



**AZB & PARTNERS**  
ADVOCATES & SOLICITORS

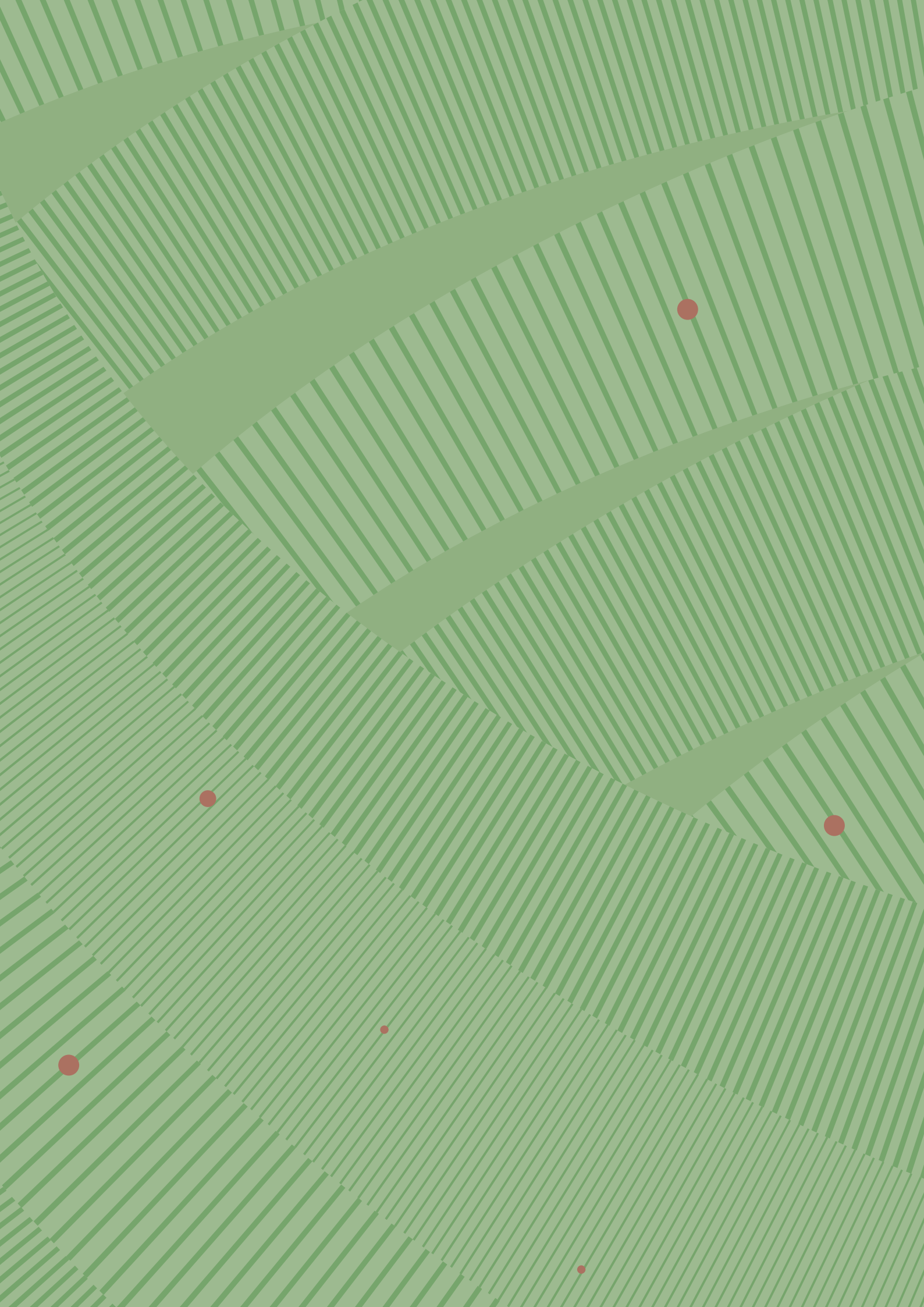
# Intellectual Property Practice

●  
Energy

●  
Expertise

●  
Execution

Unmatched



# *Applying creative, innovative strategies to the lifecycle of intellectual property rights.*

---

The intellectual property practice at AZB provides services across the lifecycle of intellectual property rights, from creation and protection, to monetisation and enforcement, across prosecution, transactional and advisory and enforcement and litigation. Located in India's major business and knowledge hubs makes for seamless representation before all the prominent courts, tribunals and customs offices. Our nuanced understanding of business realities, regulatory environments within which our clients operate, coupled with our pan-India team of technically qualified and highly ranked lawyers, makes the intellectual property offering at AZB a compelling one.

# Our Expertise

---

## Prosecution

We have extensive experience in IP prosecution, portfolio management and registration of Intellectual Property Rights (IPRs), including trademarks, patents, copyrights and designs, with Indian registries. Our expertise in the pharmaceutical, crop science, FMCG, e-commerce, apparel and banking / financial services sectors is well established.

---

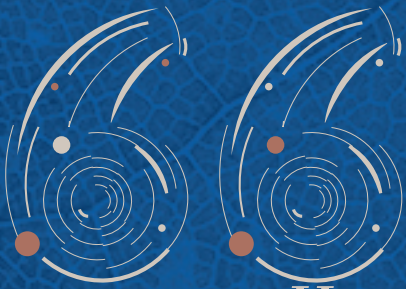
## Litigation & Enforcement

We undertake contentious proceedings before various Tribunals, High Courts and other Courts in India and have consistently succeeded in obtaining 'Anton Pillar' orders and injunctions. We assist with litigation / enforcement proceedings in areas ranging from trademarks, trade dress, copyright, broadcast reproduction rights, patents, designs, domain names, cyber law and intermediary liability, advertising laws (including comparative advertising), data protection and misappropriation of trade secrets / confidential information. We also formulate anti-counterfeiting strategies and strategies to counter parallel importation.

---

## Transactions & Advisory

Our well-known IP transactional team assists clients with drafting / negotiating IP documents and advising on licensing, co-branding, co-existence and joint ventures, franchising, IP acquisitions and technology transfers. We actively engage in conducting IP due diligence and brand audits.



*Houses a team with expertise across a wide range of IP mandates, working primarily across the Delhi, Mumbai and Gurugram offices. The team is capable of advising on prosecution, portfolio management and litigation mandates pertaining to trade mark, copyright, patent and domain names.*

---

Chambers & Partners Asia-Pacific (2025)  
on our Intellectual Property Team

# Our Specialists

AZB is the preferred choice for IP matters, especially in complex and high-stake intellectual property transactions as well as litigations, which often require varied and diverse skillsets and creative, innovative strategies. We have an enviable track record of being practical yet detail-oriented and provide some of the most nuanced and holistic intellectual property advice in the market. Some members of our team are also registered patent agents with technical backgrounds, allowing them to assist clients with drafting and prosecuting patents.



**Akhilesh Kumar Rai**  
*Partner*

AZB & Partners – Delhi  
T: + 91 120 417 9999  
@: akhileshkumar.raai@azbpartners.com

Ranked for Intellectual Property by Chambers & Partners Asia-Pacific (2023 – 2026)

Ranked as a leading TM professional under Individuals: Enforcement & Litigation, Prosecution & Strategy, and Transactions table by WTR 1000 (2020 – 2023 & 2025)

‘Recommended’ for Intellectual Property by Legal 500 Asia Pacific (2020 – 2025)

‘Distinguished Practitioner’ for Intellectual Property by Asialaw Profiles (2024 – 2025)

Named a ‘Trademark and Transactions Star’ by Managing IP Stars (2024 – 2025)

Named among Top 100 IP Experts in India by Asia IP Law (2021)



**Nandan Pendsey**  
*Partner*

AZB & Partners – Mumbai  
T: + 91 22 4072 9999  
@: nandan.pendsey@azbpartners.com

Ranked for Intellectual Property (2022 – 2026) and Life Sciences (2023 – 2025) by Chambers & Partners Asia-Pacific

Ranked as a leading TM professional under Individuals: Enforcement & Litigation, Prosecution & Strategy and Transactions table by WTR 1000 (2020 – 2023 & 2025)

Named a Trademark Star by Managing IP Stars (2024 – 2025)

‘Recommended’ for Intellectual Property (2020 – 2024) and Data Protection (2022 – 2024) and Life Sciences & Healthcare (2023 – 2024) by Legal 500 Asia Pacific

Recognized as a ‘Notable Practitioner’ for Intellectual Property by Asialaw Profiles (2024 – 2025)

Named a Leading Lawyer for Intellectual Property in the Legal Era Leading Lawyer Rankings (2023)

Named among Top 100 IP Experts in India by Asia IP Law (2021)

# Intellectual Property Laws in India

The protection of intellectual property rights ('IPRs') in India can be broadly classified into statutory and common law protection. Trademarks (including domain names), copyrights, patents, designs, geographical indications of goods and plant varieties may be protected under Indian law.

Additionally, trade secrets, confidential information and industrial know-how may be protected under the principles of equity and common law. Courts have held, however, that to be capable of protection, trade secrets / confidential information should (i) be treated as such; (ii) be of economic value, capable of commercial exploitation; and (iii) give a competitive edge to the proprietor.

The following statutes contain the substantive scheme of statutory protection available

1. The Trade Marks Act, 1999
2. The Copyright Act, 1957
3. The Patents Act, 1970
4. The Designs Act, 2000
5. The Geographical Indications of Goods (Registration and Protection) Act, 1999
6. The Protection of Plant Varieties and Farmers' Rights Act, 2001

# The following IPRs are protected under Indian law:

## Patents

---

Patent protection (product and process) is granted to inventions which meet the criteria of

- (i) novelty;
- (ii) non-obviousness (i.e., an inventive step); and
- (iii) utility (i.e., capable of industrial application).

An application for patent protection in India may be filed either directly, or as a convention application, or under the Patent Co-operation Treaty ('PCT'). The Patents Act, 1970 ('Patents Act') mandates that the applicant file a statement disclosing detailed particulars of same or substantially similar patent applications filed outside India, including any developments in the prosecution of such patent applications.

Under the Patents Act, a patentee / licensee of a granted patent is required to file a 'working statement' annually, stating whether the invention disclosed in such patent has been 'worked' on a commercial scale in India. Every patent is granted a term of 20 years from the date of filing the patent application (or the international filing date, in the case of PCT applications), subject to the payment of a renewal fee, from time to time.

However, certain inventions, including those in certain fields such as agricultural methods, business methods and computer programs per se, are specifically excluded.

Compulsory licenses for a patent may be issued by the Patent Office at any time after 3 years from the date on which the patent is granted. A patent application can either be challenged prior to its grant, by way of a pre-grant opposition, or post-grant, by way of a post-grant opposition, before the Patent Office. Appeals from orders of the Patent Office in this regard lie before the Intellectual Property Appellate Board.

To apply for IP protection in India / outside India for any invention based on research / information on biological resources obtained from India, prior approval must first be obtained from the National Biodiversity Authority ('NBA').

A patentee may avail of remedies, including injunctions (temporary / permanent), damages or accounts of profit, search, seizures, forfeitures and destruction of infringing goods.

# Trademarks

---

Trademark protection (as per the Trade Marks Act, 1999 or “Trade Marks Act”) is accorded to any mark, including a word, numeral, letter, device and signature, which is capable of (i) being represented graphically; and (ii) distinguishing the goods / services of one person from that of others.

These include combinations of colours, shapes, packaging of goods, collective marks, certification marks and three dimensional marks, as well as distinctive sound and smell marks. Protection is also accorded to well-known marks (including unregistered marks). The Trade Marks Rules, 2017, provide that brand owners may file an application with the Registrar of Trademarks to certify their trademark as a ‘well-known’ mark in India.

Trademark applications can be made under a single class or in multiple classes under one application. Use in India prior to the date of the application is not a prerequisite. The initial term of a trademark is 10 years from the date of filing the application. Thereafter, the registration may be perpetually renewed for further terms of 10 years each. There is no requirement to submit a declaration of the use of the trademark at the time of renewal.

In 2013, India became a member of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (the ‘Madrid Protocol’). Under the Madrid Protocol, any natural person / legal entity with an effective industrial / commercial establishment in India is able to protect its trademarks internationally in other member countries by filing a single international trademark application. Similarly, foreign brand owners from member countries are able to procure trademarks protection in India.

Remedies available to trademark owners include injunction, damages or accounts of profit, search and seizure, forfeiture and destruction of infringing goods. The Trade Marks Act, notwithstanding the general provisions of the Code of Civil Procedure, 1908, also permits a plaintiff to institute a suit in the territorial jurisdiction of the Court where the plaintiff resides or works for gain. Trademark infringement and counterfeiting are also cognizable offences, where a warrant from a Court is not required for search and seizure actions taken by the police.

# Copyrights

---

The Copyright Act, 1957, as amended by the Copyright (Amendment) Act, 2012 ('Copyright Act'), confers protection on creative works that are (i) original; and (ii) in some tangible form. Works entitled to protection include artistic works, musical works, literary works, dramatic works, sound recordings, cinematographic films and computer programs. Further, the Copyright Act also recognises neighbouring / performers' rights in performances and broadcasts.

The registration of a copyright is not mandatory. However, since copyright registration is prima facie evidence of ownership, registration is helpful in enforcement actions. In the case of a literary, dramatic, musical or artistic work, the author is the first owner of the copyright, except in the case of commissioned works or works made for hire.

The Copyright Act recognises special rights of authors and performers, including the right to claim damages and prevent distortion or modification of the work. Authors' /

performers' special rights subsist even after the copyright has been assigned by the author / performer. The author / performer may, however, contractually waive his / her rights. India is a party to the Berne Convention, the Universal Copyright Convention, WIPO Copyright Treaty and WIPO Performances and Phonograms Treaty. Therefore, the Copyright Act protects foreign works of convention countries in such a manner, as though they were works first published under the Copyright Act.

Remedies available to a copyright owner include injunction, damages, account of profits and delivery up of infringing works. Similar to the Trade Marks Act, the Copyright Act also permits a plaintiff to institute a suit in the territorial jurisdiction of the Court where the plaintiff resides or works for gain. Further, infringement of copyright is also a criminal offence, punishable by imprisonment extending up to 3 years and/or fines up to US\$ 3,000.

## Designs

---

A 'design' is only the features of shape, configuration, pattern, ornament, or composition of lines or colours applied to any article which, in the finished article, appeal to and are judged solely by the eye.

To be eligible for registration, a design must be (i) new and original; and (ii) must not have been publicly disclosed, either by written publication or through use. Registration of a design is mandatory for obtaining protection in India.

An application for design protection in India may be filed either directly, or as a convention application. Convention applications may be filed in India within 6 months of filing the application in the convention country, seeking priority date on the basis of applications in a convention country. The initial term of registration of a design is 10 years, renewable for a further term of 5 years and the date of registration relates back to the date of filing.

The remedies available for infringement of a copyright in a registered design are the same as those available for copyright infringement.

## Geographical Indications

---

Protection and registration is accorded to an indication which identifies goods manufactured or originating from a particular territory, where a certain quality, reputation or other characteristic of a good / activity is essentially attributable to a particular region.

Geographical indications ('GI') cannot be privately held and are typically registered in the name of a trade association representing the interest of producers.

The initial term of registration of a GI is 10 years, which may be perpetually renewed for subsequent terms of 10 years each.

The remedies available for infringement of GIs are similar to those available for trademark infringement.

# Plant Varieties

---

Plant varieties are protected in India under the Protection of Plant Varieties and Farmer's Rights Act, 2001 ('Plant Varieties Act'), which came into force in 2005. The Plant Varieties Act covers all categories of plants, with the exception of microorganisms. Registrable plant varieties are categorised as new variety, extant variety, farmer's variety and essentially derived variety.

Registration of plant varieties is mandatory for claiming protection. For the purpose of registration, (i) a 'new variety' must be novel, distinctive, uniform and stable; (ii) an 'extant variety' must be distinctive, uniform and stable, but need not be novel; and (iii) a 'farmers' variety' need not conform any requirements, provided there is a valid declaration that the genetic / parental material has been lawfully acquired. Registration remains valid for 9 years in the case of trees and vines and 6 years for

other crops. It may be renewed, but the total period of validity cannot exceed (i) 15 years from the date of notification of an extant variety by the Central Government; (ii) 18 years from the date of registration of trees and vines; and (iii) 15 years from the date of registration, for all other cases.

In case of infringement, the available remedies include injunction, damages and/or account of profits.





# Key Developments

---

Indian jurisprudence, especially in relation to trademarks and copyrights, has evolved considerably over the years in terms of both protection and enforcement. Significant attempts have been made to increase digitisation and transparency at the various IP registries as well as reduce the prosecution backlog.

Recently, in a writ petition filed on behalf of the Intellectual Property Attorneys Association, the High Court of Delhi held that the Registrar of Trade Marks is duty bound to send a copy of the order passed under Section 18(5) of the Trade Marks Act, to the trade mark applicant, containing the grounds for refusal or conditional acceptance and material used by him at arriving at his decision to the applicant. This is bound to increase transparency and prevent arbitrariness in decision-making. This will also help in reducing timelines for filing an appeal against refusal orders.

In the patent space, in a significant decision on the question of patentability of computer related inventions, the High Court of Delhi observed that it would be retrograde to hold

that inventions based on computer programs cannot be patented at all and held that an invention based on computer programs may be patentable if a technical effect or a technical contribution can be demonstrated. Enforcement of patents in India is in its nascent stages with pharmaceutical and telecommunications related patents being tested with the highest frequency.

The Government has recently also approved the Patent Prosecution Highway (PPH) program, which will allow the Indian Patent Office to collaborate with foreign offices leading to expeditious examination and prosecution of applications. The Government has also notified the new Manual of Patent Office Practices and Procedures to enhance transparency in the functioning of the Patent Office.

IPRs are now strictly enforced by Indian courts and tribunals. While there are no special tribunals for adjudicating infringement actions, the Intellectual Property Appellate Board ('IPAB') is responsible for hearing appeals from orders of the officers and controllers of the various IP registries. The IPAB also acts as the Copyright Board, fixing royalties, rules and disputes relating to copyright societies.

With respect to infringement / passing-off actions, injunctions still remain the most prominent and effective remedy. Most recently, the High Court of Delhi ('DHC'), in a bid to reduce the burden of copyright owners battling hydra-headed rogue websites, devised an innovative relief - the dynamic injunction. This allowed the aggrieved right holder to simply implead additional mirror websites to the original suit for injunction, by way of an interlocutory application, as opposed to filing a fresh suit.

In yet another significant development, the High Court of Bombay interpreted Section 31D of the Copyright Act, to hold that the statutory licensing mechanism under the said provision is not available to 'internet broadcasts', as it is not subsumed in 'radio' or 'television' broadcasting, which was the original legislative purpose of the said provision. Further, in an interesting case on 'architectural works', the DHC held that an architect's moral rights over a building do not take precedence over the rights of the building owner to destroy or modify the building.

Further, Courts have begun making detailed assessments on the quantum of damages and granting substantial damages in IP infringement matters. Courts also grant significant punitive damages in cases of blatant infringement / counterfeiting. In cases of egregious and apparent infringement, Courts are increasingly passing summary judgments

in favour of rights holders. Additionally, rights holders are also recording their IPRs, especially trademarks, before the relevant customs authorities, in order to prevent counterfeit products from entering the Indian market through imports.

Additionally, the increased accountability being placed on online marketplaces and e-commerce platforms by various Courts, most notably, the DHC, marks a key positive trend in the enforcement of IPRs on the internet. In various orders, the DHC has critically evaluated the liability of e-commerce platforms in relation to trademark infringement, by examining their business models, the role played by the intermediary in the overall transaction (i.e., whether it is a mere conduit or an active participant, deciding key parameters of the interaction), considering whether the intermediary is complying with the relevant regulations under the Information Technology Act 2000 and whether they are taking adequate measures to ensure that no unlawful acts are committed on the platform / website.

In the same vein, the Government followed suit with its release of the Draft E-Commerce Policy, recommending that e-commerce platforms (intermediaries) be required to implement anti-counterfeiting and anti-piracy measures on their platforms.

# Our Clients

---

## Prosecution



PHILIP MORRIS  
INTERNATIONAL



Massachusetts  
Institute of  
Technology

WILLIAMS  
RACING



SUZLON

---

## Litigation & Enforcement



ABB



SUZLON

RICHEMONT

---

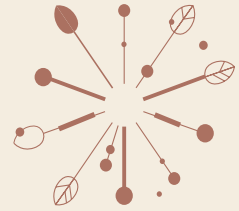
## Transactions & Advisory



3SE

WESTBRIDGE | CAPITAL





SACHIN  
TENDULKAR



SUPERMAX®



SACHIN  
TENDULKAR





# Intellectual Property Accolades

---



Ranked for Intellectual Property by Chambers  
Asia-Pacific (2022 - 2026)



'Recommended Firm' for Intellectual Property  
by Asialaw Profiles (2024 - 2025)



Recognized in the 'Silver Category' for  
Prosecution and Strategy and Enforcement  
and Litigation in the WTR 1000 - The World's  
Leading Trademark Professionals Rankings  
(2022 - 2023 & 2025)



Recommended for Licensing & Transactions  
in the WTR 1000 - The World's Leading  
Trademark Professionals Rankings (2025)



Ranked for Intellectual Property by Legal 500  
Asia Pacific (2022 - 2025)



'Highly Recommended' for IP Transactions by  
Managing IP Stars (2021 - 2022 & 2025)



**MUMBAI** AZB House, Peninsula Corporate Park  
Ganpatrao Kadam Marg, Lower Parel  
Mumbai 400 013, India  
T: + 91 22 4072 9999  
F: + 91 22 6639 6888  
E: mumbai@azbpartners.com

One Forbes, 5<sup>th</sup> Floor  
VB Gandhi Marg, Kala Ghoda  
Mumbai 400 001, India  
T: +91 22 4910 0600  
F: +91 22 4910 0699  
E: disputeresolution.mumbai@azbpartners.com

**DELHI** AZB House  
Plot No. A8  
Sector 4, Noida 201301  
National Capital Region Delhi, India  
T: +91 120 4179 999  
F: +91 120 4179 900  
E: delhi@azbpartners.com

Unit No. 4B  
4<sup>th</sup> Floor, Hansalya Building  
Barakhamba Road  
New Delhi 110 001, India  
T: +91 11 40221500  
E: delhi@azbpartners.com

Unitech Cyber Park  
602 Tower-B, 6<sup>th</sup> Floor, Sector 39  
Gurgaon 122001, India  
T: +91 124 4841300  
F: +91 124 4841319  
E: gurgaon@azbpartners.com

**BANGALORE** Level 5, 37 Cunningham  
Cunningham Road  
Bangalore 560052, India  
T: +91 80 4240 0500  
E: bangalore@azbpartners.com

**CHENNAI** Villa B8,  
Withy Pool Complex,  
Boat Club Road, R A Puram,  
Chennai 600028, India  
T: +91 44 2434 0145  
E: chennai@azbpartners.com

**PUNE** Onyx Towers  
1101-B, 11<sup>th</sup> Floor  
North Main Road, Koregoan Park  
Pune 411001, India  
T: +91 20 6725 6666  
F: +91 20 6725 6600  
E: pune@azbpartners.com

**GIFT CITY** Office No: 309 | 310, 3rd Floor.  
Pragya II, Block 15-C1, Road 11,  
Zone 1, GIFT SEZ, Gift City, Gandhinagar,  
Cujarat, India - 382355  
T: + 91 79 6157 3959  
E: giftcity@azbpartnersllp.com



Scan to view our website

[www.azbpartners.com](http://www.azbpartners.com)