CHAPTER 1: JURISDICTION: CONCEPTUAL ANALYSIS

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THE FRAME

An important aspect of any theoretical study is to understand its conceptual roots. Jurisdiction is the gateway for any grievance to enter the portal of the dispute settlement fora and be transformed into litigation. Jurisdiction is also a power or right given to a court of law to interpret, lay down the law and pass a judgment on a matter. The delineation of the power of such boundaries is very essential in situations where human activities surpass well-defined geo-political borders. Trade, by very nature of its activity has a trans-boundary character. Trademark, being associated with trade is no exception. Post globalization this situation has become even more acute. In this backdrop the issue of jurisdiction is all the more significant. The two-fold issues of jurisdiction and its importance in the trans-boundary, intangible property protection forms the frame of this chapter.

THE FOCUS

The chapter exclusively focuses on jurisdiction, its meaning, classification, importance and debatable issues related to it in the field of intellectual property law regime in general and trademark in particular. The chapter also traces the evolution and growth of trademark law in India and its relation with TRIPS.

THE OBJECTIVE

The objective of writing this chapter is to prepare the canvas for the discussion on the jurisdictional issues in Trade Mark regime and set the discussion in a proper perspective, and moreover, to highlight the important aspects of the Trade Marks Act, 1999 for an easy comprehension of future issues.

1.1 JURISDICTION: MEANING AND IMPORTANCE

Jurisdiction is a notion which is the core of any litigation. The term can be understood from both a general as well as legal perspective. Its significance can be gathered in both a broader as well as narrower sense from which it is defined.
The word originates from the Latin terms ‘juris’ and ‘dicto’ which means “I speak the law”.\(^1\) Jurisdiction is also the Latin term for ‘authority to judge or administer justice’\(^2\). As per Black’s Law Dictionary\(^3\) the court’s power to decide a case or issue a decree can be termed as jurisdiction. It also defines a geographical area within which the political or judicial authority may be exercised.

The term ‘Jurisdiction’ which is always one of the most important questions of law is nowhere defined under any statute. The procedural law of India i.e. The Code of Civil Procedure, 1908 is also silent on it. However, in simple terms, Jurisdiction means the power to hear and determine a case. It also means the extent of power which is conferred upon the court by its constitution to try a proceeding.\(^4\)

The term ‘Jurisdiction’ is an expression which is used as well as understood in various senses. Whereas the ‘pure’ theory of jurisdiction would reduce jurisdictional control to a vanishing point, the adoption of a narrower meaning might result in a more useful legal concept even though the formal structure of law may lose something of its logical symmetry. As provided in the Hallsbury’s Law of England, “By jurisdiction is meant the authority by which a court has to decide matters that are litigated before it or to take cognizance of matters presented to it in a formal way for its decision. The limits of this authority are imposed by statute or chapter or commission under which the court is constituted and may be extended or restricted by similar means. If no restrictions or limitations are imposed the jurisdiction is said to be unlimited. A limitation may be either as to the kind or nature of the actions or the matters of which a particular court has cognizance or as to the area over which the jurisdiction extends, or it may partake of both these characteristics”. Jurisdiction hence may be defined to be the power of a court to hear and determine a cause, to adjudicate and exercise any judicial power in relation to it. It refers to the right of administering justice by means of law. The notion of jurisdiction is rooted in territoriality from the point of view of both the court which can properly assert jurisdiction and from the point of view of the law that should be applied while deciding the dispute.

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\(^3\) Black’s Law Dictionary (9th edn, 2009) 927.
A court which has jurisdiction is said to be a competent court. Each country specifically defines jurisdiction under its legal system which plays a pivotal role in efficient and effective litigation management. Thus, it can be concluded that jurisdiction of court means competence, power and authority of court to deal with a matter placed before it.

1.2 EXISTENCE OF JURISDICTION AND EXERCISE OF JURISDICTION

One must draw distinction between ‘existence of jurisdiction’ and ‘exercise of jurisdiction’. Existence of Jurisdiction is a precondition to exercise Jurisdiction. A decree passed by a court without jurisdiction shall be a nullity. In other words, a decree passed by a court inherently lacking jurisdiction shall be a nullity. However, if the court has jurisdiction but it is irregularly exercised, the decree passed does not become a nullity. In the words of Lord Hobheuse, “a court has jurisdiction to decide wrong as well as right. If it decides wrong, the wronged party can only take the course prescribed by law for setting matters right and if that course is not taken, the decision however wrong cannot be disturbed.”

1.3 JURISDICTION AND PLACE OF SUING

There also exists a distinction between ‘Jurisdiction’ and ‘Place of suing’. Jurisdiction means power or authority of the court to decide a matter/case whereas place of suing means locality or the place where the matter/case should be heard as per the provisions of the procedure. Jurisdiction further connotes power that is inherently available with the court which consequently becomes an appropriate court of jurisdiction by following rules for determining place of suing.

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5Malkarjun v. Narhari (1900) 27 IA 216.
1.4 TYPES OF JURISDICTION

Territorial boundaries, subject matter and pecuniary limits are the fundamental considerations for determining jurisdiction of any court. Based on these considerations jurisdiction of any court is classified in the following types.

1.4.1 TERRITORIAL JURISDICTION:

Each state is defined with boundaries which are known as territorial limits. Power or authority of the court to deal with cases arising in or involving people/person residing within such defined territory is known as territorial jurisdiction. It is the power or authority with reference to the territory within which it is to be exercised. It is one of the major considerations in determining a place of suing as it gives a venue where the action has taken place. The territorial limits are fixed by the Government by way of prescribing rules in that regard. As per the territorial consideration a court situated at a particular place cannot entertain a case that has taken place beyond its territorial limits. The district judge has to exercise jurisdiction within the district and not beyond it. The territorial jurisdiction of High Court is also confined to the territorial limits of the state within which it is situate.

1.4.2 PECUNIARY JURISDICTION:

The matters brought before a forum in form of suit involves monetary considerations. The monetary considerations are known as pecuniary limits that determine the court’s authority to deal with only those matters, the amount or value of the subject – matter of which does not exceed the defined or prescribed value. Thus, the jurisdiction as limited by the extent or value of the subject – matter of suit is known as pecuniary jurisdiction. Some courts like High Courts and District courts are courts of unlimited pecuniary jurisdiction as there are no pecuniary limitations on their authority to entertain a suit.

1.4.3 JURISDICTION AS TO SUBJEC T – MATTER:

There are various issues on which legal action can be initiated in a court of law. Considering the variety of issues and following the doctrine of convenience, different courts have been empowered to decide different types of suits. Hence jurisdiction as to subject – matters connotes authority or power of the court over the nature of the case and
the type of relief sought. It also covers the extent to which a court can rule on the conduct of persons or the status of things. Jurisdiction over the subject – matter is a *sine qua non*, without which a court is incompetent to try the cause. Thus, jurisdiction as to the subject – matter refers to the authority of the court to decide matters on the basis of its nature.

**1.4.4 ORIGINAL JURISDICTION:**

Original Jurisdiction is jurisdiction conferred upon or inherent in a court in the first instance. It is the power of the court to hear and decide a matter before any other court can review it. The court of original jurisdiction may not always be a court of exclusive jurisdiction as there can be other courts that have original jurisdiction. Such courts would be the courts of concurrent or coordinate jurisdiction. The court of original jurisdiction is known as the first instance court which is the lowest court in the hierarchy of courts.

**1.4.5 APPELLATE JURISDICTION:**

Appellate Jurisdiction means the power and authority of the Superior court to rehear and revise the decision of the lower or subordinate court. Appellate Jurisdiction is not inherently available with any court. It is a power which is conferred by statutory provisions. Thus, the authority of a superior court to sit in appellate capacity for judicial re-examination of the decision of the lower court is conferred by the appellate jurisdiction.

**1.4.6 JURISDICTION IN ‘PERSONAM’ AND IN ‘REM’:**

As per the traditional rule of jurisdiction it is divided into two categories i.e. Jurisdiction in *personam* and Jurisdiction in *rem*. Jurisdiction is in *personam* when the action is to compel a particular person to do or not to do something for determining the rights and the interests of the parties involved in a suit; whereas jurisdiction is in *rem* when a right or interest involved in a suit is available against the whole world and such appropriate action is available in the same manner i.e. against all.

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1.5 JURISDICTION AND RULES OF PRIVATE INTERNATIONAL LAW

History testifies that in the past human activities were confined to limited geographical areas. So the property and people involved in disputes were also confined to such limited geographical areas which in turn led to an obvious and uncontroversial choice of jurisdiction for resolution of such disputes.

Rules of Private International Law become most relevant when a foreign element is involved in a dispute. Private International Law determines the legal system and jurisdiction that apply in such cases. Jurisdiction is one of the fundamental questions of Private International Law. For example, the Indian court may deal with a case in which a German resident knowingly used a well-known trademark owned by an Indian company on his website. Thus, Private International Law problems usually arise from such cases with a foreign element. The question of jurisdiction is to be dealt with from the point of view of personal jurisdiction, subject matter jurisdiction and enforcement of a judgment of a foreign court. Although Intellectual Property Rights as a branch of Law has developed recently, it has, from its early stage of its development possessed an international dimension, which establishes a compulsory interface with Private International Law.

1.6 JURISDICTION: AN ASPECT OF STATE SOVEREIGNTY

Sovereignty is a notion that is embedded in the operation of a state legal system. By "sovereignty" in its largest sense is meant supreme, absolute, uncontrollable power, the absolute right to govern. The capacity of a state to claim legal authority over places as well as concepts is an important measure of its sovereignty. The legal concept of "jurisdiction" rests on some notion of a sovereign “territorial” state where sovereignty is expressed in territorial terms. State and jurisdiction both are linked to its territory. Territory is a condition precedent for the existence of any state. Principally a sovereign state has

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8 ibid 1524.
jurisdiction only within its territory. Though Jurisdiction is an aspect of sovereignty, it is not coextensive with it.

1.7 ISSUES OF JURISDICTION IN INTELLECTUAL PROPERTY DISPUTES

The ever escalating importance of trademark in international and domestic commerce is remarkable. Most obvious are the impact of electronic commerce and the growth of internet as a selling medium, a forum that transcends national boundaries and bears no physical location on ‘Main Street’. It is an axiomatic principle of Law that trademarks and the rules governing trademark cannot be detached from territoriality. However, Commercialization and infringement of intellectual property in the true sense have become multi-territorial.

The impact of Jurisdictional problems is not limited to a particular branch of Law. It affects the very foundation of the frame work of the substantive and procedural laws. Consequently the jurisdictional challenges in today’s age of fast communication, have invited various view points for their resolution including significant changes in the existing legal framework. The internet being one of the most significant changes in the field of information technology requires a more than mere adjustment in the law governing it. One cannot overlook the requirement of appropriate changes in the law. Failure to do so would lead to new complex legal issues. Complex legal issues like jurisdictional issues that call for appropriate solutions require the right approach of academicians, judiciary and legislator for suggesting the potential range of solutions. The solutions should not prove to be counterproductive, opening paths for further conflict and confusion. To arrive at such a conclusion one has to go beyond the formal legal reasoning that requires inductive and deductive reasoning by relying on precedents, legal principles and statutes.

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1.8 SCOPE OF JURISDICTIONAL POWERS OF THE COURT, TRIBUNALS AND OTHER AUTHORITIES CONSTITUTED UNDER VARIOUS ENACTMENTS

The law relating to the procedure in suits and other types of civil proceedings in India (except those in the State of Jammu and Kashmir, Nagaland and the tribal areas of Assam) is contained in the Code of Civil Procedure, 1908. (CPC) A civil suit is required to be instituted for initiating a legal action in case of infringement or passing off. The civil suit is instituted by presenting a plaint in an appropriate court of jurisdiction. For determining an appropriate court of jurisdiction provisions regarding place of suing as provided in the CPC as well the provisions regarding jurisdiction are taken into consideration.

1.8.1 PROVISIONS REGARDING JURISDICTION IN THE CODE OF CIVIL PROCEDURE, 1908

As per the provisions regarding the place of suing under the Code of Civil Procedure, 1908, suits are to be instituted where the defendant at the time of the commencement of the suit actually and voluntarily resides or carries on business or personally works for gain or where the cause of action wholly or in part arises.

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10CPC, 1908 s 20. Other suits to be instituted where defendants reside or cause of action arises.-

Subject to the limitations aforesaid, every suit shall be instituted in a Court within the local limits of whose jurisdiction—

(a) the defendant, or each of the defendants where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain; or

(b) any of the defendants, where there are more than one, at the time of the commencement of the suit, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the leave of the Court is given, or the defendants who do not reside, or carry on business, or personally work for gain, as aforesaid, acquiesce in such institution; or

(c) the cause of action, wholly or in part, arises.

Explanation I.—Where a person has a permanent dwelling at one place and also a temporary residence at another place, he shall be deemed to reside at both places in respect of any cause of action arising at the place where he has such temporary residence.

Explanation II.—A corporation shall be deemed to carry on business at its sole or principal office in {Subs. by Act 2 of 1951, s.3, for "the States".} [India] or, in respect of any cause of action arising at any place where it has also a subordinate office, at such place.
The general provision with regard to the territorial jurisdiction in case of movable property is prescribed under section 20. This section of the Code has been designed to secure that justice might be brought as near as possible to every man’s threshold and the defendant should not be put to the trouble and expense of travelling long distances in order to defend himself in cases in which he is involved. Location of the defendant and the cause of action are the focal points of this provision.

In modern civil disputes, the concept of territorial jurisdiction draws its origin from the fact that the defending party should not be put to inconvenience at the instance of another party. The idea is to provide fair opportunity to both parties. Today territorial jurisdiction plays an important role in the outcome of civil disputes amongst the parties. Cause of action implies the right to sue. Cause of action as defined by Lord Esher, M. R means every fact which it would be necessary for the plaintiff to prove, if traversable, in order to support his right to the judgment of the Court. Cause of action does not consist of any evidence. The general provisions with regards to jurisdiction as provided in the CPC are to be considered for initiating legal action in case of any intellectual property dispute.

1.8.2 PROVISIONS REGARDING JURISDICTION IN THE TRADE MARKS ACT, 1999

The Law recognizes three principles of jurisdiction namely territorial, pecuniary and subject-matter in case of infringement of a trademark. Special provisions with regard to jurisdiction under section 134 are prescribed under the Trade Marks Act, 1999 for

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12 Kusum Ingots and Alloys Limited v. Union of India, AIR 2004 SC 2321.
13 Read v Brown (1889) 22 Q.B.D. 128.
14 TM Act, 1999 s 134. Suit for infringement, etc., to be instituted before District Court.—
   (1) No suit—
      (a) for the infringement of a registered trade mark; or
      (b) relating to any right in a registered trade mark; or
      (c) for passing off arising out of the use by the defendant of any trade mark which is identical with or deceptively similar to the plaintiff’s trade mark, whether registered or unregistered, shall be instituted in any court inferior to a District Court having jurisdiction to try the suit.
   (2) For the purpose of clauses (a) and (b) of sub-section (1), a “District Court having jurisdiction” shall, notwithstanding anything contained in the Code of Civil Procedure, 1908 or any other law for the time being in force, include a District Court within the local limits of whose jurisdiction, at the time of the institution of
instituting a suit in an appropriate court of jurisdiction in case of infringement. In determining jurisdiction under this provision as well, the cause of action plays a pivotal role. In case of intellectual property rights, where the property rights vest in the plaintiff, an advantage has been given to the plaintiff to file a suit under Section 62(2) of the Copyright Act and Section 134(2) of the Trade Marks Act wherever he resides or carries on business.\textsuperscript{15}

Therefore under section 134(2) of the new Act, notwithstanding anything contained in the Code of Civil Procedure or any other law for the time being in force, the plaintiff can move the District Court within whose jurisdiction he actually and voluntarily resides or carries on business. In other words, under sub-section (2) of section 134 of the new Act, the plaintiff has an option - either to go before the court within whose jurisdiction he is carrying on business - that being the sole cause of action or before any other court, where the cause of action has arisen. Such an option was not available under section 105 of the old Act i.e. the Trade and Merchandise Marks Act, 1958.

In Section134(2) of the Trade Marks Act, a deliberate departure is made from Section 20 of the Code of Civil Procedure, 1908 to enable the plaintiff to sue one who infringed his right in the court within whose local limit he carried on business at the time of the institution of the suit or other proceedings.\textsuperscript{16} Section134 of the Trade Marks Act, 1999, contemplates three types of suits viz., (a) suit for infringement of a registered trademark (b) suit relating to any right in a registered trademark and (c) suit for passing off.\textsuperscript{17} In view of the provision under this section, only a court not inferior to the District Court shall have jurisdiction to try such types of suits. Sub-section (2) of Section134, defines the expression 'District Court having jurisdiction' found in sub-section (1), to include a District Court within whose jurisdiction the plaintiff resides or carries on business at the time of

\textsuperscript{15} M/s ST. Ives Laboratories Inc. v. M/s Arif Perfumers and Anr, 2009 (40) PTC 104 (Del).
\textsuperscript{16} Wipro Limited v. Oushadha Chandrika Ayurvedic, AIR 2008 Mad 165.
\textsuperscript{17} Arvind Laboratories v. Hehnemann Laboratory Pvt. Ltd. 2007 (35) PTC 244 (Mad).
institution of the suit, if the suit is in respect of a registered trademark. Therefore, a special privilege is conferred upon the Proprietor of a registered trademark to institute a suit for infringement or a suit relating to any right in a registered trademark, in the District Court within whose jurisdiction, he resides or carries on business. Section 134 of the Trade Marks Act has carved out an exception to the general rule and it allows filing of a suit for infringement of trademark at the District Court within whose local limits the person instituting the suit actually or voluntarily resides or carries on business.

Provisions with regards to jurisdiction under section 20 of the CPC and section 134 of the Trade Marks Act, 1999 have been considered by the Apex court as well as various High Courts in different cases. It has been held that the Trade Mark Act, 1999 is a special Act. It provides a special forum under section 134 to initiate action in case of infringement of trademark in addition to the provision on place of suing as prescribed under section 20 of the CPC. The provisions of Section 134 of the Trade Marks Act, 1999 do not whittle down the provisions of Section 20 of the CPC but only provide an additional forum and place for filing a suit in the case of any trade mark violation. The CPC, however, constitutes a ground norm, the ethos and essence of which percolates through all other statutes. It is essential to note that The Trade and Merchandise Marks Act, 1958 did not contain any provision on special forum for instituting a suit in case of infringement of trade mark. This provision which has been newly incorporated in the Trade Marks Act, 1999 is a special provision as it enables the plaintiff to enjoy the convenience of filing a suit at the place where he resides or carries on business.

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18 ibid.
20 Archie Comic Publications Inc v. Purple Creations Pvt. Ltd., 2010 (44) PTC 520 (Del).
Chapter 1

Jurisdiction: Conceptual Analysis

1.9 ANALYSIS OF TRADEMARK LAW IN INDIA WITH SPECIAL EMPHASIS ON POST TRIPS CHANGES

1.9.1 HISTORY OF TRADEMARK LEGISLATION IN INDIA:

Trademarks are distinctive signs or marks that distinguish goods or services of one manufacturer or service provider from that of another. The use of trademark possibly dates back to the last millennium when the craft men in India, China and ancient Rome used special marks to distinguish their products. In the beginning Trademark prevailed as common law marks in absence of any formal enactment of statutory law. In 1875, the need for formal protection of trademark was recognized giving scope to first statutory enactment in Britain in the year 1875. In 1877 the Bombay Mill Owners’ Association came forward with a demand of making provisions for trademark registration in India on the line of English Trademarks Registration Act, 1875. A bill to this effect was introduced in 1879 which for numerous reasons could not be converted into law. Eventually the English Trademarks Registration Act, 1875 was repealed and substituted by the Patents, Designs and Trademarks Act, 1883.

In the last decade of British Rule in India, a system for registration of trademark along with statutory protection of its protection was established. India borrowed the British Trademark Act, 1938 and prepared the first act as Trademark Act 1940. Hence the 1940 Act was the first statute on trademarks in India prior to which the laws which were there were left to be governed by common law. Government of India in the year 1955 appointed Mr. Justice Rajagopal Ayyangar to examine the Trademark Act, 1940 with reference to the report of the Trade Marks Enquiry Committee, 1954. On the basis of the report of Mr. Justice Rajagopal Ayyangar on Trademarks Law revision, The Trademarks Act, 1940 was replaced by the Trade and Merchandise Marks Act, 1958. This Act of 1958 has been replaced by the Trademark Act, 1999. The process for revising the 1958 Act started with a strong need for making comprehensive changes considering the new developments in technology, trade and commercial activities. Besides this, it was obligatory for India as a member country to make the Law of Trademark registration and protection TRIPS-compliant. Hence to harmonize with the international standards and norms, a bill titled the
Trademarks Bill, 1993 was introduced in Lok Sabha on 19/05/’93. The statement of objects appended to this Bill, stated inter alia that,

“The Trade and Merchandise Marks Act, 1958 has served its purpose over the last four decades. It was felt that a comprehensive review of the existing Law be made in view of developments in trading and commercial practices, increasing globalization of trade and industry, the need to encourage investment flows and transfer of technology, need for simplification and harmonization of trademark management system and to give effect to important judicial decisions.”

The 1993 bill could not see the light of day as it failed to get through Rajya Sabha. The bill lapsed on account of dissolution of Lok Sabha. With some minor changes a new bill titled Trademarks Bill, 1999 was introduced which was eventually passed by both the houses of Parliament. The Trade Marks Act, 1999 came into force on 15th September 2003.

1.9.2 TRADE AND MERCHANDISE MARKS ACT, 1958 AND TRADE MARKS ACT, 1999: A COMPARATIVE ANALYSIS:

The comparative analysis of the Trade and Merchandise Marks Act, 1958 and the Trade Marks Act, 1999 clearly shows that significant changes have been brought about through this new Act in order to make it TRIPS-compliant. Besides, the significant changes have enlarged the scope of overall protection. The Trademark law in India is now adequately comprehensive with registration of service marks, collective marks and certification trademarks, exhaustive definitions for terms frequently used, increasing the period of registration and renewal from 7 years to 10 years, allowing filing of single application for registration in more than one class, enhanced punishment for offences related to trademarks, simplified procedure for registration of registered users and enlarged scope of permitted use, constitution of an Appellate Board for speedy disposal of appeals and rectification applications which at present lie before the High Court.

A chart showing a comparison of the two enactments forms Annexure I of this thesis.
1.9.3 SPECIAL PROVISION ON JURISDICTION BEING RELATED TO PLAINTIFF: S: 134(2), TRADE MARKS ACT, 1999

In a significant move, the new Indian Trade Marks Act, 1999 recognized the right of the aggrieved party to institute a suit into District Court or to High court, as it may be applicable, within the local limits of which the person instituting the suit actually or voluntarily resides or carries on business or personally works for gain.21. This is a substantial moving ahead from the situation under the old Trade Marks Act, 1958 wherein a suit could be instituted only where the infringer had its principle place of business or offices for gain or profits or where the infringing activities had taken place. It is worthy to note here that under section 105 of the Trade Marks Act, 1958, a suit for infringement of a registered trade mark could not be instituted in any court inferior to a District Court having jurisdiction to try the suit. The 1958 Act stands repealed by the Trade Marks Act, 1999. Therefore the new Act alone governs the situation. Section 105 in the old Act stands re-drafted as section 134(1) of the new Act. Sub-section (2) of section 134 is a new provision. Under that sub-section, for the purposes of clauses (a) and (b) of sub-section (1), a "District Court having jurisdiction" is stated to mean notwithstanding anything contained in the Code of Civil Procedure or any other law for the time being in force, to include a District Court within the local limits of whose jurisdiction, at the time of institution of the suit or other proceedings, person instituting the suit or proceeding or where there are more than one such persons, any of them, actually or voluntarily resides or carries on business or personally works for gain. Therefore under section 134(2) of the new Act, notwithstanding anything contained in the Code of Civil Procedure or any other law for the time being in force, the plaintiff can move the District Court within whose jurisdiction he actually and voluntarily resides or carries on business. In other words, under sub-section (2) of section 134 of the new Act, the plaintiff has an option, either to go before the court within whose jurisdiction he is carrying on business - that being the sole cause of action or before any other court, where the cause of action has arisen. Such an option was not available under section 105 of the old Act.

21 Raja Soap Factory (n 4).
It is clear from the above that the change brought about under section 134(2) of the new Act is only giving an additional option to the party complaining of infringement of trademark to go before a court within those jurisdiction he carries on business and such a change does not affect the existing rights available under the old Act namely, under section 105 of the old Act, which is in parie materia with section 134(1) of the new Act.\textsuperscript{22}

\section*{1.10 CHAPTER CONCLUSION}

This chapter dealt with the conceptual analysis of the notion of jurisdiction as it exists in the present legal framework. Jurisdiction is a notion which is the core of any litigation. In order to examine and understand the core issue of research, scope of jurisdictional powers of various judicial authorities under different legislation is assessed. Further the legal framework for protection of trademark as intellectual property is analyzed at length. For disputes arising within the boundaries of a country, it is national law that will determine which court is competent to decide an IP dispute. In cases of cross-border litigation, the situation becomes more complicated.

\textsuperscript{22} Officine Lovata S.p.a. v. Ajay Kumar Agrawal, 2005 (30) PTC 465 (Mad)