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REIMAGINING PATENT JUSTICE: TRANSFORMING INDIA'S INNOVATION DISPUTES THROUGH SPECIALIZED ADR

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I. ABSTRACT

The expansion of the innovation driven industries in India, particularly in the pharmaceuticals, biotechnology, telecommunications and standard essential patents (SEPs) which led to a significant rise in the complex patent disputes. While statutory remedies exist under the Patents Act, 1970 and through commercial courts, patent litigation in India continues to face structural challenges including prolonged timelines, high costs, technical intricacy and multi-jurisdictional enforcement concerns. Against this backdrop, Alternative Dispute Resolution (ADR) mechanisms such as arbitration, mediation frameworks are increasingly being considered as viable and innovation sensitive alternatives. This doctrinal paper critically examines whether the current ADR frameworks in India are institutionally and jurisprudentially equipped to handle the patent disputes effectively. It evaluates ADR through parameters of time efficiency, cost rationality, party autonomy, confidentiality, enforceability and preservation of commercial relationships. Particular attention is devoted to the doctrinal debate surrounding arbitrability, especially the distinction between right in rem (patent validity) and rights in personam (licensing, royalty, infringement settlements) and the evolving judicial approach in India. The research further undertakes a comparative study of the international institutional models, including the WIPO Arbitration & Mediation Center and administrative enforcement frameworks in jurisdictions such as China, Singapore, & The USA. By integrating comparative insights with domestic legal analysis, this paper assesses the feasibility of adapting specialized patent ADR mechanism within India's legal architecture. It concludes by proposing structured reforms aimed at institutional strengthening, expert driven adjudication, technology enabled dispute resolution to transform ADR from a peripheral

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alternative into a central pillar of patent governance.

II. KEYWORDS

Patent Arbitration, Intellectual Property, Arbitrability, WIPO ADR, Cross-Border Disputes, Doctrinal Analysis.

III. INTRODUCTION

Patent law is a fertile field for litigation because patent disputes frequently involve infringement claims, licensing disagreements, challenges to validity, royalty disputes and conflicts arising from technology-transfer arrangements. In many jurisdictions, such disputes are traditionally resolved through civil litigation, where the claimant initiates proceedings before the competent court and the matter continues through procedural stages until final adjudication. This general account serves as a background to the paper's India-focused inquiry, where patent litigation is examined in light of Indian statutory remedies, commercial courts and the growing need for specialised ADR mechanisms.

However, conventional patent litigation presents several structural challenges. While some of these issues are inherent in the broader judicial framework and affect civil litigation generally, they tend to be more acute in patent disputes because of technical complexity, high litigation costs, evidentiary burdens and delays. Any assessment of dispute resolution must therefore compare the advantages and limitations of litigation with available alternatives. Against this background, many shortcomings associated with patent litigation may be mitigated through Alternative Dispute Resolution mechanisms such as arbitration, mediation and expert determination.

A. Research Objectives

The present research is guided by the following objectives:

1. To examine whether India's existing ADR framework is institutionally and legally equipped to resolve patent disputes effectively.
2. To analyse the doctrinal limits of arbitrability in patent disputes, particularly the distinction between rights in rem and rights in personam.

3. To evaluate the effectiveness of ADR mechanisms in patent disputes on the basis of time efficiency, cost rationality, confidentiality, enforceability and technical expertise.
4. To undertake a comparative assessment of patent ADR frameworks in India, the United States, Singapore and China, and suggest reforms for strengthening specialised patent dispute resolution in India.

B. Research Questions

The present research seeks to address the following questions:

1. Whether India's existing ADR framework is institutionally and legally equipped to resolve patent disputes effectively?
2. To what extent does the distinction between rights in rem and rights in personam affect the arbitrability of patent disputes in India?
3. Whether ADR mechanisms such as arbitration and mediation can operate as a sufficient alternative or only as a complement to traditional patent litigation?
4. What comparative lessons can India draw from jurisdictions such as the United States, Singapore and China for developing a specialised patent ADR framework?

C. Research Methodology

This research adopts a doctrinal and comparative legal research methodology. The doctrinal component analyses relevant statutory provisions, judicial precedents and institutional materials concerning patent disputes, arbitration, mediation and enforceability of ADR outcomes. The comparative component examines India, the United States, Singapore and China, as these jurisdictions represent distinct models of patent dispute resolution: India's evolving ADR framework, the United States' statutory recognition of patent arbitration, Singapore's institutional IP-ADR model and China's administrative enforcement approach. The study relies on primary sources such as statutes, case law and international legal instruments, along with secondary sources including scholarly articles, WIPO materials, arbitration surveys and institutional reports.

IV. STRUCTURAL CHALLENGES IN PATENT

A. Lost Opportunities

The patent litigation process assigns "lost opportunity" to the category of lost profits which calculates the financial gains that a patent holder would have earned except for the patent violation. The Panduit test creates a legal obstacle because it demands that plaintiffs demonstrate their ability to produce what they needed to sell based on the demand which they experienced. The crowded markets that contain non-infringing alternatives make it hard to establish this "causal link" because defendants claim that customers would have purchased different products instead of the plaintiff's product.

The situation becomes more complicated when price erosion occurs because the patentee must show that the infringer's competitive activities forced them to decrease their prices, which created lost revenue from related unpatented products that generated lost profit. The permanent loss of market exclusivity can occur because procedural failures cause unintentional abandonment due to a legal agent's negligence. The landmark judgement *State Industries Inc. v. Mor Flo Industries*³ demonstrates how courts use the market share rule to estimate financial losses which occur when multiple competitors participate in a case. The main problem exists because patentees must provide proof which shows their theoretical earnings above 50% for the court to accept their claim.

B. Costs

The current litigation system imposes a substantial financial burden on parties in patent disputes, including discovery expenses, expert-witness fees, court costs and attorney charges. Empirical studies on intellectual property litigation costs, including the AIPLA Economic Survey, consistently recognise patent litigation as one of the most expensive forms of commercial litigation, with costs varying according to the amount in controversy and the procedural stage of the dispute. Discovery is a major contributor to these expenses, particularly in high-technology disputes where large

³ *State Industries, Inc. v. Mor-Flo Industries, Inc.*, 639 F. Supp. 937 (E.D. Tenn. 1986), *aff'd*, 883 F.2d 1573 (Fed. Cir. 1989)

volumes of technical documents, electronic records and confidential commercial materials must be collected, reviewed and analysed.

Another major factor contributing to the high expense of patent cases is their reliance on expert testimony. Patent disputes frequently require expert evidence on claim construction, infringement, validity, damages and technical operation of the disputed invention. Experts must devote substantial time to reviewing technical materials, preparing reports and assisting the court or tribunal in understanding specialised subject matter. Attorneys also incur additional time and cost because they must understand complex scientific or engineering material before effectively presenting the case. These factors make patent litigation financially demanding and strengthen the case for ADR mechanisms that can reduce procedural costs through focused disclosure, expert-led proceedings and flexible case management.

C. Lack of Technical Expertise Leading to Uneducated Verdicts

The existing system demonstrates an additional challenge which originates from the advanced technological systems that create fundamental conflicts between patent parties. The fact finder often has difficulty in understanding the basic technology behind the dispute, which can result in unfair outcomes.

A defendant in patent litigation faces major difficulties when their manufacturing process uses different methods to achieve identical results as a patented process. Even skilled lawyers face difficulties explaining scientific principles to judges or juries who lack technical knowledge because the differences require complex scientific understanding the complexity of patent adjudication requires decision-makers to engage closely with the technical contribution, inventive step and scientific substance of the claimed invention. Indian patent jurisprudence, including recent Delhi High Court commentary on technical advancement, demonstrates that insufficient appreciation of technical features may affect the quality and predictability of patent determinations. The absence of adequate technical understanding may therefore impair the court's ability to evaluate the real scientific controversy, particularly in high-stakes patent disputes.⁴

⁴ Technical Advancement Required to Secure Patent: Delhi High Court Affirms, Mondaq.com (2025)

D. Territorial Limitations

The issue of territorial limitation in patent litigation arises from the principle that patent rights are inherently territorial, meaning they are enforceable only within the jurisdiction in which they are granted. However, this principle becomes complex in the context of patent exhaustion, which provides that once a patented product is sold with the authorization of the patentee, the patent holder's control over that specific product is exhausted.⁵ The key question is whether such exhaustion is confined to the territory of sale or extends beyond it. Judicial precedents, beginning with *Adams v. Burke*, recognised that an authorised sale exhausts the patentee's control over the particular patented article sold. However, *Boesch v. Graff* introduced an important limitation in the international context by holding that a foreign sale not authorised by the U.S. patentee does not exhaust U.S. patent rights. The modern position was substantially clarified in *Impression Products, Inc. v. Lexmark International, Inc.*, where the U.S. Supreme Court held that an authorised sale of a patented product exhausts the patentee's U.S. patent rights in that item, whether the sale occurs domestically or abroad. Thus, under current U.S. law, territoriality does not prevent exhaustion where the foreign sale is authorised by the patentee; uncertainty remains principally where the foreign sale lacks such authorisation or where different jurisdictions apply different exhaustion rules.⁶

V. ADR IN PATENT DISPUTES: EFFECTIVENESS, SCOPE & LIMITATION

The increasing complexity of patent disputes in India, particularly in sectors such as pharmaceuticals, biotechnology, telecommunications and standard essential patents, has exposed multiple limitations in the traditional litigation system. Courts often face difficulties arising from technical intricacy, procedural delay and high costs. In this context, Alternative Dispute Resolution (ADR), including arbitration and mediation,

⁵ Derek F Dahlgren, *The Role of Territoriality in Patent Exhaustion*, IPWatchdog.com | Patents & Intellectual Property Law (2012)

⁶ Venkateswaran Pk & K Jameela, *Dispute Resolution Mechanisms in International Trade Law: A Comparative Analysis*, 1 *Anusandhanvallari* 1255 (2025)

has emerged as a viable mechanism for resolving commercially sensitive patent disputes.

At the international level, the World Intellectual Property Organisation (WIPO) plays a very crucial role in institutionalising ADR mechanism for Intellectual property disputes. The WIPO studies highlight that arbitration and mediation together offer significant advantages such as time efficiency, reduced cost, confidentiality and flexibility in the process. Unlike court proceedings, ADR allows parties to tailor dispute resolution process according to their needs, which is particularly useful in patent disputes involving commercially sensitive information and technical subject matter. Furthermore, WIPO emphasises that ADR is well suited for disputes arising out of licence agreement, technology transfer and cross border collaborations.⁷

In addition to general guidance, The WIPO, arbitration and mediation rules also provide a structured procedural framework that enhances the reliability and enforceability of ADR outcomes. These rules allow parties to appoint arbitrators with specific technical expertise, which is a major advantage over traditional courts where judges may lack subject matter specialisation. This is particularly important in patent disputes, where understanding scientific and technological aspect is essential for fair adjudication. Moreover, arbitrary awards are enforceable under the New York Convention making ADR especially effective in resolving the International Patent disputes.⁸

Current studies also support the growing preference for ADR mechanism in the IP disputes. The Queen Mary University and Whiten Case International Arbitration Survey (2021) indicates that businesses prefer arbitration due to its flexibility, enforceability and neutrality. The survey also shows that a significant percentage of commercial disputes are resolved via arbitration before reaching litigation, highlighting its practical effectiveness. This trend is particularly relevant in the patent

⁷ World Intellectual Property Organization, *Guide to WIPO Arbitration and Mediation*, WIPO (2018), https://www.wipo.int/edocs/pubdocs/en/wipo_pub_guide_adr.pdf

⁸ World Intellectual Property Organization, *WIPO Mediation, Arbitration, Expedited Arbitration and Expert Determination Rules and Clauses*, WIPO Pub. No. 446 (2021), <https://www.wipo.int/amc/en/arbitration/rules/>

disputes, where parties often seek faster and commercially viable solution rather than prolonged court battles.⁹

ADR also demonstrates particular strength in resolving disputes relating to Standard Essential Patents (SEPs) and FRAND licensing, particularly in the telecommunications sector. Indian SEP jurisprudence before the Delhi High Court, including disputes involving *Ericsson v. Intex* and *Nokia v. Oppo*, shows that SEP conflicts commonly involve complex questions of patent essentiality, implementer conduct, interim deposits, royalty determination and FRAND licensing obligations. These disputes illustrate that Indian courts are increasingly required to address technically complex and commercially sensitive SEP issues, thereby strengthening the case for specialised ADR mechanisms with expert neutrals. WIPO's guidance on SEP-related mediation and arbitration further supports the view that ADR may provide a unified and confidential forum for cross-border FRAND licensing conflicts, reducing the risk of parallel proceedings, inconsistent outcomes and increased litigation costs.¹⁰

From an Indian perspective, the need for ADR in patent disputes has become more pronounced due to judicial backlog, technical complexity and the commercial urgency of innovation disputes. This position is further strengthened by the Mediation Act, 2023, which provides a statutory framework for institutional mediation and recognises mediated settlement agreements as final and binding, enforceable in the same manner as a judgment or decree of a court. This development is directly relevant to patent licensing, royalty and technology-transfer disputes, where party autonomy, confidentiality and preservation of business relationships are especially important.¹¹

However, despite its advantages, ADR in patent disputes is not without limitations. One key challenge is the limited institutional specialisation available in India for

⁹ Queen Mary Univ. of London & White & Case LLP, *2021 International Arbitration Survey: Adapting Arbitration to a Changing World* (2021), https://www.arbitration.qmul.ac.uk/media/arbitration/docs/2021_International_Arbitration_Survey.pdf

¹⁰ World Intellectual Property Organization, *WIPO ADR for FRAND/SEP Disputes Workshop Report* (Nov. 2022), https://www.wipo.int/amc/en/docs/2022/medarb_workshop_nov.pdf

¹¹ National Law University Nagpur, *Alternative Dispute Resolution in Intellectual Property Law* (Dec. 2024), <https://www.nlnagpur.ac.in/PDF/Publications/CI-Dec-2024/5.%20ALTERNATIVE%20DISPUTE%20RESOLUTION%20IN%20INTELLECTUAL%20PROPERTY%20LAW.pdf>

technically complex patent matters. Although the Mediation Act, 2023 strengthens India's general mediation framework, India still lacks a dedicated patent ADR institution with trained technical neutrals, sector-specific procedural rules and specialised panels for biotechnology, pharmaceuticals, telecommunications and SEP-related disputes.¹²

Another limitation lies in the issue of enforceability and arbitrability, particularly when disputes involve patent validity. Since the patent rights are considered right in rem, certain aspect may fall outside the scope of arbitration, thus restricting the full application of ADR in the patent disputes. Additionally, there are limited awareness and adoption of ADR mechanisms among the stakeholders in India, which further reduces its practical effectiveness.

In nut-shell, ADR offers a highly effective mechanism for resolving the patent disputes, particularly in terms of efficiency, confidentiality & flexibility. It is especially valuable in cross-border disputes & licencing conflicts. However, its full potential in India remains under-utilised because of institutional gaps, lack of expertise and doctrinal limitations. Thus, while ADR can significantly complement traditional litigation, it cannot yet be considered a complete substitute. Strengthening the institutional frameworks, enhancing technical expertise and clarifying legal doctrines are essential steps toward transforming ADR into a central pillar of patent dispute resolution in India.

A. Evaluation of whether ADR is a sufficient alternative to patent litigation:

While ADR mechanisms, particularly arbitration and mediation, offer significant advantages in resolving patent disputes, they cannot yet be regarded as a wholly sufficient alternative to the traditional litigation. Arbitration provides enforceability, party autonomy and technical expertise. However, the scope remains limited where issues of patent validity classified as rights in rem are involved. Mediation, on the other hand has emerged as a highly effective tool in resolving licencing, royalty and SEP related disputes by preserving the commercial relationships and enabling flexible

¹² Akhilesh Kakade & Hrishikesh Rajeshrike, *Arbitrating IP Disputes in India: The Case for Institutional Mechanisms and Sectoral Expertise*, Int'l J. L. Mgmt. & Human. (Aug. 31, 2025), <https://ijlmh.com/wp-content/uploads/Arbitrating-IP-Disputes-in-India.pdf>

interest-based outcomes. WIPO data indicates a high settlement rate in mediation proceedings, reinforcing the practical utility in IP conflicts.¹³

However, the doctrinal limitation persists. As highlighted in multiple scholarly works on arbitrability, the rigid distinction between right in rem and right in personam restricts the full applicability of ADR in patent disputes.¹⁴ Additionally, the absence of specialised institution frameworks and trained neutrals in India further weakens its efficiency and sufficiency. Therefore, ADR currently operates as a complementary mechanism rather than a complete substitute for patent litigation.

B. Arbitrability of Patent Disputes: Rights in Rem v. Rights in Personam

The increasing reliance on Alternative dispute resolution (Adr) in patent disputes, as discussed in the above-mentioned section, brings to the forefront a critical doctrinal question, whether such disputes are legally arbitrable. While ADR mechanisms like arbitration and mediation offer efficiency, confidentiality and flexibility their applicability is constrained by the principle of arbitrability. In Indian jurisprudence, this issue is primarily examined through the distinction between rights in rem and rights in personam which continues to shape the scope of arbitration in the patent disputes.

The foundation of this distinction was laid down by the Supreme Court in *Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.*¹⁵ In this case the court held that disputes involving right in rem are generally not arbitrable, while those involving rights in personam can be resolved through arbitration. Right in rem are enforceable against the world at large, whereas right in personam binds only the parties to the dispute. Applying this principle to patent law, patent validity being a statutory monopoly granted by the state (government) is considered a right in rem and therefore falls outside the scope of arbitration. In contrast, disputes arising out of the license agreements, royalty payment or contractual obligation are classified as rights in personam and are considered arbitrable.

¹³ WIPO, *supra* note 1, at 1

¹⁴ Rajeev Kumar & Yogesh Pai, *Navigating Arbitrability of Patent Disputes in India*, 28 J. Intell. Prop. Rts. 35 (2023), <https://or.niscpr.res.in/index.php/JIPR/article/download/7292/4801/97554>

¹⁵ (2011) 5 SCC 532

This rigid classification, however, was revisited in *Vidya Drolia v. Durga Trading Corporation*, where the Supreme Court adopted a more nuanced test for arbitrability. The Court emphasised that arbitrability depends not merely on the nature of the right involved, but also on whether the dispute affects third-party rights, implicates sovereign or public functions, requires centralised adjudication, or is expressly or impliedly rendered non-arbitrable by statute.¹⁶ The court emphasized that arbitrability should be determined not merely on the nature of right, but also on factors such as public interest, nature of the dispute and whether the subject matter is capable of private adjudication. This judgement reflects a shift towards a more pragmatic approach. While opening the door for broader use of arbitration even in complex commercial disputes.

Despite this evolution significant doctrinal Challenges Remain in the context of patent disputes. As highlighted in above studies, the traditional *rem-personam* distinction fails to adequately address the hybrid nature of modern patent conflict. This doctrinal limitation directly impacts the effectiveness of the ADR mechanism as discussed in the section 2, as the inability to arbitrate certain patent dispute restricts ADR from becoming a fully sufficient alternative to litigation. Consequently, ADR continues to function as a complimentary mechanism rather than a complete substitute in the Indian patent regime. The scholarly discourse on the patent arbitrarily argues that such rigid classification are increasingly inadequate in dealing with contemporary IP disputes, which are deeply intertwined with commercial and technological consideration.¹⁷

The traditional classification of disputes into rights in *rem* and rights in *personam* fails to accommodate the hybrid and commercially driven nature of modern patent conflicts. This limitation becomes particularly evident in sectors like telecommunication and pharmaceuticals where disputes over standard essential patents (SEPs) involve both contractual obligations and broader public interest consideration. In such cases, restricting arbitration solely based on the *rem-personam* distinction undermines the efficiency and practicability of ADR mechanisms.

¹⁶*Vidya Drolia v. Durga Trading Corporation*, (2021) 2 SCC 1.

¹⁷ Kumar & Pai, *supra* note 1, at 3

Further doctrinal analysis suggests that international practises are gradually moving towards a more flexible approach. Studies suggest that on arbitrability of intellectual property disputes notes that many jurisdictions allow arbitration of patent-related disputes, particularly where the dispute is contractual in nature even if it has incidental implications on validity.¹⁸ Similarly, other studies also highlight that while patent validity may remain non-arbitrable, other aspects such as infringement settlements and licencing disputes are increasingly being resolved via arbitration, thereby expanding its practical scope.¹⁹

The UNCITRAL Model Law On international commercial arbitration also supports a pro-arbitration approach by promoting minimal judicial intervention and recognising party autonomy in determining dispute resolution mechanisms. This global trend indicates a gradual shift towards accommodating complex commercial disputes within framework of arbitration provided that core public rights are not directly adjudicated by the private tribunals.²⁰

From an Indian perspective however the absence of clear legislative guidance on arbitrability of patent disputes create uncertainty. Courts continue to rely on judicial precedent, which although evolving still adhere to traditional doctrinal boundaries. This lack of clarity not only restricts the use of arbitration but also discourages parties from going and opting for ADR mechanisms in patent disputes.

In conclusion, while arbitration holds significant potential in resolving patent disputes, its scope remains constrained by doctrinal limitations of arbitrability. The rem-personam distinction though foundational, is increasingly inadequate in addressing the complexities of modern patent conflicts. A more flexible and context-based approach is required to the one that recognises the hybrid nature of such disputes and allows arbitration in commercially driven matters while preserving the role of courts

¹⁸ Sakshi Sharma, *Arbitrability of Intellectual Property Disputes*, Indian J. L. & Legal Stud. (2022), <https://www.ijlsi.com/wp-content/uploads/Arbitrability-of-Intellectual-Property-Disputes.pdf>

¹⁹ Anjali Verma, *ADR and Arbitrability of Patent Disputes*, 8 Int'l J. Novel Res. & Dev. (2023), <https://www.ijnrd.org/papers/IJNRD2305680.pdf>

²⁰ United Nations Commission on International Trade Law, *UNCITRAL Model Law on International Commercial Arbitration* (1985), amended 2006, https://uncitral.un.org/sites/uncitral.un.org/files/media-documents/uncitral/en/19-09955_e_ebook.pdf

in determining issues of public importance. Revisiting the rigid *rem* and *personam* dichotomy & adopting a context-based approach is essential to align arbitration law with realities of modern patent disputes.

VI. COMPARATIVE STUDY OF ALTERNATIVE DISPUTE RESOLUTION MECHANISMS IN PATENT LITIGATION: LEGAL FRAMEWORKS IN INDIA, THE USA, SINGAPORE, AND CHINA, AND OUTLOOK FOR THE FUTURE

The limitations of conventional litigation systems across jurisdictions have been revealed by the growing complexity of patent disputes, especially in technology-driven and pharmaceutical industries. Patent litigation is less appropriate for settling extremely technical and commercially sensitive disputes because it is frequently expensive, time-consuming, and procedurally strict.²¹ Alternative Dispute Resolution (ADR) procedures like expert determination, arbitration, mediation, and conciliation have become viable substitutes in response. Because of their adaptability, confidentiality, and capacity to include subject-matter experts, these mechanisms are especially pertinent in patent disputes.²²

A. Legal Framework in India

In India, ADR is governed principally by the Arbitration and Conciliation Act, 1996, along with the more recent Mediation Act, 2023. Arbitration is widely accepted in commercial disputes, but its use in patent matters remains constrained by the doctrinal distinction between rights in *rem* and rights in *personam*. Questions concerning patent validity, being matters with public and statutory effect, are generally treated as non-arbitrable, whereas disputes concerning licensing agreements, royalty payments, technology transfer, infringement settlements and contractual obligations are more suitable for private adjudication through arbitration or mediation.²³

²¹ Aakruti Adwani, ADR (Alternative Dispute Resolution) in Intellectual Property Disputes: Trends and Challenges, 45 *Tuijin Jishu*/Journal of Propulsion Technology 4847 (2024)

²² Bao Tran, The Role of Mediation and Arbitration in Patent Disputes: A Comparative Study, PatentPC (2026)

²³ Chaswal, Sanjeev, An Emerging Trend - ADR Mechanism in IPR Conflicts (July 20, 2010).

The Mediation Act, 2023 is a significant statutory development because it promotes institutional mediation for commercial and other disputes, recognises mediated settlement agreements, and makes such agreements enforceable in the same manner as a judgment or decree of a court. This is particularly relevant for patent licensing and royalty disputes, where confidentiality, party autonomy and preservation of commercial relationships are central concerns. Similarly, the India International Arbitration Centre Act, 2019 establishes the India International Arbitration Centre as an institution of national importance and reflects India's broader move toward institutional arbitration.

Therefore, it would be inaccurate to state that India lacks ADR infrastructure altogether. Rather, the more precise concern is that India lacks a dedicated patent-specific ADR framework with specialised rules, technical neutrals and institutional panels for complex sectors such as pharmaceuticals, biotechnology, telecommunications and standard essential patents. While recent legislative and institutional developments indicate progress, the absence of patent-focused expertise and clear arbitrability guidance continues to limit the effective use of ADR in Indian patent disputes

B. Legal Framework in the United States

The United States has a comparatively clearer statutory framework for ADR in patent cases. Under 35 U.S.C. § 294, parties may agree to arbitrate disputes arising under a contract involving a patent or any right under a patent, including disputes relating to patent validity or infringement. However, such arbitral awards are generally binding only between the parties, thereby preserving the public effect of patent validity determinations for courts and other competent authorities. The U.S. system strongly supports arbitration, especially in patent disputes between businesses, and courts usually uphold arbitration agreements.²⁴

Also, mediation is very common in U.S. patent lawsuits, and courts often suggest it

²⁴ Arbitrability of International IP disputes Global Arbitration Review, <https://globalarbitrationreview.com/guide/the-guide-ip-arbitration/third-edition/article/arbitrability-of-international-ip-disputes> (last visited Mar 23, 2026)

to help settle the case quickly. The U.S. approach is a practical compromise that lets people use ADR for private disputes but keeps the courts in charge of things like patent validity. The widespread use of ADR in patent disputes is due in part to the clear legal framework and enforcement mechanisms.

C. Legal Framework in Singapore

Singapore has developed into a significant centre for ADR in intellectual property and technology disputes because of its institutional support, specialist procedures and international enforcement orientation. The Intellectual Property Office of Singapore (IPOS) and the WIPO Arbitration and Mediation Center have collaborated to promote mediation and expert determination for IP disputes, including patent proceedings pending before IPOS. WIPO materials further indicate that the WIPO Center has developed a mediation option for trademark, patent, industrial design and geographical indication proceedings, along with an expert determination option for patent proceedings before IPOS.

The Singapore framework is also supported by broader mediation infrastructure, including the Singapore Convention on Mediation, which facilitates cross-border enforceability of international mediated settlement agreements. This makes Singapore attractive for patent and technology disputes involving multiple jurisdictions, particularly where parties require confidentiality, technical expertise and enforceable outcomes. Accordingly, Singapore offers a useful institutional model for India in designing a specialised patent-ADR framework.

D. Legal Framework in China

China presents a distinct patent-dispute model through its dual-track system, combining judicial litigation with administrative enforcement and adjudication. Under Article 70 of the Patent Law of the People's Republic of China, the patent administration department under the State Council may deal with patent infringement disputes having major nationwide impact at the request of a patentee or interested party. CNIPA has also reported its acceptance and conclusion of administrative adjudication cases concerning major patent infringement disputes, including disputes involving telecommunications and SEPs.

This administrative model may offer speed, technical familiarity and procedural economy, particularly in infringement disputes. However, compared with court litigation or internationally administered arbitration, administrative adjudication may raise concerns regarding transparency, consistency and cross-border enforceability. China's model is therefore useful for comparative purposes because it shows how specialised administrative capacity can complement courts, even though it does not fully substitute for independent arbitration or mediation in complex cross-border patent disputes.

E. Comparative Analysis

A comparative analysis of these jurisdictions reveals that patent ADR develops most effectively where legal clarity is combined with institutional specialisation. The United States provides statutory recognition of patent arbitration through 35 U.S.C. § 294, while Singapore demonstrates the value of institutional collaboration between IPOS and WIPO for mediation and expert determination in IP matters. China, by contrast, illustrates a specialised administrative model in which CNIPA may handle major patent infringement disputes under Article 70 of the Chinese Patent Law. India has made important progress through the Arbitration and Conciliation Act, 1996, the Mediation Act, 2023 and the India International Arbitration Centre, but it still lacks a dedicated patent-specific ADR framework with trained technical neutrals and sectoral procedures.

Across these jurisdictions, ADR is valued for speed, cost efficiency, confidentiality, flexibility and the ability to appoint technically qualified decision-makers. However, the comparative study also shows that ADR cannot function effectively merely through general arbitration or mediation statutes. Patent disputes require specialised institutional design, clear rules on arbitrability, enforceable outcomes and expert participation. India's reform priority should therefore be to move from general ADR capacity toward patent-focused ADR infrastructure, drawing selectively from Singapore's institutional model and China's specialised administrative experience while preserving judicial control over patent validity and public rights.

VII. SUGGESTIONS AND RECOMMENDATION

To strengthen the use of ADR in patent disputes, India should adopt a specialised and institutionally supported patent-ADR framework.

1. First, legislative or judicial clarification is required to distinguish non-arbitrable questions of patent validity from arbitrable disputes concerning licensing, royalty payments, technology transfer, infringement settlements and FRAND obligations.
2. Secondly, India should establish specialised patent-ADR panels consisting of legally trained arbitrators, mediators and technical experts from sectors such as pharmaceuticals, biotechnology, telecommunications and standard essential patents.
3. Thirdly, patent licensing and technology-transfer agreements should incorporate model arbitration and mediation clauses, preferably referring disputes to specialised institutional forums.
4. Fourthly, institutional mediation under the Mediation Act, 2023 should be promoted for commercially sensitive patent disputes, particularly where confidentiality and preservation of business relationships are important.
5. Finally, Online Dispute Resolution, AI-assisted case management and expert determination may be integrated into patent ADR procedures to reduce delay, cost and procedural complexity.

These reforms would allow ADR to function as a structured and reliable complement to patent litigation in India.

VIII. CONCLUSION

ADR represents a transformative approach to resolving patent disputes, offering significant advantages over traditional litigation. Its ability to provide faster, cost-effective, confidential, and expert-driven solutions makes it particularly suitable for the complex and dynamic nature of patent conflicts. While challenges remain, especially in terms of arbitrability and enforcement, comparative analysis demonstrates that jurisdictions with clear legal frameworks and institutional support

have successfully integrated ADR into their patent dispute resolution systems.

In conclusion, ADR has the potential to significantly reduce the burden of patent litigation and promote efficient dispute resolution in India's innovation economy. However, its effectiveness depends upon doctrinal clarity, specialised institutional support and technically trained neutrals. The Mediation Act, 2023 marks an important statutory development by strengthening institutional mediation and enforceability of mediated settlements. With appropriate reforms, clearer arbitrability standards, greater awareness and sector-specific ADR mechanisms, arbitration and mediation can serve not as a complete replacement for patent litigation, but as a reliable and commercially effective complement to court-based adjudication in patent law.

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