India: patent courts come of age amid key rulings and stronger enforcement

News & Updates • August 17, 2026

'First published on IAM'

By: Pravin Anand, Vaishali R Mittal, Siddhant Chamola and Prachi Sharma

In summary

Indian patent litigation is entering its most consequential phase yet, with courts moving decisively beyond interim applications to final judgments, record damages, and robust pro-tem security orders that are reshaping patent jurisprudence.

From *Malikie v Xiaomi* and *InterDigital v Transsion* to the software-patent breakthrough in Canva v RxPrism and the agrochemical clarity of Syngenta, the past two years have delivered a striking run of patentee-friendly precedent.

Legislative and regulatory change in the form of the SHANTI Act on nuclear patents, the 2025 CRI Guidelines, the draft Patent Rules and the landmark EU–India FTA, is simultaneously redrawing the compliance and enforcement landscape.

The biggest moments still lie ahead: the Supreme Court is set to deliver India's first-ever authoritative SEP ruling in the *Philips v Bansal* saga, while *Swapan Dey v CCI* promises to finally settle the competition–patent overlap. Several landmark decisions are now awaited that will define the direction of Indian patent law for years to come.

Discussion points

- India's patent courts are increasingly issuing final judgments, substantial damages awards and pro-tem security orders, particularly in SEP disputes.
- The Supreme Court's forthcoming decisions in *Philips v Rajesh Bansal* and *Swapan Dey v CCI* are expected to shape the future of SEP enforcement and the competition-patent interface.
- Courts continue to refine key principles on FRAND licensing, injunctions, claim-to-product mapping, software patents and patent validity challenges.

- Recent decisions in pharmaceutical, agrochemical and software-patent disputes provide greater clarity on patentability, obviousness and enforcement.
- Legislative and regulatory developments, including the SHANTI Act, CRI Guidelines 2025, draft Patent Rules and the EU-India FTA, are reshaping the patent landscape.

Referenced in this article

- *Philips v Rajesh Bansal*
- *Swapan Dey v CCI*
- *Malikie v Xiaomi*
- *InterDigital v Transsion*
- *Syngenta Participations AG v Controller of Patents and Designs*
- *Canva v RxPrism*
- Sustainable Harnessing and Advancement of Nuclear Energy Act, 2025 (SHANTI Act)
- EU-India Free Trade Agreement (2026)

Injunctions at a glance

Preliminary injunctions: urgency, evidence and public interest

Preliminary injunctions are available under Order XXXIX CPC and Section 108 of the Patents Act, but courts expect detailed technical material before intervening at the interim stage. Judges look closely at claim-to-product mapping, prior art placed on record and, in the case of medicines, comparative pricing, the nature of the condition and the availability of therapeutic alternatives when deciding whether to maintain the status quo or permit continued market activity. Credible validity challenges are seen as sufficient interim defence in high-value therapeutics, particularly where exports to non-patent countries are involved, with courts preferring to preserve access until a fuller trial record is available.

Permanent injunctions: on the rise, with mounting damages awards

Once, Indian patent litigation was all about interim injunctions, and nothing beyond that. Since the

famous final post-trial duo of *Roche v Cipla* and *Merck v Glenmark* decisions in 2015, India has seen an increasing number of final judgments (and appellate orders from those judgments).

For example, in SEP cases alone, the Delhi High Court has passed four final decisions (and appellate decisions) in *Philips v Sukesh Behl (DVD SEP); Philips v Rajesh Bansal (DVD player SEP); Philips v Bathla (VCD SEP)* and *Ericsson v Lava (2G, 3G SEP)* between 2024 and 2026 alone. Similarly, non-SEP disputes in communication technology have seen final judgments in *Communication Components vs Rosenberger* and *Communication Components v Mobi* between 2024 and 2026.

Out of these cases, those where the patentee has succeeded, it has also secured large damages, such as the cumulative damages of US$24 million *(Ericsson);* US$22 million and US$17 million *(Communication Components);* US$3 million *(Philips DVD SEP* cases*).*

Key developments in patent litigation

SEP litigation

Supreme Court to finally decide India's first SEP judgment in the Philips v Rajesh Bansal case(s)

Philips has now taken the DVD SEP battle to the Supreme Court of India, and the apex court has agreed to hear and decide the case. The resultant decision will be the first time the Supreme Court rules on an SEP case.

In May 2026, a Division Bench of the Delhi High Court set aside the Single Judge decree which had directed the defendants to pay FRAND royalties to Philips on every DVD player manufactured or sold. Subsequently, Bansals initiated restitution proceedings to claw back amounts paid under that decree.

Philips responded with a special leave petition before the Supreme Court, challenging the Division Bench's reversal on essentiality, direct infringement, patent exhaustion and the finding that damages are to be calculated on the value of the chipset, rather than the end-product.

On 8 July 2026, the apex court decided to hear Philips' appeal and ordered that the long-standing status quo be maintained and stayed the restitution proceedings initiated by the defendants before the Delhi High Court.

Therefore, till the appeal is decided, Philips was allowed to hold on to the money that it had secured

upon winning the first-instance judgment, which, in turn, was the amount of pro-tem security deposited by the defendants. To balance interests, Philips was ordered to continue maintaining a bank guarantee filed before the High Court, through which it had pledged to pay back the money in case the first-instance judgment is reversed on appeal.

The bill comes due on appeal: Maj (Retd) Sukesh Behl v Koninklijke Philips NV

Through a February 2025 landmark decision in another dispute concerning Philips' SEPs (in this instance regarding DVD discs), the single judge had decreed three connected suits, against replicators of DVDs for infringing Philips' EFM+ DVD-encoding patent, rejecting the defendants' attempt to deflect liability onto their glass-stamper suppliers on an indirect-infringement theory, and awarding damages and costs. The defendants appealed.

On 5 January 2026, a Division Bench of the Delhi High Court, ruling on the stay applications, declined the request for an unconditional stay of the first-instance judgment, and directed the defendants (appellants) to furnish Bank Guarantees for the principal amount of damages (ie, without the accrued interest and costs) granted by the first-instance judgment. In its decision, the Division Bench held that it did not find the first-instance decision's findings on infringement, essentiality, validity and determination of a FRAND rate to be perverse. Because the Division Bench was deciding the appellants' application for an unconditional stay of the obligation to pay damages and costs, the threshold in law is that the judgment must be "egregiously perverse," "ridden with patent illegality," or "facially untenable".

The Division Bench held that the first-instance decision's quantification of the total number of infringing DVDs manufactured was not rooted in the evidence led in the case. Consequently, it ordered a conditional stay on the execution of the judgment and directed the appellants to furnish a Bank Guarantee with the court, until the appeals are decided finally.

Dissatisfied, the appellants challenged this finding before the Supreme Court of India, in two out of three underlying infringement suits. The ground of challenge was that the total amount of damages ordered in the suit, was higher than the amount claimed by Philips in the suits. However, the Supreme Court refused to grant the unconditional stay requested and directed the appellants to furnish Bank Guarantees at 50% of the amount ordered by the Division Bench.

There are several positives for SEP holders to take from how this SEP saga has unfolded so far. First, the findings of the first-instance decision on infringement, essentiality, validity of patent, vicarious infringement, joint-tortfeasor liability and unwilling licensee remain undisturbed and remain an important precedent to guide future disputes. Second, the Indian judiciary will require payment by patent infringers, but it would engage in a balancing exercise by requiring security of 50% of the total

amount, till the dispute reaches its conclusion.

Pro-tem security in SEP: trend continues at DHC

On the SEP side, Indian Courts have continued the trend from last year of significant amounts of pro-tem security, so that the SEP owner is not left unprotected while a long trial runs its course.

The *Malikie v Xiaomi* judgment from 30 April 2026 marks further evolution. Faced with sharply divergent royalty positions and a record showing years of inconclusive negotiations, the Court adopted the mid-point approach advocated by Malikie. It treated the patentee's offer and the implementer's counter‑offer as the outer bounds, averaged them, apportioned the India element from the global offers (ie, 19% of the total amount) and directed Xiaomi to either deposit or furnish a Bank Guarantee for the amount of US$28.7 million.

Importantly, the Court refused to accept the argument that pro-tem relief must await full findings on essentiality, validity or that the SEP holder must make available comparable license agreements, or that the Court quantify direct payment of a pro-tem security amount, based on what the appropriate FRAND royalties ought to be for a notional licence agreement.

Another standout finding of this decision is that implementer's act of filing FRAND rate-setting proceedings abroad is indicative of the fact that the patent portfolio in question, is indeed *prima facie* essential, and used by the implementer.

On 1 July 2026, in *InterDigital v Transsion*, the Court ordered pro-tem security looking out for the SEP holders, at the initial stage of the suit. The Court reinforced the principle stated in *Malikie v Xiaomi* (and *Dolby v Lava* (2025) before it) that the threshold of demonstrating that the SEPs are *prima facie* essential and valid are much lower for pro-tem security adjudication, in comparison with a case for grant of an interim injunction.

The Court found that InterDigital's cellular and HEVC SEP patents were *prima facie* valid and essential on a host of factors, such as the large number of licensees of the portfolio, and the numerous foreign decisions in the UK and USA that held corresponding foreign patents to be valid and essential. The Court also noted that Transsion was restrained by an injunction in Brazil based on a finding of infringement of two patents which were common to the Indian suit as well.

The Court also held that while the court or the defendant does not need to see third-party patent licence agreements of the SEP holder to grant pro-tem security, but because the gap between the parties' offer was too wide, it quantified security keeping the counteroffer as a baseline, instead of InterDigital's FRAND offer.

The Court rejected the defendants' quantification as that was too low, and was apportioned down to

the value of the individual suit patents instead of the royalties for the entire patent portfolio.

Instead, the Court quantified the payable security on a purely ad-hoc basis, namely 1/5th of the global full-term offer of the defendants. The final amount was between the parties' respective positions.

In *Atlas Global Technologies v TP‑Link*, the Delhi High Court decision of enhancement in pro-tem security deposit is a clear indicator that pro-tem security is not a one‑off relief but a living order that can be revisited as the record evolves. Having first directed TP‑Link to furnish a pro-tem deposit on the strength of Atlas' Wi‑Fi‑6 SEP portfolio and detailed claim mapping, the Court later enhanced the security while trial was ongoing. This was based on the revelation of an independent audit that TP-Link sold more devices in India than what was initially reported to the Court at the time of the first pro-tem order.

In practice, pro-tem security deposits are effective in advancing progress in otherwise long, drawn-out patent litigation disputes, which often reach stalemate. There is empirical evidence that supports that licence agreements get concluded quickly and often shortly before a decision on pro-tem security and an obligation to make payment.

Ericsson v Intex settles: a decade-long campaign reaches its close

On 21 May 2026, the Delhi High Court recorded a settlement between Ericsson and Intex Technologies in CS(COMM) 769/2016, a suit that had been running for a full decade. Properties belonging to Intex that had been attached earlier in the proceedings remain attached, to be released only in tranches as instalment payments fall due under the settlement, ensuring Ericsson continuing security for performance rather than an unsecured promise to pay. Intex's eight counterclaims, filed back in 2019, were dismissed as withdrawn.

Confidentiality clubs to mirror foreign counterparts: Nokia v Hisense

SEP litigation runs on comparable licences, and comparable licences are, almost by definition, commercially sensitive. On 22 September 2025, the Delhi High Court ruled on the terms of the confidentiality club in Nokia's connected suits against Asustek, Acer and Hisense over two Indian patents covering video-technology standards (CS(COMM) 643, 644 and 645/2025).

The dispute before the Court narrowed to whether the defendants' in-house representatives could be a part of the confidentiality club, and if so, must they undertake not to engage in license negotiations with the counterparts whose patent licence agreements were accessed by them as part of the confidentiality club.

The Court held that a limited number of in-house representatives cannot be excluded, and there was no necessity for them to give such an undertaking. The Court also provided a via-media to balance parties' interests, by requiring such employees to intimate to the third-party licensee that they had access to their licence agreement with Nokia through the Indian proceedings. Thereafter, it was the third-party licensee's discretion to engage or refuse to negotiate with that individual.

However, insofar as the identity of the employees in the club, the Court held that the Indian club should mirror the one that was already in place in foreign proceedings in the UPC and Germany between the same parties.

N-SEP ICT LITIGATION

Components Antenna v Rosenberger: modernised courts and climbing damages

On 30 March 2026, the Delhi High Court awarded Communication Components damages exceeding US$17 million against Rosenberger in a long running antenna-technology dispute. The Court did not accept the plaintiff's claim for damages based on the lost-profits model, and quantified damages based on the "reasonable royalties" methodology instead. It determined that 20% of the total value of the products was a fair representation of the license fee that plaintiff would have charged for a patent licence.

Although this methodology is a departure from the previous *ex-parte* decision involving the same patentee (*Communication Components v Mobi*), which calculated damages based on the lost-profits method, the final quantification is significant. This judgment is proof that the damages culture in Indian litigation has entered a bold, new era.

Pharmaceutical and agricultural patent litigation

Syngenta Participations AG v Controller of Patents and Designs

Decided on 4 May 2026, in *Syngenta Participations AG v Controller of Patents and Designs*, the Delhi High Court cleared the long-standing myth that one had to demonstrate "therapeutic efficacy" of non-pharmaceutical products, as a patentability requirement under section 3(d) of the Patents Act, 1970.

Syngenta's patent application had been rejected by the Patent Office, on the ground that thermal stability was inherent to monohydrate forms.

The High Court reversed this finding and clarified that this was simply an assumption of the Patent Office, and “efficacy" under section 3(d) is not confined to therapeutic efficacy. It clarified that for agrochemical inventions, functional and practical advantages such as enhanced stability and improved field performance can satisfy the enhanced-efficacy threshold just as clearly as a therapeutic benefit would in a pharmaceutical case.

For patentees working in agrochemicals, chemistry, and materials science more broadly, this is a useful signal that section 3(d)'s efficacy bar is capable of a broader, sector-appropriate reading

Novartis secures patent for Breast Cancer Drug KISQALI® (Ribociclib): Pre-grant oppositions, Grant and Subsequent Challenge

On 10 July 2026, Novartis AG and Astex Therapeutics Ltd secured the grant of an Indian patent covering ribociclib, following the rejection of multiple pre-grant oppositions, including the opposition filed by Natco Pharma.

While the application and the oppositions were still pending at the Indian Patent Office, Novartis had approached the Delhi High Court seeking directions for expeditious disposal of the application by the Indian Patent Office. On 17 March 2026, the High Court noted that owing to the considerable delay of 15 years due to multiple pre-grant oppositions, less than 17% of the total patent term would be left for the applicants to enjoy. The High Court observed that statutory scheme of pre-grant opposition meant to aid the examination of a patent application, it cannot become a weapon or tool to delay the proceedings for grant of patent. The High Court directed the Controller to decide the application and the pending oppositions within four months.

Subsequently, the Controller’s decision addressed objections based on prior claiming, lack of novelty, lack of inventive step, section 3(d) and insufficiency of disclosure. Although the earlier Markush claims were broad enough, the Controller found that the earlier patent did not specifically claim ribociclib in an individualised form, and therefore rejected the contention that ribociclib had already been claimed in the earlier genus patent, IN 283133. The fact that a compound falls within the structural scope of a genus claim was therefore not, by itself, treated as sufficient to establish prior claiming under Section 25(1)(c). On the objection of lack of novelty, the Controller noted that the prior-art document disclosed a wide Markush formula and numerous examples, but did not specifically disclose ribociclib. The alleged reconstruction of ribociclib by selecting individual substituents from different parts of the prior art was treated as an impermissible hindsight exercise. The Opponents sought to apply the “person in the know” standard for the objection of lack of inventive step, the Controller rejected the contention as only two of 15 inventors were common with

the genus patent. Ribociclib was considered a new chemical entity rather than merely a new form or derivative of a known substance. The applicant's evidence of enhanced potency, CDK4 selectivity, cell-cycle activity, and therapeutic performance provided further basis for rejecting the allegation that the claimed compound lacked the efficacy required under Section 3(d).

Following the grant of a patent to Novartis, Opponents have filed an appeal against the Controller's decisions before the Delhi High Court. Describing it as a case of 'double patenting', Opponents are arguing that the grant extends Novartis's exclusive rights over the molecule beyond the expiry of the earlier patent. The appeal is pending, though this case raises complex and extensively contested questions of patent law, particularly in relation to the doctrines of prior claiming, "person in the know" test, and the jurisprudential challenges associated with genus-species patent claims.

Relief from the disclosure-coverage conundrum for patentees

In *F Hoffmann La Roche AG v Natco Pharma Ltd* concerning Risdiplam, the High Court upheld the first instance which had refused the interim injunction. However, it did so for different reasons.

The Division Bench held that Roche's patent was not invalid simply because the compound was covered in a prior Markush patent. The Division Bench refused to equate coverage of a compound with disclosure. It also differed from a previous ruling in the *AstraZeneca* case, which held that a claim for an injunction for both the genus and the species patent is indicative that the genus and the species claim the same invention. The Court held that a claim for infringement of both patents could lie, because "coverage" of a compound in a Markush patent's claim is sufficient for infringement of the Markush patent. It may not be sufficient for invalidity.

Though the Court observed that Roche's patent was novel, it held that it was *prima facie* obvious. In doing so, it reinforced the recently developed jurisprudence that, in India, the threshold of obviousness for genus-species patents having the same inventor is the knowledge of the inventor (ie, person in the know). As per this principle, which is unique to Indian patent law, something obvious to a person of ordinary skill in the art would be more obvious to the inventor. The Division Bench agreed with the first-instance decision that it would be obvious to substitute -N in the place of -CH, as nitrogen was found at various different positions in different examples, throughout the genus patent, and that N and CH are biososteres.

It remains to be seen whether the final decision, after the conclusion of trial and expert evidence, results in the Court revisiting the finding on obviousness.

In the Ozempic case of *Novo Nordisk A/S v Dr Reddy's Laboratories,* the appellate court upheld the

order of a single judge, which found the plaintiff's patent as *prima facie* obvious and not novel. However, the first-instance judgment restrained Dr Reddy's from selling semaglutide in India and allowed them to sell only abroad. This was based on a similar undertaking given previously by Dr Reddy's.

A few months later, the Division Bench dismissed the appeal and maintained the injunction refusal. The Division Bench once again cited the test of obviousness from the standpoint of "person in the know", namely the inventor and found no fault with the first-instance decision that held that the novel features of semaglutide were present in a prior genus patent, and the patentee had disclosed the preference of "Aib" as a preferred amino acid for the substitution at position 8 in the genus patent itself.

Claim-to-product mapping of crucial importance in pharmaceutical cases

In *ER Squibb & Sons v Zydus Lifesciences*, the patentee took its nivolumab (Opdivo) dispute to the Supreme Court after the Delhi High Court, on 12 January 2026, vacated its earlier injunction and allowed Zydus to commercialise its ZRC 3276 biosimilar domestically, reasoning that withholding a life-saving cancer therapy from patients would cause greater harm than any commercial injury to Squibb, particularly with Squibb's patent (covering PD-1-targeting monoclonal antibodies) due to expire very soon thereafter. Because this was a quia-timet case, which sought an injunction before the drug was sold in the market, the patentee did not produce "claim-to-product" mapping. This is perhaps because they did not have the product, since it was not yet launched.

In the absence of such claim-to-product mapping, the Division Bench held that the threshold for *prima facie* infringement is higher, and that the first-instance court's findings fell short of the threshold. The Division Bench found that the first-instance judgment proceeded on a product-to-product mapping, and that it did not address the invalidity (Gilette) defence.

Squibb appealed to the Supreme Court and sought a restoration of the injunction. While the Supreme Court declined to give an injunction, it did, however, direct the defendant to supply a sample to the patentee, to enable it to test and perform claim-to-product mapping. The Court enabled the patentee to place evidence of testing and infringement before the High Court and seek appropriate interim relief.

Cross-examination is a real right for those who move quickly:

Novartis AG v Controller of Patents

Novartis's post-grant opposition battle over Indian Patent No. 414518 against three generic opponents, the Indian Pharmaceutical Alliance, Micro Labs and IPCA Laboratories, is a reminder that cross-examination is an effective tool only when used in a timely manner. The opposition had filed expert affidavits opining that IN'518 lacked inventive step and fell foul of section 3(d). Novartis, rather than seeking to cross-examine those experts at the outset, elected instead to rebut them with its own expert evidence, twice, across two rounds of Opposition Board proceedings. Only on 14 July 2025, the very day the Opposition Board issued its second recommendation (again proposing revocation), did Novartis file a Rule 128 petition seeking cross-examination of the opponents' experts. The Controller declined to rule on that petition before the merits hearing, Novartis boycotted the resulting hearing in protest, and the Controller reserved decision on the oppositions regardless.

The Delhi High Court was unpersuaded by Novartis's writ petitions. The Court did not disturb the underlying principle from the Division Bench in *Onyx Therapeutics* that a patentee has a genuine right to cross-examine an opponent's experts under section 79. What it firmly rejected was Novartis's attempt to invoke it more than a year after the experts' affidavits were served, and after Novartis had already twice chosen to rebut rather than cross-examine. The Court held that the right must be exercised diligently, "not later than the stage when the evidence is admitted by the Controller". Novartis's natural justice argument fared no better.

Onyx Therapeutics remains good law that cross-examination of an opponent's experts is a real, usable tool in post-grant opposition, not a discretionary favour. But *Novartis* is an emphatic reminder that the tool must be picked up early, ideally alongside the reply to the opposition, and certainly before a patentee elects to rest its case on rebuttal evidence instead.

Software patents get real teeth: Canva v RxPrism

RxPrism, an Indian start-up, holds Indian Patent No. 360726 for a layered multimedia system, commercialised through its product "My Show & Tell". In 2023, a single judge granted RxPrism an interim injunction restraining Canva's "Present and Record" feature in India, directing Canva to deposit ₹50 lakh as security for past use and pay ₹5 lakh in costs. Canva appealed the Single Judge decision before the Division Bench of the Delhi High Court, arguing the Single Judge had wrongly relied on functional similarity rather than strict claim-to-product mapping, and that the patent was invalid under section 3(k) as an excluded computer program per se.

On 28 January 2026, the appellate court dismissed Canva's appeal in full, applying the two-stage test of (a) purposive claim construction followed by (b) comparison against the accused product. The Division Bench held that Canva's feature achieved substantially the same technical result through substantially the same architecture, satisfying infringement even accounting for functional

equivalence, and that low Indian revenue from the feature did not dilute RxPrism's entitlement to interim protection.

This decision further reinforced that the correct test is that of patent-to-product comparison, and not product-to-product mapping, as is sometimes wrongly conducted by courts. The decision also reinforced that the once feared section 3(k) attached to the validity of patents – only because they are software patents – is weak, and a genuine technical effect, once demonstrated, will prevail.

A clean sweep for patentee: Mold-Tek Packaging v Neway Industries: Mold-Tek Packaging v Neway Industries

Mold-Tek holds two Indian patents covering plastic pail and lid closure systems, IN'417 ("Tamper-Evident Leak Proof Pail Closure System") and IN'724 ("A Tamper Proof Lid Having Spout for Containers and Process for Its Manufacture"), and sued Neway Industries for infringing both. Single Judge granted an ex parte ad interim injunction covering both patents in January 2024, but on reconsideration in August 2025 split the difference; the single judge confirmed the injunction on IN'417, while vacating it on IN'724 after finding the patent vulnerable to novelty and the inventive-step challenge. Both parties appealed the single judge decision. Neway appealed against the injunction it lost on IN'417 and Mold-Tek appealed against the relief denied on IN'724.

On 28 January 2026, a Division Bench of the Delhi High Court decided the cross-appeals firmly in Mold-Tek's favour on both fronts. Dismissing Neway's appeal, the Court held that Neway had failed to raise any credible validity challenge to IN'417 under section 107 read with section 64, reiterating that once a patentee makes out a prima facie case of infringement, the burden of mounting a credible invalidity challenge sits squarely with the defendant and cannot be reallocated to the patentee. Allowing Mold-Tek's appeal on IN'724, the Bench found that the Commercial Court's invalidity analysis had been legally flawed; it had compared IN'724 against Mold-Tek's own lapsed patent without recognising that IN'724 claimed a materially different invention, and restored the injunction on that patent too.

Delay is not the death of urgency: Novenco Building & Industry v Xero Energy Engineering Solutions

Novenco, a Danish manufacturer of patented industrial axial fans marketed as "Novenco ZerAx," sued its erstwhile Indian dealer for continuing to manufacture and sell identical fans in breach of its patents and a registered design, seeking urgent interim relief without first undergoing pre-institution mediation under section 12A of the Commercial Courts Act. Both the single judge and the Division Bench of the Himachal Pradesh High Court rejected the plaint outright, holding that Novenco's roughly six-month gap between discovering the infringement and filing suit negated any claim to

"urgency," making pre-suit mediation mandatory.

On 27 October 2025, the Supreme Court set aside both the orders and restored the suit for adjudication on merits, holding that patent and design infringement is a "continuing wrong" that generates a fresh cause of action with each act of manufacture or sale, so that urgency arises "not from when the cause of action arose, but from the persistence of the threat", meaning delay in filing does not, by itself, extinguish a plaintiff's entitlement to bypass mediation. The Court went further, framing IP enforcement as relevant to the public interest, since counterfeit or infringing goods "sow confusion among consumers" and "taint the marketplace." For patentees, it forecloses the kind of hyper-technical procedural objection that had let the defendants weaponise section 12A to delay interim relief, and gives plaintiffs facing ongoing infringement a clear basis to seek urgent relief regardless of when the infringement was first discovered.

Changes in law, rules and guidelines

The SHANTI Act and section 4 of the Patents Act: nuclear patents with guardrails

The Sustainable Harnessing and Advancement of Nuclear Energy Act, 2025 (SHANTI Act) has quietly but significantly altered the landscape for nuclear‑related inventions. Before the SHANTI Act, Section 4 of the Patents Act read with the Atomic Energy Act broadly excluded “inventions relating to atomic energy” from patentability, with little room for nuance. The SHANTI Act now allows patents for peaceful uses of nuclear energy and radiation, particularly for safety systems, monitoring and control, medical and industrial applications, materials and software, all subject to a sensitivity review that screens out inventions classified as security‑sensitive or reserved to the state.

Procedurally, the Act introduces pre‑disclosure obligations for suspected nuclear‑related inventions and a referral mechanism under which the government decides whether an application falls within reserved categories before grant. For patentees, this opens a previously closed area but also imposes new compliance burdens: nuclear‑adjacent claims will need careful drafting and early engagement with the sensitivity review process.

CRI Guidelines 2025: technical effect over buzzwords

The Patent Office’s final Guidelines for Examination of Computer‑Related Inventions (CRIs) 2025 build on earlier drafts and Ferid Allani‑type case law to give examiners a more detailed, example‑driven roadmap for dealing with section 3(k). The guidelines reiterate that computer programmes “per se”, mathematical methods and business methods remain excluded, but they encourage a structured inquiry into technical effect and technical contribution: does the claimed

invention solve a technical problem concretely, or is it merely automating an abstract idea?

The document integrates references to AI, ML, blockchain and quantum computing, and stresses that examiners must look at the claim as a whole rather than mechanically excluding anything that mentions software or algorithms. For litigators, the practical impact is twofold: (1) prosecution history around technical effect and contribution is becoming richer, which will later inform validity challenges; and (2) AI‑heavy patents will need careful framing to avoid falling into a generic "AI system" architecture trap.

Patent rules and IPO internal policy: penalties, AYUSH and performance pressure

Draft Patent (Amendment) Rules 2025 aim to operationalise Jan Vishwas‑style changes by introducing an adjudicatory framework for offences under sections 120, 122 and 123 and contemplating clearer conduct norms for patent agents. Combined with earlier changes to Form 27 and timelines for Requests for Examination, this points to a more compliance‑driven patent administration system: practitioners will face both softer reputational and harder monetary consequences for procedural lapses.

On the internal policy side, the Patent Office has rolled out AYUSH Guidelines and a point‑based performance evaluation system for examiners and controllers. While the former clarifies examination of traditional knowledge and related systems, the latter raises concerns that speed incentives may quietly nudge behaviour towards quick grants and thinly reasoned orders. These trends matter for litigators: the quality of FERs, opposition decisions and revocation orders will shape how much work courts need to do to reconstruct patentability debates in litigation.

The EU-India FTA: a chapter that changes enforcement more than substance

After nearly two decades of intermittent negotiation, India and the EU concluded a Free Trade Agreement on 27 January 2026, with the full text published in early March. Its IP chapter is comprehensive; patents, trademarks, copyright, designs, geographical indications, trade secrets, technology transfer and the Traditional Knowledge Digital Library are all covered. Section 3(d) of the Patents Act and the *Novartis* anti-evergreening safeguard it embodies survive untouched, and the FTA expressly reaffirms the Doha Declaration on TRIPS and Public Health.

Where the FTA does push India further is enforcement: civil and administrative remedies are to be "expeditious, effective, proportionate and dissuasive," with provisional measures to preserve evidence and an expectation of deterrent damages. This is largely consistent with the direction

Indian courts have already been travelling in of their own accord, as the damages figures above illustrate. Ratification and domestic implementation remain pending on both sides as this chapter goes to press, and the detail of how the enforcement provisions are transposed, particularly whether public-interest safeguards are built in explicitly, will matter more than the headline conclusion of the deal itself.

Some awaited decisions

Swapan Dey v CCI: competition–patent overlap revisited

The Supreme Court's handling of *Swapan Dey v CCI*, following earlier Ericsson and Monsanto-related orders, is poised to clarify whether and how the Competition Commission can examine abuse of patent rights and licensing conduct despite the Patents Act's own remedial architecture. Early indications suggest that the Court has allowed CCI some investigative space while not staying a prior Division Bench ruling that limited jurisdiction, thereby creating a hybrid scenario that will need clear doctrinal resolution.

Philips v KK Bansal and Philips v Rajesh Bansal: historic SEP decision awaited

With the Supreme Court agreeing to hear Philips' appeal against the dismissal of its SEP case by the appellate court, India's longest running SEP dispute enters its last phase in the halls of the apex court.

The Supreme Court has ordered that it would hear and decide the following issues:

- Whether Philips' patent is an SEP?
- Whether the essentiality certifications certifying that the patent as an SEP are valid?
- Even otherwise, whether Philips established infringement of its patent?
- Whether the doctrine of exhaustion is applicable and absolves infringement?
- What is the appropriate quantum of damages, and whether it was correctly adjudicated in the underlying decisions?

This will be the first authoritative decision on SEP principles to flow from the Supreme Court, and the principles will govern SEP law and licensing in India for a long time to come.

For SEP owners more broadly, it keeps open the possibility that the Supreme Court may ultimately restore, refine or at least partially endorse key elements of the Single Judge's original, pro-patentee FRAND framework.

KEY CONTACTS



Pravin Anand
Managing Partner
View Bio of Pravin Anand



Vaishali R Mittal
Senior Partner
View Bio of Vaishali R Mittal



Siddhant Chamola
Partner
View Bio of Siddhant Chamola

RELATED INDUSTRIES

ARTIFICIAL INTELLIGENCE

RELATED PRACTICES

COPYRIGHT