Chambers Trademarks & Copyright 2025 | Trends and Developments

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Introduction

The landscape of intellectual property in India is undergoing a significant transformation due to the interplay of global influences, technological advancements and cultural shifts. Some of these developing trends going forward are discussed below.

The Influence of Economic Reforms on IP Strategy

India's economic reforms have had a cascading effect on intellectual property development. With initiatives like "Make in India" and the emphasis on innovation-driven industries, businesses are increasingly recognising the value of robust IP portfolios. This can be regarded as an "IP Revolution", which together with economic liberalisation, has pushed companies to invest in brand creation, emphasising trade marks, patents and designs, to gain a competitive edge in both domestic and international markets. Startups and micro, small and medium enterprises (MSMEs) are particularly benefiting from these reforms. Government-backed programmes offering financial incentives for patent filings and trade mark registrations have made IP protection more accessible.

The government has periodically liberalised foreign direct investment (FDI) policies across various sectors, including defence, insurance, retail and e-commerce – with the space sector being the latest – to attract more foreign investment and leverage the latest technologies to advance the economy. While previously there was a trend for foreign collaborations, with the opening of the sector to domestic companies, home-grown Indian brands such as Hindustan Aeronautics, and startup brands in the sector, are set to become super brands. One example is Central Railway's Vande Bharat trains, which were launched in 2019 and have emerged as the preferred choice for travellers.

The Growing Importance of Brand Protection

In a market teeming with competition, brand identity is more critical than ever. Companies are recognising that their trade marks are not just legal assets, but strategic tools that represent their

ethos and differentiate them from competitors. The surge in online commerce has also amplified the need for robust trade mark protection. With brands increasingly leveraging digital platforms to reach consumers, the risk of trade mark infringement has grown, necessitating vigilant enforcement. Moreover, Indian brands are seeking international trade mark registrations to expand their global footprint. The Madrid Protocol, which facilitates trade mark protection across multiple jurisdictions, continues to gain traction among Indian enterprises aiming for global recognition.

India's trade mark laws are also adapting to the complexities of modern commerce. One notable development is the emphasis on granting "well-known trade mark" status. Achieving this designation provides brands with stronger legal protection against dilution and infringement.

Combating Counterfeiting and Piracy

Counterfeiting remains a persistent problem in India, particularly in industries like fashion, electronics and pharmaceuticals. Technology will play a pivotal role in addressing this challenge. Blockchain-based systems for verifying the authenticity of products, and digital watermarks for copyrighted content, are emerging as effective tools against counterfeiting and piracy.

Legal frameworks also need to become more stringent. There should be harsher penalties for infringement, to send a strong message to violators. Additionally, increased collaboration between government agencies and private entities is also important to make enforcement efforts more robust. For instance, India could consider imposing a counterfeiting tax on infringers. Collaboration with e-commerce platforms to prevent the listing of counterfeit goods and ensure strict compliance with IP laws could also help.

Sensory Branding, Non-Traditional Trade Marks and the Shift Towards Experiential Branding

Businesses are creating customised experiences for the consumer, guiding their spending habits. This new wave of marketing has also paved the way for non-traditional trade marks that target the senses of touch, smell, sight and sound. Protection of non-traditional trade marks is a new trend which also appears to be gaining traction. Image trade marks, motion marks, and sound marks are some of the categories offering the new breed of protection, which appears to be here to stay.

A noteworthy trend is the shift from product-based branding to experiential branding. This is especially evident in the luxury sector, where consumers increasingly prioritise unique experiences over tangible possessions. Brands are innovating by crafting immersive customer experiences – whether through digital engagements, personalised services, or exclusive events. This shift has significant implications for IP. Companies are now looking to protect non-traditional trade marks,

such as distinctive scents, sounds, and even holograms, to safeguard their unique brand identities. For instance, high-end hospitality chains and premium retail brands are filing for trade mark protections for signature experiences that set them apart in a competitive market.

Personality Rights

The importance of protecting characters, and the personality rights associated with famous people, has been growing in India.

Mickey Mouse is one of the most famous examples of how companies can create, protect and enforce rights in characters.

To put this in context, when Twitter allowed people to acquire a verified status, within a short period of time, many imposter accounts had been created. Personalities/characters have their own following in their respective industry and have the ability to influence the ecosystem around them. In such situations, if somebody were to misuse this influence, it could have grave consequences.

Recently, an order was passed in favour of the actors Anil Kapoor and Amitabh Bachchan to recognise their uniqueness and control unlawful exploitation of their uniqueness and personas, developed and loved by fans of the celebrities the world over.

In Anil Kapoor's case, the order restrained the defendant or anyone acting for or on their behalf from utilising Anil Kapoor's name, likeness, image, voice, personality or any other aspects of his persona to create any merchandise, ring tones, ring-back tones, or in any other manner to misuse said attributes using technological tools such as AI, machine learning, deep fakes, face morphing, or GIFs for monetary gain, or otherwise to create any videos, photographs, etc, for commercial purposes.

The evergreen actor, Shivaji Rao Gaikwad (famously known as "Rajnikanth") received a favourable order from the Honourable Chennai High Court in a case of infringement of celebrity rights, in which his alias name was used without his consent in the title of the film *Main Hoon Rajinikanth*. The court upheld the importance of protecting pseudonyms as a part of personality rights.

Additionally, Arun Jaitley initiated a suit in which he successfully received an injunction order against a domain name (www.arunjaitley.com) which was using his name, on the grounds of misuse of his well-known status.

Amitabh Bachchan, along with Jaya Bachchan, have also previously been the victims of unauthorised use of their names and personalities by third parties (eg, in false endorsements). In a case against a jewellery brand that used their respective identities without consent, it was held that their photographs could not be misused for commercial gains, thereby permanently injuncting the

advertisement.

The concept of a celebrity's privacy rights was explored further in a suit filed by Phoolan Devi in a dispute against the movie *Bandit Queen*. A successful order was passed to ensure that she has the right to project her personality on screen in the manner she wishes.

IP Audits

The Securities Exchange Board of India has also made it mandatory for companies to disclose the status of their IP in the Red Herring Prospectuses. As a result, IP audits have become critical to gain investor trust.

Advertising Compliance

The Advertising Standards Council of India has started its own actions against brands for false, exaggerated or disparaging claims in advertisements, with substantial complaints issued last year. Seeking legal counsel has gained traction, as it contributes to reputation management. Advertisements are corporate assets and it is vital to ensure that they are not just legally compliant, but create a harmonious conversation between marketers, advertisers and lawyers to produce a value-driven campaign.

Damages in India

Courts in India are increasingly awarding damages in IP disputes. It has become vital for promoters to ensure diligence and pre-empt events that may impact the financials of a company. This has increased correlation between IP and market capitalisation; the impact on stock markets has also started a conversation on overlaps with corporate governance.

Cultural and Traditional Knowledge as IP

India's rich heritage of traditional knowledge and cultural expression is gaining recognition as a valuable form of intellectual property. The year 2025 is expected to see increased efforts to protect these assets through geographical indications (GIs) and other IP mechanisms. Safeguarding this knowledge is a means of economic empowerment for local communities.

Sustainability and Upcycling

The upcycling trend, where discarded or used materials are transformed into new products, is becoming mainstream, particularly in the fashion industry. While this aligns with sustainability goals, it also raises questions about IP rights. For instance, using branded materials in upcycled products

without authorisation can lead to trade mark and copyright disputes.

Artificial Intelligence and IP Management

Artificial intelligence is reshaping the way trade marks and copyrights are managed. From AI-driven searches for conflicting trade marks to predictive analytics for enforcement strategies, technology is enhancing efficiency and accuracy in IP management. However, AI also presents challenges. The question of liability for AI-generated works and the potential for automated systems to infringe on existing IP rights are issues that demand careful consideration and effective policies.

Strengthening the Enforcement Mechanism

Enforcement of IP rights in India has historically been a challenge due to procedural delays. However, in recent years there have been significant improvements, and this trajectory is expected to continue. Specialised IP courts, expedited hearing procedures, and increased use of technology are enhancing the efficiency of enforcement mechanisms.

Cross-Border Collaborations

As globalisation accelerates, Indian businesses are entering into cross-border collaborations that involve complex IP arrangements. Licensing agreements, joint ventures and technology transfers require careful negotiation to ensure that IP rights are adequately protected. Indian companies are becoming more sophisticated in their approach to IP, leveraging it as a strategic asset in international partnerships.

Monetisation

Historically, IP was viewed as a defensive tool and a way to safeguard innovation from infringement. However, the paradigm has shifted dramatically in recent years. Businesses now perceive intellectual property as an active asset that can fuel growth, enhance brand equity, and drive partnerships. Licensing and franchising, co-branding and collaborations, setting up royalty streams, merchandising, and securitisation of IP assets are some of the ways in which opportunities for IP holders can be maximised.

Conclusion

In a world where ideas are the new currency, monetising intellectual property is not just an opportunity, but a necessity for businesses seeking to thrive in the new future.

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