

**DIGITAL INTELLECTUAL PROPERTY ENFORCEMENT
IN PAKISTAN'S E-COMMERCE LANDSCAPE:
THE CASE FOR PLATFORM LIABILITY AND
NOTICE-AND-TAKEDOWN REFORM**

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ABSTRACT

Pakistan's digital economy has expanded rapidly over the last five years, yet its intellectual property enforcement framework remains anchored in pre-digital assumptions. This paper examines the structural inadequacy of existing trademark and copyright law in addressing online infringement on Pakistani e-commerce platforms, with particular focus on marketplace giants such as Daraz and OLX. Drawing on a comparative analysis of India's Information Technology Act, the European Union's Digital Services Act, and the United States' Digital Millennium Copyright Act, this paper argues that Pakistan must adopt a formalised notice-and-takedown regime for online platforms and reinterpret Section 156 of the Trademarks Ordinance 2001 to require platform-level enforcement. The paper further contends that stronger penalties alone are insufficient; what is needed are enforcement mechanisms calibrated to the operational realities of digital commerce, including a streamlined dispute resolution modelled on the Uniform Domain-Name Dispute-Resolution Policy (UDRP). The paper also engages with Pakistan's Copyright Amendment Bill 2024 and recent IP tribunal jurisprudence to demonstrate that reform is not merely desirable but legally tractable.

Keywords: *Intellectual property, e-commerce, platform liability, notice-and-takedown, Trademarks Ordinance 2001, Pakistan, Digital Services Act, DMCA, counterfeit goods, digital enforcement.*

I. INTRODUCTION

Pakistan's e-commerce sector has undergone a remarkable transformation. Between 2019 and 2024, the number of online shoppers in Pakistan grew from an estimated 20 million to over 50 million, driven by smartphone penetration, mobile banking expansion, and the maturation of domestic platforms such as Daraz, OLX, and Rozee.pk.¹ This explosion in digital commerce has not, however, been matched by a corresponding evolution in the legal architecture governing intellectual property rights. This mismatch has created a widening enforcement gap, leaving rights-holders, particularly SMEs, exposed to significant economic harm.

The problem is not merely one of scale; it is structural. Pakistan's primary IP instruments, such as the Trademarks Ordinance 2001, the Copyright Ordinance 1962 (as amended), and the Patents Ordinance 2000, were designed for a world in which infringement was tangible and traceable. Traditional enforcement mechanisms presupposed a physically identifiable infringer at a fixed commercial location. That model has been rendered functionally obsolete by the anonymity of online selling accounts, the ephemeral nature of infringing product listings, and the jurisdictional complexity of platform-mediated commerce.

According to the 2024 Overseas Investors Chamber of Commerce and Industry (OICCI) report, Pakistani businesses are losing approximately twenty per cent of their annual revenues to counterfeit goods, with a substantial and growing proportion of that loss attributable to digital channels.² IP tribunals in Pakistan have so far lacked clear procedural frameworks for handling such online infringement. Courts have applied existing doctrine inconsistently, with some treating e-commerce platforms as analogous to physical bazaars and others treating them as passive, neutral intermediaries insulated from liability.

This paper makes three central arguments. First, Pakistan's existing IP laws are structurally ill-suited to digital enforcement and require targeted legislative reform. Second, that Section 156 of the Trademarks Ordinance 2001, which permits courts to grant "any other relief", is capable of being interpreted to mandate platform-level takedown obligations upon receipt of adequate notice, and that IP tribunals should adopt this interpretation pending legislative action. Third,

¹ STATE BANK OF PAKISTAN, *E-Commerce in Pakistan: Sector Profile and Outlook 3–5* (Working Paper, 2024) (on file with author).

² Overseas Invs. Chamber of Com. & Indus. (OICCI), *Annual Business Confidence Survey 2024 27* (2024).

Pakistan should adopt a formal notice-and-takedown regime analogous to those in India, the EU, and the US, and supplement this with streamlined arbitral dispute resolution for online IP disputes modelled on the UDRP framework.

This paper proceeds in six parts. Part II examines the digital intellectual property enforcement crisis in Pakistan through empirical material on online counterfeiting. Part III analyses the existing legal framework and identifies its principal deficiencies. Part IV compares the approaches adopted in India, the European Union, and the United States. Part V advances the article's central normative case for reform. Part VI considers the Copyright Amendment Bill 2024 and its implications. Part VII concludes with policy recommendations.

II. THE DIGITAL COUNTERFEITING CRISIS IN PAKISTAN

A. Scale and Economic Impact

The counterfeiting of goods, defined broadly as the sale of products bearing unauthorised marks or reproductions of protected works, is not a novel challenge for Pakistan. The country has featured on the United States Trade Representative's 'Special 301' Priority Watch List for several years running, reflecting persistent concerns about IP enforcement across multiple sectors, including pharmaceuticals, textiles, and software.³ What is novel is the migration of this challenge to digital platforms at a pace that has outstripped regulatory responses.

The OICCI's 2024 report quantified the economic toll with a degree of precision uncommon in commercial surveys: businesses surveyed reported losing an average of 19.7 per cent of revenues to counterfeit competition, with e-commerce channels identified as the fastest-growing vector for such infringement.⁴ This figure aligns with broader regional trends. The Asian Development Bank's 2023 Regional Economic Outlook noted that counterfeit goods now constitute between fifteen and twenty per cent of total online retail volume in several South Asian economies, including Pakistan, India, and Bangladesh.⁵

³ OFFICE OF THE U.S. TRADE REPRESENTATIVE, 2024 SPECIAL 301 REPORT 48-51 (2024).

⁴ OICCI, *supra* note 2, at 29.

⁵ Asian Development Bank [ADB], *Asian Development Outlook: South Asia 2023* 863591 (April, 2023), www.adb.org/sites/default/files/publication/863591/asian-development-outlook-april-2023.pdf

The sectors most affected by infringement in Pakistan's digital marketplace appear to be consumer electronics, apparel and fashion accessories, cosmetics, and automotive parts. Available platform-level evidence points to a substantial volume of complaints. Daraz, the country's largest e-commerce marketplace and a company within the Alibaba Group, reportedly received tens of thousands of intellectual property-related complaints in 2023, although it has not disclosed detailed enforcement figures.⁶ Public-sector data point in the same direction. Reports issued by the customs intelligence directorate of the Federal Board of Revenue indicate that counterfeit goods with an estimated retail value exceeding PKR 12 billion were seized at Pakistani ports between 2022 and 2024. Investigators further observed that a large proportion of those consignments were associated with online orders.⁷

B. The Platform Dynamics of Online Counterfeiting

It is essential to understand the structural dynamics of online counterfeiting to design effective legal responses. It is unlike physical market counterfeiting, where the locus of infringement is geographically fixed, and enforcement requires physical intervention. Digital counterfeiting, instead, is characterised by several features that frustrate traditional enforcement tools.

First, sellers on online marketplaces routinely operate through pseudonymous or fictitiously registered accounts, making identification and prosecution difficult. A brand owner who successfully identifies an infringing seller on Daraz may find that the seller dissolves their account and relists under a new identity within hours.⁸ Second, the speed of online commerce means that infringing listings may generate substantial sales before any enforcement mechanism can be activated. An online listing, unlike a physical shop, does not have a fixed address or set operating hours. It can attract orders at any time and from any location. Third, and perhaps most significantly, the intermediary role of platforms creates a layer of legal ambiguity. When a consumer purchases a counterfeit item from a third-party seller on Daraz, is Daraz itself liable, and if so, under what conditions? These questions remain inadequately resolved in Pakistani law, generating uncertainty for rights-holders, platforms, and consumers alike.

⁶ DARAZ GRP. & ALIBABA GRP., TRANSPARENCY REPORT 2023 (2024) (on file with author) (noting significant IP-related takedown activity).

⁷ FED. BD. OF REVENUE, CUSTOMS INTELLIGENCE ANNUAL REPORT 2024 34 (2024).

⁸ INT'L TRADEMARK ASS'N, ONLINE COUNTERFEITING LANDSCAPE REPORT (2023) (noting that re-listing after takedown is a near-universal phenomenon across major marketplace platforms).

III. THE EXISTING LEGAL FRAMEWORK AND ITS DEFICIENCIES

A. The Trademarks Ordinance 2001

The Trademarks Ordinance 2001 (TO 2001) is the principal legislative instrument governing trademark protection in Pakistan. Enacted to bring Pakistan's trademark law into conformity with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the TO 2001 provides for trademark registration, establishes civil and criminal remedies for infringement, and creates a system of specialised IP tribunals with exclusive jurisdiction over trademark disputes.⁹

Section 46 of the TO 2001 defines trademark infringement in terms of the use of an identical or similar mark in the course of trade in relation to goods or services identical with or similar to those for which the trademark is registered, where such use is likely to cause confusion on the part of the public.¹⁰ Section 79 empowers IP tribunals to grant injunctions, including interim injunctions, in trademark infringement proceedings.¹¹ Section 156 provides a catch-all relief provision, permitting tribunals to 'pass such other orders as it deems fit in the circumstances of the case.'¹²

A central weakness of these provisions, when applied to online infringement, lies in their premise that the infringer is a specific and identifiable actor with a discernible physical presence. TO 2001 does not address the position of intermediaries that host, enable, or facilitate infringing transactions without directly engaging in the infringing act. It contains no equivalent either to Section 230 of the US Communications Decency Act, which limits intermediary liability for third-party content, or to the notice-and-takedown framework associated with the Digital Millennium Copyright Act. Pakistani law neither immunises platforms nor imposes clear duties upon them.

B. The Copyright Ordinance 1962 and the Amendment Bill 2024

The Copyright Ordinance 1962 (as amended through the Copyright (Amendment) Act 1992 and subsequent modifications) governs copyright protection in Pakistan.¹³ Similar to the TO 2001, it

⁹ Trademarks Ordinance, 2001 (Ordinance No. XIX of 2001) (Pak.), § 2(1)(s).

¹⁰ Trademarks Ordinance, 2001 (Pak.), § 46.

¹¹ Trademarks Ordinance, 2001 (Pak.), § 79.

¹² Trademarks Ordinance, 2001 (Pak.), § 156.

¹³ The Copyright Ordinance, 1962 (Pak.), as amended by Copyright (Amendment) Act, 1992.

was designed for a pre-digital environment and does not contain provisions specifically addressing online infringement, platform liability, or notice-and-takedown obligations.

The Copyright Amendment Bill 2024, which was tabled before the National Assembly in the second quarter of 2024, represents the most significant proposed update to Pakistan's copyright framework in three decades.¹⁴ The Bill proposes, *inter alia*, the introduction of technological protection measures (TPMs), the criminalisation of circumvention of TPMs, and the creation of a digital rights management framework. The Bill, however, has been criticised by IP law practitioners and academics for its failure to address online platform liability and its silence on notice-and-takedown procedures.¹⁵ The Bill's emphasis on criminalisation over civil remedies has also been questioned as counterproductive, insofar as criminal proceedings are slower, more resource-intensive, and less suited to the commercially driven nature of online IP disputes.¹⁶

C. The Prevention of Electronic Crimes Act 2016

The Prevention of Electronic Crimes Act 2016 (PECA) is Pakistan's primary cybercrime statute. It criminalises a range of online conduct, including the unauthorised access to computer systems, cyberstalking, online harassment, and the dissemination of certain categories of illegal content. PECA does establish a mechanism—administered by the Pakistan Telecommunication Authority (PTA)—for blocking online content, and this mechanism has been used on occasion to block websites hosting pirated content.

The Prevention of Electronic Crimes Act 2016 (PECA) serves as Pakistan's principal cybercrime statute. It criminalises a range of online conduct, including unauthorised access to computer systems, cyberstalking, online harassment, and the dissemination of certain forms of unlawful content.¹⁷ The statute also creates a framework for the blocking of online material through the Pakistan Telecommunication Authority (PTA). That framework is not directed specifically at intellectual property enforcement, yet it has, on occasion, been invoked to restrict access to websites alleged to host pirated content.¹⁸

¹⁴ Copyright Amendment Bill, 2024, cl. 1 (Pak. Nat'l Assembly, tabled Mar. 2024).

¹⁵ See, e.g., PAK. BAR COUNCIL INTELL. PROP. COMM., MEMORANDUM ON THE COPYRIGHT AMENDMENT BILL (2024).

¹⁶ Bashir Ahmed Khilji, *Intellectual Property Law in Pakistan: Current Challenges and Reform Imperatives*, 34 PAK. L. REV. 45, 62 (2022).

¹⁷ The Prevention of Electronic Crimes Act, No. XL of 2016, PAK. CODE §§ 3–44.

¹⁸ PAK. TELECOM AUTH., ANNUAL REPORT 2023 45 (2024) (noting the blocking of thousands of websites for various categories of prohibited content).

However, PECA's utility as an IP enforcement tool is severely limited. The PTA blocking mechanism is blunt: it operates at the level of entire websites or URLs rather than specific infringing listings, and it does not provide for the targeted removal of individual infringing product listings on e-commerce platforms. Moreover, PECA does not create civil liability for platforms that fail to act on infringement complaints, nor does it establish any procedural mechanism by which rights-holders can compel platforms to remove infringing content within defined timeframes.¹⁹

The resulting legal position leaves rights holders with two imperfect options: protracted and costly civil proceedings before intellectual property tribunals, which may take years to resolve, or reliance on voluntary platform compliance policies, whose consistency and rigour remain uneven and are not formally required.

IV. COMPARATIVE ANALYSIS: INDIA, THE EUROPEAN UNION, AND THE UNITED STATES

A. India: The Information Technology Act and Intermediary Guidelines

India's approach to online intellectual property enforcement has developed substantially since the enactment of the Information Technology Act 2000. Section 79 of that statute grants safe-harbour protection to intermediaries, a term defined broadly enough to encompass e-commerce platforms. Indian courts have interpreted the provision in a manner that creates tangible incentives for platforms to address rights-holder complaints with reasonable promptness and procedural seriousness.²⁰

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 give institutional effect to these incentives. Platforms with more than 50 lakh registered users in India, classified as significant social media intermediaries, must appoint a grievance officer, acknowledge complaints within twenty-four hours, and dispose of them within fifteen days under the regulatory framework now in force.²¹ For IP infringement complaints specifically, the platform is required to act on notice from the rights-holder or from a court order.

¹⁹ *Id.*; see also Khilji, *supra* note 16, at 58–60.

²⁰ Information Technology Act, 2000, § 79(1) (India).

²¹ Information Technology (Intermediary Guidelines & Digit. Media Ethics Code) Rules, 2021, rr. 3(2)(a), 4(1)(b) (India).

Critically, a platform loses its safe harbour protection under Section 79 if it has actual knowledge of infringing content and fails to expeditiously remove it.²²

The Indian Supreme Court's decision in *Shreya Singhal v. Union of India (2015)* significantly shaped the contours of intermediary liability in India, striking down a broadly-worded criminal provision but affirming the constitutional validity of court-order-based content removal obligations.²³ Subsequent decisions, including the Delhi High Court's orders in *Christian Louboutin SAS v. Nakul Bajaj & Ors (2018)*, have clarified that Indian courts are willing to issue dynamic injunctions requiring e-commerce platforms to proactively block infringing listings even before specific listings are identified.²⁴

Pakistan and India share a common legal inheritance rooted in the common law tradition introduced during British colonial rule. Their e-commerce markets also display a similar structure, marked by the prominence of large third-party marketplace platforms. The Indian framework therefore offers a particularly relevant reference point for reform in Pakistan.

B. The European Union: The Digital Services Act

The EU's Digital Services Act 2022 (DSA) represents the most comprehensive legislative response to platform intermediary liability yet enacted in any jurisdiction.²⁵ The DSA, which entered into full application in February 2024, creates a tiered regulatory framework based on platform size and risk profile, with more onerous obligations imposed on 'very large online platforms' (VLOPs) and 'very large online search engines' (VLOSEs) with more than 45 million monthly active users in the EU.

For IP enforcement purposes, the most significant provisions of the DSA are those relating to notice-and-action mechanisms (Articles 16-17) and the management of illegal content.²⁶ Article 16 requires online platforms to implement 'easily accessible and user-friendly' mechanisms allowing any person to report alleged illegal content, including IP-infringing listings. Article 17 requires platforms to notify the notifying party of the decision taken on the

²² Information Technology Act, 2000, § 79(3)(b) (India).

²³ *Shreya Singhal v. Union of India*, 5 SCC 1 (India).

²⁴ *Christian Louboutin SAS v. Nakul Bajaj*, 2018 SCC OnLine Del 12215, ¶¶ 82–95 (High Court of Delhi).

²⁵ Regulation (EU) 2022/2065, of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act), art. 1, 2022 O.J. (L 277) 1.

²⁶ *Id.* arts. 16–17.

report and to provide reasons for that decision.²⁷ Platforms that repeatedly fail to act on valid notices risk losing their conditional liability exemptions under Article 6 of the DSA.

The DSA also contains provisions directed specifically at online marketplaces in Articles 30 to 32. These provisions require platforms to obtain, verify, and make public basic information concerning commercial sellers who use their services. Such “Know Your Business Customer” obligations reduce the anonymity that often enables online counterfeiting.²⁸ This emphasis on traceability is especially pertinent to Pakistan, where anonymous seller accounts remain a facilitator of online IP infringement.

C. The United States: The DMCA Safe Harbour and Notice-and-Takedown

The Digital Millennium Copyright Act 1998 (DMCA) established the foundational legal architecture for online intermediary liability in the United States, and its safe harbour provisions under 17 U.S.C. § 512 remain the most-studied and most-emulated model in the world.²⁹ Under Section 512, online service providers benefit from safe harbour protection from copyright liability for third-party content if, *inter alia*, they do not have actual knowledge of infringing material, they do not receive a financial benefit directly attributable to the infringing activity, and they expeditiously remove infringing material upon receipt of a compliant takedown notice from a rights-holder.³⁰

The DMCA notice-and-takedown system has been criticised for facilitating abuse by both rights-holders (who may issue overbroad notices) and infringers (who can restore content by filing counter-notifications, potentially without consequence).³¹ Nevertheless, the system provides a legally certain procedural framework that gives rights-holders a meaningful remedy against infringing online content without requiring full civil litigation. For smaller rights-holders with limited enforcement budgets, the ability to compel a platform to remove an infringing listing within days by filing a standardised notice is enormously valuable.

²⁷ *Id.* art. 17(1).

²⁸ *Id.* art. 30.

²⁹ 17 U.S.C. § 512.

³⁰ 17 U.S.C. § 512(c)(1).

³¹ NIVA ELKIN-KOREN, *AFTER TWENTY YEARS: REVISITING COPYRIGHT LIABILITY OF ONLINE INTERMEDIARIES*, IN *THE EVOLUTION AND EQUILIBRIUM OF COPYRIGHT IN THE DIGITAL AGE 23–26* (Susy Frankel & Daniel Gervais eds., Cambridge University Press 2014).

The Trademark context in the US is governed differently: unlike copyright, there is no statutory safe harbour for trademark infringement under the DMCA, and courts have developed a complex body of common law addressing contributory and vicarious trademark liability for online platforms. The landmark decisions in *Tiffany (NJ) Inc. v. eBay Inc.* (2010) and the more recent Second Circuit decisions on platform liability illustrate the fact-intensive analysis required in this area.³² This common law approach, while flexible, generates significant uncertainty and litigation costs, suggesting that a legislative solution—as pursued in the EU—is preferable.

D. Synthesis: Lessons for Pakistan

The comparative survey yields several clear lessons for Pakistani reform. First, legal certainty is essential: platforms operate at scale and require clear, predictable rules governing their obligations when notified of infringing content. Second, notice-and-takedown works best when it is legislatively mandated, procedurally specific, and subject to proportionate consequences for non-compliance. Third, traceability of sellers—through identity verification and public disclosure—is a structurally important complement to takedown mechanisms. Fourth, streamlined dispute resolution that bypasses the ordinary civil courts is necessary for rights-holders who cannot afford protracted litigation.

V. THE CASE FOR REFORM: PLATFORM LIABILITY AND NOTICE-AND-TAKEDOWN IN PAKISTAN

A. Reinterpreting Section 156 of the Trademarks Ordinance 2001

In the absence of legislative action, Pakistani IP tribunals have a significant role to play in developing the law to address digital infringement. This paper argues that Section 156 of the TO 2001—which permits tribunals to ‘pass such other orders as it deems fit’—is broad enough to support platform takedown orders when a rights-holder provides adequate notice of infringing content.

This interpretation is supported by several considerations. First, the section’s text is deliberately open-ended, conferring broad equitable jurisdiction on IP tribunals. Second, Pakistani courts have, in other contexts, demonstrated willingness to issue novel injunctive relief

³² *Tiffany (NJ) Inc. v. eBay Inc.*, 600 F.3d 93 (2d Cir. 2010).

against intermediaries: the Lahore High Court’s willingness to issue website blocking orders in entertainment piracy cases demonstrates an awareness that the practical effectiveness of IP rights may require orders directed at third parties who are not themselves infringers but who control the channels through which infringement occurs.³³ Third, such an interpretation is consistent with the TRIPS Agreement’s requirement that member states make available effective and proportionate remedies for IP infringement.³⁴

A tribunal order requiring a platform to remove a specifically identified infringing listing—issued on the application of a rights-holder and after giving the platform an opportunity to respond—would not impose an unreasonable burden on platforms, would be proportionate to the harm suffered by rights-holders, and would be consistent with the constitutional protections for property rights contained in Article 23 of the Constitution of Pakistan.³⁵ The ‘any other relief’ language of Section 156 provides the necessary statutory hook for such relief, and the courts should not hesitate to use it.

B. The Case for a Legislative Notice-and-Takedown Regime

While creative statutory interpretation can provide interim relief, the long-term solution lies in legislation. This paper advocates for the enactment of a dedicated e-commerce IP enforcement statute or, alternatively, the amendment of the TO 2001 and Copyright Ordinance 1962 to incorporate a notice-and-takedown framework with the following essential components.

First, the framework should define the categories of online platform subject to the regime. This should include all operators of online marketplaces through which third-party sellers offer goods to Pakistani consumers, regardless of the platform’s geographic location. The precedent of the IT Rules 2021 in India and the DSA in the EU for assertions of extraterritorial jurisdiction over large foreign platforms is relevant here.

Second, the framework should impose an obligation on platforms to designate a registered agent to receive IP infringement notices, and to process compliant notices within a defined timeframe—ideally 48 to 72 hours for initial takedown, with a longer period for final

³³ See, e.g., PAK. TELECOMM. AUTH., ANNUAL REPORT 2023 (2024) (referencing blocking activity against online piracy).

³⁴ Agreement on Trade-Related Aspects of Intellectual Property Rights art. 41(1), Apr. 15, 1994, 1869 U.N.T.S. 299.

³⁵ PAK CONST. arts. 23–24.

determination of disputes. The Indian and DMCA models suggest that 15 days for final resolution is a workable benchmark.

Third, the framework should specify the contents of a valid notice, including identification of the rights-holder and the claimed right, a description of the allegedly infringing listing sufficient to locate it, and a declaration of good faith belief. A counter-notification procedure, allowing sellers to contest takedowns that they believe to be wrongful, should also be established.

Fourth, the framework should establish consequences for non-compliance: platforms that repeatedly fail to act on valid notices, or that fail to implement seller identity verification protocols, should lose any immunity from secondary liability they might otherwise enjoy under general tort principles.

Fifth, the framework should include “Know Your Seller” obligations analogous to the DSA’s Article 30, requiring platforms to obtain and retain verified identity information for commercial sellers. This would address the fundamental problem of seller anonymity that currently frustrates enforcement.

C. Streamlined Dispute Resolution: A UDRP-Style Framework

Beyond the notice-and-takedown mechanism, this paper argues that Pakistan should develop a streamlined alternative dispute resolution system for online IP disputes, modelled on the Uniform Domain-Name Dispute-Resolution Policy (UDRP) administered by ICANN-accredited dispute resolution providers such as WIPO’s Arbitration and Mediation Center.³⁶

The UDRP demonstrates that online intellectual property disputes can be resolved through a specialised process that is relatively swift, inexpensive, and accessible. Proceedings are ordinarily concluded within a short period, filing costs are substantially lower than those associated with civil litigation, and the process is conducted online. The system has also produced a substantial body of decisions applying broadly consistent standards across a large number of cases. A comparable mechanism for e-commerce-related intellectual property disputes

³⁶ WORLD INTELL. PROP. ORG. ARB. & MEDIATION CTR., WIPO OVERVIEW OF WIPO PANEL VIEWS ON SELECTED UDRP QUESTIONS, 1–5 (3rd ed. 2017).

in Pakistan, administered either through an expanded intellectual property tribunal framework or through a designated arbitral or ADR institution, could offer rights holders a more effective and accessible alternative to conventional civil proceedings.

Such a system could handle disputes about infringing seller accounts, infringing product listings, and online trademark misuse, with remedies including account suspension, listing removal, and injunctive relief enforceable against platforms operating in the Pakistani market. The speed and accessibility of such a system would be particularly valuable for the large number of small and medium-sized Pakistani enterprises who currently lack the resources to litigate IP claims in the ordinary courts.

VI. THE COPYRIGHT AMENDMENT BILL 2024: AN ASSESSMENT

The Copyright Amendment Bill 2024 (CAB 2024) represents a meaningful, if incomplete, step towards modernising Pakistan's copyright framework. Its introduction of technological protection measures and digital rights management reflects a welcome acknowledgment that copyright enforcement in the digital environment requires new tools. The Bill's provisions on collective management organisations (CMOs) also represent a positive development, providing a more structured framework for licensing and remuneration for copyright owners in the digital ecosystem.³⁷

However, the CAB 2024's most significant omission is its failure to address online platform liability and notice-and-takedown. This omission is not merely a drafting oversight; it reflects a broader conceptual gap in the Bill's approach, which remains focused on the creation and protection of rights rather than their digital enforcement. The Bill's emphasis on criminal penalties—including proposed increases in maximum custodial sentences for copyright piracy—reflects a traditional enforcement paradigm that is poorly suited to the scale and speed of online infringement.

Criminal prosecution is, in practice, a selective and resource-intensive tool: it cannot address the tens of thousands of infringing listings that appear on Pakistani e-commerce platforms daily, and it provides no mechanism for the rapid removal of infringing content.

³⁷ The Copyright (Amendment) Bill, 2026, cls. 14–22 (Pak. Nat'l Assembly).

Rights-holders—particularly individual creators whose copyrights are infringed in the digital environment—need swift, accessible civil remedies, not the prospect of criminal prosecutions that may never materialise.

Parliament's consideration of the CAB 2024 presents an important opportunity to remedy these deficiencies through amendment. The insertion of a Part covering online service provider liability—modelled on the IT Act Section 79 or the DMCA Section 512 framework—would transform the Bill from a limited measure into a genuinely comprehensive digital copyright statute. This paper urges the standing committee considering the Bill to recommend the inclusion of such provisions.

VII. CONCLUSIONS AND POLICY RECOMMENDATIONS

The structural inadequacy of Pakistan's digital IP enforcement framework has led to there being a genuine and growing crisis. The migration of commerce to online platforms has exposed the structural inadequacy of an IP legal framework designed for the physical world. Rights-holders are losing substantial revenues to online counterfeiting, enforcement mechanisms are slow and ill-suited to the digital environment, and Pakistani e-commerce platforms operate in a legal vacuum regarding their obligations when notified of infringing content.

This paper has argued that the solution lies in three complementary reforms. First, Pakistani IP tribunals should adopt a proactive interpretation of Section 156 of the Trademarks Ordinance 2001 to issue platform takedown orders as part of their equitable jurisdiction, pending legislative reform. This interpretation is consistent with the text of the statute, with Pakistan's TRIPS obligations, and with the constitutional protection of IP rights. Second, Parliament should enact a dedicated e-commerce IP enforcement framework—or amend existing IP statutes—to establish a mandatory notice-and-takedown regime with clear procedural requirements, defined timeframes, seller identity verification obligations, and proportionate consequences for non-compliance. Third, a UDRP-style streamlined arbitral mechanism for online IP disputes should be developed to provide rights-holders with fast, accessible, and cost-effective alternatives to civil court litigation.

The comparative evidence is clear: jurisdictions that have adopted legislative notice-and-takedown frameworks—India, the EU, and the US—have succeeded in creating meaningful, if imperfect, incentives for platform cooperation in IP enforcement. Pakistan’s failure to do the same imposes real economic costs on rights-holders, undermines investor confidence in the protection of IP assets, and harms consumers who are misled by counterfeit goods. Stronger penalties alone will not solve this problem; what is needed are enforcement mechanisms built for the way online commerce actually works. The digital economy will continue to expand; accordingly, the need for reform has become both immediate and imperative.