

Legal Issues in 'Valuation of IP Suits'

Issue: Whether Valuation of a Commercial IP Suit for the purposes of Court Fee can be Different from the 'Specified Value'?

Relevant Legal Provisions

❖ Section 2(1)(c), Commercial Courts Act, 2015 –

“‘commercial dispute’ means a dispute arising out of—

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

❖ Section 6, Commercial Courts Act, 2015 –

“Jurisdiction of Commercial Court.

*The Commercial Court shall have jurisdiction to try all suits and applications relating to **a commercial dispute of a Specified Value ...**” (Emphasis supplied)*

Relevant Legal Provisions (Contd.)

❖ Section 2(1)(i), Commercial Courts Act, 2015 –

“‘Specified Value’, in relation to a commercial dispute, shall mean the value of the subject-matter in respect of a suit as determined in accordance with section 12 which shall not be less than three lakh rupees...” (Emphasis supplied)

❖ Section 12, Commercial Courts Act, 2015 –

“Determination of Specified Value.

(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:— (d) where the relief sought in a suit, appeal or application relates to any other intangible right, the market value of the said rights as estimated by the plaintiff shall be taken into account for determining Specified Value;...” (Emphasis supplied)

Relevant Legal Provisions (Contd.)

❖ Section 8, Suits Valuation Act, 1887 –

“Court-fee value and jurisdictional value to be the same in certain suits.

Where in suits other than those referred to in the Court-fees Act, 1870 (7 of 1870), section 7, paragraphs v, vi and ix, and paragraph x, clause (d), court-fees are payable ad valorem under the Court-fees Act, 1870, the value as determinable for the computation of court-fees and the value for purposes of jurisdiction shall be the same.” (Emphasis supplied)

Relevant Legal Provisions (Contd.)

❖ Section 7, Court-fees Act, 1870 –

“Computation of fees payable in certain suits.

The amount of fee payable under this Act in the suits next hereinafter mentioned shall be computed as follows:—

*(iv) In suits— for an injunction.— (d) to obtain an injunction — **according to the amount at which the relief sought is valued in the plaint or memorandum of appeal...**” (Emphasis supplied)*

Relevant Legal Provisions (Contd.)

- ❖ **Section 26, Karnataka Court-fees and Suits Valuation Act, 1958 –**
- ❖ **Section 27, Kerala Court-Fees and Suits Valuation Act, 1959 –**

“Suits for injunction.

In a suit for injunction,—

*(c) in any other case, whether the subject-matter of the suit has a market value or not, **fee shall be computed on the amount at which the relief sought is valued in the plaint or on rupees one thousand, whichever is higher.**” (Emphasis supplied)*

Relevant Judicial Decisions

- ❖ ***Mrs. Soni Dave v. M/s Trans Asian Industries [AIR 2016 Del 186]***
 - *“The Commercial Courts Act has not been enacted to interfere with the Courts Fees Act or the Suits Valuation Act... In my view Section 12 of the Commercial Courts Act providing for determination of specified value as defined in Section 2(i) thereof is not intended to provide for a new mode of determining the valuation of the suit for the purpose of jurisdiction and court fees. It would be incongruous to hold that while for the purpose of payment of court fees the deemed fiction provided in the Court Fees Act for determining the value of the property is to apply but not for determining the specified value under the Commercial Courts Act.” (Emphasis supplied)*

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Relevant Judicial Decisions (Contd.)

- ❖ ***C.K. Surendran v. Kunhimoosa*** [CRP 146/2021, Order dated September 17, 2021, Kerala High Court]
 - “...*the provisions of the Commercial Courts Act and the Court Fees Act should be interpreted harmoniously. Section 27 of the Court Fees Act deals with suits for injunction...In a suit for injunction simplicitor, it is the value of the relief claimed and not the value of the property involved that determines the jurisdiction. ‘Subject matter’ is the substance for adjudication and has reference to the right which the plaintiff seeks to enforce and the valuation of the suit depends upon the value of the subject matter.*” (Emphasis supplied)

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Relevant Judicial Decisions (Contd.)

❖ ***Kirloskar Aaf Limited v. M/s. American Air Filters Company Inc.*** [RFA 1/2015, Order dated September 25, 2018, Karnataka High Court]

- *“The Karnataka Court Fees and Suits Valuation Act deals with the calculation of Court Fees. Section 26 of the said Act clearly states that in a suit for injunction, whether the subject-matter of the suit has a market value, or not, the fee shall be computed on the amount at which the relief sought is valued in the plaint...Therefore, a distinction has to be made between the value of the subject-matter, and the calculation of Court fees. According to Section 26(c), the Court fee shall be based on the relief sought, and the value of the relief mentioned in the plaint. Admittedly, in the present case, in the plaint, the relief sought was valued as Rs.3,000/-. But nonetheless, the value of the subject-matter, that is the infringement of the trademark, has not been stated. But considering the fact that the dispute relates to the infringement of trademark that too by a company, the value of the subject matter can safely be taken to be more than Rs.3,00,000/-.” (Emphasis supplied)*

Relevant Judicial Decisions (Contd.)

❖ *Lalit Babbar v. Remson Prime Technologies Pvt. Ltd.* [CS(COMM) No. 1857/2020, Order dated December 23, 2020, Tiz Hazari District Court, Delhi]

- “...there is no room for any dispute about the aspect, that the Commercial Courts Act has not done away with or repealed the Court Fee Act or the Suit Valuation Act. All these three Acts thus have to be read harmoniously so that all of them sustain and remain valid...**From the scheme of the Commercial Courts Act, 2015, it is manifestly clear that the 'specified value' of a commercial suit may be different from the valuation under the Suit Valuation Act or the valuation for the purposes of the payment of court fee. Different yardsticks, as laid down under the different statutes, shall apply for the respective determination be it the specified value; valuation for the purpose of jurisdiction and the valuation for the purpose of payment of court fee.**” (Emphasis supplied)

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Relevant Judicial Decisions (Contd.)

- ❖ ***Vishal Pipes Limited v. Bhavya Pipe Industry*** [FAO-IPD 1/2022 and CM Appls. 12-14/2022, Order dated June 3, 2022, Delhi High Court]
 - *“In IPR disputes, the relief of injunction or damages may be valued by the plaintiff, at an amount lower than the sum of Rs.3 lakhs and Court fee may be paid on that basis. If such valuation is permitted, despite some objective criteria being available for valuing IPR - in the CCA - it would defeat the very purpose of the enactment of special provisions for IPR statutes and the CCA. **These statutes would have to be harmoniously construed**...Thus, it would be mandatory for IPR suits to be ascribed a 'specified value', in the absence of which the valuation of the suit below Rs.3 lakhs would be arbitrary, whimsical and wholly unreasonable. In this view, intellectual property rights being intangible rights, some value would have to be given to the subject matter of the dispute as well. **The Court would have to take into consideration the 'specified value' based upon not merely the value of the relief sought but also the market value of the intangible right involved in the said dispute.**” (Emphasis supplied)*

Conclusion

- ❖ The Commercial Courts Act provides that only those commercial disputes whose ‘specified value’ is equal or above 3 lakhs rupees will be treated as commercial disputes under the Act.
- ❖ The opinions of various High Courts, on the question as to how ‘specified value’ is to be examined and whether valuation of a suit has any role in the same, are varied.
- ❖ The Delhi High Court and Kerala High Court have held that the valuation of the suit for the purposes of Court fee cannot be different from the ‘specified value’.
- ❖ The Karnataka High Court has taken a view that the value of the suit for the purpose of Court fee and the ‘specified value’ of the suit for exercising jurisdiction in an IPR matter could be different.
- ❖ However, the Delhi High Court recently held that Court would have to take into consideration the ‘specified value’ based upon not merely the value of the relief sought but also the market value of the intangible right involved in the said dispute.

THANK YOU!
Questions?

Yash Raj, Associate

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