

IN-DEPTH

Technology Disputes

INDIA



LEXOLOGY

Technology Disputes

EDITION 5

In-Depth: Technology Disputes (formerly The Technology Disputes Law Review) is a global guide for company executives and private practitioners navigating the most common subjects of dispute in the tech sector – including IP issues, system development and data processing. It examines the essential practical considerations for litigants, including common causes of action and remedies; court procedures; evidence and witnesses; enforcement of judgments; and alternative dispute resolution mechanisms.

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Introduction

Technology law disputes in India encompass a wide range of issues, primarily revolving around contractual disputes and the enforcement of statutory or common law rights. As the business landscape increasingly moves into cyberspace, the legal framework and jurisprudence surrounding public policy and privacy have evolved. The country actively pioneers frameworks for data governance and protection, which are crucial for establishing an open, safe, trusted, accountable and adaptable cyberspace. Data protection is a fundamental right for Indian citizens, and policies are formulated to safeguard these rights.

Notably, the Digital Personal Data Protection Act 2023 (DPDP Act) has been enacted,^[1] and on 3 January 2025 the Indian government released the draft Digital Personal Data Protection Rules 2025,^[2] signalling the Act's imminent operation. The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021^[3] further showcase a commitment to regulating social media intermediaries and safeguarding digital citizens. The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 remain a cornerstone of intermediary liability and content regulation law, with the 2022^[4] and 2023^[5] amendments imposing stricter due-diligence obligations on intermediaries, requiring them to publish user friendly policies in local languages. They actively prevent prohibited content, and have shortened grievance timelines. The establishment of a Grievance Appellate Committee^[6] reflects the dedication to resolving social media grievances in cases where grievance officers have not been able to provide relief.

Another important category of technology law disputes pertains to intellectual property, specifically patents, trademarks and domain names, copyrights, software and piracy. Indian courts have consistently worked towards establishing a robust intellectual property framework, combating online piracy and promoting innovation across various technological domains. The Department for Promotion of Industry and Internal Trade (DPIIT) has recently constituted a multi-stakeholder committee to study the intersection of artificial intelligence (AI) and copyright law in India, specifically to examine whether the Copyright Act 1957 is equipped to address the challenges posed by AI generated content.^[7] This comes amid the rapid growth of generative AI (gen AI) tools that create images, music and text, often drawing from pre-existing copyright-protected material, in a legal environment where questions of authorship and ownership remain undefined. Competition law has also come into sharper focus in technology disputes. The Competition Commission of India (CCI) recently penalised WhatsApp and Meta for abuse of dominance in the instant messaging market, holding their data-sharing practices as anticompetitive and detrimental to users' privacy and choice.^[8] The issue remains *sub judice*, with the National Company Appellate Tribunal (NCLAT) having taken charge. The NCLAT has partially stayed the CCI's five-year ban on WhatsApp sharing user data with Meta for advertising purposes, and requiring WhatsApp to deposit 50 per cent of the 2,130 million rupees (approximately US\$25 million) penalty for the stay to continue.^[9] In the coming years we expect that legal implications of cutting-edge technologies, such as IoT, blockchain and AI, are likely to be addressed, along with aspects of competition law, the Copyright Act and intellectual property rights (IPR) within the domain of information technology. In essence, efforts are being made to guard digital rights, ensuring a secure cyberspace that is indispensable for the growth of digital economy.

Contractual disputes also form a significant part of technology-related conflicts, with the resolution often relying on the interpretation of contractual terms and conditions, in conjunction with relevant statutory provisions. Because of the technical nature of these agreements, specialised expertise may be required to unravel complex terms and obligations arising from these contractual issues.

Domain names

With the rise of commercial activity online, courts in India have recognised that domain names serve as identifiers for companies and have increasing value, often leading to disputes.^[10] Courts have issued injunctions in cases where traffic is diverted to a website because of typing errors,^[11] as such errors can confuse users into believing the domain belongs to the same source. Passing-off laws have also been applied to protect well-known marks and domain names.^[12]

Recent decisions have emphasised the need for targeted relief rather than broad, blanket injunctions. In *Infiniti Retail Ltd v. Croma Wholeseller*^[13] and *Burger King Corporation v. Swapnil Patel*,^[14] the court directed domain name registrars to cancel or transfer infringing domain names. In the case of *Tata Power Solar Systems Limited*,^[15] the court ordered the disabling of access to infringing websites and directed disclosure of the registrant and payment credentials associated with them to prevent circumvention of the injunction. *Resilient Innovations Private v. BharatPe*^[16] and *Loreal SA v. Ashok Kumar*,^[17] which are matters involving well-known brands, have led to permanent injunctions and summary judgments where infringement was uncontested, reinforcing the importance of swift and proportionate enforcement. These developments reflect a clear shift toward precise, case-specific remedies, effective cooperation with intermediaries and robust protection of intellectual property rights in the domain name space.

Courts have increasingly accorded recognition to arbitral awards arising from the .IN Domain Name Dispute Resolution Policy, affirming the legitimacy of awards in cases involving domain name registrations,^[18] infringement and deceptive use.^[19] The judicial support reinforces the efficacy of the arbitral process in resolving domain name disputes, ensuring that rightful holders of domain names are protected against infringing and deceptive practices.

Copyright protection and cyberspace

The digital age has long amplified issues of copyright infringement, posing significant threats to the intellectual property of individuals and organisations. Copyright laws exist to protect the owners of published works, encompassing a wide array of creative expressions. Entrepreneurs can secure their rights to sell their creations or arrange licensing agreements with other creators. As network technologies evolve, IPR infringements are becoming increasingly prevalent and diverse. Copyright, one of the major areas of IPR, has been profoundly impacted by technological advancements. For authors, artists, web developers and filmmakers, these innovations present both opportunities and challenges. Copyright laws play a crucial role in promoting creativity and innovation by incentivising the creation of original works.^[20]

Copyright Act 1957

The Copyright Act of 1957 underwent an amendment in 2012, which was a significant step towards copyright protection in the digital sphere. The amended Act recognises 'computer-generated work'^[21] and designates the person or persons responsible for generating these works as their author.^[22] The term 'broadcast' is defined as any means of communication to the public, including re-broadcasting.^[23] The act defines 'communication to the public' as making a work or performance available to the public directly or through any means of display.^[24]

Under the Copyright Act, computer programs^[25] and databases are protected as literary works. The rights of copyright holders regarding computer programs are specifically enumerated.

Temporary copying, known as 'caching', plays a significant role in internet transmission. According to Indian law, reproduction not only must occur in a physical form but also includes storing in any medium by electronic means,^[26] making caching a copyright violation. Furthermore, the Copyright Act protects databases as literary works. Copyright violators can be fined under the Information Technology Act,^[27] which criminalises various offences, including digital trespassing, digital copying, invasion of privacy and data theft.

It is crucial to establish who is liable in copyright infringement cases: the party receiving the work, the internet service provider or the person transmitting the work. Section 79 of the Information Technology Act does not hold the intermediary liable if they can demonstrate that the breach or offence was committed without their knowledge or that they took all reasonable measures to prevent such a breach or offence from occurring.^[28]

The rise of gen-AI models has triggered novel copyright questions. Globally, disputes fall into broad categories, namely, use of copyrighted works for model training, similarity of model outputs to original works and whether gen-AI systems can qualify as 'authors'. Under the Copyright Act, the exclusive right of reproduction is conferred on owners of literary, dramatic, musical and artistic works, sound recordings, cinematographic films, performers' rights and broadcast reproduction rights. While the contours of these rights differ, reproduction and storage generally go hand in hand.

Section 14(a)(i)^[29] grants copyright owners of literary, dramatic or musical works the exclusive right to reproduce the work in any material form, including electronic storage. Section 14(c)(i)^[30] extends the same right to artistic works, while Sections 14(1)(d)(i)^[31] and 14(1)(e)(i)^[32] confer similar rights on owners of cinematographic films and sound recordings to make copies, including storage in any medium.

Although 'reproduction' and 'copy' are not defined in the Act, Section 2(m)^[33] (on definition of 'infringing copy') differentiates between the two concepts across categories of works. This distinction underscores that reproduction relates to the expression of a work, not merely the mechanical act of copying. Doctrines such as the idea-expression dichotomy, merger and *de minimis* further suggest that copying for non-expressive, non-consumptive purposes, such as extracting patterns for model training, may not amount to infringement. Indian courts have also consistently held that copyright protects expression, not ideas or information.

Section 52(1)(b)(c)^[34] exempts transient or incidental storage integral to technical processes, but its application to training datasets remains unsettled. Finally, Section 65A^[35] prohibits circumvention of technological protection measures but allows it for lawful

purposes, including fair dealing and research, provided proper records of access are maintained.

Data privacy

Information Technology Act

The Information Technology Act penalises 'cyber contraventions',^[36] which attract civil prosecution, and 'cyber offences',^[37] which attract criminal prosecution. The original Act had no express provisions regarding data security. Accordingly, amendments were introduced that, among other things, incorporated Section 43A^[38] and Section 72A^[39] to provide remedies to persons who have suffered or are likely to suffer a loss on account of their data not having been adequately protected.

Personal Data Protection Statute

The DPDP Act was notified on 11 August 2023. The law applies to the processing of digital personal data, with the requirement that such data should be collected online or digitised from offline sources. Non-digital personal data and non-automated processing are excluded from the scope of the law. The law also has provisions for extraterritorial application, specifying that digital personal data processed outside India in connection with offering goods or services to data principals within India may fall under the purview of the law.^[40]

Consent plays a crucial role in data processing under India's data privacy laws.-^[41] Businesses (data fiduciaries^[42]) are required to obtain free, specific, informed, unconditional and unambiguous consent, expressed with clear affirmative action, from data principals.^[43] Businesses must provide clear and comprehensive notices to data principals, including the purpose and description of personal data being collected. The laws also emphasise the right to withdraw consent, and businesses must make the process for withdrawal as easy as giving consent.

As regards data breaches and reporting, businesses and processors are required to report personal data breaches to affected data principals and to the Data Protection Board.^[44] The laws define personal data breaches^[45] as any unauthorised processing or accidental disclosure, acquisition, sharing, use, alteration, destruction or loss of access to personal data that compromises its confidentiality, integrity or availability. Clear guidelines are needed to determine the reporting process and ensure effective communication with affected data principals.

The draft Digital Personal Data Protection (DPDP) Rules 2025 build on the DPDP Act, and lay down a framework for how personal data must be handled in India. They provide for phased enforcement, starting with the establishment of the Data Protection Board and later extending to substantive compliance obligations. The Rules put individuals in control of their data, giving them rights to access, correct, delete and withdraw consent, with consent mechanisms required to be explicit, informed and easy to revoke.^[46] They mandate strong security safeguards, such as encryption, access controls and audit trails, timely data breach notifications within 72 hours^[47] and clear provisions for data retention and erasure. Significant data fiduciaries are required to appoint data protection officers

and follow stricter norms for processing children's data (including parental consent)^[48] and restrictions on profiling or tracking.^[49] They must also comply with regulated cross-border transfer requirements. The Rules introduce the concept of consent managers,^[50] setting standards for their functioning to make consent management easier for individuals.

At the same time, there are some grey areas and practical challenges. Smaller businesses may find it difficult to implement all the technical and administrative requirements, such as detailed consent frameworks or maintaining extensive audit logs. The Rules are also not entirely clear on what qualifies as a significant breach that must be reported, which can lead to over-reporting. The precise role and liability of consent managers need more clarity to avoid overlap with fiduciary obligations. While the Rules are being rolled out in phases, several timelines for compliance remain undefined, making planning harder for organisations. The draft Rules were opened to public consultation in January 2025, with thousands of responses submitted, and their final shape will likely depend on how the Ministry of Electronics and Information Technology (MeitY) addresses these concerns and issues further guidance to ensure smooth implementation.

Guidelines for intermediaries

The MeitY introduced the Information Technology (Guidelines for Intermediaries and Digital Media Ethics Code) Rules (the IT Intermediaries Rules) in 2021, replacing the previous rules from 2011. The Rules focus on personal data protection, grievance redressal and user safety. They differentiate between social media intermediaries^[51] and significant social media intermediaries^[52] based on user numbers, imposing heavier obligations on the latter. Significant social media intermediaries are required to appoint a chief compliance officer and a nodal contact person, publish monthly compliance reports and adhere to various restrictions and obligations.

In 2023, the IT Intermediaries Rules became subject to amendments^[53] to introduce further regulations. Intermediaries were obligated to refrain from sharing false information about the Indian government. Fact-checking obligations were also emphasised, with intermediaries required to prevent the dissemination of fake or misleading information about the government, as determined by the government's fact-checking unit. However, this was widely criticised as excessive state control over online discourse, and was challenged before the Bombay High Court, which struck down Rule 3(1)(b)(v)^[54] as unconstitutional, holding that it violates Articles 14,^[55] 19(1)(a) and 19(1)(g),^[56] and *ultra vires* the IT Act 2000. The ruling emphasised that the government cannot act as the sole arbiter of truth, thus reaffirming citizens' right to free speech and limiting arbitrary censorship.^[57]

In another significant ruling, an Indian court granted Flipkart the status of an intermediary under the Information Technology Act. Flipkart complied with the requirements of Section 79(2)–(3) of the Information Technology Act,^[58] as well as the Information Technology (Intermediaries Guidelines) Rules 2011, which exempted the company from any liability under Section 79^[59] of the Information Technology Act.^[60] The court's recognition of Flipkart as an intermediary outlines the importance of balanced regulation of e-commerce platforms. Similarly, another court quashed a criminal case against Flipkart, acknowledging its intermediary protection under the Information Technology Act and compliance with 'due diligence' requirements.^[61] This decision contributes to our

understanding of intermediary liability and advocates for a fair approach to holding online platforms accountable.

In *WhatsApp LLC v. Union of India*, WhatsApp challenged an order by the Judicial Magistrate directing it to reveal the originator of a fake resignation letter from the Chief Minister of Tripura. Filed under Rule 4(2) of the Intermediary Guidelines, the petition argued that compliance was required only under specific circumstances and the order lacked justification for an emergent threat to public order. The High Court of Tripura granted temporary relief, staying the order due to insufficient evidence of a public order threat.

Furthermore, in *X Corp v. Union of India*, the High Court of Karnataka upheld the MeitY's power to issue blocking orders under Section 69A of the IT Act. The High Court affirmed that such orders can apply to entire user accounts, not just individual tweets. X's claims of non-compliance and procedural issues were dismissed, and the High Court imposed a fine of 50 million rupees for non-compliance with blocking orders.

Year in review

Dynamic injunctions and rogue websites

Dynamic injunctions have become an essential tool in safeguarding intellectual property rights in the digital landscape, as demonstrated in various cases.^[62] A court recently restrained several rogue websites from unlawfully streaming the TATA IPL 2025,^[63] granting a dynamic-plus injunction that allowed the plaintiff to block future infringing websites in real time and directing domain name registrars and ISPs to ensure compliance. In another matter, a court extended similar protection to *JioStar India Pvt Ltd*^[64] for the India Tour of England 2025, granting an *ex parte ad interim* dynamic-plus injunction against both known and unknown rogue websites, while directing DNRs to suspend infringing domains and ISPs to block access. Similar orders have also been passed in relation to pirated streaming links with respect to certain movies such as *Kanappa*^[65] and *Tips Films*^[66] (Maalik and Sarbala Ji). These cases collectively exemplify the judiciary's proactive stance in protecting intellectual property rights and curbing online piracy, thereby fostering a secure environment for content creators and industries reliant on copyright protection.

In addressing the challenge of unidentified infringers, a court issued an unstoppable dynamic *John Doe* injunction,^[67] enabling rights holders to seek injunctions against unknown parties involved in infringement. Dynamic injunctions are particularly useful in cases where infringing websites attempt to evade blocks by reappearing as redirecting, mirror or alphanumeric websites.^[68] In India, courts have adopted a procedure whereby plaintiffs can file subsequent applications to add additional web addresses (URLs) or mirror sites to the existing injunction. High courts allow extension orders to be passed by subordinate courts upon receiving these applications, ensuring the efficacy of the injunctions.

Artificial intelligence

In the case of infringement and passing off, while being presented with certain responses or research generated by utilising AI tools, courts have noted that while AI tools can provide preliminary understanding or research, they are not suitable for adjudicating legal or factual issues due to their dependency on various factors such as the query's nature and training data. Courts have highlighted concerns about the accuracy and reliability of AI-generated data, mentioning possibilities of incorrect responses and fictional case laws. It emphasised that AI, at its current stage, cannot replace human intelligence or the humane element in the adjudicatory process.^[69]

Courts worldwide are increasingly hearing disputes over copyright and AI, focusing mainly on two issues:

1. whether gen AI infringes copyright by training on protected works without permission; and
2. whether AI generated works themselves qualify for copyright protection.

The latter remains unlikely under current jurisprudence absent a major legal shift. The central focus, as seen in India's first such case, is on the former. *ANI*^[70] has filed a copyright infringement suit against *OpenAI*, alleging that *ChatGPT* was trained on its news content without authorisation, generated outputs substantially similar to its reports, and even attributed fabricated news stories to *ANI* causing reputational and economic harm. *ANI* has sought damages, deletion of its content from training datasets and a permanent injunction against further use.

OpenAI has denied wrongdoing, arguing that its training data comes from publicly available sources, that copyright protects expression not facts or ideas, and that its use is transformative and potentially covered by fair dealing under Section 52 of the Copyright Act. It has also challenged the jurisdiction of Indian courts, citing that its servers and operations are located abroad. The court framed key questions for adjudication,^[71] including whether storing content for training constitutes infringement, whether such use qualifies as fair dealing and whether Indian courts can exercise jurisdiction over a foreign entity. The outcome of *ANI Media Pvt Ltd v. OpenAI Inc* will have far-reaching implications for copyright law, AI regulation and the survival of digital news publishers in India. Decision on the issues framed by the court for determination would set the tone for how courts approach disputes over AI training data, copyright protection and the rights of publishers in the digital era.

Privacy and right to be forgotten

Addressing privacy in the digital age, request for anonymity in a judgment related to a rape case was granted. The court noted that once the accused gets acquitted or honourably discharged by a competent court, and the order becomes final, the shadow of crime, if permitted to continue, would result in travesty of the concept of life. Right to be forgotten and right to be left alone were inherent aspects of the right to privacy. As a result, the name was masked in the judgment.^[72] While the general right to be forgotten is not universally recognised, this decision aims to protect individuals' privacy and establish guidelines for handling sensitive information online.

Recognition of personality rights

In the case of Jackie Shroff's personality rights,^[73] the court restrained multiple defendants from exploiting his name, image, voice, trademarks and sobriquets such as 'Jackie' and 'Jaggu Dada' without authorisation, including through merchandise, AI chatbots and distorted videos.

Similarly, in Aishwarya Rai's personality rights case,^[74] the court restrained websites, e-commerce platforms and YouTube channels from misusing her persona, including deepfakes and impersonation holding that such misuse violated her right to dignity and goodwill. Following from this decision, the court in Abhishek Bachchan's personality rights^[75] case also held that unauthorised use of his name, image and AI-generated content amounted to infringement of his personality rights, granting an interim injunction and directing removal of infringing products and videos. Sadhguru's personality rights^[76] were also protected where the court observed that systematic AI-driven misuse of his image, voice and likeness on rogue websites posed grave risks to reputation and public trust, and accordingly passed *anex-parte* interim injunction restraining such exploitation.

The orders emphasise that free speech does not extend to the unauthorised commercial use of a celebrity's persona, which also violates their right to privacy. The courts highlighted that personality rights are vital to an individual's livelihood, and unauthorised use for commercial gain is a direct infringement. These ruling protects celebrities' endorsement rights, which are a major source of their income.

Safe harbour provision for intermediaries

In *X Corp v. Union of India*, the Karnataka High Court reserved its order where the issue was whether Section 79(3)(b) of the IT Act empowers authorities to issue takedown or blocking directions independently of Section 69A. The arguments clarified that safe harbour under Section 79 applies only when there is a preceding court order, a Section 69A order or another statutory authority; Section 79 itself cannot be a source of power to compel intermediaries to assess the legality of content. The rationale emphasised alignment with *Shreya Singhal*, holding that intermediaries should not act as content adjudicators and that their liability exemption depends strictly on compliance with due process under the IT Act.

Furthermore, in *Ramkumar v. Union of India*, the Madras High Court, while affirming safe harbour under Section 79, stressed that platforms like Google and YouTube have a social responsibility, and directed MeitY to ensure takedown of harmful content within one month. The judgment signals a shift from a purely passive safe-harbour model to a responsibility-driven framework prioritising user safety and child protection.

The Delhi High Court has issued a ruling that mandates the disclosure of details regarding infringing defaulters in a copyright infringement case.^[77] This decision reinforces the fight against online copyright violations by compelling platforms and intermediaries to share information about individuals engaged in infringing activities. It highlights the significance of safeguarding intellectual property rights and ensuring a fair online ecosystem.

Intermediary liability in IP infringement is not absolute, while Section 79 of the IT Act shields neutral facilitators, platforms lose protection if they actively enable or ignore infringement. In *Indiamart v. Puma*,^[78] the court held that *Indiamart* functioned more as a digital directory than a marketplace, holding that mere listing of a trademark in

drop-down menus without collusion does not amount to infringement, thereby restoring its intermediary protection.

Trademark use in keyword advertising

The court ruled that using trademarks as keywords does not inherently constitute trademark infringement unless it causes confusion, takes unfair advantage or dilutes the trademark. This decision emphasised the importance of balancing trademark owners' rights with the interests of Google and internet users, noting that keyword advertising is legal unless it misleads consumers about the source of the ads.^[79] In the case of *Titan Company Limited v. Lenskart Solutions Pvt Ltd*, the court addressed a significant issue concerning covert use of trademarks as website meta-tags. The dispute arose out of Lenskart's use of Titan's registered trademarks such as 'Titan' and 'Fastrack', among others, as hidden source code meta-tags on its website, potentially diverting online traffic through Google's search engine manipulation. The court ruled in favour of Titan, binding Lenskart to their commitments to refrain from using Titan's registered trademarks in the future.

CCI and data privacy

One of the key cases at the intersection of competition law and data privacy is the challenge to WhatsApp's 2021 Privacy Policy. The CCI, acting *suo motu*, found Meta guilty of abusing its dominant position under Section 4 of the Competition Act 2002, by mandating data-sharing with Meta and its subsidiaries on a 'take-it-or-leave-it' basis, creating entry barriers in advertising and leveraging its dominance in messaging. In November 2024, the CCI imposed a penalty of 2,130 million rupees (approximately US\$25 million) and ordered a five-year ban on data sharing for advertising purposes.

Meta appealed before the NCLAT, arguing that the CCI exceeded its jurisdiction since data protection falls under the DPDP Act 2023. The NCLAT has stayed the ban and deferred further hearing until the draft DPDP Rules 2025 are finalised. This case underscores the convergence of competition and data protection law, treating privacy as a parameter of non-price competition, but leaves jurisdictional questions unresolved pending NCLAT's final decision.

Gaming regulation

In August 2025, the Indian Parliament enacted the Promotion and Regulation of Online Gaming Act 2025, marking a paradigm shift in the legal framework governing real-money online games. The law provides for the prohibition of 'online money games' irrespective of whether they involve skill or chance, bans their advertisement and related financial transactions, and mandates strict regulation of permissible gaming forms such as e-sports and social non-money games.^[80] It also establishes a national regulatory authority to license online gaming platforms, enforce user-protections (including age verification and grievance redressal) and impose penalties including imprisonment and fines for violations. The Act thus aims both to safeguard citizens from financial and psychological harms and to foster a safer digital entertainment economy.

Digital Competition Bill

The Ministry of Corporate Affairs released a report from the Committee on Digital Competition Law (CDCL), which was established in February 2023 to evaluate the need for a dedicated law on competition in digital markets.^[81] After a year of deliberation, the CDCL concluded that the current ex-post framework under the Competition Act 2002 required supplementation with an ex-ante framework. This led to the drafting of the Digital Competition Bill.

The Competition Act 2002 serves as the primary legislation for preventing practices that adversely affect competition in India. It establishes the CCI as the national competition regulator. The CDCL recommended an ex-ante approach for digital markets, allowing the CCI to proactively prevent anticompetitive practices. The draft Bill aimed to regulate only those digital enterprises that are dominant in key market segments. It identifies 10 'core digital services', such as online search engines and social networking services, and set quantitative standards for dominance based on financial strength and user base in India. If a digital enterprise did not meet these quantitative standards, it could still be designated as a systemically significant digital enterprise (SSDE) based on qualitative criteria. SSDEs would be required to operate fairly, in a non-discriminatory manner and transparently. The draft Bill:

1. prohibited self-preferencing;
2. restricted the availability of third-party applications;
3. prevented anti-steering; and
4. disallowed tying or bundling of services.

Additionally, it forbade cross-utilisation of user data and using non-public data to unfairly advantage the SSDE's own services.

In August 2025, the government decided to withdraw the draft Digital Competition Bill in its current form. The withdrawal comes after widespread objections from both global tech majors and domestic digital platforms. Many stakeholders raised concerns that the draft's scope was too broad and that its ex-ante obligations (proactive regulation) could stifle innovation and impose heavy compliance burdens, especially on smaller firms.

Pre-draft consultations for the Digital India Act

The MeitY has initiated pre-draft consultations for the Digital India Act (DIA) 2023, which is set to replace the Information Technology Act 2000. This new legislation aims to create a modern legal framework for India's digital ecosystem, addressing issues such as online safety, trust and accountability. The DIA will regulate large digital enterprises proactively and is designed to accommodate emerging technologies such as AI and blockchain. It proposes significant updates to data protection, cybersecurity and digital transactions, reflecting the dramatic increase in internet users and the complexity of digital interactions since 2000. While the DIA promises to advance India's digital economy, it also faces challenges, including potential criticisms from major tech companies regarding the removal of the safe harbour principle.

Claims and remedies

Types of relief for infringement

Patents

Patent infringement in technology disputes may arise when the technology is considered a patentable invention. Although the Patents Act does not explicitly define infringement, it grants exclusive rights to the patentee. Violation of these rights constitutes infringement. The Patents Act also outlines the types of relief a court can provide in infringement suits, including injunctions, damages or an account of profits. Moreover, the court may order the seizure, forfeiture or destruction of infringing goods.

Copyright

Section 51 of the Copyright Act outlines what constitutes infringement. Infringement occurs when a person, without the owner's licence or in violation of the licence conditions:

1. engages in activities reserved exclusively for the copyright owner;
2. offers the copyrighted object for sale or hire;
3. distributes the copyrighted object for trade purposes or to the extent that it detrimentally affects the owner of the copyright; or
4. publicly exhibits or imports the copyrighted object for trade. The Copyright Act provides both civil and criminal remedies for infringement.

Anton Piller orders

A party may move the court for an *Anton Piller* order if it seeks detention, preservation or inspection of any premises or material forming subject matter of proceedings. When allowing an application of this nature, the court may authorise a person designated by the court to take samples and search and seize the infringing material necessary for obtaining full information or evidence.

Commissioners may also be appointed for a scientific investigation or to conduct local investigations. A court commissioner has wide powers and is 'an extended arm and agent of the Court'.^[82]

Damages and compensation

In suits for infringement, a plaintiff is entitled to seek damages or an account of profits. A recent trend of awarding damages has been observed particularly in cases of software piracy and patent related infringement. Principles for grant of damages have evolved with time and courts are inclined to grant both compensatory and punitive damages.

Interim injunctions and permanent injunctions

Typically, interim injunctions (or temporary injunctions) are sought in every suit for a permanent injunction (of infringement, or matters seeking to restrain use or display in any form) to protect the rights and interest of the party *lis pendens*.

Interim injunctions are granted in cases wherein prima facie proof of infringement and the balance of convenience is found to be in favour of the plaintiff owing to the likelihood of irreparable injury if an interim injunction is not granted.

A permanent injunction usually follows, after conclusion of trial, on appreciation and examination of evidence, if the court is satisfied as to ownership, unauthorised use, infringement or any other action or omission of which a complaint has been made.

Invocation of writ court

Often, intermediaries and other body corporates approach courts under their writ jurisdiction seeking intervention and quashing of action taken pursuant to the Information Technology Act and the rules framed thereunder, including the IT Intermediaries Rules. Arguments usually canvassed by body corporates pertain to freedom to do business, overarching provisions of onerous compliance causing impediment in their right to do business, and causing or prohibiting a statutory or other state authority to perform or refrain from performing an action.

Specific rules may also be challenged as being *ultra vires* while invoking the writ jurisdiction of the court. There is no embargo for invocation of writ court, even for seeking quashing of a notice issued under criminal statute, information on a user, origin of a message or blocking of accounts, among other things. Writ jurisdiction is only vested in the high courts and the Supreme Court.

Criminal proceedings and offence

Criminal action and cognisance can only be taken in relation to offences as provided for in law. For instance, the Copyright Act provides for certain actions classified as offences. Furthermore, notices may also be issued under the Information Technology Act and the rules framed thereunder for such matters as are described therein, including search, seizure and takedown notices. The Supreme Court has also clarified that the offence of infringement under Section 63^[83] of the Copyright Act is cognisable and a non-bailable offence.^[84]

Courts and procedures

Courts

Currently, India does not have specialised technology courts or tribunals. The judicial system consists of district courts, high courts of each state and the Supreme Court as the final appellate court. High courts have supervisory authority over all courts and tribunals

within their territorial jurisdiction. The choice of court is based on territorial jurisdiction and pecuniary limits. District courts generally have unlimited pecuniary jurisdiction, except in certain jurisdictions such as Delhi, Mumbai, Kolkata, Madras and Shimla.

High courts also have first-instance jurisdiction and cases filed invoking writ jurisdiction are usually filed before the high court.

Protection of trade secrets

In technology-related suits, confidential information is filed with the court under seal because case files are public records. However, courts have deprecated this practice and, to maintain confidentiality, they are exploring the use of 'confidentiality clubs'. These clubs involve an agreement between parties that restricts the dissemination of confidential information and documents to authorised individuals. Access to these documents and information is limited to authorised persons by court order or through the agreement itself. The establishment and regulation of confidentiality clubs are still developing concepts in Indian jurisprudence, as yet with limited codified rules and procedures.

Evidence and witnesses

The Evidence Act (Bharatiya Sakshya Adhinyam 2023) governs the presentation of oral and documentary evidence in civil and criminal actions. Specialised statutes may address ancillary issues related to the nature, authority, validity or certification of documents.

Discovery

The Civil Procedure Code of 1908 provides for discovery, a pretrial procedure allowing each party to obtain evidence from the opposing party. Discovery involves the exchange of information on witnesses and evidence that will be presented during the trial. Its purpose is to inform parties about the case and prevent ambiguity in claims or factual issues. Various types of discovery include interrogatories, requests for production of documents and inspection, requests for admissions, depositions, subpoenas *duces tecum* and physical and mental examinations.

Interrogatories

Interrogatories are written sets of questions initiated by one party and directed to the other party, with the court's permission. They are answered through an affidavit within a prescribed period.

Cross-examination

Interrogatories occur before the trial, while cross-examination (oral testimony) takes place during the trial. Confidential information may be obtained during cross-examination, which is not permissible through interrogatories.

Record of evidence

Oral evidence is presented on the issues framed by the court. The court formulates issues and assigns the burden of proof for each issue. Depending on the forum, evidence is recorded by the presiding judge in district courts, junior or subordinate judges in high courts, or appointed judicial officers or competent persons.

Specifically in the case of patent infringement or other proceedings relating to patents, Indian law provides for the appointment of an independent scientific adviser to inquire and report on the question of fact.^[85]

Expert witnesses

Expert evidence is recognised and given due consideration under central procedural statutes. Expert evidence is required for matters beyond the knowledge of a layperson and that involve scientific questions outside the court's knowledge. Courts have developed guidelines through precedents on how to handle expert testimony.

Enforcement

A temporary or interlocutory injunction can be granted before the conclusion of proceedings. If a party disobeys or breaches an interim relief granted by the court, the affected party can seek enforcement. The plaintiff can invoke the court's powers under Order 39, Rule 2A of the Code of Civil Procedure 1908, which addresses the consequences of disobedience. The court has extensive powers to address wilful disobedience, such as civil imprisonment or asset attachment.

For breach of any other court order during litigation, one can request the court to take action under the Contempt of Courts Act 1971. The court has wide powers to impose imprisonment or fines for the redressal of such breaches.

Similar enforcement measures apply to permanent injunctions. To enforce a decree of permanent injunction, one must apply under Order 21 to seek enforcement.

Regarding orders for damages, if the amount specified in the court order is not remitted to the plaintiff within the stipulated time, the court has broad execution powers. The court can order asset attachment or sale to realise the amount due. Other specific orders, such as delivery up and inspection, are carried out by court-appointed receivers and commissioners according to the court's directions.

Complaints and criminal proceedings, including seizure and arrest, are handled by local or other investigative authorities.

Alternative dispute resolution

The technology industry has experienced significant growth in the past decade, resulting in the emergence of contractual disputes, as well as disputes involving assertions of common law rights and protection of intellectual property.

Technology industry agreements primarily revolve around obligations related to:

1. confidentiality;
2. information sharing, exchange, storage and management;
3. licensing; and
4. payment and collection of royalties.

While the agreements outline the obligations and their performance, resolving disputes often requires technical expertise and specialised knowledge. As a result, parties involved in commercial transactions have increasingly turned to alternate dispute resolution (ADR) mechanisms.

In India, there is no specialised tribunal, court or establishment dedicated to addressing these highly technical disputes. Given the intersection of science and technology in these cases, there is a need for adjudicating officers who can comprehend the interdisciplinary nature of the disputes. This is where ADR plays a crucial role in bridging the gap.

Arbitration

The arbitrability of claims is typically assessed based on whether the dispute relates to rights *in rem* (rights over a thing) or rights *in personam* (rights against a person).^[86] Disputes arising from contracts that also involve intellectual property rights have been subject to analysis. In commercial disputes where parties have agreed to refer the dispute to a private forum, the actions are *in personam*, with one party seeking specific relief against another defined party rather than the world at large.^[87]

The Supreme Court has clarified the position regarding the arbitrability of disputes and established a fourfold test. According to this test, the subject matter of the dispute is not arbitrable when the cause of action and subject matter:

1. relate to actions *in rem* that do not pertain to subordinate rights *in personam* arising from rights *in rem*;
2. affect third-party rights, necessitating centralised adjudication where mutual adjudication would be inappropriate or unenforceable;
3. relate to inalienable sovereign and public interest functions of the state, rendering mutual adjudication unenforceable; or
4. are expressly or implicitly non-arbitrable under mandatory statutes.^[88]

While these tests are not absolute, they complement each other. A holistic and pragmatic application of these tests assists in determining when a dispute or subject matter is not arbitrable under Indian law. Interestingly, the Delhi High Court, applying the fourfold test to a dispute involving overlapping issues of exclusive rights and validity of registration in intellectual property, considered the dispute arbitrable. The High Court concluded that the dispute focused on the right to use, which arises from an agreement between the parties.^[89]

Pre-institution mediation

Disputes arising from contracts involving technology would be likely to fall within the scope of commercial disputes under the Commercial Courts Act 2015.^[90] Section 12A, introduced into the Commercial Courts Act mandates that a suit under the Act (which does not contemplate urgent interim relief) shall not be instituted unless the remedy of pre-institution mediation is exhausted. The pre-institution mediation framework remains mandatory (subject to the urgent relief exception).

The amendment led to the promulgation of the Commercial Courts (Pre-Institution Mediation and Settlement Rules) 2018, which provide clarity on procedure and timelines. The plaintiff must file an application with the relevant authority to initiate mediation. Upon receiving the application, the authority issues a notice to the opposing party, inviting them to participate in mediation proceedings. A final notice is issued in the absence of a response. If the opposing party fails to appear or refuses to participate, the authority considers the mediation process to be a non-starter and prepares a report accordingly. If the opposing party agrees to participate, the mediation process commences. Pre-institution mediation for commercial suits must be completed within three months of the date of application, with a possible extension of two months subject to the parties' consent. One drawback of this procedure is that the opposing party can refuse to participate.

The Supreme Court recently in *Novenco Building and Industry A/S v. Xero Energy Engineering Solutions Pvt Ltd*^[91] clarified the scope of Section 12A, holding that ongoing acts of intellectual property infringement constitute continuing causes of action that inherently carry urgency. Accordingly, such suits are exempt from the mandatory requirement of pre-institution mediation. Building on its earlier decisions in *Patil Automation Pvt Ltd v. Rakheja Engineers Pvt Ltd* and *Yamini Manohar v. TKD Keerthi* the court reaffirmed that while mediation under Section 12A is generally mandatory, the exemption for cases 'contemplating urgent interim relief' must be interpreted purposefully. It held that each act of continuing infringement renews urgency, as every infringing sale, manufacture or advertisement causes fresh harm. The court formulated a five-point test to guide when mediation may be dispensed with, emphasising that urgency must be genuine, evident from the plaint and annexures, and assessed from the plaintiff's standpoint. Read together, these rulings establish that while pre-institution mediation remains the default mechanism for commercial disputes, cases involving ongoing infringement or immediate harm fall within the statutory exception for urgent interim relief. Nonetheless, the tool of pre-institution mediation can significantly contribute to settling disputes at the initial stage rather than undergoing a lengthy trial process. There has been a notable trend recently of cases concerning protection of intellectual property being referred to post-suit registration mediation as well.^[92]

Furthermore, the Mediation Act 2023 is a standalone statute 'to promote and facilitate mediation, especially institutional mediation, for resolution of disputes, commercial or otherwise, enforce mediated settlement agreements...'. It applies broadly to both civil and commercial mediations.

Early neutral evaluation

Early neutral evaluation (ENE) is predominantly employed in litigation related to intellectual property. However, it also holds significance in resolving disputes involving the interplay of science and technology.

ENE shares similarities with mediation, with the crucial distinction being that, in mediation,^[93] the solution typically emerges from the parties themselves, whereas in ENE, the evaluator acts as a neutral person to assess the strengths and weaknesses of the parties. The ENE process is confidential and cannot be used against either party. It proves to be a cost-effective tool, especially in disputes related to licensing, patentability, copyright of software and biotechnology.

Online dispute resolution

Online dispute resolution (ODR) may also have a positive impact in the realm of dispute resolution concerning domain names and domain registrars. Additionally, easy processes may also be implemented for reporting abuses concerning data breaches by intermediaries. Intermediaries may also resolve consumer disputes by implementing efficacious ODR tools.

Outlook and conclusions

While India's legal framework for technology disputes has made notable strides, it still requires further refinement to keep pace with the complexities of a rapidly evolving digital ecosystem. Resolution mechanisms tailored for technology related cases are essential, alongside a more adaptive regulatory framework for emerging areas such as artificial intelligence, blockchain, fintech and data privacy.

The forthcoming Digital India Act and anticipated reforms on data protection, cybersecurity and intermediary obligations reflect a clear commitment to building a future-ready regulatory framework. Equally important, however, is the strengthening of institutional capacity through training judges and arbitrators in technical subject matter, investing in digital forensics-infrastructure and developing model protocols for handling technology disputes.

There is a need to strike a balance between technological advancement and legal certainty. By combining regulatory agility and institutional preparedness, India can foster innovation, safeguard user rights and enhance investor confidence.

Endnotes

- 1 Received Presidential assent on 11 August 2023. The DPDP Act can be accessed at <https://www.meity.gov.in/static/uploads/2024/06/2bf1f0e9f04e6fb4f8fef35e82c42aa5.pdf>. ^ [Back to section](#)

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- 3 As amended on 6 April 2023. ^ [Back to section](#)
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- 6 The Grievance Appellate Committee (GAC) is established under the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, made under the Information Technology Act 2000. The IT Rules and GAC aim to ensure a safe and trusted and accountable Internet for Indian users. The GAC deals with the appeals of users aggrieved by decisions of grievance officers of social media intermediaries and other intermediaries on complaints of users or victims against violation of the IT Rules and any other matters pertaining to the computer resources made available by the intermediaries. The GAC is an online dispute resolution mechanism. The entire appeal process, from filing to decision, is in digital mode. GAC endeavours to resolve appeals within 30 days. The Indian government established three Grievance Appellate Committee on 28 January 2023.
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- 7 <https://www.storyboard18.com/digital/govt-sets-up-panel-on-ai-and-copy-right-dnpa-backs-fair-use-push-71319.htm>. ^ [Back to section](#)
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- 9 The order dated 23 January 2025 of the NCLAT in Competition App. (AT) No. 1 of 2025 titled *Whatsapp LLC v. Competition Commission of India* and Competition App (AT) No. 2 of 2025 titled *Meta Platforms INC v. Competition Commission of India* can be accessed at https://nclat.nic.in/display-board/vi-ew_order. ^ [Back to section](#)
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- 11 *Rediff Communication Limited v. Cyberbooth & Another*, 1999 (4) BomCR 278. ^ [Back to section](#)
- 12 *Yahoo! Inc v. Akash Arora and Another*, 1999 Arb L R 620. ^ [Back to section](#)
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- 14 *Burger King Corporation v. Swapnil Patil & Ors*, CS (COMM) 303 of 2022 decided on 15 February, 2025 by Delhi High Court. ^ [Back to section](#)
- 15 *Tata Power Solar Systems Limited and Another v. [Www.Tatapowersolardealership.Companyin](#)*, 2025 SCC OnLine Del 965. ^ [Back to section](#)
- 16 *Resilient Innovations Private v. M/S BharatPe*, CS(COMM) 267of 2025 decided on 17 April 2025 by Delhi High Court. ^ [Back to section](#)
- 17 *Loreal SA v. Ashok Kumar*, 2025 SCC OnLine Del 2005. ^ [Back to section](#)
- 18 *Kashmir Harvard Educational Institute v. President and Fellows of Harvard College*, 2024 SCC OnLine Del 612. ^ [Back to section](#)
- 19 *Quantum University v. International Quantum University for Integrative Medicine Inc*, OMP (Comm) 260 of 2021 decided 13 December 2023 by Delhi High Court. ^ [Back to section](#)
- 20 Press Release by the Union Minister of State for Commerce and Industry, Mr Som Parkash in a written reply in the Rajya Sabha on 9 Februray 2024. The Press Release can be accessed at <https://pib.gov.in/PressReleasePage.aspx?PRID=2004715>. ^ [Back to section](#)
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- 22 *ibid.*, Section 2(d). ^ [Back to section](#)
- 23 *ibid.*, Section 2(dd). ^ [Back to section](#)
- 24 *ibid.*, Section 2(ff). ^ [Back to section](#)
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- 26 *ibid.*, Section 14. ^ [Back to section](#)
- 27 The Information Technology Act 2000, available at <https://www.meity.gov.in/writereaddata/files/The%20Information%20Technology%20Act%2C%202000%283%29.pdf>. ^ [Back to section](#)

- 28** *ibid.*, Section 79. ^ [Back to section](#)
- 29** Section 14(a)(i) of the Copyright Act 1957. ^ [Back to section](#)
- 30** ^ [Back to section](#)
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- 32** Section 14(1)(e)(i) of the Copyright Act 1957. ^ [Back to section](#)
- 33** Section 2(m) of the Copyright Act 1957. ^ [Back to section](#)
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- 35** Section 65A of the Copyright Act 1957. ^ [Back to section](#)
- 36** *ibid.*, offences in Chapter XI or anything contained in any law currently in force at that time. ^ [Back to section](#)
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- 39** *ibid.*, Section 72A. ^ [Back to section](#)
- 40** See Section 3 of the Digital Personal Data Protection Act of 2023, 'Application of the Act', available at <https://www.meity.gov.in/writereaddata/files/Digital%20Personal%20Data%20Protection%20Act%202023.pdf>. ^ [Back to section](#)
- 41** See Section 6 of the Digital Personal Data Protection Act of 2023, 'Consent'. ^ [Back to section](#)
- 42** Section 2(i) of the Digital Personal Data Protection Act of 2023, 'Definitions: "Data Fiduciary"'. ^ [Back to section](#)
- 43** Section 2(j) of the Digital Personal Data Protection Act of 2023, 'Definitions: "Data Principal"'. ^ [Back to section](#)
- 44** See Section 8(6) of the Digital Personal Data Protection Act of 2023, 'General obligations of Data Fiduciary'. ^ [Back to section](#)
- 45** Section 2(u) of the Digital Personal Data Protection Act of 2023, 'Definitions: "personal data breach"'. ^ [Back to section](#)
- 46** Rule 3 of the draft Digital Personal Data Protection Rules 2025. ^ [Back to section](#)

- 47** Rule 7 of the draft Digital Personal Data Protection Rules 2025. ^ [Back to section](#)
- 48** Rule 10 of the draft Digital Personal Data Protection Rules 2025. ^ [Back to section](#)
- 49** Part A of Schedule 4 of the draft Digital Personal Data Protection Rules 2025. ^ [Back to section](#)
- 50** Rule 4 of the draft Digital Personal Data Protection Rules 2025. ^ [Back to section](#)
- 51** See Section 2(1)(w) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021, 'Definitions', available at <https://www.meity.gov.in/writereaddata/files/Information%20Technology%20%28Intermediary%20Guidelines%20and%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20%28updated%2006.04.2023%29-.pdf>. ^ [Back to section](#)
- 52** *ibid.*, Section 2(1)(v). ^ [Back to section](#)
- 53** Published on 6 April 2023. ^ [Back to section](#)
- 54** Section 3(1)(b)(v)-(1). 'Due diligence by an intermediary: An intermediary, including [a social media intermediary, a significant social media intermediary and an online gaming intermediary], shall observe the following due diligence while discharging its duties, namely:— (b) the intermediary shall inform its rules and regulations, privacy policy and user agreement to the user in English or any language specified in the Eighth Schedule to the Constitution in the language of his choice and shall make reasonable efforts [by itself, and to cause the users of its computer resource to not host], display, upload, modify, publish, transmit, store, update or share any information that,— (v) deceives or misleads the addressee about the origin of the message or knowingly and intentionally communicates any misinformation or information which is patently false and untrue or misleading in nature [or, in respect of any business of the Central Government, is identified as fake or false or misleading by such fact check unit of the Central Government as the Ministry may, by notification published in the Official Gazette, specify];' ^ [Back to section](#)
- 55** Article 14 of the Indian Constitution: Equality before law. ^ [Back to section](#)
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- 57** *Kunal Kamra v. Union Of India*, 2024:BHC-OS:14750-DB. ^ [Back to section](#)
- 58** See Section 79(2)-(3) of the Information Technology Act 2000. ^ [Back to section](#)
- 59** *ibid.*, Section 79. ^ [Back to section](#)

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- 63** *Star India (P) Ltd v. https://crichdplayer.org/*, 2025 SCC OnLine Del 1968. ^ [Back to section](#)
- 64** *JioStar India Pvt Ltd v. https://crick.com*, 2025 SCC OnLine Del 4608. ^ [Back to section](#)
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