What India’s New Commercial Courts Mean For IP Owners

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The creation of India’s new commercial courts is a step toward improving India’s IP regime.

The Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (‘the Act’), which took effect on October 23, 2015, is also a significant piece of a larger move at improving the business environment in India.

India’s economy is expanding briskly at 7% despite global headwinds. Foreign inflows are at a record high and there is a marked effort to stimulate domestic manufacturing and services. The ‘Make in India’ and ‘Start Up India’ campaigns to promote manufacturing and entrepreneurship in the country are notable examples of this.

But running a business in India has its challenges. Though the World Bank’s recent Doing Business report shows an improved business environment, with India ranking 130 out of 189 countries, performance on a key metric—enforcing contracts—remains unchanged at 178 out of 189 countries. This means contract enforcement is imperfect for handling business disputes.

On this count, the Act is a significant legislative move. Let’s look at key provisions on the strength of which it seeks to improve the quality of judicial processes.

What’s in the New Law.

The Act calls for dedicated courts for adjudicating ‘commercial disputes’ where the value of the subject matter is more than Rs. 10 million ($150,000). Under this new law, state governments are empowered to set up separate commercial courts equivalent to district courts.

For territories where the High Court itself is vested with original jurisdiction (High Courts of Delhi, Bombay, Calcutta, Madras and Himachal Pradesh), commercial divisions are to be constituted within these High Courts by appointing one or more benches of single judges. Appeals from both commercial courts and commercial divisions will be heard by newly formed commercial appellate divisions, also comprising High Court judges.

Further, the law brings changes to the Civil Procedure Code, 1908 (‘CPC’)—to the extent it is applicable to commercial disputes within the scope of the new law—that may help speed up litigation before the new dedicated commercial courts.

What’s in the News.

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The Act also prohibits review or revision of an interlocutory order passed by a commercial court. No appeal lies from the interlocutory order passed by a commercial court. Any appeal from the final decree made in the case...
very early days yet and tangible outcomes will only be re-
sulted in the months ahead - this is confirmed by the ex-
periences of the lawyers at this firm so far. Given the
strong intent underlying this attempt at judicial reform,
one hopes it will mark a transformational leap in the pre-
vailing judicial system.