



# IP in India: right owners' reasons for optimism

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India has been accused of showing an attitude of protectionism in its IP policies, but a number of decisions demonstrate attempts by the Indian judiciary to uphold the IP rights of innovators. Hemant Singh of Intl Advocare reports.

Recent decisions in intellectual property cases delivered by the Indian judiciary have made significant progress in interpreting some of the key statutory provisions of IP legislation, having far-reaching implications for the nature and extent of IP protection and enforcement in India. A few prominent decisions in this area and the trends being set are worth noting.

### **Patent revocation**

A person aggrieved by the grant of a patent has several options to challenge the validity of the granted patent under the

provisions of the Patents Act, 1970. These are (i) to challenge the grant through a post-grant opposition within one year from the publication of the grant; (ii) to apply for revocation before the Intellectual Property Appellate Board (IPAB); and (iii) to seek revocation via a counter-claim in an infringement suit. There have been instances where a litigant has exercised more than one option by making multiple challenges to the grant of a patent before different authorities.

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