Patent Enforcement Proceedings

Thought Leadership • January 7, 2016

Archana Shanker and Gitika Suri look at the legal and administrative proceedings available for enforcing patent rights against infringers. At present, the civil courts have exclusive jurisdiction to entertain and decide issues concerning patent infringement. Under the Patents Act 1970, the court of first instance for a patent infringement action is the District Court. Where in an infringement action, the defendant opts to challenge the validity of the suit patent, the Act requires the suit to be transferred to a High Court. Further, the High Courts of Delhi, Bombay, Calcutta and Madras exercise original jurisdiction for patent infringement actions subject to the pecuniary jurisdiction as prescribed under the respective Rules. This implies that an infringement action may be directly brought before these specific High Courts provided the pecuniary limits are satisfied. All suits of a value of one crore or more rupees pending in the High Court shall be transferred to the commercial division, pursuant to the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act 2015. Likewise, all suits pending in the District Courts, with a value of one crore or more rupees, will be transferred to the Commercial Court. However, owing to two separate suits by Vifor International and Asian Patent Attorneys Association (APAA), the Delhi High Court stayed application of the Act to all intellectual property matters until February 2016, i.e., all IP-related matters under five acts - the Patent Act 1970, the Designs Act, the Copyright Act, the Trademarks Act and the Geographical Indications Act - are going to be proceeded with in High Courts and shall not move to the District Courts as of now. *This chapter was published in Getting the Deal Through: Patents 2016.* To continue reading, please contact us at email@anandandanand.com

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