

Enforcement Mechanism of IP Tribunals Decisions in Pakistan: Challenges and Opportunities

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Abstract

The study provides the critical ways to examine the enforcement of IP tribunals decisions in Pakistan. Pakistan's intellectual property (IP) legal framework, rooted in British colonial laws, has undergone significant modernization driven by globalization and international commitments, notably adherence to TRIPS Agreement and WIPO conventions. This evolution led to the establishment of the Intellectual Property Organization of Pakistan (IPO-P) in 2005 and, crucially, specialized IP Tribunals in 2014. These tribunals, staffed by expert judges and empowered with civil and criminal jurisdiction akin to civil and sessions courts, aim to expedite dispute resolution, enhance enforcement, and foster innovation. This abstract outlines the historical development of IP law in Pakistan, details the international norms influencing its current legislative framework, and highlights the structure, composition, jurisdiction, and remedies available through Pakistan's IP Tribunals. It further draws comparisons with international practices in specialized IP courts, emphasizing the unique role of IPO-P in advising the government on IP matters. The discussion underscores the comprehensive nature of available remedies, encompassing civil damages, criminal penalties under specific IP ordinances, and provisions within the Pakistan Penal Code, Customs Act, and FIA Act, along with the PEMRA Act's role in digital copyright enforcement. The paper argues that while significant progress has been made in establishing a robust legal and institutional framework for IP enforcement, ongoing challenges necessitate continuous efforts towards capacity building, resource allocation, and adaptation to emerging forms of IP infringement.

Keywords

Intellectual Property, IP Tribunals, Pakistan

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1. Introduction

In the early 1990s, amendments were made to Pakistan's intellectual property laws (Jan, 2022). Intellectual property experts have been discussing the need for special judges who can focus on and understand the technical complexities of IP law. The protection provided by judiciary due to inexperience was largely inadequate (Aslam et al, 2022). Instead of a formal process, it was based on the expertise and skill of individual judges. The IP system requires a judicial framework that is aware of the technical aspects of these laws; individual judges cannot assist. Considering the need for careful technical consideration of intellectual property laws, this specific justification was sufficient to establish various specialized courts. While this office may not be part of the larger structure of Pakistan's Intellectual Property Organization (IPO), historically, trademark registrars had the powers of magistrates. However, an effective tribunal adopts a more neutral approach to all IP-related issues, not just trademark complaints (Lari-Williams, 2025). Over the past three decades, copyright has become a significant commercial issue, affecting not only poets, writers, and artists but also software developers, filmmakers, and media businesses. Large organizations are showing increasing interest in protecting various copyrights and are seeking a mechanism that allows experts to ensure that the justice system is implemented even in more complex situations. In Pakistan, patents have become a major issue, where most patent claims conflict with local interests. It has always been important to gain a

deep understanding of law, science, and technology, as well as to be aware of the best (and worst) business practices at both local and global levels. As clearly stated in Section 18(1) of the Pakistan Intellectual Property Organization Act 2012, which establishes intellectual property tribunals in Pakistan, "All cases and other civil proceedings regarding violations of intellectual property laws shall be instituted and conducted in IP Tribunal." Furthermore, according to paragraph 18(2), the tribunal "has exclusive jurisdiction to hear any offense under the IP laws." Professionals in intellectual property and those who own, trade, or use intellectual property are required to participate in this tribunal. According to the protocol for the selection of the President of the IP Tribunal, two appointments have been made so far: one as the former registrar of rights in Karachi, who was deemed suitable, and the other as a District and Sessions Judge in Lahore. According to Article 16(4) of the Constitution, no person can be appointed as the president of the tribunal unless they have previously served as a lawyer who is eligible to be nominated as a High Court judge, District and Sessions Court judge, or General Court judge. There are still thousands of trademarks, copyright, and patent cases in all provinces that will be sent to IP tribunals; how can one judge handle both new and old cases? Judges may not be qualified to decide IP cases, but the cases do not remain with them for long. An individual, chosen by the administration rather than the judiciary, will make many decisions in the current IP tribunals. IP experts possess important skills that enable them to make legal decisions regarding copyrights, patents, trademarks, industrial designs, and trade secrets. Clause 16(4)(c) of the law allows the government to engage the IP specialist who work for the public good. Unfortunately, these individuals find it challenging to gather in government offices. They are mostly private experts. The present study bridges the gap the Challenges, opportunities, and remedies for the Intellectual Property tribunal decisions in Pakistan.

The following are the study's objectives:

- To access the major issues in the enforcement of IP tribunals decisions in Pakistan.
- To analysis the special IP tribunals in Pakistan.
- The evaluate the remedies available for the IP case decisions in Pakistan.
- To suggest recommendations to improve IP tribunals decisions in Pakistan.

This paper is structured as follows: the initial section addresses the development of IP law in Pakistan, including its application and the system for enforcing legislation. The subsequent section provides a literature review, highlighting the legislative framework of IP tribunals in Pakistan and comparing it with international practices of IP tribunals. The third section describes the Structure and Jurisdiction of IP tribunals, with the qualitative research methodology process used regarding the collection of data from secondary sources. In conclusion, the study's final observations and suggestions are documented.

2. Literature Review

2.1 Evolution of IP Laws in Pakistan

The intellectual property law in Pakistan were established during the British colonial period when the Indian subcontinent was under the administration of the British Crown. Important laws, such as the Patents and Designs Act of 1911, governed patents and industrial designs, while the Trade Marks Act 1940 regulated commercial marks. After Pakistan's independence in 1947, these laws became the basis of the country's intellectual property legal system (Bashir & Khan,2016). after independence, pakistan inherited these colonial regulations and continued to implement them with minor modifications. however, with the rise of globalization on a global scale and the increasing importance of intellectual property in international trade, Pakistan recognized the need to modernize its legal system (Birnhack,2018).

2.2 International Norms Governing IP Laws

The World Intellectual Property Organization (WIPO) was established in 1967 under the WIPO Convention through the United Nations. It is a specialized agency that protects intellectual property rights. The primary objective of its members is to support the protection of intellectual property worldwide through collaborative efforts among countries and international organizations. In the history of IP, the most fundamental and influential convention is the Paris Convention for the Protection of Industrial Property, established in 1883. (Birkbeck, 2016). This recognizes and emphasizes the protection of patents, industrial designs, and trademarks. Instead of implementing the Paris Convention, an international office was established. In 1886, after the Paris Convention, the famous Berne Convention was presented for the protection of literary and artistic works, in order to provide intellectual property rights internationally and to ensure compliance with intellectual property laws (ALOUN, 2024). Similarly, an international office was established for the administration of the Bern Convention. In 1983, a global agency was created through the merger of various international offices, known as the Bureau International de la Propriété Intellectuelle (BIRPI). Eventually, BIRPI evolved into WIPO, which is a larger and more successful organization. WIPO has 184 member states and oversees 24 international treaties, as the importance of IPR (Intellectual Property Rights) is very high today. (WIPO — A Brief History, n.d).

2.3 Legislative Framework Creation of IP Tribunals in Pakistan

In Pakistan, the Intellectual Property offices, which include the Patents Office, the Trade Marks Registry, and the Copyright Office, were initially managed by three separate ministries. To consolidate all Intellectual Property offices, the Intellectual Property Organization of Pakistan (IPO-P) was formed in 2005 under the guidance of the Cabinet Division of the Prime Minister of Pakistan (Bharucha & Co, 2015).

One of the aims of IPO-P is to establish a framework within the state system dedicated to addressing all topics and issues related to intellectual property rights in a comprehensive and integrated way, along with any related or incidental matters.

In accordance with the stated policy, the Government implemented the Intellectual Property Organization of Pakistan Act, 2012 (the Act), which took effect on August 28, 2012, with the exception of Sections 15, 16, 17, 18, and 19. These sections were to be activated on a date specified by the Federal Government through a notification in the official Gazette. Recently, the Federal Government has advanced by enforcing the provisions of Sections 15, 16, 17, 18, and 19. Additionally, utilizing the authority granted by the Act, the Government established three Intellectual Property Tribunals in December 2014, with one located in each of the provinces of Punjab and Sindh, and one in the Islamabad Capital Territory.

3. Establishment of IP Tribunals

The creation of intellectual property (IP) tribunals in Pakistan is essential for the effective implementation of IP laws. This is hampered by the lack of specialized knowledge, slow resolution of disputes, and adherence to international standards. By appointing qualified judges and experts, these tribunals will serve as a solution to issues and challenges related to intellectual property, reducing the burden on ordinary courts, while at the same time banning disorder through swift and strong legislation (Masudi, 2023). They encourage innovations, inspire reservation holders, attract foreign investments, and pay significant attention to Bands of Public Engagement Intellectual Property Rights. If the absence of trained talents, resource limitations, or bureaucratic barriers are overcome, significant success can be achieved in Pakistan's special IP tribunals due to the strong legal framework, capacity building, and international collaborations like WIPO. This effort will

ensure a commitment to protect Pakistan's intellectual prominence and promote a wealth of knowledge-based development

3.1 Special IP Courts in Pakistan

The introduction of specialized Intellectual Property Rights (IPR) courts in Pakistan represents a pivotal development in strengthening the enforcement of IPR laws. These courts play a critical role in accelerating the adjudication of IP-related matters and in delivering more equitable outcomes (Imada et al, 2024). Traditionally, the resolution of IP disputes in Pakistan was hindered by prolonged delays and systemic inefficiencies within the regular judiciary. The establishment of these specialized forums is therefore intended to build institutional capacity for efficiently handling intricate IP cases, thereby contributing to a stronger and more responsive legal infrastructure for the protection of intellectual property rights.

The TRIPS agreement provisions and all rights related to the implementation of Intellectual Property Rights are applicable to Pakistan, a developing country that joined the WTO on January 1, 1995. Member countries given the time for developing economies, including Pakistan, were granted a period of five years under the TRIPS agreement, until the year 2000, to align their IPR laws with the pre-established requirements of the agreement. Prior to this, IPR protection in Pakistan had not progressed significantly (Nusrullah, 2015).

3.2 Role of Intellectual Property Organization Established IP Tribunals

The Intellectual Property Organization (IPO) advises the federal government on important issues related to the establishment of Intellectual Property (IP) tribunals. Its recommendations include the establishment of the necessary number of tribunals and clarification of their geographical jurisdiction in order to ensure strategic location and regional accessibility. The federal Government advises the Intellectual Property Organization (IPO) to address important issues concerning intellectual property (IP) tribunals created by the Intellectual property organization Pakistan. Its considerations relate to establishing the required number of tribunals and clarifying their geographical jurisdiction, as well as issues related to regional accessibility and strategic positioning (Ahmed et al, 2021). The aim of this initiative is to enhance the enforcement of IPRs, improve the effectiveness of dispute resolution, and align Pakistan's IP governance framework with international best practices and commitments. The Intellectual Property Organization of Pakistan (IPO-Pakistan), formed under the Cabinet Division on April 8, 2005, serves as the central authority for overseeing and enforcing intellectual property rights (IPRs) in the country. Recognizing the growing relevance of IPRs in a digital era, the organization is tasked with managing copyrights, patents, and trademarks while advancing their protection through legislative reforms and strategic initiatives.

3.3 IP Tribunals of Pakistan Comparison with International Practices

In Pakistan, IP Tribunals were established under the IPO-Pakistan Act of 2012 to resolve IP disputes. These tribunals hear cases related to trademarks, patents, copyrights, and industrial designs. They are presided over by judges who specialize in IP Law.

Mendal (2017) stated that, the United States has only the Court of Appeals for the Federal Circuit of country's only specialized IP (Intellectual Property) court. Matters related to the United States International Trade Court, the U.S. Trademark Trial and Appeal Board, the U.S. Patent Trial and Appeal Board, and the U.S. International Trade Commission all fall under the jurisdiction of this appellate court. Regarding IPR matters, this court generally advises lower courts.

Regarding special courts in China, the government has established a general jurisdiction court that includes a special division for hearing intellectual property disputes. (Finder, 1993). The Chinese judicial system

consists of basic people's courts, intermediate people's courts, high people's courts, and the Supreme People's Court. All high people's courts, intermediate people's courts, and basic people's courts include special IPR (Intellectual Property Rights) divisions that have the jurisdiction to hear IPR cases (Duncan, 2021). These specialized divisions have special IPR judges. A special IPR tribunal, along with a re-examination board of the Chin National Intellectual Property Administration (CNIPA), handles cases of infringement. The People's Court has the authority to hear appeals from the board. Victims of infringement can also seek relief from the rapidly enforcing administrative organization (K Yu, 2007).

India, which is a developing country, has established a special administrative tribunal to hear appeals related to intellectual property rights. Appeals against decisions regarding registered trademarks can be filed in the Indian Intellectual Property Appellate Board, which was established in 1999. This board must have at least one technical member and one judicial member. It is located in Delhi, Mumbai, Chennai, Ahmedabad, and Kolkata. The High Court has the authority to hear cases of violations (Roy et al, 2012).

4. Structure and Jurisdiction of IP Tribunals in Pakistan

According to section 16 of IPO Act, In the district courts of Pakistan, an IP Tribunal has been established, which has the authority to hear cases related to violations or infringements of intellectual property laws such as patents, trademarks, designs, layout designs of integrated circuits, geographical indications, and copyrights. In the IP tribunals, special IP judges are selected, and there is regular monitoring of their capacity development. The exclusive jurisdiction to hear any offenses under intellectual property laws is held by the IP tribunals. The high court, which has regional jurisdiction, has the authority to appeal the final decision or order of the IP Tribunal. This helps the affected party in safeguarding their intellectual property rights. IP Tribunals have now been established and they have the authority to make decisions.

The chairperson of IP tribunals is usually a senior judge who has specific expertise in intellectual property law. In addition to the chairperson, there may also be members with expertise in particular intellectual property matters, such as legal experts or specialists with experience in science, technology, or industry-related fields. The members are appointed based on their expertise in the technical aspects of intellectual property law and industrial design, patents, trademarks, and copyrights. The court's ability to effectively handle complex and specific cases is ensured by their composition. In IP disputes, informed decisions are possible due to the court's structure, which combines legal and technical expertise. Administrative and support staff also provide assistance in procedural aspects so that the courts can function properly. This procedure aims to ensure that IP matters are handled by individuals who possess the necessary training and expertise, while also enhancing the effectiveness of decision-making.

4.1 Role of IP Tribunal Members

In Pakistan, members of Intellectual Property (IP) tribunals play an important role in resolving disputes regarding IPRs and their enforcement. These tribunals typically operate under the presidency of a judge who often possesses specialized knowledge or training in IP law, with legal and technical experts providing assistance as needed. Their primary functions include resolving disputes related to IP infringement, such as matters involving patents, trademarks, and copyrights, as well as addressing counterfeiting and copyright issues. Tribunal members are responsible for interpreting and applying IP laws, ensuring prompt and fair decisions, and providing remedies such as damages, injunctions, or fines. They also handle appeals against decisions made by IP registrars or controllers. By offering specialized expertise and straightforward

processes, IP tribunal members enhance the effective operation of Pakistan's IP enforcement system, protecting the rights of creators and businesses and promoting innovation.

4.2 Jurisdiction of Tribunals over IP disputes

According to the provisions of the IPO Pakistan Act 2012, Under the Code of Civil Procedure 1908, the Intellectual Property Tribunal of Pakistan exercises its civil jurisdiction with all the powers of a civil court. According to the Criminal Procedure Code of 1898, the tribunal has the authority to conduct cases against the crimes defined by this act within its criminal jurisdiction. This authority is similar to that of the session court. In cases where the Act does not provide particular procedural instructions, the Tribunal follows the processes outlined by the Code of Civil Procedure. Sections 193 and 228 of the Pakistan Penal Code guarantee the legality of all proceedings before the Tribunal since they are considered judicial proceedings (Pakistan Penal Code (Act XLV of 1860), n.d). The tribunal has special jurisdiction over matters that fall under its purview and is protected from interference by other courts, except for those cases that were under consideration before the enforcement of the act. To ensure that IP matters are resolved effectively, pending cases or actions under intellectual property regulations are transferred to the tribunal, which resumes them from the previous stage without the need to summon witnesses again or re-hear the case. The Intellectual Property Tribunal is the sole authority capable of initiating and handling any civil actions or cases related to intellectual property violations. Furthermore, the Tribunal possesses unique jurisdiction to make decisions regarding cases related to violations of intellectual property laws, regardless of any provisions that may exist in other applicable laws. It guarantees a special and credible forum for resolving such matters.

4.3 Appeal on IP Cases

Disputes regarding intellectual property in Pakistan are resolved through IP tribunals, whose decisions should be made within ninety days. Before appointing the president of Pakistan's IP tribunal, the federal government consults with the Chief Justice of the High Court. The IP tribunal has the authority to consult IP experts during the proceedings involving the parties in the dispute, and the parties are required to pay the experts' fees (Daudpota, 2016). The IP Tribunal has the authority to hear all cases related to IP in Pakistan. Cases transferred from the court to the IP Tribunal must be heard from the point where the court left off, and there is no need to restart the case or re-record evidence by calling witnesses. Once the IP Tribunal delivers its decision, the affected party can appeal the IP Tribunal's decision before the High Court within 30 days.

In the case of *Well Aktineesellschaf v. Shamim Akhtar* (*Wella Aktineesellschaf v. Shamim Akhtar and Other*, 2015), Wella Aktineesellschaf, a manufacturer and exporter of cosmetics, has applied to register the trademarks "WELAFORM," "WELAFLEX," and "WELA with Device" in the Pakistani Trademark Registry in relation to the production and export of soaps, oils, medicines, cosmetics, cleaning products, hair-related products, and other related items. The registration application was approved by the Trademark Registrar, and the trademarks "WELAFORM," "WELAFLEX," and "WELA with Device" were registered. However, the owner of a registered trademark failed to use it within the specified three years after the Ministry of Commerce, Government of Pakistan imposed a ban on the export of cosmetics, cleaning supplies, and related items. Respondent Shameem Akhtar filed an application to register similar trademarks and challenged the applicant's registration, claiming that the applicant had not used the registered items within the specified time. The Trademark Registrar accepted the respondent's application and removed the applicant's trademarks "WELAFORM," "WELAFLEX," and "WELA with Device" from the register. The Sindh High Court upheld the Registrar's decision, after which the applicant Vila Akteniseilshaf appealed against it. The Supreme Court

of Pakistan heard the applicant's second appeal and ruled that "WELAFORM," "WELAFLEX," and "WELA with Device" are trademarks (Mukhtar et al, 2018).

5. Remedies Available in Intellectual Property Laws

The existing IP laws of the Pakistan provide sufficient remedies including criminal as well as civil, against the violation of registered intellectual property rights under the respective IP law.

Table I: Remedies available in Intellectual property laws

IP Laws	Status	Remedies
The Patents Ordinance, 2000	Offence: Infringement Non-Cognizable Offence (Section 60 to 67).	Civil Remedy: Damages and compensation of estimated loss
The Registered Designs Ordinance, 2000	Offence: Infringement Non-Cognizable Offence (Section 8)	Civil Remedy: Damages and compensation of estimated loss
The Copyrights Ordinance, 1962	Offence: Piracy Cognizable and Non-bailable Offence (Section 66 -74)	Maximum imprisonment up to 3 years. Fine up to one-hundred thousand rupees. Double Fine on repetition of offence. Civil Remedy: Damages and compensation of estimated loss
The Trade Mark Ordinance, 2000	Offence: Counterfeiting Non-Cognizable Offence (Section 99 to 107)	Maximum imprisonment up to 2 years. Minimum fine Rs.50,000 Civil Remedy: Damages and compensation of estimated loss.

5.1 The Pakistan Penal Code, 1860

The provisions 478, 479, 480, 481, 482, 483, 485, 486, 487, 488, and 489 of the Pakistan Penal Code, 1860 (PPC, 1860) are included in the schedule of the IPO Act of 2012, which is in addition to the current IP laws. These provisions of the PPC 1860 apply when there is a violation of registered trademarks and service marks (counterfeiting). Under the aforementioned provisions of the PPC, 1860, the punishment for represent, manufacture, process, sell, or tamper with goods that are falsely identified as trademarks.

5.2 The Customs Act, 1969 of Pakistan

The Custom Act, 1969(IV of 1969) The law of Pakistan prohibition on the import of products that violate trademarks, copyrights, integrated circuit layouts and designs, industrial designs, and production patents. It empowers authorities to seize, detain, or confiscate such counterfeit or illegal products. Sections 15, 16, 17, and 156 of the Customs Act of 1969 assist with effective border control and enforcement of intellectual property rights.

5.3 The Federal Investigation Agency Act, 1974

The mention of copyright infringement is included in the Copyright Ordinance, 1962 (amended in 2000) and is part of the schedule of the Federal Investigation Agency Act, 1974 (VIII of 1974). The FIA is an elite agency known for its effective measures against white-collar crimes and its good reputation in managing such issues in the country. This connection of copyright crimes to the FIA symbolizes the federal government's seriousness towards the enforcement of intellectual property rights. Pakistan Penal Code, 1860 (PPC, 1860).

5.4 The Pakistan Electronic Media Regulatory Authority Act, 2002

The federal government is taking steps to enforce effective IPRs in the media industry. The issue of copyright infringement, such as that of digital content or copyright work on electronic media, is protected under Section

20(g) of the Pakistan Electronic Media Regulatory Authority Act 2002 (amended 2007). This clause is obligated to prevent the broadcasting or distribution of any program or advertisement that violates copyright or other property rights.

6. Recommendations

Below are the recommendations that aim to enhance IP regime and address gap in Pakistan. In Pakistan current enforcement IP tribunals. The implementation of these recommendations is expected to enhance the safeguard of personal information and increase confidence in creation and innovation in Pakistan.

1. Judicial inefficiencies, bureaucratic delay, and lack of public awareness cause hindrance to the enforcement of IP decisions in Pakistan; it should conduct a detailed study to analyze these hindrances in practice.
2. Further research ought to examine some of the systemic issues surrounding IP Tribunal such as limited resources available (e.g., insufficient staff, training and technical facilities), the effect of judicial backlog, and the relevance of expert legal knowledge amongst judges and law enforcement agencies. The contraposition with other jurisdictions that possess a stronger enforcement mechanism to IP (e.g. Germany and China that is implied by the existing literature) might be valuable and transferable best practices.
3. It is imperative to discuss the possibilities to increase enforcement, including the potential of the alternative dispute resolution mechanisms, the role of the public-private partnership in anti-counterfeiting non-compliance and anti-piracy, and the efficiency of the awareness-raising campaigns at both the right holder's royalty and the general population.
4. Pakistan should establish IP tribunals in major divisions of each province and also open technical centers for innovations and to ensure the safeguarding of Intellectual Property Rights.
5. Studies should propose policy recommendations to strengthen institutional capacity, enhance inter-agency coordination, and promote alternative dispute resolution mechanisms to ensure timely and effective enforcement of IP tribunal decisions in Pakistan.

7. Conclusion

To conclude, Intellectual property is vital in the current global situation, emerging in every field of life, making IP protection necessary. Likewise, the other countries of the world Pakistan, also established IP tribunals for IP cases. These tribunals with the specialized judges, broad criminal and civil jurisdiction, and clear appellate mechanism are setup in Pakistan. It helps the enforcing of IP rights and boosts new innovations and foreign investment. The Pakistan Penal Code, Customs Acts, Pakistan Electronic Media Regulatory Authority Act, and IP Ordinances provide comprehensive remedies for the strengthen the IP Laws in Pakistan.

Pakistan has effort to IP law with the international standard and follow the international conventions and agreements to build a legal and institutional framework for IP protection. The situation of IP tribunals in Pakistan is not so good; the judges and staff have limited resources. In the procedural aspect, under these circumstances, it should provide swift dispute resolution. Furthermore, as the technology of the world rapidly advances need to reshape the legal framework of Intellectual Property. It affects the new challenges on the existing laws and enforcement strategies. AI-related infringement and digital piracy will be critical. Pakistan should refine the IP enforcement mechanism with the new technology and solid commitment to attracting foreign investment, which is best for the development of Pakistan in the 21st century.

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