



Legal issues in technology transfer

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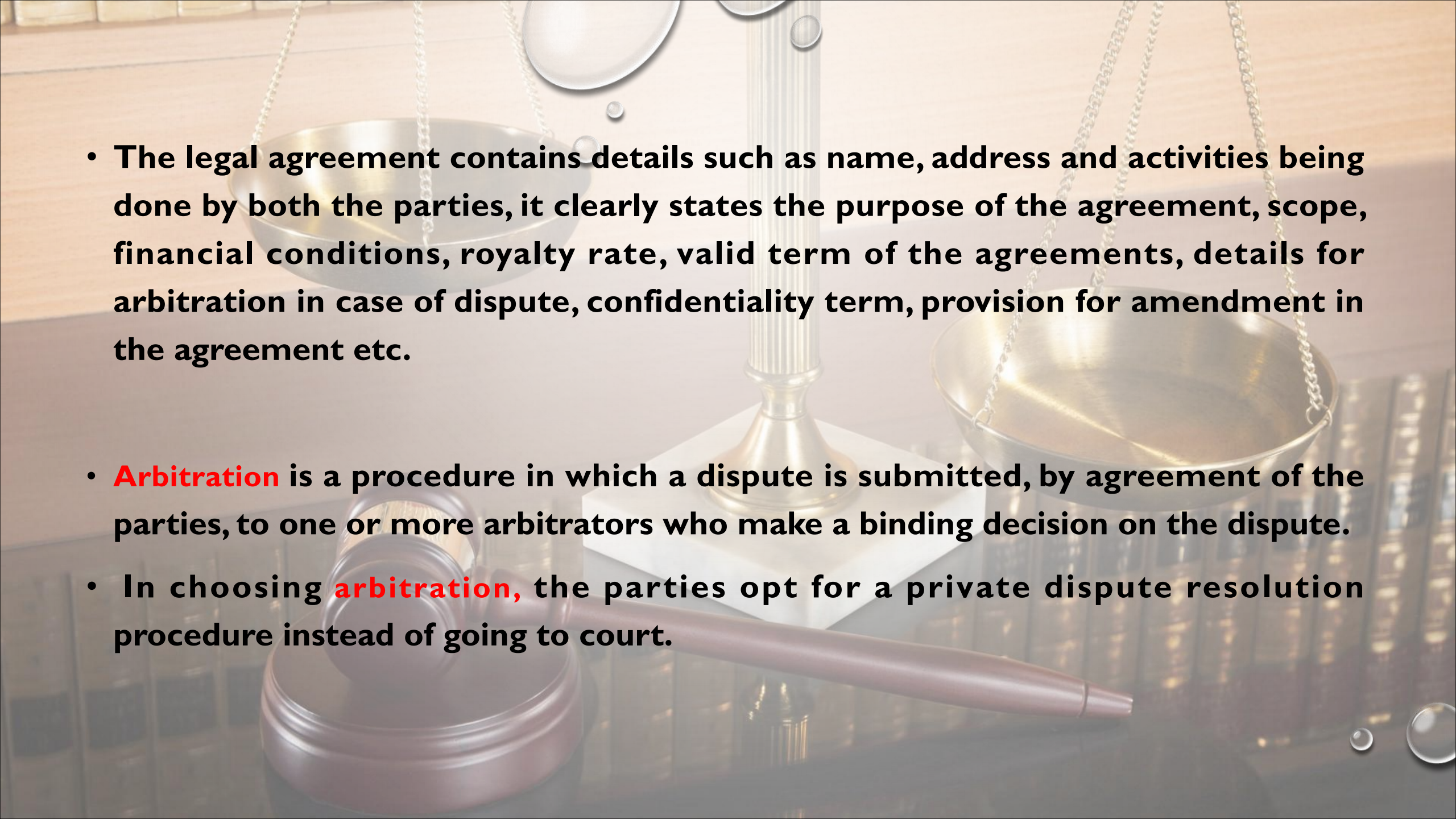
A golden scale of justice is the central focus, with two pans hanging from a central pillar. In the foreground, a wooden gavel rests on a dark surface. The background shows a bookshelf filled with books, suggesting a legal or academic setting.

- **Legal contractual agreements**
- **Tax implications**
- **Legal issues in intellectual property transaction**
- **Problems associated with IPR litigation**
- **Legislations covering IPR in india**

Legal contractual agreements

- Research projects like sponsored project, collaborative or co-operative research projects, grant-in-aid projects, consultancy projects, licensing of know-how or intellectual property etc are governed by the contractual agreement signed between research laboratory and client.



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- The legal agreement contains details such as name, address and activities being done by both the parties, it clearly states the purpose of the agreement, scope, financial conditions, royalty rate, valid term of the agreements, details for arbitration in case of dispute, confidentiality term, provision for amendment in the agreement etc.
 - **Arbitration** is a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision on the dispute.
 - In choosing **arbitration**, the parties opt for a private dispute resolution procedure instead of going to court.



Legal issues in intellectual property

Transaction

Intellectual Property Rights for Patent, Trademark, Copy right, Trade secret etc. are rights parallel to that of real estate rights.

Owner of IP can prevent the unauthorized use of his/her IP.

"Making, using, offering for sale, selling or importing without authorization" is called infringement.

- **Two types of infringements namely Product infringement and Process or method infringement are observed.**
- **IP can be characterized as right to prevent others from doing something.**
- **It need not be technology based but it should have commercial effects.**
- **The relief available against infringement are Injunction, Damages or account of profits and seizure and destruction of infringed articles.**



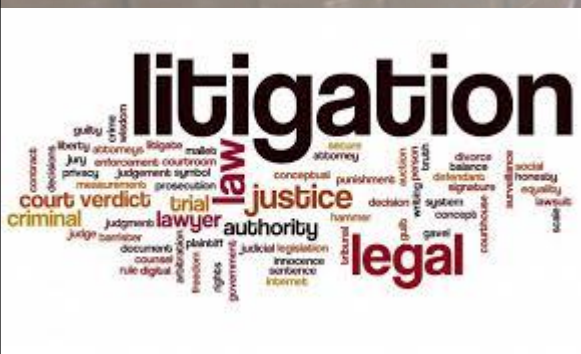


- **Infringer has to pay for the Damages, Lost profits, Reasonable royalty, Pre and Post judgment interest and Attorney fees.**
- **In cases of wilful infringement, the court may increase the damages up to three times the amount found or assessed.**



Problems associated with IPR litigation

- Court system ill equipped to handle the complex issues in infringement.
- Judges and jury members have lack of technical expertise.
- They are neither scientists nor engineers and typically spend between 0.01 % to 2.0 % of their total court time in patent litigations.
- Lengthy trial and improper Judgments.
- All litigation is expensive.
- Because of inadequacies of resolving patent infringement disputes through litigation, a better / alternative method must be found and utilized.



Litigation means the process of taking legal action; is the process of fighting or defending a case in a civil court of law



- The new method must rid itself of time, cost and quality deficiencies of litigation.
- **Alternate Dispute Resolution (ADR)** is "any mechanism for parties to resolve their dispute other than through traditional court litigation"
- **ADR is based on mutual contract / agreement.**
- It is recognized by
 - ❑ **United Nations Commission on International Trade Law (UNCITRAL 1980)**
 - ❑ **Geneva Convention (1923/1961) and**
 - ❑ **New York Convention (1958)**



Alternative Methods Dispute Resolution

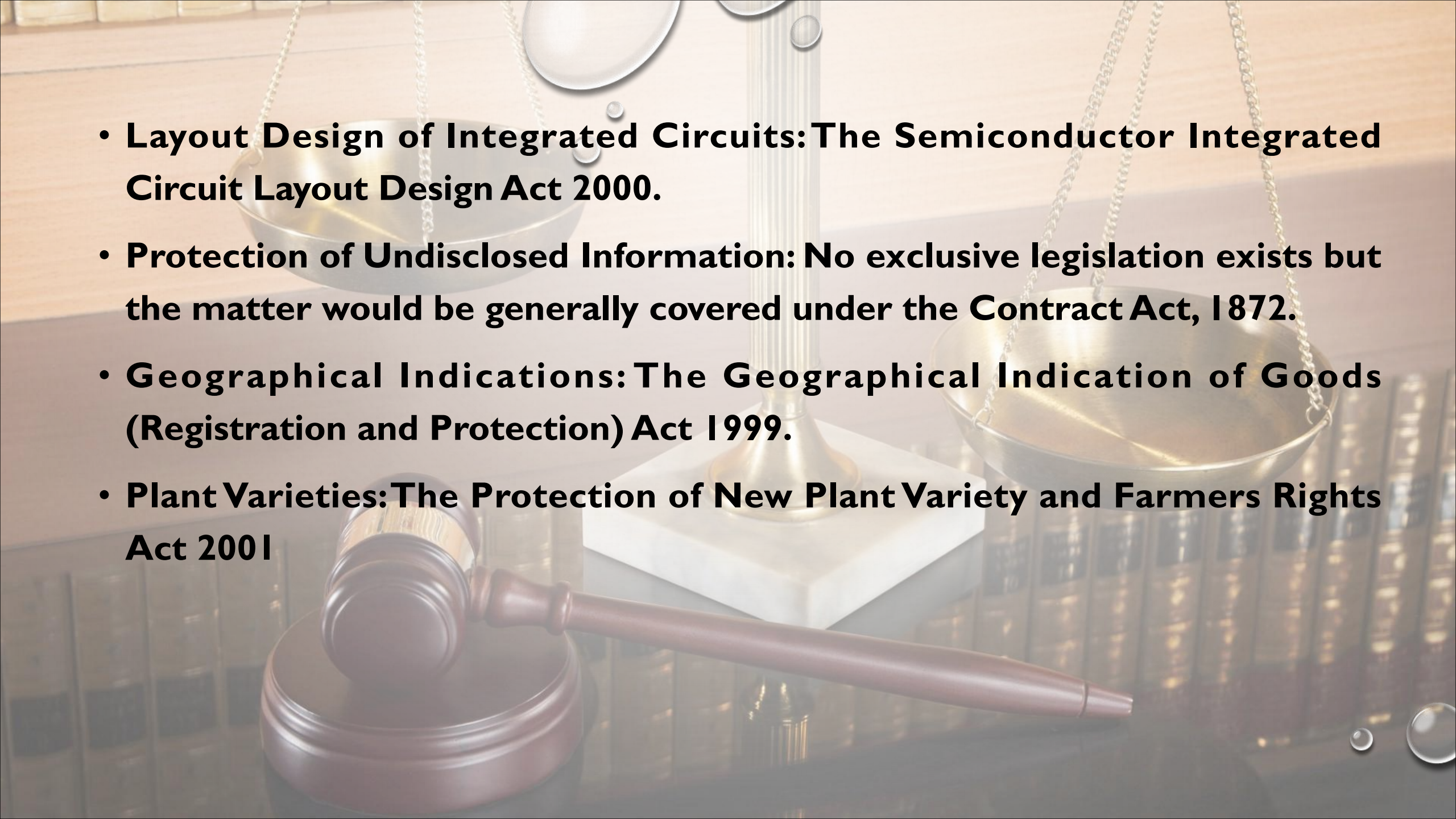
Alternative Dispute Resolution ("ADR") refers to any means of settling disputes outside of the courtroom. **ADR** typically includes early neutral evaluation, negotiation, conciliation, mediation, and arbitration. ... Negotiation allows the parties to meet in order to settle a dispute.






Legislations covering iprs in india

- **Patents: The Patents Act, 1970 and was amended in 1999 and 2002.**
- **It was last amended in March 2005.**
- **Design: The Design Act 2000**
- **Trade Mark: The Trade Marks Act, 1999**
- **Copyright: The Copyright Act, 1957 as amended in 1983, 1984 and 1992, 1994, 1999 and the Copyright Rules, 1958.**

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- **Layout Design of Integrated Circuits: The Semiconductor Integrated Circuit Layout Design Act 2000.**
 - **Protection of Undisclosed Information: No exclusive legislation exists but the matter would be generally covered under the Contract Act, 1872.**
 - **Geographical Indications: The Geographical Indication of Goods (Registration and Protection) Act 1999.**
 - **Plant Varieties: The Protection of New Plant Variety and Farmers Rights Act 2001**

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- **Patents, designs, trademarks and geographical indications are administered by the Controller General of Patents,**
 - **Designs and Trademarks which is under the control of the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.**
 - **Copyright is under the charge of the Ministry of Human Resource Development.**
 - **The Act on Layout Design of Integrated Circuits is administered by the Ministry of Communication and Information Technology.**
 - **The Act on New Plant Variety is administered by Ministry of Agriculture.**



THANK YOU