

# Impact of Ordinance to abolish Intellectual Property Appellate Tribunal

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# Ordinance

- Abolished
  - Intellectual Property Appellate Tribunal
  - Plant Varieties Protection Appellate Tribunal (IPAB)
  
- Matters under following laws to be transferred to High Court
  - The Trademarks Act, 1999
  - The Patents Act, 1970
  - The Copyright Act, 1957 (**some provisions before Commercial Court**)
  - the Geographical Indications of Goods (Registration and Protection) Act, 1999
  - The Protection Of Plant Varieties And Farmers' Rights Act, 2001

# Commercial Disputes

“Commercial Dispute” means a dispute arising out of—

(viii) franchising agreements;

(ix) distribution and licensing agreements;

(xvi) technology development agreements;

(xvii) **intellectual property rights relating to registered and unregistered trademarks, copyright, patent, design, domain names, geographical indications and semiconductor integrated circuits;**

(xviii) agreements for sale of goods or provision of services;

(xxii) such other commercial disputes as may be notified by the Central Government

Issues :

- Under Copyright Act, some matters may not be in the nature of “dispute” but have been still referred to Commercial Courts
- The Ordinance refers to **Commercial Court** only in relation to certain provisions of the Copyright Act. However, the other provisions under the said Act and other Acts Also may fall within the definition of commercial dispute

# Copyright Act

Copyright Board --→ Appellate Board --→ Commercial Court

Copyright Rules – March 30, 2021 | Ordinance – April 4, 2021

- Question : whether any work has been published or date on which it was published (S 6)
- Determination of whether the identity of an author of a previously anonymous/ pseudonymous work can be deemed to be disclosed prior to the expiry of term of copyright (S 23)
- Compulsory license where the author cannot be found- (S 31A)

Issues :

What should be the nature of proceedings ? Timelines ?

Whether Pre-Institution Mediation and Settlement will apply ?

# Disputes but not referred to CC

- Rectification of trademark
- Rectification / revocation of patents
- Cancel or vary the registration of a geographical indication

# Appeals

- Appeals from Orders of
  - Registrar of Copyrights
  - Registrar of Trademarks
  - Controller of Patents (for Patents and Designs related orders)
  - Registrar of Geographical Indications
  - Protection of Plant Varieties and Farmers' Rights Authority

Issues:

Dispute : In case of oppositions

Territorial Jurisdiction : The Ordinance does not make any amendments to determine the territorial jurisdiction in relation to above appeals. The appeals may be filed before the High Court in whose jurisdiction the relevant IP office is located

# Trademarks

	Office	States
1.	Mumbai	The State of Maharashtra, Madhya Pradesh, Chhattisgarh and Goa
2.	Ahmedabad	The State of Gujarat and Rajasthan and Union Territories of Daman, Diu, Dadra and Nagar Haveli.
3.	Kolkata	The State of Arunachal Pradesh, Assam, Bihar, Orissa, West Bengal, Manipur, Mizoram, Meghalaya, Sikkim, Tripura, Jharkhand and Union Territories of Nagaland, Andaman & Nicobar Islands.
4	New Delhi	The state of Jammu & Kashmir, Punjab, Haryana, Uttar Pradesh, Himachal Pradesh, Uttarakhand, Delhi and Union Territories of Chandigarh
5	Chennai	The state of Andhra Pradesh, Telangana, Kerala, Tamil Nadu, Karnataka and Union Territories of Pondicherry and Lakshadweep Island

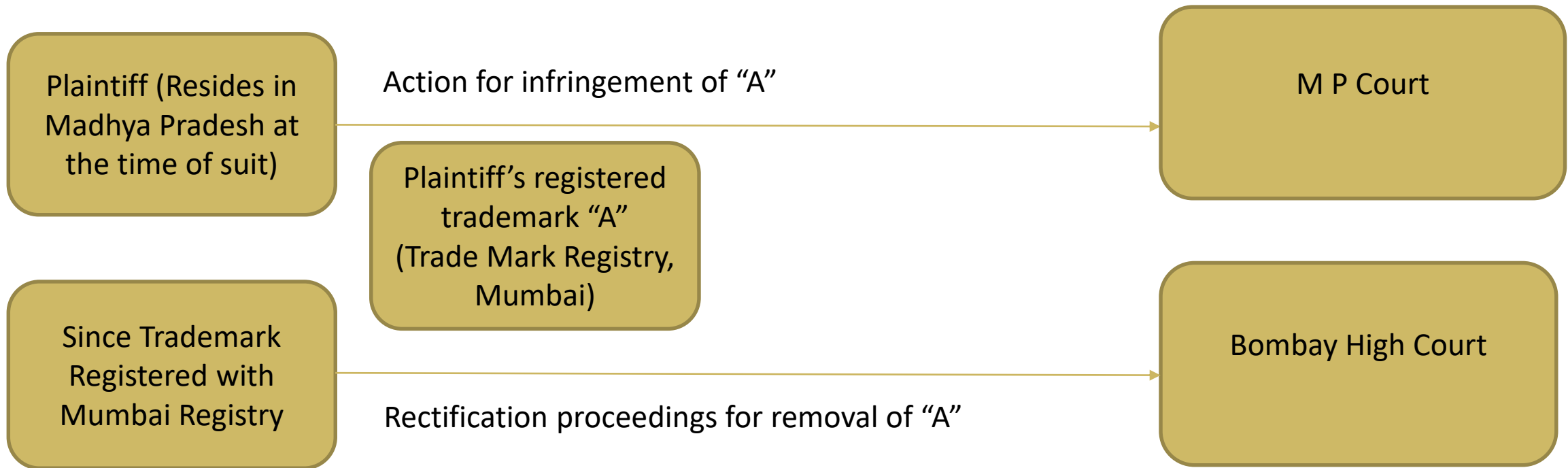


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3.	New Delhi	The States of Haryana, Himachal Pradesh, Punjab, Rajasthan, Uttar Pradesh, Utarakhand, Delhi and the Union Territory of Chandigarh, Jammu and Kashmir and Ladakh.
4.	Kolkata	The rest of India.



# Multiplicity of Proceedings in different High Courts



Issue: Multiple High Courts dealing with issues on the same trademark, resulting in multiplicity of proceedings.

# Thank You

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