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THE ROLE OF ADR IN RESOLVING INTELLECTUAL PROPERTY DISPUTES IN INDIA: A CRITICAL ANALYSIS

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Abstract:

The importance of alternative dispute resolution (ADR) methods in resolving intellectual property (IP) disputes in India has been acknowledged by several of laws and rules. This study critically examines the use of alternative dispute resolution (ADR) to settle IP disputes in India, emphasizing the opportunities and problems that arise when ADR is applied in this situation. The present legal structure for ADR in India is covered in the paper, along with how it relates to resolving IP disputes. It outlines the difficulties caused by the lack of knowledge and comprehension of ADR processes, the absence of specific IP ADR processes, and the efficient enforcement of ADR awards and settlements.

The paper also looks at the possible advantages of alternative dispute resolution (ADR) over conventional litigation in terms of costeffectiveness and speed of resolution of IP disputes. It emphasizes the necessity of stakeholders, such as attorneys, judges, and litigants, becoming more knowledgeable about ADR mechanisms and the accessible specialized IP ADR mechanisms. The study paper concludes by making recommendations for improving the efficiency of ADR mechanisms for resolving IP disputes in India, including raising knowledge and understanding, developing specialized ADR mechanisms for IP disputes, and bolstering the enforcement of ADR awards and settlements. The paper makes the case that IP disputes in India can be settled more quickly and effectively by addressing these issues and maximizing the possible advantages of ADR.

Keywords

Arbitration, Alternative Dispute Resolution (ADR), Intellectual Property (IP), Dispute resolution, India, Mediation, Arbitration, Legal framework, Specialized IP ADR mechanisms, Enforcement of ADR awards and settlements, Online dispute resolution, Quicker resolution, Litigation

Introduction

Intellectual property protection disputes have grown to be a major problem for the Indian legal system. It is essential for those who create intellectual property to successfully enforce their legal rights because they are only granted certain intellectual property rights, such as patents, trademarks, and copyrights, for a finite amount of time. On the other hand, the advancement of science and technology, the idea of a welfare state civilization, the demand for rights, and the rise of alternative dispute resolution in the 1970s and 1980s were the causes of increased dissatisfaction with litigation and the need for quick justice.

However, the Indian judicial system is infamous for its lengthy processes, which can make it difficult to implement intellectual property rights on time. As a consequence, it is necessary to look into alternative strategies and frameworks for allocating the judiciary's workload. This is especially important because the rights of the person who has been wronged are frequently circumscribed and the only available remedy is that which is outlined in substantive law. The use of alternative dispute resolution (ADR) techniques to settle conflicts involving the protection of intellectual property is growing. These techniques include mediation, arbitration, and negotiation. ADR provides a different approach to resolving disputes than traditional litigation, making it quicker, more affordable, and more flexible. Examined are the possible advantages of alternative dispute resolution (ADR) over traditional litigation in terms of costeffectiveness and speed of resolution of intellectual property disputes. It is stressed that there is a need for stakeholders, such as attorneys, judges, and litigants, to be more knowledgeable about accessible ADR mechanisms and specialised intellectual property ADR mechanisms.

Legal Framework for ADR in India

Under ADR, parties settle their disputes behind closed doors. ADR, or alternative conflict resolution, refers to the various techniques used to settle disputes between the parties without going to court. These days, it is quite common to employ this method. One chooses to use the mechanisms of alternative dispute resolution to settle their dispute because there is a significant backlog of cases in Indian courts. It is crucial that this trust be restored in the administration of justice in a nation like India where there are so many cases and the average citizen is losing faith in it. One can greatly differentiate between the litigation process and alternative dispute

resolution by utilizing the ADR mechanisms.¹

Relevant laws and regulations for ADR in IP disputes

The Arbitration and Conciliation Act, 1996: The appointment of judges, the conduct of the arbitration hearings, and the enforcement of awards are all governed by this legislation in India. Additionally, it enables the enforcement and recognition of international awards.

The Commercial Courts Act, 2015: To handle commercial disputes, including IP disputes, this legislation allows for the establishment of commercial courts and commercial divisions in high courts. Additionally, it allows for the resolution of such conflicts through ADR procedures.

The Patents Act, 1970: The registration, issuance, and enforcement of patents in India are governed by this legislation. Additionally, it allows for the resolution of conflicts through ADR procedures like adjudication.

The Trade Marks Act, 1999: The Trade Marks Act of 1999 is the statute that controls the filing, defence, and enforcement of trademarks in India. Additionally, it allows for the resolution of conflicts through ADR procedures like adjudication.

The Copyright Act, 1957: India's copyright registration, protection, and regulation are governed by the Copyright Act, 1957. Additionally, it allows for the resolution of conflicts through ADR procedures like adjudication.

The Information Technology Act, 2000: The Cyber Appellate Tribunal will be established under this legislation to hear appeals involving technology and the internet. Additionally, it allows for the resolution of conflicts using ADR techniques like conciliation.

The Code of Civil Procedure, 1908: This legislation sets the rules for how civil procedure are conducted in India. Additionally, it allows for the resolution of disputes involving intellectual property through ADR methods.

Role of ADR in Resolving IP Disputes in India

¹ S.Chaitanya Shashank & Kaushalya T. Madhavan, *ADR in India: Legislations and Practices*, ACADEMIKE (Jan. 17, 2015), <https://www.lawctopus.com/academike/arbitration-adr-in-india/> (accessed on Dec. 15, 2025).

IPRs are the sole rights granted to the creator over their work for a predetermined amount of time. IP disagreements result from IPR violation. ADR can be used to settle IP disputes; the parties may choose to use it voluntarily or pursuant to a judicial order. ADR has many benefits, including cost effectiveness, adaptability, party control, impartiality, a single method, secrecy, and skill. In the Indian context, IP conflicts are also growing.

Importance of ADR in IP disputes

To safeguard IP, Indian courts have taken action. Convergence with science and innovation is one area of patent and copyright legislation. This necessitates the examination and assessment of the interdisciplinary disputes by specialists. Due to the limited rights granted to the owner of a protected intellectual property, systems must be developed to implement prompt decisions and prompt remedies.² As a result, it becomes the best technique for resolving IP disputes. Even though IP is a complex area of common law, its degree of complexity has increased. IP protection now covers a wider range of subjects. However, the traditional approach to handling IP problems is still in place. The traditional technique of approaching the court is always preferred by parties engaged in IP disputes. They frequently overlook the benefits that ADR has to give. The stakeholders have received more effective and beneficial remedies as a result. Parties' express concerns on all fronts in IP disputes because of the high stakes involved.³ ADR encourages parties to reach a mutually agreeable resolution, in contrast to litigation. Approaching a judge can be detrimental to one party, but ADR processes are beneficial to both parties. By choosing ADR, neither party would be put in a bad situation.

Potential benefits of ADR compared to traditional litigation

ADR documents are less formal, time-consuming, and flexible for the IP proprietor. It is important to remember that it has always outperformed traditional methods of prosecution in commercial transactions. The Supreme Court of India stated in the case of *Shree Vardhman Rice & Gen Mills v. Amar Singh Chawalwala*⁴ that "...Without going into the merits of the controversy, we are of the opinion that the matters relating to trademarks, copyrights, and patents should be finally decided by the Trial Court instead of merely granting or refusing to

² *Alternative Dispute Resolution in Intellectual Property Disputes*, CCBJ (Feb. 1, 2006), <https://ccbjournal.com/articles/alternative-dispute-resolution-intellectual-propertydisputes#:~:text=Probably%20the%20greatest%20benefit%20of%20using%20ADR%20in,as%20many%20issues%20as%20possible%20prior%20to%20litigation.> (accessed on Dec. 15, 2025).

³ Sushree Swagatika, *Importance of ADR in IP Disputes*, LEGODESK (Feb. 26, 2023), <https://legodesk.com/blog/dispute-resolution/importance-of-adr-in-ip-disputes/> (accessed on Dec. 15, 2025).

⁴ (2009)10 SCC 257.

grant indefinitely" In disputes involving trademarks, copyrights, and patents, the primary point of contention between the parties is an interim injunction, which can drag on for years before a final resolution is reached. These days, the arbitration and mediation provisions are typically included in contracts associated with the move of protected invention.⁵ It has the following many benefits:

Secrecy: - In IP cases involving patents, trade secrets, and software development, where the parties intend to keep such sensitive information private and safe, confidentiality plays a major role and is a key concern. Procedures are kept in strict confidence.

Time saving: - Both the courts and the litigants benefit greatly from ADR in terms of time savings. The judges are currently hearing a number of cases. Judgment is delayed as a result of this. ADR saves time as a result.

Cost-efficient: - ADR processes are more adaptable and economical. Parties are urged by Indian courts to use ADR to resolve disputes.

The End Result: - ADR is controlled by the parties. A resolution cannot be reached without both parties' agreement. This enables the parties to devise plans or solutions that will be advantageous for their companies in the end.

Challenges Associated with ADR in IP Disputes in India

One of the difficulties with using ADR to settle IP disputes in India is the lack of knowledge and comprehension of ADR mechanisms, the lack of specialized IP ADR mechanisms, and the effective enforcement of ADR awards and settlements.

One of the major issues with ADR in IP disputes is the absence of knowledge and comprehension of ADR methods among stakeholders, including attorneys, judges, and litigants. Numerous individuals are unaware of the various ADR processes, including mediation, arbitration, and conciliation, or how they operate. This ignorance and lack of comprehension can result in a resistance to using ADR mechanisms or a misperception of the

⁵ Aditi Lakhanapal, *ADR: Alternative Dispute Resolution versus Litigation, Homepage - Legal News India, LEGAL NEWS WORLD*, (June 6, 2017), <https://www.lawnn.com/adr-alternative-dispute-resolution/> (accessed on Dec. 15, 2025).

advantages and disadvantages of such mechanisms.⁶

Lack of specialized IP ADR mechanisms: The lack of specialized IP ADR mechanisms presents another difficulty for ADR in IP conflicts. While there are many general ADR options in India, there aren't many specialized options created especially to deal with IP disputes. This could make it more difficult to locate skilled and knowledgeable ADR professionals with knowledge of IP law and could reduce the availability of specialized facilities and resources required to successfully resolve such disputes.⁷

Effective enforcement of ADR awards and settlements: Enforcing ADR awards and settlements effectively is the last hurdle facing ADR in IP conflicts. When compared to traditional litigation, ADR mechanisms can be a quicker and more affordable way to settle disputes, but they only work if both sides agree to follow the ruling. There have been instances where one party has, however, declined to abide by the ADR award or settlement, which has resulted in further legal actions and delays.

While using ADR mechanisms can be a useful way to settle IP conflicts in India, doing so comes with a number of difficulties. In order to address these issues, various measures should be taken, such as raising knowledge, developing specialized IP ADR mechanisms, and enhancing the enforcement of ADR awards and settlements, can help maximize the potential benefits of ADR in resolving IP disputes in India.

Analysis of ADR Mechanisms for Resolving IP Disputes in India

Mechanisms Of Alternative Dispute Resolution and Their Pros and Cons

Mediation: Mediation can be an effective ADR mechanism for IP disputes because it enables the parties to retain control over the outcome and achieve a mutually acceptable resolution. When the parties have a continuing business connection and maintaining that relationship is important, mediation is especially helpful. Although mediation is a non-binding procedure, the parties may still need to turn to lawsuits if they are unable to come to an agreement.⁸

⁶ *Resolution of Disputes involving IPR through Arbitration in India – An Analysis of the Legal Position*, BAR AND BENCH - INDIAN LEGAL NEWS (May 21, 2019), <https://www.barandbench.com/columns/resolutionof-disputes-involving-ipr-through-arbitration-in-india> (accessed on Dec. 15, 2025).

⁷ Pravin Anand, Vaishali Mittal, Siddhant Chamola, *The rise of ADR in India*, IAM (May 23, 2019), <https://www.iam-media.com/article/the-rise-of-adr-in-india> (accessed on Dec. 15, 2025).

⁸ Anulekha Mediseti, *How Disputes Relating to IPR can be Resolved through ADR?* - iPleaders, IPLEADERS (Mar. 2020), https://blog.ipleaders.in/disputes-relating-ipr-can-resolved-adr/#Conclusion_Remedies (last visited Dec. 15, 2025).

Arbitration: Arbitration can be an effective ADR method for IP disputes because it enables the parties to obtain a final, binding decision from a neutral third party. When a dispute includes complex or specialized issues that call for the expertise of an arbitrator, arbitration is especially helpful. However, if one of the parties refuses to abide by the arbitration decision, it may be difficult to enforce it. Arbitration can also be an expensive process.

Negotiation: Negotiation can be a useful ADR method for IP conflicts because it enables the parties to come to an agreement without the help of an impartial third party. When the parties have a strong working relationship and are willing to make concessions to settle the dispute, negotiation can be especially helpful. Nevertheless, negotiation is often an informal and unstructured process, and the lack of a fair adjudicator can make it difficult to come to a resolution.

The Indian government has established various institutions to promote and facilitate ADR mechanisms, including the International Centre for Alternative Dispute Resolution, the Indian Council of Arbitration, and the Centre for Commercial Arbitration and Mediation. The courts in India also encourage the use of ADR mechanisms, and some courts have set up specialized ADR centres to facilitate the use of ADR mechanisms⁹.

Opportunities for Improving ADR in Resolving IP Disputes in India

There are several opportunities for improving ADR mechanisms in resolving intellectual property (IP) disputes in India. Increasing knowledge and education is one of the most important ways to improve India's ADR processes for IP disputes. The numerous ADR mechanisms accessible for resolving IP disputes may be unfamiliar to many stakeholders, including attorneys, judges, and litigants. To increase knowledge of ADR mechanisms and their potential advantages, training and education must be offered. The development of specialized IP ADR mechanisms presents another chance to enhance ADR processes for IP conflicts. These mechanisms can offer impartial third-party decision-makers technical knowledge in IP issues, which can aid in more speedy and effective dispute resolution.¹⁰ Strengthening the enforcement of ADR awards and settlements is one way to enhance ADR procedures. This can be

⁹ Jeremy Lack, *Addressing the IP Dispute Resolution Paradox: Combining Mediation with Arbitration and Litigation*, IMI (Jan. 24, 2022), <https://imimmediation.org/2022/01/24/addressing-the-ip-dispute-resolutionparadox-combining-mediation-with-arbitration-and-litigation/> (last visited Dec. 15, 2025).

¹⁰ Madhu Swetha, *Alternative Dispute Resolution and Intellectual property*, SINGHANIA & PARTNERS (May 13, 2020), https://singhania.in/blog/alternative-dispute-resolution-and-the-law-of-intellectual-property#_ftnref2 (accessed on Dec. 15, 2025).

accomplished by establishing enforcement mechanisms for ADR awards and settlements, such as creating IP-specific courts or tribunals. Making ADR required for resolving IP conflicts presents another chance to enhance ADR mechanisms. This may lighten the load on the courts and urge parties to settle disagreements more quickly and cheaply. Finally, by creating online dispute resolution (ODR) platforms, there is a chance to enhance ADR processes for IP conflicts. Online dispute resolution (ODR) can offer a practical and economical method to settle disputes, making it more accessible to parties in distant locations.¹¹ By utilizing these possibilities, IP disputes in India can be resolved more effectively and efficiently while also increasing the efficiency of ADR methods.

Findings

According to the results of a critical analysis of the use of alternative dispute resolution (ADR) to settle intellectual property (IP) disputes in India, ADR mechanisms like mediation and arbitration are becoming more popular as alternatives to traditional litigation. The Arbitration and Conciliation Act of 1996, the Commercial Courts Act of 2015, and the Mediation Rules of 2021 all regulate the legal framework for ADR in India. While there are a number of ADR processes currently in place in India for resolving IP disputes, difficulties with their use include a lack of knowledge and comprehension of ADR processes, the lack of specific IP ADR processes, and the efficient enforcement of ADR awards and settlements. However, there are opportunities to increase awareness and education, develop specialized IP ADR mechanisms, strengthen enforcement mechanisms, make ADR obligatory, and establish online dispute resolution platforms in order to improve ADR mechanisms for resolving IP disputes in India. The efficiency of ADR methods can be increased, leading to a more efficient and effective resolution of IP disputes, by addressing these issues and seizing the opportunities.

Summary And Conclusion

Creators and inventors rely heavily on intellectual property rights (IPRs) to safeguard their unique concepts, goods, or procedures. These rights give the owner exclusive rights while offering temporary legal security. However, the legal procedure to uphold these rights can be costly and time-consuming. This is especially problematic for IPRs because they have a finite lifespan and lose effectiveness if their enforcement is delayed. Alternative dispute settlement

¹¹ Akash Dudhwa, *IP Litigation in India: Past, Present and Future*, SAGACIOUS IP, <https://sagaciousresearch.com/blog/ip-litigation-india-past-present-future/> (last visited Dec. 15, 2025).

(ADR) can be used in this situation. ADR provides a more efficient and economical means of resolving disputes between two parties, making it a superior option for resolving IPR disputes. ADR gives the parties the chance to communicate, negotiate, and come to a mutually agreeable resolution without going through a drawn-out and expensive legal procedure. Instead of being subjected to the unpredictability of court proceedings, it gives the parties a chance to maintain control over the conflict resolution procedure. In addition, Indian courts have emphasized the importance of using ADR procedures to settle IP conflicts time and time again. This emphasizes the value of ADR in IP disputes and the necessity for parties to look into ADR alternatives before moving forward with litigation. The parties have access to a variety of conflict resolution options through ADR processes like mediation, arbitration, and conciliation, which can be tailored to the unique requirements of the case. Overall, ADR offers the parties a more effective, affordable, and personalized answer, making it a superior dispute-resolution method for IP. By ensuring that disputes are settled quickly and effectively, it can help maintain the efficacy of IPRs.

References

Books: -

- AVTAR SINGH, LAW OF ARBITRATION AND CONCILIATION (Eastern Book
- Company 12th ed. 2002) (1981).

Cases: -

- *Shree Vardhman Rice & Gen Mills v. Amar Singh Chawalwala*, (2009)10 SCC 257.

Blogs and internet sources only

- S.Chaitanya Shashank & Kaushalya T. Madhavan, *ADR in India: Legislations and Practices*, ACADEMIKE (Jan. 17, 2015), <https://www.lawctopus.com/academike/arbitration-adr-in-india/> (accessed on Dec. 15, 2025).
- *Alternative Dispute Resolution in Intellectual Property Disputes*, CCBJ (Feb. 1, 2006), <https://ccbjournal.com/articles/alternative-dispute-resolution-intellectual-propertydisputes#:~:text=Probably%20the%20greatest%20benefit%20of%20using%20ADR%20in,as%20many%20issues%20as%20possible%20prior%20to%20litigation.>

(accessed on Dec. 15, 2025).

- Sushree Swagatika, *Importance of ADR in IP Disputes*, LEGODESK (Feb. 26, 2023), <https://legodesk.com/blog/dispute-resolution/importance-of-adr-in-ip-disputes/> (accessed on Dec. 15, 2025).
- Aditi Lakhanapal, *ADR: Alternative Dispute Resolution versus Litigation*, Homepage - Legal News India, LEGAL NEWS WORLD, (June 6, 2017), <https://www.lawnn.com/adr-alternative-dispute-resolution/> (accessed on Dec. 15, 2025).
- *Resolution of Disputes involving IPR through Arbitration in India – An Analysis of the Legal Position*, BAR AND BENCH - INDIAN LEGAL NEWS (May 21, 2019), <https://www.barandbench.com/columns/resolutionof-disputes-involving-ipr-through-arbitration-in-india> (accessed on Dec. 15, 2025).
- Pravin Anand, Vaishali Mittal, Siddhant Chamola, *The rise of ADR in India*, IAM (May 23, 2019), <https://www.iam-media.com/article/the-rise-of-adr-in-india> (accessed on Dec. 15, 2025).
- Anulekha Mediseti, *How Disputes Relating to IPR can be Resolved through ADR? - iPleaders*, IPLEADERS (Mar. 2020), https://blog.ipleaders.in/disputes-relating-ipr-can-resolved-adr/#Conclusion_Remedies (last visited Dec. 15, 2025).
- Jeremy Lack, *Addressing the IP Dispute Resolution Paradox: Combining Mediation with Arbitration and Litigation*, IMI (Jan. 24, 2022), <https://imimmediation.org/2022/01/24/addressing-the-ip-dispute-resolutionparadox-combining-mediation-with-arbitration-and-litigation/> (last visited Dec. 15, 2025).
- Madhu Swetha, *Alternative Dispute Resolution and Intellectual property*, SINGHANIA & PARTNERS (May 13, 2020), https://singhania.in/blog/alternative-dispute-resolution-and-the-law-of-intellectual-property#_ftnref2 (accessed on Dec. 15, 2025).
- Akash Dudhwa, *IP Litigation in India: Past, Present and Future*, SAGACIOUS IP, <https://sagaciousresearch.com/blog/ip-litigation-india-past-present-future/> (last visited Dec. 15, 2025).