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ABOUT US

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REDRESSAL MECHANISM IN INTELLECTUAL PROPERTY RIGHTS¹

AUTHORED BY - UJJAWAL NARAYAN

ABSTRACT

IPR are essential for fostering innovation, creativity, and economic growth. However, IPR are also subject to various challenges and disputes, such as infringement, piracy, counterfeiting, misappropriation, etc. These challenges pose a threat to the interests of the IPR holders and the public at large. An effective and efficient redressal mechanism in IPR is necessary to resolve these disputes and protect the rights of the parties involved.

The redressal mechanism in IPR refers to the process and institutions that deal with the complaints and grievances related to IPR issues. The redressal mechanism can be classified into two categories: judicial and non-judicial. The judicial redressal mechanism involves the courts and tribunals that adjudicate on IPR disputes and enforce the judgments. The non-judicial redressal mechanism involves the alternative dispute resolution (ADR) methods, such as arbitration, mediation, conciliation, negotiation, etc., that facilitate the settlement of IPR disputes through dialogue and cooperation.

The choice of the redressal mechanism depends on various factors, such as the nature and scope of the IPR, the type and extent of the infringement, the jurisdiction and laws applicable, the costs and time involved, the preferences and interests of the parties, etc. The main objectives of a redressal mechanism are to prevent, deter, and punish IPR infringement, to compensate the right holders for their losses and damages, to restore the status quo ante of the IPR, to resolve the conflicts and disputes amicably and fairly.

It has several benefits for both the right holders and the society. For the right holders, redressal mechanism can help them protect their IPR assets, recover damages, deter future infringement, and restore their reputation. For the society, redressal mechanism can help promote a culture of respect for IPR, foster innovation and creativity, enhance consumer protection and public health,

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and support social and economic development. This paper aims to provide an overview of the existing redressal mechanisms in IPR, such as administrative, judicial, and alternative dispute resolution (ADR) methods.

INTRODUCTION

IPRs, or Intellectual Property Rights, are legal rights that protect the creations of the human mind, such as inventions, artistic works, designs, symbols, names, and images. IPRs can be divided into two main categories: industrial property rights (such as patents, trademarks, and industrial designs) and copyright rights (such as literary and artistic works).

These are important for fostering innovation, creativity, and economic growth. They provide incentives for inventors and creators to invest in research and development, and to share their knowledge and creations with the public. They also enable consumers to identify the origin and quality of goods and services, and to make informed choices.

However, IPRs are not absolute or unlimited. They are subject to limitations and exceptions that balance the interests of the right holders and the public. Moreover, these can be infringed or violated by unauthorized use, imitation, or counterfeiting of protected products or works. Such infringement can cause harm to the right holders, as well as to the consumers and the society at large².

Therefore, it is essential to have an effective redressal mechanism in place to deal with IPR infringement cases. A redressal mechanism is a system or a process that provides remedies or solutions for resolving disputes or grievances. In the context of IPRs, a redressal mechanism can involve various actors, such as courts, administrative agencies, arbitration tribunals, mediators, or ombudsmen.

The redressal mechanism for IPRs can vary depending on the type of IPR, the nature of infringement, the jurisdiction, and the preference of the parties involved³. Some of the common types of redressal mechanisms for IPRs are:

² Dr V K Ahuja, *Law relating to Intellectual Property Rights* 142 (Lexis Nexis Publication, India, 3rd edn., 2017)

³ Stanley, Arnold, and Lochana V. Khatri. "The Future of Arbitration in Intellectual Property Disputes-An Opportunity for India's Growth and Resilience." (2023).

- **Civil litigation:** This is a legal action brought by a right holder against an infringer in a court of law. The right holder can seek remedies such as injunctions (orders to stop or prevent the infringement), damages (compensation for the losses suffered), or destruction or seizure of infringing goods or materials.
- **Criminal prosecution:** It is initiated by the state against an infringer in a court of law. The infringer faces penalties such as fines, imprisonment, or confiscation of infringing goods or materials.
- **Administrative enforcement:** In this the action is taken by an administrative authority (such as a customs office, a patent office, or a trademark office) against an infringer. The authority imposes measures such as suspension or cancellation of IPR registration, detention or seizure of infringing goods or materials, or imposition of fines or fees.
- **Alternative dispute resolution (ADR):** This is a process that allows the parties to resolve their dispute without going to court. ADR can include methods such as arbitration (where a neutral third party decides the outcome of the dispute), mediation (where a neutral third party facilitates a dialogue between the parties to reach a settlement), or conciliation (where a neutral third party proposes a solution for the parties to accept or reject).

Each type of redressal mechanism has its own advantages and disadvantages. For example, civil litigation can provide more comprehensive and enforceable remedies, but it can also be costly, time-consuming, and complex. Criminal prosecution can deter potential infringers and protect public interest, but it can also be subject to procedural hurdles and evidentiary challenges. Administrative enforcement can be swift and efficient, but it can also be limited in scope and authority. ADR can be flexible and cooperative, but it can also be less formal and binding.

REDRESSAL MECHANISMS

The topic redressal mechanism in IPRs involves various aspects and considerations. It aims to provide effective and fair solutions for resolving IPR infringement cases and protecting the rights and interests of both right holders and public⁴.

Choosing the appropriate redressal mechanism for IPRs depends on numerous factors, such as:

- *The nature and extent of infringement:* This refers to how and why the original work was used without permission, and what impact it had on the market value of the work. For example, whether it is intentional or unintentional, whether it is widespread or isolated,

⁴ Sethi, Mehak Rai, and Gunjan Arora. "Redressal and Enforcement Mechanisms under Intellectual Property Laws." *Supremo Amicus* 152 (2019)

whether it causes significant harm or not.

- *The type and value of IPR:* Different types of IPR, such as patents, trademarks, or copyrights, have different legal protections and value.
- *The jurisdiction and legal system:* For instance, whether there is a specific law or regulation governing IPRs; whether there is a specialized court or agency dealing with IPRs; whether there is an international treaty or agreement applicable to IPRs.
- *The preference and resources of the parties:* Another factors that influences the choice of dispute resolution method is the preference and resources of the parties involved. For example, whether they prefer litigation or negotiation; whether they have sufficient funds or expertise; whether they have access to legal representation or assistance.

A redressal mechanism should have certain features to ensure its effectiveness and efficiency. Some of these features are:

- *Accessibility:* It should be simple to use for the public and right holders, without imposing excessive expenses or hurdles.
- *Timeliness:* It must be able to give remedies and settle disputes quickly, without adding undue stress or uncertainty.
- *Fairness:* It ought to be unbiased, respecting the rights and interests of all parties concerned, and adhere to natural justice and due process norms.
- *Proportionality:* It should be proportionate to the nature and extent of the infringement and the harm caused, providing adequate and appropriate remedies that reflect the gravity of the violation and deter future infringement.
- *Transparency:* It should be open and accountable, with rules and procedures that are transparent and consistent, that are available to the public, and that are monitored and evaluated.

A redressal mechanism that meets these features can help to protect IPRs effectively and efficiently, enhancing the confidence and trust of the right holders and the public in the IP system.

TRIBUNALS

Intellectual property rights (IPRs) are legal rights that protect the creations and innovations of individuals and organizations. They include patents, trademarks, copyrights, designs, geographical indications, and trade secrets. IPRs encourage creativity and innovation by granting exclusive rights to the owners of the intellectual property.

However, these rights are often violated or infringed by others who use, copy, or sell the intellectual property without authorization or compensation. This can cause significant losses to the owners and harm the public interest. Therefore, there is a need for effective enforcement and adjudication of IPRs in India.

One of the ways to enforce and adjudicate IPRs in India is through tribunals. Tribunals are quasi-judicial bodies that have the power to hear and decide disputes related to specific subjects or areas of law. They are usually faster, cheaper, and more specialized than regular courts.

These tribunals are:

1. The Intellectual Property Appellate Board (IPAB):

The first IPR tribunal in India was the Intellectual Property Appellate Board (IPAB), which was set up in 2003 under the Trademarks Act, 1999. The IPAB had the power to hear appeals from the decisions of the Registrar of Trademarks, Controller General of Patents, Designs and Trademarks, and Geographical Indications Registry. The IPAB also had the power to revoke or rectify trademarks, patents, and geographical indications⁵.

The IPAB was set up with the aim of providing a speedy and specialized forum for resolving disputes relating to intellectual property rights. The IPAB consisted of a Chairman who was a retired judge of a High Court or Supreme Court, and two Technical Members, who were experts in trademark, patent, or geographical indication law. The IPAB had its principal bench in Chennai and other benches in Delhi, Mumbai, Kolkata, and Ahmedabad.

Apart from the IPAB, there were other tribunals that dealt with specific aspects of IPR, such as:

- The Copyright Board, which was established under the Copyright Act, 1957
- The Appellate Board for Plant Varieties Protection, which was established under the Protection of Plant Varieties and Farmers' Rights Act, 2001
- The Appellate Board for Semiconductor Integrated Circuits Layout Design, which was established under the Semiconductor Integrated Circuits Layout Design Act, 2000

In April 2021, the central government abolished five tribunals in India by way of an ordinance

⁵*Abolishing IPAB: An Own Goal?*, LAW.ASIA, available at <https://law.asia/abolishing-ipab-own-goal/> (last visited July 5, 2023).

called the Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021⁶. The ordinance scrapped the IPAB along with four other tribunals dealing with airport tariffs, cinematograph certification, consumer protection and foreign exchange management.

The ordinance stated that the abolition of these tribunals was done to streamline the functioning of tribunals, avoid duplication of work and reduce financial burden on the exchequer. The ordinance also stated that any pending cases or appeals before these tribunals would be transferred to the High Courts or other authorities as specified by rules.

The abolition of the IPAB came as a shock to many stakeholders in the IPR community, who had mixed reactions to this decision⁷. Some welcomed this move as a positive step towards improving the efficiency and transparency of IPR enforcement in India.

2. The National Company Law Tribunal (NCLT) and the National Company Law Appellate Tribunal (NCLAT):

The National Company Law Tribunal (NCLT) is a quasi-judicial body in India that adjudicates matters relating to corporate insolvency, liquidation, mergers and acquisitions, and other company-related disputes. One of the important functions of the NCLT is to ensure that the intellectual property rights (IPR) of the companies undergoing insolvency resolution or liquidation are protected and preserved.

IPR are valuable assets for any company, as they provide a competitive edge, enhance brand value, and generate revenue. However, when a company becomes insolvent or goes into liquidation, its IPR may be at risk of being misused, infringed, or lost. The Insolvency and Bankruptcy Code (IBC), 2016, which governs the insolvency resolution and liquidation process in India, recognizes the importance of IPR protection and provides certain safeguards for the same⁸. For instance, the IBC defines IPR as an asset of the corporate debtor and includes them in the definition of property. The IBC also empowers the NCLT to pass orders for the protection of IPR during the insolvency resolution or liquidation process.

For example, in the case of Ricoh India Limited, the NCLT directed the resolution professional to

⁶ Ferrao, Ranjana. "Taking Measures without Measurements: Abolition of Intellectual Property Rights Appellate Board." 61 *Indian Journal of International Law*, 84-102 (2021).

⁷ Vibhuti Kaushik, *Abolishment Of IPAB: Changes To The IP Regime - Trademark - India*, available at <https://www.mondaq.com/india/trademark/1074448/abolishment-of-ipab-changes-to-the-ip-regime> (last visited July 4, 2023).

⁸ The Insolvency and Bankruptcy Code (IBC), 2016 (Act 31 of 2016).

take all necessary steps to protect the IPR of the company and not to transfer or assign them without the approval of the committee of creditors⁹. Similarly, in the case of Moser Baer India Limited, the NCLT ordered the liquidator to preserve and protect the IPR of the company and not to sell them as part of the liquidation assets¹⁰.

The NCLT exercises its powers under various provisions of the IBC to protect and preserve the IPR of the companies undergoing insolvency or liquidation. Some of these provisions are:

- Imposing a moratorium on the initiation or continuation of any legal action or proceeding against the corporate debtor or its assets during the insolvency resolution process. It includes any action or proceeding relating to the infringement or enforcement of IPR. The moratorium prevents any third party from interfering with or exploiting the IPR of the corporate debtor without its consent or the approval of the NCLT¹¹.
- Vesting the management and control of the corporate debtor and its assets in an interim resolution professional (IRP) or a resolution professional (RP), who is appointed by the NCLT to conduct the insolvency resolution process. The IRP or RP has the duty to take custody and control of all the assets of the corporate debtor, including its IPR. The IRP or RP also has the power to deal with and dispose of the IPR in accordance with the provisions of the IBC and the directions of the NCLT¹².
- The IRP is required to perform various functions, such as collecting all information relating to the assets, finances, and operations of the corporate debtor, verifying, and admitting claims of creditors, constituting a committee of creditors, and preparing an information memorandum for formulating a resolution plan. The IRP has to include all relevant information regarding the IPR of the corporate debtor in these functions, such as their nature, ownership, validity, status, value, encumbrances, licenses, etc¹³.
- The RP shall preserve and protect the assets of the corporate debtor, including its IPR. The RP has to take all necessary steps to safeguard and maintain¹⁴.

By protecting the IPR of a company under insolvency, the NCLT helps to maximize the value of the company and facilitate its revival or liquidation in a fair and efficient manner.

⁹ In re Ricoh India Limited [CP No. 1399/I&BP/NCLT/MAH/2017].

¹⁰ Moser Baer India Limited v. Pankaj Khetan, Liquidator, Moser Baer India Limited, Company Appeal (AT) (Insolvency) No. 1050 of 2020

¹¹ The Insolvency and Bankruptcy Code (IBC), 2016 (Act 31 of 2016), s. 14.

¹² The Insolvency and Bankruptcy Code (IBC), 2016 (Act 31 of 2016), s. 17.

¹³ The Insolvency and Bankruptcy Code (IBC), 2016 (Act 31 of 2016), s. 18.

¹⁴ The Insolvency and Bankruptcy Code (IBC), 2016 (Act 31 of 2016), s. 25.

3. The National Green Tribunal (NGT):

The National Green Tribunal (NGT) is a statutory body established in India in 2010 under the National Green Tribunal Act. The NGT is a specialized forum for the effective and expeditious disposal of cases relating to environmental protection, conservation of forests and natural resources, and enforcement of any legal rights relating to the environment.

One of the important functions of the NGT is to protect the intellectual property rights (IPR) of the indigenous and local communities who have traditional knowledge and practices related to biodiversity and natural resources. The NGT has the jurisdiction to hear cases involving the infringement of IPR of such communities by any person or entity, whether domestic or foreign. It can also take suo moto cognizance of any matter relating to IPR protection of such communities¹⁵. The NGT has been proactive in safeguarding the IPR of the indigenous and local communities in India. For instance, in 2014, the NGT issued an interim order restraining PepsiCo India from using the term 'Kurkure' for its snack products, as it was found to be similar to 'Kurkuri', a traditional snack made by the tribal communities of Jharkhand. The NGT held that PepsiCo had violated the IPR of the tribal communities by using their traditional name without their consent or benefit-sharing.

Similarly, in 2016, the NGT directed the Ministry of Environment, Forest, and Climate Change (MoEFCC) to take appropriate action against Patanjali Ayurved Ltd., a company owned by yoga guru Baba Ramdev, for allegedly using bio-resources and traditional knowledge of the Himalayan communities without their prior informed consent or benefit-sharing. The NGT observed that Patanjali had violated the provisions of the Biological Diversity Act, 2002, which regulates access to biological resources and associated traditional knowledge in India.

The NGT has also been instrumental in promoting awareness and education on IPR protection among the indigenous and local communities and has organized several workshops and seminars on various aspects of IPR, such as patents, trademarks, geographical indications, biodiversity, traditional knowledge, etc. It has also encouraged the participation of such communities in national and international forums on IPR issues¹⁶.

¹⁵ Tuteja, Venu Parnami. "Traditional Knowledge and Arbitration Dispute Resolution: Indigenous People and Local Communities." *Intellectual Property Rights and the Protection of Traditional Knowledge*. IGI Global 103-123 (2020).

¹⁶ Lakshmanan, Pushpa Kumar. "Regulated Use of Biological Resources and Traditional Knowledge for Sustainable Development: The Experience from India." 13 *OIDA International Journal of Sustainable Development* 59-70 (2020).

The NGT has emerged as a key institution for protecting the IPR of the indigenous and local communities in India and has not only ensured justice and compensation for the victims of IPR infringement, but also fostered a culture of respect and recognition for their invaluable contribution to environmental conservation and sustainable development.

4. The National Consumer Disputes Redressal Commission (NCDRC) and State Consumer Disputes Redressal Commissions (SCDRCs):

National Consumer Disputes Redressal Commission (NCDRC) is a quasi-judicial body established under the Consumer Protection Act, 1986. The NCDRC has the power to entertain complaints from consumers who are aggrieved by unfair trade practices or defective goods or services that affect their rights as consumers. The NCDRC also hears appeals from the decisions of the State Consumer Disputes Redressal Commissions (SCDRC), which are the state-level counterparts of the NCDRC.

One of the issues that the NCDRC and SCDRC have dealt with in recent years is the protection of IPR in consumer disputes. For instance, in a case involving a trademark infringement by a hotel chain, the NCDRC held that the use of a deceptively similar trademark by the infringer amounted to an unfair trade practice and awarded compensation to the trademark owner. Similarly, in a case involving a patent infringement by a pharmaceutical company, the SCDRC held that the sale of a spurious drug that violated the patent rights of the original inventor constituted a defective service and ordered the infringer to pay damages to the patentee¹⁷.

The NCDRC and SCDRC plays a significant role in protecting IPR in consumer disputes by applying the principles of consumer protection law and providing effective remedies to the aggrieved parties. However, there are also some challenges and limitations that these bodies face in dealing with IPR issues. Such as lack of technical expertise or resources to deal with complex IPR matters, jurisdictional conflicts with other courts or authorities that also deal with IPR, maintaining a balance the interests of consumers and IPR owners; and also delay and pending cases.

Despite such limitations NCDRC and SCDRC acts as a deterrent for potential infringers and

¹⁷ Rajoria, Dr Krati. "Consumer Protection in India and Intellectual Property Rights: An Analysis." *Intellectual Property Rights in Knowledge Era: Changing Contours* (2022).

encourage them to respect the IPR of others. The NCDRC also creates awareness among consumers about their rights and responsibilities regarding IPR and educate them about how to identify and avoid counterfeit or pirated products or services and are an important institution for protecting IPR in India and ensuring that consumers get quality goods and services that are genuine and authentic.

SPECIAL COURTS

India is one of the fastest growing economies in the world, with a large and diverse market for goods and services. Intellectual property rights (IPR) are essential for fostering innovation, creativity and competitiveness in any economy, and India is no exception. However, the enforcement of IPR in India has been a challenge for many right holders, especially in the context of complex and lengthy litigation processes.

One of the recent initiatives taken by the Indian government to address this issue is the establishment of special courts for protection of intellectual property rights in India are judicial bodies that deal with cases related to patents, trademarks, copyrights, designs, and other forms of intellectual property¹⁸.

The main objectives of these special courts are to provide speedy and effective resolution of IPR disputes, to reduce the backlog of cases pending in regular courts, to enhance the quality and consistency of judgments, and to improve the enforcement of IPR in India. The special courts have exclusive jurisdiction over all IPR matters.

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts:

These courts were established under the Commercial Courts Act, 2015¹⁹. The Act empowers the Central government to designate any civil court as a commercial court or a commercial division of a high court, depending on the pecuniary value of the dispute. The special courts also have the power to grant interim relief, such as injunctions, orders for preservation of evidence, orders for disclosure of information, etc., in cases of infringement or violation of intellectual property rights. The Act also provides for the appointment of technical members in the commercial courts or

¹⁸ Dua, Dinesh Kumar, and Aqueeda Khan. "Indian Trademark Law Enforcement." 26 *Journal of Intellectual Property Rights (JIPIR)* 103-107,(2022).

¹⁹ Commercial Courts Act, 2015 (Act 4 of 2016)

divisions, who have expertise in the field of intellectual property and can assist the judges in deciding complex matters. The special courts follow the rules and procedures prescribed by the Commercial Courts Act, 2015, and the Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018²⁰, which mandate compulsory mediation before filing a suit and expedited disposal of cases within a specified time frame.

The special courts for protection of intellectual property rights in India are a welcome step towards strengthening the IPR regime in the country. They are expected to boost the confidence and trust of IPR owners, especially foreign investors, and innovators, who seek to protect their valuable assets in India. They are also expected to deter potential infringers and promote a culture of respect for IPR among the public.

The Act also established the commercial appellate division (CAD) of high courts in 2015. The CAD is a specialized bench of judges that deals exclusively with appeals arising from commercial disputes, including those involving IPR. It was created with the aim of providing speedy and effective resolution of commercial disputes and enhancing the ease of doing business in India.

In comparison to the standard appellate division of high courts, the CAD differs in a number of ways. First, the CAD has a strict six-month deadline for handling appeals, which can only be extended in extraordinary cases. Second, it has the authority to impose exemplary costs on parties who bring pointless or vexatious appeals or who prolong the proceedings needlessly. Third, the CAD has the power to order stays, injunctions, or the attachment of property to provide parties with temporary relief while their appeals are being considered. Fourth, it has the limited authority to review its own orders or decisions if there is new evidence or a serious error²¹.

The CAD has been operational in several high courts across India, such as Delhi, Mumbai, Madras, Kolkata, and Karnataka and has handled a number of appeals involving IPR issues, such as patent infringement, trademark dilution, copyright violation, and trade secret misappropriation. The CAD has also dealt with appeals arising from arbitration awards or orders passed by statutory tribunals or authorities related to IPR.

²⁰ *The Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018*, IBC LAWS, available at <https://ibclaw.in/the-commercial-courts-pre-institution-mediation-and-settlement-rules-2018/> (last visited July 5, 2023).

²¹ Ramesh, Medhiyaa, and S. Vaijayanthee. "Tackling Commercial Disputes-A New Perspective." 2 *Int'l JL Mgmt. & Human.* 124 (2019).

The commercial appellate division of high courts is a significant reform that has strengthened the IPR protection regime in India. It has demonstrated its ability to provide speedy and effective remedies to parties aggrieved by commercial disputes and helping in promoting a culture of respect for IPR among the public and private sectors in India.

MEDIATION

IPR disputes can be complex, costly, and time-consuming to resolve through litigation. Alternative dispute resolution (ADR) methods, such as mediation, offers a more efficient and effective way of resolving IPR disputes. Mediation is a voluntary and confidential process where a neutral third party, called a mediator, facilitates communication and negotiation between the parties and helps them reach a mutually acceptable solution²².

In India, mediation is gaining recognition and acceptance as an effective ADR mechanism for IPR disputes. The Indian judiciary has been encouraging and referring parties to mediation in several cases involving IPR issues. For instance, in *Bajaj Auto Limited v TVS Motor Company Limited* (2009), the Supreme Court referred a patent dispute to mediation and observed that "mediation is suited to deal with not only complex commercial disputes but also disputes where there is an ongoing business relationship between the parties"²³.

The Indian legislature has also enacted laws and rules to promote mediation for IPR disputes. For example, the Commercial Courts Act, 2015 provides for mandatory pre-institution mediation for commercial disputes, including IPR disputes. The Patent Rules, 2003 provide for mediation as an option for settlement of opposition proceedings before the Controller of Patents.

The Indian executive has also taken initiatives to support mediation for IPR disputes. For example, the Department for Promotion of Industry and Internal Trade (DPIIT) has established Cell for IPR Promotion and Management (CIPAM)²⁴ to facilitate awareness, creation, and enforcement of IPRs in India. CIPAM has launched schemes such as IP Nani (an IP mascot)²⁵ and IP Mediation Cell

²² Singh, Khushboo, and Manjari Mishra. "Alternate Dispute Redressal in Intellectual Property." *6 Pen acclaims 2* (2019).

²³ *Bajaj Auto Limited v TVS Motor Company Ltd.*, 2008 (36) PTC 417 (Mad.)

²⁴ CIPAM assists in simplifying and streamlining of IP processes, apart from undertaking steps for accelerating IPR awareness, commercialization and enforcement. CIPAM in partnership with industry associations has conducted IPR awareness programmes in various states.

²⁵ The first IP Mascot - 'IP Nani' was created in collaboration with the European Union Intellectual Property Office (EUIPO). A series of interactive videos of IP Nani along with her sidekick (and grandson) 'Chotu' was created and

(a platform for mediation of IP disputes) to promote mediation among IP stakeholders.

Some key steps involved in the mediation process:

- *Initiation:* The mediation process can be initiated by the parties themselves or by a court order. The parties can choose their own mediator or request the court or an institution to appoint one. The parties can also agree on the venue, time, and rules of the mediation.
- *Preparation:* The mediator prepares for the mediation by studying the background and facts of the dispute, contacting the parties and their lawyers, and setting the agenda and ground rules for the mediation.
- *Opening:* The mediator opens the mediation by introducing himself or herself and the parties, explaining the role and purpose of the mediator and the mediation process, and obtaining the consent of the parties to mediate.
- *Exploration:* The mediator explores the issues and interests of the parties by listening to their statements, asking questions, clarifying misunderstandings, summarizing points, and identifying areas of agreement and disagreement.
- *Generation:* The mediator generates options for settlement by encouraging brainstorming, creativity, and cooperation among the parties, evaluating the pros and cons of each option, and testing their feasibility and acceptability.
- *Negotiation:* The mediator negotiates with the parties by facilitating dialogue, communication, and bargaining, addressing emotions and concerns, overcoming impasses and obstacles, and building trust and rapport.
- *Closure:* The mediator closes the mediation by helping the parties reach a final agreement, drafting and signing a settlement document, congratulating, and thanking the parties, and terminating the mediation.

Mediation is an effective redressal mechanism for protection of IPRs in India. It can offer several benefits to IP owners and users by resolving their disputes in a fast, cheap, flexible, confidential, cooperative, empowering and satisfying manner. It also contributes to the development of a robust IP ecosystem in India that fosters innovation and creativity.

released. These videos have received a lot of appreciation and are regularly used for CIPAM's IP Awareness initiatives. In this regard, a project was worked on in collaboration with INTA and IP specific comics were created based on IP Nani as well as additional characters like Bunty, Minti, Chutki, etc.

CONCLUSION

IP is a valuable asset that deserves protection and respect. IP creators invest a lot of time, money, and effort into their work, and they should be rewarded for their innovation and creativity. IP users also benefit from the availability and quality of IP products and services, and they should respect the rights and interests of the creators. IP infringement harms both the creators and the users, as well as the society and the economy at large. It reduces the incentives and returns for innovation, lowers the quality and diversity of IP products and services, harm the reputation and goodwill of the right holders, erodes consumer trust and confidence, create unfair competition in the market and undermines the rule of law and social justice.

An effective redressal mechanism in IPR can provide quick, fair, and accessible remedies to the IPR holders who face infringement or other violations of their rights. Some possible ways to ensure effectiveness are such as to strengthen the legal framework and enforcement of IPR which includes harmonizing the laws and regulations across different jurisdictions, updating them to reflect the changing technologies and markets, providing clear definitions and standards of IP infringement, establishing specialized courts and tribunals for IP cases, enhancing the capacity and coordination of law enforcement agencies, etc. Promoting awareness and education on IPR. This includes raising public awareness of the importance and benefits of IP protection and respect, educating IP creators and users on their rights and obligations, providing guidance and training on how to prevent and detect IP infringement, encouraging ethical and responsible behaviour among all stakeholders, etc. Encouraging alternative dispute resolution (ADR) methods for IPR because mediation, arbitration, conciliation, negotiation, and other forms of ADR can help resolve IP disputes in a more efficient, flexible, and amicable way. ADR can also complement the formal legal system by providing more options and opportunities for the parties involved. Fostering cooperation and collaboration among all stakeholders in IPR which includes building trust and dialogue among IP creators, users, intermediaries, regulators, enforcers, educators, etc. It also involves sharing information and best practices, developing common standards and norms, creating platforms and networks for communication and coordination, etc.

Thus, an effective redressal mechanism in IPR is essential for protecting and promoting the rights and interests of the IPR holders, as well as fostering a culture of innovation, creativity, and economic development in a constructive and amicable manner.