

COVER LETTER

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DISPOSING IPR DISPUTE IN DEVELOPING COUNTRIES PARTICULARLY INDIA: A WAY FORWARD

The Developing countries face problem in resolving disputes relating to Intellectual Property Rights(IPR) due to lack of expertise and infrastructure, consequently creating hindrance in domestic and international trade, also the discrepancy in efficiency to dispose the IPR disputes as compared to their developed counterparts adds up to the problem .This paper is an attempt to identify the causes and the loopholes in law that leads to the existing challenges and it's implication on the International Trade. Another pivotal issue addressed by the author is the unsatisfactory work of the enforcement agency in the developing countries and subsequently the steps that can be taken for capacity building and accountability of such agencies. It will also examine the feasibility of separate commercial courts and ADR mechanism particularly dedicated to the IP issues, in the developing countries particularly in Indian Legal System. The mode of research is doctrinal however the research will triangulate over the qualitative as well as quantitative analysis of the available empirical data.

Keywords: Alternative Dispute Resolution (ADR), Intellectual Property, International Trade

I. INTRODUCTION

The 21st century is the time for free market economy to finally find its place. Trade barriers of the world are being taken down one by one, and survival in the market depends upon who has the best product, or who offers the best services, in terms of characteristics, end use or financial viability. In this scenario, the most important role is being played by intellectual property rights.

Intellectual property system is usually seen as a tool which intends not just to stimulate creative work and technological innovation but also to protect transfer and dissemination of technology and promote benefit-sharing, economic, social and cultural progress.¹ Thus, Disputes in the area of intellectual property often exceed mere parties' competing legal claims and involve issues other than legal norms. In this regard, indigenous peoples have unique needs and expectations in relation to intellectual property. It is not strange that a privately controlled dispute resolution procedure, commonly known as an alternative to court litigation, has quickly become a popular means of dispute resolution among business-oriented entities. Alternative dispute resolution (ADR) enables parties to choose a forum for their dispute, arrange a procedure and create the applicable law, providing them with confidentiality and a prompt outcome. In many situations, however, it could happen that such strict party autonomy and promptness affect rights of other stakeholders, who have their interest in the dispute settlement, but are completely excluded from proceedings.

The number of international intellectual property disputes has increased rapidly in recent years.² Patent disputes are usually cross-border and thus involve multiple nations.³ Domestic patent litigation is exhausting,⁴ and international patent disputes add to this burden. What is more, the current methods to protect and enforce patent rights have been insufficient in the United States and many other countries.⁵ The commercial value of a business is increased substantially by

¹ Taubman, Antony, Wager Hannu and Watal, Jayashree, 'A Handbook on the WTO TRIPS Agreement' Cambridge University Press (2012), 2-3.

² Marshall A. Leaffer, *Protecting United States Intellectual Property Abroad: Toward a New Multilateralism*, 76 IOWA L. REV. 273, 280 (1991).

³ Bryan Niblett, *Arbitrating the Creative*, 50 DISP. RESOL. J. 64, 66 (1995).

⁴ See Murray Lee Eiland, *The Institutional Role in Arbitrating Patent Disputes*, 9 PEPP. DISP.RESOL. L.J. 283, 283 (2009).

⁵ Michael L. Doane, *TRIPS and International Intellectual Property Protection in an Age of Advancing Technology*, 9 AM. U. J. INT'L L. & POL'Y 465, 466 (1994).

intellectual property assets, especially patents.⁶ Patent disputes can be a life or death matters for an enterprise, which means that regardless of wins or loses, patent disputes are vital.

Increasing international trade and investment is accompanied by growth in cross-border commercial disputes. Given the need for an efficient dispute resolution mechanism, international arbitration has emerged as the preferred option for resolving cross-border commercial disputes and preserving business relationships. With an influx of foreign investments, overseas commercial transactions, and open ended economic policies acting as a catalyst, international commercial disputes involving India are steadily rising. This has drawn tremendous focus from the international community on India's international arbitration regime.

Due to certain controversial decisions by the Indian judiciary in the last decade, particularly in cases involving a foreign party, the international community has kept a close watch on the development of arbitration laws in India. The Indian judiciary has often been criticized for its interference in international arbitrations and extra territorial application of domestic laws to foreign seated arbitrations. However, the latest developments in the arbitration jurisprudence through recent court decisions clearly reflect the support of the judiciary in enabling India to adopt international best practices. Courts have adopted a pro-arbitration approach and a series of pro-arbitration rulings by the Supreme Court of India ("Supreme Court") and High Courts have attempted to change the arbitration landscape completely in India. From 2012 to 2015, the Supreme Court delivered various landmark rulings taking a much needed pro-arbitration approach such as declaring the Indian arbitration law to be seat-centric; removing the Indian judiciary's power to interfere with arbitrations seated outside India; referring non-signatories to an arbitration agreement to settle disputes through arbitration; defining the scope of public policy in foreign-seated arbitration; and determining that even fraud is arbitral in nature.

II. ADR AS IP DISPUTES RESOLUTION MECHANISM: PROBLEMS & ADVANTAGES

Technology-related litigation can be very expensive and time consuming. According to a survey, the average US patent infringement case costs more than a million. The high costs are generally

⁶ Robert Pitkethly, *The Valuation of Patents: A Review of Patent Valuation Methods with Consideration of Option Based Methods and the Potential for Future Research* 1 (Judge Inst. of Mgmt Studies, Working Paper No. WP 21/97, 1997). (retrieved on 1 Dec 2016).

due to the immense amount of discovery, expert testimony, and legal fees. In litigation, as Abraham Lincoln said: “*The nominal winner is often a real loser in fees, expenses, and waste of time.*” Prolonged proceedings are especially harmful in patent cases because patent rights are time-sensitive and modern technology advances very quickly. Being caught up in litigation over patents can halt a company’s development and business strategies with respect to the involved technology. The parties are faced with difficult business decisions, which are complicated by the unpredictability of the litigation outcome. For example, a company’s on-going business can be hurt if it is uncertain about the patent rights of one of its products and decides to reduce or eliminate production until the dispute is decided.

Arbitration and Intellectual Property Disputes

Some commentators have suggested that high and increasing costs of patent litigation could be reduced by having those disputes resolved by expert arbitrators. For example, Kingston (1995) states “An important reason why intellectual property (IP) is far less effective for generating innovation than it could be is the excessively high cost of resolving disputes. This largely reflects the use of ordinary court arrangements to determine what essentially technical issues are.”⁷ Kingston also notes that in addition to the measurable costs of litigation, there also may be substantial unmeasured costs that take the form of “distraction, diversion of energy and misdirection of creativity that litigation imposes on innovatory firms.”⁸ Kingston proposed mandatory arbitration of patent disputes along with legal aid to the party that does not appeal the ruling to the courts. Kilb (1993) also recommended arbitration as a “quick, efficient form of patent dispute resolution” adding that “An arbitration hearing before experts in the field allows the parties to avoid lengthy litigation that could leave the disputed patent out-dated before it reaches its potential.”⁹

The long duration and high cost of patent litigation is primarily due to the prolonged period of discovery to address difficult technical issues and the costs of educating tiers of facts sufficiently to understand the case, including costs of counsel and technical and financial experts.¹⁰ In principle, an arbitrator may be chosen who is already familiar with patent law and the technology

⁷ Kingston, William, “Reducing the Cost of Resolving Intellectual Property Disputes,” *European Journal of Law and Economics*, 1995, vol. 2, p. 85.

⁸ *Ibid.*

⁹ Kilb, Karl P., “Arbitration of Patent Disputes: An Important Option in the Age of Information Technology,” *Fordham Intellectual Property, Media and Entertainment Journal*, vol. 4, no. 2, 1993, p. 609.

¹⁰ Lim, Marion M., “ADR of Patent Disputes: A Customized Prescription, Not an Over-The-Counter Remedy,” *Cordozo Journal of Conflict Resolution*, 2005, vol. 6, p. 169.

associated with the particular patent(s) at issue, thereby eliminating significant costs. The expert arbitrator could dispense with much of the discovery process and decide the case more quickly and inexpensively. Proponents of arbitration also say that the arbitration process, unlike a public trial, is confidential and better protects trade secrets and other sensitive information that might be revealed in the course of litigation.¹¹ It is also claimed that with arbitration there is more certainty about the timing of final judgment and that arbitration and other forms of mediation are less adversarial than litigation and offer better prospects for maintaining a potentially valuable business relationship between the opposing parties.¹²

Advantages of ADR in Intellectual Property Disputes

Party Autonomy

Intellectual property disputes have distinctive characteristics: they often span multiple jurisdictions and involve highly technical matters, complex laws and sensitive information. Naturally, parties will want a dispute resolution process that can be tailored to address these distinctive characteristics. However, litigation can be a highly inflexible mechanism that is constrained by complex laws, and parties rarely have the discretion to adapt the process to their dispute.¹³ In contrast, ADR gives parties the freedom to customize their dispute resolution process in a single forum.¹⁴ Parties can choose the ADR process best suited to their dispute: mediation, arbitration and expert determination are all possible options.¹⁵ Parties can agree to meet at a neutral location, submit to a neutral expert of their choosing, and abide by rules and procedures that they have modified to meet their needs.¹⁶ Some ADR processes, such as mediation, even allow parties to craft outcomes that address their specific interests.¹⁷ Party autonomy is the guiding principle of ADR, and is manifested in its many advantages.¹⁸

¹¹ Casey, Kevin R., "Alternative Dispute Resolution and Patent Law," *Federal Circuit Bar Journal*, Spring 1993, vol. 3, no. 1, p. 4.

¹² *Ibid.*

¹³ Veronique Bardach, 'A Proposal for the Entertainment Industry: The Use of Mediation as an Alternative to More Common Forms of Dispute Resolution' (1993) 13 *Loy LA Ent LJ* 477, 479 .

¹⁴ Ignacio de Castro and Panagiotis Chalkias, 'Mediation and Arbitration of Intellectual Property and Technology Disputes: The Operation of the World Intellectual Property Organization Arbitration and Mediation Center' (2012) 24 *SAC LJ* 1059, 1073.

¹⁵ Ignacio de Castro and Panagiotis Chalkias, *ibid.*, 1061.

¹⁶ Trevor Cook and Alejandro I Garcia, *International Intellectual Property Arbitration* (Kluwer Law International 2010) 27.

¹⁷ David Allan Bernstein, *The Case for Mediating Trademark Disputes in the Age of Expanding Brands* (2005) 7 *Cardozo J Conflict Resol* 139, 159 – 160.

¹⁸ Trevor Cook and Alejandro I Garcia, *ibid.*, 27; Alan Redfern, M Hunter et. al., *Law and Practice of International Commercial Arbitration* (4th ed, Sweet & Maxwell 2004) para 6 – 03.

Single Process; Jurisdictional Neutrality

As intellectual property rights are territorial in nature, they can simultaneously exist as separate pieces of property under distinct domestic laws in multiple jurisdictions, despite the operation of international treaties¹⁹ that harmonize the subsistence or registration of intellectual property rights, such as copyright, trademarks and patents across signatory countries. The rise in cross-border trade and the international exploitation of intellectual property mean that disputes involving intellectual property are likely to impact across multiple jurisdictions.²⁰

In the litigation of intellectual property disputes involving multiple jurisdictions, parties might be compelled to take out separate proceedings in those jurisdictions to address or enforce intellectual property rights existing under each of them.²¹ As a result, such proceedings may be potentially subject to complex conflict of laws considerations. In contrast, ADR allows multiple issues and rights arising under different jurisdictions to be addressed in a single process, such as arbitration and mediation, which leads to a binding award or settlement.²² ADR is also useful when multiple court actions are litigated in the same country.²³

Parties in cross-border disputes also value jurisdictional neutrality; neither is likely to want the dispute tried in the opposing party's country.²⁴ ADR processes enable such jurisdictional neutrality over domestic courts because they provide a neutral forum for dispute resolution. Parties can choose an ADR neutral who is not based in the same jurisdiction as the parties, use neutral law to govern the dispute, and agree on a neutral location.²⁵ ADR rules, such as those established by the WIPO Center, are also neutral to the law, language and culture of the parties.²⁶ Jurisdictional neutrality gives ADR processes a clear advantage over litigation for cross-border intellectual property disputes.

¹⁹ World Intellectual Property Organization, 'WIPO-Administered Treaties' (World Intellectual Property Organization) <http://www.wipo.int/treaties/en/> accessed December 2, 2016.

²⁰ Julia A Martin, 'Arbitrating in the Alps Rather Than Litigating in Los Angeles: The Advantages of International Intellectual Property-Specific Alternative Dispute Resolution' (1997) 49 *Stan L Rev* 917, 930.

²¹ *Voda v Cordis Corp.*, No. 05-1238 (Fed. Cir., Feb. 1, 2007).

²² Susan Corbett, 'Mediation of Intellectual Property Disputes: A Critical Analysis' (2011) 17 *New Zealand Business Law Quarterly* 51, 63.

²³ Susan Blake, Julie Browne and Stuart Sime, *A Practical Approach to Alternative Dispute Resolution* (Oxford University Press 2012) 18.76.

²⁴ Trevor Cook and Alejandro I Garcia, *International Intellectual Property Arbitration* (Kluwer Law International 2010) 27.

²⁵ Trevor Cook and Alejandro I Garcia, *ibid.*, 29.

²⁶ Julia A Martin, 'Arbitrating in the Alps Rather Than Litigating in Los Angeles: The Advantages of International Intellectual Property-Specific Alternative Dispute Resolution' (1997) 49 *Stan L Rev* 917, 932.

Independent Specialized Expertise

Intellectual property disputes can involve highly technical scientific matters and complex legal issues,²⁷ but not every country has specialized intellectual property courts or judges.²⁸ Thus, when judges and juries lack the necessary expertise to fully comprehend the complex factual, technical and legal issues at stake, considerable time and resources may be required to present the relevant technologies and laws to them.²⁹

ADR processes allow parties to choose a neutral with specialized expertise to act as a decision-maker, or a facilitator.³⁰ Experts in law, technology or specific industries can be appointed as neutrals; parties also have the ability to appoint a panel of experts with expertise in different areas of the dispute. Expert neutrals can use their knowledge and experience to provide guidance during the ADR process, and to craft a satisfying resolution for the dispute. When capable experts are appointed, ADR processes offer benefits that would be otherwise unavailable through litigation.³¹

Simplicity; Flexibility

ADR processes are procedurally simple and flexible when compared to litigation. ADR gives parties the freedom to agree on the conduct of the proceedings, and select appropriate procedural rules.³² For example, parties can place limits on the amount of survey evidence admitted for trademark disputes,³³ and even choose the extent to which certain rules of evidence are to apply, if at all.³⁴

Furthermore, ADR processes can provide a straightforward mechanism for resolving legally complex intellectual property disputes. For example, mediation focuses on the parties' motivations and interests, not necessarily their strict legal positions. This helps the parties concentrate on their shared interests instead of legal rights and wrongs, which facilitates the

²⁷ David Allan Bernstein, *The Case for Mediating Trademark Disputes in the Age of Expanding Brands* (2005) 7 *Cardozo J Conflict Resol* 139, 154–155.

²⁸ The Intellectual International Property Institute and the United States Patent and Trademark Office, 'Study on Specialized Intellectual Property Courts' (International Intellectual Property Institute, January 25, 2012) <<http://iipi.org/wp-content/uploads/2012/05/Study-on-Specialized-IPR-Courts.pdf>> accessed December 6, 2016.

²⁹ Sarah Tran, 'Experienced Intellectual Property Mediators; Increasingly Attractive in Times of "Patent" Unpredictability' (2008) 13 *Harv Negotiation L Rev* 314, 316.

³⁰ *Supra* note 22.

³¹ *Ibid* 30-31.

³² *Supra* note 28, p. 156.

³³ *Ibid*.

³⁴ Scott H Blackman and Rebecca McNeill, 'Alternative Dispute Resolution in Commercial Intellectual Property Disputes' (1998) 47 *Am U L Rev* 1709, 1713.

creation of a satisfying settlement.³⁵ While this approach does not eliminate the legal complexities of the dispute, a mediator with the relevant legal and/or subject matter expertise and experience can provide appropriate assistance and support.

Cost Savings

Intellectual property litigation can be an expensive affair, especially if appeals and foreign litigation are involved. The prohibitive cost of legal proceedings in some jurisdictions can make it difficult for individuals or small businesses to enforce their rights, or defend themselves in intellectual property claims by or against larger entities.

In comparison to litigation, ADR offers an affordable and accessible avenue for parties to resolve their disputes. The many advantages of ADR provide significant cost savings, because parties can avoid expensive litigation at home and abroad, use expert neutrals that can delve straight into complex intellectual property issues, and dispense with complicated and formalistic procedures. The time savings provided by ADR naturally translate into cost savings as well.³⁶

Confidentiality

Confidentiality is often of critical importance in intellectual property disputes. Thus, parties may balk at court proceedings when trade secrets or proprietary information, such as experimental results from research and development, are involved.³⁷ Litigation and the discovery process can force the public disclosure of such sensitive information,³⁸ which can irreversibly damage the parties' business prospects.³⁹

Confidentiality is a key advantage of ADR because it allows the parties to effectively control disclosures and access to sensitive information.⁴⁰ Proprietary information can be kept confidential through agreements between the parties,⁴¹ and arbitrators can issue protective orders

³⁵ Mary Vitoria, 'Mediation of Intellectual Property Disputes' (1998) 1 *JIPLP* 398.

³⁶ Jesse S Bennett, 'Saving Time and Money By Using Alternative Dispute Resolution For Intellectual Property Disputes – WIPO to the Rescue' (2010) 79 *Revista Juridica UPR* 289, 396 – 398.

³⁷ Jesse S Bennett, 'Saving Time and Money By Using Alternative Dispute Resolution For Intellectual Property Disputes – WIPO to the Rescue' (2010) 79 *Revista Juridica UPR* 289, 396.

³⁸ Jennifer Mills 'Alternative Dispute Resolution in International Intellectual Property Disputes' (1996) 11 *Ohio St J on Disp Resol* 227, 231.

³⁹ Susan Corbett, 'Mediation of Intellectual Property Disputes: A Critical Analysis' (2011) 17 *New Zealand Business Law Quarterly* 51, 62.

⁴⁰ Trevor Cook and Alejandro I Garcia, *International Intellectual Property Arbitration* (Kluwer Law International 2010) 47.

⁴¹ Jesse S Bennett, *ibid.*, 396.

to prevent parties from accessing confidential documents.⁴² Furthermore, unlike litigation, the entire ADR process and its outcome can be kept confidential, which can be advantageous for parties who wish to preserve their business reputations and relationships.⁴³

Diverse Solutions

Litigation normally offers parties a limited range of specific legal remedies. While parties can apply for monetary damages, injunctions, specific performance and other such remedies, such solutions tend to be “win-or-lose” and granted based on considerations of strict legal merits or otherwise at the court’s discretion. Parties do not have the discretion to craft their own solutions, or instruct the court to deliver its decision within specified parameters.⁴⁴

Mediation gives parties the opportunity to negotiate win-win or other creative solutions that satisfy their interests.⁴⁵ For example, parties can agree to share the intellectual property rights in dispute through licenses or consent to use agreements, or indeed address or determine non-intellectual property issues in the resolution of an intellectual property dispute. Such mutually beneficial outcomes allow parties to preserve existing business relationships, or forge new ones.⁴⁶

In arbitration, the substance of the arbitral award is determined by the arbitral tribunal. However, parties can agree on the scope and limits of the arbitration. For example, parties can agree to establish limits to the quantum of the award,⁴⁷ and even specify in the arbitration agreement, a desired time frame by the arbitral tribunal to issue the arbitral award.⁴⁸ Beyond a final award,

⁴² In an expedited arbitration administered by the WIPO Center, the arbitrator issued a protective order pursuant to the WIPO Expedited Arbitration Rules to prevent the claimant from accessing certain confidential documents disclosing the respondent’s business secrets. See Ignacio de Castro and Panagiotis Chalkias, ‘Mediation and Arbitration of Intellectual Property and Technology Disputes: The Operation of the World Intellectual Property Organization Arbitration and Mediation Center’ (2012) 24 SAclJ 1059, 1069 – 1070.

⁴³ Susan Corbett, *ibid.*, 65.

⁴⁴ David Allan Bernstein, *The Case for Mediating Trademark Disputes in the Age of Expanding Brands* (2005) 7 *Cardozo J Conflict Resol* 139, 149.

⁴⁵ Sarah Tran, ‘Experienced Intellectual Property Mediators; Increasingly Attractive in Times of “Patent” Unpredictability’ (2008) 13 *Harv Negotiation L Rev* 314, 323.

⁴⁶ *Supra* note 48, p. 159.

⁴⁷ This is a form of arbitration known as “high-low” or “bracketed” arbitration. It is commonly used when only the quantum of compensation, and not liability, is an issue. If the award falls within the agreed range, the parties are bound by the award. If the award is lower than the agreed minimum amount, then the defendant will pay the agreed minimum, and if the award is higher than the agreed maximum, the defendant will only pay the agreed maximum. The arbitral tribunal will conduct the arbitration without knowing the limits of the agreed range. See John W Cooley and Steven Lubet, *Arbitration Advocacy* (National Institute for Trial Advocacy 2003) 250.

⁴⁸ Julia A Martin, ‘Arbitrating in the Alps Rather Than Litigating in Los Angeles: The Advantages of International Intellectual Property-Specific Alternative Dispute Resolution’ (1997) 49 *Stan L Rev* 917, 928; but see Alan Redfern,

parties can petition the arbitral tribunal for interim relief in the form of an injunction, or security for costs.⁴⁹

III. CONCLUDING OBSERVATIONS

The development of an international legal instrument, which would strengthen international public policy on the protection of indigenous Traditional Knowledge, Traditional Cultural Experiences and Genetic Resources, remains a matter of the utmost importance. An appropriate ADR mechanism is a complementary tool, which could enhance the applicability and efficiency of such an instrument.

Various researchers have given suggestions to remodel the IP regime in India to make it compliant with the international norms and in pace with the demands of the global standards of economic, trade and regulatory policies. This researcher has also gone down the same path trodden by more illustrious peers in a humble attempt to suggest a few changes.

The most important aspect is the changes required in the legislation relating to intellectual property rights, and the need to make a strong base to cater to the global competitiveness. Focus must be done on protection and implementation of IP in India. One of the major changes needed is in the time period in which the IPR protection is granted and the need to reduce it to an eighteen-month period from the date of filing of application. Another area of focus is the need for enforcement mechanism that can deliver speedy redressal in case of infringement, as opposed to the time-consuming mechanism in place today. There is a need to incorporate ADR methods as mandatory first step for resolving disputes, before commercial courts get involved.

An important aspect, especially for developing countries like India is IPR generation. It is said that the next Silicon Valley is in India. The huge innovative and educated human resource of

M Hunter et. al., *Law and Practice of International Commercial Arbitration* (4th ed, Sweet & Maxwell 2004) para 8-68.

⁴⁹ It should be noted that whether the parties should submit an application for interim relief to the arbitral tribunal or a competent judicial authority will depend on the nature of the dispute. The WIPO Arbitration and Expedited Arbitration Rules allow the arbitral tribunal to issue a wide range of interim measures, including injunctions in cases of unfair competition, or in connection with alleged infringements of intellectual property rights. See Ignacio de Castro and Panagiotis Chalkias, 'Mediation and Arbitration of Intellectual Property and Technology Disputes: The Operation of the World Intellectual Property Organization Arbitration and Mediation Center' (2012) 24 SAclJ 1059, 1071.

India is rapidly churning out more and more entrepreneurs. There is a specific need to ensure that their innovation is protected through proprietary rights under the IPR regime.

Arbitration of patent validity and infringement issues in many major technology-producing countries is impeded by a lack of uniformity and various practical barriers. These barriers are apparently not sufficient to eliminate the arbitration of patent issues where strong incentives exist to do so, but do appear to be sufficient to keep the practice from becoming a mainstream alternative to normal civil litigation. Even in countries where no explicit legal barriers are present, practitioners have been slow to adopt arbitration as an alternative to civil court litigation in patent disputes. There are public interests at stake in any dispute revolving around patent validity, and these interests may not be effectively represented in arbitration. We believe, however, that such concerns do not justify the restrictions on objective arbitrability found under some statutory regimes. Instead, these concerns can be satisfied by a coordinated system of interrelated rules regarding objective arbitrability, the effect of arbitration judgments, confidentiality, choice of law, and remedies. Such a system would ensure that public interests are protected by limiting the self-serving options of parties arbitrating issues of patent validity or infringement.

Another important aspect of the same is intellectual IP awareness. The people of the country must be made aware of various intellectual properties and the need to respect the Intellectual Property Rights of people.⁵⁰ There is a need to focus on rural populace of India and educate them about the IPRs. The same can be achieved by making IPR education a part of school curriculum and educate the people at a grass root level. Also, special IPR classes need to be given to judges dealing with these cases, the foreign models can only be indicative of solutions, the real solution lies in integration of indigenous and circumstances specific model with uniform law across nations. The success of National Green Tribunal is a clear indication of the feasibility of exclusive courts for IP Laws. Additionally, there must be an added focus on human capital development, which would strengthen innovation in the industry, which would increase IPR generation.

⁵⁰ A web solutions company in a remote location has the name of “Applebite” and displays the same prominently in front of its office along with the logo of the Apple Inc. this is not only an infringement of Apple Inc.’ trademark, but is also deceptive towards the consumers. This is one of the numerous instances where the intellectual property rights of renowned company are misappropriated by small scale shops of service providers.

The above-mentioned changes can help in ensuring that India becomes a leader in innovation, churning out the best product and services for the world to consume. This would ensure that India finds its rightful place as one of the global leaders in the 21st century.