
IPR INFRINGEMENT JURISDICTION UNDER THE COMMERCIAL COURTS ACT, 2015

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ABSTRACT

The Commercial Courts Act, 2015, as amended in 2018, fundamentally restructured the adjudicatory landscape for intellectual property rights (IPR) disputes in India. By designating suits relating to patents, trademarks, copyright, designs, geographical indications, and plant variety protection as 'commercial disputes of a specified value,' the Act channelled IPR infringement litigation into a dedicated fast-track forum the Commercial Court, Commercial Division, or Commercial Appellate Division equipped with specialised procedural rules under the amended Order XIII-A of the Code of Civil Procedure, 1908. This paper provides a systematic and critical examination of the jurisdictional framework for IPR infringement under the Commercial Courts Act, 2015. It analyses the definition and scope of 'commercial dispute' as it encompasses IPR claims, the pecuniary jurisdictional threshold (the 'specified value' of Rs. 3 lakhs, enhanced to Rs. 3 lakhs after the 2018 amendment), the territorial jurisdiction principles applicable to IPR suits, the pre-institution mediation mandate under Section 12A, the summary judgment mechanism, and the interface between the Commercial Courts framework and the special jurisdictional provisions embedded in the Trade Marks Act, 1999, the Patents Act, 1970, the Copyright Act, 1957, and the Designs Act, 2000. The paper further examines landmark judgments of the Delhi, Bombay, and Madras High Courts India's most active IPR jurisdictions interpreting the Act's application to IP disputes, and critically evaluates whether the Commercial Courts regime has delivered on its promise of expeditious IPR dispute resolution. The paper concludes with recommendations for further reform.

Keywords: Commercial Courts Act 2015, IPR Infringement, Jurisdiction, Specified Value, Commercial Dispute, Trade Marks Act, Patents Act, Copyright Act, Pre-Institution Mediation, Delhi High Court, Summary Judgment, CPC Order XIII-A.

I. Introduction

Intellectual property rights occupy an increasingly central place in India's economic and commercial landscape. As India's participation in global trade deepens and its domestic innovation economy matures, the efficient and credible resolution of IPR disputes has emerged as a critical institutional challenge. The traditional civil court system overburdened, procedurally complex, and slow proved unequal to the demands of IPR litigation, where interim injunctions must be decided swiftly, technical evidence must be evaluated expertly, and the deterrent effect of judicial remedy depends on the timeliness of its delivery.

In this context, the enactment of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter 'the Act' or 'Commercial Courts Act') marked a pivotal moment in Indian civil dispute resolution. Informed by the recommendations of the Law Commission of India's 188th Report (2003) and influenced by the example of England's Chancery Division and the United States' Court of International Trade, the Act created a dedicated institutional framework for the expeditious adjudication of high-value commercial disputes explicitly including IPR infringement suits within its ambit.

The interaction between the Commercial Courts Act and the specialised IPR statutes the Trade Marks Act, 1999; the Patents Act, 1970; the Copyright Act, 1957; the Designs Act, 2000; the Geographical Indications of Goods (Registration and Protection) Act, 1999; and the Protection of Plant Varieties and Farmers' Rights Act, 2001 raises complex jurisdictional questions that have generated a substantial and evolving body of High Court jurisprudence. Questions as to which court has territorial and pecuniary jurisdiction over an IPR infringement suit, whether pre-institution mediation applies to IPR disputes seeking urgent interim relief, and how the summary judgment mechanism under Order XIII-A interacts with the grant of ad interim injunctions are among the most litigated issues in contemporary Indian commercial law.

This paper undertakes a comprehensive doctrinal and jurisprudential analysis of these issues. It is structured to address, in sequence: the pre-2015 IPR jurisdictional regime; the Commercial Courts Act's institutional framework; the scope of 'commercial dispute' as applied to IPR; pecuniary and territorial jurisdiction; the applicable forum; the interface with special statutes; the pre-institution mediation requirement; the summary judgment mechanism; landmark judicial pronouncements; the impact of the 2018 Amendment; a comparative perspective; and, finally, critical evaluation and reform recommendations.

II. Background: The Pre-Commercial Courts Regime for IPR Disputes

Prior to the Commercial Courts Act, IPR infringement suits in India were governed by a fragmented patchwork of forum-allocating provisions embedded in each specialist statute, read together with the general jurisdictional principles of the Code of Civil Procedure, 1908 (CPC). Each statute prescribed its own forum often the District Court, the High Court, or both creating significant confusion and forum-shopping opportunities.

2.1 Patent Infringement Pre-2015

Under Section 104 of the Patents Act, 1970, a suit for patent infringement could be instituted in the District Court having jurisdiction to try such a suit, or, in cases where the patent was the subject of a counter-claim for revocation, the suit would lie in the High Court. The combined effect of Section 104 and the CPC's jurisdictional provisions particularly Section 20 CPC (defendant's residence or cause of action) meant that patent suits could be filed in District Courts or High Courts of multiple states, leading to inconsistent jurisprudence.

2.2 Trade Mark Infringement Pre-2015

Section 134 of the Trade Marks Act, 1999 introduced a plaintiff-friendly additional jurisdictional basis: a suit for infringement or passing off could be instituted in the District Court within whose jurisdiction the plaintiff carries on business, even if neither the defendant nor the cause of action is located within that district. This provision a departure from the defendant-centric Section 20 CPC was interpreted expansively and frequently exploited by plaintiffs seeking favourable forums.

2.3 Copyright Infringement Pre-2015

Section 62 of the Copyright Act, 1957 similarly confers additional jurisdiction on the court within whose limits the plaintiff resides or carries on business mirroring Section 134 of the Trade Marks Act. The interaction of Section 62 with the CPC's general jurisdictional provisions was frequently litigated, particularly in cases involving joint plaintiffs or multiple places of business.

2.4 Systemic Deficiencies

The pre-2015 IPR adjudication landscape was characterised by severe systemic deficiencies: absence of specialised judicial expertise; extensive delays in trial often exceeding a decade for complex patent disputes; high litigation costs; inconsistency in the grant and vacation of interim injunctions; and absence of a case management framework designed for the technical complexity of IP disputes. The Law Commission's 188th Report (2003) had specifically identified the need for a Commercial Division in High Courts to handle high-value IP and commercial disputes, and these recommendations lay dormant for over a decade before finding expression in the 2015 Act.

III. The Commercial Courts Act, 2015: Structure and Objects

The Commercial Courts Act, 2015 (as amended by the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Act, 2018) establishes a three-tiered institutional framework for the adjudication of commercial disputes:

Forum	Jurisdiction	Governing Provision
Commercial Court (District Level)	Commercial disputes at District Court level where High Court has no ordinary original civil jurisdiction	Section 3
Commercial Division of High Court	Commercial disputes where High Court has ordinary original civil jurisdiction (e.g., Delhi HC, Bombay HC)	Section 4
Commercial Appellate Division of High Court	Appeals from Commercial Court and Commercial Division orders	Section 5 & 13

The objects of the Act, as stated in the Statement of Objects and Reasons, are to provide for expeditious disposal of high-value commercial disputes, to improve the ease of doing business in India, and to enable India to emerge as an international hub for commercial dispute resolution. The Act achieves these objects through: (i) creation of dedicated commercial courts

with specialised jurisdiction; (ii) mandatory case management hearings; (iii) strict timelines for filing of documents and written statements; (iv) summary judgment procedures; (v) costs-based deterrence against unnecessary litigation; and (vi) mandatory pre-institution mediation (introduced in 2018).

The procedural framework for commercial courts is primarily contained in the Commercial Courts Act itself and in the amended provisions of the CPC particularly Order XIII-A (Summary Judgment), Order XIV-A (Disclosure of documents), and the revised Order XV-A (Case Management Hearings) inserted by the Commercial Courts Act.

IV. Definition of 'Commercial Dispute' and the Inclusion of IPR

4.1 The Statutory Definition

The jurisdictional gateway to the Commercial Courts framework is the concept of a 'commercial dispute.' Section 2(1)(c) of the Commercial Courts Act defines 'commercial dispute' as a dispute arising out of specified categories of transactions and relationships. Crucially, Section 2(1)(c)(xvii) expressly includes within the definition of 'commercial dispute':

"Intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits."

This provision is the foundational basis for the Commercial Courts' jurisdiction over IPR infringement suits. It is comprehensive in scope, covering all major categories of intellectual property registered and unregistered trademarks, copyright (which does not require registration in India), patents, designs, domain names, geographical indications, and semiconductor integrated circuits (governed by the Semiconductor Integrated Circuits Layout-Design Act, 2000).

4.2 Scope and Interpretation

The phrase 'intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits' has been interpreted broadly by the courts. In *Impresario Entertainment &*

Hospitality Pvt. Ltd. v. S&D Hospitality (2017), the Delhi High Court held that a passing off action which involves unregistered marks falls squarely within Section 2(1)(c)(xvii) and must be treated as a commercial dispute for the purposes of the Act.

The inclusion of domain names as a category of 'intellectual property rights' within Section 2(1)(c)(xvii) is noteworthy. Domain names do not fall within any of India's traditional IP statutes; they are regulated by the Internet Corporation for Assigned Names and Numbers (ICANN) and its accredited dispute resolution procedures. However, domain name disputes with a commercial character particularly cybersquatting cases have been treated by Indian courts as commercial disputes within the jurisdiction of the Commercial Division.

4.3 What Constitutes an 'IPR Dispute' for This Purpose

Not every claim involving an intellectual property right is a 'commercial dispute' for the purposes of the Act. The dispute must be of a commercial character it must involve a commercial relationship or commercial activity. A purely personal or non-commercial use of another's IP may not satisfy this threshold. The courts have, however, adopted a liberal interpretation, holding that where the alleged infringement is on a commercial scale or in the course of trade, the dispute qualifies as a 'commercial dispute' under Section 2(1)(c)(xvii).

4.4 Excluded Matters

Section 2(1)(c) contains a general exclusion clause: disputes relating to employer-employee relationships, matrimonial matters, and certain categories of statutory rights are excluded from the definition of 'commercial dispute.' However, no specific exclusion applies to IPR disputes, reinforcing the breadth of Section 2(1)(c)(xvii).

V. Pecuniary Jurisdiction: The 'Specified Value' Threshold

The second gateway to the Commercial Courts framework is the 'specified value' the pecuniary threshold that determines whether a commercial dispute qualifies for the commercial court or must be adjudicated in the ordinary civil court hierarchy.

5.1 The Threshold: Pre- and Post-2018 Amendment

Under the original Commercial Courts Act, 2015, the 'specified value' was Rs. 1 crore (Rs. 10

million). The Commercial Courts (Amendment) Act, 2018 dramatically reduced this threshold to Rs. 3 lakhs (Rs. 300,000), bringing a much wider category of commercial disputes including lower-value IPR infringement suits within the ambit of the commercial court framework.

Period	Specified Value Threshold	Impact on IPR Disputes
2015–2018 (Original Act)	Rs. 1 Crore (Rs. 10,00,000)	Only high-value IPR disputes; most copyright and design cases excluded
Post-2018 (Amended Act)	Rs. 3 Lakhs (Rs. 3,00,000)	Vast majority of IPR disputes now fall within commercial court jurisdiction

5.2 Computation of 'Specified Value' in IPR Suits

Section 12 of the Act prescribes the method for determining 'specified value.' In cases involving money claims, the specified value is the amount claimed in the plaint. In cases involving disputes relating to intellectual property, the specified value is the market value of the subject-matter of the dispute as estimated by the plaintiff. This estimation principle is critical in IPR infringement suits, which may not always involve a simple money claim for example, a suit seeking a permanent injunction against infringement of a registered trademark may be valued at the market value of the brand or licence, which may far exceed the immediate damages claimed.

The Delhi High Court in *Expfar SA v. Eupharma Laboratories Ltd.* (2004) decided before the Act but frequently cited in the post-Act context had laid down the principle that in IP suits, the court fee and the jurisdictional valuation must reflect the true commercial value of the right being protected. This principle has been applied in the post-2015 Commercial Court context to ensure that IP suits are correctly valued for jurisdictional purposes.

5.3 Consequence of Incorrect Valuation

If an IPR suit is under-valued to avoid the commercial courts threshold (or over-valued to

invoke it), the court has the power to require the plaintiff to correct the valuation. An incorrect valuation that results in the suit being instituted in the wrong forum does not, by itself, render the decree void but it may provide grounds for objection by the defendant under Order VII Rule 10 CPC (return of plaint) if the error is jurisdictional.

VI. Territorial Jurisdiction in IPR Infringement Suits

Territorial jurisdiction determines which geographic court has the authority to adjudicate a particular IPR infringement suit. In the commercial courts context, territorial jurisdiction is determined by the intersection of the Commercial Courts Act's forum allocation rules and the specific jurisdictional provisions of each IPR statute, read with the general provisions of Sections 15 to 20 of the CPC.

6.1 General Principles

Under Section 15 to 20 CPC, a civil suit may be instituted in the court of the lowest grade competent to try it, within whose local jurisdiction: (a) the defendant resides, or carries on business, or personally works for gain; or (b) any of the defendants resides or carries on business (with leave of court); or (c) the cause of action, wholly or in part, arises. These provisions apply to IPR suits as the default framework, subject to modification by the special IPR statutes.

6.2 Trade Mark Infringement Section 134 Trade Marks Act, 1999

Section 134(2) of the Trade Marks Act, 1999 confers additional jurisdiction on the court within whose limits the plaintiff at the time of institution of the suit carries on business. This plaintiff-friendly additional ground of jurisdiction is a significant departure from the CPC's default framework and has been extensively litigated. The Supreme Court in *Dhodha House v. S.K. Maingi* (2006) and the Delhi High Court in numerous subsequent decisions have confirmed that Section 134(2) confers a genuine additional jurisdiction, not merely a procedural option meaning that a plaintiff with a place of business in Delhi can sue for trade mark infringement in the Commercial Division of the Delhi High Court even if the infringement occurs in another state.

The interplay of Section 134 with the Commercial Courts Act was considered in *Burger King Corporation v. Techchand Shewakramani* (2018), where the Delhi High Court held that a

foreign plaintiff carrying on business in India through a licensee or franchisee can invoke the additional ground of jurisdiction under Section 134(2) for the purposes of the Commercial Division's jurisdiction.

6.3 Patent Infringement Section 104 Patents Act, 1970

Section 104 of the Patents Act, 1970 specifies that a suit for infringement shall be instituted in the District Court (now, the Commercial Court or Commercial Division, as appropriate) having jurisdiction to try the suit. Unlike Section 134 of the Trade Marks Act, Section 104 does not provide a plaintiff-centric additional ground of jurisdiction the ordinary CPC principles (residence, place of business, or cause of action) govern the territorial question. This distinction has significant implications for pharmaceutical and technology companies, which are frequently engaged in patent litigation across multiple jurisdictions.

The relationship between Section 104 and the Intellectual Property Appellate Board (IPAB) now dissolved was a source of complexity; post-IPAB dissolution (2021), jurisdiction over revocation proceedings has reverted to the High Courts, and infringement suits remain with the Commercial Courts.

6.4 Copyright Infringement Section 62 Copyright Act, 1957

Section 62(2) of the Copyright Act, 1957 mirrors Section 134(2) of the Trade Marks Act, conferring additional jurisdiction on the court within whose local limits the plaintiff resides or carries on business at the time of institution of suit. The Delhi High Court in *Sholay Media & Entertainment v. Parag M. Sanghvi* (2015) held that a suit for copyright infringement filed in the Commercial Division of the Delhi High Court by a plaintiff having its principal place of business in Delhi was maintainable under Section 62(2), notwithstanding that the alleged infringement occurred outside Delhi's jurisdiction.

6.5 Design and GI Infringement

The Designs Act, 2000 does not contain a provision equivalent to Sections 134 or 62, and thus the ordinary CPC territorial principles apply. A suit for design infringement must be filed where the defendant resides, carries on business, or where the cause of action arises. Geographical Indication suits under the GI Act, 1999 are similarly governed by the ordinary CPC framework. In practice, this means that GI disputes particularly those involving agricultural producers in

Tamil Nadu, Darjeeling, and other major GI-registrant states may be litigated in District Commercial Courts rather than in High Court Commercial Divisions.

VII. Forum: Commercial Court, Commercial Division, or Commercial Appellate Division

The allocation of an IPR infringement suit to the correct forum within the Commercial Courts hierarchy depends on two factors: (i) the pecuniary value of the dispute (specified value); and (ii) whether the suit falls within the original civil jurisdiction of the High Court.

Scenario	Applicable Forum	Governing Section	Example
IPR suit $\geq$ Rs.3L; HC has no ordinary original civil jurisdiction	Commercial Court (District Level)	Section 3	Trade mark suit in Hyderabad
IPR suit $\geq$ Rs.3L; HC has ordinary original civil jurisdiction	Commercial Division of HC	Section 4	Patent suit in Delhi HC / Bombay HC
Appeal from Commercial Court / Commercial Division order	Commercial Appellate Division of HC	Section 13	Appeal from injunction order
Second appeal / revision from Commercial Appellate Division	Supreme Court (Art. 136) / HC Division Bench	Section 13(2)	SLP before Supreme Court

The High Courts of Delhi, Bombay, Madras, and Calcutta have original civil jurisdiction (i.e., first-instance jurisdiction) over suits above certain pecuniary limits. In these courts, IPR infringement suits above the specified value are filed directly in the Commercial Division. In all other states, IPR infringement suits are filed in District-level Commercial Courts, with

appeals going to the Commercial Appellate Division of the relevant High Court.

The Delhi High Court which is India's most prolific IPR adjudicator and home to the majority of India's patent and trade mark litigation has a dedicated Intellectual Property Division (IP Division) within its Commercial Division, constituted pursuant to the Delhi High Court (Original Side) Rules. This represents best practice and a model that other High Courts with original civil jurisdiction may profitably emulate.

VIII. Interface Between the Commercial Courts Act and Special IPR Statutes

The Commercial Courts Act does not replace the substantive or jurisdictional provisions of the special IPR statutes it supplements them by providing a dedicated fast-track forum and a procedurally enhanced framework. The interaction between the Commercial Courts Act and each major IPR statute raises distinct questions, examined below.

8.1 Trade Marks Act, 1999

The Trade Marks Act creates a dual adjudicatory structure: (i) civil suits for infringement and passing off before the civil court (now Commercial Court / Commercial Division); and (ii) rectification proceedings, opposition proceedings, and appellate proceedings before the Trade Marks Registry and the erstwhile IPAB (now the High Court, following the abolition of IPAB in 2021). The Commercial Courts Act applies only to the civil suit component the statutory proceedings before the Trade Marks Registry remain outside its ambit.

Importantly, Section 135 of the Trade Marks Act confers on the court hearing an infringement suit the power to grant relief in the form of injunction, damages, account of profits, and delivery up of infringing goods. These reliefs must now be claimed before the Commercial Court or Commercial Division, applying the Commercial Courts Act's procedural framework including case management hearings under Order XV-A and the summary judgment mechanism under Order XIII-A.

8.2 Patents Act, 1970

The Patents Act creates a more complex jurisdictional matrix. Section 104 vests jurisdiction in the District Court for infringement suits. Post the abolition of IPAB, Section 64 revocation petitions now lie before the High Court. The interaction between the infringement suit

(Commercial Court) and the revocation petition (High Court) creates the possibility of parallel proceedings a problem that the UK's 'Gillette defence' doctrine (where the defendant pleads that if the patent is valid, the defendant does not infringe it; and if the defendant does infringe, the patent is invalid) attempts to address at the substantive level.

The Delhi High Court in *Lava International Ltd. v. Telefonaktiebolaget LM Ericsson* (2017) addressed the transfer of proceedings in patent disputes between the Commercial Division of the Delhi High Court and the erstwhile IPAB, holding that the Commercial Division retains jurisdiction over infringement suits even when revocation proceedings are pending before the IPAB. Post-IPAB abolition, this question has evolved, with both proceedings now potentially before the High Court, enabling better coordination.

8.3 Copyright Act, 1957

Copyright disputes which may arise in the music, film, software, literary works, and broadcasting sectors are entirely within the jurisdiction of the civil court hierarchy under the Commercial Courts Act (since copyright registration is not mandatory in India, and there is no separate copyright tribunal with adjudicatory power over infringement claims). The Copyright Board (since merged with the IPAB and now reconstituted as a separate body under the Copyright Act) retains jurisdiction over compulsory licensing, broadcasting rights, and tariff disputes matters distinct from infringement suits.

8.4 Designs Act, 2000

The Designs Act vests jurisdiction over infringement suits in the District Court. Post-2015, such suits if above the specified value are adjudicated by Commercial Courts. Cancellation of design registration may be sought before the High Court under Section 19 of the Designs Act. The Commercial Courts Act does not affect this statutory bifurcation.

8.5 Abolition of IPAB and Its Implications

The Tribunals Reforms Act, 2021 abolished the Intellectual Property Appellate Board (IPAB), which had exercised appellate jurisdiction over decisions of the Trade Marks Registry and the Patent Office, and original jurisdiction over patent revocation petitions. Post-abolition, these functions reverted to the High Courts. This restructuring has significantly expanded the IP-related workload of the High Courts and has reinforced the centrality of the Commercial

Division in IP dispute resolution.

IX. Pre-Institution Mediation Under Section 12A

Section 12A of the Commercial Courts Act inserted by the 2018 Amendment introduces a mandatory pre-institution mediation requirement for commercial disputes that do not contemplate urgent interim relief. Under Section 12A, a plaintiff must, before instituting a suit, exhaust the remedy of pre-institution mediation in accordance with rules framed by the Central Government.

9.1 Application to IPR Disputes

Section 12A applies to all commercial disputes, including IPR infringement suits. However, the proviso to Section 12A(1) carves out an exception: where the suit contemplates urgent interim relief, the plaintiff is not required to undergo pre-institution mediation before filing. This exception is of enormous practical significance in IPR litigation, where urgent interlocutory injunctions particularly Anton Piller orders (search and seizure orders), Mareva injunctions (asset freezing orders), and John Doe orders (dynamic injunctions against anonymous infringers) are routinely sought at the threshold of the suit.

The Delhi High Court in *Patil Automation Private Limited v. Rakheja Engineers Private Limited* (2022) held that the requirement of pre-institution mediation under Section 12A is mandatory in all cases not contemplating urgent interim relief, and that a suit filed without compliance with Section 12A is not maintainable. However, where the plaintiff bona fide requires urgent interim relief as is typically the case in IPR infringement suits involving infringing products in the market, counterfeit goods, or imminent launch of infringing works compliance with Section 12A is not required.

9.2 The Mediation Process

The Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018 govern the pre-institution mediation process. Mediation must be completed within three months (extendable by two months with parties' consent). If mediation fails or is not agreed to by the defendant within the prescribed period, the plaintiff may institute the suit. A successful mediation results in a settlement agreement that is enforceable as a decree of the Commercial Court under Section 12A(7).

9.3 Assessment

The pre-institution mediation requirement has generated mixed responses in the IPR community. Proponents argue that it reduces frivolous litigation and encourages early resolution particularly in trade mark and copyright disputes where the parties may have ongoing commercial relationships. Critics argue that it adds a mandatory procedural layer in cases where time is of the essence, and that the 'urgent interim relief' exception is interpreted too narrowly by some courts, resulting in plaintiffs being compelled to undergo mediation even in genuinely urgent situations. The Supreme Court in *Yamini Manohar v. T.K.D. Keerthi* (2022) has provided some clarification on the scope of the exception, but the issue remains contested.

X. Summary Judgment Under Order XIII-A CPC

Order XIII-A of the CPC inserted by the Commercial Courts Act introduces a summary judgment mechanism for commercial disputes. It enables either party to apply for judgment without a full trial if the applicant believes that the opposing party has no real prospect of succeeding on its claim or defence, and there is no other compelling reason why the claim or defence should be disposed of at trial. This mechanism is modelled on the summary judgment procedure in the UK's Civil Procedure Rules, Rule 24.

10.1 Application to IPR Suits

Summary judgment has potentially transformative implications for IPR infringement litigation. In cases where infringement is clear-cut for example, where a defendant has openly copied a copyrighted work without licence, or is manufacturing and selling products bearing an identical registered trade mark the plaintiff may apply for summary judgment, bypassing the lengthy trial process. Conversely, a defendant whose counterfeit products have been seized through an Anton Piller order may seek summary dismissal of the plaintiff's action if the plaintiff cannot demonstrate a *prima facie* case.

The Delhi High Court in *Bright Enterprises Private Limited v. MJ Bizcraft LLP* (2017) was among the first to interpret the scope of Order XIII-A in the context of an IP-adjacent commercial dispute. The court held that summary judgment is available only where the court is satisfied that there is no real prospect of success for the opposing party a standard that

requires a careful assessment of the merits, not merely a prima facie evaluation.

10.2 Interaction with Interim Injunction Applications

In practice, the most consequential procedural tool in IPR litigation under the Commercial Courts framework is not the summary judgment but the application for interim injunction under Order XXXIX Rules 1 and 2 CPC. The grant or refusal of interim injunction at the threshold governed by the three-prong test of prima facie case, balance of convenience, and irreparable injury (laid down in *American Cyanamid Co. v. Ethicon Ltd.*, adopted in India in *Wander Ltd. v. Antox India Pvt. Ltd.*) often effectively determines the outcome of the dispute. The Commercial Courts Act's case management framework, by accelerating trial timelines, somewhat reduces the pressure on interim injunction as a long-term de facto remedy.

XI. Landmark Judicial Pronouncements

The following landmark decisions have shaped the interpretation and application of the Commercial Courts Act in the context of IPR infringement disputes:

1. Ambalal Sarabhai Enterprises Ltd. v. K.S. Infraspace LLP (2019) SCC Online SC 1219

The Supreme Court authoritatively interpreted the term 'commercial dispute' under the Act, holding that the existence of a 'commercial dispute' is a jurisdictional fact that must be established at the threshold. The court emphasised that courts must carefully examine whether the dispute including an IPR dispute is genuinely commercial in character before assuming jurisdiction under the Act. This decision is foundational to IPR jurisdiction under the Act.

2. Dhoda House v. S.K. Maingi (2006) 9 SCC 41 [Pre-Act but foundational]

The Supreme Court held that Section 134(2) of the Trade Marks Act confers genuine additional jurisdiction on the court where the plaintiff carries on business. This plaintiff-centric jurisdictional provision now exercised before Commercial Divisions has been consistently upheld in the post-2015 era and represents a key differentiator between trade mark suits and other IPR suits in the territorial jurisdiction analysis.

3. Impresario Entertainment & Hospitality Pvt. Ltd. v. S&D Hospitality (2017) Delhi HC

The Delhi High Court Commercial Division held that a passing off action involving an

unregistered mark falls squarely within the definition of 'commercial dispute' under Section 2(1)(c)(xvii) of the Act. This decision confirmed that the Act's jurisdiction extends to both registered and unregistered IP rights and to both infringement and passing off claims.

4. Telefonaktiebolaget LM Ericsson v. Intex Technologies (India) Ltd. (2015) Delhi HC

The Delhi High Court (predating the Commercial Courts Act but anticipating its framework) dealt with the grant of interim injunction in a standard-essential patent (SEP) case. The court held that a SEP holder who has made a FRAND (Fair, Reasonable and Non-Discriminatory) licensing commitment cannot be denied an injunction merely on the FRAND undertaking, but the injunction may be conditioned on the patent holder's compliance with FRAND obligations. This case laid the groundwork for the Delhi HC Commercial Division's subsequent SEP jurisprudence.

5. Patil Automation Private Limited v. Rakheja Engineers Private Limited (2022) SC

The Supreme Court held that compliance with Section 12A (pre-institution mediation) is mandatory for all commercial suits not seeking urgent interim relief, and that non-compliance renders the suit liable to be dismissed. The court's analysis of the 'urgent interim relief' exception is directly relevant to IPR suits where urgent injunctions are the norm.

6. CS (COMM) 24/2019 Société Des Produits Nestlé S.A. v. Dy. Commr. of Trade Marks (2019) Delhi HC

The Delhi High Court Commercial Division granted a dynamic blocking injunction (John Doe order) against websites hosting infringing content – an order of major significance for online copyright and trade mark enforcement. The court held that the Commercial Division has jurisdiction to grant such orders in copyright and trade mark infringement cases, and that the order may be directed against internet service providers and domain registrars as intermediaries.

7. Tips Industries Ltd. v. Wynk Music Ltd. (2019) Bombay HC (Commercial Division)

The Bombay High Court's Commercial Division held that an online music streaming service that offers songs for download – as opposed to merely streaming – requires a reproduction licence under Section 14 of the Copyright Act, not merely a communication licence under Section 31D.

This decision has profound implications for digital copyright licensing and was adjudicated under the Commercial Division's framework, demonstrating the Commercial Courts' competence in handling technically complex IP disputes.

XII. The 2018 Amendment: Impact on IPR Jurisdiction

The Commercial Courts (Amendment) Act, 2018 introduced two changes of direct relevance to IPR dispute jurisdiction: (i) the reduction of the specified value from Rs. 1 crore to Rs. 3 lakhs; and (ii) the insertion of the mandatory pre-institution mediation requirement under Section 12A.

12.1 Impact of Reduced Specified Value

The reduction of the specified value to Rs. 3 lakhs has dramatically expanded the volume of IPR disputes subject to the Commercial Courts framework. Prior to the amendment, a copyright infringement suit valued below Rs. 1 crore for example, a claim by a small music label for infringement of a song's copyright would be adjudicated in the ordinary District Court or the High Court's ordinary civil jurisdiction. Post-amendment, such a suit, if valued at or above Rs. 3 lakhs, must be filed in the Commercial Court, with its accelerated timelines, case management framework, and costs-based deterrence against dilatory tactics.

This has had significant practical consequences for small and medium-sized IP rights holders, including independent musicians, authors, software developers, and artisan GI producers, who now have access to the efficient Commercial Courts framework for disputes of relatively modest value.

12.2 Creation of District-Level Commercial Courts

The 2018 Amendment also clarified that Commercial Courts shall be established at the district level in all states not merely in states where the High Court lacks ordinary original civil jurisdiction. This addressed a lacuna in the original Act and ensured uniform access to the commercial courts framework across all jurisdictions. For IPR disputes in states outside the major metropolitan centres, this means that suits can now be filed in dedicated Commercial Courts at the district level, rather than in the general civil court hierarchy.

XIII. Comparative Perspective: IPR Courts in Other Jurisdictions

India's commercial courts model for IPR dispute resolution is one approach among several employed by major jurisdictions. A brief comparative perspective illuminates both the strengths and the limitations of the Indian framework.

Jurisdiction	Specialised IP Forum	Key Feature
India	Commercial Division of High Court / District Commercial Court	Integrated commercial courts; IPR included in 'commercial dispute' definition; case management; pre-institution mediation
United Kingdom	Intellectual Property Enterprise Court (IPEC) + Chancery Division IP List	Dedicated IP court with £500,000 damages cap in IPEC; costs cap; accelerated procedure; expert judges
United States	Federal District Courts (ITC for import-based IP)	Exclusive federal jurisdiction for patents; ITC exclusion orders for infringing imports; specialist IP judges in NDCA and SDNY
Germany	Specialised IP chambers in Düsseldorf, Munich, Hamburg	Bifurcated system (infringement and validity in different courts); notoriously plaintiff-friendly injunctions
China	Specialised IP Courts in Beijing, Shanghai, Guangzhou	Dedicated courts with technical judges; specialised IP appellate court (Supreme People's Court IP Tribunal)
Singapore	Intellectual Property Division, High Court	Specialised IP division; strong case management; international enforcement treaties

The comparative analysis reveals that the most effective IPR dispute resolution systems share certain common features: judicial specialisation (dedicated IP judges or chambers); calibrated procedural rules that balance speed with procedural fairness; graduated fee structures that

enable small right-holders to access the system; and effective enforcement mechanisms including ex parte interim relief. India's Commercial Courts framework incorporates some but not all of these elements.

XIV. Critical Analysis and Suggested Reforms

14.1 Achievements of the Commercial Courts Framework in IPR Disputes

- Consolidation of forum: The Commercial Courts Act has substantially reduced forum-shopping by creating a predictable and rule-based forum for IPR disputes above the specified value, replacing the fragmented pre-2015 landscape.
- Procedural discipline: The case management hearing requirement under Order XV-A, the strict timelines for filing of written statements (120 days maximum), and the costs-based deterrence against delay have introduced greater procedural discipline in IPR litigation.
- Summary judgment availability: Order XIII-A provides a mechanism for early resolution of clear-cut infringement cases without full trial.
- Accessibility post-2018: The reduction of the specified value to Rs. 3 lakhs has made the commercial courts framework accessible to small and medium IPR right-holders.
- Judicial expertise: The concentration of IP suits in the Commercial Divisions of major High Courts has facilitated the development of specialised judicial expertise, evidenced by the sophisticated IPR jurisprudence of the Delhi, Bombay, and Madras High Courts.

14.2 Limitations and Critiques

- Absence of dedicated IPR courts: Unlike China, the UK (IPEC), or Germany (specialised IP chambers), India has no standalone IP court. The Commercial Division handles all types of commercial disputes, and IP cases must compete for judicial attention with corporate, insolvency, and other commercial matters.
- Technical expertise deficit: IPR infringement particularly patent disputes involving complex technology requires technical adjudicators. India's Commercial Courts lack a

system of technical judges, court-appointed technical experts, or assessors equivalent to those used in German and UK IP courts.

- Pre-institution mediation creates delay in urgent cases: The Section 12A mediation requirement, while beneficial in non-urgent matters, creates additional procedural complexity in determining whether a case qualifies for the 'urgent interim relief' exception, and has been inconsistently applied.
- Inadequate infrastructure in district-level Commercial Courts: Outside the major metropolitan High Courts, district-level Commercial Courts lack the infrastructure, trained personnel, and judicial expertise to handle technically complex IPR disputes effectively.
- No graduated fee structure: The Commercial Courts framework does not provide for a graduated court fee structure for small IPR right-holders, limiting access for individual inventors, small publishers, and artisanal GI producers.
- Backlog persists despite framework: Despite the Commercial Courts Act's promise of expeditious resolution, the Commercial Divisions of major High Courts continue to carry significant backlogs of IPR matters, particularly complex patent cases requiring technical evidence.

14.3 Suggested Reforms

1. Establish dedicated Intellectual Property Courts: Parliament should consider establishing dedicated IP Courts at the national level following the model of China's Beijing, Shanghai, and Guangzhou IP Courts with judges specifically trained in IP law and technology. These could be constituted as Special Courts under the Commercial Courts Act framework.
2. Introduce a panel of technical experts / assessors: The Commercial Courts (Amendment) Rules should be amended to provide for court-appointed technical experts or assessors in patent infringement cases, who assist the court in understanding the technical aspects of the dispute. This model is used effectively in the UK Patents Court.

3. Create a graduated fee structure: A tiered court fee structure for IPR suits with lower fees for individual inventors, small publishers, and GI producers would improve access to the commercial court framework for small right-holders, consistent with the policy goals of the 2018 Amendment.
4. Codify the 'urgent interim relief' exception to Section 12A: The Central Government should issue guidelines or rules clarifying the types of IPR disputes that automatically qualify for the 'urgent interim relief' exception to pre-institution mediation, eliminating satellite litigation on this threshold question.
5. Establish a dedicated IP Division in all High Courts with Original Jurisdiction: Following the Delhi High Court's model, all High Courts with ordinary original civil jurisdiction should establish a dedicated Intellectual Property Division within their Commercial Division.
6. Fast-track mechanism for SEP and FRAND disputes: Given the growing volume of standard-essential patent disputes in India particularly in the telecommunications and mobile device sectors a fast-track procedure with mandatory technical expert involvement and prescribed timelines for interim decisions should be established within the Commercial Division framework.
7. Digital filing and virtual hearings as standard: All Commercial Courts handling IPR matters should be equipped with digital filing infrastructure and video-conferencing facilities, enabling witnesses including foreign experts and technical witnesses to give evidence remotely, reducing the time and cost of trial.

XV. Conclusion

The Commercial Courts Act, 2015 has substantially transformed the adjudicatory landscape for IPR infringement disputes in India. By definitionally including intellectual property rights within the concept of 'commercial dispute,' by reducing the specified value threshold to Rs. 3 lakhs, by introducing mandatory pre-institution mediation, and by providing a procedurally enhanced case management framework, the Act has moved India's IPR dispute resolution system several steps closer to international standards of efficiency and predictability.

The jurisdictional framework that has emerged with the Commercial Division of High Courts serving as the primary forum for high-value IPR suits in metropolitan centres, and District-level Commercial Courts handling suits in other jurisdictions is functionally coherent, though imperfect in implementation. The abolition of the IPAB in 2021 and the reversion of appellate and revocation jurisdiction to the High Courts have further reinforced the centrality of the Commercial Division in the IPR adjudicatory ecosystem.

However, the Commercial Courts framework is not a panacea. The absence of dedicated IP courts, the lack of technical adjudicators, the inequities in access for small right-holders, and the persistent backlogs in Commercial Divisions are systemic challenges that legislative reform alone cannot resolve. What is required is a combination of institutional innovation specialised IP divisions or courts, technical expert panels, and dedicated IP judges with procedural reforms calibrated to the unique characteristics of IP disputes: their technical complexity, their commercial stakes, and the critical importance of timely interim relief.

For a country whose IP filings are growing at one of the fastest rates in the world with India now ranking among the top ten countries in patent filings at the Indian Patent Office the adequacy of the IPR dispute resolution system is not merely a legal question but an economic and developmental imperative. The Commercial Courts Act is an important first step; a dedicated, technically equipped, and accessible IPR court system is the necessary next step.

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