

## IP Hotline

May 10, 2019

### PRE-INSTITUTION MEDIATION UNDER THE INDIAN COMMERCIAL COURTS ACT: A STRATEGIC ADVANTAGE

This article was originally published on 04<sup>th</sup> May, 2019 in<sup>1</sup>



The 2018 amendment to the Indian Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (“**Act**”) has made it mandatory for a party filing a suit under the Act (a “commercial dispute”, as referred to under the Act) to first initiate mediation proceedings with the opposite party unless claiming urgent relief in the suit. Since patent infringement actions fall within the definition of a “commercial dispute” under the Act, a patentee moving against infringers in India is now obligated to initiate mediation before filing an infringement suit when no application for urgent relief is filed along with the suit. The time bound mediation procedure introduced in the Act will allow a patentee to not only bring a possible infringer to negotiation table under the threat of future litigation but also allow patentees to resolve disputes in a timely manner by avoiding long-drawn litigation in Indian courts. The article examines how patentees can strategically use this mediation process to their advantage.

For the complete article, please click [here](#).

– [Aparna Gaur](#) & [Aarushi Jain](#)

You can direct your queries or comments to the authors

<sup>1</sup>[www.ipwatchdog.com/2019/05/04/pre-institution-mediation-indian-commercial-courts-act-strategic-advantage/id=108918/](http://www.ipwatchdog.com/2019/05/04/pre-institution-mediation-indian-commercial-courts-act-strategic-advantage/id=108918/)

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