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Commercial Court Act- A Major Reform in Ipr Litigation

Dr. Benerji Meghavaram

Asst. General Manger (Law), ICFAI Foundation for Higher Education (a deemed to be University), Hyderabad.

Abstract

Intellectual Property Rights (IPRs) are the entitlements granted to individuals or owners for their ideas and creations. These rights allow inventors or creators to reap the rewards from their innovative work and knowledge. Examples of IPRs include copyrights, patents, trademarks, and designs, all of which provide protection and rights to the individuals who have developed or invented such properties. On May 12th, 2016 National IPR policy was approved by the Government with the objective to improve the functions of Intellectual property rights in India. This initiative realizes plenty of original and innovative energies that stream in the country and felt necessary to bring them under unique rooftop for the brighter upcoming of IPRs. Apropos of the ease of doing business, the government of India in the year 2015 initiated the Commercial Courts Act, which came into effect in 2016 with an aim to overcome obstacles in processing commercial suits which consider IP conflicts. The Commercial Courts Act contains strict deadlines from filing an application to the end of the judgment of the case. The establishment of Commercial Courts will facilitate the expedited resolution of disputes, ultimately fostering a more business-friendly atmosphere and enhancing the nation's ranking in terms of ease of doing business. The purpose of IPRs is to protect the rights of an individual/creator by quick disposal of cases which is achievable with the right implementation of the Commercial Courts Act in India. This article offers a summary of the commercial courts in India that address intellectual property rights.

Keywords: Intellectual Property Rights, Commercial Courts, Ease of doing Business

Reforms in Intellectual Property in India Perspective

Since independence the government of India brought various policies and taken measures to improve the economic growth and development of the country. These measures made the Indian economy stronger and more potential which led to the economic growth of the country. During Covid- 19 pandemic the country faced a huge decline in growth and revenue. Then, the government came up with ‘atma nirbhar abhiyan’ under this package of Rs.20 lakh crore released to help the nation out of the Covid – 19 crises. This aims for a self- reliant and self-sufficient India. This led the reforms in various sectors with new creative inventions and brought awareness among the public about the importance of IPRs.

As per the World Bank Report since 2003, India has implemented 48 reforms to boost its rank in Ease of Doing[1]. To stand with ease of doing business the Govt., of India has introduced the National Intellectual

[1] The World Bank (2019), The World Development Report (WDR), 2019, The Changing Nature of Work, https://www.worldbank.org/en/publication/wdr2019, (Visited on Feb.22,2021.9.45 AM).

Property Rights policy on 12th May 2016 to bring better road map in future development [2]. This initiative realizes plenty of original and innovative energies that stream in the country, and felt necessary to bring them under one floor for the brighter future of IPRs. Online register of trademarks was made simple by the government of India and minimized the appraisal time of trademarks from thirteen to eight months with an aim to decrease it to just one month further. The authorities have planned to reduce the time period from 5 years to 18 months to review pending applications of IPRs.

Intellectual Property Rights (IPRs) are the entitlements granted to individuals or owners for their ideas and creations. These rights empower inventors or creators to reap the rewards from their innovative work and knowledge. Examples of IPRs include copyrights, patents, trademarks, and designs, all of which provide protection and rights to the respective creators or inventors of such intellectual property.On May 12th 2016 National IPR policy was approved by the government with an objective to improve the functions of IPRs in the country. The authorities realized the plenty of original and innovative sources that stream in India and felt necessary to bring them under one roof for a brighter future of IPRs.

The Government policy is to make India one of the best financial hubs for global investment. So, in order to achieve it, the government of India brought major reforms by correlating the investment, infrastructure, economic development and standard of living in which the development of one factor leads to the achievement of another. India has shown consistent betterment in its grade in the International Intellectual Property index, based on the capability of its patent and copyright laws. The following Indian laws are recognized under intellectual property rights.

- The Copyright Act, 1957
- The Patents Act, 1970
- The Trade Marks Act,1999
- The Designs Act, 2000
- The Geographical Indications of Goods (Regulation and Protection) Act, 1999[3]
- The Semiconductor Integrated Circuits Layout- Design Act, 2000
- The Protection of Plants & Varieties and Farmers Rights Act,2001[4]

National IPR Policy

In the year 2016 National IPR Policy was brought as a vision document with an aim to develop IPRs in the country and to bring complete IPRs under one roof. The goal is to bring sinewy and efficient IPR laws to protect the creative and innovative sources of individuals. The primary achievements under new policy is the improvement of India's rank from 81st in 2015 to 48th rank in 2020 with a score of 35.59 the 13th edition of Global Innovation Index (GII) issued by WIPO and in the year 2022 it is 46th position with a score of 36.6, as per 15th edition of Global Innovation Index (GII) issued by WIPO, 2022[5] and 39th rank

[2] Press information Bureau Government of India, Ministry of Commerce & industry (2018), National Intellectual Property Rights (IPR) Policy, 2016, https://pib.gov.in/Pressreleaseshare.aspx,(Visited on Feb22,2021,10.30PM).

[3] Universal, the Geographical Indications of Goods (Regulation and Protection) Act, 1999, 1-2 (Universal Law Publishing, 2011).

[4] Vijayendra Singh, India's Protection of Plant Varieties and Farmers' Rights Act, 2001with reference Trips,1 (Kalyani Publishers,2016).

[5] WIPO (2022), Global Innovation Index, 2022, https://www.wipo.int/global_innovation_index/en/2022(Visited on Feb 20,20219.45 AM).

in the year 2024[6].The index is a symbol to measure economic progress. And the other noted achievements are clearing backlog/ reducing pendency in IPR related applications.

Intellectual property rights (IPRs) have a significant place in every phase and a ground for pivotal investment options. IPRs are treated as privileged rights and there is a tough situation to keep better relations between the benefit of the originator and the customer/ public in different aspects. Essential component is to have sufficient statutory law to protect the benefit of masterminds and stimulate assurance that their intellectual rights are secured.

Due to more number of courts, forums, judicial authorities with varied experience and different ways of practice methods resulted the Indian IPR litigation a multifarious system. Thus, few courts became favored forums than other courts. In the High Court of metropolitan cities the suits on infringement are filed at large. The wide experience of these forums on IPR related issues is a reason behind filing more cases. Delhi and Mumbai High Courts share more percentage of cases. Thus, increases in cases of commercial disputes are more common.

The government of India in the year 2015 initiated the Commercial Courts Act, came into effect from 2016 with an aim to overcome obstacles in processing of commercial suits which consist of IP conflicts. Commercial Courts are established at district level and in the High Courts the commercial divisions/forums are established with ordinary original civil jurisdiction. The new enactment boosted the process of resolving commercial disputes in which the process of IPR litigation system was lightened up.

Commercial Courts

Commercial transactions are based on mutual promise between the parties. The breach of promise by either party will result in commercial disputes.

In India there is a high amount of pending cases for a longer period so in order to minimize the burden, the Commercial Courts Act as a weapon for quick and easy disposal of disputes. The State government by notification constitutes Commercial Courts. The framework is to identify the developments and reforms that took place after the enactment of the Act. Commercial Courts Act gave an assurance to the investors that Indian Courts are no less then to the Courts in other developed countries.

Rise in FDI and international trade transactions chip in to a substantial move of commercial conflicts in India. Disputes unresolved will have detrimental effects on trade and commerce. Crores of rupees of the litigants are held up in the litigation, which is equal to the smaller States budget of India, affecting the economic development of the country. There is an allegation that much time is consumed before a dispute is resolved.

As part of the ease of doing business index, various countries in the world to stand in line with global, financial and economic growth initiated various reforms in economic, financial, law and regulation governing the economic affairs, thus promoting flow of funds from various countries resulting in economic growth. Apropos to the ease of doing business, the government of India in the year 2015[7] initiated the Commercial Courts Act came into effect in 2016 with an aim to overcome obstacles in processing of commercial suits which consider IP conflicts.

[6] Global Innovation Index 2024,https://www.wipo.int/web-publications/global-innovation-index-2024/en/gii-2024-results.html

[7] Durga Prasad MV, Commentary on the Commercial Courts Act, 2015, 4-48(5th edn, Asia Law house, 2019).

Constitution of Commercial Courts

The Act outlines the creation of three categories of Courts, with Section 3 specifically detailing the formation of commercial courts at the district level by the State government. The lower pecuniary limits which shall not be less than three lakhs. Different limits can be fixed for different parts of the states. Likewise, the local limits of the commercial court shall be specified which can be varied or altered by notification. Prior consultation with the High Court is necessary in all these cases. Section 4 provides for the constitution of Commercial Division by a single judge with one and more benches by the Chief Justice in the High Court's having original civil jurisprudence. Section 5 provides for consultation of the commercial appellate division with on and more division benches by the Chief Justice after establishing commercial courts under Section 3 & 4 of the Act.

Jurisdiction of Commercial Courts

The jurisdiction of Commercial Courts encompasses the authority to adjudicate cases related to commercial disputes of a defined monetary value that arise within the territorial boundaries of the State.

The Important for Commercial Courts in India

The votive forums of the Commercial Courts acting as a catalyst to handle knotty commercial disputes and also these niche forums with more expertise and efficiency lead to better adjudication.

The Commercial Courts Act furnishes a schedule amending definite provisions of CPC which are relevant to the specified value of commercial disputes. The amended provision shall be followed by the commercial courts.

Enforcement of contracts to be carried within proper judicial structure. The government of India recognized the lengthy process in enforcing contracts compared to other countries. The reason behind this is the confusion over the jurisdiction of the courts, plenty of pending cases and disarray in litigation procedure. To overcome these difficulties the standing committee of the parliament felt the need to bring an alternate mechanism for speedy resolution of disputes and to set up fast track courts for quick disposal of cases enforcing contracts. It also felt the need to limit adjournments on exceptional times.

Determination of Specified Value

The provision of specified value provided in Section 2(i) of the Commercial Courts Act with Section 12 of the Act as it is a determination of specified value. The IPR is an intangible right, therefore, Section 12(d) is applicable for cases related to IPR.

Fixed Timelines to File Written Statement

The amended Order VIII Rule 1 of the CPC now permits a defendant to submit their written statement within a maximum timeframe of 120 days.

Expertise of Judges

Knowledgeable judges are appointed in the commercial courts as the commercial disputes are highly technical in nature. Judges in the commercial divisions of High Courts and in the commercial courts are proposed to be nominated by the Chief Justice of the respective High Court with heed to their experience in commercial matters.

Speedy Disposal of Cases

The Commercial Court Act tries to bring similarity in specified value of the commercial disputes all over the country where there is a possibility to deal with such disputes exclusively by commercial courts. Overburden of the Civil Courts will be reduced and assist in speedy resoluteness of cases across the state.

Quicken the Process

Commercial Courts Act provides a laudable provision by guiding the plaintiff to file documents necessary materials and all other witness statements before the concerned authorities at the time of filing cases to quicken the process and overcome delays. When compared in the traditional court system documents are filed at a place of trial which is lengthy and consumes time due to several adjournments.

Strict Deadlines

The Commercial Courts Act contains strict deadlines from filing an application and to the end of the judgment of the case. There is no provision to modify the time limit provided by the Act. Deadlines are imposed on judges to enunciate judgment within 90 days from the date of final argument.

Case Management Hearing

The first case management hearing taken by the Courts is not to exceed 4 weeks from the date of filing affidavits. Time limit for completion of trial is necessary under the Commercial Courts Act. On a day by day trial the court can fix the schedule for hearing of the case during case management hearing with the concern of the parties.

Mandatory Pre- Institution Mediation

The modification of the Commercial Courts Act introduces Section 12A, which focuses on pre-institution mediation and settlement to effectively address commercial disputes. This mediation process is required to be finalized within three months from the date of application. The entire procedure is managed by the authorities in accordance with the Legal Services Authorities Act of 1987. Any settlement reached through mediation will carry the same weight as an arbitral award, as stipulated in Section 30(4) of the Arbitration and Conciliation Act, 1996.

Summary Judgment

The summary judgment helps to overcome the unnecessary trial procedures in Courts. In few case trials the entire procedure to be followed by the courts though the matter does not require much time. Summary Judgment helps to achieve the purpose of Commercial Courts by quick disposal of cases which helps the litigants to improve their trade and commerce without any delays.

Deployment over last Eight years

Over the past several years, significant advancements have been made in India's intellectual property rights (IPR) landscape. In 2016, the country hurled its first National Intellectual Property Rights (IPR) Policy, which now protections a range of extents including Patents, Designs, Trademarks, Copyright, Geographical Indications, and Semiconductor Integrated Circuits Layout Design. This policy is overseen by the Department for Promotion of Industry and Internal Trade (DPIIT). Within DPIIT, the Cell for IPR Promotion and Management is tasked with applying the National IPR Policy, spearheading efforts to

rationalize intellectual property procedures, raise awareness, encourage commercialization, and strengthen enforcement devices. The Indian government has started numerous measures to improve its IPR framework, counting the modernization of IP offices, increasing personnel, utilizing information technology for electronic application submissions, issuing digital certificates for patents, trademarks, and designs, simplifying trademark application forms, conducting hearings via video conferencing, establishing expedited examination processes, and promoting awareness of intellectual property issues. In partnership with the Federation of Indian Chambers of Commerce and Industry, DPIIT has created an IPR enforcement toolkit aimed at aiding law enforcement agencies in combating IP-related offenses, particularly counterfeiting and piracy. The Maharashtra IP Crime Unit (MIPCU), formed in August 2017 as a public-private partnership, enables collaboration between the industry and state police to address digital IP theft, particularly in the area of digital piracy. This unit may serve as a model for digital enforcement that could be adopted by other states across India. Furthermore, the Ministry of Education's Innovation Cell has begun initiatives to foster innovation and improve IP literacy and awareness in educational institutions nationwide.

The Intellectual Property Appellate Board (IPAB) was disbanded in 2021, leading to the relocation of the authority to adjudicate appeals concerning patents, trademarks, copyrights, and other intellectual property rights (IPR) matters to the High Courts. This change has shaped a level of indecision regarding the resolution of IP cases and the determination of copyright royalty rates. In July 2021, the Delhi High Court established a dedicated Intellectual Property Division (IPD) to handle IPR matters, including those that were previously under the IPAB's jurisdiction. Lately, the Delhi High Court appointed three judges to work solely within the IPD, and in February 2022, the Court introduced detailed regulations governing the IPD's operations. Concurrently, the Court also published its guidelines related to patent litigation. The Parliamentary Committee Report from April 2022 recommended that the Indian government encourage the formation of similar IPDs in High Courts across the country. In 2021, India heightened its initiatives against websites that host pirated content. Despite developments in online copyright enforcement, such as the introduction of "dynamic injunctions" for repeat offenders, copyright holders continue to experience high levels of piracy, particularly in online settings and through commercial broadcasts. This includes unauthorized distribution of video games, signal theft by cable workers, extensive photocopying, illegal reprints of academic materials, and the evasion of Technology Protection Measures. While some progress has been attained, the ineffective enforcement of intellectual property laws by judicial and law enforcement bodies, joint with a lack of familiarity with investigative techniques and the absence of a centralized IP enforcement agency, as well as inadequate coordination between national and state efforts, present considerable obstacles to further progress.

Enforcement Environment of IP

The Survey reveals a significant surge in the number of patents awarded, increasing from 5,978 in 2014-15 to 103,057 in 2023-24, which signifies a growth of seventeen times. Furthermore, it highlights that the number of registered designs has risen from 7,147 in 2014-15 to 30,672 in 2023-24. The Government intends to create the Anusandhan National Research Foundation (ANRF) with a projected investment of ₹ 50,000 crore over the period from 2023 to 2028. This foundation is intended to function as a premier institution providing strategic guidance for scientific research within the Indian industrial sector. The report also highlights that India's increasing share of resident applicants for trademark registrations mirrors trends seen in other leading economies, which is a promising indicator of progress in innovation.

Highlighting the vibrant Start-Up ecosystem in India, the Survey indicates that more than 45 percent of Start-Ups have emerged from Tier 2 and Tier 3 cities. Additionally, the count of DPIIT-recognized start-ups has surged to over 125,000 by March 2024, a significant increase from merely 300 in 2016. These statistics underscore the significant measures undertaken by Indian policymakers to foster an environment conducive to innovation for both domestic and international intellectual property stakeholders. As cross-border investments and developments in intellectual property continue to rise, the potential for disputes will necessitate an effective mechanism for dispute resolution. With the increase in filings for patents, trademarks, copyrights, and other critical intellectual properties, claims of infringement and passing off are expected to rise accordingly.

Although the policy frameworks aim to create a favorable regulatory landscape for the advancement of research and development in innovation within India, the challenge of improving the ease of doing business (EoDB) persists, primarily due to issues surrounding dispute resolution. In the context of intellectual property (IP) disputes, various forms of litigation, including civil and criminal cases, as well as arbitration dues, can be started in India. Earlier, such dues were directed to the courts. However, the backlog of cases led to the establishment of the Intellectual Property Appellate Board (IPAB) by the Indian government in 2003. This initiative was a response to the delays experienced in High Courts. The practice of IP rights in these courts is characterized by prolonged interim orders, ex-parte vacations, and an increasing backlog of cases awaiting final arguments. Despite the rationale for a specialized tribunal to address the complexities of patent and trademark issues, the government decided to dissolve the IPAB in 2021 due to its inability to function effectively. To expedite case resolution and alleviate the financial burden on the government, the President of India announced the "Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance, 2021," which resulted in the abolition of the IPAB. As a result of this decision, appeals from the Registrar of Geographical Indications and the Controller General of Patents, Designs, and Trade Marks will now be submitted to an Intellectual Property division of the High Court. Additionally, there is now the option for appeals from Registrars of Geographical Indications to be addressed in a commercial court.

Conclusion

It is essential to have a quick and efficient dispute resolution system for the development of trade and commerce. The Commercial Courts gave assurance to the domestic and international investors by quick and easy resolution of commercial disputes. The Commercial Courts helped to boost the global portrayal of the Indian justice delivery structure. It changed the perception of investors who felt it is difficult to carry on business in India. The efficient dispute resolution mechanism in the Commercial Courts Act helps in growth and use of trade and commerce of the country. India got 63rd rank in ease of doing business in the year 2020 a jump from 77th in the year 2019 business achievements.

Knowledgeable judges are appointed in the Commercial Courts as the commercial disputes are highly technical in nature. The purpose of enactment to Commercial Courts is to improve ease of doing business indexes and encourage foreign investment in India. This led to bringing reform to civil litigation in the Indian judiciary. The very objective of the Commercial Courts Act can be achieved through proper implementation of dispute resolution mechanisms in the long run.

The Indian judiciary has issued numerous significant rulings across various areas of intellectual property. Additionally, the legislature enacted the Commercial Courts Act, 2015, which emphasizes the resolution of commercial disputes, including those related to intellectual property, and guarantees their handling by

specialized tribunals. The need of the hour is to assure the investors and to make India an investment hub. Commercial Courts are playing a vital role in achieving the objective to improve India's position in "ease of doing business". Commercial Court Act can be seen as a legal solution where the process is rooted within the law. Intellectual property law in India has seen huge development in the past few years after the enactment of the Commercial Courts Act.

The objective of the government was to improve the IPR functions and bring major reforms in IPR policy. Implementation of the Commercial Courts Act too brought a major movement in IPR litigation. As discussed above, the government of India to improve rank in ease of doing felt the need to bring a quick dispute resolution mechanism and introduced the Commercial Courts Act which includes the case relating to intellectual property rights according to 2 (c) (xvii) Commercial Courts Act, 2015. The intent of IPRs is to protect the rights of an individual / creator/ mastermind by quick disposal of cases which is achievable with right implementation of commercial court Act in India.

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