



ISSN: 2583-7753

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

[ISSN: 2583-7753]

Volume 4 | Issue 2

2026

DOI: <https://doi.org/10.70183/lijdlr.2026.v04.204>

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THE INTERSECTION OF INTELLECTUAL PROPERTY RIGHTS AND DISPUTE RESOLUTION: MECHANISMS, CHALLENGES, AND EMERGING FRONTIERS

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I. ABSTRACT

Intellectual Property Rights (IPR) have become central to the modern knowledge-based economy, making the effective resolution of intellectual property disputes an increasingly significant legal and commercial concern. The growing internationalization of trade, digital commerce, technological innovation, and cross-border exploitation of intellectual assets has led to a corresponding rise in the volume, complexity, and transnational character of IPR disputes. This paper examines the intersection between intellectual property law and dispute resolution by analysing the mechanisms available for resolving disputes involving patents, trademarks, copyrights, geographical indications, and trade secrets. Employing a doctrinal and analytical research methodology, the study evaluates domestic litigation, administrative proceedings, arbitration, mediation, expert determination, and international dispute resolution frameworks operating under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the World Trade Organization (WTO), and the World Intellectual Property Organization (WIPO). The paper further examines the Indian framework for IPR dispute resolution, including recent institutional developments, compulsory licensing, Section 3(d) patent disputes, and the growing role of alternative dispute resolution mechanisms. The study finds that while courts continue to play a vital role in enforcing intellectual property rights, arbitration and mediation offer significant advantages in terms of confidentiality, technical expertise, procedural flexibility, and cross-border enforceability. It also identifies emerging challenges arising from artificial intelligence, standard-essential patents and FRAND disputes, digital piracy, platform liability, and the fragmented nature of international enforcement mechanisms. The paper concludes that the existing dispute resolution framework remains uneven and jurisdictionally fragmented. It recommends greater harmonisation of

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international enforcement standards, clearer rules on the arbitrability of intellectual property disputes, the strengthening of specialised adjudicatory institutions, reforms to international dispute settlement mechanisms, and enhanced accessibility of ADR processes for innovators, creators, and small and medium-sized enterprises. This would contribute towards a more efficient, coherent, and globally responsive system of intellectual property dispute resolution.

II. KEYWORDS

Intellectual Property Rights (IPR); Dispute Resolution; Arbitration and Mediation; TRIPS Agreement; World Intellectual Property Organization (WIPO).

III. INTRODUCTION

Intellectual property disputes have risen dramatically in significance in recent decades. From major patent disputes involving multinational technology corporations to the protection of geographical indications for local producers, the field of intellectual property rights (IPR) dispute resolution has emerged as one of the most dynamic and influential areas of contemporary law. The recognition that knowledge, innovation, and creativity constitute valuable economic assets comparable to tangible property has generated an increasing demand for effective, adaptable, and equitable mechanisms for resolving disputes concerning such rights.

It was believed by the majority that only law courts had the authority to deal with intellectual property disputes. Nevertheless, the drawbacks of court litigation like extremely high costs, time-consuming procedures, lack of judges' expertise related to the subject matter, and the limited geographical reach of national court judgments have, to a large extent, discontinued the court's exclusive control over this matter.² Dispute resolution outside courts should especially be recognized as a direct consequence of the court's limitations in issues of intellectual property. In particular, arbitration and mediation have become very popular as alternatives. These approaches give the parties not only the advantages of confidentiality promptness

² Margaret L. Moses, *The Principles and Practice of International Commercial Arbitration* 3-5 (3d ed. 2017).

expert technical skills, and firmness but also serve as a means for dealing with disputes that have a quite significant international character.

TRIPS Agreement³ and WIPO's Arbitration Mediation Centre⁴ are the main structures of how we handle IPR disputes worldwide. TRIPS was designed in 1994 as part of WTO. It establishes minimal protection requirements and demands strong enforcement mechanisms. Also, in that year the WIPO organization, a specialized department for cross-border alternative dispute resolution, was set up. Besides these two main pillars, a vast number of country-specific treaties, regional systems, and internal rules have been created successively to add more depth and flexibility to the ways in which disputes are resolved. However, the whole system is still rather complex due to the interwoven jurisdictions and the dissimilarity in the standards of launch.

This paper is organised into eight parts. Following this Introduction, Part II examines the principal categories of intellectual property rights and the common disputes arising from them. Part III discusses domestic litigation and administrative proceedings as traditional mechanisms for resolving IPR disputes. Part IV analyses alternative dispute resolution mechanisms, including arbitration, mediation, conciliation, and expert determination. Part V explores the international framework governing intellectual property dispute resolution, with particular emphasis on the TRIPS Agreement, WTO dispute settlement procedures, the WIPO Arbitration and Mediation Centre, and the Uniform Domain Name Dispute Resolution Policy (UDRP). Part VI examines the Indian legal and institutional framework for IPR dispute resolution, including compulsory licensing, Section 3(d) disputes, and the role of ADR. Part VII evaluates emerging challenges, including artificial intelligence, standard-essential patents, digital piracy, and platform liability, while also proposing

³ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299 [hereinafter TRIPS Agreement].

⁴ WIPO Arbitration and Mediation Centre, About Us, <https://www.wipo.int/amc/en> (last visited Jan. 15, 2026).

reform measures. Finally, Part VIII concludes the study by summarising its key findings and recommendations.

A. Research Objectives

1. To examine the nature and categories of intellectual property disputes and the mechanisms available for their resolution.
2. To analyse the role of domestic courts, administrative bodies, and alternative dispute resolution mechanisms in resolving IPR disputes.
3. To evaluate the international framework governing intellectual property dispute resolution, particularly under TRIPS, WTO, and WIPO systems.
4. To assess the Indian legal and institutional framework for intellectual property dispute resolution, including recent developments and challenges.
5. To identify emerging challenges in IPR dispute resolution and propose reforms for a more efficient and coherent dispute resolution framework.

B. Research Questions

1. What are the principal mechanisms available for resolving intellectual property disputes at the domestic and international levels?
2. To what extent do arbitration, mediation, and other ADR mechanisms provide effective alternatives to traditional litigation in IPR disputes?
3. How do international instruments such as TRIPS and WIPO frameworks contribute to the enforcement and resolution of intellectual property disputes?
4. What legal and institutional reforms are necessary to address emerging challenges in intellectual property dispute resolution, particularly in the context of artificial intelligence, digital platforms, and cross-border enforcement?

C. Research Methodology

This study adopts a doctrinal and analytical research methodology. The research is based primarily on the examination of primary legal sources, including statutes,

international treaties, conventions, judicial decisions, and institutional frameworks governing intellectual property rights and dispute resolution. It also relies on secondary sources such as scholarly articles, books, policy papers, reports, and academic commentaries. The study employs a descriptive and comparative approach to analyse domestic and international mechanisms for resolving intellectual property disputes, with particular emphasis on the TRIPS Agreement, WTO dispute settlement framework, WIPO dispute resolution mechanisms, and the evolving Indian legal framework. The methodology facilitates a critical evaluation of existing legal structures, emerging challenges, and potential reforms in the field of intellectual property dispute resolution.

IV. THE LANDSCAPE OF INTELLECTUAL PROPERTY RIGHTS AND THE TYPOLOGY OF DISPUTES

Intellectual property rights are the legal rights that a government issues to the originators and inventors for a definite period of time as a consideration for the making their works known to the public. At the end of the period, the works will be released to the public. The main categories of intellectual property are patents trademarks copyrights and related rights, geographical indications, trade secrets, and industrial designs, each having different legal frameworks and capable of generating various types of conflicts.

Patents protect new, inventive and industrially capable of use inventions normally for a term of twenty years from the filing date.⁵ Many patent litigation cases come from uncertainties as to whether a patent is valid (concerning novelty, inventive step, and sufficient disclosure) and whether infringement has been committed (i.e. whether the product or process of the third party is within the scope of the claims of the patent). Outside the pharmaceutical industry and technology area are the two most common focal points of disputes through lawsuits given the extremely high commercial value

⁵ TRIPS Agreement art. 33.

of patent monopolies of blockbuster drugs on one hand and standard-essential patents (SEPs) backing telecommunications protocols on the other hand.

A trademark is a distinguishing sign like words logos shapes, sounds, and even colours that one business uses to identify its goods or services and differentiate them from those of other traders ^[6]. The issues related to trademarks can be from opposition proceedings before intellectual property offices, to infringement and passing-off actions in courts, and also disputes over online domain names and social media. Besides, the massive and brisk expansion of e-commerce has given rise to new ways of trademark infringement such as keyword advertising, counterfeit goods sold through online marketplaces, and bad-faith registrations of domain names.

Besides literary artistic musical, and cinematographic works, copyright law also separately protects computer programs and databases without the need to register them,⁷ Copyright controversies cover such issues as who is the creator, who owns, especially in the case of employer-employee or commissioning party, infringement (copying adapting communicating to the public), and defences of fair dealing or fair use. The development of the web, on the one hand, has significantly enhanced the potential for copyright infringement, on the other hand, it has also made the enforcement of laws difficult through the concepts of Internet service provider liability and jurisdictional issues.

Geographical Indications (GIs) are signs used on products that come from a specific geographical area and have qualities, a reputation, or other characteristics which are essentially due to that geographical origin.⁸ GIs conflicts are mainly producer groups, governments, or commercial entities trying to utilize or protect appellations like Darjeeling tea, Champagne, or Basmati rice. Trade secrets, which are secret pieces of commercially valuable information, are now a major source of intellectual property

⁶ TRIPS Agreement art. 15.

⁷ Berne Convention for the Protection of Literary and Artistic Works art. 5(2), Sept. 9, 1886, 828 U.N.T.S. 221.

⁸ TRIPS Agreement art. 22.

(IP) litigation, especially in high-tech sectors, employment law (post-termination restraints), and also in merger and acquisition situations.

V. DOMESTIC LITIGATION: THE TRADITIONAL FORUM

A. Court-Based Adjudication

Since judgments in international IP cases are typically country-specific, they rarely hold up abroad. Without international agreements for mutual recognition, enforcing a court decision from one country in another becomes a matter of chance and is often unreliable. This drawback is annoying for big international companies that rely on steady protection of their rights across various countries. On the other hand, some countries have gone as far as establishing separate IP courts, focusing exclusively on resolving tech-related issues. Among them are the U. S. ITC, UK's IPEC, Germany's Federal Patent Court, and China's specialized courts located in Beijing, Shanghai, and Guangzhou. These courts are set up to bring more accuracy and a closer understanding of the issues related to innovations.

However, even with such a system in place, it is still very hard to predict the results, especially when a company does business internationally. For instance, patent litigation can last several years and require a multimillion-dollar investment. Small businesses and independent inventors can hardly afford such high costs and, as a result, are often unable to protect their works. The other thing is that most of the proceedings take place publicly, and some companies that rely heavily on trade secrets and prefer confidentiality choose not to participate.

Even though nowadays judges are trained to be experts in IP law, the court system is still very slow; a case may be pending for as long as three to seven years. Just legal expenses can be so high that many patents cease to be a valuable means for companies pursuing growth through innovation. Nevertheless, courts have an advantage that cannot be matched by others. They impose penalties that are real and effective, such as fines and injunctions that private panels simply can't match.⁹

⁹ Peter Drahos, *The Global Governance of Knowledge: Patent Offices and Their Clients* 42–47 (2010).

B. Administrative Proceedings

Besides probably the very well-known ones in the US and Europe, most intellectual property offices (IPOs) worldwide carry out important quasi-judicial functions in IP dispute resolution.¹⁰ The mechanisms available for challenging the patent validity without full litigation are as varied as the U.S. inter partes review (IPR) at the Patent Trial and Appeal Board (PTAB), opposition and cancellation proceedings at the EPO's Boards of Appeal, and post-grant opposition under Section 25 of the Patents Act, 1970 in India.

Compared to court proceedings, administrative ones are relatively faster, cheaper and more technically adept (examiners and hearing officers normally have scientific or technical backgrounds). However, they are still quite limited in terms of remedies that could be granted since their decisions usually only concern revocation or amendment of the relevant right and awarding damages or granting injunctive relief against third-party infringers is outside their competence.

VI. ALTERNATIVE DISPUTE RESOLUTION IN INTELLECTUAL PROPERTY

A. The Case for ADR in IPR Disputes

Due to the drawbacks of litigation, a strong turn to alternative dispute resolution (ADR) methods for settling intellectual property (IP) disputes has emerged. The International Chamber of Commerce (ICC), the American Arbitration Association (AAA), and most importantly the WIPO Arbitration and Mediation Centre have formulated specialised rules and set up institutional arrangements that address the unique features of IP disputes.¹¹ The plus points of ADR are privacy, control of the process by the parties quickness cost-effectiveness, impartiality of the forum, and the

¹⁰ Controller General of Patents, Designs & Trade Marks, Ministry of Commerce and Industry, Government of India, <https://ipindia.gov.in> (last visited Jan. 15, 2026).

¹¹ WIPO Arbitration and Mediation Centre, WIPO Arbitration Rules (2020), <https://www.wipo.int/amc/en/arbitration/rules>.

option of having decision-makers who are experts in the field which are extremely relevant in the IP scenario.

Confidentiality is arguably the most instantly beneficial feature. Usually, IP disputes require revealing commercially sensitive technical information, business secrets, and documents related to strategic planning. If the court proceedings are public, such information becomes available to competitors. On the other hand, arbitration proceedings are confidential by nature as per most institutional rules, and also the arbitral award is not required to be disclosed to the public.

B. Arbitration of IP Disputes

In arbitration submission of a conflict to one or more sole arbitrators, whose decision (the "award") is final and binding it has become very popular as a mode of resolving IP disputes however reservations about the arbitrability of these types of disputes still exist in some cases. The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 to which over 170 states are parties,¹² gives a very close to universal basis for enforcing arbitral awards internationally, a very important benefit as compared to the court judgments whose cross-border recognition still remains a big question.

Whether IP disputes can be submitted to arbitration is a very complex matter. Typically, disputes related to the contractual use of intellectual property, e.g. licenses payment of royalties, breach of license terms, valuation of IP in mergers and acquisitions, can be subjected to arbitration without any doubt. Things become more difficult when disputes pertain to the validity of intellectual property which traditionally, have been seen as matters of public law that only sovereign states can decide.¹³ Nevertheless, the practice of most important arbitral jurisdictions including the United States, Switzerland, and Singapore decisions has been in favour of accepting arbitrability of IP validity issues, at least as between the parties, without

¹² Convention on the Recognition and Enforcement of Foreign Arbitral Awards, June 10, 1958, 21 U.S.T. 2517, 330 U.N.T.S. 38 [hereinafter New York Convention]

¹³ Thomas D. Halket, *Arbitration of Intellectual Property Disputes in the United States: Past, Present, and Future*, 35 *Arb. Int'l* 183, 185–90 (2019).

abandoning the idea that arbitral rulings of invalidity are only binding inter partes and do not result in a public revocation of the right.

The WIPO Arbitration and Mediation Centre has created special arbitration rules dedicated to IP disputes. The rules include things like the possibility to appoint arbitrators with technical knowledge, to have fast procedures and to take interim measures. Furthermore, the Centre is the administrator of the Expedited Arbitration procedure as well as the Expert Determination procedure. The Expert Determination procedure is for the resolution of certain factual issues, e.g. patent claim interpretation or software audit findings, by a single technical expert with a binding decision.

C. Mediation and Conciliation

Mediation is a process that is consensual, non-binding, and involves a third party (the mediator) who is neutral and helps the parties in dispute to reach a settlement by negotiation. It is being used more and more in IP disputes, especially where the parties have a commercial relationship that they want to continue.¹⁴ Different from arbitration, in mediation no third party makes a decision that the parties have to follow; the mediator only helps the parties to talk, find out what each really wants, and come up with different ways to reach a settlement. The end result is a settlement agreement that is binding as a contract, in addition to which it may be enforced in the signatory states of the Singapore Convention on Mediation, 2019.

As for licensing disputes in IP, mediation is an excellent way to handle the issues, work out standard-setting disagreements, and negotiate co-existence between marked owners. The WIPO Centre provides mediation services as a single service and also run mediation-arbitration (med-arb) procedures that make it possible for parties to first mediate and if it does not work, then within the same institutional set up to have arbitration that is binding including keeping the proceedings confidential and avoiding going over the same issue twice.

D. Expert Determination

¹⁴ Liz Tippet, *Intellectual Property Mediation: Theory and Practice*, 23 *Harv. Negot. L. Rev.* 1, 8–14 (2018).

Expert determination whether binding or non-binding is widely used for resolving technical disputes in the IP sector, for example, disputes regarding patent claim construction, determining a FRAND (fair, reasonable, and non-discriminatory) royalty rate for standard-essential patents, software audit findings, and valuation of IP assets for licensing or tax purposes. The expert's determination is generally binding on the parties contractually, although manifest error clauses may permit a limited review by an arbitral tribunal or court.

VII. THE INTERNATIONAL DIMENSION: TRIPS, WTO, AND WIPO

A. The TRIPS Agreement and Enforcement Obligations

The Agreement on Trade-Related Aspects of Intellectual Property Rights, also known as TRIPS, was an outcome of the Uruguay Round in 1994 and it is the foundation of the global IPR enforcement system.¹⁵ Through TRIPS, the WTO Members are not only required to adopt the minimum substantive standards of protection for IP, but also to fulfil their enforcement obligations which are crucial. Part III of TRIPS (Articles 41-61) mandates Members to make available civil, administrative and criminal procedures, which are effective, lead to the result quickly and protect IP rights, through enforcement, including provisional measures injunctions damages, and border measures.

Article 41 of TRIPS sets the fundamental requirement: enforcement procedures of Members must allow effective action against infringement, including quick remedies to stop infringement as well as remedies that serve as deterrents. The provisions for civil and administrative procedures and remedies are covered by Articles 42 to 49; Articles 50 to 52 deal with provisional measures and border measures; and Articles 60 and 61 specify criminal procedures and penalties for the wilful trademark counterfeiting and copyright piracy on a commercial scale.¹⁶

¹⁵ TRIPS Agreement pmb. (recognising that intellectual property rights are private rights and that domestic policies and legislation must support the objectives of public policy).

¹⁶ TRIPS Agreement arts. 41-61.

The WTO's Dispute Settlement Body (DSB), which functions through the Dispute Settlement Understanding (DSU), has the authority to decide inter-state disputes related to TRIPS compliance.¹⁷ Important TRIPS disputes to date are, for example, *United States v. India (Patent Protection for Pharmaceutical and Agricultural Chemical Products)*,¹⁸ *European Communities v. United States (Section 110(5) of the US Copyright Act)*,¹⁹ and *China Measures Affecting the Protection and Enforcement of Intellectual Property Rights*.²⁰ Decisions by the WTO panel and Appellate Body on these and later disputes have greatly influenced how TRIPS obligations are understood however the stoppage of the Appellate Body since 2019 has caused great doubt about the WTO dispute settlement system in general.

B. The WIPO Arbitration and Mediation Centre

The WIPO Arbitration and Mediation Centre is a part of the World Intellectual Property Organization based in Geneva that is dedicated to providing a specialised institutional framework for resolution of private IP disputes through ADR.²¹ The four main procedures administered by the Centre are mediation arbitration expedited arbitration, and expert determination, which are all governed by the WIPO Mediation Rules and WIPO Arbitration Rules (revised in 2020).

The degree of the Centre's knowledge in IP procedural design is clear from the special features of its rules: the provision of technically qualified arbitrators selected from its roster of IP experts; the ability to handle technically complex evidence; provisions for interim measures including the preservation of the evidence and the suspension of the IPO proceedings; and the rules on the relationship between arbitration and the parallel

¹⁷ Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 U.N.T.S. 401 [hereinafter DSU].

¹⁸ Panel Report, *India – Patent Protection for Pharmaceutical and Agricultural Chemical Products*, WTO Doc. WT/DS50/R (Sept. 5, 1997).

¹⁹ Panel Report, *United States – Section 110(5) of the US Copyright Act*, WTO Doc. WT/DS160/R (June 15, 2000).

²⁰ Panel Report, *China – Measures Affecting the Protection and Enforcement of Intellectual Property Rights*, WTO Doc. WT/DS362/R (Jan. 26, 2009).

²¹ WIPO Arbitration and Mediation Centre, History and Background, <https://www.wipo.int/amc/en/center/background.html> (last visited Jan. 15, 2026).

court or IP office proceedings. Over the last 25 years, the Centre has overseen thousands of cases worldwide, and it is regarded as the leading forum for international IP arbitration and mediation.

C. The Uniform Domain Name Dispute Resolution Policy (UDRP)

The Uniform Domain Name Dispute Resolution Policy (UDRP) developed by the Internet Corporation for Assigned Names and Numbers (ICANN), following a recommendation from WIPO in 1999, is one of the most prolific and triumphal specialised ADR mechanisms in the IP sphere.²² The UDRP offers a compulsory, contractual dispute resolution tool for complainants asserting that a domain name registration is a violation of their trademark rights on the assertion that: (a) the domain name is the same or confusingly similar to the complainant's trademark; (b) the respondent has no legitimate interests concerning the domain name; and (c) the domain name has been registered and is being used in bad faith.

UDRP cases are handled by accredited dispute resolution service providers, primarily WIPO, the Czech Arbitration Court (CAC), and the Forum (formerly NAF). They are entirely conducted in writing, without any physical hearings. Decisions are usually made within 60 days after the filing. The only remedies available are the cancellation or transfer of the domain name; damages are not provided. Since the adoption of the Policy, there have been over 50,000 cases decided under UDRP, resulting in a considerable collection of administrative jurisprudence on domain name disputes.²³

D. The Singapore Convention and Cross-Border IP Settlements

The United Nations Convention on International Settlement Agreements Resulting from Mediation (the "Singapore Convention"), which was first open for signature in 2019, offers a multilateral system for enforcing mediated settlement agreements across

²² Internet Corporation for Assigned Names and Numbers (ICANN), Uniform Domain-Name Dispute-Resolution Policy (Oct. 24, 1999),

<https://www.icann.org/resources/pages/help/dndr/udrp-en>.

²³ WIPO, WIPO Domain Name Cases Reach New Record in 2024,

https://www.wipo.int/pressroom/en/articles/2025/article_0002.html (last visited Jan. 15, 2026).

borders.²⁴ Although it mainly targets commercial disputes in general, the Convention nevertheless affects IP disputes quite heavily: a mediation settlement of an IP licensing or co-existence dispute between parties of different signatory countries can be enforced in any of those countries without having to be turned into a court judgment or arbitral award. By 2026, the Convention will be signed by over 50 countries and steadily changing the international enforceability of IP mediation results.

VIII. THE INDIAN FRAMEWORK FOR IPR DISPUTE RESOLUTION

A. Legislative and Institutional Architecture

India's IPR dispute resolution system has evolved through a number of legislative measures like the Patents Act, 1970 (as amended),²⁵ the Trade Marks Act, 1999,²⁶ the Copyright Act, 1957 (as amended),²⁷ the Geographical Indications of Goods (Registration and Protection) Act, 1999,²⁸ the Designs Act, 2000,²⁹ and the Protection of Plant Varieties and Farmers' Rights Act, 2001³⁰ and a judiciary set up to implement them.

The Intellectual Property Appellate Board (IPAB), set up under the Trade Marks Act, 1999, and which shortly thereafter added patents, geographical indications, and plant varieties to its jurisdiction, functioned as the principal appellate body for IP issues below the High Court level in India for nearly two decades. However, after a long period of vacancies and institutional dysfunction, the IPAB was done away with by the Tribunals Reforms Act, 2021,³¹ and its appellate jurisdiction was handed over to the respective High Courts. This abolition has been heavily criticised by IP

²⁴ United Nations Convention on International Settlement Agreements Resulting from Mediation, Aug. 7, 2019, U.N. Doc. A/73/17 [hereinafter Singapore Convention].

²⁵ The Patents Act, 1970, No. 39, Acts of Parliament, 1970 (India) (as amended by the Patents (Amendment) Act, 2005).

²⁶ The Trade Marks Act, 1999, No. 47, Acts of Parliament, 1999 (India).

²⁷ The Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India) (as amended by the Copyright (Amendment) Act, 2012).

²⁸ The Geographical Indications of Goods (Registration and Protection) Act, 1999, No. 48, Acts of Parliament, 1999 (India).

²⁹ The Designs Act, 2000, No. 16, Acts of Parliament, 2000 (India).

³⁰ The Protection of Plant Varieties and Farmers' Rights Act, 2001, No. 53, Acts of Parliament, 2001 (India).

³¹ The Tribunals Reforms Act, 2021, No. 33, Acts of Parliament, 2021 (India), § 4.

practitioners who argue that the already heavily loaded High Courts are being burdened with specialised IP appeals and that the IPAB's institutional expertise is being lost.

Business conflicts that are, IP conflicts that are of higher value than the threshold are decided under the Commercial Courts Act 2015 that set up exclusive commercial courts at the district level and commercial divisions in High Courts, with a requirement to speed up trials. DHC, Bombay HC, and Madras HC are extremely busy in patent, trademark, and copyright litigation and have accumulated a vast amount of IP case law through the years.

B. Compulsory Licensing and Section 3(d) Disputes

India's patent regime incorporates important safeguards against the practice of patent evergreening. Section 3(d) of the Patents Act, 1970 excludes from patentability the mere discovery of a new form of a known substance unless the applicant demonstrates a significant enhancement in the efficacy of the known substance.³² This provision received authoritative interpretation in the landmark decision of *Novartis AG v. Union of India*,³³ where the Supreme Court declined to grant patent protection for the beta-crystalline form of imatinib mesylate (Glivec) on the ground that the applicant had failed to establish enhanced therapeutic efficacy.

The judgment has been widely regarded as a significant affirmation of India's public-health-oriented patent policy and has generated substantial debate within the pharmaceutical industry regarding the scope of patent protection for incremental innovations. At the same time, public health advocates have welcomed the decision for promoting access to affordable medicines. The ruling has also emerged as an influential reference point in international discussions concerning the balance between intellectual property protection, pharmaceutical innovation, and public health objectives.

³² The Patents Act, 1970 § 3(d) (India).

³³ *Novartis AG v. Union of India*, (2013) 6 SCC 1 (India).

India's approach to compulsory licensing must also be understood in light of the WTO Declaration on the TRIPS Agreement and Public Health (Doha Declaration) adopted in 2001. The Declaration clarified that the TRIPS Agreement should be interpreted and implemented in a manner supportive of WTO Members' right to protect public health and, in particular, to promote access to medicines for all. It expressly affirmed the authority of Member States to grant compulsory licences and determine the grounds upon which such licences may be issued.

The Doha Declaration has consequently provided important international legal legitimacy for public-health-oriented patent policies adopted by developing countries, including India.³⁴ The principles articulated in the Declaration have significantly influenced debates concerning pharmaceutical patent protection, compulsory licensing, and access to essential medicines, and they provide an important normative context for understanding decisions such as *Novartis AG v. Union of India* and the compulsory licence granted in *Natco Pharma Ltd. v. Bayer Corporation*.

India's compulsory licensing provisions through Chapter XVI of the Patents Act, 1970 enable third parties to be licensed even over the patentee's objection, inter alia, on grounds of unreasonable pricing, insufficient working in India and fulfilment of public health needs. The grant of India's first compulsory licence in *Natco Pharma Ltd. v. Bayer Corporation*³⁵ by the Controller of Patents on 9 March 2012, subsequently upheld by the Intellectual Property Appellate Board and affirmed by the Bombay High Court, concerned the patented anti-cancer drug sorafenib tosylate (Nexavar). The decision is widely regarded as a landmark development in the intersection of intellectual property rights, public health, and access to medicines.

C. ADR and IP Disputes in India

³⁴ WTO, Declaration on the TRIPS Agreement and Public Health (Doha Declaration), WT/MIN(01)/DEC/2 (adopted 14 November 2001).

³⁵ *Natco Pharma Ltd. v. Bayer Corporation* (Controller of Patents, India, Mar. 9, 2012); *Bayer Corporation v. Natco Pharma Ltd.*, Order No. 45/2013 (Intellectual Property Appellate Board, Mar. 4, 2013), *aff'd*, (2013) 56 PTC 232 (IPAB).

The Arbitration and Conciliation Act, 1996 that was amended by the Arbitration and Conciliation (Amendment) Acts of 2015 and 2019,³⁶ is the main law regulating domestic and international commercial arbitration in India. The Supreme Court of India, in *Vidya Drolia v. Durga Trading Corporation*,³⁷ has explained the arbitrability of IP disputes in India through a four-fold test for non-arbitrability. It also stated that patent and trademark disputes resulting from a contractual relationship are generally arbitrable, whereas public law elements such as the validity of a patent being challenged by anyone in the world may not be arbitrable.

Some of the cases handled by the WIPO Arbitration and Mediation Centre involved Indian parties from different sectors such as patent licensing, software copyright, and domain name disputes. The National Internet Exchange of India (NIXI) is responsible for the .IN Domain Dispute Resolution Policy (INDRP), which is based on the UDRP, to resolve disputes concerning .in country code top-level domain names.³⁸ India signed the Singapore Convention in 2019 however it has not yet ratified the Convention. Hence, there are still open issues regarding the enforcement of cross-border IP mediated settlements in Indian courts.

IX. EMERGING CHALLENGES AND REFORM PROPOSALS

A. Artificial Intelligence and IP Dispute Resolution

Rapid progress in artificial intelligence raises very significant issues not only for the content of intellectual property law but also for the ways in which IP disputes are settled. Generative AI systems that can create text images music, and code on a large scale have led to a worldwide surge in copyright lawsuits. A number of cases in US courts like *Authors Guild v. OpenAI*,³⁹ *Getty Images v. Stability AI*,⁴⁰ and *Concord Music Group, Inc. et al. v. Anthropic PBC*⁴¹ among others, have raised fundamental

³⁶ The Arbitration and Conciliation Act, 1996, No. 26, Acts of Parliament, 1996 (India).

³⁷ *Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1 (India).

³⁸ National Internet Exchange of India (NIXI), .IN Domain Dispute Resolution Policy (INDRP), <https://registry.in/Policies/INDRP> (last visited Jan. 15, 2026).

³⁹ *Authors Guild et al. v. OpenAI Inc. et al.*, No. 1:23-cv-08292 (S.D.N.Y. filed Sept. 19, 2023).

⁴⁰ *Getty Images (US), Inc. v. Stability AI, Ltd.*, No. 23-cv-00135 (D. Del. filed Feb. 3, 2023).

⁴¹ *Concord Music Group, Inc. et al. v. Anthropic PBC*, No. 3:23-cv-01092 (M.D. Tenn. filed Oct. 18, 2023).

questions regarding whether the use of copyrighted works for AI training constitutes copyright infringement and whether AI-generated outputs may infringe the rights of copyright holders whose works were used in the training process.

Besides, there are also certain procedural aspects in AI-related intellectual property disputes that bring about new issues. Divulging training datasets that may consist of hundreds of billions of data points, may cause proportionality issues during the discovery phase. Black-box nature of deep learning models makes it difficult to identify copying, ascertain access, and prove substantial similarity. Besides, the highly international nature of AI mainly locating training servers, developers, and users in different countries makes it impossible for a single national court to provide a comprehensive forum. In fact, specialised alternative dispute resolution processes with technically knowledgeable arbitrators and confidentiality safeguards might present certain benefits in such cases if national laws and courts grant that questions of arbitrability of copyright infringement by AI systems.

B. Standard-Essential Patents and FRAND Disputes

Standard-essential patents (SEPs) patents covering technologies that are essential for implementing industry standards such as 4G/LTE, 5G, Wi-Fi, and Bluetooth have indeed attracted global IP dispute resolution. SEP holders are required to license these patents on FRAND (fair, reasonable, and non-discriminatory) terms as a prerequisite for joining standards-setting organisations (SSOs), however the issue of what a FRAND royalty rate has remained a contentious one, resulting in parallel litigations in various jurisdictions.⁴²

The surge of parallel and conflicting FRAND rulings by courts in different countries, especially in the UK, Germany, China, and the US has underlined the urgent necessity for an internationally unified method of FRAND arbitration. The WIPO Centre and several other organisations have set up FRAND-specific arbitration processes, while

⁴² *Ericsson v. D-Link Systems, Inc.*, 773 F.3d 1201, 1229 (Fed. Cir. 2014) (discussing FRAND royalty determination methodologies for standard-essential patents).

the EU's draft Regulation on SEPs references a compulsory alternative dispute resolution (ADR) stage prior to court infringements actions by SEP holders.

Besides, the intertwining of SEP contentions, telecom infrastructures, and tensions between the United States and China on one hand, and geopolitics on the other hand, further complicate the situation.

C. Digital Piracy, Platform Liability, and Notice-and-Takedown

The magnitude of online copyright piracy through peer-to-peer networks, streaming platforms, cyberlocker services, and social media has overwhelmed the ability of both litigation and ADR to deal with IP related disputes at the individual level efficiently. Notice and takedown mechanisms under the Digital Millennium Copyright Act (DMCA) in the US⁴³ and Directive on Copyright in the Digital Single Market (DSM Directive)⁴⁴ in the EU have set up automated procedures for the elimination of illicit content, but these mechanisms have a high level of under-removal (platforms have a slow reaction) and over-removal (mistaken takedowns of legitimate content, including political speech, parody, and news reporting) at the same time.

Some new ideas for solving platform-level IP disputes are mandatory ADR for counter-notices to takedown requests, redress mechanisms for creators affected by algorithmic content moderation, and the establishment of standard contractual rights for digital creators on online platforms. Very large online platforms are required by the EU Digital Services Act, which became applicable to Very Large Online Platforms (VLOPs) and Very Large Online Search Engines (VLOSEs) on 25 August 2023 (and to other online platforms and intermediary services from 17 February 2024), to maintain internal complaint-handling systems and provide access to certified out-of-court dispute resolution mechanisms for content moderation decisions. This development represents a new form of quasi-regulatory dispute resolution with significant

⁴³ Digital Millennium Copyright Act, Pub. L. No. 105-304, 112 Stat. 2860 (1998) (codified as amended in scattered sections of 17 U.S.C.) [hereinafter DMCA].

⁴⁴ Directive 2019/790 of the European Parliament and of the Council of 17 April 2019 on Copyright and Related Rights in the Digital Single Market, 2019 O.J. (L 130) 92 [hereinafter DSM Directive].

implications for copyright holders, trademark owners, digital creators, and online intermediaries.

D. SUGGESTIONS AND RECOMMENDATIONS

The above discussion has exposed a few major structural flaws in the worldwide system for IPR dispute resolution and has suggested the following changes.

To begin with, a binding international treaty that allows for the enforcement of arbitral awards and mediated settlements in IP disputes across multiple countries should be developed by the world community of nations. The treaty can be based on the frameworks of the New York Convention and the Singapore Convention and can be taken forward, for example, by WIPO. Such a treaty would help to overcome the present lack of enforcement of IP dispute resolution results in those countries that are not yet parties to these conventions.

Secondly, parliaments all over the world should make the law regarding which IP disputes, including questions of patent and trademark validity, are arbitrable clearer and less restrictive so that, at least inter partes, the full potential of international arbitration as a tool for resolving IP disputes quickly and confidentially can be realised. The Vidya Drolia judgment in India is a move towards this, but it might be taken further through the legislature.

Third, instead of just giving the jurisdiction of IP matters to ordinary courts, which hardly have the technical expertise for the effective adjudication of difficult IP cases, the specialised courts and tribunals for IP dispute resolution should be either revived or reformed. The example of the abolished IPAB in India, is quite telling in this context.

Fourthly, the WTO dispute settlement system is currently disabled due to the Appellate Body deadlock and should be overhauled in order to bring back the possibility of deciding on disputes relating to TRIPS compliance. The Multi-Party Interim Appeal Arbitration Arrangement (MPIA), which is a solution for parties willing to use it, should be made larger and the procedures should be tailored for

TRIPS cases that frequently have technical IP matters going beyond the expertise of generalist trade lawyers.

Fifth, ADR tools that are specifically made for small and medium-sized enterprises (SMEs), individual creators, and developing country entities, such as subsidised arbitration fee schedules, simple rules, and access to pro bono legal help, are vital if IP dispute resolution is not to become the exclusive domain of large companies with the means to pay for expensive international proceedings.

X. CONCLUSION

The overlap between intellectual property rights and dispute resolution is a really complicated and crucial issue. It is true that knowledge-based industries account for a significant portion of the world's economic output. At the same time, the digital technologies greatly enhance the generation of intellectual assets which also increases the risk of their infringement. Hence, the effectiveness of dispute resolution methods, such as national and international courts, or even alternative dispute resolution, will increasingly decide if intellectual property law is successful in promoting innovation, creativity, and fair competition.

This study has followed the development of IPR dispute resolution starting from the establishment of domestic patent and trademark courts, the rise of specialized administrative proceedings, the establishment of the TRIPS enforcement framework, WTO state-to-state dispute settlement, and the very dynamic ADR services based on the WIPO Arbitration and Mediation Centre. It discussed the procedural and substantive issues of IP arbitration and mediation, the key principles of patent invalidity arbitrability, FRAND royalty determination, domain name dispute resolution, and also looked at the Indian system with its distinctive provisions on compulsory licensing and Section 3(d). It also dealt with the cutting-edge challenges of AI-generated content, SEP proliferation, and digital platform liability.

In short, our major finding is that the current system although much more advanced and thorough compared to what existed a generation ago is still a patchwork, very expensive, and not very user-friendly. Significant changes to this system can only be made by working together internationally at the treaty level, clarifying by law what is

arbitrable at the national level, making institutions set up IP courts and ADR (alternative dispute resolution) bodies with specialised knowledge, and a long-term promise to IP dispute resolution benefits being accessible to the entire range of IP rights holders, from individual inventors and small businesses to the large corporations that dominate contemporary IP litigation.

Intellectual property, as a legal concept, is based on a social contract between the creator and society where the creator receives exclusive rights but in return, they reveal the invention, expand humanity's knowledge, and eventually allow the monopoly to revert to the public domain. The dispute resolution systems that protect or challenge those rights should be in keeping with that contract efficient fair knowledgeable, and accessible. This remains the major issue of international intellectual property law in the twenty-first century.

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