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The Doctrine Of Equivalents In India: Judicial Approaches And Evolving Jurisprudence

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Abstract

In India's booming technology advancements, intellectual property protection is a top priority. Patents are a critical tool to safeguard innovations, yet it is a big challenge when unauthorised parties make substantial or minor changes to a patented invention to avoid literal infringement. This is where the Doctrine of Equivalents comes in picture, a legal concept that enables courts to rule on infringement when a product does not literally read on a patent's claims but protects the inventor's core inventive idea. This paper's core message is about the evolution of the Doctrine of Equivalents in Indian patent law. It explains how Indian courts have developed a smooth, balanced approach to prevent unauthorised parties from getting around patents by making only minor changes. The paper begins by establishing the need for this doctrine in India's fast-growing technological landscape. The core issue is how Indian courts interpret patent claims when alleged infringing products do not fall under the literal claim language but may be equivalent. The Indian judiciary has progressively accepted the Doctrine of Equivalents to prevent circumvention of patent rights by minor, insubstantial alterations that perform the same function, in the same way, to achieve the same result, a standard often summarised as the function-way-result test. While not explicitly codified in the Indian Patents Act, 1970, the application of this doctrine has matured significantly in Indian courts. The recent notable cases include the Delhi High Court's recognition of technical effect in software patents, Blackberry

Limited v. The Assistant Controller[1]*, the Crystal Crop case's*[2] *reinforcement of claim boundaries and explicitly adopted the Triple Identity Test and also SNPC Machines Private Limited & Ors. v. Mr Vishal Choudar*[3]*, prioritisation of the Doctrine of Pith and Marrow over the 'all elements rule' and the doctrine coupled with the triple identity test. These decisions reflect a cautious yet progressive approach, balancing innovation protection and indicating a trend towards the nuanced application of DoE in complex technologies. Tests and standards adopted by the Indian Courts are used to determine if something is an infringing equivalent. Indian courts use tests similar to those in other countries. They apply an all-elements test, which means they check if the accused product has all the essential parts of the patented invention or their equivalents. Courts also use purposive construction to interpret a patent's claims, focusing on the inventor's true intent rather than just the literal words. Finally, they use prosecution history estoppel, which prevents the patent holder from arguing that a claim is broader than what they told the patent office during the application process.*

Recent court decisions also show that Indian courts are becoming more sophisticated in handling these complex technical cases. They are using specialized knowledge to analyse whether a product is functionally equivalent to a patented invention. The establishment of dedicated intellectual property (IP) divisions in High Courts suggests that the application of these principles, including the Doctrine of Equivalents, is becoming more refined and may even extend to new fields like software patents.

Key Words: Doctrine of Equivalence, Patent Infringement, Purposive construction, All element test, Judicial Interpretation.

What is the Doctrine of Equivalence, and when does infringement of a patent fall under this doctrine?

This doctrine is an outcome of US IP jurisprudence, where the SCOTUS in ***Graver Tank & Mfg. Co. v Linde Air Products***[4] looked beyond the literal scope of the claims to accord protection against

[1] *BlackBerry Ltd v Controller of Patents and Designs* (2024) 100 PTC 72 (Del).
[2] *Crystal Crop Protection Ltd v Safex Chemicals India Ltd and Ors* 2025 DHC 3382.
[3] *SNPC Machines Pvt Ltd and Ors v Vishal Choudary* MANU/DE/1825/2024 (Del).
[4] *Graver Tank & Mfg Co v Linde Air Products Co* 339 US 605 (1950).

something which, though it falls outside the claims of the patent, still performs the same function in the same way to yield the same result. This was seen as a departure from the UK's pith and marrow approach, where the courts had refused to go beyond the technical understanding of the claim. However, post-***Actavis v. Eli Lilly***,[5] the UK Supreme Court seems to have injected the doctrine of equivalents into the UK law as well. The prioritisation of the Doctrine of Pith and Marrow is desirable in the Indian context because the Doctrine is an import from the UK jurisprudence to which Indian jurisprudence is much closer compared to the US jurisprudence. The scope of the doctrine of equivalents hinges on two factors: the test for equivalence and the legal barriers to equivalents[6]. US courts have developed five key tests to limit the Doctrine of Equivalents, ensuring a patent doesn't grant a monopoly over an entire technology. Here's what each one means in simple terms:

All-Elements Rule

This is the most important test. It means that for a competitor's product to be considered an equivalent, it must contain an equivalent for every single element of the original patent's claim. If even one element is completely missing from the competitor's product, there is no infringement and the Doctrine of Equivalents cannot be applied.

Triple Identity Test

This is a standard way to check for equivalence. An accused product is considered an equivalent if it performs the same function in the same way to achieve the same result as the patented invention.

Insubstantial Differences Test

This test is a close relative of the triple identity test. It simply asks whether the differences between the competitor's product and the patented invention are so minor or insubstantial that a skilled person in the field would consider them practically the same? If the differences are significant, the Doctrine of Equivalents doesn't apply.

Obviousness Test

This test prevents a patent holder from claiming an equivalent that would have been obvious to a person of ordinary skill in the art at the time the patent was filed. If the competitor's invention was already

[5] *Actavis UK Ltd v Eli Lilly and Co* [2017] UKSC 48.
[6] SpicyIP, 'Non-Literal Infringement: Clarity or Confusion?' (March 2024) https://spicyip.com/2024/03/non-literal-infringement-clarity-or-confusion.html accessed 30 September 2025.

obvious or could have been easily created from existing knowledge (prior art), it cannot be considered an equivalent of the patented invention. This prevents the patent holder from getting rights to an invention that was already in the public domain.

Known Interchangeability Test

This test looks at what was common knowledge in the industry at the time of the infringement. It asks whether a person with normal skill in the field would have known that the competitor's substituted element was an obvious replacement for the one in the original patent. If the substitution was common knowledge, it's strong evidence that the difference is insubstantial and that the product is an equivalent.

Tracing the Indian Jurisprudence that shaped the Doctrine of Equivalents

Early in 1977, in the case of Raj Parkash v. Mangat Ram Chowdhry[7] The Delhi High Court established a foundational principle for patent infringement in India. It's not about a literal, word-for-word copy. Instead, courts must look at the pith and marrow, the core essential elements of the invention. The court rejected the idea that an infringer could escape liability by making minor, insignificant changes to a patented product. By citing the Australian case of Beecham Group v. Bristol Laboratories[8] The Delhi High Court reinforced that a patent is infringed if a competitor reproduces the essence of the patented article, even without a literal copy. This ruling was a significant step toward developing a Doctrine of Equivalents in India.

The Supreme Court's ruling in Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries[9] Essentially established a fundamental rule for interpreting patents: you can't read the claims alone. The claims, which define the legal scope of the invention, must always be understood in the context of the entire specification, which is the detailed description of the invention. This is because Section 10 of the Patents Act, 1970 requires the claims to be fairly based on the matter disclosed in the specification. This means the claims must be consistent with what the inventor described in detail.

[7] Raj Parkash v. Mangat Ram Chowdhry, ILR (1977) 2 Del 412.
[8] Beecham Group v. Bristol Laboratories ,(1967) 16 RPC 406.
[9] Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries, (1979) 2 SCC 511.

The first explicit judicial consideration of the Doctrine of Equivalents in India came in the 2008 case of Ravi Kamal Bali v. Kala Tech and Others.[10]. The Delhi High Court, in its factual analysis, found that the accused product and the patented product shared the same usage/purpose or type of material and principle. The court determined that the modification in the primary structure of the product alone did not establish the presence of a distinct invention, as there was no appreciable difference in the constructional and functional aspects. While this case discussed the Doctrine of Equivalents in India, it did not provide a clear framework for its interpretation. The Court's emphasis on the substance of the invention rather than the literal language of the claims laid the groundwork for future developments.

In the case of Sotefin SA v. Indraprastha Cancer Society & Research Centre & Ors[11]. The court held that even if every component of the patent specification is not found in the infringing products, it does not conclude that there is no infringement. The pith and marrow of the invention need to be looked into instead of meticulously focusing on the analysis of the patent claims verbatim. The court held the view that for determining the infringement, the court shall also apply the doctrine of equivalence to examine if the substituted element in the infringing product does the same work in substantially the same way, to accomplish substantially the same result.

In Rxprism Health Systems Private Limited and another v Canva Pty Limited and others[12]The Court held that if the infringing goods are made with the same object in view that is attained by the patented article, then a minor variation does not mean that there is no piracy. The court will look past the minor details and see if your product is, in its essence, the equivalent of the patented one. They will examine the context of the patent, the prior technology, and the purpose and function of each component. Small, unessential variations are ignored. For example, if a patent specifies a screw and a competitor uses a bolt, but both perform the same function of holding two parts together, the court will likely consider the difference irrelevant and find infringement. The ruling essentially reinforces the Doctrine of Equivalents in India, stating that if you copy the spirit of an invention, even if you avoid the letter of the patent claims, you are still guilty of infringement.

[10] *Ravi Kamal Bali v Kala Tech and Ors* AIR 2008 Bom (NOC) 1103.
[11] *Sotefin SA v Indraprastha Cancer Society and Research Centre and Ors* AIR 2008 Bom (NOC) 1103.
[12] *Rxprism Health Systems Pvt Ltd and Anr v Canva Pty Ltd and Ors* 2023 SCC OnLine Del 4186.

The case of Blackberry Limited v. The Assistant Controller[13] Indirectly impacts how the Doctrine of Equivalents might be analysed for software patents by establishing a more rigorous standard for what constitutes a "technical effect" in a Computer-Related Invention (CRI). The judgment in this case specifically concerns the patentability of an "Administration of Wireless Systems" invention, focused on Section 3(k) of the Patents Act, 1970, which prohibits the patenting of "computer programs per se." The court ruled that to be patentable, a software-based invention must demonstrate a specific, credible technical effect that goes beyond the logical processes of a mere algorithm. The court found that Blackberry's invention, while it had a "technical contribution, was essentially an algorithmic process that regulated information flow without a further tangible technical effect on the hardware or system.

The court's strict interpretation of what a technical effect is now sets a high bar for both patentability and, by extension, infringement analysis. When a court applies the Doctrine of Equivalents, it must first understand the core essential elements of the patented invention. In the context of a software patent, the Blackberry judgment requires the court to look for a demonstrable technical effect as a key element. An alleged infringing product would have to be equivalent in this specific technical effect, not just in its logical or algorithmic steps. If a patent is granted for a software invention because it meets the "technical effect" test, the scope of that patent is now more clearly defined by that very technical effect. This means a competitor who achieves a similar functional result but through a completely different technical approach might be able to argue that their product is not an equivalent. The judgment reinforces that the patent is for a specific, tangible technical solution, not for the abstract idea or algorithm itself.

The case of Crystal Crop Protection Ltd. v. Safex Chemicals India Ltd.[14] is a key judgment from the Delhi High Court that clarifies how two important patent law concepts work together: the Doctrine of Equivalents and prosecution history estoppel. The core of this case is that Crystal Crop had a patent for a weed killer formula. The patent's claim explicitly included several ingredients, including a dyeing agent or pigment. The patent stated that this dye served a specific purpose: it helped farmers see where they had sprayed the chemical, preventing them from applying too much or too little. Now, Safex

[13] *supra* note 1.
[14] *supra* note 2.

Chemicals created a very similar weed killer, using all the same core ingredients as Crystal Crop's patented formula, but it does not include the dyeing agent. Crystal Crop argued that Safex's product was still infringing. It invoked the Doctrine of Equivalents, saying that the dye was just a minor, non-essential part of the invention and that Safex had copied the "pith and marrow," or the core idea, of the patented formula.

The Delhi High Court rejected Crystal Crop's argument and refused to grant an injunction. The court's reasoning was based on two main points, i.e. Essential vs. Non-Essential Elements- The court found that the dyeing agent was not a minor or unessential element of the patent. Since the patent's own description and claims gave a specific functional purpose to the dye (visual identification), it was considered an essential feature of the invention.

Prosecution History Estoppel- This is the most crucial part of the decision. The court looked at the history of the patent application process (prosecution history). It found that during the application, Crystal Crop had specifically highlighted the presence of the dyeing agent to the patent office to prove that its invention was new and different from existing products. Having relied on the dye as a key distinguishing feature to get the patent approved, Crystal Crop could not then turn around and argue that the dye was an unessential part of the invention to sue a competitor. The court essentially said, you can't take one position to get the patent and an opposite position to enforce it.

In the case of SNPC Machines Private Limited v. Mr Vishal Choudhary[15], the court made it clear that a company cannot escape a patent infringement lawsuit by simply making minor changes to a patented product. The defendant argued that his brick-making machine was not infringing because it lacked a few specific parts (like a cabin and steering) that were mentioned in the patent. He relied on the strict all-elements rule, which says a product must contain every single part of a patent claim to be an infringement. However, the court rejected this argument and observed that the ‘all elements rule’ has to be used in a qualified manner. An infringer may, if the ‘all elements rule’ is not qualified, deploy minor variations in a product that has multiple elements and contend that the product does not infringe the patented product even though it performs the same function in substantially the same way to obtain the

[15]*supra* note 3

same result. The Court emphasised that the essential idea for seeking a patent is for the commercial exploitation of the same. It was further observed that the triple identity test becomes critical in the examination of infringement because the primary object of the infringer is to produce a product that competes with the plaintiff's product. If an infringer's product undermines the patentee's product, even with slight modifications, it undermines the fundamental goal of the patent. Thus, the Court held that it is necessary to apply both the pith and marrow test and the triple identity test to assess potential infringement. Based on the aforementioned analysis, the Court dismissed the defendant's submission while recording that "the all-elements rule cannot be adopted to the exclusion of the pith and marrow rule."[16]

Tentative Conclusion

Based on the Indian court's analysis of the above cases, here are the key factors to consider when judging a patent infringement claim. First, a patent's claims shouldn't be read in a simple word- for-word way. Instead, courts must use a specific method of claim construction to understand the true meaning and scope of the invention. Second, when comparing a patented invention to an allegedly infringing product, any minor unessential variation should be ignored. The focus should be on whether the competitor's product achieves the same effect as the patented one. Third, an infringement case is not settled by simply comparing two products; the real test is to compare the allegedly infringing product to the claims of the patent itself. Finally, the court must focus on the substance over form, looking at the pith and marrow, or core idea of the invention. This requires determining if the competing product performs the same function, similarly to achieve a comparable result. Essentially, the court will look past minor differences to see if a product is a true copycat that undermines the patented invention's purpose.

We can see a lack of clarity regarding non-literal infringement in India; courts have applied either the doctrine of pith and marrow or the doctrine of equivalents, and there has been no judgment that prioritised one doctrine over another. In the case SNPC Machines Private Limited v. Mr Vishal Choudhary, the Court has given significant importance towards the doctrine of pith and marrow and further also held the same to be prioritised over the 'all elements rule' which is part of the doctrine of

[16] *supra* note 6

equivalents. Further, the Doctrine of Equivalents extends the patent protection beyond the scope of the interpreted language, allowing for the substitution of essential elements if the substituted elements pass the triple identity test, whereas the Doctrine of Pith and Marrow require the presence of all essential elements, and only unessential elements may be substituted by their equivalents. However, the court then created a new problem by the fusion of the Doctrine of Pith and Marrow with the triple identity test, which is a key part of the Doctrine of Equivalents expands the scope and could lead to a patent holder getting a monopoly on a desirable result, rather than just their specific invention, which goes against the fundamental purpose of the patent system.