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# **PATENTS LITIGATION TRENDS IN INDIA: THE POST IPAB ERA**

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## **Abstract**

The abolition of the Intellectual Property Appellate Board (IPAB) in 2021 marked a pivotal shift in the landscape of patent litigation in India. Prior to its dissolution, IPAB was the specialized body tasked with handling patent appeals, revocations, and other intellectual property-related disputes. Post-IPAB, the jurisdiction for patent-related matters was transferred to the High Courts, particularly the Delhi and Madras High Courts, which established dedicated Intellectual Property Rights (IPR) Divisions to manage the increased caseload. This transition has led to significant trends in India's patent litigation framework. First, there has been a marked increase in the volume of patent cases filed, with the Delhi High Court's IPR Division alone receiving over a thousand cases in its first year. Second, there is a noticeable shift towards the specialization of adjudication. The newly established IPR Divisions have introduced specialized rules and procedures to address the technical complexities inherent in patent disputes. Additionally, the courts have adopted expedited proceedings to reduce delays, including mechanisms such as summary adjudication and fixed hearing times. Another notable trend is the rise of Standard Essential Patent (SEP) disputes, reflecting India's growing role in global patent law, especially in cases involving major international entities. However, despite these positive developments, challenges remain, including concerns over inconsistent rulings across various High Courts and the need for further specialization in intellectual property adjudication.

## **Keywords:**

Patent Litigation, Intellectual Property Appellate Board (IPAB), Patent Disputes.

## Introduction

The landscape of patent litigation in India has undergone a significant transformation in recent years, especially after the dissolution of the Intellectual Property Appellate Board (IPAB) in 2021.<sup>1</sup> Previously, IPAB served as a specialized appellate body for resolving patent-related disputes, including appeals against the decisions of the Controller General of Patents and designs, as well as petitions for patent revocation. The IPAB was instrumental in shaping India's patent law regime and played a crucial role in the resolution of complex intellectual property issues, particularly patent disputes. However, in a sweeping move, the Indian government decided to abolish IPAB, and its functions were transferred to the High Courts, particularly the Delhi and Madras High Courts. This shift has led to several important changes in the patent litigation process in India.

One of the most noticeable impacts of this transition has been the increase in the caseload handled by the High Courts. Before the abolition of IPAB, patent-related matters were typically handled by a specialized tribunal with expertise in intellectual property law. The decision to transfer these cases to the High Courts, especially the Delhi High Court, which has a reputation as the primary forum for intellectual property disputes in India, has resulted in a significant surge in the number of patent litigation cases. For instance, the Delhi High Court's IPR Division received over a thousand patent cases in its first year, highlighting the growing volume of patent disputes in India. This increased caseload has placed immense pressure on the judicial system, raising questions about the ability of the High Courts to efficiently manage such a large number of cases.<sup>2</sup>

In response to the increased caseload, the High Courts, particularly the Delhi High Court, have introduced specialized IPR Divisions to handle intellectual property disputes more efficiently. These IPR Divisions have been designed to provide specialized expertise and knowledge in patent law, ensuring that patent cases are adjudicated more effectively. The establishment of these divisions has also led to the introduction of specialized rules and procedures to streamline the litigation process. For example, the Delhi High Court implemented new rules governing

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<sup>1</sup> Vihan, A., & Mathur, A., Analysis of Copyright and Patent: In the Age of Tech and Innovation, SSRN, available at <https://ssrn.com/abstract=4766348>

<sup>2</sup> Kalra, R., "IPR Management, Protection and Enforcement in India: Need for Stronger IPR Regime", Issue 2 International Journal of Legal Management and Human Rights, 7, 1854 (2024).

patent suits in 2022, which aim to expedite the resolution of patent disputes and reduce delays in litigation.<sup>3</sup>

Another significant development in post-IPAB patent litigation has been the growing prominence of Standard Essential Patents (SEPs) in India<sup>4</sup>. SEPs are patents that are essential for compliance with international technical standards, and their enforcement has become a major area of contention in global patent litigation. India has witnessed an increase in SEP-related disputes, with multinational corporations such as Philips, Ericsson, and Oppo embroiled in patent litigation over these essential patents. The rise in SEP cases highlights India's growing importance in the global patent landscape and underscores the need for a more specialized and globally integrated approach to patent law.

Despite the positive strides made in post-IPAB patent litigation, challenges remain. One of the most significant concerns is the inconsistency in judicial decisions across different High Courts. With patent cases now being heard by multiple High Courts, there is a risk of inconsistent rulings, which can lead to uncertainty in the legal landscape. Furthermore, there is a continued need for judicial specialization in intellectual property law to ensure that patent cases are adjudicated with the necessary technical expertise and knowledge.

### **Research Problem**

The abolition of the Intellectual Property Appellate Board (IPAB) in 2021 and the transfer of its responsibilities to the High Courts has introduced significant changes in the landscape of patent litigation in India. The research problem centers on understanding the implications of this shift, specifically in terms of efficiency, consistency, and the evolving role of judicial expertise in patent disputes. While the High Courts, especially the Delhi and Madras High Courts, have established specialized Intellectual Property Rights (IPR) Divisions to handle patent cases, there is a concern regarding the ability of these courts to effectively manage the increased caseload. This raises questions about the capacity of the judicial system to provide timely and specialized adjudication, especially in complex patent matters that require a high level of technical knowledge. Furthermore, the rise of Standard Essential Patents (SEPs) and the growing importance of India as a forum for global patent litigation adds another layer of

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<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

complexity. The inconsistent rulings across different High Courts and the lack of a centralized body like IPAB could lead to uncertainties in the application of patent law.

### **Research Questions**

- How has the abolition of IPAB affected the efficiency of patent litigation in India?
- What impact has the shift of patent cases to High Courts had on judicial specialization and consistency in patent rulings?
- How are Standard Essential Patents (SEPs) being handled in India's post-IPAB patent litigation landscape?
- What challenges does the Indian judicial system face in managing the growing volume of complex patent disputes?

### **Research Objectives**

- To examine the impact of the abolition of IPAB on the efficiency and consistency of patent litigation in India.
- To analyze the role of High Courts, particularly the Delhi and Madras High Courts, in handling the increased caseload of patent disputes post-IPAB.
- To assess how the rise of Standard Essential Patents (SEPs) has influenced the nature and complexity of patent litigation in India.
- To identify the challenges faced by the Indian judicial system in managing complex patent disputes in the absence of a specialized tribunal like IPAB.
- To propose potential reforms and improvements to the judicial infrastructure in India to better handle the growing volume and technicalities of patent litigation.

### **Research Hypothesis**

- The abolition of the Intellectual Property Appellate Board (IPAB) and the transfer of patent litigation to High Courts in India have led to increased caseloads, inconsistent rulings, and challenges in managing the growing complexity of patent disputes, necessitating further judicial reforms and specialization in patent law.

## Analysis of Patent Litigation Trends in India Post-IPAB Era

### Increased Caseload in High Courts

The abolition of the Intellectual Property Appellate Board (IPAB) in 2021 marked a significant shift in the landscape of patent litigation in India. Prior to this, the IPAB was the designated body responsible for adjudicating patent appeals, revocations, and matters involving procedural violations. With the dissolution of IPAB, the responsibility for these matters shifted to the High Courts, primarily the Delhi and Madras High Courts. This transfer of jurisdiction led to a dramatic increase in the volume of patent cases handled by these courts.

The Delhi High Court, in particular, became a central forum for intellectual property litigation, receiving over 1,000 patent cases in its first year of handling appeals post-IPAB. This surge in caseload has put immense pressure on the judicial system, raising concerns about the ability of the High Courts to manage such a high volume of complex and technical cases. While the courts have worked to streamline proceedings by creating specialized Intellectual Property Rights (IPR) Divisions, the sheer volume of cases continues to challenge the efficiency of the judiciary.<sup>5</sup>

Patent disputes are often intricate and technical, involving issues such as patentability, infringement, and validity. The increased caseload has made it difficult to ensure timely resolutions, resulting in delays and a potential backlog of cases. This has led to questions regarding the capacity of the High Courts to provide efficient adjudication. The increased caseload also highlights the need for stronger judicial infrastructure to handle patent litigation effectively, particularly in light of the growing importance of India as a jurisdiction for global patent disputes.

### Specialization in Judicial Adjudication

With the increased caseload, one of the main responses from the High Courts has been the creation of specialized IPR Divisions. These divisions were designed to provide focused adjudication of intellectual property cases, ensuring that patent disputes are handled by judges with expertise in IP law. The Delhi High Court, for example, introduced the **Delhi High Court Rules Governing Patent Suits, 2022**, aimed at expediting patent disputes and ensuring that complex technical matters are handled efficiently.<sup>6</sup>

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<sup>5</sup> Scordo, S. (2022). Judicial Specialisation in Intellectual Property: the Unified Patent Court as a Model of Specialised Court.

<sup>6</sup> Khurana, S., Vastrakar, A., & Tiku, D. K., Intellectual Property Framework in India and Enforcement Mechanisms, in Science, Technology and Innovation Ecosystem: An Indian and Global Perspective 247-287 (Springer Nature Singapore, 2024).

The need for specialized expertise in patent law has become increasingly evident as patent litigation has become more complex, especially in high-tech industries such as telecommunications, pharmaceuticals, and biotechnology. Patent disputes often involve intricate issues of patentability and validity, which require specialized legal knowledge as well as an understanding of the relevant technology.

However, despite the creation of these specialized divisions, there remains the challenge of ensuring that the judges have sufficient technical knowledge to understand the complexities of patent law, particularly in fields that require a high level of technical expertise. The establishment of IPR Divisions has certainly improved the quality of adjudication, but there is still a gap between the specialization needed to effectively handle patent disputes and the capabilities of the courts. To bridge this gap, further measures are needed, such as ongoing judicial training in patent law and collaboration with technical experts.

### **Impact of Procedural Reforms**

To address the challenges posed by the growing number of patent disputes, the High Courts have introduced several procedural reforms aimed at improving the efficiency of patent litigation. The **Delhi High Court Rules Governing Patent Suits, 2022**, represent one of the significant procedural reforms aimed at streamlining patent disputes. These rules introduce provisions for expedited hearings, fixed timelines for specific stages of litigation, and the possibility of summary adjudication.<sup>7</sup>

One of the key provisions of the new rules is the emphasis on **summary adjudication**, which allows courts to quickly dispose of cases that do not involve complex legal or technical issues. This mechanism aims to reduce delays in the litigation process and ensure that patent disputes are resolved promptly. The Delhi High Court's focus on expediting patent suits is essential, as it addresses the issue of long delays in litigation, which can be detrimental to both patent holders and the public.<sup>8</sup>

While these reforms have improved the speed of adjudication, there remain concerns about the overall effectiveness of the procedural changes in handling the increasing complexity of patent disputes. The implementation of procedural reforms has been a step in the right direction, but more comprehensive measures are required to address the underlying issues related to caseload

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<sup>7</sup> Delhi High Court, Delhi High Court Intellectual Property Rights Division Rules, 2022, Notification No. 13/Rules/DHC, dated 24.02.2022, available at [https://delhihighcourt.nic.in/files/Notifications%20and%20Practice%20Directions/notificationfile\\_wd6kndkfb4g.pdf](https://delhihighcourt.nic.in/files/Notifications%20and%20Practice%20Directions/notificationfile_wd6kndkfb4g.pdf)

<sup>8</sup> Ibid.

management, consistency, and the technical nature of patent litigation.

## Legal Provisions and Case Laws

### Patents Act, 1970

The **Patents Act, 1970** is the primary legislation governing patents in India. It outlines the provisions for the grant, revocation, and enforcement of patents. The Act also provides for the adjudication of patent disputes and outlines the procedures for filing appeals and revocation petitions.

Section 3 of the Patents Act, for instance, addresses **non-patentable inventions**, setting out clear guidelines on what inventions are not eligible for patent protection, including inventions related to abstract ideas or methods of doing business. Another key provision is Section 64, which allows for the revocation of patents, and Section 104, which provides for the procedure for the filing of appeals to the High Court against the decision of the Controller of Patents.

The shift in responsibility from IPAB to the High Courts has raised important questions about the interpretation of these provisions. The High Courts now handle patent appeals and revocations, and their role in interpreting the **Patents Act, 1970** will significantly shape the future of patent litigation in India.

### Key Case Laws

Several landmark cases have shaped the interpretation of the **Patents Act, 1970** and have provided clarity on important issues related to patent litigation in India.

**Novartis AG v. Union of India (2013)**<sup>9</sup> is a landmark case that addressed the issue of **evergreening** of patents, particularly in the pharmaceutical industry. The Supreme Court ruled that Novartis's patent application for the cancer drug **Glivec** did not meet the criteria for patentability under Section 3(d) of the **Patents Act**. This case reinforced the need for a stringent standard for patentability, especially in the context of pharmaceuticals.

In **F. Hoffmann-La Roche Ltd. v. Cipla Ltd. (2014)**<sup>10</sup>, the Delhi High Court considered the enforcement of patent rights and the issue of **compulsory licensing**. The case highlighted the balance between patent protection and public interest, particularly in the context of the pharmaceutical sector.

The **Ericsson v. Micromax (2014)**<sup>11</sup> case involved the enforcement of **Standard Essential**

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<sup>9</sup> (2013) 6 SCC 1.

<sup>10</sup> W.P.(C) 464/2014.

<sup>11</sup> Case No. 50/2013.

**Patents (SEPs)**, discussing the application of **FRAND** (Fair, Reasonable, and Non-Discriminatory) terms. This case set important precedents on how SEPs should be handled in India, particularly regarding global patent disputes.

### **Post-IPAB Transition Cases**

The **Post-IPAB transition** has seen a shift in how courts interpret patentability, revocation, and infringement issues. These cases reflect the increasing complexity of patent litigation, especially with the growing number of SEP-related disputes and the challenges of harmonizing global patent standards with domestic law.<sup>12</sup>

## **Challenges in Patent Litigation in the Post-IPAB Era**

### **Increased Complexity of Patent Cases**

The complexity of patent cases has risen significantly in recent years, particularly in high-tech sectors like telecommunications, pharmaceuticals, and biotechnology. These sectors often involve technical innovations that require specialized knowledge to understand and adjudicate. The rise of **Standard Essential Patents (SEPs)** has added to this complexity, as it often involves disputes between multinational corporations over the licensing of patents essential to international standards.

The **lack of technical expertise** within the judiciary remains one of the biggest challenges in the post-IPAB era. Patent litigation requires an understanding of both legal principles and the underlying technology. While the creation of IPR Divisions in the High Courts has helped, there remains a gap in judicial knowledge when it comes to highly technical patent disputes.

### **Consistency in Rulings**

Another challenge in the post-IPAB era is the potential for **inconsistent rulings** across different High Courts. While the Delhi and Madras High Courts have specialized IPR Divisions, the lack of a centralized appellate body means that different courts may interpret patent laws differently, leading to uncertainty and unpredictability in patent disputes. This inconsistency can create challenges for patent holders and potential infringers, as it becomes difficult to anticipate how similar cases will be adjudicated in different jurisdictions.

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<sup>12</sup> Hammurabi & Solomon, Comprehensive Analysis of SEP Litigation: Understanding Anti-Suit Injunctions and FRAND Licensing in India & USA, Worldwide IP, 4 August 2025, available at <https://www.mondaq.com/india/patent/1660582/comprehensive-analysis-of-sep-litigation-understanding-anti-suit-injunctions-and-frand-licensing-in-india-usa>

## Caseload Management

The increased volume of patent cases has led to **delays** in adjudication. High Courts are struggling to manage the growing caseload, resulting in extended litigation timelines. The backlog of patent cases is a significant concern, as delays in the resolution of patent disputes can undermine the interests of patent holders and hinder innovation. There is a pressing need for more efficient case management and procedural reforms to address this issue.

## Role of SEPs in Patent Litigation

The growing importance of **SEPs** in patent litigation is another significant challenge in the post-IPAB era.<sup>13</sup> India has increasingly become a jurisdiction for SEP disputes, with multinational corporations using Indian courts to resolve global patent issues. These cases often involve complex technical and legal issues, and the lack of specialized knowledge within the judiciary to handle SEP disputes presents a significant challenge.<sup>14</sup>

## The Role of SEPs in Patent Litigation Post-IPAB

### Global and Domestic SEP Trends

India has become an increasingly important jurisdiction for SEP disputes, particularly in the telecommunications and electronics industries. The rise of **5G technology** and the **Internet of Things (IoT)** has made SEPs even more significant, as these technologies rely on standardized protocols that require essential patents for compliance.<sup>15</sup>

### Legal Framework for SEPs

India's legal framework for SEPs, while evolving, must align with international standards like the **TRIPS Agreement** and the **FRAND** licensing model. The application of **Telecommunications Standards Development Society, India (TSDSI)** guidelines has become critical to ensure that SEP-related disputes are resolved in a manner consistent with global standards.

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<sup>13</sup> Charishma, K. S., & Savithri, V., "ICT Disruption and Standard Essential Patents (SEPs): A Cross-Industry Analysis", Issue 6 International Journal of Legal Management and Human Rights, 6, 2218 (2023).

<sup>14</sup> Landsman, S. (2009). The growing challenge of pro se litigation. *Lewis & Clark L. Rev.*, 13, 439.

<sup>15</sup> Nikolic, I., *Licensing Standard Essential Patents: FRAND and the Internet of Things* (Bloomsbury Publishing, 2021).

## Reforms and Recommendations

### Strengthening Judicial Expertise

To address the challenges of complex patent disputes, it is essential to **strengthen judicial expertise**. This can be done by expanding judicial training programs in patent law, particularly in high-tech sectors. Collaboration with technical experts, industry stakeholders, and academic institutions can help ensure that judges have the necessary knowledge to handle complex patent cases.

### Creation of a Centralized Patent Appeals Body

A **centralized body** for patent appeals, similar to IPAB, could help provide more consistent rulings and reduce the pressure on High Courts. This body could also be tasked with developing uniform guidelines for handling patent disputes, ensuring that patent law is applied consistently across the country.

### Improved Case Management

To address the backlog of patent cases, the courts must adopt more **efficient case management systems**. This could include the use of technology to track cases, set deadlines for specific types of cases, and implement clearer guidelines for patent disputes.

### Aligning India's Patent Laws with Global Standards

India must continue to align its patent laws with international standards, particularly in relation to SEPs and **FRAND** terms. This alignment will make India a more attractive forum for global patent litigation and help ensure that India's patent regime remains competitive in the global market.

## Conclusion

The abolition of IPAB and the subsequent transfer of patent litigation to the High Courts has led to significant changes in India's patent litigation landscape. While specialized IPR Divisions and procedural reforms have improved the adjudication process, challenges related to caseload management, judicial expertise, and SEP disputes remain. To address these challenges, India must strengthen its judicial infrastructure, create a centralized body for patent appeals, and ensure that its patent laws are aligned with global standards. By doing so, India

can enhance its role as a leading jurisdiction for patent litigation while maintaining a fair and efficient system for resolving patent disputes.

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