

## **Delhi High Court Intellectual Property Rights Division Rules, 2021**

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The *Tribunals Reforms (Rationalisation and Conditions of Service) Ordinance, 2021* abolished the Intellectual Property Appellate Board and other Tribunals under various statutes. The said ordinance has now been replaced by the Tribunal Reforms Act, 2021. The Delhi High Court had, in July 2021, taken a decision to create the Intellectual Property Division (“*IPD*”) of the Delhi High Court for exclusively dealing with all Intellectual Property matters. Since then, the Delhi High Court had started entertaining various IPR matters in the IPD. However, the Rules for the same were under preparation by the Committee constituted by Chief Justice D.N. Patel.

The Committee consisting of Justice Prathiba M. Singh and Justice Sanjeev Narula submitted the draft Delhi High Court Intellectual Property Rights Division Rules, 2021 to the Hon’ble Chief Justice. On 8<sup>th</sup> October, 2021, the Rules have been circulated for seeking comments the Bar. Some of the salient features of these Rules are set out below-

- (1) All the petitions which were filed before the erstwhile IPAB, IPR suits, all appeals and other petitions arising out of IPR matters from the Commercial Courts at the district level would all be heard by IPD. The nomenclatures of all these cases have been stipulated.
- (2) IPR matters would include –
  - a. cases relating to all IPR statutes relating to patents, copyrights, trademarks, geographical indications, designs, semiconductor integrated circuit layout-designs and plant varieties;

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<sup>1</sup> [https://www.delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice\\_5J4GUGI051K.PDF](https://www.delhihighcourt.nic.in/writereaddata/Upload/PublicNotices/PublicNotice_5J4GUGI051K.PDF)

- b. Cases raising issues concerning the use of traditional knowledge;
  - c. Cases asserting common law rights relating to IPRs such as passing off, disparagement and comparative advertising cases;
  - d. Disputes relating to trade secrecy, breach of confidential information and related subject matters;
  - e. Tortious actions involving Intellectual Property, privacy and publicity rights;
  - f. Disputes concerning rights pertaining to data protection and data exclusivity;
  - g. Cases under the Information Technology Act, 2000 dealing with the rights and liabilities of intermediaries and e-commerce platforms involving issues relating to Intellectual Property.
- (3) The procedure for the filing of each of the petitions, appeals etc. has been prescribed. The forms and court fees for the various categories of matters have been included.
- (4) In case of multiple proceedings relating to the same IP, the IPD can direct the consolidated recording of evidence, common trial and consolidated adjudication.
- (5) Summary adjudication can also be resorted to in IPR cases by the IPD without the need of a specific application, on principles akin to Order XIII A of the Code of Civil Procedure, 1908, as amended by Commercial Courts Act, 2015.
- (6) The Rules also contemplate summary adjudication of patent cases in the following categories:
- (a) Where the remaining term of the patent is 5 years or less;
  - (b) A certificate of validity of the said patent has already been issued by any High Court or the Supreme Court;

- (c) If the Defendant is a repeated infringer of the same or related Patent;
  - (d) If the validity of the Patent is admitted and only infringement is denied.
- (7) The IPD of the Delhi High Court can maintain a panel of experts to assist the Court.
  - (8) Two law researchers can be appointed to each of the Courts in the IPD for rendering assistance on techno-legal aspects.
  - (9) There were some apprehensions expressed as to whether patent agents and trademark agents would have a right of audience before the IPD. Rule 29 enables such patent agents and trademark agents to address the Court for rendering assistance along with lawyers/legal practitioners.
  - (10) Modern forms of recording of evidence including hot-tubbing are provided for.