



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL **TEAM**

Raju Narayana Swamy (IAS) Indian Administrative Service **officer**



Dr. Raju Narayana Swamy popularly known as Kerala's Anti Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala . He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University . He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru

and a professional diploma in Public Procurement from the World Bank.

diploma in Public

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB , LLM degrees from Banaras Hindu University & Phd from university of Kota.He has succesfully completed UGC sponsored M.R.P for the work in the ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; Ph.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St.Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing Ph.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur,
M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

JUDICIAL TRENDS IN IPR ENFORCEMENT IN INDIA

AUTHORED BY: - KAJAL¹

ABSTRACT

This article delves into the evolving judicial trends in the enforcement of Intellectual Property Rights (IPR) in India, emphasizing the critical role the judiciary has played in interpreting and strengthening IPR laws. As India continues to align its legal framework with global standards, especially after the TRIPS Agreement, the judiciary has emerged as a powerful force shaping IPR jurisprudence. Through the lens of landmark judgments and key legal developments, the article highlights how courts have handled the delicate balance between enforcing proprietary rights and safeguarding public interest. Several significant cases, such as Novartis AG v. Union of India and F. Hoffmann-La Roche Ltd. V. Cipla Ltd., underscore the Indian judiciary's commitment to accessibility and affordability in healthcare while upholding legal protections for patent holders. In the realm of copyright and trademarks, decisions like Sholay Media v. Parag Sanghvi and Christian Louboutin SAS v. Nakul Bajaj have set important precedents on moral rights, intermediary liability, and freedom of expression. Furthermore, Indian courts have actively developed doctrines such as exhaustion, fair use, and dynamic injunctions, thus expanding the scope and sophistication of IPR enforcement. However, the article also identifies challenges, including delays in adjudication, limited specialization among judiciary members, and underdeveloped enforcement mechanisms. By comparing Indian practices with those of jurisdictions like the US and EU, it becomes evident that India has made significant strides but still has room for improvement in terms of speedy trials, punitive damages, and dedicated enforcement infrastructure. The Indian judiciary has shown commendable adaptability and foresight in shaping the IPR landscape, continued reforms, capacity building, and policy alignment are essential to foster innovation and protect creators in a rapidly evolving global economy.

Keywords: - Intellectual Property, Indian, Public Interest, Media, Patent, Trademarks, Copyright.

¹ Kajal, Assistant Professor in Law, CT Group of Institutions, Shahpur, Jalandhar, Punjab (India).

INTRODUCTION

Intellectual Property Rights (IPRs) are legal rights granted to creators and inventors to protect their innovations and creativity. Effective enforcement of IPR is critical for promoting innovation, ensuring fair competition, and attracting foreign investment. In India, the judiciary has played a pivotal role in interpreting and enforcing IPR laws, especially in the absence of uniform and updated legislation. The judicial trends in IPR enforcement in India, emphasis on major court decisions and their implications. The Indian IPR regime has witnessed significant transformation since the liberalization of the economy in the 1990s. Compliance with international agreements, especially the TRIPS Agreement under the WTO, led to comprehensive amendments in domestic laws. However, the judiciary has been at the forefront in interpreting these changes and ensuring effective enforcement. Early enforcement was characterized by delays, lack of expertise, and inconsistent rulings. However, with increasing awareness and pressure from stakeholders, courts have gradually evolved a more proactive and rights-centric approach. The establishment of the Intellectual Property Appellate Board (IPAB), and later, the transfer of its functions to the High Courts, marks a significant shift towards specialized adjudication.

EVOLUTION OF IPR LAW IN INDIA

IPR laws in India have evolved significantly, especially after India became a signatory to the TRIPS Agreement in 1995. The judiciary has consistently interpreted these laws to align with international obligations and domestic needs. Major legislation includes:

- a) The Patents Act, 1970
- b) The Copyright Act, 1957
- c) The Trademarks Act, 1999
- d) The Designs Act, 2000
- e) The Geographical Indications of Goods (Registration and Protection) Act, 1999

The role of the judiciary became increasingly important in interpreting these laws and addressing ambiguities. The Indian judiciary has shown commendable adaptability and foresight in shaping the IPR landscape, continued reforms, capacity building, and policy alignment are essential to foster innovation and protect creators in a rapidly evolving global economy.

LANDMARK JUDGMENTS IN IPR ENFORCEMENT

Intellectual Property Rights (IPR) enforcement plays a crucial role in maintaining a balance between the rights of creators and the public interest. Indian courts have often interpreted IPR laws through a socio-economic lens, especially in sectors like healthcare, entertainment, and online commerce. Here are five landmark judgments that have significantly shaped IPR enforcement in India.

1. **Novartis AG v. Union of India (2013)**

This landmark Supreme Court judgment marked a turning point in pharmaceutical patent law. Novartis sought patent protection for its anti-cancer drug Glivec, claiming a new form of a known substance. However, the Court rejected the application under Section 3(d) of the Indian Patents Act, ruling that the new version of Glivec did not demonstrate enhanced therapeutic efficacy. The verdict was a strong stance against “evergreening” of patents—where patent holders attempt to extend their monopoly by making minor modifications. The Court upheld the importance of public health and access to affordable medicines over commercial interests, setting a precedent for future pharmaceutical patent applications.

2. **F. Hoffmann-La Roche Ltd. v. Cipla Ltd. (2008)**

This case brought the “public interest” principle to the forefront in deciding patent infringement cases. Roche, the patent holder for an anti-cancer drug, sought an injunction against Cipla for selling a generic version. While the Delhi High Court found prima facie evidence of patent infringement, it refused to grant an interim injunction. The Court emphasized that granting such relief would harm public interest by limiting access to life-saving medication. The ruling balanced patent rights with public health concerns, showing a nuanced approach to enforcement.

3. **Sholay Media and Entertainment Pvt. Ltd. v. Parag Sanghvi (2016)**

In this case, the Delhi High Court addressed moral rights in copyright law. The creators of the iconic film “Sholay” objected to the unauthorized adaptation and use of its characters and themes. The Court upheld the creators' moral rights under Section 57 of the Copyright Act, recognizing their right to preserve the integrity and identity of their work. This judgment reinforced the importance of respecting authorship and the

original spirit of a creative work, even after the copyright has been commercially exploited.

4. Tata Sons Ltd. v. Greenpeace International (2011)

This case dealt with the intersection of trademark law and freedom of expression. Tata Sons sued Greenpeace for using its logo in a satirical online game that criticized the company's environmental practices. The Delhi High Court dismissed the claim, affirming that trademark law cannot be used to suppress parody or political criticism. The judgment strengthened the protection of artistic and critical expression against overreach by trademark owners.

5. Christian Louboutin SAS v. Nakul Bajaj (2018)

This case clarified the liability of online marketplaces in trademark infringement. The Delhi High Court ruled that intermediaries like online retailers could not escape liability if they played an active role in listing and selling counterfeit products. The court emphasized the duty of e-commerce platforms to exercise due diligence and protect trademark rights. This ruling has had a profound impact on the regulation of online marketplaces in India.

Together, these judgments reflect a balanced and context-sensitive approach to IPR enforcement in India, focusing on innovation, public interest, and fair use.

PROACTIVE ROLE OF INDIAN JUDICIARY IN IPR

The Indian judiciary has played a transformative and proactive role in the evolution and enforcement of Intellectual Property Rights (IPR). In the absence of constant legislative updates, Indian courts have stepped in to interpret existing laws in ways that balance the interests of rights holders, consumers, and the broader public. Through progressive judgments, the judiciary has not only filled gaps in legislation but also influenced the formation of IPR policy and standards. Several key doctrines and legal principles have emerged from judicial activism in this area.

1. Doctrine of Exhaustion

One of the important contributions of the Indian judiciary is the establishment of the *Doctrine of Exhaustion* in IPR, especially with regard to patent and trademark law.

According to this doctrine, once an IP-protected product is sold by the rights holder or with their consent, the exclusive rights over that specific item are considered exhausted. This means the IP owner cannot control subsequent resale or use of the product. This principle prevents double recovery and supports the growth of parallel import markets, benefiting consumers by promoting competition and reducing prices. The Supreme Court and High Courts have reaffirmed this doctrine in various rulings, reinforcing the rights of purchasers and resellers.

2. Doctrine of Fair Use

The courts have actively interpreted and expanded the *Doctrine of Fair Use* in Indian copyright law. Recognizing that copyright protection must be balanced against the right to access information, freedom of expression, and academic freedom, the judiciary has laid down principles under which the use of copyrighted material without permission can be considered fair. For example, reproduction for educational purposes, research, parody, criticism, and news reporting are often treated as fair use. This doctrine has enabled wider access to knowledge and supported the creative ecosystem while respecting the legitimate rights of copyright owners.

3. Intermediary Liability

With the rise of e-commerce and digital platforms, questions around the responsibility of online intermediaries have become more pressing. The Indian judiciary has played a key role in defining *Intermediary liability*, particularly in trademark and copyright infringement cases. Courts have held that while intermediaries are generally protected under *Section 79* of the *Information Technology Act*, they cannot claim blanket immunity if they are actively involved in promoting or distributing infringing goods. The landmark case of *Christian Louboutin v. Nakul Bajaj* clarified that platforms that take an active role in product listings, pricing, and customer engagement can be held liable for IP violations. These rulings have prompted online platforms to adopt stricter due diligence and monitoring mechanisms.

4. Territorial Jurisdiction in Online Disputes

Another critical area where the judiciary has stepped in is determining territorial jurisdiction in IPR cases, especially those involving online transactions. Courts have ruled that if a website is accessible and business is conducted in a particular region, the

courts in that region have the authority to hear the case. This has made enforcement more practical in the digital age, ensuring that rights holders can seek remedies without being limited by traditional territorial boundaries.

Indian judiciary has taken an active role in shaping the IPR landscape. Its interpretative innovations and progressive doctrines have ensured that IPR enforcement remains fair, balanced, and relevant to evolving technologies and market dynamics.

TRENDS IN INJUNCTIONS AND REMEDIES

The landscape of Intellectual Property Rights (IPR) enforcement in India has undergone significant transformation in recent years, with courts taking a more robust and proactive stance. Among the most notable developments are the evolving trends in the granting of injunctions and the awarding of remedies such as damages and account of profits. Indian courts are striking a delicate balance between protecting the rights of IP holders and considering broader public interest.

Injunctions: A Preferred Tool for Enforcement:- Injunctions both interim and permanent has become a central tool in IPR enforcement. Courts are increasingly willing to grant interim injunctions to prevent ongoing or imminent infringement during the pendency of litigation. The rationale behind such relief is to avoid irreparable harm to the rights holder and to preserve the status quo until a final decision is made.

At the same time, courts have adopted a nuanced approach by assessing three key factors before granting interim relief: *prima facie case*, *balance of convenience*, and *irreparable injury*. The growing trend reflects the judiciary's recognition of the time-sensitive nature of IP disputes, especially in industries like pharmaceuticals, technology, and entertainment, where swift action is often essential to protect commercial interests.

However, courts have not blindly favoured rights holders. In several high-stakes cases, particularly those involving essential medicines or educational materials, courts have declined to grant injunctions if such orders would harm public health or access to education. The landmark case of *F. Hoffmann-La Roche Ltd. v. Cipla Ltd.* is a prime example, where the Delhi High Court denied interim relief despite acknowledging *prima facie* infringement, citing public access to affordable cancer treatment as a greater priority.

Permanent Injunctions and Post-Trial Remedies:- Permanent injunctions are generally granted upon a finding of actual infringement at the conclusion of a trial. Courts have been firm in ensuring that once an IP right is proven to be violated, the infringer is restrained from further misuse. These judgments send a strong message about the sanctity of IP rights in India and serve as a deterrent to potential infringers.

Damages and Account of Profits:- Another noticeable trend is the increased awarding of damages and account of profits in IPR cases. While such remedies were once rare or nominal, courts are now more willing to quantify and award financial compensation to rights holders. This includes compensatory damages for losses suffered, as well as punitive damages in cases of wilful or malicious infringement.

Still, compared to global benchmarks—particularly in jurisdictions like the United States—the awarded amounts in India remain conservative. This is due to various factors including the difficulty in proving actual damages, lack of comprehensive evidence, and the traditionally cautious approach of Indian courts in awarding high monetary compensation. Nonetheless, the trend is shifting gradually, with courts recognizing the importance of meaningful remedies in reinforcing the value of intellectual property.

The evolving judicial approach toward injunctions and remedies in IPR cases reflects a maturing legal framework in India. By balancing the interests of rights holders with public welfare, Indian courts are shaping a fair, efficient, and equitable IPR enforcement system one that promotes innovation while ensuring broader societal access and fairness.

IPR ENFORCEMENT IN THE DIGITAL SPACE

The rapid expansion of e-commerce platforms, digital media, and online content sharing has brought new challenges to Intellectual Property Rights (IPR) enforcement in India. In response, Indian courts have evolved their enforcement mechanisms to effectively tackle digital infringement, ensuring that the legal system keeps pace with technological advancements.

One of the most significant developments is the use of “blocking orders”, where courts direct Internet Service Providers (ISPs) to block access to websites hosting infringing content. This approach has been particularly effective in copyright infringement cases, such as pirated movies, music, and software, where infringing content is easily disseminated across multiple

platforms.

To further strengthen enforcement, courts have also introduced “dynamic injunctions”. These innovative orders allow rights holders to approach the court for quick relief by blocking newly emerging URLs or mirror websites that host infringing content—without having to file a fresh suit each time. This proactive step helps rights holders combat digital piracy more efficiently and adapt to the fluid nature of online infringement.

Additionally, the notice and takedown regime plays a vital role. Under this mechanism, online platforms and intermediaries are required to act swiftly upon receiving complaints of infringement. Courts have consistently emphasized the duty of these platforms to implement robust monitoring and removal procedures to prevent repeated violations.

Together, these legal developments mark a decisive shift in IPR enforcement in the digital space. The Indian judiciary’s adaptive and tech-aware approach ensures that digital innovation coexists with respect for intellectual property.

CHALLENGES IN JUDICIAL ENFORCEMENT OF IPR

Despite notable progress in IPR protection, several challenges continue to affect judicial enforcement in India:

1. Delays in Adjudication

- IPR cases are often time-sensitive.
- Prolonged litigation reduces the commercial value of rights.
- Delays discourage enforcement and investor confidence in innovation.

2. Lack of Specialized IP Courts

- Only a few High Courts have dedicated IP divisions.
- Many cases are handled by general benches lacking domain expertise.
- This affects judicial efficiency and consistency in rulings.

3. Low Awareness and Training

- Judges, police, and enforcement officials often lack specialized IPR knowledge.
- Limited understanding hampers the quality and speed of enforcement.
- Rights holders may not receive timely or appropriate remedies.

4. Underreporting and Weak Penalties

- Many instances of infringement go unreported.
- Infringers often face minimal or no penalties.
- Lack of strict consequences diminishes the deterrent effect of IPR laws.

To ensure effective IPR enforcement, India must address these issues through judicial reforms, specialized training, and stronger penalties, creating an innovation-driven legal ecosystem.

COMPARATIVE ANALYSIS WITH OTHER JURISDICTIONS

India's IPR enforcement landscape is progressing, but it remains a work in progress compared to more developed jurisdictions like the USA and the European Union. One key difference lies in the *quantum of damages awarded* courts in the West frequently grant substantial *punitive damages* that serve as strong deterrents against infringement, whereas Indian courts tend to award conservative compensation.

Moreover, *speedier trials* are facilitated in countries like the USA and EU through *specialized IP courts and fast-track litigation systems*, ensuring timely resolution of disputes. In contrast, Indian cases often suffer from procedural delays and a lack of consistent specialization.

Additionally, *dedicated IP enforcement units* in the West actively monitor and curb violations, working closely with customs and police. India, while making efforts in this direction, still lacks such a robust and coordinated enforcement mechanism.

Bridging these gaps is essential for India to align with global best practices and attract greater innovation and investment.

SUGGESTIONS AND WAY FORWARD

To improve judicial enforcement of IPR in India:

1. **Specialized IP Benches:** - Establish dedicated IP benches in all High Courts to ensure expertise and faster resolution.
2. **ADR Mechanisms:** - Encourage mediation and arbitration to resolve IPR disputes efficiently and reduce court backlog.
3. **Capacity Building:** - Provide regular training for judges, enforcement agencies, and lawyers to enhance understanding of IPR complexities.

4. **Stronger Penalties:** - Increase fines and punishments for wilful infringement to deter repeat offenders.
5. **Digital Enforcement:** - Use advanced technology and strengthen collaboration with ISPs to combat online IPR violations effectively.

CONCLUSION

The Indian judiciary has been instrumental in shaping a balanced and evolving IPR framework. Through progressive and nuanced judgments, courts have effectively upheld the rights of IP holders while ensuring public interest and accessibility are not compromised. This delicate balance between enforcement, innovation, and societal needs reflects a maturing legal landscape. However, to fully realize the potential of IPR in driving innovation and economic growth, India must focus on faster adjudication, policy consistency, specialized infrastructure, and greater awareness. Strengthening these areas will help build a robust IPR enforcement system that aligns with international best practices.

References:

1. *Novartis AG v. Union of India*, (2013) 6 SCC 1
2. *F. Hoffmann-La Roche Ltd. V. Cipla Ltd.*, 2008 (37) PTC 71 (Del)
3. *Sholay Media & Entertainment Pvt. Ltd. V. Parag Sanghvi*, 2016 SCC Online Del 3514
4. *Tata Sons Ltd. V. Greenpeace International*, 2011 (45) PTC 275 (Del)
5. *Christian Louboutin SAS v. Nakul Bajaj*, 2018 SCC Online Del 13015
6. *The Patents Act, 1970*
7. *The Copyright Act, 1957*
8. *The Trademarks Act, 1999*
9. *TRIPS Agreement, WTO*
10. *Reports from WIPO and Indian IP Office*