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IP Disputes in Cross-Border Business Ventures

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Abstract: In today's interconnected economy, intellectual property (IP) rights have become critical assets, yet their protection across national borders presents increasing legal and strategic complexity. This article analyzes the evolving nature of cross-border IP disputes, driven by digital innovation, territorial legal frameworks, and global trade dynamics. It explores jurisdictional barriers, enforcement disparities, and procedural divergences that complicate dispute resolution. Real-world case studies—such as Apple vs. Samsung, Huawei, and Moderna—illustrate the fragmented and often contentious terrain of international IP litigation. The article also examines the role of international treaties like TRIPS, the emergence of new legal mechanisms like the Unified Patent Court (UPC), and the rise of alternative dispute resolution (ADR) through WIPO and contract-based arbitration. With trends indicating a surge in IP litigation, particularly involving AI-generated content, this work presents practical strategies for businesses—including proactive registration, clear contractual IP clauses, ADR readiness, and technology-driven enforcement monitoring. The paper aims to equip legal professionals, businesses, and policymakers with insights and tools to navigate and resolve IP conflicts in a complex, multi-jurisdictional world.

Keywords: Cross-border IP disputes, international intellectual property, patent infringement, trademark litigation, copyright piracy, trade secrets, territorial IP rights, jurisdictional complexity, Unified Patent Court, TRIPS Agreement, WIPO arbitration, ADR in IP, digital piracy,

INTRODUCTION

The rapid globalization of business, coupled with digital innovation, has made intellectual property (IP) rights vital assets for companies pursuing cross-border ventures. IP disputes are increasingly prevalent and complex, fueled by diverse legal regimes, digital piracy, transnational enforcement gaps, and cutting-edge technologies like artificial intelligence. This research explores the evolution, challenges, dispute mechanisms, and trends shaping IP disputes in cross-border business, supported by real-world case examples, data, and visual summaries^{[1][2][3]}.

1. THE GROWING SIGNIFICANCE OF IP IN INTERNATIONAL BUSINESS

1.1 Economic and Strategic Value

- Cross-border flows of IP royalties exceeded \$1trillion globally in 2023, highlighting IP's centrality in modern trade^[4].
- Innovation-driven industries, such as tech and pharmaceuticals, depend heavily on robust, enforceable IP regimes for competitive advantage and investment security.
- Small and medium enterprises (SMEs) face unique risks as entry into new markets increases exposure to counterfeiting, piracy, and IP theft^{[1][2][5]}.

1.2 Types of Cross-Border IP Disputes

Type of IP Right	Typical Dispute Context	Example Sectors
Patents	Infringement, licensing, tech transfer	Semiconductors, Pharma, AI
Trademarks	Brand piracy, counterfeits, parallel imports	Fashion, Retail, Electronics
Copyrights	Digital piracy, licensing	Media, Software, Publishing
Trade Secrets	Misappropriation, joint venture failure	Manufacturing, Biotech

2. CHALLENGES IN CROSS-BORDER IP DISPUTE RESOLUTION

2.1 Jurisdictional Complexities

- IP rights are **territorial**: enforceable only where registered or granted^{[2][6]}. Choosing the proper venue is complex, especially when infringement occurs in multiple countries.
- Jurisdictional disputes can slow litigation, increase costs, and sometimes produce conflicting judgments^{[7][3]}.

2.2 Enforcement Difficulties

- Enforcement mechanisms differ, with variances in damages, injunction availability, timelines, and judicial expertise^{[2][6]}.
- Digital infringement—such as cross-border counterfeiting or unauthorized streaming—often evades traditional enforcement tools^{[1][3]}.
- Recent EU case law has enabled EU courts to rule on foreign IP infringements by EU-based defendants, marking a move toward centralization but not global harmonization^{[7][8]}.

2.3 Cultural and Legal Divergences

- Differences in IP recognition (e.g., scope of software copyright), standards of proof, procedural rules, and even attitudes toward IP as a value can impact outcomes^{[2][6][3]}.
- Language barriers and local bias further complicate transnational litigation^[6].

2.4 Technological Acceleration

- AI, blockchain, and digital platforms have created new IP issues and strained the capacity of national laws and international treaties to adapt^{[1][9]}.

3. CASE STUDIES: RECENT HIGH-PROFILE CROSS-BORDER IP DISPUTES

3.1 Apple vs. Samsung – Smartphone Patent Wars

- Spanning multiple jurisdictions, this decade-long dispute addressed patented designs and software functionalities, resulting in multi-billion-dollar settlements and legal shifts in several countries^[10].

3.2 Apple vs. Huawei – AI Chip Patents

- In 2025, Apple and Huawei’s patent war over AI processors involved simultaneous infringement actions in the US, EU, and China, exposing uneven enforcement and jurisdictional fragmentation^[3].

3.3 Moderna vs. BioNTech – mRNA Patents

- The dispute centered on next-generation mRNA delivery tech, bringing cross-border implications for biotech IP licensing, global supply chains, and public health policy^[3].

3.4 Licensing Challenges in Insolvency

- The Qimonda case (US/Germany) highlighted inconsistencies in the treatment of IP licenses during cross-border insolvency, with US courts protecting licensees’ rights under section 365(n) even when foreign courts had different interpretations^[6].

[image:1]

Figure 1: Notable Cross-Border IP Disputes (2020–2025) and Their Resolution Pathways

4. INTERNATIONAL FRAMEWORKS AND RECENT LEGAL REFORMS

4.1 International Treaties

- **TRIPS (WTO)**: Sets minimum standards for IP protection and enforcement across WTO members, with a dedicated dispute settlement mechanism when standards are breached^[9].
- **WIPO Conventions**: Provide structures for arbitration, mediation, and technical assistance in IP enforcement^{[2][11]}.

4.2 Regional and National Reforms

- The EU’s Digital Markets Act and recent CJEU rulings have improved cross-border enforcement against EU-domiciled IP infringers^{[7][8]}.
- The emergence of Unified Patent Court (UPC) in the EU aims to centralize patent litigation and reduce duplicated efforts^[7].

4.3 ADR Mechanisms

- Arbitration and mediation, including those under WIPO or bespoke international contracts, are increasingly preferred for their neutrality, speed, and confidentiality in IP disputes^{[12][11]}.
- Enforcement can still be challenging if awards conflict with local public interest or statutory rules^[11].

Dispute Resolution Pathway	Key Advantages	Limitations or Risks
Litigation (Courts)	Binding, precedent-setting	Slow, costly, enforcement barriers
Arbitration	Private, neutral, globally enforceable	Requires arbitration agreement
Mediation	Flexible, preserves business ties	Non-binding unless ratified

5. Trends and Statistics in 2025

- Over 55% of global MNCs expect to be engaged in IP litigation in 2025, a growing trend from previous years^[13].
- Surge in “AI-generated work” copyright disputes, with courts clarifying IP protection standards for non-human authorship^[9].
- Technology, pharmaceuticals, automotive, and cloud services remain the sectors with the highest IP litigation rates^{[3][9][14]}.

[image:2]

Figure 2: Leading Sectors Involved in Global IP Litigation, 2025

6. Strategic Recommendations for Businesses

- **Due Diligence:** Conduct thorough IP landscape checks and clear existing licenses or encumbrances before entering new markets or partnerships^{[15][16]}.
- **Contractual Clarity:** Draft cross-border contracts with explicit IP clauses, choice of law, jurisdiction, and dispute resolution mechanisms^{[2][16]}.
- **Multi-layered Protection:** Register IP rights in all strategic jurisdictions; use customs watch schemes to guard against counterfeits^{[1][5]}.
- **ADR-Readiness:** Include arbitration or WIPO mediation as primary paths for dispute resolution^{[12][11]}.
- **Proactive Monitoring:** Employ AI and blockchain tools for infringement detection and evidence collection^{[1][7]}.

7. Visual Analysis: Barriers and Solutions in Cross-Border IP Disputes

Barrier	Strategic Solution
Jurisdictional conflicts	Choice-of-forum clauses, ADR
Enforcement gaps	Multijurisdictional registration
Procedural/cultural differences	Local counsel, translation, mediation
Digital infringement	Tech monitoring, fast-track actions
Insolvency/licensing gaps	Multi-country licensing strategy

Figure 3: Key Barriers and Solutions in Cross-Border IP Disputes (2025)

CONCLUSION

Cross-border IP disputes pose significant but surmountable challenges for global business ventures. While the legal landscape remains fractured by national borders, recent innovations—both in law and technology—are reshaping dispute resolution, enforcement, and risk management. Businesses that invest in proactive, multilayered IP protection, leverage contractual and ADR solutions, and stay attuned to evolving legal reforms will be best positioned to safeguard their intangible assets and secure their competitive edge in an interconnected marketplace^{[1][2][7]}.

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