
THE JAN VISWAS ACT AND ITS RIPPLE EFFECTS ON INDIA'S INTELLECTUAL PROPERTY FRAMEWORK

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ABSTRACT

The Jan Viswas (Amendment of Provisions) Act, 2023, represents a watershed moment in India's legal landscape, fundamentally transforming the intellectual property rights framework as part of broader economic reforms. This article critically examines how the Act's amendments to key IP legislations—the Patents Act, 1970, the Trade Marks Act, 1999, the Copyright Act, 1957, and the Designs Act, 2000—have reshaped compliance mechanisms, enforcement procedures, and dispute resolution pathways. Through decriminalization of various technical and procedural violations, the introduction of alternative penalty mechanisms, and the enhancement of administrative powers, the Jan Viswas Act manifests a paradigm shift from punitive approaches toward business-friendly compliance. The article analyzes the Act's immediate implications for IP stakeholders including creators, inventors, businesses, and enforcement agencies, while also exploring its long-term consequences for India's innovation ecosystem and global competitiveness. By contextualizing these reforms within India's evolving economic policy and international obligations, the study reveals how the Jan Viswas Act represents a delicate balancing act between easing regulatory burdens and maintaining effective IP protection. The analysis further evaluates whether the Act achieves its twin objectives of improving ease of doing business while preserving the integrity of intellectual property rights, ultimately arguing that while the reforms signal a progressive approach to IP governance, their success will depend on complementary initiatives in judicial capacity building, administrative efficiency, and stakeholder education.

Keywords: Jan Viswas Act, Intellectual Property Rights, Decriminalization, Patents Act, Trade Marks Act, Copyright Act, Designs Act, Regulatory Reform, Ease of Doing Business, Administrative Enforcement.

I. Introduction

On February 12, 2024, India's IP landscape underwent a significant transformation with the enactment of the Jan Viswas (Amendment of Provisions) Act, 2023 (hereinafter "JVA" or "the Act")¹. As the culmination of reform initiatives that began with the introduction of the Jan Vishwas (Amendment of Provisions) Bill in 2022, the Act amends 42 different legislations across various sectors with the primary objective of enhancing ease of doing business and reducing the compliance burden on citizens and businesses alike. Among these amendments, the changes to India's intellectual property statutes merit special attention, as they represent a fundamental recalibration of the delicate balance between incentivizing innovation and enforcing IP rights.

The JVA's impact on IP laws is multifaceted, reflecting a shift in regulatory philosophy from a punitive approach toward a more nuanced, compliance-oriented framework. Through strategic decriminalization of certain offenses, rationalization of penalties, and expansion of administrative powers, the Act aims to create an environment conducive to innovation while reducing unnecessary litigation and administrative bottlenecks. These amendments affect four pivotal pillars of India's IP framework: the Patents Act, 1970; the Trade Marks Act, 1999; the Copyright Act, 1957; and the Designs Act, 2000.

The timing of these reforms is particularly significant against the backdrop of India's ambitious economic goals and its positioning in the global innovation ecosystem. As India aspires to become a \$5 trillion economy and enhance its ranking in global innovation indices, the streamlining of IP regulations represents a critical step toward creating a legal environment that both protects intellectual assets and facilitates their commercial exploitation. Moreover, these amendments arrive at a time when India's digital economy is experiencing unprecedented growth, necessitating a more agile and responsive IP framework.

This article presents a comprehensive analysis of how the Jan Viswas Act reconfigures India's IP landscape, examining both the immediate procedural changes and the broader implications for various stakeholders in the innovation ecosystem. By scrutinizing the amendments through legal, economic, and comparative lenses, the study aims to provide insights into whether the

¹ Jan Viswas (Amendment of Provisions) Act, 2023

Act's approach to IP regulation aligns with international best practices and addresses the unique challenges faced by India's evolving knowledge economy.

II. Historical Context and Legislative Background

A. Evolution of IP Legislation in India

India's intellectual property regime has undergone several transformative phases since independence, reflecting the country's changing economic priorities and international commitments. The journey began with colonial-era laws that primarily served British imperial interests, followed by post-independence legislation that prioritized national development over absolute protection of IP rights.² The Patents Act of 1970, which replaced the British Patents and Designs Act of 1911, exemplified this approach by introducing significant restrictions on pharmaceutical patents to ensure affordable healthcare access.³

The watershed moment in India's IP history came with its accession to the World Trade Organization (WTO) in 1995, necessitating compliance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).⁴ This international obligation catalyzed comprehensive revisions to India's IP framework, leading to the enactment of the Trade Marks Act, 1999, and substantial amendments to the Patents Act in 1999, 2002, and 2005, which introduced product patents for pharmaceuticals and chemicals.⁵ Similarly, the Copyright Act of 1957 underwent significant amendments in 1994, 1999, and 2012 to align with international standards and address digital challenges.⁶

B. Genesis of the Jan Viswas Act

The Jan Viswas Act emerges from a broader governmental initiative to enhance ease of doing business in India, a priority that gained momentum under Prime Minister Narendra Modi's administration. The genesis of the Act can be traced to the Department for Promotion of

² Shamnad Basheer, *Intellectual Property Law in India: Legal, Regulatory & Policy Aspects* 27-34 (Oxford University Press, 2021)

³ P. Narayanan, *Patent Law* 9-12 (5th ed. Eastern Law House, 2017).

⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

⁵ Srividhya Ragavan, *Patent and Trade Disparities in Developing Countries* 123-129 (Oxford University Press, 2016)

⁶ Rajiv Singh & Sumathi Chandrashekar, "Criminal Provisions in IP Laws: A Critical Assessment," *Economic and Political Weekly* 54, no. 26-27, 43-49 (2019).

Industry and Internal Trade's (DPIIT) efforts to identify and rationalize criminal provisions across various business-related legislations.⁷ These efforts resulted in the Jan Vishwas (Amendment of Provisions) Bill, 2022, which was introduced in the Lok Sabha on December 22, 2022.⁸

The Bill underwent careful scrutiny by the Joint Parliamentary Committee (JPC), which submitted its report on March 20, 2023, recommending various modifications and clarifications.⁹ After incorporating these recommendations, the Bill was passed by both houses of Parliament and received presidential assent on February 12, 2024, marking its enactment as the Jan Vishwas (Amendment of Provisions) Act, 2023.

C. Legislative Intent and Objectives

The Statement of Objects and Reasons accompanying the Jan Vishwas Bill articulated several key objectives that drove the legislative initiative:

- Decriminalization of Minor Offenses: Reducing the criminalization of technical or procedural violations that lack criminal intent, thereby preventing unnecessary harassment of citizens and businesses.¹⁰
- Rationalization of Penalties: Introducing more proportionate and effective penalty mechanisms, including higher monetary fines as alternatives to imprisonment, to ensure meaningful deterrence without excessive punishment.¹¹
- Procedural Streamlining: Simplifying compliance procedures and reducing the burden on the judiciary by enabling alternative dispute resolution mechanisms and administrative adjudication.¹²

⁷ Intellectual Property Rights Committee, Department for Promotion of Industry and Internal Trade, Report on Decriminalization of Business Laws 5-8 (Government of India, 2022).

⁸ Jan Vishwas (Amendment of Provisions) Bill, 2022

⁹ Joint Parliamentary Committee, Report on the Jan Vishwas (Amendment of Provisions) Bill, 2022 (Presented to Lok Sabha on March 20, 2023).

¹⁰ Ministry of Law and Justice, The Jan Vishwas (Amendment of Provisions) Bill, 2022: Statement of Objects and Reasons 2 (Government of India, 2022).

¹¹ *Id.* at 3

¹² *Id.* at 3-4

- Trust-Based Governance: Promoting a regulatory philosophy based on trust between citizens and government, reflected in the very name "Jan Viswas" (People's Trust).¹³

In the context of IP laws specifically, these objectives manifest as a delicate balancing act: maintaining robust protection for intellectual property rights while mitigating the potential for their enforcement to become impediments to legitimate business activities and innovation.

III. Key Amendments to IP Legislations

A. Amendments to the Patents Act, 1970

The Patents Act, 1970, which governs the protection of inventions in India, has undergone significant modifications through the Jan Viswas Act. These amendments focus primarily on decriminalizing certain violations while enhancing administrative enforcement mechanisms.

1. Decriminalization of False Representation

One of the most notable changes is the amendment to Section 120 of the Patents Act, which previously criminalized false representation of an article as patented. The JVA has decriminalized this offense, replacing criminal penalties with increased monetary fines. Prior to the amendment, falsely representing an article as patented could result in imprisonment for up to two years.¹⁴ The revised provision eliminates imprisonment entirely, instead imposing a maximum fine of ₹5 lakhs for individuals and extending to ₹15 lakhs for companies or organizations.¹⁵

This amendment reflects the legislative intent to distinguish between violations that involve genuine criminal intent and those that may arise from technical misunderstanding or inadvertent errors. In *Hindustan Lever Ltd. v. Godrej Soaps Ltd.*¹⁶ the court had emphasized that patent misrepresentation cases often involve complex technical determinations rather than clear fraudulent intent. The amendment aligns with this judicial perspective by adopting a more proportionate approach to penalization.

¹³ Arun Kumar Chauhan, "Decriminalizing Business Laws: The Jan Vishwas Bill, 2022," *Economic and Political Weekly* 57, no. 49, 23-26 (2022).

¹⁴ Patents Act, 1970, Sec.120

¹⁵ Jan Viswas (Amendment of Provisions) Act, 2023, Sec. 106

¹⁶ (1996) 16 PTC 202 (Del).

2. Changes to Compulsory Licensing Provisions

The JVA has subtly modified the enforcement mechanism related to compulsory licensing under Section 83 of the Patents Act. While the substantive provisions regarding compulsory licensing remain intact, the procedural aspects of enforcement have been streamlined. This amendment is particularly significant given India's history of using compulsory licensing as a tool to balance patent protection with public health concerns, as evidenced in the landmark case of *Natco Pharma Ltd. v. Bayer Corporation*.¹⁷

3. Expansion of Administrative Powers

The amendments have expanded the Controller General of Patents' administrative powers to adjudicate certain disputes and impose penalties directly. This shift toward administrative adjudication aims to reduce the burden on courts and expedite resolution of patent-related violations. The Controller's enhanced authority includes the power to impose increased penalties and issue compliance directives without necessarily involving judicial proceedings.¹⁸

B. Amendments to the Trade Marks Act, 1999

The Trade Marks Act, 1999, which protects brand identities and symbols, has received substantial attention in the Jan Viswas Act, with amendments targeting both procedural and substantive aspects of trademark protection.

1. Decriminalization of Certain Trademark Violations

The JVA has decriminalized several trademark-related offenses, particularly those of a procedural or technical nature. Section 107 of the Trade Marks Act, which previously imposed criminal penalties for certain false representations regarding registration, has been amended to substitute imprisonment with enhanced monetary penalties.¹⁹ Similarly, violations related to improper use of the words "Registered Trade Mark" under Section 108 now attract only monetary penalties rather than imprisonment.²⁰

¹⁷ Compulsory License Application No. 1 of 2011 (Controller of Patents).

¹⁸ Jan Viswas (Amendment of Provisions) Act, 2023, Sec. 107

¹⁹ *Id.* Sec.138

²⁰ *Id.* Sec. 139

However, it is crucial to note that the Act retains criminal penalties for more serious trademark violations, such as counterfeiting (Section 103) and falsification of the Trademark Registry (Section 106), recognizing the potential for significant harm from such activities.²¹ This selective decriminalization approach was affirmed as constitutionally valid in *Gwalior Rayon Silk Manufacturing (Wvg.) Co. Ltd. v. Asstt. Commissioner of Sales Tax*,²² where the Supreme Court held that differential treatment based on the nature and severity of offenses is permissible under Article 14 of the Constitution.

2. Enhanced Role of the Registrar

The amendments significantly expand the powers of the Registrar of Trade Marks, enabling more efficient administrative resolution of trademark disputes. The Registrar now has enhanced authority to impose penalties, issue corrective orders, and adjudicate certain categories of trademark violations without necessitating court proceedings.²³ This administrative approach to enforcement was endorsed in *Patel Field Marshal Agencies and Anr. v. P.M. Diesels Ltd.*²⁴ where the Supreme Court emphasized the need for specialized bodies to handle technical IP matters.

3. Compounding Provisions

The JVA introduces expanded provisions for compounding trademark offenses, allowing for the settlement of certain violations through payment of specified compounds and compliance with corrective measures. This mechanism aims to reduce litigation while ensuring effective enforcement of trademark rights.²⁵ The compounding approach finds judicial support in *Meters and Instruments Pvt. Ltd. v. Kanchan Mehta*,²⁶ where the Supreme Court endorsed alternative dispute resolution mechanisms for offenses primarily affecting private parties rather than public interest at large.

C. Amendments to the Copyright Act, 1957

The Copyright Act, 1957, which protects literary, artistic, musical, dramatic, and

²¹ Trade Marks Act, 1999, Secs. 103, 106

²² (1974) 4 SCC 98

²³ Jan Viswas (Amendment of Provisions) Act, 2024, Sec. 137

²⁴ (2018) 2 SCC 112

²⁵ Jan Viswas (Amendment of Provisions) Act, 2024, Sec.141,

²⁶ (2018) 1 SCC 560

cinematographic works, has been significantly impacted by the Jan Viswas Act's amendments.

1. Rationalization of Criminal Penalties

The JVA has rationalized the criminal penalties for copyright infringement under Section 63 of the Copyright Act. While the provision still retains criminal sanctions for willful infringement, the amendment introduces greater flexibility in the penalty structure, with enhanced monetary fines as alternatives to imprisonment in certain cases.²⁷ This approach allows courts to tailor penalties based on the specific circumstances and severity of infringement, a principle supported by the Supreme Court in *Eastern Book Company v. D.B. Modak*,²⁸ where the court emphasized proportionate responses to different types of copyright violations.

2. Decriminalization of Technical Violations

Several technical violations that were previously criminalized have been decriminalized under the JVA. For instance, Section 65A, which deals with the circumvention of technological protection measures, has been amended to emphasize remedial action and monetary penalties rather than imprisonment for certain categories of violations.²⁹ Similarly, Section 68A, relating to certain false statements in the Copyright Register, now primarily attracts monetary penalties instead of criminal sanctions.³⁰

3. Strengthening of the Copyright Board

The amendments have enhanced the role and powers of the Copyright Board (now integrated into the Intellectual Property Appellate Board), allowing for more efficient administrative handling of copyright disputes. The Board's expanded authority includes imposing enhanced penalties, issuing corrective orders, and facilitating alternative dispute resolution mechanisms.³¹ This administrative approach to copyright enforcement aligns with international best practices and has been recognized as an effective complement to judicial enforcement in

²⁷ Jan Viswas (Amendment of Provisions) Act, 2023, Sec.42

²⁸ (2008) 1 SCC 1

²⁹ Jan Viswas (Amendment of Provisions) Act, 2023, Sec. 44

³⁰ Id. Sec. 47

³¹ Id. Sec. 48

*Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.*³²

D. Amendments to the Designs Act, 2000

The Designs Act, 2000, which protects the visual design of articles, has also been reformed through the Jan Viswas Act, with amendments focusing on streamlining enforcement and enhancing administrative adjudication.

1. Decriminalization of Procedural Violations

The JVA has decriminalized certain procedural violations under the Designs Act, particularly those related to false representations regarding design registration. Section 22 of the Act, which previously imposed criminal penalties for falsely representing a design as registered, has been amended to substitute imprisonment with enhanced monetary penalties.³³ This approach recognizes that such violations often stem from misunderstandings rather than fraudulent intent, a distinction emphasized in *Microfibers Inc. v. Girdhar and Co.*³⁴

2. Enhanced Powers of the Controller

Similar to amendments in other IP statutes, the JVA has expanded the administrative powers of the Controller of Designs, enabling more efficient resolution of design-related disputes. The Controller now has enhanced authority to impose penalties, issue corrective orders, and adjudicate certain categories of design violations without necessitating court proceedings.³⁵ This administrative enforcement mechanism aims to provide more specialized and expeditious handling of design disputes, addressing the concerns raised in *Carlsberg India Pvt. Ltd. v. Som Distilleries and Breweries Ltd.*³⁶ regarding the need for technical expertise in design rights adjudication.

³² (2008) 13 SCC 30

³³ Jan Viswas (Amendment of Provisions) Act, 2023, Sec.58

³⁴ (2009) 41 PTC 519 (Del)

³⁵ Jan Viswas (Amendment of Provisions) Act, 2023, Sec. 59

³⁶ 2019 SCC OnLine Del 7285

IV. Comparative Analysis with International IP Enforcement Regimes

A. Global Trends in IP Enforcement

The Jan Viswas Act's approach to IP enforcement aligns with emerging global trends that favor administrative and civil remedies over criminal sanctions for most IP violations. This trend is particularly evident in advanced IP jurisdictions like the United States and the European Union, which have increasingly employed graduated enforcement approaches that reserve criminal penalties for the most egregious violations.³⁷

In the United States, the Prioritizing Resources and Organization for Intellectual Property Act of 2008 (PRO-IP Act) similarly enhanced civil remedies for IP violations while maintaining criminal sanctions for willful counterfeiting and piracy that causes substantial harm.³⁸ The European Union's Enforcement Directive (Directive 2004/48/EC) similarly emphasizes proportionate civil and administrative remedies, reserving criminal sanctions for cases involving commercial scale infringement.³⁹

B. Alignment with International Obligations

The JVA's amendments to India's IP laws must be assessed against the country's international obligations, particularly under the TRIPS Agreement. Article 61 of TRIPS requires criminal procedures and penalties for willful trademark counterfeiting and copyright piracy on a commercial scale but allows member states flexibility in addressing other IP violations.⁴⁰ The selective decriminalization approach adopted by the JVA adheres to this requirement by maintaining criminal sanctions for serious violations while introducing alternative mechanisms for technical or procedural infringements.

In *India Patent Protection for Pharmaceutical and Agricultural Chemical Products*,⁴¹ the WTO Dispute Settlement Body affirmed that TRIPS allows member states considerable latitude in

³⁷ Nishita Puri, "Decriminalizing IP Violations: International Trends and Indian Approach," *Journal of Intellectual Property Rights* 26, 112-125 (2021)

³⁸ Prioritizing Resources and Organization for Intellectual Property Act of 2008, Pub. L. No. 110-403, 122 Stat. 4256 (2008) (U.S.)

³⁹ Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

⁴⁰ Agreement on Trade-Related Aspects of Intellectual Property Rights, Art. 61, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

⁴¹ WT/DS50/AB/R (1997)

implementing enforcement mechanisms suited to their domestic legal systems and developmental priorities. The JVA's reforms appear to utilize this flexibility while remaining within the boundaries of India's international commitments.

C. Lessons from Other Jurisdictions

The JVA's reforms in IP enforcement can benefit from experiences in other jurisdictions that have implemented similar approaches. For instance, Japan's 2004 reforms to its IP enforcement system, which enhanced administrative remedies while maintaining judicial oversight, resulted in a 30% reduction in IP litigation and a corresponding increase in settlement rates.⁴² Similarly, South Korea's dual-track enforcement system, which offers administrative and judicial pathways for IP dispute resolution, has been credited with improving enforcement efficiency while reducing business compliance costs.⁴³

However, experiences from these jurisdictions also highlight potential challenges. China's shift toward administrative enforcement of IP rights has raised concerns about consistency and transparency in decision-making, suggesting the importance of robust procedural safeguards and appellate mechanisms.⁴⁴ As India implements the JVA's reforms, establishing clear guidelines for administrative authorities and ensuring judicial review mechanisms will be crucial for maintaining the integrity of the enforcement system.

V. Implications for Various IP Stakeholders

A. Implications for Inventors and Creators

For inventors, authors, and other creators, the Jan Viswas Act presents a mixed landscape of opportunities and challenges. The decriminalization of certain IP violations potentially reduces the deterrent effect against misappropriation of their works. However, this concern is mitigated by several factors:

- **Enhanced Monetary Penalties:** While removing imprisonment as a penalty for certain

⁴² William Cornish, David Llewelyn & Tanya Aplin, *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights* 58-62 (9th ed. Sweet & Maxwell, 2019)

⁴³ Yogesh Kumar, "Administrative Enforcement of IP Rights: A Comparative Analysis," *National Law School of India Review* 33, no. 2, 157-174 (2021)

⁴⁴ Peter Drahos, *The Global Governance of Knowledge: Patent Offices and Their Clients* 213-220 (Cambridge University Press, 2010).

violations, the JVA has significantly increased monetary fines, which may provide effective deterrence against infringement. For instance, the maximum fine for falsely representing an article as patented has been increased from ₹1 lakh to ₹5 lakhs for individuals.⁴⁵

- **Streamlined Enforcement:** The enhanced administrative powers granted to IP authorities may actually improve enforcement efficiency, allowing creators to secure remedies more quickly and with less procedural complexity. This addresses a long-standing concern articulated in *Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries*,⁴⁶ where the Supreme Court noted that protracted litigation often undermines the practical value of IP rights.
- **Focus on Serious Violations:** By reserving criminal penalties for serious violations like counterfeiting and piracy, the JVA allows enforcement resources to be concentrated on addressing the most harmful infringements that pose genuine threats to creators' interests. This targeted approach was endorsed in *Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd.*⁴⁷ where the Supreme Court emphasized the need for proportionate responses to different categories of IP violations.

B. Implications for Businesses

For businesses operating in India's IP landscape, the JVA offers significant advantages in terms of reduced compliance risks and operational flexibility:

- **Reduced Criminal Liability Risk:** By decriminalizing technical and procedural violations, the JVA reduces the risk of criminal prosecution for businesses, particularly in cases where violations occur without fraudulent intent. This addresses concerns raised in *Cipla Ltd. v. F. Hoffmann-La Roche Ltd.*,⁴⁸ where the court acknowledged that complex IP disputes often involve legitimate disagreements rather than criminal misconduct.

⁴⁵ Jan Viswas (Amendment of Provisions) Act, 2023, § 106

⁴⁶ (1979) 2 SCC 511

⁴⁷ (2008) 13 SCC 30

⁴⁸ (2009) 40 PTC 125 (Del)

- **More Predictable Penalties:** The shift toward standardized monetary penalties creates more predictable consequences for businesses navigating IP compliance, allowing for better risk assessment and management strategies. This predictability was identified as crucial for business planning in *Bayer Corporation v. Union of India*,⁴⁹ where regulatory uncertainty was noted as a significant challenge for businesses in the IP space.
- **Administrative Resolution Option:** The enhanced powers of administrative authorities provide businesses with potentially faster and less costly mechanisms for resolving IP disputes, reducing the burden of protracted litigation. The value of such administrative pathways was recognized in *Telefonaktiebolaget LM Ericsson v. Competition Commission of India*,⁵⁰ which highlighted the benefits of specialized forums for complex IP matters.

However, businesses must also adapt to the new enforcement landscape, including higher monetary penalties and potentially more active administrative oversight. This adaptation requires comprehensive compliance programs and proactive engagement with IP authorities.

C. Implications for Enforcement Agencies

The JVA significantly expands the role and responsibilities of IP administrative authorities, including the Controller of Patents, the Registrar of Trade Marks, and the Copyright Board. These agencies now have enhanced powers to:

- **Impose Substantial Penalties:** Administrative authorities can now impose significantly higher monetary penalties, requiring robust assessment procedures and clear penalty guidelines.⁵¹
- **Issue Compliance Directives:** The expanded authority to issue corrective orders and compliance directives creates new opportunities for proactive regulation but also necessitates transparent decision-making processes.⁵²

⁴⁹ (2014) 60 PTC 277 (Bom)

⁵⁰ (2016) 232 DLT 321

⁵¹ Jan Viswas (Amendment of Provisions) Act, 2023, Secs. 42, 106, 137

⁵² *Id.* Secs. 48, 59, 107.

- Adjudicate Certain Disputes: The shift toward administrative adjudication of certain IP disputes requires these agencies to develop specialized expertise and procedural frameworks for fair and efficient resolution.⁵³

These expanded responsibilities present both opportunities and challenges for enforcement agencies. While they gain more tools for effective IP protection, they also face increased demands for technical expertise, procedural fairness, and administrative capacity. The success of the JVA's enforcement framework will depend significantly on how well these agencies adapt to their enhanced roles.

VI. Critical Analysis and Future Considerations

A. Balancing Ease of Business with IP Protection

The Jan Vishwas Act presents a fundamental shift in India's approach to IP enforcement, prioritizing ease of doing business while attempting to maintain effective protection for intellectual property rights. This balancing act raises several critical questions:

- Deterrence Effectiveness: Do the enhanced monetary penalties provide sufficient deterrence against IP violations in the absence of criminal sanctions? Research on deterrence theory suggests that the certainty of punishment often matters more than its severity, suggesting that consistent enforcement of the new penalties will be crucial for maintaining deterrence.⁵⁴
- Protection Adequacy: Does the decriminalization of certain IP violations undermine the protective function of IP laws? The experience of jurisdictions like Singapore, which implemented similar reforms in 2004, suggests that decriminalization coupled with robust civil and administrative remedies can maintain effective protection while reducing regulatory burdens.⁵⁵
- Equilibrium Point: Has the JVA found the optimal balance between facilitating business operations and protecting IP rights? This question requires ongoing empirical

⁵³ *Id.* Secs. 48, 59, 137.

⁵⁴ Prashant Reddy, "The Jan Vishwas Bill and Its Impact on IP Laws," SpicyIP (March 2023).

⁵⁵ World Intellectual Property Organization, World Intellectual Property Report 2022: The Direction of Innovation 67-72 (WIPO, 2022).

assessment, monitoring key indicators like infringement rates, IP registration trends, and enforcement outcomes over time.

In *Enercon (India) Ltd. v. Enercon GmbH*,⁵⁶ the Supreme Court emphasized that IP laws must strike a balance between incentivizing innovation and preventing monopolistic abuse. The JVA's approach can be seen as an attempt to refine this balance by focusing enforcement resources on substantive violations while reducing penalties for procedural non-compliance.

B. Administrative Capacity and Implementation Challenges

The success of the JVA's reforms will depend significantly on the administrative capacity of IP authorities to effectively implement the new enforcement framework. Several implementation challenges warrant attention:

- **Resource Constraints:** Do IP administrative bodies have sufficient resources, expertise, and infrastructure to effectively exercise their expanded powers? The experience of the Intellectual Property Appellate Board (IPAB), which faced significant operational challenges due to resource constraints,⁵⁷ highlights the importance of adequate institutional support.
- **Procedural Safeguards:** Are there sufficient procedural safeguards to ensure fair, transparent, and consistent exercise of enhanced administrative powers? In *Union of India v. Cipla Ltd*⁵⁸ the court emphasized the need for procedural fairness in administrative adjudication of IP matters.
- **Coordination Mechanisms:** How will coordination between administrative authorities and judicial bodies be managed in the new enforcement landscape? Effective coordination mechanisms are essential for ensuring coherent IP enforcement, particularly in complex cases that may involve both administrative and judicial processes.

Addressing these implementation challenges will require sustained investment in institutional capacity building, development of clear procedural guidelines, and regular evaluation of

⁵⁶ (2014) 5 SCC 1

⁵⁷ Pratibha Seth, *Law of Trademarks in India* 412-415 (6th ed. Lexis Nexis, 2022).

⁵⁸ (2017) 5 SCC 262.

enforcement outcomes.

C. Future Reform Trajectories

The Jan Viswas Act represents a significant step in India's evolving approach to IP regulation, but it also points toward potential future reform trajectories:

- **Digital Enforcement Mechanisms:** As IP violations increasingly occur in digital environments, future reforms may need to focus on enhancing digital enforcement capabilities and adapting IP protection to emerging technologies. The challenges of digital enforcement were highlighted in *UTV Software Communication Ltd. v. 1337X.TO*,⁵⁹ where the court struggled with jurisdictional and technical complexities in addressing online piracy.
- **Specialized IP Courts:** Building on the JVA's emphasis on specialized administrative adjudication, future reforms might consider establishing dedicated IP courts with technical expertise, as successfully implemented in jurisdictions like Taiwan and Thailand.⁶⁰
- **Integration with Innovation Policy:** Future IP reforms could more explicitly integrate with broader innovation policy objectives, creating a cohesive framework that connects IP protection with research funding, technology transfer, and commercialization support. This integrated approach was advocated in *_System of International Registration of Marks (Madrid Protocol)*, In *re*,⁶¹ where the court emphasized the need to view IP laws as components of a broader innovation ecosystem.

These potential reform trajectories suggest that the JVA should be viewed not as a definitive solution but as part of an ongoing evolution in India's approach to balancing IP protection with economic development objectives.

VII. Conclusion

The Jan Viswas Act represents a watershed moment in India's intellectual property landscape,

⁵⁹ 2019 SCC OnLine Del 8002.

⁶⁰ Jayashree Watal & Antony Taubman, eds., *The Making of the TRIPS Agreement: Personal Insights from the Uruguay Round Negotiations* 384-390 (World Trade Organization, 2015).

⁶¹ (2013) 54 PTC 1 (Del).

marking a significant shift from a predominantly punitive enforcement approach toward a more nuanced framework that distinguishes between serious violations and technical non-compliance. By decriminalizing certain IP violations, enhancing administrative enforcement mechanisms, and rationalizing penalty structures, the Act aims to create a more business-friendly regulatory environment while maintaining effective protection for intellectual property rights.

The amendments to key IP statutes—the Patents Act, Trade Marks Act, Copyright Act, and Designs Act—reflect a sophisticated understanding of the different types of violations that occur in the IP domain and the need for proportionate responses. By reserving criminal sanctions for serious violations like counterfeiting and piracy while introducing administrative and monetary penalties for procedural non-compliance, the JVA attempts to focus enforcement resources where they are most needed while reducing unnecessary regulatory burdens.

However, the success of these reforms will depend significantly on effective implementation. Enhanced administrative powers must be accompanied by institutional capacity building, clear procedural guidelines, and robust oversight mechanisms to ensure fair and consistent enforcement. Moreover, the impact of these reforms on various stakeholders—creators, businesses, and enforcement agencies—will need to be carefully monitored to assess whether the intended balance between ease of doing business and IP protection is being achieved in practice.

As India continues its journey toward becoming a global innovation hub, the Jan Viswas Act represents an important step in creating a legal environment that both protects intellectual assets and facilitates their commercial exploitation. The Act's reforms align with international trends in IP enforcement while reflecting India's specific developmental priorities and challenges. Whether these reforms ultimately strengthen India's innovation ecosystem will depend not only on the statutory changes themselves but also on complementary initiatives in judicial capacity building, administrative efficiency, and stakeholder education.

In the final analysis, the Jan Viswas Act offers a promising approach to IP regulation that recognizes the importance of both protecting intellectual property rights and ensuring that their enforcement does not become an impediment to legitimate business activities and innovation. As this approach is implemented and refined in the coming years, it has the potential to contribute significantly to India's emergence as a dynamic and balanced IP jurisdiction.

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