



IPR Disputes: Evaluating India's Experiences with International Agreements and Dispute Settlement Mechanisms

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Abstract:

This paper examines Indian legal system's journey with International Intellectual Property Rights (IP) disputes, evaluating its participation in important international agreements and dispute settlement frameworks. India being an important emerging economy, has navigated a difficult landscape, balancing its obligations to global IP norms, majorly through the World Trade Organization's TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement, with its own development priorities, especially in public health and knowledge access.

Post-TRIPS, India went through a substantial legislative reform to streamline its domestic IP laws relating to trademarks, copyrights, and patents. On one hand these reforms aimed to foster innovation and bring foreign investment, on the other hand, this led to a lot of international disputes, particularly in the pharmaceutical sector, this has been highlighted by landmark cases raising issues concerning patentability. Utilization of TRIPS flexibilities by India like the compulsory licensing, has been a point of contention that has often caught him up against multinational corporations and developed nations.

Beyond general mechanism of WTO dispute settlement, India has actively engaged in several bilateral and multilateral initiatives and has explored alternative dispute resolution (ADR) mechanisms made by international institutions such as the World Intellectual Property Organization (WIPO). The move towards ADR shows a rising recognition of the requirement for more effective and specialized pockets for resolving cross-border IP conflicts, reducing the burden on conventional judicial systems.

India has made significant march in modernizing its IP ecosystem and mobilizing enforcement, but challenges persist, that includes issues of piracy, counterfeiting, and the need for more streamlined of judicial processes and IP administration. Indian experience shows the complex interplay between

domestic policy, international obligations, and the realities of dispute resolution in the variable field of intellectual property, marking its ongoing steps to cast a balanced, rewarding and su IP ecosystem.

Keywords: TRIPS Agreement, Compulsory Licensing, Digital Piracy, Geographical Indications and Alternative Dispute Resolution

I. Introduction

In an ever globalized and innovative led world, Intellectual Property (IP) has become a cornerstone of cultural exchange, technological advancement, and economic growth. Countries worldwide are struggling with the intricacies of enforcing and protecting IP rights into various borders, leading to hike in international IP disputes. India has been one of the fastest-growing economies and a pertinent player in global trade, finds self at the base of this evolving picture¹. Its pathway along the international intellectual property has been significantly dynamic, highlighted by a delicate balance of conforming to global IP standards and protecting its particular national development priorities, including concerns in public health and knowledge access.

This research paper strives to comprehensively examine India's pathway in international intellectual property disputes. It will investigate India's role in key international agreements, most importantly being the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organization (WTO), and its relationship with various dispute settlement frameworks². By evaluating policy shifts, landmark cases, and strategic approaches, this paper seeks reflect the challenges India has been facing and its achievement, and its growing strategic challenges in the intricate levels of international IP law. Studying India's trajectory provides valuable insights into the wider global arena on development of IP rights, and dispute resolution mechanism.

II. India's IP Ecosystem and International Obligations

A. Before TRIPS: An Adjustable Approach

Before to the beginning of the TRIPS Agreement in 1995, intellectual property regime in India was majorly shaped by its need for development and a great emphasis on public welfare. The Patents Act of 1970, for example, was basically to recognize the “process patents” in pharmaceuticals & agrochemicals, instead of product patents. This mechanism was implemented to promote local bottom-up manufacturing, ensure lower cost of essential medicines, and protection of monopolies in critical areas of the economy³. While this approach fostered indigenous industries and promoted access to affordable medicines, it led to criticism from developed countries and multinational corporations that saw it as an ineffective approach protecting their IP rights. India's more adjustable stance showed a common position from the developing countries that promoted

¹ N.S. Gopalakrishnan & T.G. Agitha, *Principles of Intellectual Property* 1–4 (Eastern Book Co., 2d ed. 2015).

² P. Narayanan, *Intellectual Property Law* 253–55 (Eastern Law House, 3d ed. 2017).

³ V.K. Ahuja, *Law Relating to Intellectual Property Rights* 68–72 (LexisNexis, 3d ed. 2021).

technology transfer and access to public over strong IP protection, that was thought as a barrier to development.

B. Transformative Impact of the TRIPS Agreement

As part of India's membership obligation in the World Trade organization, the adoption of the TRIPS Agreement in 1995, marked a landmark moment in the IP landscape. TRIPS developed minimum standards for enforcement and protection of various forms of intellectual property, such as trademarks, geographical indications (GIs), patents, industrial designs, copyrights, and trade secrets. India as a signatory, was bound to streamline its domestic laws with the international practices in a definite transition period.

Such obligation mandated a series of important legislative reforms throughout India's IP landscape. The Patents Act went through crucial amendments between 1999 - 2002, and eventually in 2005, cause for introduction in "product patents" in pharmaceuticals and agrochemicals, were some the major changes⁴. The Copyright Act of 1957 was similarly amended to comply with WIPO Internet Treaties, protecting the rights in digital media and improving anti-piracy measures. The Trademarks Act of 1999 repealed the older legislation, extending service marks and collective marks protection, also the Geographical Indications of Goods (Registration and Protection) Act of 1999 and the Designs Act of 2000 were enacted to oblige the TRIPS requirements.

A dual challenge was presented by these reforms for India, one was for compliance with international standards compliance for global trading system integration & attracting foreign investment. The other being safeguarding its national interests, specifically in sectors crucial in public interest. This led to tension in the cross-border trade and became a recurring issue in international IP disputes for India.

III. Areas of International IP Issues

India joining TRIPS and its further legislative modifications have led to various international IP disputes inevitably, basically in sectors where the national policies have digressed from the expectations of developed nations.

A. Disputes in the Pharma Sector

Pharma sector has become the most prominent arena for India's international IP disputes. India's obligations to guaranteeing access to affordable drugs often led to clashes with the strong patent regime of the multinational pharmaceutical companies seeking protection and compensation.

1. Section 3(d) of the Patents Act

The highlight of India's patent law, Section 3(d) of the Patents Act, 1970, has often been subject to international dispute, dialogue and scrutiny. This section prevents the patenting of "new forms of a known substance which does not result in the enhancement of the known efficacy of that substance.", which also called as "evergreening"⁵. As hinted above the essential purpose is to

⁴ Jayashree Watal, *Intellectual Property Rights in the WTO and Developing Countries* 17–19 (Oxford Univ. Press 2001).

⁵ P. Narayanan, *Intellectual Property Law* 253–55 (Eastern Law House, 3d ed. 2017).

curb "evergreening" that allows minor modifications patents to existing drugs and other products which extend patent life without offering any significant therapeutic improvements.

The most important legal scrutiny to Section 3(d) was allowed in the landmark case of **Novartis AG v. Union of India (2013)**⁶. Novartis applied for a patent for an anti-cancer drug Glivec (Imatinib Mesylate), contending that its beta-crystalline form was new and inventive product. Although, Hon'ble Supreme Court upheld the Hon'ble High Court's decision stating that, "Glivec did not meet the enhanced efficacy criteria under Section 3(d) and was merely a new form of a known substance". The judgment is recognized by various nations of the developing world as a victory for access to low-cost medicines, which prevents monopoly on life-saving medicines. On the other hand, it led to criticism from the pharmaceutical giants and some first world countries, they argued that it devalues their patent incentives and R&D investments in India will be discouraged⁷. The Glivec matter firmly highlighted India's right to enforce TRIPS flexibilities for public welfare or corporate profits.

2. Compulsory Licensing

One of the most critical TRIPS flexibility that India has employed, it has allowed the government to authorize a anyone to produce a patented product or utilize a patented process despite non consent by the patent holder which typically occur under specific conditions such as national calamities or non-commercial public use, or if due to public demand for a reasonable price is not met by the patent holder.

The first case of compulsory licensing in the country occurred in **Natco Pharma Ltd. v. Bayer Corporation**⁸ in 2012. The Office of Indian Patent granted Natco Pharma a compulsory license to make a generic medicine of Bayer's patent protected anti-cancer drug called Nexavar (Sorafenib Tosylate). The basis for allowing the license mentioned that the drug was not reasonably priced for the general prices, the supply was not adequate, and there was no manufacturing in India to a large extent. Just like the Glivec ruling, this decision was praised by public health bodies, but it was met with strong opposition from Bayer and other international pharmaceutical companies, who saw it as an infringement of patent rights. Such cases highlight India's tactical use of TRIPS exemptions to balance IP protection with local requirement for public welfare. Such judgements from the Hon'ble Supreme Court have sometimes strained trade relations but it also underscores India's commitment to its priorities of development and its interpretation of the various exemptions under TRIPS Agreement's.

B. Digital Piracy and Copyright

As the digital economy and entertainment industry grows rapidly, India has largely faced international disputes in IP matter especially related to digital piracy and copyright. The unlawful distribution of copyrighted material that includes software, literary works, films, and music

⁶ *Novartis AG v. Union of India*, (2013) 6 S.C.C. 1 (India).

⁷ Shamnad Basheer & Prashant Reddy, "Ducking" TRIPS in India: A Saga Involving Novartis and Section 3(d), 20 Nat'l L. Sch. India Rev. 131, 139-40 (2008).

⁸ *Mansi Sood, Natco Pharma Ltd. v. Bayer Corporation and the Compulsory Licensing Regime in India*, 6 NUJS L. Rev. 77, 78-79 (2013).

across digital platforms has a pertinent challenge. Content makers and copyright holders regularly raise concerns related to the scale of piracy in India.

India as a result has strengthened its Copyright Act, 1957, with amendments targeted at addressing digital rights regulation and cyber infringement. Enforcement efforts have also been raised, forming collaborations among law enforcement bodies, industry agencies, and international institutions. An important development in this field has been the Indian Court's proactive approach. For example, in **UTV Software Communication Ltd. & Ors. v. 1337X.to & Ors. (2019)**⁹, the Hon'ble High Court of Delhi which championed the concept of "dynamic injunctions" toward rogue websites which primarily engage in copyright violation. It allows copyright holders to bring new alphanumeric/ mirror/redirect/ websites that appear post the initial injunction, so there will be no need of having to file fresh suits, hence, providing a more effective mechanism against the consistently evolving nature of cyber piracy. Such judicial innovation has been critical in redressing cross-border piracy, that often involves jurisdictional challenges and needs international cooperation in enforcement, investigation and prosecution.

C. Geographical Indications (GIs) and Trademark

Trademarks related disputes are particularly those involving passing off and counterfeiting, which is even common in India's international IP arena. Multinational companies regularly challenge issues with the unauthorized utilization of their trademarks, causing consumer confusion and losses. Indian courts have normally shown a strong approach in protecting well-known trademarks and allowing injunctions against violations.

A recent instance illustrating this strong approach was witnessed in the hon'ble Delhi High Court's decision in **Amazon Seller Services Pvt. Ltd. v. Amway India Enterprises Pvt. Ltd. (2020)**¹⁰, here the court held that e-commerce platforms are liable for trademark violation and trading of counterfeit products if participants are actively control or in the sale of the inventory. Although this specific case involved domestic participants, its impact for holding website accountable resonates internationally. Another landmark case is **Jaikishan Kakubhai Saraf v. Peppy Store (2024)**¹¹, here the Hon'ble Delhi High Court accepted the personal name "Jackie Shroff" as a trademark bound to be protected, underscoring the wide scope of trademark protection in India. Similarly, the current dispute between **Himalaya Global Holdings Ltd. and Rajasthan Aushdhalaya Private Limited (2025)**¹² over the trademarks 'Liv-333' and 'Liv. 52' establishes that the judiciary's constant stance on deceptively similar marks to safeguard consumer confusion.

Another IP of Geographical Indications (GIs) have also been a growing international IP disputes involving India. The landmark **Basmati Rice dispute** between India, Pakistan and neighboring countries against the US Patent Authorities and Trademark Office's award for a patent for

⁹ *UTV Software Communication Ltd. v. 1337X.to*, 2019 SCC OnLine Del 8002 (India).

¹⁰ *Amazon Seller Services Pvt. Ltd. v. Amway India Enterprises Pvt. Ltd.*, FAO (OS) 133/2019 (Del. High Ct. Jan. 31, 2020)

¹¹ *Jaikishan Kakubhai Saraf v. Peppy Store & Ors.*, CS (Comm.) 389/2024 (Del. High Ct. May 14, 2024)

¹² *Himalaya Global Holdings Ltd. v. Rajasthan Aushdhalaya Pvt. Ltd.*, CS (Comm.) 433/2024, 2025 SCC OnLine Del 1601 (Del. High Ct. Feb. 25, 2025).

"Basmati Rice Lines and Grains" to a US based company, RiceTec, that highlighted the importance of protecting origin-specific products and traditional knowledge. Although this specific dispute was resolved by negotiations, it is realized that there is a need for firmer international recognition and protection of GIs. Since then, India has been proactive in recognizing and registering its own GIs, such as Darjeeling Tea, and advocating for protection on the national treasure on the international stage.

IV. Dispute Settlement Mechanisms- Indias engagement

The participation of India in international IP conflicts extends way beyond the National Courts to several global and regional dispute adjudication mechanisms.

A. Dispute Settlement Body - WTO

The World Trade Organization has a Dispute Settlement Body (DSB) which is the primary body for trade disputes resolving, including the one related to the TRIPS Agreement. India has been both a petitioner and a respondent in IP-related matters before the DSB.

A high-profile early case of **United States –Pharmaceutical and Agricultural Chemical Products (DS50) Patent Protection**¹³, started by United States of America against India in 1996. The United States of America argued that India failed to establish a "mailbox" system for its patent applications in agricultural chemical and pharmaceutical products during the TRIPS period of transition, as mandated by Article 70.8 of the TRIPS Agreement. The panel of DSB and the Appellate Body went against India, causing India's amendment subsequently of its Patents Act for compliance with the ruling¹⁴. This case was an important learning experience for India, highlighting the binding nature of WTO regulations and the significance of timely compliance. Although the DSB gives a formal mechanism for resolving disputes to be rules-based, its processes may be resource-intensive and lengthy. As IP disputes that often have complex technical and legal issues, the general trade focus of DSB's may not always be ideal.

B. Regional and Bilateral Engagements

India beyond the WTO actively engages in bilateral and regional discussion to redress IP issues. The **U.S.-India Trade Policy Forum's Working Group on Intellectual Property** is a major platform for g discussions for ongoing IP issues, targeting to foster a more predictable, reliable and transparent enforcement ecosystem in India¹⁵. These dialogues often engages technical cooperation, sharing of best practices and capacity building. For example, the Memorandum of Understanding (MoU) between and India's Department for Promotion of Industry and Internal Trade (DPIIT) and the United States Patent and Trademark Office (USPTO) facilitate cooperation on technical matters related to IP. These bilateral initiatives lead to a lesser confrontational way of resolving IP promoting mutual understanding and differences. India's engagement in BRICS

¹³ Appellate Body Report, India – Patent Protection for Pharmaceutical and Agricultural Chemical Products, WTO Doc. WT/DS50/AB/R (adopted Jan. 16, 1998).

¹⁴ Shweta S. Chopra & Pranav Bhagat, Arbitrability of Intellectual Property Disputes in India, 5 Indian J. Arb. L. 83, 90–91 (2017).

¹⁵ Prabhash Ranjan & Pushkar Anand, Enforcement of Intellectual Property Rights in India: Major Challenges and Reforms, 3 Int'l J. Law & Mgmt. 45, 47–48 (2017).

cooperation on IP and several regional trade agreements shows the multi-level mechanism to international IP relations.

C. Alternative Dispute Resolution (ADR)

in India, there is a rising recognition, even globally the conventional litigation may not always be the best or effective or efficient or means of resolving complex IP disputes, especially those with an international paradigm. It has paved way to an increasing adoption and exploration of Alternative Dispute Resolution (ADR) mechanisms.

The **Arbitration and Mediation Center of World Intellectual Property Organization (WIPO)** have a significant role in this regard. WIPO offers tailor-made ADR services, including expedited arbitration, mediation, and expert determination, specialized for IP and technology disputes¹⁶. These mechanisms offer several benefits:

- **Speed and Cost-effectiveness:** ADR processes are less expensive and often faster than conventional court litigation.
- **Expertise:** WIPO has a panel of neutral jurors having highly specialized IP expertise, leading to complicated technical and legal conflicts are understood and addressed properly.
- **Confidentiality:** ADR proceedings are more confidential, which are specifically attractive for businesses looking to protect sensitive commercial data and trade secrets.
- **Flexibility:** Parties have larger control over the process that includes the choice of laws, venue, and arbitrators/mediators.
- **Preservation of Business Relationships:** Mediation, specifically, aims for mutually agreed solutions, which can help save ongoing business relationships between disputing parties.

India's rising interest in WIPO's services for ADR reflects a strategic move towards more effective and specialized avenues for resolving international IP conflicts. Locally, the closure of the Intellectual Property Appellate Board (IPAB) in 2021 and the transfer of its responsibilities to the High Courts have underscored further the need for strong ADR mechanisms to regulate the caseload with timely resolution for matters. The arbitrability of some IP conflict (especially the one concerning *in rem* rights like validity of the patents) remains a topic of judicial interpretation in India, as witnessed in cases like **Eros International v. Telexmax Links India**¹⁷ (2016) and **Booz Allen Hamilton v. SBI Home Finance** (2011)¹⁸, there is a straight forward trend towards promoting arbitration for arising disputes from contractual IP relationships

V. Challenges and Future Outlook

Despite impressive progress, India's legacy with international IP disputes continues to reflect a niche set of challenges that will also lead to several notable successes.

¹⁶ Shweta S. Chopra & Pranav Bhagat, Arbitrability of Intellectual Property Disputes in India, 5 Indian J. Arb. L. 83, 90–91 (2017).

¹⁷ Eros Int'l Media Ltd. v. Telexmax Links India Pvt. Ltd., Notice of Motion No. 886 of 2013 in Suit No. 331 of 2013, 2016 SCC OnLine Bom 1417 (Bom. High Ct. Apr. 12, 2016).

¹⁸ Booz Allen & Hamilton Inc. v. SBI Home Fin. Ltd., (2011) 5 SCC 532 (India)

A. Persistent Challenges

1. **Enforcement Gaps:** India do possess a strong legislative framework, but effective enforcement still is a persistent challenge. It includes the slow-moving judicial process, the lack of dedicated benches or specialized IP courts, and the need for better training for law enforcement agencies to narrow down IP infringements, specifically digital piracy and counterfeiting.¹⁹ The sheer number of pending IP matters in Indian courts, as highlighted by various reports, underscores this challenge.
2. **Lack of IP Awareness and Education:** A large portion of the general public, creators, and innovators, in India still lack proper awareness about rights and its protection. This gap in knowledge may lead to infringement or failure that is unintentional to protect valuable IP, contributing to disputes.
3. **Bureaucratic Hurdles:** Despite efforts to channelize IP registration mechanism, delays linked to bureaucracy may still be a repellant for applicants, affecting the timely securing of IP rights.
4. **Balancing Act:** The basic challenge of balancing innovation rewards (through stringent IP protection) with general public access (especially in crucial sectors like healthcare) persists as a delicate challenge for India. This stress and strain will likely fuel continuously the international debates and disputes²⁰, as reflected in the ongoing debates around TRIPS waivers for technologies that are pandemic related.
5. **Emerging IP Issues:** The fast-paced advancements in technologies such as blockchain, Artificial Intelligence (AI), and the Internet of Things (IoT) are leading to new forms of IP and emerging legal questions. Like other nations, India, faces the challenge of adapting its IP mechanism and dispute resolution framework to address such evolving complexities. Privacy and Data protection are increasingly convoluted with IP that also are a new roadmap for potential disputes.

6. B. Strengths and Successes

1. **Strong Legislative Framework:** India has transformed successfully its Intellectual Property laws to be majorly TRIPS compliant, giving a robust legal basis for IP protection.
2. **Growth in IP Filings:** There is an increase of huge significance in copyrights, trademark, patent, and design filings by Indians, reflecting a impending innovation ecosystem and rising awareness in the Indian innovators and businesses²¹. The WIPO World Intellectual Property Indicators (WIPI) report from 2024-pointed India's progress in IP filings, indicating increased R&D spending and economic growth leveraging IP.

¹⁹ Prabhash Ranjan & Pushkar Anand, *Enforcement of Intellectual Property Rights in India: Major Challenges and Reforms*, 3 Int'l J. Law & Mgmt. 45, 47–48 (2017).

²⁰ *Ibid*

²¹ R.A. Mashelkar & Shahid Ali Khan, *Intellectual Property and Competitive Strategies in the 21st Century* 210–12 (Kluwer Law Int'l 2004).

3. **Campaigns for increased IP Awareness:** India's initiatives like the Cell for IPR Promotion and Management (CIPAM)²² and the National Intellectual Property Awareness Mission (NIPAM) are proactively promoting awareness and IP literacy across the nation.
4. **Strategic Utilization of Flexibilities:** The Government has demonstrated its capacity to strategically use the flexibilities underlying within the TRIPS Agreement to help its national interests, especially in public health, without violating outrightly any international obligations.
5. **Participation in International Activities:** proactive engagement of India in bilateral and multilateral dialogues in the Intellectual Property positions it like an influential statue in reshaping global IP standards and developing international cooperation.

C. Future Outlook and Suggestion

To further strengthen its position in international IP disputes²³, India could focus on several key areas:

- **Judicial Specialization:** More reforms in establishing specialized IP courts within High Courts or dedicated IP benches will expedite dispute redressal and improve judicial expertise.
- **Increasing Enforcement:** Long term investment in improving law enforcement agencies, inter-agency improvement in cooperation, and taking technological support for IP crime detection and prevention are very important. It includes stronger enforcement of anti-counterfeiting and anti-piracy legislation.
- **Promoting ADR:** Active promotion of ADR framework in both domestic and international areas will be crucial for efficient and low-cost disposal of IP disputes²⁴. It includes promoting the use of WIPO's services and encouraging a strong domestic ADR mechanism for IP, especially for contractual disputes.
- **Proactive Engagement:** The government should focus on proactive engagement in international platforms to advocate for a sustainable IP regime that accommodates developmental requirements and addresses increasing IP challenges witness by new technologies, guaranteeing its voice is heard in international IP policymaking.
- **Capacity Building:** Focusing in capacity building for researchers, policymakers, and professionals, will guarantee that India stays at the forefront of IP law and policy.
- **Data-Driven Policy:** Leveraging meta data analytics to realize IP trends, rectify enforcement gaps, and highlight policy decisions can help in more targeted and effective interventions.

VI. Conclusion

The evolution of IP Law in India through international intellectual property disputes is a compelling instance of a developing nation's strategic adjustment to global norms while firmly

²² Ibid

²³ Department-Related Parliamentary Standing Committee on Commerce, *Review of the Intellectual Property Rights Regime in India*, Rajya Sabha Rep. No. 161, at 50–53 (2021).

²⁴ Department-Related Parliamentary Standing Committee on Commerce, *Review of the Intellectual Property Rights Regime in India*, Rajya Sabha Rep. No. 161, at 50–53 (2021).

protecting its sovereign interests. Going from a pre-TRIPS regime characterized by a highly flexible approach to its modern status as an important global IP player, India has showcased a nuanced and evolving participation with international agreements and dispute settlement framework.

The TRIPS Agreement has transformed India's IP pitch, necessitating holistic legislative reforms. However, India's understanding and strategic utilization of TRIPS exemptions, particularly in the pharmaceutical area, have been pivotal in framing its unique IP jurisprudence and is at the heart of international conflict. Landmark cases like *Novartis v. Union of India* and *Natco Pharma v. Bayer Corporation* shows India's assertive stance. Moreover, the proactive judicial approach such as in the case of *UTV Software Communication Ltd. v. 1337X.to* and the strong protection of trademarks reflects a maturing enforcement environment.

India's increasing impetus on alternative dispute resolution frameworks, particularly those provided by WIPO, shows a pragmatic shift in a more amicable, specialized, and efficient, means of addressing complex cross-border IP disputes. While issues such as bureaucratic hurdles, enforcement gaps, and the requirement for higher IP awareness persist, India's strong legislative framework, rising innovation, and active international engagement underscore its determination to cast a balanced and effective IP mechanism. As the global IP regime continues to evolve with technological improvement, India's case will undoubtedly reflect valuable learning and contribute substantially to the upcoming discourse on the future of international intellectual property law.

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