

**PARTNER**

## Vaishali R Mittal

Partner- Litigation &amp; Strategist

Often recognised as a 'Top Tier Litigator', Vaishali's is clearly a legacy of landmarks – Her cases are hotly contested, heavily debated, extremely complex and equally decisive for the future of IP jurisprudence. She is also the go-to attorney for SEP matters.

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### Overview

Vaishali R Mittal has more than 20 years' experience in Intellectual Property Litigation where she has played leadership roles in some of the most complex and extremely decisive matters in the IP domain.

Vaishali is clearly one of the most sought-after IP litigators with emphasis on Standard Essential Patents.

Her practice is both transactional and litigation. Vaishali has enabled the firm to secure India's first judgement on Product-by-Process Patent in Vifor International v MSN Labs & Ors, India's first protem security order in Nokia v Oppo, India's first Anti-Anti-Suit Injunction in InterDigital Corp & Ors v Xiaomi Corp & Ors; nation's first final judgment on the issue of Standard Essential Patents in Philips v. KK Bansal; Philips v. Rakesh Bansal; landmark judgment on highest ever quantum of damages in a copyright, trademark and design infringement case in Philips v. Amazestore & Ors; first judgement



recognising a colour combination (green and yellow) a well-known trademark in *Deere & Co. & Anr. v. Mr. Malkit Singh & Ors.*

She also led from the front in the high-stake face-off between Nokia and Lenovo resulting in a multi-year, multi-technology Patent Cross-license Agreement between the two tech giants, and settlement of all pending patent litigation worldwide.

Also to her credit are the landmark judgement on issue of trans-border reputation; judgment providing much-needed relief to patent holders from strict liability under the disclosure regime of section 8 of the Patents Act, 1970 and also the judicial recognition that “trade-secret” disputes can be considered as “commercial disputes” under the Commercial Courts Act, 2015 despite lack of statutory recognition of trade secrets as intellectual property in India. She also represented Vifor Pharma International (Galenica Group), in *Vifor v. High Court of Delhi* in a writ petition before the Delhi High Court resulting in, to the relief of scores of intellectual property owners, a stay of the transfer of at least 20,000 intellectual property lawsuits (valued under INR 1 crore) from the High Court to subordinate district courts, in the aftermath of the promulgation of the Commercial Courts Act, 2015.

When not on her feet, Vaishali chooses the medium of writing to express her genuine ingenuity and commitment to the cause of IP through articles published in leading national and international publications like *Managing IP*, *Kluwer Patent Blog*, *Asia IP*, *Vantage Asia*, *Chambers and Partners*, *Expert Guides*, *Thomson Reuters*, *Lexology* etc. She has also co-authored ‘*IPONOMICS*’, a picturesque coffee table book compiling celebrated IP matters, and ‘*Origami*’, an in-house knowledge manual on Best Practices and Procedures of IP practice in India, for law firms and companies.

## Awards & Recognition

### Recognitions at firm level:

- Vifor CCI matter – IBLJ Deal of the Year 2022
- InterDigital vs Xiaomi – IBLJ Deal of the Year 2020 and MIP India Case of the Year at Asia Pacific Awards 2023
- Nokia and Lenovo Multi-year, Multi-technology Patent Cross-license Agreement – IBLJ Deal of the Year 2021

### Individual Recognitions

#### Year 2024



- Ranked in IP Litigation department of Chambers and Partners Asia Pacific Guide 2024
- WTR 1000 recommended individual
- IBLJ A-List 2023-24

#### **Year 2023**

- IBLJ A list lawyer 2022-23
- Lexology Client Choice Award
- Ranked in IP Litigation department of Chambers and Partners Asia Pacific Guide 2023
- Leading Individual – Legal 500 Asia Pacific Rankings 2023
- ALB India Top IP Lawyers 2022
- IAM Patent 1000 2023 (Gold Band)

#### **Year 2022**

- Ranked in IP Litigation department of Chambers and Partners Asia Pacific Guide 2022
- MIP IP Stars 2022 – Patent Star
- Leading Individual – Legal 500 Asia Pacific Rankings 2022
- IBLJ A list lawyer 2021-22
- AsiaIP IP Expert
- Ranked amongst Asia's Top 15 Female 2022 Lawyers by Asian Legal Business
- IP Stars 2022 – Patent Star by Managing Intellectual Property
- IAM Strategy 300 Global Leaders 2022
- World's Leading Patent Professionals *IAM 1000 2022*
- ALB Asia Top 15 Female Lawyers for 2022
- Leaders League Leading Lawyer – patent and trademark
- Lexology Client Choice Award
- ALB India Top Dispute Lawyers 2022

#### **Year 2021**

- Ranked in IP Litigation department of Chambers and Partners Asia Pacific Guide 2022
- MIP IP Star 2021
- Ranked amongst Top IP Litigators in India 2021 by Thomson Reuters Asian Legal Business
- Amongst Top 10 Women in IP – ASSOCHAM IP Excellence Awards 2021
- WIPR Diversity Women in IP 2021
- Amongst 'Top Individual Lawyers' for 'IP' and 'Pharma & Life Sciences' –Forbes Legal Powerlist 2020
- 'Leading Individual' – Legal 500 Asia Pacific Rankings. Recognized as "leading name in patented technology litigation, specifically regarding SEPs in the telecoms sector"
- World's Leading Strategists – IAM 300 Global Leaders



- World's Leading Patent Professionals IAM 1000 & IAM 300 (2021)

## Career Highlights

**The following is a partial listing of some of the path-breaking representative matters handled by Vaishali.**

- Vifor International v MSN Labs & Ors – India's first judgement on Product-by-Process Patent
- Anil Kapoor v Simply Life India – Judgement highlighting misuse of generative AI to infringe personality right
- Nokia v Oppo – India's first protem security order
- InterDigital Corp & Ors v Xiaomi Corp & Ors – India's first Anti-Anti Suit injunction
- Multi-year, Multi-technology Patent Cross-license Agreement between Nokia and Lenovo, and settlement of all pending patent litigation worldwide
- Renaissance Hotel Holdings Inc v B Vijaya Sai & Ors:- first decision from the Supreme Court of India clearly distinguishing between section 29 (2) and section 29 (4) of the Trade Marks Act, 1999
- Lysosomal Storage Disorders Support Society (LSDSS) vs State of Karnataka – represented the petitioner pro bono and secured free medical aid for children braving rare genetic disorders after several years of legal battle with the State and the Centre
- Represented Koninklijke Philips NV before the Delhi High Court in two heavily contested patent battles namely: Philips v. KK Bansal; Philips v. Rakesh Bansal, securing India's first final judgment on the issue of Standard Essential Patents
- Represented Nokia in various pre-suit mediation claims concerning infringement of Standard Essential Patents before the Delhi High Court
- Represented Koninklijke Philips N.V. before the Delhi High Court in two landmark heavily contested design and infringement of trademark lawsuits namely: Philips v. Amazestore & Ors. and Philips v. Amitkumar Kantilal Jain & Ors, securing a landmark judgment on the highest ever quantum of damages in a copyright, trademark and design infringement case in India
- Represented Astrazeneca AB before the Delhi High Court against leading pharmaceutical companies Emcure Pharmaceuticals Limited and MSN Laboratories Limited in a highly contested patent infringement lawsuit, securing an ad interim injunction in favor of Astrazeneca
- Represented Toyota Motor Corporation, before the Delhi High Court and the Supreme Court of India, in Toyota v. Deepak Mangal, India's landmark judgment on the issue of trans-border reputation
- Represented John Deere in Deere & Co. & Anr. v. Mr. Malkit Singh & Ors.; India's first judgment recognizing a color combination of green and yellow as a trademark
- Represented John Deere in Deere & Co. v. S. Harcharan Singh & Ors.; India's first judgment declaring a color-combination as a well-known trademark
- Represented Koninklijke Philips N.V. in Maj. Sukesh Behl v. Philips; securing a landmark judgment



providing much-needed relief to patent holders from strict liability under the disclosure regime of section 8 of the Patents Act, 1970

- Represented Sanofi SA, a pharmaceutical company in Sanofi v. Kirti B. Maheshwari before the Delhi High Court, which saw the first instance of judicial recognition that “trade-secret” disputes could be considered as “commercial disputes” under the Commercial Courts Act, 2015. This is despite there being no statutory recognition of trade secrets as intellectual property in India
- Represented Vifor Pharma International (Galenica Group), a pharmaceutical company in Vifor v. High Court of Delhi in a writ petition before the Delhi High Court resulting in, to the relief of scores of intellectual property owners, a stay of the transfer of at least 20,000 intellectual property lawsuits (valued under INR 1 crore) from the High Court to subordinate district courts, in the aftermath of the promulgation of the Commercial Courts Act, 2015
- Represented BIC Cello Limited, before the Delhi High Court in a pre-suit mediation namely: BIC Cello v. Flair Pens Limited, settling a high stake claim between the companies concerning design infringement and trade dress passing off
- Represented Music Broadcast Limited, formerly known as Music Broadcast Pvt Ltd in India’s first compulsory licensing complaint & secured the first twenty licenses in its favour
- Secured declarations of Well-Known status of several trademarks as per section 2 (1) (zg) of the Trade Marks Act, 1999, including; Mitsubishi; Pulse, JIO, Honeywell; Microsoft; WWE, Rajnigandha etc
- Appointed as a Mediator by the Delhi High Court to facilitate an amicable settlement of complex copyright and design dispute
- Led the Intellectual Property arm of the team representing Embibe (Individual Learning Private Limited), an Artificial Intelligence-based start-up pioneering in the education industry, in its acquisition by one of the world’s biggest companies, Reliance Industries, in a multimillion-dollar deal in India
- Assisted the Sports Development Authority of India in the development of a “Sports Code” for India with a writ petition seeking its implementation presently pending before the Delhi High Court
- Legal advisor, assisting and spearheading various transactions with leading companies securing protection for their Intellectual Property and other legal compliances in India on issues such as Advertisement-Media campaigns, regulation requirements for electric products imports, imports of milk and other health hygiene products for infants etc



## RELATED PRACTICES

### LITIGATION

#### EDUCATION

- L.L.B (Gold-medalist) from Jamia Milia Islamia University, Delhi (2000-2003)
- Bachelor of Arts (History), Delhi University (1997-2000)

#### PROFESSIONAL INVOLVEMENT

- Member of AIPPI
- Member of APAA
- Member of INTA
- Bar Council of India
- Delhi High Court Bar Association

#### COMMUNITY INVOLVEMENT

Vaishali represented pro bono the Lysosomal Storage Disorders Support Society (LSDSS) in a writ petition which, after five years of legal tussle, resulted in the Karnataka High Court directing the State and the Centre to forthwith to provide Rs 6 cr for free medical treatment of 45 children suffering from life-threatening rare disorders. The order's ripple effect manifested itself in Madras HC coming to the aid of patients with life-threatening rare diseases. Setting this is a precedent, several other High courts are passing similar orders.

In another matter, the first civil suit to be filed during the Lockdown, the cost paid by the defendant was directed towards the treatment of a COVID-19 patient.



## News & Insights

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### [Bollywood wants to be part of OpenAI India copyright case](#)

'First published on AsialP' By: Vaishali R Mittal Bollywood music labels have expressed their own concerns regarding OpenAI and want to join the ongoing

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Thought Leadership • September 25, 2024

### [India: recent SEP rulings and evolving jurisprudence shaping patent landscape](#)

'First published on IAM' By: Vaishali R Mittal and Siddhant Chamola In summary This article covers the biggest judicial decisions in Indian patent

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### [Asialaw 2024 Rankings](#)

Anand and Anand has been recognised as an 'Outstanding Firm' for Intellectual Property in the asialaw 2024 Rankings. We have also been ranked 'Highly

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### [ALB India Super 50 Lawyers 2024](#)

Pravin Anand, Safir Anand, and Vaishali R Mittal have been featured in the 'India Super 50 Lawyers 2024' list by Asian Legal Business for their consistent

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