



Trade mark litigation in India: overview

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Vaishali Mittal provides an in-depth explanation of Trade mark litigation in India in Practical Law's country Q&As. [The complete Q&A can be accessed on Practical Law.](#) Excerpts from the guide.

What are the principal sources of law and regulation relating to trade marks and trade mark litigation?

National statutes The primary source of law governing trade marks in India is the Trade Marks Act 1999 (Trade Marks Act). This statute and the newly enacted Trade Marks Rules 2017 (see Question 38) form a comprehensive regulatory regime. In addition to statute law, official guidelines issued by the Trade Marks Office (TMO), such as the Trade Marks Manual, govern several aspects of trade mark law. **Judicial precedent** In India, decisions of the courts contribute extensively to the development of trade mark law. Decisions of High Courts (having appellate and writ jurisdiction) are binding on lower courts in their respective jurisdictions and they form an important source of trade mark law. Decisions of the Registrar of Trade Marks (RTM) as well as the Intellectual Property Appellate Board (IPAB) also are major contributors to trade mark law. **International treaties** International treaties and conventions are another source of law in this area. Where such treaties are adopted into domestic law, they become binding. For example, several provisions of the WTO Agreement on [Trade-Related Aspects of Intellectual Property Rights 1994](#) (TRIPS) were enacted in the Trade Marks Act. Where such treaties are not part of domestic law, they have persuasive though not binding value and help courts interpret difficult areas of domestic law. Treaties and conventions to which India is a signatory and which have been adopted into national law include, among others, the:

- TRIPS convention
- WIPO Madrid Agreement Concerning the International Registration of Marks 1891 (Madrid Agreement) and the WIPO Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks 1989 (Madrid Protocol).

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