy.

An outline of India's intellectual property litigation system, legal framework, difficulties encountered, and development of IPR jurisprudence in the nation are all intended to be included in this introduction. It emphasizes the role of the judiciary, significant developments influencing the evolution of IPR law, and how the Indian legal system handles IPR disputes.

### 2.2 LEGAL FRAMEWORK OF IPR IN INDIA :

In India, the legal framework for intellectual property rights (IPR) is intended to protect the works of individuals, companies, and organizations. It is based on a number of laws that provide protection for different types of intellectual property, guaranteeing that authors have the sole right to their creations and can profit from them.

The most important of these is the Patents Act of 1970<sup>2708</sup>, which safeguards innovations and inventions and gives creators the authority to bar others from producing, utilizing, or

<sup>2707</sup> Intellectual Property and the Law of Patents in India" by K. P. Ramesh  
<sup>2708</sup> Indian Patent Office Annual Reports

marketing their patented goods or methods. While the Copyright Act of 1957<sup>2709</sup> protects literary, artistic, and musical works and gives creators control over how their creations are reproduced and distributed, the Trade Marks Act of 1999 protects brands, logos, and symbols that set goods or services apart in the marketplace. Following its admission to the World Trade Organization (WTO)<sup>2710</sup>, India ratified the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights), which is in accordance with these laws. This alignment addresses domestic issues like public health and knowledge access while guaranteeing that India's IPR laws adhere to international standards. India's IPR laws have been updated frequently over the years to reflect shifting global dynamics, such as advancements in digital media, technology, and international trade.

This dynamic framework seeks to strike a balance between the need to foster innovation, creativity, and fair access to resources and knowledge, as well as the protection of intellectual property. To make the IPR system more effective and available to all creators, innovators, and businesses, regardless of their size or financial capacity, continuous reforms are necessary. This is because the application of these laws, especially in litigation, can occasionally be complicated and resource-intensive.

### 2.3 HISTORY OF IPR AND ITS LITIGATION IN INDIA :

The idea of intellectual property rights is not new; it has existed for centuries in many parts of the world. The concept of monopolies existed during the Byzantine Empire, which is when intellectual property rights first emerged. The English Copyrights Act of 1872 gave rise to intellectual property law in India. In 1976, this act underwent additional revisions. The world trade organization's TRIPS agreement gave intellectual property rights the power to enforce laws across borders. Additionally, it has

acknowledged a number of rights under it. Among them are: 1) Trademark rights of traders 2) Inventors' right to patent their creations 3) The Biodiversity Right. Due to increased awareness and the emergence of new intellectual properties, intellectual property protection has significantly increased since the passage of the Copyright Act 1976. Over the past 25 years, the number of intellectual property lawsuits has increased in tandem with the expansion of IP protection.

### Pre-Independence Early Development

India's IPR framework was created largely to benefit British businesses and traders during the British colonial era. One of the first IPR laws to be introduced in India was the Patents Act of 1856, which permitted inventors to receive patents. However, because Indian inventors had limited access to the system, the law was skewed heavily in favor of British companies. The Indian Copyright Act of 1911, which was modeled after the British Copyright Act and sought to safeguard writers' creative and literary works, superseded this law. In order to protect trademarks used by businesses and merchants, the Trade Marks Act of 1940<sup>2711</sup> was also passed during the colonial era. The colonial power's interests were the main focus of these early laws, which were not entirely inclusive.

### Developments Following Independence: Creating a National Framework

India's 1947 declaration of independence made it clear that the colonial IPR system needed to be revised. The Indian government came to the realization that promoting innovation and economic growth would require the protection of intellectual property. India actively shaped its IPR framework in the years following independence to satisfy both internal and external demands.

The earlier colonial laws were superseded by the Patents Act in 1970. Because it contained clauses permitting the limited patenting of

<sup>2709</sup> The Copyright Act, 1957 (as amended)

<sup>2710</sup> World Intellectual Property Organization (WIPO) Reports

<sup>2711</sup> The Trade Marks Act, 1999

pharmaceutical products<sup>2712</sup> and processes, it marked a significant change in India's patent policy. The law acknowledged the necessity of striking a balance between the public interest and inventor protection, especially when it came to guaranteeing access to reasonably priced medications. Considering India's sizable population and urgent public health issues, this was noteworthy. Another important piece of post-independence legislation that promoted artistic innovation and protected the rights of writers, composers, and artists was the Copyright Act of 1957.

At this point, the idea that intellectual property should advance the general welfare, particularly in fields like agriculture, education, and health, influenced India's approach to IPR. Later on, this distinct viewpoint would come to define India's IPR litigation environment.

### **Globalization and Legal Reforms in the TRIPS Era**

In the 1990s, India's IPR framework experienced substantial modifications as a result of its economic integration with the rest of the world. When India joined the World Trade Organization (WTO) and its Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1995, it marked the most significant change. India was required by the TRIPS Agreement to align its intellectual property laws with international norms, particularly in areas such as copyright, trademark enforcement, and patent protection.

India made significant legal changes to its Patents Act in 2005 in response to the TRIPS agreement. The 1970 Act forbade the patenting of pharmaceutical products, but the new law permitted it. However, in order to address public health concerns, the amended law introduced the concept of compulsory licensing, which permits the government to authorize the production of patented medicines under specific conditions, such as public health emergencies, and included provisions to

prevent the evergreening of patents<sup>2713</sup>, which is the practice of granting patents for minor modifications to existing drugs. In order to modernize the trademark registration procedure and facilitate the protection of brand identities for businesses, the Trade Marks Act of 1999 was also introduced. In order to guarantee increased efficiency and transparency, this law simplified the registration procedure and offered stronger protection for registered trademarks.

## **CHAPTER 3**

### **3.1 INTELLECTUAL PROPERTY COURTS:**

In order to address such a broad subject as intellectual property, numerous nations have established specialized IP courts. These courts have the authority to hear cases involving intellectual property. IP disputes are typically complicated and cover everything from counterfeiting to IP rights infringement. Therefore, to handle the complexity of issues in IP litigations, a unique group of people or organization is required. These specialized courts can take the shape of appellate bodies or trial courts.

The understanding that intellectual property law necessitates specific expertise in both legal principles and the technical domains that IP frequently intersects with is frequently the driving force behind the creation of specialized IP courts. For instance, patent cases frequently entail in-depth discussions of science or technology that call for knowledge of chemistry, biology, or engineering. Similar to this, cases involving trademarks and copyright may require knowledge of branding, media, or design. By establishing IP courts, the legal system guarantees that judges overseeing these cases have the necessary knowledge to assess the evidence and interpret the law in ways that may be challenging for judges without specialized training to do.

IP courts<sup>2714</sup> usually provide several benefits.

<sup>2712</sup> Pharmaceutical Patent Law: A Practitioner's Guide" by Vivek G. Pai and Anu J. Oommen

<sup>2713</sup> Pharmaceutical Patents in Developing Countries" by Carlos María Correa  
<sup>2714</sup> "The Law of Trademarks and Passing Off" by V. K. Ahuja

Because judges who specialize in intellectual property law are more likely to be familiar with the precedents and changing trends in the field, they first ensure consistency in rulings. Businesses, innovators, and consumers all benefit from a more stable legal environment as a result. Second, because judges and legal staff are skilled at handling the complexities of these cases, these courts are frequently able to handle IP disputes more effectively, saving time and money in the process. Furthermore, IP courts are usually built with features that promote more efficient processes, like accelerated patent dispute resolution timelines, which can be crucial in sectors that move quickly, like technology and pharmaceuticals.

The ability of IP courts to handle international or cross-border intellectual property disputes is another important feature. Due to the international nature of trade and technology, many intellectual property disputes involve parties from several different nations. Some nations have set up forums for settling intellectual property disputes that may involve international law and multijurisdictional cooperation, including the US and EU member states. For instance, the U.S. Court of Appeals for the Federal Circuit in the United States hears cases pertaining to patents, and a number of EU nations have set up regional intellectual property courts that concentrate on settling conflicts involving European patents or trademarks.

### 3.2 ADVANTAGES OF IPR COURTS:

Courts pertaining<sup>2715</sup> to intellectual property rights (IPR) have various benefits, especially in the way they manage the increasingly intricate and specialized nature of IPR disputes. The specialized knowledge that these courts offer is among the biggest advantages. IPR cases frequently involve extremely technical issues, such as determining the originality of a work of art in a copyright case or comprehending the complexities<sup>2716</sup> of a new technology in a patent

dispute. Confusion or misunderstanding of the legal and technical issues may result from general courts' lack of specialized knowledge in these areas. In contrast, judges and legal experts with specialized knowledge of intellectual property law staff IPR courts, guaranteeing that decisions are made with a thorough comprehension of both the underlying technology or creative work and legal principles. Because of this specialized knowledge, decisions are more likely to be accurate, errors are less likely to occur, and case results are more consistent.

The effectiveness of IPR courts in resolving disputes is another benefit. In general courts, cases pertaining to intellectual property, especially those involving patents, can be very complicated and drawn out, frequently taking years to resolve. Businesses require prompt resolutions to safeguard their innovations or brands, so this delay can be especially harmful given the rapid pace of the creative and technological industries<sup>2717</sup>. By concentrating only on intellectual property issues, IPR courts expedite the process and can resolve cases more quickly. Additionally, they frequently have procedures in place that are tailored to the requirements of IP disputes. For example, they may have expedited timelines for patent cases, which can drastically cut down on the amount of time it takes to receive a decision. Because it guarantees that rights holders can safeguard their assets and proceed with their business plans without needless obstacles, this efficiency benefits not only the parties involved but also the economy as a whole.

### 3.3 DISADVANTAGES OF IPR COURTS:

Although courts pertaining to intellectual property rights (IPR) have many advantages, they also have disadvantages. The high expense of litigation in these specialized courts is one of the main obstacles. Cases involving intellectual property, especially patents, can be very costly. This is because the cases themselves are complex and require expert

<sup>2715</sup>"Intellectual Property Laws in India" by Dr. T. Ramappa  
<sup>2716</sup> Law Relating to Intellectual Property" by P. Narayanan

<sup>2717</sup> Intellectual Property Law in India" by B.L. Wadhwa

witnesses and specialized legal counsel. The expense of defending or asserting their intellectual property rights in such courts can be unaffordable for many startups, small businesses, and individual creators. Because of this, these organizations might not be as well-equipped to deal with the legal system as larger corporations. Only the wealthiest parties may be able to afford to pursue or defend their intellectual property claims as a result of the financial burden, which may restrict smaller stakeholders' access to justice.

The intricacy of the legal procedures in IPR courts is yet another major drawback. Even though intellectual property law is the focus of these courts, IP cases frequently involve complex technical details that call for in-depth knowledge. For instance, courts may need to comprehend extremely complex scientific or technological concepts in patent litigation, which makes it challenging for non-experts to follow the procedure. People or companies without the requisite technical expertise may find this to be a barrier, which could cause them to feel excluded or confused. Additionally, people without specialized legal training may find the system intimidating due to the legal jargon and procedural complexity. These cases also add layers of complexity due to the requirement for expert testimony and evidence, which can slow down the process and make it more difficult for the average person to understand.

The issue of forum shopping, in which parties deliberately select the court they think will provide the best result, can also result from IPR courts. There may be an imbalance in the way intellectual property rights are enforced in some nations due to certain jurisdictions' reputations for being more forgiving of patent holders or more protective of trademarks. Due to the potential for inconsistent decisions on related matters in various jurisdictions, this compromises the justice system's fairness. For example, a company may steer clear of unfavorable decisions in other jurisdictions, resulting in inconsistent application of the law, if

it can simply select a court that regularly renders decisions in its favor. The system of intellectual property enforcement may become fragmented as a result of this lack of consistency, potentially harming those who cannot afford to participate in forum shopping.

## CHAPTER 4

### 4.1 EVOLUTION OF IPR LITIGATION IN INDIA

The number of patent grants has increased as time has changed. Compared to the amount that existed at the time, the number of patent grants has nearly doubled since 2002. The number of patents that have been litigated is directly related to this increase in patent grants. As the number of patents granted increases, more lawsuits are filed. The last few decades have seen an increase in the importance of intellectual property protection as well as patent grants. Over the past 25 years, there has been a sharp increase in intellectual property lawsuits. But according to the data, the percentage of IP trials has decreased from 3.5% to 1.5% between 1978 and 2000. In a democratic nation like India, intellectual property rights, as well as the associated legal proceedings<sup>2718</sup> and trials, hold significant importance.

These intellectual properties must have a high level of protection, according to Indian courts. When making decisions, the courts adhere to the directive principles of state policy that are enshrined in the Indian constitution. As a result, they typically strike a balance between the public interest and the rights of intellectual property owners. They establish appropriate rules about how much room there should be for innovation and creativity. In cases like copyright laws, the courts have also frequently allowed the consultation<sup>2719</sup> of foreign precedents and judgments that contain terms similar to those found in Indian treaties, to the extent that they have persuasive value.

The government established commercial courts

<sup>2718</sup> Evolution of Intellectual Property Litigation in India: A Historical Perspective" by P. N. Raghavan

<sup>2719</sup> "Intellectual Property Litigation in India: A Study of Judicial Approach and Legislative Framework" by Sudhir Kumar



in India with the goal of accelerating commercial suits, including IP litigations, in light of the steadily rising number of IP disputes. This law was passed in 2015, and it became operative in 2016. The act does not allow for a drawn-out litigation process. In addition to its goal of delivering justice quickly, it allows parties to request a speedy trial if they believe that gathering evidence would be unnecessary. Additionally, to prevent the abuse of the power granted to litigants, the courts have mandated that any pending cases in which a stay against the proceedings of a civil or criminal trial is in effect will end after six months, unless a speaking order is issued to extend the stay in an exceptional circumstance. If a stay is granted in the future, it will end six months from the date of the stay, unless a speaking order is issued to extend it in an extraordinary circumstances.

In order to protect the inventions and works of people and organizations, foster innovation, and advance economic growth, intellectual property rights, or IPR, are essential. The development of IPR litigation in India has been a fascinating journey that takes into account both local demands and international trends. India's legal system has evolved over time to satisfy global norms while resolving domestic issues thanks to a number of significant cases.

### 1. Initial Years of IPR Litigation: Before the 1990s

India's IPR litigation environment was small and undeveloped prior to the 1990s. India mostly adhered to the IPR system of the colonial era during this time, when rights were mainly granted by British legislation. The absence of worldwide standards and a thorough IPR framework meant that the legal system frequently found it difficult to adapt to new problems.

**Baker Hughes v. Hindustan Drill (1990)** was the first significant case that marked the beginning of IPR litigation in India. Patent rights were at issue in this case. It signaled the start of India's initiatives to create an atmosphere that supports intellectual property protection.

International trends started to affect domestic IPR practices even though India was not a member of the World Trade Organization (WTO) at the time.

### 2. The Development of a Sturdy IPR Framework : After the 1990s

India's approach to intellectual property rights underwent a sea change in the 1990s. Stronger IPR regulations were introduced as a result of the nation's economic liberalization and adherence to the WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). New laws like the Copyright Act (1957) and Trade Marks Act (1999) started to get more attention after the Patents Act of 1970 was changed in 1999 to comply with TRIPS.

**Rao v. Trade Marks Registry (1999)** was a significant case that illustrated this new wave of IPR litigation. The significance of following international conventions when interpreting domestic laws was reiterated by the Supreme Court of India. The case made clear how important it is to protect intellectual property and foreign investments with strong enforcement measures.

### 3. The 2000s: An Increase in IPR Enforcement and Litigation

The significance of IPR became more widely recognized in the 2000s. This increasing importance was reflected in the creation of specialized intellectual property courts and an IP appellate board. IPR litigation has increased as a result of India's growing number of technology companies and multinational corporations.

**Novartis AG v. Union of India (2007)** was one of the seminal cases during this time. An important turning point in Indian patent law was the Supreme Court's ruling in the case. The pharmaceutical behemoth Novartis had applied for a patent on its cancer medication Glivec. But in accordance with Section 3(d) of the Patents Act, the Supreme Court denied the patent application, highlighting the necessity of striking a balance between intellectual property

protection and public health issues. The decision was widely celebrated as a major win for access to necessary medications in developing nations and public health.

**Yahoo Inc. v. Akash Arora (2000)** was another significant case in the 2000s that dealt with trademark rights and domain name infringement. Yahoo won its case in the Delhi High Court, highlighting the significance of the internet in IPR cases and the necessity of contemporary legislation to handle issues of the digital age.

#### 4. 2010s: Global Alignment and IPR Strengthening

India started bringing its IPR laws into line with international norms in the 2010s, and courts remained crucial in determining the direction of the law. The Indian judiciary balanced domestic interests while relying more and more on international precedents.

In a number of industries, including technology, entertainment, and pharmaceuticals, intellectual property was becoming increasingly ingrained. During this time, **Merck & Co. v. Glenmark Pharmaceuticals Ltd. (2015)** was a noteworthy case. Sitagliptin-related patent infringement was at issue in this case. In a significant win for pharmaceutical patent holders, the Delhi High Court declared that generic companies had infringed upon Merck's patent rights.

Another significant development was the Delhi High Court's clarification of the extent of music composers' performance rights in the **Indian Performing Right Society (IPRS) v. Sanjay Dalia & Ors. (2010)** case. The case made clear how important it is to have a sophisticated grasp of copyright law when it comes to digital platforms.

The Bombay High Court addressed the problem of trade secrets and the theft of private information in **Infosys Technologies Ltd. v. Tata Consultancy Services (2017)**. This case illustrated how IPR litigation was changing to meet contemporary business challenges and

emphasized the importance of safeguarding trade secrets in the fiercely competitive tech sector.

#### 5. 2020s: Emphasis on Emerging Technologies and Digital Transformation

IPR litigation in India has continued to develop in the 2020s, mainly as a result of the emergence of new technologies like biotechnology, blockchain, and artificial intelligence (AI). Securing patents for inventions pertaining to emerging technologies has become more important.

The Delhi High Court's decision to uphold the website's rights over digital content in **Google India Pvt. Ltd. v. Visakha Industries (2020)** is a seminal case in the field of digital IPR. The case centered on digital platforms' liability for violating the intellectual property rights of third parties. The court's decision reaffirmed the necessity of an all-encompassing legal framework that addresses the particular difficulties presented by the digital economy.

The Delhi High Court affirmed the protection of trade secrets in the digital age in **Samsung Electronics Co. Ltd. v. ICICI Bank Ltd. (2021)**, another significant case. This case established a significant precedent for safeguarding intangible assets, especially in sectors where technological advancements occur quickly.

### CHAPTER 5

#### CONCLUSION AND SUGGESTIONS:

Humans are endowed with the ability to be creative, innovative, and think critically, all of which combine to produce something that is unique in its own way. It was not until the twentieth century that the right of the innovator over the creation was recognized, and that the owner had the exclusive right over the entire creation; as a result, the current world is built on the foundations of new creations that are of great importance, and as a result, these intellectual property holders possess certain rights; when these rights are violated, disputes arise; the litigation that deals with these disputes is known as IPR litigations, and the

courts that deal with such disputes are known as IPR courts. Even though India's IPR law has advanced significantly, there are still a number of areas that require work. A more effective, accessible, and equitable IPR litigation system is required, as evidenced by the growth of digital content, the significance of patent litigation in industries like pharmaceuticals, and India's growing participation in the global knowledge economy.

The backlog of cases, especially in patent and trademark disputes, is one of the main obstacles in IPR litigation. The system's efficiency could be greatly increased by enlarging specialized IPR benches, adding judges to courts like the Delhi High Court, and putting policies in place to expedite urgent cases. Delays may be decreased by implementing contemporary case management software and using technology to hold virtual hearings. Court procedures could be streamlined through electronic filing, case scheduling, and real-time progress tracking.

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