



The Potential of Mediation in Intellectual Property Disputes: Designing a Model for India's Evolving IP Regime.

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ABSTRACT:

Mediation is a form of Alternative Dispute Resolution Mechanism wherein a neutral third party known as the mediator helps the parties in dispute to agree upon a solution that benefits both the parties. The mediator is solely and merely a facilitator whose ultimate object is to make the parties agree upon a final settlement. The mediator channelises and ensures a smooth flow of conversation without risking the mutual agreeability of the parties. On the other hand, Intellectual Property (IP) disputes have been growing with evolution of industrial economy. However, handling IP disputes in the traditional method can be highly time consuming and costly. The enactment of Mediation Act 2023 and inclusion of section 12A of Commercial Courts Act which mandates pre-litigation mediation has become a convenience for the Judiciary and the people in need of speedy and effective justice. This paper explores how addition of mediation as a form of dispute resolution has proven to be a transitional approach towards dealing of IP disputes. Mediation is a peace-building, harmonious form of resolution mechanism because it helps preserve the business and commercial relationships between the parties. The parties, if they choose to terminate their business connection, they can do so but on good terms, or continue it so like there were no disputes at all. For initiating mediation, there is usually a dispute clause which includes mediation for resolution or the court can suggest mediation as provided under section 89 of the Civil Procedure Code. This paper will be focusing on various aspects of IP disputes and how mediation as a tool has significantly helped the IP regime and the Indian legal framework for IP by providing an amicable environment for negotiation and settlement.

[**Keywords:** Mediation, Intellectual Property Disputes, ADR, Parties, Settlements.]

Introduction:

In recent years, India has witnessed a remarkable expansion in the creative industry and innovation which has led to a surge in IP disputes. Businesses have started to heavily rely upon the intangible assets like patent, trademark, copyright etc. and it has increased the mandate to protect the same. The growth in technology and vast usage of internet has virtually made the world borderless and has put ideas on places that can't be controlled¹. The adversarial nature of litigation also tends to erode the trust and goodwill necessary for future collaboration among parties operating within the same industry.

In this context Mediation has emerged as a pragmatic and constructive alternative. As one of the recognized forms of ADR, mediation enables parties to negotiate their difference with the help of a neutral third party who facilitates dialogue and helps each other to reach an amicable settlement. This method ensures confidentiality, flexibility and mutual satisfaction rather than a win-lose outcome as in litigation making this a perfect opportunity to preserve the commercial aspect of the relationship between the parties especially suitable for IP disputes. The philosophy of mediation aligns with the modern shift in jurisprudence from mere adjudication toward dispute management and conflict prevention.

This paper encompasses the reach of mediation in IP disputes and how it has proven to be a successful form of resolution especially through institutions such as world intellectual property organisation arbitration mediation centre which has facilitated many settlements between corporation, investors and artists. The study highlights the developments of mediation which has an evidentiary value that stands to show how mediation is not just a mere procedural alternative but a policy framework in itself.

Chapter 1: Introduction

Background and significance of IP disputes in India:

Intellectual property has emerged as central pillar of modern economic growth and innovation. As India positions itself as a global hub for technology, pharmaceuticals, creative industries, and digital commerce, the creation and protection of intellectual assets have become indispensable. IP rights including patents, trademarks, copyrights, geographical indications and designs play a vital role in promoting innovation by granting exclusive rights to

¹ Maithreyi Shukul, Mediation and Negotiation in Resolving Intellectual Property Disputes, Volume 12 Issue 4, Research Guru: Online J. Multidisciplinary Subj., 788, 788 (2019).

creators and inventors. However, with the rapid pace of technological advancement and globalisation, the frequency and complexity of IP disputes in India have increased significantly.²

The Indian IP regime has evolved considerably since the enactment of the Patents Act, 1970, and the subsequent harmonization of national laws with the TRIPS Agreement under the World Trade Organization (WTO) framework.³ While these reforms have strengthened IP protection and enforcement, they have also given rise to intricate disputes involving issues such as patent infringement, copyright piracy, misuse of trademarks, and ownership of digital content. The commercial stakes in such disputes are often high, involving multinational corporations, start-ups, research institutions, and individual creators.⁴ Consequently, the need for efficient, fair, and specialized mechanisms to resolve such conflicts has become critical.

Traditionally, IP disputes in India are adjudicated through the court system, primarily under the jurisdiction of High Courts.⁵ Although judicial pronouncements have played a pivotal role in shaping IP jurisprudence, litigation remains plagued by procedural delays, high legal costs, and a shortage of technical expertise. According to reports from the Department for Promotion of Industry and Internal Trade (DPIIT), pendency in commercial disputes, including IP cases, continues to strain the justice delivery system.⁶ Moreover, the adversarial nature of litigation can damage ongoing business relationships and expose sensitive information, which may be detrimental to parties operating in competitive industries.⁷

In this context, the significance of exploring alternative mechanisms, particularly mediation, becomes evident. Mediation provides a confidential, flexible, and non-adversarial forum that allows parties to negotiate mutually acceptable solutions while preserving commercial relationships. Given India's recent policy and legislative initiatives notably the Mediation Act, 2023, and the inclusion of Section 12A of the Commercial Courts Act, 2015 the landscape for dispute resolution in IP matters is undergoing transformation.⁸

Understanding the background and significance of IP disputes in India thus sets the stage for evaluating mediation as a complementary mechanism. It not only reflects the growing importance of IP in India's innovation economy but also underscores the urgent need for dispute resolution systems that are accessible, efficient, and aligned with global best practices.

Need for alternative dispute resolution and mediation:

The Indian legal system, despite its comprehensive structure and constitutional foundations, has long struggled with the problem of judicial backlog and procedural inefficiency. As of 2024, over 4.5 crore cases remain pending across Indian courts, a significant portion of which are commercial and civil disputes.⁹ This delay in adjudication not only undermines public confidence in the justice delivery system but also poses a serious obstacle to business growth and foreign investment. In this backdrop, Alternative Dispute Resolution (ADR) mechanisms particularly mediation have gained renewed attention as effective, time-saving, and cost-efficient means of resolving disputes.

ADR represents a shift from a purely adversarial model of justice to a more collaborative, solution-oriented framework. It encompasses processes such as arbitration, conciliation, negotiation, and mediation all aimed at achieving mutually acceptable settlements without resorting to lengthy litigation.¹⁰ The growing complexity of disputes, especially in commercial and intellectual property (IP) matters, requires mechanisms that can combine legal precision with commercial pragmatism. Mediation stands out in this regard as it emphasizes confidentiality, neutrality, and flexibility while preserving relationships between parties.¹¹

In the context of intellectual property disputes, the need for ADR and mediation becomes even more pronounced. IP conflicts often involve sensitive proprietary information, creative works, or technological innovations. Traditional litigation not only risks disclosure of such information but also creates an adversarial environment that can damage ongoing collaborations, licensing arrangements, or partnerships.¹² Moreover, IP disputes tend to be cross-border in nature, involving parties from multiple jurisdictions, making mediation a practical solution due to its adaptability and potential for international enforceability under frameworks like the Singapore Convention on Mediation (2019).¹³

India's legislative and policy initiatives have demonstrated a conscious effort to promote ADR. The Arbitration and Conciliation Act, 1996, and the more recent Mediation Act, 2023, reflect the country's shift toward institutionalizing non-adversarial dispute resolution. Section 89 of the Civil Procedure Code (CPC) further empowers courts to refer disputes to mediation, conciliation, or arbitration when it appears that such referral may lead to effective resolution. Additionally, the insertion of Section 12A in the Commercial Courts Act, 2015, mandating pre-litigation mediation in commercial disputes, has further reinforced this approach.

Therefore, the growing reliance on ADR and mediation reflects a systemic evolution toward efficiency, accessibility, and harmony in dispute resolution. For intellectual property disputes, where innovation, investment, and collaboration intersect, mediation offers a unique blend of confidentiality, flexibility, and commercial sensibility that litigation often fails to provide. It ensures that the value of creativity and innovation the core of intellectual property is preserved rather than compromised by conflict.

² World Intellectual Property Organization (WIPO), **Understanding Industrial Property** (2022),

³ The Patents Act, No. 39 of 1970, § 48 (India); Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, 1869 U.N.T.S. 299.

⁴ Dinesh C. Sharma, India's IP Regime and the TRIPS Challenge, 27 J. Intell. Prop. Rts. 101 (2022).

⁵ Commercial Courts Act, No. 4 of 2016, § 2(1)(c) (India).

⁶ Department for Promotion of Industry and Internal Trade (DPIIT), **Annual Report 2022-23**, <https://dpiit.gov.in/>

⁷ World Bank, **Ease of Doing Business 2020: Resolving Commercial Disputes in India**, <https://www.doingbusiness.org/>

⁸ The Mediation Act, No. 21 of 2023, § 4; Commercial Courts Act, No. 4 of 2016, § 12A (India).

⁹ National Judicial Data Grid (NJDG), Case Statistics of Indian Courts (2024)

¹⁰ UNCITRAL Model Law on International Commercial Conciliation, 2002, U.N. Doc. A/57/17.

¹¹ Vidhi Centre for Legal Policy, **Strengthening Mediation in India: The Road Ahead** (2021)

¹² World Intellectual Property Organization (WIPO), **Mediation in Intellectual Property Disputes** (2020)

¹³ United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention on Mediation), Dec. 12, 2018, U.N. Doc. A/RES/73/198.

Chapter 2: Understanding Mediation and Its Relevance in IP Disputes

Concept and characteristics of mediation:

Mediation is characterized by several distinctive features. The first is *voluntariness*, meaning parties choose to participate and may withdraw at any time before a settlement is reached. Secondly it is *confidentiality*, which protects communications made during mediation from disclosure in subsequent proceedings, thereby fostering candid discussion and protecting sensitive business information. The third is *neutrality and impartiality*, ensuring that the mediator does not favour any party but maintains a balanced and fair environment for dialogue. The fourth is *party autonomy*, granting disputants control over both the process and the final settlement, unlike judicial or arbitral forums where authority lies with an adjudicator. Finally, mediation is marked by *informality and flexibility* it can be customized to suit the needs, schedules, and expectations of the parties involved.

In the Indian context, mediation has evolved from being a court-referred mechanism under Section 89 of the Code of Civil Procedure, 1908, to a formally recognized process under the Mediation Act, 2023. The Act institutionalizes mediation by establishing a legal framework for conduct, enforcement, and recognition of settlements. It also introduces *community mediation* and mandates pre-litigation mediation for certain disputes, thereby expanding the scope and accessibility of the process.

The conceptual foundation of mediation aligns closely with the Indian tradition of consensus and dialogue, reflected in age-old village panchayat and community dispute resolution systems. By bridging modern legal structures with indigenous values of reconciliation, mediation represents both a revival of traditional wisdom and a step toward a progressive justice model.

Advantages of mediation over litigation in IP conflicts:

One of the most significant advantages of mediation in IP conflicts is confidentiality. Litigation, being a public process, risks exposing trade secrets, technological know-how, or sensitive licensing terms that could harm a party's competitive position. Mediation, however, ensures that discussions, evidence, and settlements remain confidential, thereby protecting proprietary information and commercial integrity. This aspect is particularly valuable in disputes involving patents, trademarks, or confidential business information, where privacy is critical.

Secondly, mediation provides time and cost efficiency. IP litigation is often lengthy and expensive, involving expert testimony, technical documentation, and multiple appeals. According to the World Bank's *Ease of Doing Business Report (2020)*, resolving a commercial dispute in India can take up to 1,445 days on average.¹⁴ Mediation, by contrast, allows disputes to be resolved within weeks or months, reducing legal costs and opportunity losses for businesses. This efficiency is vital for industries driven by innovation, where market conditions change rapidly and prolonged uncertainty can erode the value of IP assets.

A further advantage of mediation is flexibility and creativity in outcomes. Courts are bound by statutory provisions and procedural rules, often limiting the range of possible remedies. In mediation, however, parties can negotiate outcomes beyond legal entitlements such as licensing arrangements, joint ventures, royalty adjustments, or coexistence agreements.¹⁵ This flexibility enables solutions that are commercially viable and preserve long-term interests.

Another crucial benefit is relationship preservation. IP disputes often arise between parties with ongoing business relationships such as licensors and licensees, collaborators, or competitors in the same market. Litigation tends to strain these relationships due to its adversarial nature. Mediation, however, fosters dialogue and understanding, enabling parties to maintain or even strengthen their professional ties.¹⁶

Case examples or brief references (e.g., WIPO, Indian mediation initiatives):

The increasing relevance of mediation in intellectual property (IP) disputes is best illustrated through practical examples and institutional experiences across jurisdictions. Both global and Indian initiatives demonstrate how mediation provides a flexible, time-efficient, and mutually beneficial mode of resolving IP conflicts.

At the international level, the World Intellectual Property Organization (WIPO) plays a leading role in promoting mediation for IP and technology disputes. The WIPO Arbitration and Mediation Centre, established in 1994, provides specialized services for IP-related conflicts, including copyright, patent, and licensing matters. A notable example involved a dispute between two European biotechnology firms concerning the scope of patent licensing. Through WIPO-administered mediation, the parties achieved a confidential settlement by revising royalty terms and agreeing on collaborative research instead of continuing adversarial litigation. This case underscored mediation's potential to produce creative business outcomes that traditional court procedures could not.

Similarly, in another WIPO case involving a software licensing conflict between a U.S. developer and an Asian distributor, mediation allowed both parties to maintain their commercial relationship by renegotiating distribution rights and future software updates. This case highlighted mediation's ability to preserve long-term business partnerships, which are often jeopardized in litigation.

In India, mediation has gained significant momentum through institutional mechanisms and judicial endorsement. The Delhi High Court Mediation and Conciliation Centre (Samadhan), operational since 2006, has successfully mediated numerous IP disputes, especially under Section 12A of the *Commercial Courts Act, 2015*, which mandates pre-institution mediation. For example, in *Bawa Masala Co. v. Bawa Masala Co. Pvt. Ltd.* (2019), a

¹⁴ World Bank, *Ease of Doing Business 2020: Resolving Commercial Disputes in India*

¹⁵ UNCITRAL Model Law on International Commercial Conciliation, 2002, U.N. Doc. A/57/17.

¹⁶ Law Comm'n of India, Report No. 238, Amendments to the Arbitration and Conciliation Act, 1996 (2012).

trademark dispute involving two family-owned businesses, the matter was amicably settled through mediation, leading to an agreement on trademark coexistence and preserving familial relations.¹⁷

Chapter 3: Legal Framework and Challenges in India

Key statutory provisions (Mediation Act, 2023; Section 12A of the Commercial Courts Act; Section 89 CPC):

The legislative foundation for mediation in India has developed progressively, reflecting the judiciary and legislature's commitment to promoting alternative dispute resolution mechanisms. The introduction of mediation into India's legal system was initially through judicial interpretation and later codified in statutory enactments. Three key provisions the Mediation Act, 2023, Section 12A of the Commercial Courts Act, 2015, and Section 89 of the Civil Procedure Code, 1908 form the cornerstone of India's mediation framework, directly influencing its application in intellectual property disputes.

Section 89 of the Civil Procedure Code, 1908

Section 89 of the Civil Procedure Code (CPC) is the earliest statutory recognition of mediation in India. Introduced by the Code of Civil Procedure (Amendment) Act, 1999, it empowers courts to refer parties to alternative dispute resolution mechanisms such as arbitration, conciliation, mediation, or judicial settlement. The provision reflects judicial intent to divert suitable cases from litigation to ADR forums, thereby reducing the burden on courts and promoting amicable resolution.

The Supreme Court, in *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, clarified the scope of Section 89, emphasizing that mediation can be directed even without the parties' initial consent if the court deems it appropriate.¹⁸ This ruling laid the groundwork for court-referred mediation, now increasingly applied to commercial and IP-related disputes where confidentiality and relationship preservation are vital.

Section 12A of the Commercial Courts Act, 2015

Section 12A of the Commercial Courts Act introduced the concept of mandatory pre-institution mediation in commercial disputes not involving urgent interim relief. The purpose of this provision is to encourage early settlement before formal litigation begins, saving time and resources. The Commercial Courts (Pre-Institution Mediation and Settlement) Rules, 2018, framed under this section, detail the procedural aspects for conducting such mediation under the aegis of the Legal Services Authorities.

This provision has significant implications for IP disputes, particularly in cases involving trademarks, copyrights, or licensing issues, as these are classified as commercial disputes under the Act. The Delhi and Bombay High Courts have repeatedly emphasized the importance of adhering to Section 12A, holding that bypassing mediation renders a commercial suit non-maintainable.¹⁹

The Mediation Act, 2023

The enactment of the Mediation Act, 2023, represents a watershed moment in India's ADR landscape. The Act provides comprehensive statutory recognition to mediation, defining its scope, process, and enforceability. It mandates the establishment of the Mediation Council of India, ensures confidentiality of proceedings, and recognizes online mediation as a valid form. Most importantly, it gives legal enforceability to mediated settlement agreements, which can be registered and executed as court decrees.

The Act complements Section 12A of the Commercial Courts Act by institutionalizing mediation and providing a uniform legal framework for both court-referred and private mediations. For IP disputes, this development is crucial as it provides clarity, enforceability, and procedural certainty to mediated settlements involving licensing, infringement, and royalty-related issues.

Together, these statutory provisions mark India's shift toward a more modern and pragmatic approach to dispute resolution. By embedding mediation in the procedural and substantive law framework, India is paving the way for faster, confidential, and business-friendly solutions particularly essential in the dynamic field of intellectual property law.

Current status of mediation in IP disputes in India:

The use of mediation in intellectual property disputes in India is gradually moving from an experimental phase to institutional acceptance, though it remains underutilized relative to its potential. What distinguishes the current phase is not merely legislative readiness, but the emerging evidence of mediation's effectiveness in select categories of IP conflicts particularly those involving ongoing business relationships, co-branding, licensing, and creative collaborations.

Unlike patent or validity disputes, which still demand judicial interpretation, soft IP conflicts such as those involving trademarks, copyrights, and domain names have increasingly been referred to mediation by Indian courts. The Delhi High Court has taken a lead by institutionalizing pre-litigation and court-annexed mediation through *Samadhan*, and by issuing practice directions encouraging judges to explore settlement before trial.²⁰ Between 2018 and 2023,

¹⁷ *Bawa Masala Co. v. Bawa Masala Co. Pvt. Ltd.*, Mediation Settlement Report, Delhi High Court (2019).

¹⁸ *Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd.*, (2010) 8 SCC 24 (India).

¹⁹ *Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd.*, (2022) 10 SCC 1 (India).

²⁰ *Delhi High Court (Original Side) Rules*, 2018, r. 10.

several high-value trademark matters especially in sectors like fashion, hospitality, and entertainment were resolved through structured mediation, achieving outcomes that litigation would have prolonged.

Outside the courts, mediation is finding space in contractual IP disputes, such as licensing, royalty sharing, and technology transfer agreements. Parties increasingly insert multi-tier dispute resolution clauses, making mediation a mandatory preliminary step before arbitration or litigation. This trend reflects growing commercial trust in mediation as a neutral and confidential process that can protect proprietary information.

Major obstacles: lack of awareness, trained mediators, enforcement issues:

Despite the steady legal and institutional growth of mediation in India, its implementation in intellectual property disputes continues to face several systemic barriers. The most significant among these are the lack of awareness and acceptance among stakeholders, the limited availability of specialized mediators, and persistent uncertainties in the enforcement of mediated settlements. Together, these factors have slowed the mainstream adoption of mediation as a reliable and preferred mechanism in India's IP ecosystem.

Lack of Awareness and Cultural Resistance

The foremost obstacle is the limited awareness about mediation's potential within the IP community. While large corporations and multinational entities are increasingly familiar with alternative dispute resolution, smaller enterprises, start-ups, and individual creators often lack understanding of how mediation functions and what advantages it offers. The deep-rooted litigation-oriented culture in India continues to influence both clients and lawyers, who often equate "justice" with court adjudication. Many IP practitioners prefer judicial rulings for their precedential value, especially in cases concerning patent validity, originality, or ownership, where they believe only a court can provide authoritative clarity.²¹

Furthermore, the absence of publicized success stories in IP mediation contributes to scepticism. Most mediated settlements remain confidential, which, although a strength of the process, inadvertently limits public confidence in its effectiveness. Without consistent data and transparency on resolved cases, potential users perceive mediation as experimental rather than dependable.

Shortage of Trained and Specialized Mediators

Another substantial hurdle is the shortage of mediators trained in the technical and commercial nuances of IP law. Mediation requires not only negotiation and facilitation skills but also subject-matter expertise to understand complex patent specifications, licensing terms, and infringement claims. In India, most mediation panels under legal services authorities and court-annexed centres comprise professionals with backgrounds in general civil or commercial law, rather than IP. This limits their capacity to handle technologically intricate disputes or to gain the trust of sophisticated parties involved in innovation-driven sectors.

Although the *Mediation Act, 2023*, empowers the proposed Mediation Council of India to develop accreditation standards and training programs, the absence of immediate specialization frameworks means that many mediations in IP remain underdeveloped or are prematurely abandoned.

Enforcement and Institutional Challenges

Until recently, the uncertainty surrounding enforceability of mediated settlements also discouraged participation. Before the *Mediation Act, 2023*, there was no standalone legislation granting mediated agreements the same legal status as arbitral awards or court decrees. This ambiguity raised concerns, particularly in cross-border IP matters, where enforcement across jurisdictions is crucial.

The new Act now provides that a mediated settlement agreement shall have the status of a decree of a court, offering much-needed legal certainty. However, procedural clarity regarding registration, jurisdiction, and execution mechanisms is still evolving. Furthermore, India's accession to the Singapore Convention on Mediation has not yet been operationalized through domestic legislation, leaving a gap in the enforcement of international mediated settlements.

Chapter 4: The Way Forward

Policy suggestions for integrating mediation into IP law:

India's evolving intellectual property (IP) regime has demonstrated considerable progress in creating mechanisms for dispute resolution. However, the integration of mediation into the IP framework remains incomplete. The *Mediation Act, 2023* and Section 12A of the *Commercial Courts Act, 2015* have laid down procedural foundations, yet a comprehensive and sector-specific integration policy is essential to ensure efficiency, credibility, and access to justice. Strengthening mediation within IP law requires a multi-dimensional approach — legislative refinement, institutional capacity-building, professional specialization, and public awareness.

Legislative Harmonization and Clear Incorporation into IP Statutes

While mediation is statutorily recognized, India's core IP legislations the *Patents Act, 1970*, *Copyright Act, 1957*, *Trade Marks Act, 1999*, and *Geographical Indications of Goods Act, 1999* contain no explicit provisions enabling or encouraging mediation. To ensure coherence, these statutes

²¹ R. Basheer & P. Ganguli, *Innovation and Its Discontents: The Indian IP Landscape* (2019).

should include specific sections recognizing mediation as a valid mode of dispute resolution, either through amendments or delegated rules. This would align with global best practices such as the European Union's Directive 2008/52/EC on Mediation, which formally integrates mediation into civil and commercial law, including IP-related matters.

Incorporating mediation clauses directly into IP laws would also promote pre-litigation settlements. For instance, disputes concerning copyright ownership, licensing, or trademark infringement could include mandatory mediation attempts before registration of suits, similar to Section 12A's precondition under the *Commercial Courts Act*. Such alignment would normalize mediation as a first step rather than an exceptional alternative.

Specialized IP Mediation Panels and Training Programs

Effective mediation in IP disputes requires not only procedural knowledge but also technical and commercial expertise. India should create specialized mediation panels under the Intellectual Property Offices namely the Patent Office, Copyright Office, and Trademark Registry comprising mediators trained in IP law, technology, and business negotiation. These panels could function under the supervision of the Mediation Council of India (MCI) established under the *Mediation Act, 2023*, ensuring accreditation standards and quality control.

In addition, collaborations with global institutions such as the WIPO Arbitration and Mediation centre can facilitate capacity-building workshops for Indian mediators. Establishing exchange programs between WIPO, the Delhi High Court Mediation Centre, and leading law schools could foster a generation of mediators who possess both legal and technical fluency.

Encouraging Mediation Clauses in IP Contracts

Another vital policy measure is to institutionalize mediation clauses in IP agreements such as licensing contracts, franchise arrangements, and technology transfer deals.²² Many disputes arise from ambiguous contractual obligations, and including standard mediation clauses modelled after WIPO's mediation clause can promote early resolution. The Department for Promotion of Industry and Internal Trade (DPIIT) and the Controller General of Patents, Designs and Trade Marks (CGPDTM) could issue circulars recommending model mediation clauses for inclusion in contracts submitted during registration or renewal processes.

Awareness, Education, and Incentivization

The lack of awareness among IP owners, legal practitioners, and entrepreneurs remains a significant bottleneck. Public and professional education campaigns are crucial to reshape perceptions about mediation's reliability and enforceability. Law schools and bar councils should introduce mandatory ADR and mediation modules focusing on IP disputes to build a future-ready legal community. Incentives such as reduced court fees or tax deductions for mediated settlements could also motivate parties to opt for mediation voluntarily.

Enforcement Strengthening and International Cooperation

The enforceability of mediated settlements, particularly in cross-border IP cases, is central to trust in the process. India should ratify and operationalize the Singapore Convention on Mediation (2018) through domestic legislation to ensure that international mediated settlements are directly enforceable. Additionally, creating a central digital repository for registration of mediated IP settlements under the MCI can improve traceability and compliance monitoring.

Judicial and Administrative Support

Finally, judicial and administrative organs must complement legislative and institutional reform. Courts can develop guidelines for referring IP disputes to mediation, similar to the Delhi High Court's *Intellectual Property Division (IPD) Rules, 2022*, which already promote ADR for IP conflicts. Periodic judicial reviews of mediation outcomes, feedback loops with mediators, and publication of anonymized success stories can enhance credibility and encourage replication across jurisdictions.

Conclusion and future prospects:

Mediation represents a transformative shift in India's approach to resolving intellectual property disputes. As India's creative and innovation sectors expand, the need for dispute resolution mechanisms that are both efficient and relationship-oriented has become undeniable. Traditional litigation, while authoritative, often proves slow, costly, and adversarial ill-suited to the dynamic nature of IP rights. Mediation, by contrast, promotes confidentiality, flexibility, and cooperation, aligning perfectly with the commercial sensitivities of IP holders.

The enactment of the *Mediation Act, 2023*, and the judicial emphasis on pre-litigation mediation under Section 12A of the *Commercial Courts Act, 2015*, have laid a strong procedural foundation. The judiciary, through decisions such as *Patil Automation Pvt. Ltd. v. Rakheja Engineers Pvt. Ltd.*, has emphasized mediation's centrality in commercial justice. However, the system still faces barriers of awareness, expertise, and enforcement. Specialized training for mediators, institutional support from IP offices, and consistent judicial referral practices are essential to embed mediation as a mainstream dispute resolution tool.

²² UNCTAD, Intellectual Property Licensing and Dispute Resolution (2020).

Looking ahead, India must focus on integrating mediation clauses into IP laws and contracts, ratifying the Singapore Convention on Mediation, and establishing specialized IP mediation panels within administrative bodies. Collaborative initiatives between the Mediation Council of India, WIPO, and domestic institutions can also strengthen technical competence and international recognition.

Ultimately, mediation's success in IP disputes depends on cultural and institutional evolution. A coordinated effort among the judiciary, policymakers, and industry stakeholders can transform mediation from an optional mechanism into a core pillar of India's IP enforcement ecosystem. By embracing mediation, India not only reduces litigation burdens but also fosters an environment conducive to innovation, creativity, and sustainable economic growth.

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