

Judicial Structures and Procedural Rules for Intellectual Property Disputes

A Comparative Report





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Foreword

The World Intellectual Property Organization (WIPO) is pleased to present this innovative study, *Judicial Structures and Procedural Rules for Intellectual Property Disputes: A Comparative Report*. Technological changes are positioning courts at the forefront of questions in the realm of intellectual property (IP) with significant legal, social and economic implications. Around the world, judicial systems face increasing challenges – both technical and case management related – stemming from the rapidly evolving nature of IP disputes. The globalized character of modern societies and the transnational nature of IP transactions ensure that this momentum will continue. In this context, Member States are actively examining how to structure their court systems and procedural rules to improve access to justice, enhance procedural efficiency, and more effectively address the unique complexities of IP disputes.

WIPO, and in particular its Judicial Institute, collaborates closely with Member States to provide guidance and technical assistance to support policymakers engaged in these endeavors. This report was commissioned as part of these efforts. It serves as a comparative global reference suitable to guide national and regional considerations on judicial reform. While offering unprecedented coverage of the judicial dimension of IP governance, this report explains and compares the different forms of and approaches to judicial structures and procedural rules for IP adjudication. It compares the law and practice of 11 jurisdictions – selected to highlight diversity of geographical regions, development and approaches – presenting practical insights into general judicial structures, specialized court systems, rules of procedure and policy considerations specific to IP disputes.

While it does not seek to provide prescriptive advice or recommend best practices, this report does offer WIPO Member States factual and objective information needed to form their own strategic plans for judicial structures and procedures that align with national needs and national policy objectives.

This report builds on and complements other WIPO resources, such as the IP Judicial Structures and Procedures online tool, the IP Benchbook Series, and *An International Guide to Patent Case Management for Judges*, among others, which support judiciaries in their vital role of ensuring that IP, innovation and creative ecosystems remain balanced and effective. It also complements other WIPO publications aimed at policymakers, such as the study *Models of IP Governance and Administration*.

We hope that this report will equip policymakers with valuable insights to support well-informed decisions in designing IP judicial governance, thereby resulting in strong and effective IP adjudication systems worldwide, ultimately benefiting innovation and society alike.

Marco Alemán
WIPO Assistant Director General

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List of abbreviations

BGH	Bundesgerichtshof [Federal Court of Justice] (Germany)
BPG	Bundespatentgericht [Federal Patent Court] (Germany)
BVerwG	Bundesverwaltungsgericht [Federal Administrative Court] (Germany)
CAFC	Court of Appeals for the Federal Circuit (United States of America)
CCB	Copyright Claims Board (United States of America)
CLE	continuing legal education
CMO	collective management organization
CPC	Code de procédure civile [Code of Civil Procedure] (France)
CPI	Code de la propriété intellectuelle [Intellectual Property Code] (France)
CPR	Civil Procedure Rules (England and Wales)
DPMA	Deutsches Patent- und Markenamt [Patent and Trademark Office] (Germany)
EUR	euro
GBP	British pound sterling
INPI	Instituto Nacional da Propriedade Industrial [National Institute of Intellectual Property] (Brazil); Institut National de la Propriété Industrielle [National Institute of Intellectual Property] (France)
IP	intellectual property
IPCSP	Intellectual Property and Competition Specialized Chamber of the Canadian Federal Court
IPEC	Intellectual Property Enterprise Court (England and Wales)
IPOPHL	Intellectual Property Office of the Philippines
JPO	Japanese Patent Office
MarkenG	Markengesetz [Trademark Act] (Germany)
OLG	Oberlandesgerichte [higher regional courts] (Germany)
PatG	Patentgesetz [Patent Act] (Germany)
PHP	Philippine peso
SCT	small claims track (England and Wales)
SGD	Singapore dollar
SICC	Singapore International Commercial Court
SME	small or medium-sized enterprise
TAD	Trial and Appeal Department (Japan)
TTAB	Trademark Trial and Appeal Board (United States of America)
UKIPO	Intellectual Property Office of the United Kingdom
USD	US dollar
USPTO	Patent and Trademark Office of the United States of America
WIPO	World Intellectual Property Organization
ZPO	Zivilprozessordnung [Rules of Civil Procedure] (Germany)

Executive summary

This is a stand-alone analytical report exploring how different jurisdictions organize the judicial administration of intellectual property (IP) disputes.

Aiming to gather practical insights into the options and key considerations for policymakers approaching judicial reform, the report:

- identifies the judicial structures found among the jurisdictions selected for the study;
- highlights the key characteristics of these structures; and
- explores the reasons why policymakers might choose one structure or another – or a blend of some (or all) of them.

Introduction

The introductory chapter identifies the 11 jurisdictions selected for the study – namely, Brazil, Canada, Costa Rica, France, Germany, Japan, Kenya, the Philippines, Singapore, the United Kingdom and the United States of America.

The chapter also sets out the purpose and scope of the study, as well as its methodology, and defines some terminology used.

1. Judicial structures in intellectual property disputes

Structural options for intellectual property disputes

The report sets out the possible structures for the judicial administration of IP disputes. These can be classified into three main types:

- stand-alone IP courts;
- specialized IP divisions or chambers; and
- general civil or commercial courts.

In addition, quasi-judicial bodies may handle specific types of IP dispute – most commonly, certain types of copyright dispute involving licensing, tariffs and collective management organizations (CMOs).

Deciding among the structural options

None of the selected jurisdictions was found to have established a single, stand-alone IP court that has jurisdiction over all types of IP dispute; rather, such judicial structures are introduced to deal with a specific type of right (e.g., patents) or dispute (e.g., validity claims).

If specialized IP judicial structures have been adopted, the prevalent form among the selected jurisdictions is specialized IP divisions or chambers. These usually emerge by means of the courts' self-governing mechanisms.

Some jurisdictions were found to allocate IP disputes to a few designated judges within a general court. Other jurisdictions deal with IP disputes not within specialized IP judicial structures or with specialist judiciary but instead within the remit of general civil and commercial courts.

This section explores the decisions made among the selected jurisdictions and the issues to which such solutions were a response.

Other issues informing structural decisions

Further issues emerged from the study as informing decisions about the judicial structures in which IP disputes are adjudicated.

- **Specialization at first, appellate or final instances** First instance specialization – usually adopted alongside specialized procedural and case management rules – is usually adopted to improve time- and cost-effectiveness of IP proceedings.
- Specialization at the appellate level is a response to issues of inconsistent jurisprudence.
- **Territorial considerations** The review of territorial considerations in this report indicates that the location of specialized courts is largely demand-driven.
- In some jurisdictions, this issue is addressed by concentrating jurisdiction and creating as many specialized chambers as demand requires; in others, this is addressed by permitting courts to hear cases outside their official seat or through video conferencing.
- Nonetheless, some jurisdictions retain IP divisions or chambers in areas with low case volumes to ensure access to justice.
- **Exclusive and concurrent jurisdiction** In some of the systems, statutes provide for exclusive jurisdiction of specialized IP courts, although this exclusivity often applies only to technically complex IP disputes rather than to all IP matters.
- Where jurisdiction is not exclusive, specialized bodies typically operate alongside the general civil judiciary, sometimes supported by procedural mechanisms that address parallel proceedings. A common feature across systems is that appeals against decisions of national IP offices are usually assigned to a specific court with exclusive jurisdiction.
- **Material scope of IP courts' jurisdiction** In some jurisdictions, specialization is specific to *technical* IP disputes, such as those involving patents, utility models and semiconductor topography rights, as well as (less often) design and plant variety disputes.
- This may comprise specialized structures, such as a stand-alone court or a specialized chamber dealing only with these types of IP right, or it may take a more nuanced form, such as specialized judges or specialized procedures.
- The goal in these instances is to concentrate relevant technical expertise.
- In *nontechnical* disputes, specialization takes different forms and serves different objectives. It often results from a need for a more informal setting in which individual litigants and small or medium-sized enterprises (SMEs) can access justice, and hence some jurisdictions allocate IP disputes of low value to specialized judicial, administrative or quasi-judicial bodies, which consider them in simplified proceedings. Additionally, some jurisdictions allocate certain IP disputes (e.g., those involving trade secrets, unfair competition, designs or trademarks) to commercial courts, which may allocate them to lay judges with commercial expertise.
- **Interaction with quasi-judicial bodies** When contemplating the establishment of quasi-judicial bodies for IP disputes, policymakers should consider taking into account the institutional placement and functions of these bodies. Appeals against decisions of national IP offices are often handled by bodies located within the offices themselves; where such bodies do not exist, appeals typically lie before specialized courts or, in some cases, general civil courts. Opposition proceedings are generally administered within the IP offices.
- Quasi-judicial bodies established outside IP offices often perform broader functions.
- **Bifurcation** Some jurisdictions have introduced a bifurcated system of IP judiciary, whereby one court has jurisdiction over validity disputes and another over those involving infringement.
- Bifurcation can be a route to technical expertise: a specialized court dealing exclusively with validity disputes may employ technically qualified judges, while specialized IP divisions at the infringement courts will instead rely on technical advisors or additional invalidation pathways.
- Interestingly, bifurcation was often found to result from the specific characteristics of a country's legal system rather than concerns about access to technical expertise.

2. Members of courts handling intellectual property disputes

The use of specialized members of courts was found to differ considerably among the jurisdictions selected for the study, spanning both different types of judge and a specialist known as a technical advisor.

- **Judges** Three types of judge hearing IP disputes can be identified among the selected jurisdictions:
 - legally qualified judges
 - technically qualified judges
 - and other types of specialized judge

Technically qualified judges are generally employed in stand-alone IP courts dealing with the most technically challenging disputes. Other types of specialized judge include lay judges with commercial expertise, who may decide cases in commercial courts, but these are relatively rare.

Formal criteria requiring that legally qualified judges have prior knowledge of, or experience in, IP law at the time of appointment are uncommon. In systems that employ technically qualified or lay judges with commercial expertise, such criteria are more frequently applied and generally relate to technical qualifications or business knowledge and/or experience.

- **Technical advisors** Most of the selected jurisdictions rely on technical advisors, whom a court may appoint ad hoc to help it to understand a specific case. Some jurisdictions also employ judicial research assistants on a permanent basis to support courts in technical disputes. This approach is, however, rare.

3. Rules of procedure for intellectual property disputes

Specialized rules for IP dispute proceedings are introduced through various legal means – including by statute or statutory instrument, or in rules or court or court guidelines – and for various reasons.

Comprehensive, specialized IP-specific procedures are rare. More usually, jurisdictions will legislate in relation to certain specific matters (e.g., grounds for remedies, as well as provisional and evidentiary measures) or provide specialized rules for a specific type of proceeding or IP right.

Their reasons also differ.

- Some jurisdictions introduce specialized rules to give effect to the constitutional protection of the exclusive rights of scientists, inventors and artists - thereby recognizing the role of IP rights in the development of domestic and creative activities.
- Others streamline and front-load dispute procedure as a way of dealing efficiently with complex technical cases - an approach that may also demand active case management of the court.

Finally, some jurisdictions among those selected for this study have introduced small claims procedures for IP disputes as an informal, less time-consuming and more cost-effective approach that supports SMEs. Such procedures are more commonly available for copyright and trademark disputes, as well as, in some jurisdictions, for designs; they are rarely used for patent litigation.

4. Further policy considerations

When considering whether to introduce specialized judicial or procedural arrangements for IP disputes, the report reflects that policymakers should consider identifying the specific reasons for pursuing specialization and assessing whether those objectives cannot be adequately addressed within existing judicial structures. Any specialized solution should be carefully designed to ensure that it improves the effective adjudication of IP disputes and is appropriately tailored to the needs of litigants, judges, and other relevant stakeholders. Policymakers may also determine which types of IP rights warrant specialized treatment, as the optimal judicial structure may vary depending on the nature of the right. In particular, the technical complexity of certain IP rights may justify higher levels of specialization, while other disputes may be better addressed through more simplified or lower-cost procedures.

Another key consideration concerns the needs of litigants and other parties. Specialization may involve concentrating cases in particular locations in order to consolidate expertise, strengthen judicial familiarity with recurring issues, and use resources such as technical infrastructure, training and specialized support staff more efficiently. At the same time, policymakers should remain attentive to potential accessibility concerns for parties located outside these centers. Overall, specialized judicial arrangements are most often introduced to support the more effective resolution of IP disputes, including by improving procedural efficiency, strengthening case management and, in some instances, promoting greater consistency and predictability in judicial decision-making.

Conclusions

This report gathers the wide variety of options available to those considering whether or not, and how best, to pursue judicial reform of their jurisdiction's IP dispute proceedings.

Among other things, the report highlights that reform can be achieved by means of a blend of complementary pathways that is tailored to meet local needs and sensitive to the existing judicial context. In some cases, specialized IP procedural rules may be sufficient to address the issues identified; in others, specialized judicial structures may be helpful - but perhaps only for certain types of IP right.

This report concludes by setting out some key principles and questions to support World Intellectual Property Organization (WIPO) Member States in assessing their policy options.

Introduction

This introductory chapter explains the purpose and scope of the report, identifies the jurisdictions selected and some terminology used, and establishes the authoritative date of the findings.

This is a stand-alone analytical report on how different jurisdictions organize the judicial administration of intellectual property (IP). It focuses on:

- the different structural models identified (e.g., stand-alone IP courts; specialized divisions or chambers; technically qualified judges and technical advisors);
- the reasons why a jurisdiction might adopt specialization;
- the policy considerations of which a jurisdiction may take account; and
- the various procedural approaches.

The report is the result of factual research (see “Scope of the study and methodology”), and it documents, explains and compares different forms of IP judicial structure and procedural approach across 11 selected jurisdictions (see “Jurisdictions selected”).

Purpose of the report

This report does not seek to set out prescriptive advice or to recommend best practices; rather, it gathers objective, evidence-based information and it draws some conclusions, aiming to support World Intellectual Property Organization (WIPO) Member States in assessing their policy options.

By distilling from these conclusions some key principles and key questions, it will offer Member States useful options as they evaluate which judicial structure and procedural approach might accord most closely with their own specific national needs and policy objectives.

Scope of the study and methodology

This report comprises a study exploring the following aspects of the judicial administration of IP disputes across the jurisdictions selected.

- In what judicial structures are IP disputes heard (e.g., generalist courts, stand-alone IP courts or specialized divisions or chambers within generalist courts)?
- Who in the courts handles IP disputes (i.e., types of judge, technical advisors)?
- What IP-specific rules of procedure exist?
- What policy considerations apply to judicial structures and procedures in IP cases?

This report adopts a comparative methodological approach with a twofold purpose. First, it presents different specialized structures and procedures adopted in the selected jurisdictions and, second, it identifies the reasons and policy considerations underlying them. These objectives necessitated the following methodological choices.

The information used in this report is drawn from country reports, written communications or interviews with national stakeholders and desk research. The country reports were prepared by WIPO on the basis of inputs received from representatives of national IP Offices and judiciaries, who were asked to fill in an identical template questionnaire. The structure of this report is based on the country reports, with the exclusion of the fields that did not provide sufficient information to allow an exhaustive and proportionate analysis of all jurisdictions selected.

In terms of substance, the templates collected information on applicable legal sources, including statutes, statutory instruments and other relevant documents issued by national authorities, such as courts' guidelines and rules of procedure, but also on the established judicial practices, as well as, whenever available, information on the reasons for establishment of specific judicial structures and applicable policy considerations.

These findings were supplemented by in-person or written interviews with members of the judiciary from the selected jurisdictions. These interviews were designed to clarify judicial practice and interpretation of the most complex issues, and the reasons for establishment of specialized structures and procedures. Details of who participated in the study and when can be found in the Annex.

Jurisdictions selected

The jurisdictions selected for the purposes of this study were Brazil, Canada, Costa Rica, France, Germany, Japan, Kenya, the Philippines, Singapore, the United Kingdom and the United States of America.

These jurisdictions reflect regional diversity, varying levels of development and differing models of judicial approach.

Further information on the judicial frameworks and procedural rules applicable in each jurisdiction can be found in WIPO's collection of digital resources, available at www.wipo.int/en/web/judiciaries/structures-rules

Terminology used

This study adopts a broad understanding of **intellectual property (IP)**, which covers industrial property rights,¹ copyright and related rights,² plant variety rights,³ semiconductor topography rights⁴ and other types of right that different jurisdictions introduce that may be treated as an IP right (e.g., rights in unregistered designs). The terms **IP disputes**, **IP cases** or **IP claims** will be used accordingly.

Bifurcation refers to a procedural arrangement whereby questions of infringement and validity are adjudicated separately, often by different courts or judicial bodies. Usually, in jurisdictions that adopt this model, generalist civil courts are competent to decide issues of infringement, while questions of validity are reserved for a specialized court.

Concentration of jurisdiction denotes a deliberate policy of assigning particular types of dispute, such as those involving IP rights, to a limited number of judicial fora. This model is intended to ensure expertise, consistency and efficiency by centralizing judicial administration within designated courts. In jurisdictions where concentration occurs at the first-instance level, only selected courts are authorized to hear IP cases, thereby avoiding fragmentation of

1 Article 1(3) of the [Paris Convention for the Protection of Industrial Property](#) (Paris Convention) of March 20, 1883, as revised on July 14, 1967, and as amended on September 28, 1979, defines industrial property rights as patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications and the repression of unfair competition.

2 See the [Berne Convention for the Protection of Literary and Artistic Works](#) (Berne Convention) of September 9, 1886, as revised on July 24, 1971, and as amended on September 28, 1979, the [WIPO Copyright Treaty](#) (WCT), adopted on December 20, 1996, and other applicable international treaties.

3 See the [International Union for the Protection of New Varieties of Plants](#) (UPOV) of December 2, 1961, as revised on November 10, 1972, and October 23, 1978, and entered into force on April 24, 1998.

4 [Washington Treaty on Intellectual Property in Respect of Integrated Circuits](#) (Washington Treaty) of May 26, 1989.

jurisprudence. The designated courts usually also deal with non-IP disputes; to ensure the ruling panel is competent in IP law, the courts set up specialized divisions or chambers to which IP disputes are allocated.

Divisions and chambers are organizational units within courts. Terminology varies by jurisdiction: some jurisdictions use *divisions*, while others use *chambers*. When referring collectively to these units across jurisdictions, this report uses the phrase **divisions or chambers**; when discussing a specific jurisdiction, the report adopts that jurisdiction's preferred term.

Concurrent jurisdiction arises where two or more judicial or administrative bodies possess the authority to hear and decide on the same type of legal dispute, such as when both a federal and provincial court have jurisdiction to hear the same dispute. While concurrent jurisdiction may enhance access to justice, it may also raise questions concerning forum shopping and procedural efficiency.

Original jurisdiction refers to the power of a court or tribunal to hear a case at first instance, as opposed to reviewing a decision rendered by a lower body. Courts of original jurisdiction are primarily responsible for establishing facts, applying the law in the first instance and rendering initial judgments. This is to be distinguished from **appellate jurisdiction**, which is limited to reviewing questions of law or procedural errors made by subordinate bodies.

Exclusive jurisdiction designates the circumstance in which only a particular court or tribunal is legally authorized to adjudicate a given category of disputes. Such exclusivity may be conferred either by statute or constitutional provision.

Judicial bodies are bodies that meet “all the relevant requirements which are generally expected from judicial bodies (in terms of independence and impartiality, etc.) and that [have] the jurisdictional power to render enforceable judgments”.⁵ These bodies are established under formal legal frameworks and are usually subject to constitutional guarantees.

By contrast, a **quasi-judicial body** possesses certain adjudicative functions, such as the capacity to collect and analyze evidence, to decide on rights and to settle disputes,⁶ but it does not fulfill all the formal criteria of a court. This report adopts a broad definition of a quasi-judicial body, incorporating, for example, appeal boards or the registrars of national IP offices. The definition is a functional one: regardless of the legal character of a body in a given jurisdiction, as long as it performs one of the relevant adjudicative functions, it will be treated as a quasi-judicial body.

The term **general civil judiciary** refers to the ordinary court system tasked with adjudicating a broad array of civil law disputes, such as contractual disputes, torts and property rights. These courts typically lack specialization in IP law unless explicitly designated as competent under national rules. In jurisdictions without a concentrated or specialized IP judiciary, IP disputes may still fall within the remit of generalist civil courts. In some jurisdictions, certain IP disputes – in particular, those involving trade secrets or unfair competition – may also be allocated to the **commercial judiciary**.

5 J. de Werra (2016). *Specialised IP courts: Issues and challenges*. In Center for International Intellectual Property Studies (CEIPI) and International Centre for Trade and Sustainable Development (ICTSD), *Specialised Intellectual Property Courts: Issues and Challenges – Global Perspectives for the Intellectual Property System*, Issue No. 2, 15–41, at 19.

6 The literature offers some further examples of the function of quasi-judicial bodies. Tignino indicates that the bodies “settle disputes regarding [...] norms, or make determinations on the basis of investigations of one form or another”: M. Tignino (2016). Quasi-judicial bodies. In C. Brölmann and Y. Radi (eds), *Research Handbook on the Theory and Practice of International Lawmaking*. Cheltenham: Edward Elgar, 242–261, at 242. See also B.G. Ramcharan (2016). Law-making, judicial and quasi-judicial standards of protection. In B.G. Ramcharan, *United Nations Protection of Humanity and Its Habitat: A New International Law of Security and Protection*. Leiden/Boston: Brill, 47–73. Gillett and colleagues define the function of quasi-judicial bodies “as receiving evidence, overseeing adversarial procedures, and considering complaints by States and/or individuals”: M. Gillett, Y. Karukaya and M. Marzotto (2024). Reconciling the dual-faceted mandates of quasi-judicial human rights bodies: The Working Group on Arbitrary Detention's prima facie approach to evidence. *Human Rights Law Review*, 24(1), 1–25. Available at <https://doi.org/10.1093/hrlr/ngad045>

The distinction between jurisdiction *ratione personae* and jurisdiction *ratione materiae* pertains to the grounds upon which a court claims authority over a dispute.

- **Jurisdiction *ratione personae*** is based on the identity or status of the parties involved, such as whether a party is a foreign national, a public law entity or a minor.
- In contrast, **jurisdiction *ratione materiae*** is determined by the subject matter of the case, such as criminal law, administrative law or IP law.

Both forms of jurisdiction may operate concurrently to define the proper forum for adjudication.

Iudex ambulans (literally, “itinerant judge”) refers to a court or judicial function that is not bound to a fixed geographic location. It describes judicial arrangements whereby judges or court panels travel periodically to different locations within a jurisdiction to hear cases and these arrangements are especially likely in jurisdictions with an unevenly distributed legal infrastructure.

Authoritative date

The information contained in this report reflects the state of the law as of December 1, 2025.

1 Judicial structures in intellectual property disputes

This first chapter sets out the basic options for IP judicial structures, including judicial and quasi-judicial bodies. It then examines the policy considerations and themes that may inform the design of such structures in any given jurisdiction.

The purpose of this chapter is to give interested parties a general, comprehensive overview of the structures and policy options possible when determining the location and scope of a specialized IP judiciary, as well as when considering a generalist approach without specialization. This will be followed by a discussion of policy themes – that is, the main systemic lines along which jurisdictions diverge or converge – and of the reasons why policymakers may favor specialization. These include:

- location decisions informed by issues of access to justice (i.e., the equal distribution of jurisdiction between regional divisions or chambers);
- factors supporting centralized specialization (i.e., a single centralized court in the capital); or
- those centering litigants' convenience (i.e., regional divisions or chambers situated only in those cities with the greatest volume of IP litigation).

While this report is focused, to some degree, on those jurisdictions that have introduced elements of specialized IP judiciary, it is important to remember that this may not be appropriate in all jurisdictions and that the degree of specialization differs considerably among those selected for this study. Indeed, in some instances, the bulk of IP disputes are still heard by the general civil or commercial judiciary.

1.1 Structural options for handling intellectual property disputes

The main structural options for the judicial administration of IP disputes comprise:

- quasi-judicial bodies within or outside IP offices;
- stand-alone IP courts;
- IP divisions or chambers, or specialized judges, within a general court;
- the concentration of jurisdiction in a non-IP exclusive court; and
- general civil or commercial courts.

Quasi-judicial bodies

Quasi-judicial bodies within IP offices handling appeals

The selected jurisdictions have established different forms of quasi-judicial adjudication at their national IP offices. Such review may be delegated to a specialized body, such as a board of appeal, or to the president of the office itself. The reason why such appellate structures may be established within the IP offices rather than outside of them (e.g., within the judicial structure) is one of procedural efficiency.

In some jurisdictions, such internal appellate review exists in relation to all types of registrable IP right; in others, the office may be competent for appeals relating only to certain types of right. In Brazil, Japan, the Philippines and the United States of America, internal review is available for all registrable IP rights:

In Brazil and the Philippines, appeal lies to the director or president of the national IP office.

In Japan and the United States of America, appellate bodies have been established to review appeals from the national IP offices.

Decisions in both of these instances can be appealed to courts of appeal or specialized IP courts.

In other jurisdictions, the internal review by quasi-judicial bodies covers only selected types of IP dispute.

In Canada, the Commissioner of Patents, supported by the Patent Appeal Board, hears appeals related to patent and industrial design applications, while the rest of the appeals are directed to the Federal Court.

Other jurisdictions provide for either a simplified review at the national IP office or direct appeals to courts.

In France, appeal from a decision of the Institut National de la Propriété Industrielle [National Institute of Intellectual Property] (INPI) generally lies directly to the courts of appeal.

Similarly, in Singapore, appeals from the decisions of the Registrar lie to the General Division of the High Court.

In Germany, appeals from the decisions of the national IP office are filed with the office itself, which may either find the appeal well founded and annul the appealed decision or transfer the appeal to the Bundespatentgericht [Federal Patent Court] (BPG).

In Kenya, appeals concerning the registration of IP rights lie either to the High Court or to the Industrial Property Tribunal.

In England and Wales, internal review exists in a limited form through an *ex parte* review before a hearing officer.

Quasi-judicial bodies within IP offices handling matters other than appeals

In addition to dealing with appeals against decisions of the examining divisions, some jurisdictions have established additional quasi-judicial bodies within their national IP offices to deal with other types of dispute.

The Intellectual Property Office of the Philippines (IPOPHL) deals with a broad spectrum of disputes through its different bureaus (e.g., the Bureau of Copyright and Related Rights, the Bureau of Legal Affairs, and the Documentation, Information and Technology Transfer Bureau).

- The Bureau of Copyright and Related Rights performs a similar function to a copyright tribunal; as such, it will be discussed in the next section (see "Copyright tribunals (copyright boards)").
- The Bureau of Legal Affairs, while also authorized to consider oppositions to the registration of marks and cancellation of registrations of marks, patents, utility models and industrial designs, possesses original jurisdiction in administrative complaints for law violations involving IP rights where the total damages claimed are not less than PHP 200,000.
- The Documentation, Information and Technology Transfer Bureau has the power to resolve disputes on technology transfer payments.

Finally, the Director General of the IPOPHL decides on appeals against the decisions of these bureaus, as well as of the other bureaus of the IPOPHL charged with granting IP rights, and considers petitions for compulsory licensing.

A feature common to all the selected jurisdictions is how opposition proceedings are conducted within the national IP office.

Such proceedings will be conducted either by a registrar – perhaps represented by the president of the office, as is the case in France and Singapore – or by a specialized administrative or quasi-judicial body – as is the case in Canada, where the Trademarks Opposition Board decides on oppositions to the registration of a trademark, expungements of a trademark registration and objections to entering a geographical indication on the list.

Quasi-judicial bodies outside of IP offices

Copyright tribunals (copyright boards)

The most ubiquitous form of quasi-judicial bodies dealing with IP cases in the selected jurisdictions is the copyright tribunal, sometimes also referred to as a copyright board. Such bodies have been established in Canada, Kenya, the Philippines, Singapore and the United Kingdom.

While the exact scope of their jurisdiction differs, these boards will generally hear cases related to collective management organizations (CMOs), copyright licensing and the setting of royalty tariffs.

The United States of America has also established other specialized bodies to deal with copyright claims and these have an expanded role (see below).

The Copyright Board of Canada approves tariffs for content in which CMOs manage the rights, settles individual cases when parties disagree and grants licenses for the use of content when the rights owner(s) cannot be located.

In Singapore, the Copyright Tribunals hear disputes related to licenses and licensing schemes, determine royalties for the recording of musical works and establish equitable remuneration for various uses of copyrighted materials. They also set out how the Singapore Government may use copyright materials. While incorporated into the structure of Singapore's national IP office, the Copyright Tribunals are *de facto* a quasi-judicial body in their own right. Under section 480 of the Copyright Act 2021, their president must be, or be qualified to be, a district judge and the deputy president must have been a qualified legal professional for at least five years. Under sections 480 and 481, all are appointed by the relevant government minister.¹

In the Philippines, the Bureau of Copyright and Related Rights hears disputes relating to the terms of a license involving the author's right to public performance or other communication of the author's work. However, unlike its Singaporean counterpart, the Philippines' Bureau is a division of the national IP office rather than an independent quasi-judicial body. For example, its director is appointed by the president of the office and no requirements are established as to candidates' legal knowledge or experience.

In the United Kingdom (i.e., not only in England and Wales), the Copyright Tribunal is an independent legal body whose main function is to hear disputes involving collecting societies accused of abusing their power by refusing licenses unreasonably or imposing unreasonable terms of licensing.²

In the United States of America, the Copyright Office and the Copyright Office Review Board have been established to, respectively, register copyright claims and conduct final administrative review of any refusal to register. Additionally, the Copyright Claims Board has been established to deal with certain types of copyright claim the value of which does not exceed USD 30,000 (i.e., infringement claims, declarations of noninfringement and claims of misrepresentation in notices under the Digital Millennium Copyright Act of 1998).³

¹ See [Copyright Act 2021](#), revised 2020 and amended up to March 9, 2025, Singapore.

² House of Commons Innovation, Universities and Skills Committee (2008). *The Work and Operation of the Copyright Tribunal*. Second Report of Session 2007–08. London: HMSO, at 5. Available at <https://publications.parliament.uk/pa/cm200708/cmselect/cmdius/245/245.pdf>

³ See [Digital Millennium Copyright Act](#) (Public Law 105-304, 112 Stat. 2860), October 28, 1998, United States of America.

The policy reasons considered pivotal in decisions to establish copyright tribunals include the accessibility and efficiency of proceedings, as well as the need for a less formal setting.

In Canada, the Copyright Board is charged with setting fair and equitable tariffs and licenses through timely processes.⁴

In Singapore, the Copyright Tribunals conduct proceedings with “as little formality, and with as much expedition” as the requirements of the Copyright Act 2021 permit.⁵

Other quasi-judicial bodies

Quasi-judicial bodies other than copyright tribunals (copyright boards) have been established to:

- consider the impact of IP rights from the perspective of unfair trade practices (e.g., the United States of America's International Trade Commission);
- deal with complaints regarding registrations of company names (e.g., the United Kingdom's Company Names Tribunal);
- decide on national listings of new varieties of plant, plant variety rights and certain forestry matters; and
- determine any matters relating directly or otherwise to the infringement of plant breeders' rights that the parties refer by means of an arbitration agreement (e.g., to the United Kingdom's Plant Varieties and Seeds Tribunal).

Finally, a quasi-judicial body may handle appeals from the decisions of the national IP office.

In Costa Rica, the Tribunal Registral Administrativo [Administrative Registration Tribunal] has exclusive jurisdiction to hear appeals from the decisions of the Registro Nacional [National Registry]. The Tribunal is financially and administratively independent.⁶ The decisions of the Tribunal Registral Administrativo are appealed to the Tribunal Contencioso Administrativo y Civil de Hacienda [Court of Administrative and Fiscal Disputes] – a collegial body that, in essence, reviews the legality of the State's administrative acts.

In the United Kingdom, decisions of the Comptroller-General of Patents, Designs and Trade Marks may be appealed to Appointed Persons – that is, persons appointed directly by the Lord Chancellor, independently of the Intellectual Property Office of the United Kingdom (UKIPO). Such persons are selected from among candidates who must be senior legal practitioners and who may only review the original decisions rather than reassess the case.

Stand-alone IP courts

None of the jurisdictions selected for this study has established a stand-alone IP court that deals with all types, or a majority of types, of IP dispute; instead, some of the jurisdictions have established in their existing courts specialized divisions or chambers that deal with certain specific types of IP dispute and which – in contrast to other divisions or chambers – possess some degree of institutional independence. These divisions or chambers differ across jurisdictions in terms of their organizational structure, legal character and the types of dispute with which they deal.

Because of this varying degree of independence, the distinction between a stand-alone IP court and specialized IP divisions or chambers in civil or commercial courts is not always clear-cut. Among other things, this is because judicial reform may happen organically rather than through broad legislative mechanisms. As a result, in some cases, a specialized division or chamber that is legally located as part of a general court nevertheless operates with significant independence and recognition.

4 See Copyright Board of Canada (n.d.). Mandate, jurisdiction and role. Available at www.cb-cda.gc.ca/en/about-us/mandate-jurisdiction-role

5 See Singapore Copyright Act 2021 (n. 1), s. 498(1).

6 See Law No. 8039 on Procedures for Enforcement of Intellectual Property Rights, amended to March 7, 2018, Costa Rica, art. 19.

Stand-alone IP courts with broad specialization

As noted above, no unequivocal example of a stand-alone IP court can be identified among the jurisdictions selected for this study.

In England and Wales, the combined Patents Court and the Intellectual Property Enterprise Court (IPEC) are exclusively authorized to deal with patent, registered design, semiconductor topography and plant variety disputes, follow a specialized procedure and are treated as separate venues by practitioners. While *de jure* both are technically specialized lists of the Chancery Division, *de facto* they function as independent courts.

Similarly, in Japan, the specialized Intellectual Property High Court was created by means of legislative reform and, despite being a branch of the Tokyo High Court, it possesses a degree of independence. It was established under a special statutory provision and it is authorized to exercise independent authority in relation to certain judicial administrative affairs, such as allocating judicial procedures and assigning judges. Nonetheless, it too remains within the general court system and cannot be characterized as a stand-alone court.

In Kenya, the Industrial Property Tribunal has exclusive jurisdiction over all infringement and validity disputes for patents, registered designs and utility models, as well as over some other matters, such as compulsory licensing. It may also deal with the so-called technovations – that is, technical solutions proposed by an employee that have not been considered by the employee's enterprise. It excludes, however, nonindustrial disputes, such as copyright. Because its sole role is to adjudicate IP disputes and it functionally acts as a court of first instance, the Tribunal might be seen as a stand-alone IP court, but Kenyan law holds that the Tribunal's members are not judges. It is therefore more accurate to refer to it as a quasi-judicial body adjudicating IP disputes.

It is worth noting that in none of these examples is the court's or tribunal's jurisdiction universal across all types of IP right.

These courts or tribunals deal primarily with the most technical disputes – that is, patents, utility models or, sometimes registered designs. No jurisdiction among those selected for this study has established a stand-alone IP court to deal with other types of IP dispute, such as trademark and copyright – although, in practice, in England and Wales, the IPEC functions as the decisively preferred venue for disputes involving small claims (i.e., of below GBP 500,000).

Stand-alone IP courts with a narrow specialization

Some jurisdictions have established stand-alone courts that have a jurisdiction narrowed in terms of either the type of IP right or the type of dispute (i.e., validity or infringement).

The German BPG has exclusive jurisdiction to deal with appeals against decisions of the German Deutsches Patent- und Markenamt [Patent and Trademark Office] (DPMA) and with patent validity disputes *inter partes*. Thus, while dealing with several types of IP right, the BPG decides only on validity and never on infringement.

The Kenyan Copyright Tribunal (considered a specialized tribunal within the judiciary of Kenya)⁷ decides on appeals from the decisions of the Copyright Board and on disputes involving CMOs in matters concerning registration or the imposition of unreasonable licensing terms and conditions.

IP divisions or chambers, or specialized judges, within a general court

The most common type of specialized IP arrangement among the jurisdictions selected for this study are IP divisions or chambers. This type of arrangement is present in all of the jurisdictions

⁷ See Copyright Tribunal Kenya (2018). *Inaugural Meeting to Develop Rules of Procedure and Review of Related Matters*. Available at <https://copytribunal.wordpress.com/2018/09/24/inaugural-meeting-to-develop-rules-of-procedure-and-review-of-related-matters/>

with the exception of: Kenya, which has instead established a stand-alone tribunal; the United States of America, which ensures specialization of first-instance judges through other means; the Philippines and Costa Rica. The specific case of the IPEC and the Patents Court in England and Wales, as well as the Intellectual Property High Court in Japan, has already been explained (see “Stand-alone IP courts with broad specialization”).

As further discussed below, the reasons why divisions or chambers are the most commonplace arrangement for the judicial administration of IP disputes are twofold: the organic nature of judicial reform; and a pursuit of structural flexibility.

The legal basis and structure of such divisions or chambers will differ between jurisdictions.

In Germany, specialized chambers of courts with concentrated jurisdiction may be established by the self-governing mechanisms of *Landesgerichte* [regional courts] and *Amtsgerichte* [local courts] even though the concentration of jurisdiction is a matter left for the *Länder* [federal state governments].

In Brazil, specialized chambers are introduced by self-governing court mechanisms and do not require any prior authorization from the government.

In France, where specialization is supported through concentration, specialized IP divisions or chambers are established by the courts themselves, in accordance with the generally established practice of dividing courts.

In Canada, the Intellectual Property and Competition Specialized Chamber of the Canadian Federal Court (IPCSP), which has original jurisdiction to hear IP cases and appellate jurisdiction over the registration of IP rights, was established by the Federal Court as a pilot project with the aim of developing expertise within the court, and remains in operation.

In Japan, the Tokyo and Osaka District Courts are exclusively competent to hear infringement disputes concerning patents, utility models, semiconductor topographies and the rights of authors of computer programs. The two Courts have, respectively, four and two specialized IP chambers.

In Singapore, the General Division of the High Court has a specialist list of docketed judges and a team of assistant registrars with expertise in IP and information technology law. Additionally, the Singapore International Commercial Court (SICC) was established as part of the General Division of the High Court to hear cases of an “international and commercial nature” and actions that relate to “an *in personam* intellectual property dispute”.⁸

In the United States of America, specialization of the first-instance judges at the District Court level is supported through the allocation of IP disputes to certain selected judges in accordance with their skills and declared preferences. This may be formalized, as in the Patent Pilot Program under which, of 315 active and senior district judges, 65 volunteered (as so-called designated judges) to receive patent cases from other (nondesignated) judges.⁹

The main advantage of the specialized divisions or chambers, as well as the reason why they are such a popular type of structure, is their flexibility.

- They are usually established by the courts in response to demand for litigation in a given location.
- Courts can increase or decrease the number of specialized chambers with which it responds to that demand.
- Judges can be allocated in accordance with their knowledge and skill sets.

⁸ See SG Courts (n.d.). Singapore International Commercial Court. Available at www.judiciary.gov.sg/singapore-international-commercial-court

⁹ M.S. Williams and R. Eyre (2021). *Patent Pilot Program: Final Report*. Federal Judicial Center, April. Available at www.fjc.gov/sites/default/files/materials/21/Patent%20Pilot%20Program%20Final%20Report.pdf

Finally, specialized divisions or chambers may be vested with jurisdiction over both IP and non-IP disputes. For example, the specialized chamber of the Canadian Federal Court – that is, the IPCSP – deals with both IP and competition disputes, while many Brazilian specialized chambers are business chambers that adjudicate both IP and other corporate matters.

It is also important to note that similar results may be achieved even without formally distinguishable divisions or chambers. The United States of America's Patent Pilot Program demonstrates that judicial expertise in IP cases may be promoted by consistently allocating IP disputes among only a few specialist judges.

Which of these solutions proves the most effective will depend on the character of the jurisdiction in question.

Concentration of jurisdiction in a non-IP exclusive court

Concentration of jurisdiction may be a mechanism that facilitates greater judicial specialization, regardless of whether or not the jurisdiction has provided for court divisions or chambers. By centralizing IP cases among a few designated courts, the jurisdiction can more easily allocate relevant resources effectively and ensure sufficient specialized judges. This model also benefits from economies of scale: a single court serving a broad geographic area can justify greater investment in technical expertise and infrastructure.

This type of arrangement is present in France, Germany, Japan, the Philippines and the United States of America.

In France, 10 out of 164 first-instance courts have been selected to deal with IP disputes other than those involving patents, utility models, semiconductor protection, European trademarks and Community designs, which are under the exclusive jurisdiction of the tribunal judiciaire de Paris [Paris Judicial Tribunal]. The basis for concentration in France is statutory.

In Germany, concentration arrangements among the Länder have resulted in 21 Landesgerichte with exclusive jurisdiction in cases of trademark infringement and 12 Landesgerichte having exclusive jurisdiction over patent infringement.

In the Philippines, the Supreme Court has designated specific branches authorized to deal with IP disputes “in the interest of an efficient administration of justice and to ensure speedy disposition of cases involving [the] violation of [IP rights]”.¹⁰

Another example of concentration is the United States of America's Court of Appeals for the Federal Circuit (CAFC), in which the jurisdiction to deal with all patent and plant varieties appeals was concentrated. The Patent Pilot Program can also be treated as a concentration of patent cases before volunteer specialist judges in selected federal district courts.

General civil or commercial courts

Some of the jurisdictions selected for this study have opted to assign some or all IP disputes to the general civil or commercial courts. Nevertheless, the jurisdiction of these courts may be limited because it is concurrent with that of the specialized courts, or because it extends only to infringement claims or certain types of IP case.

In Brazil, all infringement cases are heard by state courts, and validity cases by federal courts. Thus, unless a specialized chamber is established at a given court, IP disputes in Brazil are considered by general civil courts.

In Costa Rica, all infringement disputes go to the general civil courts.

¹⁰ Supreme Court Administrative Order Re Designation of Special Courts for Intellectual Property Rights (A.O. No. 113-95), October 2, 1995, Philippines.

In Canada, provincial courts have concurrent jurisdiction with the Federal Court over infringement disputes.

In France and Germany, in the absence of specialized divisions or chambers, general civil or commercial courts deal with all infringement disputes; in France, they also deal with validity disputes. In practice, however, such chambers are commonly introduced, especially for the technical types of dispute.

In Japan, the general civil judiciary deals with infringement disputes concerning designs, trademarks, copyright (excluding authorship rights for a computer program work), breeders' rights and unfair competition claims.

In Kenya, any IP case may be started in the High Court, which is a general civil court; the High Court may, however, determine that a petitioner must appeal to a specialized tribunal before approaching it.

In Singapore, state courts consider cases involving breach of confidence claims, the value of which does not exceed SGD 250,000.

In the United States of America, there is no formal specialization, with the exception of the measures discussed elsewhere in this chapter, and hence all first-instance cases are decided before the general civil judiciary.

In England and Wales, the role of the general civil judiciary is very limited. The county courts rarely consider IP cases, although one of the reasons why some IP proceedings are started at that level is that not all litigants are aware that a specialized IP judiciary exists in England and Wales. In practice, what often happens is that if a case is commenced at a county court, the judge transfers the case to the IPEC. (In Scotland and Northern Ireland, all IP disputes are heard by the general civil judiciary, subject to the rules on jurisdiction.)

In terms of the role of the commercial judiciary, examples can be found in France, Germany and Singapore.

In France, commercial courts deal with disputes involving trade secrets or unfair competition claims if certain other statutory conditions are met.

In Germany, commercial chambers, which may be established by the Länder, deal with disputes regarding trademarks, registered designs and unfair competition.

In Singapore, the SICC considers claims of an international and commercial nature, as well as actions related to "an *in personam* intellectual property dispute" with an international nature.¹¹

General civil judiciary, therefore remains an important element of IP adjudication – albeit usually with some limitations, as follows.

The jurisdiction of civil courts is generally restricted to infringement disputes.

In some cases, it may also be limited to some types of IP dispute – usually those characterized by a lower level of technicality.

In addition, a commercial court may be authorized to deal with certain types of IP dispute – primarily, unfair competition, but potentially also trademark, registered design or trade secret claims.

11 See SG Courts (n. 8).

1.2 Deciding among the structural options

Specialized stand-alone IP courts

None of the jurisdictions selected for this study has introduced a single stand-alone court that deals with all types of IP dispute, but some of the judicial structures found among them are characterized by elements of such a forum.

In Kenya, the Industrial Property Tribunal deals with IP disputes of only the most technical types – that is, those involving patents, registered designs and utility models.

In England and Wales, almost all IP disputes are considered by specialized divisions (i.e., the IPEC and the Patents Court) or by other forms of specialized IP judiciary, which – in comparison to those of other jurisdictions – are independent from the non-specialised divisions.

In Japan, the Intellectual Property High Court, although formally a specialized division of the Tokyo High Court (see the subsequent section), deals exclusively with the most technical IP rights, such as patents and utility models.

In other jurisdictions, stand-alone IP courts have capacity that is limited to either a type of IP right or a type of dispute (i.e., validity or infringement). An example is the German BPG, which considers only the validity of registrable IP rights.

None of the jurisdictions has introduced a stand-alone court for only trademark or only copyright disputes, with the exception of the Kenyan Copyright Tribunal. In other jurisdictions, similar functions may be performed by quasi-judicial bodies.

Overall, the main feature that characterizes those stand-alone courts that have been established is the technical nature of the disputes with which they deal. In this context, one of the perceived benefits of a stand-alone court could be the role played by technically qualified judges, a feature not found in other types of judicial structures. However, out of the selected jurisdictions that have stand-alone courts, technically qualified judges are only found in the German BPG. (For more on technically qualified judges and technical advisors, see Chapter 2.)

Specialized IP divisions or chambers and concentration of cases

It is clear that specialized IP divisions or chambers are a common solution among the jurisdictions selected for this study – especially for disputes involving less technically complex allegations of infringement.

It appears that the reasons why specialized divisions or chambers find favor among the jurisdictions are that they offer structural flexibility and that they can emerge when a judicial system develops organically.

Canada's IPCSP was established in 2023 as a result of a judicial initiative.¹²

In Germany, specialization is left to the courts' self-governing mechanisms (known as the *Geschäftsverteilungsplan* [roster allocating court business] – although with a clear legislative basis and with potential support from *Länder*, which may introduce concentration).¹³

In other cases, where the specialized divisions or chambers were established by legislation, further factors were found to be relevant.

12 Federal Court (Canada) (2023). Notice to the Parties and the Profession: Pilot Project – Chambers of the Court. Available at www.fct-cf.ca/Content/assets/pdf/base/2023-03-02-Notice-Specialized-Chambers.pdf. The Notice states that the Chief Justice had endeavored to assign IP disputes to members of the Court who had expertise in this field. The Notice itself was intended to increase “transparency and provide greater certainty regarding the manner in which matters in these areas are ordinarily assigned”: *ibid.*, at 1.

13 Bundesverwaltungsgericht (Germany). Roster allocating court business. Available at <https://www.bverwg.de/en/rechtsprechung/geschaeftsverteilungsplan>. Bundesgerichtshof, Allocation of Jurisdiction. Available at https://www.bundesgerichtshof.de/EN/TheCourt/AllocationJurisdiction/allocationJurisdiction_node.html

The purpose of the Intellectual Property High Court in Japan is said to be:

... to ensure more effective and speedy trial proceedings in IP cases, based on the understanding that the role of the judiciary has become more important in the proper protection of intellectual property along with the active use of intellectual property in the Japanese economy and society, thereby enhancing the judicial services specializing in handling IP cases.¹⁴

This does demonstrate, however, that the distinction between specialized IP divisions or chambers and a stand-alone IP court may not be so neatly drawn.

While the Intellectual Property High Court in Japan is described as a “special branch within the Tokyo High Court”, it has “independent authority with respect to case docketing and other certain judicial administrative services”.¹⁵

An unusual example of a relatively independent specialized division is the IPEC in England and Wales, which was established with a view to improving the quality, accessibility and efficiency of IP adjudication. It is also the dominant venue for low-value trademark, copyright and other nontechnical disputes. While the IPEC employs specialist judges and uses specialized rules of procedure under Part 63 of the Civil Procedure Rules (CPR), more complex and technical cases are decided by the Patents Court and the general Chancery Division.¹⁶ As such, the IPEC constitutes an example of a court established with a clear function in mind, supported by a set of organizational and procedural functions.

Policymakers can therefore focus less on terminological matters, and more on issues such as:

- the degree of independence in terms of case docketing;
- the allocation of judges;
- budgetary independence;
- selection criteria for the judges;
- the turnover of judges from specialized to general lists; and
- the procedures that the court applies (i.e., general or specialized).

When a jurisdiction balances these moving parts, what is formally a specialized chamber may function with a significant degree of autonomy as though it were a stand-alone court.

In some circumstances, specialization has been achieved not by designating a division or chamber, as such, but rather by concentrating cases among a few specially designated judges (e.g., the United States of America's Patent Pilot Program).

General civil or commercial courts

At the other end of the spectrum, if the judiciary has not determined that the jurisdiction would benefit from specialized solutions and where empirical evidence suggests the jurisdiction deals with relatively few IP cases, policymakers might reasonably decide not to introduce any form of specialized IP judiciary at all.

In such circumstances, a jurisdiction may still consider some measures to develop knowledge of IP law among the national judiciary, such as by offering them training or providing them with access to technical expertise.

14 Courts in Japan (n.d.). Intellectual Property High Court: History. Available at www.courts.go.jp/ip/eng/aboutus/history/index.html

15 *Ibid.*

16 See *Civil Procedure Rules 1998* (S.I. 1998/3132), updated July 29, 2025, United Kingdom.

Alternative and blended approaches

On its face, specialized IP divisions or chambers appear to be the most common form of specialized structure among the selected jurisdictions (see Table 1).

- Entirely or relatively independent specialized divisions or chambers are established to deal with either all or only selected types of technical dispute.
- Stand-alone courts appear to be used when the system incorporates technically qualified judges or when the court is to have a specific function, such as that of the IPEC in England and Wales.

It is worth emphasizing, however, that the distinctions drawn here are less clear-cut in practice.

As the examples and Table 1 demonstrate, each of the jurisdictions selected for this study has adopted a blend of these five approaches. This is unsurprising, given that judicial systems are shaped both by a jurisdiction's legal traditions, which may necessitate particular institutional arrangements, and by ongoing constraints on time and resources.

The French system combines concentration and specialized chambers: IP cases are considered by only certain selected courts, which usually establish specialized chambers to support specialization.

In Germany, a specialized stand-alone court deals with validity, while specialized IP divisions or chambers deal with infringement.

In Japan, the specialized IP divisions deal with validity and with infringement of the technical IP rights, whereas the general judiciary decides on infringement of nontechnical IP rights.

For further discussion of technical and nontechnical IP rights, see “Material scope of IP courts’ jurisdiction”.

Moreover, several middle-ground alternatives or blended approaches can be identified.

- The general civil judiciary may deal with infringement disputes, while quasi-judicial bodies or specialized IP courts deal with those involving issues of validity.
- The general civil judiciary may deal with only nontechnical types of dispute, such as copyright or trademarks, while quasi-judicial bodies or specialized IP courts deal with those of a more technical nature, such as those involving patents.
- Another option – if the nature of the national judiciary allows – is the United States of America's approach of allocating certain IP disputes to a limited number of judges from the general courts.
- A jurisdiction may opt to concentrate jurisdiction over all or some IP disputes within a few specific courts, which may convene specialized divisions or chambers.
- Commercial courts may receive certain disputes related to trade, such as those alleging unfair competition and perhaps those relating to trade secrets, trademarks or registered designs.

Another type of blended arrangement involves allocating a certain type of IP dispute to a specialized court that does not deal primarily with IP disputes.

In Costa Rica, the Juzgado Agrario [Agrarian Court] and Tribunal Agrario [Agrarian Tribunal] generally deal with agri-environmental cases, but they also consider IP disputes when there is a connection to agricultural production or related activities and services, as well as claims related to plant varieties.

Table 1. Judicial structures found across the jurisdictions selected

Jurisdiction	Quasi-judicial bodies	Stand-alone IP court	IP divisions or chambers or specialized judges within a court	Concentration of jurisdiction in a non-IP exclusive court	General civil or commercial courts
Brazil	×		×		×
Canada	×		×		×
Costa Rica	×				×
France	×		×	×	×
Germany	×	×	×	×	×
Japan	×	×	×	×	×
Kenya	×	×			×
Philippines	×			×	
Singapore	×		×		×
United Kingdom	×	×			×
United States of America	×		×	×	×

Source: Authors' own.

1.3 Other issues informing structural decisions

Specialization at first, appellate or final instances

In most jurisdictions selected for this study, specialization is found less commonly at the appellate level than it is at first instance. Nonetheless, specialized appellate structures exist.

In France, the *tribunaux judiciaires* [first-instance tribunals] and courts of appeal benefit from specialized chambers.

In Germany, the same is true of the *Landesgerichte*, the *Oberlandesgerichte* [higher regional courts] (OLG) and the *Bundesgerichtshof* [Federal Court of Justice] (BGH). The BPG, which is the court of final instance for IP disputes, has two IP specialized civil panels within its structure.

In England and Wales, while the first instance is highly specialized, no formal specialization exists at the appellate level – even though the Court of Appeal of England and Wales usually employs judges experienced in IP law.

The United States of America is the only country in which formal specialization is established primarily at the appellate level. The purpose of introducing the CAFC was explicitly to provide greater consistency of jurisprudence.

At the same time, the rationale behind establishing a first-instance court is often to deliver more timely and less costly litigation in infringement or validity disputes *inter partes* by means of skillful case management and consistent jurisprudence.

In relation to appeals against the decisions of national IP offices, the solutions adopted differ considerably from jurisdiction to jurisdiction.

In Brazil and Canada, appeals against the decisions of the national IP offices are allocated to the specialized divisions or chambers of the first instance federal courts.

In France, Japan, the Philippines and the United States of America, the courts authorized to hear appeals are courts at the appeal level, with specialized IP divisions or chambers in France and Japan, and the United States of America's CAFC also offering a significant degree of specialization.

In Germany, the judicial appeal track lies to the BPG, a stand-alone IP court.

In England and Wales, appeal generally lies to the court hearing cases at first instance (i.e., the general Chancery Division, the Patents Court and the IPEC) and to Appointed Persons (for trademark and design cases).

In Costa Rica, appeals against the decisions of the Tribunal Registral Administrativo go to the Tribunal Contencioso Administrativo y Civil de Hacienda.

It might be concluded that, among the jurisdictions selected, if the main reason for specialization is improving the consistency of jurisprudence, then specialization is introduced at the appellate level. If the main objective is ensuring effective decisions, then specialization is better introduced at first instance.

The situation is more complex with respect to appeals against the decisions of national IP offices, which may be allocated to both first-instance courts and courts of appeal. Usually, however, the court dealing with such an appeal appears to be either a specialized stand-alone court or a specialized division or chamber.

Territorial considerations

A further issue to consider when determining whether or not to create a specialized judiciary is where any such courts, or divisions or chambers, will be located.

Empirical data indicate that the volume of IP litigation is not distributed evenly within jurisdictions.

In France, statistics for 2009 indicated that only five first-instance tribunals (namely, Paris, Nanterre, Lille, Lyons and Marseilles) examined a decisive majority – 72 percent – of IP cases, while the other five (namely, Bordeaux, Fort-de-France, Nancy, Rennes and Strasbourg) accounted for only 4 percent.¹⁷

In Germany, research reported in 2021 found that most patent cases are heard by the specialized chambers of Düsseldorf, Hamburg, Mannheim and Munich.¹⁸

In the United States of America, data spanning 2008–22 evidenced that patent cases are predominantly filed in the Northern District of California (N.D. Cal.), Central District of California (C.D. Cal.), Delaware (D. Del.), Eastern District of Texas (E.D. Tex.) and Western District of Texas (W.D. Tex.).¹⁹ In the field of trademarks, between 1996 and 2018, 42 percent of cases were filed in either California, New York or Florida – specifically, 21 percent of the national

17 Le Sénat (2011). Lutte contre la contrefaçon : premier bilan de la loi du 29 octobre 2007 [Combating counterfeiting: initial assessment of the Law of October 29, 2007]. Information Report No. 296 (2010–2011). Available at www.senat.fr/rap/r10-296/r10-2961.html

18 N. Shemtov, O. Gurgula, M. Padamczyk, A. Trapova and A. Shtefan (2021). *Ukraine DFID/FCO IP Court Project: The Final Report*. Queen Mary Law Research Paper No. 353/2021; Bocconi Legal Studies Research Paper No. 3789913.

19 Data for 2008–22 extracted from the DocketNavigator Omnibus Report, available to subscribers at <https://search.docketnavigator.com/patent/binder/0/0>

caseload of trademark filings in California, 12 percent in New York and 9 percent in Florida.²⁰ For copyright cases in the same period, 44 percent were filed in either California, New York or Texas – that is, 22 percent in California, 15 percent in New York and 7 percent in Texas.²¹

In the context of these data, jurisdictions opt for concentration of jurisdiction.

The location of the designated courts appears to be directly connected with the volume of litigation and a jurisdiction will generally designate a court where numerous IP cases are already being heard.

Conversely, underuse of a specialized solution may lead to its withdrawal.

In the Philippines, the Supreme Court's 2003 Resolution Re Consolidation of Intellectual Property Court with Commercial Court referred explicitly to the fact that a number of courts initially designated as competent to hear IP cases had heard "zero (0) IP cases, and do not warrant their continued designations as Intellectual Property Courts".²²

Some jurisdictions nevertheless opt to maintain a specialized judiciary in locations with relatively limited IP litigation.

In Germany, 12 Landesgerichte may hear patent cases, even though the majority of disputes are concentrated in only some of them.

In France, 10 tribunaux judiciaires have jurisdiction to hear IP disputes other than those heard exclusively by the tribunal judiciaire de Paris – even though, in practice, their activity in the field of IP law is limited. The reason why these courts retain such jurisdiction is to support access to justice – particularly that of individuals and small or medium-sized enterprises (SMEs). (By comparison, the tribunal judiciaire de Paris has exclusive jurisdiction over patents because most specialized law firms are located in that city.)

Consequently, the designation of competent courts appears to be based primarily on the volume of litigation in certain locations, while also supporting access to justice in others. In addition to these concerns, natural competition between regions may play a role – as has been noted, for example, in the United States of America, where patentees often choose the Delaware and Eastern Texas districts. Nonetheless, despite differences in the volume of litigation at each level, the United States of America has not opted to concentrate jurisdiction at first instance.

In this context, it appears that specialized divisions or chambers may be the most flexible solution to territorial issues. Divisions or chambers will generally be established by means of a judiciary's self-governing mechanisms and, as such, this type of structure can flexibly respond to demand. At the same time, courts can easily control the number of specialized chambers in response to changes in the volume of litigation.

In relation to stand-alone courts, or specialized divisions or chambers situated in one location only, analysis of the jurisdictions selected indicates several solutions supporting access.

In England and Wales, the specialized IP courts (i.e., the IPEC, the Patents Court and the general Chancery Division, which deals with commercial law disputes) have regional offices in six cities where the High Court's district registries are located – namely, Manchester, Birmingham, Leeds, Cardiff, Newcastle and Bristol.²³ The London office will be in charge of the cases at all stages of proceedings, and the registries will be authorized to conduct case management and trials if an appropriate judge is available. Additionally, disputes that may be heard by the county courts in England and Wales can be heard in Birmingham, Bristol, Caernarfon, Cardiff, Leeds, Liverpool, Manchester, Mold, Newcastle and Preston.

20 See United States of America Courts (2020). Just the facts: intellectual property cases – patent, copyright, and trademark. Available at www.uscourts.gov/news/2020/02/13/just-facts-intellectual-property-cases-patent-copyright-and-trademark

21 *Ibid.*

22 See *Resolution Re Consolidation of Intellectual Property Court with Commercial Court* (A.M. No. 03-03-03-SC), June 17, 2003, Philippines, Preamble.

23 Shemtov *et al.* (n. 18).

Canada, by comparison, adheres to an *iudex ambulans* model. The Federal Court is resident in Ottawa, ON, but it regularly hears cases in Ottawa and Toronto, ON, Montréal, QC, and Vancouver, BC. It also has court facilities in Calgary and Edmonton, AB, and Halifax, NS. Nonetheless, an estimated 90 percent of complex cases (e.g., pharmaceutical patents) are heard in Toronto, since that is where many IP law firms are located. While parties may be resident in other jurisdictions, they are generally content to have the case heard wherever their counsel may be situated. Occasionally, court resources (e.g., courtrooms) may not be promptly available, so another city may be proposed for the sake of expediency.

Indeed, a similar arrangement may sometimes be available elsewhere.

While cases on the small claims track available at the IPEC in England and Wales are generally heard by judges located in Manchester, parties may apply for their case to be heard elsewhere. Likewise, while multitrack cases are generally heard in London, cases may be heard outside London “in particular where it saves costs”.²⁴ The Patents Court may also sit outside of London if the parties so desire “for the purpose of saving time or costs”.²⁵ Trials at the IPEC and short matters at the Patents Court (i.e., those of no more than two hours' duration) may even be heard via video conferencing.

Exclusive and concurrent jurisdiction

The exclusive jurisdiction of specialized IP courts – such as, in England and Wales, the Patents Court and the IPEC, and in the United States of America, the CAFC – is mandatory and has its basis in statute (or statutory instrument). In both cases, this exclusivity applies only to the most technical types of IP dispute.

In other jurisdictions selected, while concentration will generally have both a statutory basis and a mandatory character, the establishment of specialized divisions or chambers is more usually a matter of internal judicial organization. This was found to be the case in Germany, France and the Philippines.

If the jurisdiction of an IP court is not exclusive, it generally operates in parallel with the broader civil judiciary and procedural rules may be in place to address the staying of proceedings. In addition, measures may exist to ensure that the parties to an IP dispute engage with specialized structures before resorting to the general judiciary.

In Kenya, while the High Court may generally be seized with any claim, including an IP-related claim, it may decide that the petitioner should first approach, for example, the Kenyan Industrial Property Tribunal (if the claim is within the Tribunal's jurisdiction).

One area in which jurisdiction over IP disputes is generally exclusive is appeals against the decisions of national IP offices. Even in this case, however, the mandatory character of exclusivity relates only to a particular court and not necessarily a specialized division or chamber.

In France, the jurisdiction over appeals against decisions of the INPI must be allocated to the *cour d'appel de Paris* [Court of Appeal of Paris], but whether the Court might convene any specialized IP structures remains moot.

Material scope of IP courts' jurisdiction

All of the jurisdictions selected for this study were found to distinguish between the varying types of IP right and to subject them to differing degrees of specialization.

The key distinction seems to be between so-called technical IP rights – most often, patents, utility models, registered designs and plant varieties – and so-called nontechnical IP rights – that is, copyright, trademarks or unregistered designs. In some jurisdictions, certain IP or related

24 Courts and Tribunals Judiciary (2024). *The Intellectual Property Enterprise Court Guide*. London: HMSO, at 4. Available at www.judiciary.uk/courts-and-tribunals/business-and-property-courts/business-list-general-chancery/intellectual-property-list/intellectual-property-enterprise-court-ipeec/guide/

25 Courts and Tribunals Judiciary (2025). *The Patents Court Guide*. London: HMSO, at 2. Available at www.judiciary.uk/wp-content/uploads/2025/02/Patents-Court-Guide-Updated-February-2025.pdf

types of dispute – especially those involving trademarks, trade secrets and unfair competition – are classified as commercial disputes.

Generally, the more technical the IP right, the greater the degree of specialization.

In France, patents, utility models and semiconductor disputes are subject to a greater degree of specialization than are other IP rights. The former are heard exclusively by the tribunal judiciaire de Paris, while the latter are heard by 10 designated tribunaux judiciaires (see “Territorial considerations”).

In Germany, the classification of disputes as technical or nontechnical is not straightforward. The BPG is exclusively authorized to deal with validity for patents but not for *inter partes* validity disputes over trademarks, utility models and registered designs; since only patents are treated as requiring additional specialization, we might infer that these are the only types of right to be considered particularly technical. This inference is not supported, however, by the fact that technically qualified judges are involved not only in patent disputes but also in those involving utility models and – when a case raises questions of a particularly technical nature – designs.²⁶

In Japan, the distinction is explicitly acknowledged: technical disputes are decided by the Tokyo and Osaka District Courts, while nontechnical disputes are decided by other district courts.

In Kenya, the Industrial Property Tribunal deals with patents, industrial designs and utility models, while other IP disputes are heard by the general judiciary.

While no explicit distinction has been introduced in Singapore, patents are the only type of IP right subject to direct appeal to the Court of Appeal rather than to the Appellate Division of the High Court.

Copyright disputes are also the subject of additional specialization, but such specialization differs from that found in relation to patent disputes.

While patent cases are treated as demanding keen technical specialization, copyright disputes benefit from a more informal and localized setting – likely because claimants may be small collecting societies or individual creators rather than national or multinational corporations.

In Germany, copyright disputes with the value of the claims below EUR 2,500 are heard by the Amtsgerichte, while all other types of dispute are heard by the Landesgerichte.

In the United States of America, the Copyright Claims Board (CCB) provides a streamlined, voluntary alternative to the Federal Court for the resolution of certain copyright disputes of up to USD 30,000 (i.e., small claims).

Additionally, several among the selected jurisdictions have introduced copyright tribunals (or copyright boards) to deal with disputes concerning collecting societies and licensing. In England and Wales, Canada, the Philippines and Singapore, such tribunals or boards also deal with disputes concerning tariffs and CMOs. (See also “Copyright tribunals (copyright boards).”)

The commercial judiciary – if such is introduced in a given jurisdiction – may deal with disputes involving trademarks, trade secrets, designs or unfair competition. The jurisdiction of such courts may be subject to additional requirements, such as the condition in France that the dispute must concern “*actes de commerce* [acts of commerce]”.²⁷

Some types of IP dispute are difficult to classify as either technical or nontechnical. This is especially the case with design claims, which can involve very complex technical questions requiring specialized expertise but can equally be very simple. This is reflected in the fact that the selected jurisdictions treat them differently.

26 See Deutscher Bundestag [German Federal Parliament] (2016). Gesetzentwurf der Bundesregierung [Federal Government Draft Law]. Drucksache [Federal Council Document] 18/7195, at 26–27. Available at <https://dserver.bundestag.de/btd/18/071/1807195.pdf>

27 Commercial Code, consolidated August 16, 2025, France, art. L721-3.

While there is no clear solution to this problem, policymakers might consider a synthetic approach, which would allow the court some degree of discretion. For example, where registered designs are generally considered a technical type of IP right and thus subject to specialization in less complex cases, such cases could be allocated to simplified or small claims procedures (see Chapter 3).

Value of the claim

The value of the claim may have an impact on the jurisdiction of an IP court.

In England and Wales, the jurisdiction of the IPEC over any type of IP dispute is generally limited to claims the value of which is less than GBP 500,000, but parties may override this by joint decision (CPR 63.17A(3)).

In Germany, for copyright and related rights, Landesgerichte are competent if the claim value exceeds EUR 5,000. If the claim is less than EUR 5,000, the jurisdiction falls under the Amtsgerichte.

In the United States of America, the CCB provides a streamlined, voluntary alternative to the Federal Court for the resolution of certain copyright disputes of up to USD 30,000 (i.e., small claims).

The jurisdiction of the Philippines' Bureau of Legal Affairs over administrative complaints for violations of laws involving IP rights can be established only if the total damages claimed are not less than PHP 200,000.

Because the examples are relatively few, we might remain cautious in identifying patterns or inferring generalized rationales. Policy in England and Wales, for example, seems to reflect an intention that the IPEC act as an accessible and effective IP court for smaller claims, applying a streamlined and simplified procedure. Policy in Germany and the United States of America, meanwhile, appears to center the needs of individual litigants or SMEs.

Interaction with quasi-judicial bodies (including appeal boards in IP offices)

Analysis of quasi-judicial bodies in the selected jurisdictions suggests that policymakers may need to take into account two key issues when considering establishing such bodies.

First, the institutional setting of quasi-judicial bodies is significant. Where bodies dealing with appeals against the decisions of national IP offices are created, they are often incorporated within the offices themselves. Where no such body exists, appeals typically lie to a specialized court or, in some jurisdictions, to a generalist civil court. This is usually an appellate court, although the position may be more nuanced in common law systems. Opposition proceedings are handled within the IP offices.

Second, quasi-judicial bodies established outside of IP offices perform multiple functions. In some jurisdictions, they are established to hear appeals of the decisions of national IP offices (e.g., the Appointed Persons in England and Wales). In addition, these bodies frequently handle disputes relating to CMOs and tariff-setting, because such proceedings should be timely and cost-effective, and need a more informal, specialized forum.

Bifurcation

Bifurcation is traditionally used in civil law systems in which the grant of a registered IP right is treated as an administrative matter and, as such, requires recourse in administrative law.²⁸ Additionally, bifurcation can also increase technical expertise in the most challenging of disputes (which is how validity disputes are perceived) by facilitating a specialized venue that is exclusively authorized to deal with them.

Unfortunately, bifurcation may also have unintended effects: bifurcated systems can result in “procedural delays, contrasting judgments and increased costs for the parties involved”.²⁹ It has

28 See D. Tilt (2023). [Exploring bifurcation in the Unified Patent Court from a comparative perspective: Japan and the EU](#). *Queen Mary Journal of Intellectual Property*, 12(4), 470–484, at 470–471, referring specifically to patents.

29 *Ibid.*, citing F. Gäßler (2015). *Enforcing and Trading Patents: Evidence for Europe*. Wiesbaden: Springer Gabler, at 69.

also been suggested that bifurcation lowers the likelihood that an alleged infringer may file an invalidity claim and hence that it favors patent owners.³⁰

The main challenge for a bifurcated system therefore lies in ensuring that separating jurisdiction over validity from that over infringement does not delay proceedings.

Bifurcation of the IP judiciary exists in Brazil and Germany.

In Brazil, validity disputes are heard by the federal courts, while infringement cases are heard by the state courts. The reason for bifurcation seems to be that validity disputes involve the national IP office and thus *rationae personae* federal jurisdiction is appropriate.

In Germany, bifurcation is absolute and infringement courts do not decide on validity. The infringement court does, however, have discretion to stay infringement proceedings in view of a pending nullity action before the BPG or an opposition proceeding pending before the German DPMA or the European Patent Office. Defendants will commonly start nullity proceedings with their statement of defense so as to request the stay of infringement proceedings.³¹ The BPG was established to concentrate the greatest possible degree of technical expertise in disputes challenging validity.

Some other forms of limited bifurcation exist in other jurisdictions.

In Japan, invalidity claims can be started only before the Japanese Patent Office (JPO), but the infringement court will still accept the invalidity defense.

In the United States of America, invalidity is an available defense in infringement proceedings, but petitioners can also file nullity claims at the Patent and Trademark Office of the United States of America (USPTO) in the *inter partes* review. The trial court can stay proceedings if it considers that the review might lead to a swifter conclusion. It also has the discretion *not* to stay proceedings and may proceed to rule on validity.

As to the reasons for bifurcation, they differ between jurisdictions and may be specific to a jurisdiction's judicial system.

In Brazil, bifurcation exists because only the Federal Court can deal with a dispute involving a public federal body, such as the Instituto Nacional da Propriedade Industrial [National Institute of Intellectual Property] (INPI).

In Germany, BPG was established in response to a decision issued by the Bundesverwaltungsgericht [Federal Administrative Court] (BVerwG) concerning the role of the boards of appeal at the German DPMA.³² In accordance with the German Constitution, whereby anyone who considers that their rights have been violated by a public authority can demand a review of its decision by an independent court, the BVerwG held that DPMA decisions must be subject to judicial review and hence the BPG was conceived.

One advantage of bifurcation is that it can be an effective way of securing additional expertise. A specialized court dealing exclusively with validity disputes may employ technically qualified judges, while only legally qualified judges can usually be recruited to specialized IP divisions or chambers at the infringement courts. This advantage is not unique, however, and technical expertise can be ensured through other means, such as technical advisors or additional invalidation pathways. For example, the *inter partes* review in the United States of America allows members of the public to file for the invalidation of a patent before the Patent Trial and Appeal Board, and obtain a ruling on patent validity by a technically specialized body within a non-bifurcated system. When considering the benefits of bifurcation, then, a policymaker must also consider how to raise litigants' awareness of and improve litigants' access to the invalidation route.

30 K. Cremers, F. Gäbler, D. Harhoff, C. Helmers and Y. Lefouili (2016). Invalid but infringed? An analysis of the bifurcated patent litigation system. *Journal of Economic Behavior & Organization*, 131(A), 218–242.

31 See World Intellectual Property Organization (WIPO) (2025). *An International Guide to Patent Case Management for Judges*. (Patent Judicial Guide). Geneva: WIPO, at section 5.3.2, for further discussion of Germany's double-track patent system.

32 Bundespatentgericht (n.d.). Geschichte [History]. Available at www.bundespatentgericht.de/DE/dasGericht/Geschichte/geschichte_node.html

2 Members of courts handling intellectual property disputes

This chapter examines the members of courts across the selected jurisdictions who may play a part in hearing IP disputes – namely, judges (whether technically or legally qualified, or otherwise specialized) and technical advisors.

Some of the stand-alone courts of the selected jurisdictions have, alongside legally qualified judges, technically qualified judges – that is, judges who possess technical, rather than legal, qualifications.

None of the specialized divisions or chambers found among the selected jurisdictions features technically qualified judges; instead, the legally qualified judges who populate such divisions or chambers rely on technical advisors or assessors.

2.1 Judges

Specialized qualifications

Technically qualified judges are those who possess technical, rather than legal, qualifications.

Such judges are found in Germany at the BPG: at the time of writing, technical judges – that is, judges trained in technical and scientific fields – comprised 53 of the 94 judges employed by the BPG. These technical judges will participate in all cases relating to the properties of an invention, such as an appeal against a decision of the DPMA to refuse registration of a patent, as well as in utility models and (when a technical question arises) in design cases.

The Kenyan Industrial Property Tribunal, which hears patent, industrial designs and utility model cases, consists of a chairperson and four members, at least two of whom must have experience and/or expertise in industrial, scientific and technological fields. However, these members are not considered judges; they are appointed by the Minister of Industrialization, hold office for three years and are eligible for reappointment.

Among the selected jurisdictions that are the subject of this study, technically qualified judges are always accompanied in a ruling panel by legally qualified judges.

The German BPG will render its decisions in panels constituted of either only legally qualified judges (in trademark and most design cases) or a mixture of legally and technically qualified judges (in patent, utility model and some design cases).

The Kenyan Industrial Property Tribunal renders its decision in panels of three members, one of whom is usually technically qualified – although no formal rule exists mandating this composition.

In some jurisdictions, technical specialization within the ruling panel is supported not by technically qualified judges but by legally qualified judges with scientific and legal backgrounds.

Judges at the Patents Court in England and Wales will often possess technical expertise. This is not a formal requirement, however, and hence these judges cannot be considered technically qualified judges.

Some jurisdictions provide for a further type of judge who may deal with specific categories of dispute.

In Germany, honorary judges may deal with trademarks, registered designs and unfair competition. Honorary judges are members of the business community and they sit as lay members in commercial chambers. They are appointed on the qualified recommendation of the chambers of industry and commerce for a term of five years, and they can be reappointed. Their use in IP disputes is not popular, however, and litigants tend to prefer specialized IP chambers.

In Singapore, the judges delegated by the Chief Justice from the Supreme Court to sit in the SICC are “experienced specialist commercial judges in their own right”.¹ Sitting in the SICC, the judges will hear IP cases of “international and commercial nature”.²

Specialized selection criteria

Legally qualified judges

Specialized selection criteria for legally qualified judges considering IP disputes are rarely explicitly and formally specified, but prior expertise and experience may be assessed during the recruitment process.

In England and Wales, the Judicial Appointments Commission may impose informal requirements during recruitment to particular positions, such as prior knowledge of IP law when recruiting judges to hear IP disputes.

One of the reasons why the selection criteria are not specified seems to be the fact that judges acquire IP expertise while serving at the specialized courts and the divisions or chambers, as is the case in their jurisdiction.

In Germany, there is no requirement that a general judiciary judge who is to consider an IP dispute must possess any IP-specific or technical knowledge. Nevertheless, most of the Landgericht [regional court] judges who sit in the specialized IP chambers and deal with IP disputes are so experienced. The same is true of the judges of the specialized IP chambers of the OLG and the BGH, who will commonly have previously held office in the specialized IP chambers of the Landesgerichte before their appointment to the appellate or cassation instances.

In Canada, while an IP background is not a requirement, judges within the IPCSP will have either practiced IP law or gained expertise in IP law during their time as judges.

In Singapore, both the judges and assistant registrars dealing with IP cases within the specialized list at the General Division of the High Court specialize in IP law. The lead judge overseeing the IP list at the time of writing this report has over 30 years' experience in IP law and was one of Singapore's top IP litigators before being appointed to the bench.

In England and Wales, all judges of the IPEC and the Patents Court will possess IP knowledge and experience. The same applies to certain judges of the Court of Appeal and usually at least one judge at the Supreme Court.

¹ See SG Courts (Chapter 1, n. 8).

² *Ibid.*

Technically qualified judges

The selection criteria for technically qualified judges differ from the criteria applicable to the selection of legally qualified judges.

In Germany, candidates must have passed a final examination at a technical or life science faculty at a German university, a technical or agricultural school, a mining academy or an equivalent institution in another Member State of the European Union or the European Economic Area. Candidates must also possess at least five years' experience in the field of technical natural science, coupled with related legal knowledge.

In Kenya, the criterion for appointment of technical members of the Industrial Property Tribunal is experience and/or expertise in industrial, scientific and technological fields.

Specialized training

Forms of specialized training of judges handling IP disputes can be found among some of the jurisdictions selected for this study.

The Federal Court of Canada holds continuing legal education (CLE) programs every year that deliver IP training, and the Chief Justice mandates that IP chamber judges are to pursue CLE externally, when practical and appropriate.

In France, the École nationale de la magistrature [National School of Magistrature] offers new judges a one-off two-week course on IP law. Additionally, when a new judge is allocated to a specialized chamber, they receive a so-called tutor – that is, a more experienced judge who can guide them in IP matters.

In Costa Rica, IP law is one of the subjects covered in an entry examination for candidates applying to the agrarian courts.

Some jurisdictions offer training in IP law outside of the specialized IP judiciary.

In Brazil, Costa Rica and Singapore, obligatory training on IP law applies to all judges, not only those sitting in the specialized IP divisions or chambers.

The Philippine Judicial Academy (PHILJA) provides regular training in various areas of law, including IP law.

Obligatory judicial training exists also in the United Kingdom and the United States of America.

2.2 Technical advisors

The main type of technical advisor identified in this study is a technical advisor appointed ad hoc to assist the court in understanding the technical aspects of a specific case. This type of technical advisor, while referred to by different names and otherwise treated differently from jurisdiction to jurisdiction, is found in almost all of those selected for this study.

The situation is more complex in Canada, where court-appointed experts are not used as of the date of this study.

While so-called assessors may be appointed in Canada under the Federal Courts Rules, they are employed only in relation to the assessment of costs or damages.³ The issue is, however, currently the subject of debate: a court-appointed expert may be beneficial, for example, where the court is not satisfied with the parties' experts.

3 See Federal Courts Rules (SOR/98-106), amended up to January 13, 2022, Canada, r. 52(1).

While technical advisors will generally be appointed ad hoc by the court for the purposes of the case at hand, some limited examples of permanent staff can also be found in the selected jurisdictions.

The judicial research officials in Japan are full-time employees of the Tokyo and Osaka District Courts. Their role is to conduct research on technical matters relevant to cases considered by these courts. They are often recruited from among former JPO trial examiners and patent attorneys with specialized knowledge in various technical fields.

In all jurisdictions selected for this study, the roles of the technical advisors appointed ad hoc by courts are similar: they help the court to understand the technical aspects of the case. There are, however, some differences in terms of the extent to which a technical advisor may participate in the proceedings.

In Japan, while technical advisors may be involved in explanatory sessions, their explanation is not treated as evidence.

In France, the Code de procédure civile [Civil Procedure Code] (CPC) provides that the court may appoint a *technicien* [technical advisor] to clarify a question of fact that requires technical advice.⁴ The technical advisor must remain objective and impartial. Their role is to prepare one of the three types of report provided for in the CPC, on which the parties may then make comment.⁵ The technical advisor is not actively involved in the proceedings in the same way as a party's expert would be.

In Kenya, so-called assessors can be appointed in an advisory capacity where expert knowledge is required for the proper determination of the case.

Similarly, in the Philippines, so-called experts are appointed to provide advice on the technical details of a patent dispute.

In Singapore, the assessors generally sit with the court to educate it and they cannot be cross-examined. A special feature of the Singaporean legal system is the independent counsel, who advises as a sort of *amicus curiae* on points of law.

In England and Wales, the case law indicates that scientific advisors in patent cases should provide only the uncontroversial scientific background to the case. They must not be treated as a substitute for expert evidence; their purpose is to educate the court. The contentious elements of the case must be resolved by means of the parties' own expert evidence.

In the United States of America, the role of the expert is to act as a sounding board or tutor who aids the judge's understanding of the technology, for example, by explaining the terminology used in the field. Such court-appointed experts may be cross-examined.

In general, the role of technical advisors appointed ad hoc is mostly to educate the court on the technical aspects of the case. In some jurisdictions, technical advisors may act as witnesses in the proceedings and may be cross-examined; nevertheless, technical advisors must always remain neutral.

In some cases, the courts' capacity to appoint experts is restricted and may be exercised only in certain circumstances.

In the United States of America, the practical significance of a technical advisor may differ considerably: some courts appoint them in very rare and compelling circumstances; others consider court experts to be justified because the parties' technical experts tend to advocate for their respective causes.

⁴ See Civil Procedure Code, consolidated August 2, 2025, France, art. 232.

⁵ *Ibid.*

Technical advisors may sometimes be appointed by the court in consultation with the parties (as in Germany) or on application by a party (as in Singapore).

In Singapore, parties are encouraged to propose a single candidate by agreement; alternatively, they may propose a shortlist of candidates to serve as an assessor or independent counsel. Any such shortlist is to be finalized and filed before the first milestone pretrial conference.

Some jurisdictions, such as Germany and Japan, maintain a list of experts who may be called upon as technical advisors.

In the Philippines, any such appointment – of not only a single expert but rather a committee of experts – is subject to a specific procedure in instances of IP disputes. If the court orders a committee of experts be convened, each party is required to nominate one expert and the court itself will nominate a third.

Technical advisors are common to all bar one of the jurisdictions selected for this study – with the exception of Canada, to the extent described in this section. The role of such participants in the case is advisory and strictly controlled by the court, as well as the parties to some small extent. Most critically, a technical advisor will not take a stance on any question of law nor will they actively participate in court proceedings.

Further, while technical advisors are always appointed ad hoc, the courts in some jurisdictions employ judicial research assistants, who help the court to understand the technical matters relevant to the IP cases on its docket.

3 Rules of procedure for intellectual property disputes

This chapter focuses on the specific characteristics of specialized IP procedures, identifying how and why these procedural rules differ from those of general civil procedure.

Specialized rules of procedure for IP disputes focus on preliminary evidentiary measures, preliminary injunctions and case management, all of which are intended to support the timely and efficient completion of court proceedings.

Some additional rules may be introduced on evidence and remedies, especially in relation to damages.

3.1 Sources of procedural law

Specialized IP procedures will usually be introduced as court rules, which can be issued by:

- means of secondary legislation (e.g., Part 63 of the CPR in England and Wales;¹ the 2002 Industrial Property Tribunal Rules in Kenya);²
- decree of the highest instance court (e.g., the Philippines);
- a separate body authorized in statute (e.g., the Rules Committee in Singapore); or
- the court itself (e.g., the Tokyo and Osaka District Courts; certain U.S. district courts).

Comprehensive specialized procedures for IP disputes have been established in:

- Kenya, under the Industrial Property Tribunal Rules, 2002;³
- the Philippines, under the Rules on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights, 2002, the Rules of Procedure for Intellectual Property Rights Cases, 2011, and the Revised Rules of Procedure for Intellectual Property Rights Cases, 2020;⁴
- Singapore, under the Supreme Court of Judicature (Intellectual Property) Rules, 2022;⁵ and
- England and Wales, under Part 63 of the CPR and the corresponding Practice Direction.⁶

Some other jurisdictions ensure specialization through more localized rules.

In Japan, the IP divisions of the Tokyo and Osaka District Courts have published several guidelines for the patent infringement lawsuit process, and the Intellectual Property High Court has guides on the procedure for appealing decisions of the Trial and Appeal Department (TAD).

In the United States of America, some district courts have introduced local rules relating to patents.

¹ See Chapter 1, n. 16.

² See [Industrial Property Tribunal Rules, Law No. 196 of 2002](#), as revised in 2022, Kenya.

³ *Ibid.*

⁴ See [Rules on Search and Seizure in Civil Actions for Infringement of Intellectual Property Rights](#) (A.M. No. 02-1-06-SC), January 22, 2002, Philippines; [Rules of Procedure for Intellectual Property Rights Cases](#) (A.M. No. 10-3-10-SC), October 3, 2011, Philippines; [Revised Rules of Procedure for Intellectual Property Rights Cases](#) (A.M. No. 10-3-10-SC), October 19, 2020, Philippines.

⁵ See [Supreme Court of Judicature \(Intellectual Property\) Rules 2022](#) (S 205/2022), March 21, 2022, Singapore.

⁶ See Chapter 1, n. 16; [Civil Procedure Rules, Practice Direction 63 – Intellectual Property Claims](#), United Kingdom.

Others among the selected jurisdictions include specialized provisions in their IP-specific statutes – such as the French Code de la propriété intellectuelle [Intellectual Property Code] (CPI), and the German Patentgesetz [Patent Act] (PatG) and Markengesetz [Trademark Act] (MarkenG)⁷ – or in their general civil procedure codes.

Statutory provisions will generally be limited to certain selected matters, such as remedies (e.g., French CPI provisions implementing the European Union's Enforcement Directive).⁸ However, sometimes a statute can also establish a separate procedure.

The German PatG and MarkenG introduce special rules of procedure before the BPG, with only supplementary application of the German Zivilprozessordnung [Rules of Civil Procedure] (ZPO).

3.2 *Ratio legis* of specialized procedures

The specific *ratio legis* of specialized IP procedural rules will differ considerably between jurisdictions, but certain common points may be identified.

In some cases, the *ratio* is expressly defined in the statutory or other instruments or Act that introduces the procedure; in other cases, it may only be inferred from the adopted solutions.

In some jurisdictions, the reason for introducing specialized IP proceedings is tied to the systemic function of IP rights.

In the Philippines, the Preamble to the 2020 Revised Rules of Procedure for Intellectual Property Rights Cases refers to the constitutional protection of “the exclusive rights of scientists, inventors, artists, and other gifted citizens to their intellectual property and creations”.⁹ Section 2 of the Philippines' Intellectual Property Code recognizes the role of IP rights in “the development of domestic and creative activity”.¹⁰

Legislators in England and Wales, as well as Singapore, introduced simplified IP procedures because of concerns that the high costs of IP litigation have a particular adverse effect on SMEs.

In the United States of America, specialized IP procedures established by certain district courts for patent claims (the so-called patent local rules) are intended to ensure more straightforward and consistent practices (e.g., by streamlining discovery, requiring parties to disclose and narrowing contentions).

The fact that these and other specialized IP procedures are also focused on case management issues (see “Case management”) suggests that ensuring the timely and cost-effective conduct of the proceedings is among their purposes.

The special procedure applicable to proceedings before the German BPG is the result of a hybrid institutional design adopted by the German legislator. Historically, appeals against the decisions of the Patent Office went to the BVerwG; when the BPG was created, it was decided that it would be a special court remaining outside of the administrative court structure. Nevertheless, its special procedure requires supplementary application of the general civil procedure and some administrative elements were also maintained. For example, in contrast to a civil trial court subject to the principle of adversarial procedure, the BPG investigates *ex officio* to reach its conclusion and its decisions are binding *erga omnes*.

7 See Intellectual Property Code, consolidated as of March 13, 2025, France; Patent Act, amended up to Act of October 23, 2024, Germany; [Act on the Protection of Trade Marks and Other Signs \(Trademark Act\)](#), amended up to Act of October 8, 2023, Germany.

8 See Directive 2004/48/EC of the European Parliament and of the Council of April 29, 2004, on the Enforcement of Intellectual Property Rights, OJ L 157/45. Available at <https://eur-lex.europa.eu/eli/dir/2004/48/oj/eng>

9 See n. 4.

10 See Intellectual Property Code of the Philippines, Republic Act No. 8293 of June 6, 1997. Available at www.officialgazette.gov.ph/1997/06/06/republic-act-no-8293/

Specialized IP procedures in pharmaceutical cases

Some of the selected jurisdictions have introduced special IP procedures for very specific types of dispute involving pharmaceutical products.

The United States of America established specialized processes under its Drug Price Competition and Patent Term Restoration Act of 1984 (Hatch-Waxman Act), which governs marketing approval of generic small-molecule drugs and competition between generic drug manufacturers.

With its Patented Medicines (Notice of Compliance) Regulations, Canada introduced a special procedure for complex pharmaceutical cases that is often also applied to other complex IP-related proceedings.¹¹ The procedure contains strict rules in terms of timing of pleadings and requisitioning of case management conferences, making case management effectively mandatory.¹² Case management allows the judge to:

- give directions or make orders for a just, expeditious and inexpensive determination of the proceeding on its merits;
- fix the period for completion of the procedural steps;
- fix the dates of and conduct dispute resolution or pretrial conferences;
- hear and determine motions; and
- order status review, where appropriate.¹³

3.3 Procedural provisions specific to intellectual property disputes

Three areas in which IP-specific procedural rules differ from those applicable in general civil proceedings are:

- the production of evidence;
- case management; and
- simplified or small claims procedures.

Production of evidence

Some jurisdictions provide for IP-specific rules on the production of evidence. Such rules do, however, differ considerably among the selected jurisdictions.

In Brazil, while the rules on production of evidence will usually follow the general civil procedure, the defendant may argue nullity at any time during patent litigation. Additionally, in cases involving the INPI concerning the validity of an IP right, the court receives the answer from the defendant first; in the general civil procedure, all parties must respond at the same time.

In Costa Rica, article 39 of the Ley de Procedimientos de Observancia de los Derechos de Propiedad Intelectual [Law on Procedures for Enforcement of Intellectual Property Rights] states that, in IP disputes where relevant evidence is under the control of the opposing party, the court may order the party to present it.¹⁴

11 See Patented Medicines (Notice of Compliance) Regulations (SOR/93-133), amended up to January 1, 2025, Canada.
 12 See Federal Court (Canada) (2025). *Case and Trial Management Guidelines for Complex Proceedings, Proceedings under the PM(NOC) Regulations, and Appeals under Subsection 56(1) of the Trademarks Act*. June 2026, at 12-13. Available at www.fct-cf.ca/Content/assets/pdf/base/2025-07-18-Case-and-Trial-Management-Guidelines.pdf
 13 See Federal Courts Rules, rr. 50(1), 380 and 383–385. Available at <https://laws-lois.justice.gc.ca/eng/regulations/sor-98-106/FullText.html>
 14 See n. 12.

In Japan, article 220 of the Code of Civil Procedure stipulates a list of specific situations in which a person may not refuse to submit a document requested by the other party.¹⁵ The law is different for IP proceedings. Under article 105(1) of the Patent Act, the party may refuse to produce the documents only if it has a “legitimate reason” for doing so.¹⁶ The same applies *mutatis mutandis* to trademark proceedings; in relation to copyright, an equivalent provision has been introduced in the Copyright Act.¹⁷ The *lex specialis* was introduced to mitigate the difficulties in proving damages that claimants would face if the general civil procedure, with its more permissive approach, were followed.

In Germany, the 10th Civil Panel of the BGH performs trial judge functions – a capacity that a civil court of final instance generally does not assume.

In Kenya, the Industrial Property Tribunal Rules provide a streamlined time frame for presentation of evidence.¹⁸

In the Philippines, robust regulation of the collection of evidence was established by the 2020 Revised Rules of Procedure for Intellectual Property Rights Cases.¹⁹ These are further discussed in the next section (see “Case management”).

In Singapore, the *Intellectual Property Court Guide* provides rules on expert evidence, experiments, provision of samples and site visits.²⁰

One way in which the selected jurisdictions modify the general rules of evidence is by creating presumptions.

In Canada, the presumption of validity applies to patents, trademarks and registered copyrights. Additionally, where a copyright infringer pleads a defense that they were unaware of the copyright, a registration of copyright avails the copyright owner with remedies that go beyond injunction.

The Philippines has introduced similar, separate, presumptions for other IP rights. For trademarks, the likelihood of confusion is presumed in cases involving identical signs or marks used for identical goods or services. For copyright claims, it is presumed that a copyright subsists in the work to which the action relates and ownership is presumed to belong to the claimant; authorship is presumed to rest with the person whose name is indicated on the work. Similar presumptions may be found in other jurisdictions.

In France, it is presumed that authorship resides with the person under whose name the work is divulged (art. 113-1 CPI).

Finally, certain of the jurisdictions selected provide for IP-specific rules related to experts and experiments. These generally add detail to the procedure or introduce additional deadlines.

In Singapore, provisions governing experts in IP cases ensure the timely exchange of preparatory information concerning expert participation. For example, within two weeks of confirming expert appointments, the parties must exchange a list of the areas on which expert evidence will be adduced, ensuring that experts are properly instructed and that the parties are aware of the scope of the proposed testimony. In addition, Singaporean regulations allow for the possibility of a caucus to facilitate discussions between experts. Any such experts' caucus must take place after all experiments and site visits have been completed, but before expert reports are prepared or, alternatively, after the initial exchange of those reports. With regard to experiments, the *Intellectual Property Court Guide* sets out specific rules that organize the proceedings and ensure their timely conduct.²¹

15 See *Code of Civil Procedure* (Act No. 109 of June 26, 1996, as amended up to Act No. 48 of May 25, 2022), Japan [in Japanese]. See also World Intellectual Property Organization (WIPO) (2025). *An International Guide to Patent Case Management for Judges*. (Patent Judicial Guide) Geneva: WIPO, at section 7.6.5.1.2, for a discussion on the determination of reasonable grounds.

16 See *Patent Act*, Act No. 121 of 1959, amended up to April 1, 2024, Japan [in Japanese].

17 See *Copyright Act*, Act No. 48 of 1970, amended up to July 19, 2024, Japan [in Japanese].

18 See n. 2.

19 See n. 4.

20 See Supreme Court of the Republic of Singapore (2013). *The Intellectual Property Court Guide*. Registrar's Circular No. 2 of 2013, September 6. Available at www.judiciary.gov.sg/docs/default-source/circulars/2013/registrar's_circular_no_2_2013_supreme_courts.pdf

21 *Ibid.*

Similarly, in the Philippines, the 2020 Revised Rules of Procedure for Intellectual Property Rights Cases contain additional provisions concerning the appointment of experts and expert committees in patent infringement cases.²²

In the United Kingdom, by contrast, any IP-specific regulation of experts is limited largely to the issue of experiments. These rules are intended to ensure that any application to conduct an experiment is made sufficiently in advance of adjudication and includes adequate detail.

Case management

Case management is one of the key elements of specialized IP procedures. Indeed, specialized IP case management elements have been provided for in Canada, Japan, Kenya, the Philippines, England and Wales, and in certain district courts in the United States of America.

In Canada, the procedure for complex pharmaceutical cases established under the Patented Medicines (Notice of Compliance) Regulations includes a mandatory case management regime.²³

In Japan, case management in patent cases is organized through the Tokyo and Osaka District Courts' adoption of proceedings models. These models include a detailed timetable for the proceedings, divided into two stages: infringement and damages. Generally, the case will start with an oral argument. The court will then refer the case to preparatory proceedings, guided by the presiding judge and another member of the three-judge panel, in the course of which the parties will identify and organize the issues and evidence, and present their detailed arguments. Similar models have been adopted for proceedings before the Intellectual Property High Court concerning appeals from TAD decisions.

In Kenya, case management before the Industrial Property Tribunal is governed by the 2002 Industrial Property Tribunal Rules.²⁴ For example, in relation to infringement proceedings, the Rules include obligations pertaining to the statements of fact that must accompany the statutory requests, the forms that must be used for a counterstatement and the deadline for its filing (i.e., 45 days). Additionally, rule 24 governs the collection of evidence, and it establishes a time frame for submission of evidence by both the claimant and the defendant.

In the Philippines, IP-specific rules for case management were established by the 2020 Revised Rules of Procedure for Intellectual Property Rights Cases.²⁵ The specialized procedure includes a pretrial (r. 6), clarification hearing and trial (r. 7). The purpose of the pretrial is to front-load the case. The court must, with its active participation, ensure that the parties consider a set of factors, including:

- the possibility of an amicable settlement;
- the facts that need to be proven;
- the possibility of obtaining stipulations and admissions of facts and documents;
- any objections to the admissibility of evidence;
- the simplification of the issues; and
- any other matters that might aid in the speedy and summary disposition of the case.

The pretrial stage is concluded with the order of the court, which states, among other things, the admitted facts, the legal and factual issues to be tried or the evidence to be marked. Crucially, the content of the pretrial order will control the proceedings unless it is modified before the trial to prevent manifest injustice. If, at the pretrial stage, it appears that some matters are yet to be clarified, the pretrial order will include the scheduling of the clarification hearing. The Rules establish deadlines for the completion of the pretrial and clarification hearing, as well as for party submissions.

²² See n. 4.

²³ See n. 11.

²⁴ See n. 2.

²⁵ See n. 4.

In England and Wales, case management provisions have been introduced for cases that must be started at the IPEC and the Patents Court – that is, disputes involving patents, registered designs, Crown use, semiconductor topography rights and plant varieties. According to CPR 63.8, parties in such disputes need not file a directions questionnaire, which may typically be required for proceedings discussed under the general provisions of the CPR.²⁶ A case management conference may be held at the request of the claimant after the defendant files their defense.²⁷ During the conference, the court will set out the timetable for the trial and decide on any procedural directions.²⁸

As mentioned earlier in this chapter, certain district courts in the United States of America have adopted specialized IP procedures (so-called patent local rules) to streamline discovery – that is, to ensure that parties tailor their contentions and disclose critical documents promptly, without judicial oversight. These rules, which supplement the general civil procedure, require the parties to refine their arguments in the early stages of the litigation and to adhere to them thereafter. This is of particular importance for claim construction. Some patent local rules may provide detailed timetables providing for every action (e.g., for raising validity contentions, identifying claim terms or contending damages).

Analysis of the case management rules for IP disputes adopted by the jurisdictions selected for this study indicates that IP-specific rules will be applied particularly in relation to the most complex and technical disputes – especially those involving patents. Such arrangements ensure that the proceedings are front-loaded and that parties prepare – or at least plan – their submissions well in advance of a hearing. Nevertheless, only one of the selected jurisdictions – namely, the Philippines – provided for detailed IP case management procedure for *all* IP disputes.

Simplified or small claims procedures

Some of the selected jurisdictions – namely, the Philippines, Singapore, England and Wales, and the United States of America – have introduced specialized small claims procedures for certain types of IP dispute. In addition, in Germany, copyright disputes with a value not exceeding EUR 5,000 may be considered by the Landgericht rather than by the OLG, which allows the parties to take advantage of a less formalized procedure. Other jurisdictions – namely, Canada, France, Japan and Kenya – have established small claims tracks for all disputes, including IP disputes.

In the Philippines, administrative complaints for violations of law involving IP rights in which the total damages claimed do not exceed PHP 200,000 may be considered in a simplified procedure before the Bureau of Legal Affairs of the IPOPHL. The procedure may result in the imposition of certain interim measures or administrative penalties.

In Singapore, a simplified procedure was introduced in 2022, under the Supreme Court of Judicature (Intellectual Property) Rules, because the specialized nature of IP proceedings was a barrier for SMEs seeking to protect their rights.²⁹ The procedure applies to claims in which:

- the dispute involves an IP right;
- the monetary relief claimed by each party does not, or is not likely to, exceed SGD 500,000 or all parties agree to it; and
- the case is suitable for a simplified process.

²⁶ See n. 6.

²⁷ Patent Judicial Guide (n. 15), section 9.6.4.1; CPR Practice Direction 63 (n. 6), section 5.3.

²⁸ Patent Judicial Guide (n. 15), section 9.6.4.1.

²⁹ See n. 5.

In England and Wales, the so-called small claims track (SCT) was established before the IPEC to “benefit those claimants currently deterred by the cost of bringing such a claim within the court system”.³⁰ At the time of writing, the SCT applies to unregistered designs, trademarks, copyright and certain other disputes if the value of the claims does not exceed GBP 10,000.³¹ Both parties must either agree, or at least not object, to the allocation of the claim to the SCT and the court can always reallocate the claim to multitrack – the only other track available for IP disputes. The SCT varies from the multitrack in several key respects:

- the recovery of costs is largely prohibited;
- interim relief cannot be obtained;
- evidentiary rules are narrower, such as the requirement for permission to rely on expert testimony;
- preliminary hearings are uncommon; and
- any hearings that do occur are informal and directed by the judge.

One could also treat the existence of the IPEC as a sort of small claims procedure. This is because a claim can be filed with the IPEC only where it is made for damages or an account of profits and the total amount or value of the claim does not exceed GBP 500,000. When calculating the value of such a claim, any interest (other than interest payable under an agreement) and any costs should be excluded. This limit does not apply if the parties agree that the court can award damages or profits exceeding GBP 500,000.

In the United States of America, a simplified procedure is available for copyright disputes before the CCB. It applies to claims the value of which does not exceed USD 30,000. The procedure is streamlined and conducted online, and the parties are required to provide only limited basic documents and information, as opposed to the more complicated and costly process of exchanging evidence in federal lawsuits. Proceedings before the CCB do not employ the formal motion practice characteristic of federal court litigation and any hearings are conducted remotely by means of video conferencing. Additionally, the Trademark Trial and Appeal Board (TTAB) offers an accelerated case resolution process that allows the parties to agree to a streamlined, pretrial decision on the merits of *inter partes* disputes.

Simplified or small claims procedures are usually established to improve access to justice, especially for smaller litigants who might be reluctant to participate in a more complex and expensive procedure. The jurisdictions selected for this study have generally established simplified procedures only for claims involving lower values and only for certain types of IP right – namely, for copyright and trademark disputes in particular; more rarely for design; and usually not for patent disputes.

30 Explanatory Memorandum to the Civil Procedure (Amendment No. 2) Rules 2012 (S.I. 2012/2208), at para. 7(7.1(g)). Available at www.legislation.gov.uk/ukxi/2012/2208/pdfs/ukxiem_20122208_en.pdf

31 <https://www.gov.uk/government/publications/intellectual-property-enterprise-court-a-guide-to-small-claims/guide-to-the-intellectual-property-enterprise-court-small-claims-track>

4 Further policy considerations

This chapter outlines some further considerations relevant to policymakers deciding whether to introduce specialized IP judicial and procedural arrangements into a particular jurisdiction.

When considering the options available, it is important to:

- identify clearly the specific reasons for introducing specialized solutions in the adjudication of IP disputes;
- focus special attention on the types of IP right to which specialized solutions are to be applied;
- tailor any such solutions to fit the needs of the parties involved (e.g., litigants, judges and, more broadly, the relevant industries and the general public);
- ensure that the form of IP adjudication adopted secures the more effective adjudication of IP disputes.

4.1 Specific reasons for specialization

Among the jurisdictions selected for this study are those that demonstrate a wide variety of specialized approaches to IP disputes, including IP-specific courts, and others that have not introduced such specialization. This implies that specialized solutions are adopted for specific reasons and this report has identified several examples of such reasons.

When considering judicial reform, policymakers should first assess the reasons arising in their own jurisdiction, and then consider whether and how the *existing* structures and resources available might be used to respond effectively.

Policymakers will consider specialized solutions only where the issues arising cannot be sufficiently addressed within existing frameworks.

4.2 Types of intellectual property right

If policymakers identify a need for IP judicial specialization, they must also consider what types of IP right warrant special attention. The optimal judicial structure will differ depending on the IP right on which it is to focus.

This study has evidenced that, on the one hand, the technical nature of certain IP rights – especially patents and utility models, as well as (potentially) semiconductor rights and (in some cases) designs – justifies the degree of specialization that leads a jurisdiction to:

- establish stand-alone IP courts;
- employ technically qualified judges; or
- concentrate IP cases among a limited number of designated courts.

On the other hand, cases relating to some types of IP right, such as low-value copyright disputes, are heard in a more informal, low-cost setting.

4.3 Needs of litigants and other parties

Territorial needs of litigants

The territorial needs of litigants is another policy consideration that emerges in this study. Specialized IP dispute solutions may be concentrated in geographical areas where IP litigation is more commonplace than it is elsewhere. In all of the jurisdictions that opted for such concentration, IP cases were heard in larger urban centers – especially capital cities and industrial hubs.

In this way, jurisdictions are able to focus their resources.

- They can consolidate judicial expertise, enabling members of the courts to develop familiarity with recurring IP issues and repeat litigants, which supports a more predictable, coherent and consistent jurisprudence.
- They can more cost-effectively build IP-specific technical infrastructure, deliver technical training and employ technical support staff.

However, excessive concentration may hinder SMEs based elsewhere in a jurisdiction. Such litigants – and other parties – may lack the capacity to pursue their cases far from their base of operations.

Subject-specific needs of litigants and other parties

Among the jurisdictions selected, certain specialized solutions can be identified that target very specific types of dispute or a very specific purpose. For example, the Costa Rican Tribunal Agrario [Agrarian Tribunal] deals only with disputes related to agriculture, including plant variety disputes.

Numerous jurisdictions have created copyright tribunals to facilitate disputes concerning copyright licensing and collecting societies.

Others have established forums centering the needs of specific litigants. In England and Wales, for example, the IPEC was established to help SMEs to access less costly and time-consuming litigation.

These examples show that specialized judicial arrangements can be tailored to meet the needs of a very specific type of litigant or other party, including needs based on their socioeconomic profile.

4.4 Effective litigation of intellectual property disputes

The most common reason among the selected jurisdictions for establishing first-instance specialized courts can be identified as the pursuit of more effective litigation of IP disputes.

In England and Wales, this is achieved by means of a specialized stand-alone IP court – namely, the IPEC – and the Patents Court, which is designed to provide a less time-consuming and costly venue for those litigating IP rights.

In the Philippines, certain Special Commercial Courts have been designated “in the interest of an efficient administration of justice and to ensure speedy disposition of cases involving [the] violation of [IP rights]”.¹

1 Supreme Court Administrative Order (Chapter 1, n. 10).

Procedural efficiency

Many jurisdictions introduce specialized front-loaded procedures to ensure the effective conduct of proceedings, especially in the most technical cases. In this context, specialization is deployed not only to enhance substantive legal expertise but also as a managerial strategy to improve case flow and reduce backlogs.

Procedural innovations associated with specialization, such as stricter case management or dedicated trial dates, can further enhance judicial efficiency.

Consistency of jurisprudence

The United States of America – the single jurisdiction among those selected in which a specialized IP trial court exists at the appeal level only – introduced the CAFC to secure uniformity across patent law jurisprudence.²

Specialized judiciary at the appeal level will not necessarily support more streamlined procedures and effective case management, but it may prove an effective tool with which to ensure greater consistency at the first-instance level.

2 Library of Congress (n.d.) The Federal Paper Chase: Judges' Papers in the Manuscript Division – U.S. Court of Appeals for the Federal Circuit. Available at <https://guides.loc.gov/papers-of-federal-judges/appeals-federal>. It should be noted that the CAFC may act as the first-instance court in certain disputes. In patent law disputes concerning validity and infringement that did not start as appeals from the Patent and Trademark Office of the United States of America (USPTO), the CAFC will act as the court of appeal.

Conclusions

This concluding chapter draws on the analysis explored in this report to offer some key principles and questions on which policymakers can reflect when considering reforming the judicial administration of IP disputes in their jurisdiction.

Both the key principles and the key questions that follow are derived from the findings set out in this report. As such, they reflect practices established in a specific factual and legal context, and they are not to be understood as directly applicable to other legal systems. Nevertheless, they are intended as prompts for policymakers introducing judicial reform, helping them to make informed decisions, to reduce the costs of transition and to get the best possible results.

Key principles

A. Judicial reform is a response to a specific need

Specialized approaches to the judicial administration of IP disputes should respond to specific needs. Where empirical evidence suggests that the jurisdiction deals with relatively few IP cases, policymakers might reasonably decide not to reform the judiciary at all.

B. Judicial structures generally develop organically

In most of the jurisdictions selected for this study, an IP judiciary has developed organically in response to demand.

Stand-alone IP courts, or relatively independent specialized divisions or chambers, have been set up in jurisdictions with well-established judiciaries (e.g., England and Wales, Japan) and/or for the most technical disputes only, such as those relating to the validity of patents (e.g., Germany).

Most of the selected jurisdictions have established specialized divisions or chambers rather than stand-alone courts – most likely because the former can emerge from self-governing mechanisms, while the latter have a statutory basis, which means that the former allow for more flexibility.

At the same time, specialized divisions or chambers may be granted sufficient organizational and procedural independence from the court to which they are nominally attached to maximize the impact of specialization.

C. Reform respects local customs and judicial traditions

When designing specialized IP judiciaries, policymakers should demonstrate respect for local customs and legal traditions.

In some of the selected jurisdictions (e.g., France), cases have traditionally been considered by collegial panels; in others (e.g., England and Wales, the United States of America), they have been heard by single judges.

For this reason, it may not always be practicable to implement in one jurisdiction with a specific local judicial tradition a solution developed in another.

D. Reform is focused on procedural and organizational specifics

The analysis undertaken in this report indicates that the distinction between stand-alone courts and IP divisions or chambers is not clear-cut.

For this reason, policymakers engaging in judicial reform might not debate issues such as the name(s) of the new structure(s) but rather center specific structural choices, such as:

- the degree of independence in terms of case docketing;
- the allocation of judges;
- budgetary independence;
- selection criteria for the judges;
- the turnover of judges from specialized to general lists; and
- the procedures that the court applies (i.e., general or specialized).

E. Solutions are tailored to meet local needs

Among the jurisdictions selected for this study, solutions such as specialized IP divisions or chambers have evidently been established for multiple reasons.

It is therefore important to tailor any specialized solution for the judicial administration of IP disputes to meet specific local needs.

F. Solutions function effectively within holistic (systemic) contexts

Any specialized IP judicial structure or judiciary should not automatically be treated as a single, discrete system, with distinct infrastructure, procedures, etc. Policymakers should instead adopt a holistic perspective, considering how such solutions will function effectively within the existing systemic context.

Key questions

1. Is there good reason for judicial reform in relation to IP disputes?

There should always be good reason for reforming the judicial administration of IP disputes in any given jurisdiction, for example:

- IP rights owners are unwilling to litigate because of concerns that proceedings would be costly and time-consuming;
- the courts are increasingly burdened by their IP caseload;
- decisions in IP disputes are conflicting; and
- judges are reluctant to hear IP disputes because they perceive them to be too complex.

2. Might these needs be met through existing structures?

Before introducing new specialized IP judicial solutions, assess whether the issues arising can be resolved by means of a *de minimis* modification of the existing judicial structure.

For example, where the issue is one of limited technical expertise, a jurisdiction's existing courts might benefit from the introduction of technical advisors or judicial training programs; where ordinary proceedings are too costly and time-consuming for individual litigants and SMEs, policymakers might add a small claims track to existing court procedures.

3. Which might be the most appropriate judicial structure(s)?

If a *de minimis* approach is inadequate and there is a good reason for specialization, consider which one or more of the following options might best meet the need(s) arising in context.

- **A stand-alone court.** Among the jurisdictions selected for this study, stand-alone IP courts have been established for technical cases only or to deal with narrowly defined types of dispute.
- **Specialized IP divisions or chambers.** The most commonplace arrangement among the jurisdictions selected, specialized IP divisions or chambers were found to be both a flexible solution (i.e., responsive to changing needs) and easier to establish than a stand-alone court, depending on the national context.

Specialized divisions or chambers may nevertheless be vested with relative independence in terms of the allocation of judges and docketing of cases (see Chapter 1, “Specialized IP divisions or chambers and concentration of cases”).

- **Concentrated jurisdiction.** Another approach that may be appropriate if the goal is to distribute resources more efficiently is to concentrate jurisdiction by allocating IP disputes to only a few designated courts, which will usually establish specialized IP divisions or chambers.

A less formal approach to the concentration of jurisdiction that tackles issues of technical expertise is the allocation of certain types of dispute to a few designated judges (see Chapter 2, “Judges”).

One note of caution here, however, is to assess the likely impact of any such solution on litigants’ access to justice – especially that of individual litigants and SMEs based outside of capital cities and other regional hubs (see Chapter 1, “Territorial considerations”).

- **First instance vs. appellate levels.** Among the jurisdictions selected for this study, specialization at first instance has proven the most appropriate approach when the issue is one of timely and cost-effective litigation; specializing at the appellate level has been proven to be effective where the intention is to achieve more uniform jurisprudence (see Chapter 1, “Specialization at first, appellate or final instances”).
- **Dispute-specific quasi-judicial body.** In some instances, jurisdictions have established quasi-judicial bodies outside of the court system to deal with certain specific types of dispute, such as tariff setting or licensing in relation to copyright, or to deal with appeals from the national IP office (see Chapter 1, “Quasi-judicial bodies outside of IP offices”). The policy reasons for such a choice include the accessibility and efficiency of proceedings, as well as the need for a less formal setting. All of the jurisdictions selected for this study were found to have adopted a blended approach combining some – or, in one case (namely, Japan), all – of these judicial structures (see Chapter 1, “Alternative and blended approaches”).

4. What is the material scope of the jurisdiction sought?

- **Technical vs. nontechnical IP rights.** Technical IP rights are often subject to a higher degree of specialization to ensure that those hearing a dispute have, or have access to, relevant technical expertise. Such specialization may take the form of a specialized stand-alone IP court, or specialized divisions or chambers, the involvement of technically qualified judges or technical advisors, or specialized rules of procedure. Nontechnical IP rights may require a different form of specialization, such as a less formal small claims procedure (see Chapter 3, “Simplified or small claims procedures”).
- **Commercial disputes.** Including IP cases within the commercial law framework may increase procedural efficiency and allow litigants to benefit from existing commercial expertise among the judiciary. The issue here, however, is one of legal expertise: judges who focus on commercial law may lack familiarity with the doctrines relevant to IP law (see Chapter 1, “General civil or commercial courts”).

5. Should the value of the claim be a contributory factor?

Monetary thresholds for jurisdiction in specialized courts are rare among the selected jurisdictions. However, the value of the claim is a relevant factor when determining jurisdiction of quasi-judicial bodies dealing with specific types of disputes, as well as when assessing eligibility for simplified or small claims procedures (Chapter 3, “Simplified or small claims procedures”). In addition, within a complex specialized judicial structure, the value of the claim may help delineate the jurisdiction of different specialized IP divisions or chambers.

6. Should jurisdiction be bifurcated?

There was no unequivocal evidence that bifurcation of jurisdiction over validity and infringement of IP rights is necessary when the need arising is one of greater technical expertise. Indeed, considerable technical specialization was evident among nonbifurcated jurisdictions and, in practice, bifurcation was often the result of judicial tradition or the federal character of IP rights (see Chapter 1, “Bifurcation”).

7. What territorial concerns are relevant?

In general, specialized stand-alone IP courts, specialized divisions or chambers, or a concentration of jurisdiction had been established where demand for litigation was highest (e.g., in capital cities and other industrial hubs) rather than being evenly distributed across a jurisdiction's territory.

Nevertheless, some jurisdictions tackle issues of access to justice by maintaining these structures in a few locations where litigation is less intense and others have introduced *iudex ambulans* solutions (see Chapter 1, “Territorial considerations”).

8. What will be the selection criteria when appointing judges and technical advisors?

- **Legally qualified judges.** None of the jurisdictions selected for the study had well-established formal selection criteria for judges hearing IP disputes. Jurisdictions generally either identified specialist knowledge and experience at the recruitment stage, delivered specialist training to generalist judges or appeared to rely on a specialist skill set developing as a consequence of a regular IP caseload (see Chapter 2, “Judges”).
- **Technically qualified judges.** Technically qualified judges are not a common phenomenon and were found only among those of the selected jurisdictions that had established stand-alone IP courts (see Chapter 2, “Specialized qualifications”).
- **Technical advisors.** Some jurisdictions achieved specialization among members of the court by other means, such as through the use of technical advisors or judicial research assistants. Such personnel deliver neutral advice to help the court to understand the technical details of the case (see Chapter 2, “Technical advisors”).

9. In what ways might judicial procedures be tailored to suit IP disputes?

- **Sources of law.** Specialized judicial procedures have been introduced among the selected jurisdictions comprehensively through secondary legislation and otherwise by means of the rules adopted by courts or other statutorily authorized bodies. More incidental matters, such as grounds for remedies, as well as provisional and evidentiary measures, are generally provided for under statute (see Chapter 3, “Sources of procedural law”).
- **Ratio legis of specialized procedures.** Some jurisdictions among those selected have introduced a more streamlined, front-loaded procedure that demands the court play an active role in managing complex, technical cases – especially patents. In addition, where policymakers have faced complaints that litigation is too time-consuming or costly, specialized procedures can be simplified and informal, to better accommodate individual litigants and SMEs (see Chapter 3, “Simplified or small claims procedures”). In relation to their most complex cases, some jurisdictions have introduced specialized case management rules. These may be helpful in complex, highly technical cases, such as those involving patents, to support claim construction (see Chapter 3, “Case management”).

Annex: Study participants and date of participation

Participant	Title, court and jurisdiction	Date of interview
Caroline Someson Tauk	Federal Judge, Regional Federal Court of the Second Region, Rio de Janeiro, Brazil	July 9, 2025
Michael Manson	Judge, Federal Court, Ottawa, ON, Canada	June 6, 2025
Guillermo Guilá Alvarado	Judge, Civil and Labor Appeal Court, Alajuela, Costa Rica	October 31, 2025
Jean-Christophe Gayet	President, Third Section, Third Chamber, Paris Judicial Tribunal, France	November 5, 2025
Eike Nielsen	Judge, Federal Patent Court, Munich, Germany	May 7, 2025
—	Supreme Court of Japan, Tokyo, Japan	Written answers provided in January 2026
Francis Tuiyott	Judge, Court of Appeal, Nairobi, Kenya	October 31, 2025
Maria Rowena San Pedro	Associate Justice, Court of Tax Appeals, Manila, Philippines	Written answers provided in June 2025
Dedar Singh Gill	Judge, High Court, Supreme Court, Singapore	July 16, 2025
Colin Ian Birss	Lord Justice Chancellor, High Court of England and Wales, London, United Kingdom	October 20, 2025
Jimmie V. Reyna	Circuit Judge, U.S. Court of Appeals for the Federal Circuit, Washington, D.C., United States of America	November 19, 2025

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Drawing on the law and practice of 11 jurisdictions, this report provides an overview of judicial structural options, the types and roles of judges and court appointed experts, IP-specific procedures and related policy considerations. The report offers objective, practical insights to support policymakers and judiciaries considering reform of IP dispute resolution systems.