

## 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/)

#### DISCLAIMER

The contents of this hotline should not be construed as legal opinion. View detailed disclaimer.

This Hotline provides general information existing This is not a Spam mail. You have received this at the time of preparation. The Hotline is intended mail because you have either requested for it or as a news update and Nishith Desai Associates someone must have suggested your name. Since neither assumes nor accepts any responsibility for India has no anti-spamming law, we refer to the any loss arising to any person acting or refraining US directive, which states that a mail cannot be from acting as a result of any material contained in considered Spam if it contains the sender's contact this Hotline. It is recommended that professional information, which this mail does. In case this mail advice be taken based on the specific facts and doesn't concern you, please unsubscribe from circumstances. This Hotline does not substitute mailing list. the need to refer to the original pronouncements.

## Proud Moments

**Legal500 Asia-Pacific:** Tier 1 for Tax, Investment Funds, Labour & Employment and TMT  
*2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012*

**Chambers and Partners Asia Pacific:** Band 1 for Employment, Lifesciences, Tax and TMT  
*2020, 2019, 2018, 2017, 2016, 2015*

**IFLR1000:** Tier 1 for Private Equity and Project Development: Telecommunications Networks.  
*2020, 2019, 2018, 2017, 2014*

**AsiaLaw Asia-Pacific Guide 2020:** Tier 1 (Outstanding) for TMT, Labour & Employment, Private Equity, Regulatory and Tax

**FT Innovative Lawyers Asia Pacific 2019 Awards:** NDA ranked 2nd in the Most Innovative Law Firm category (Asia-Pacific Headquartered)

**RSG-Financial Times:** India's Most Innovative Law Firm  
*2019, 2017, 2016, 2015, 2014*

**Benchmark Litigation Asia-Pacific:** Tier 1 for Government & Regulatory and Tax  
*2019, 2018*

## Research Papers

**3D Printing: Ctrl + P the Future**  
April 02, 2020

**Dispute Resolution in India: An Introduction**  
April 02, 2020

**Impact of Covid-19 on Contracts**  
March 31, 2020

## Research Articles

**Chambers Global Practice Guide: Gaming Laws**  
December 19, 2019

**The Tips and Traps to Avoid When Investing in India**  
December 31, 2018

**Evolving HR Law: Giving GCs Sleepless Nights?**

## Audio

---

**Seminar: Possible Last Window for the Start-Up Community's Say on Proposed Privacy Law**

February 19, 2020

**Webinar: India Budget 2020: Implications for the International Community**

February 05, 2020

**Webinar: A New Dawn for Privacy in India: the Personal Data Protection Bill, 2019**

December 17, 2019

## NDA Connect

---

Connect with us at events, conferences and seminars.

## NDA Hotline

---

[Click here to view Hotline archives.](#)

## Video

---

**NDA cCep - Program Video**

**CNBC TV18 Startup Street**

**Webinar: Re-thinking Indian Private Equity Exits**