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DESIGN PIRACY IN THE AGE OF COMMODITY INFLATION: ASSESSING LEGAL REMEDIES AMIDST ESCALATING GOLD PRICES

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ABSTRACT

This paper evaluates the efficacy of the Designs Act, 2000, in protecting the commercial interests of the Indian jewellery sector, particularly in light of the record-high gold prices of 2025–2026. Despite the escalating intrinsic and aesthetic value of jewellery, the statutory remedial framework under Section 22 remains anchored to an obsolete aggregate damage cap of ₹50,000, which fails to proportionately deter commercial-scale piracy. The research provides a critical analysis of the "doctrinal cul-de-sac" created by the intersection of Section 15 of the Copyright Act, 1957, and the stringent registration requirements of the Designs Act,2000, which often leaves original creations in a legal vacuum once they achieve market success. Through an examination of seminal judicial precedents, the paper identifies how procedural delays and inadequate monetary relief effectively invert the incentive structure of intellectual property law, rendering design infringement an economically rational enterprise. The study concludes by proposing a comprehensive legislative overhaul, advocating for the introduction of profit disgorgement as a cornerstone remedial tool and the establishment of a sui generis protection regime to reconcile the artistic and industrial dichotomies of the jewellery industry.

KEYWORDS:

Design Act 2000, Section 22 remedies, Copyright-Design Overlap, Profit Disgorgement, Sui Generis Protection, Jewellery Design Piracy, Commodity Price Volatility, Statutory Damages Caps Intellectual Property.

INTRODUCTION

The Indian jewellery market, valued at approximately USD 25.6 billion and projected to grow at a compound annual growth rate (CAGR) of 5.9% between 2024 and 2029[1], is currently operating within an environment of unprecedented gold price volatility. In 2026, domestic gold prices reached historic highs, with 24K gold priced at ₹15,370 per gram as of February 2026, marking a 68% increase over the previous fiscal year[2]. This sharp escalation has produced a paradoxical effect while the monetary value of jewellery designs has increased significantly, rendering them more attractive targets for counterfeiting and imitation, the legal framework governing design protection has remained largely static. As a result, existing mechanisms for addressing design infringement appear increasingly inadequate in the face of heightened economic incentives for copying[3].

The significance of this development cannot be overstated. For jewellery artisans and design proprietors particularly small and medium enterprises (SMEs), which constitute over 95 per cent of manufacturing units, the economic value of an original design in the contemporary market now far outstrips the statutory remedies available under Section 22 of the Designs Act, 2000[4]. A master craftsman who creates an original gold necklace may incur losses amounting to several lakhs of rupees due to unauthorised reproduction and market dilution. However, the existing legal framework restricts recovery to a maximum of ₹50,000 in damages[5]. This disparity underscores a structural inadequacy in the remedial regime, rendering statutory protection disproportionately weak in relation to the commercial realities of the jewellery industry[6].

This inquiry goes beyond a mere critique of monetary caps, it interrogates the 'doctrinal cul-de-sac' created by the intersection of Section 15 of the Copyright Act and the rigid registration standards of the Designs Act. By examining the inversion of incentive structures where commercial success effectively triggers a collapse of legal protection, this paper argues that the current framework does not merely fail to compensate, but actively facilitates a 'low-risk, high-reward' environment for design piracy."

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[1] *World Gold Council, India Gold Market Outlook 2024–2029 (2024).*
[2] *Reserve Bank of India, Annual Report 2025–26 (2026).*
[3] *Shamnad Basheer & Pankhuri Shrivastava, Deterrence Deficit in Indian IP Law, 6 NUJS L. Rev. 287 (2013).*
[4] *Prashant Reddy T., Design Piracy and the Failure of Remedies, 5 NUJS L. Rev. 389 (2012).*
V.K. Ahuja, Law of Copyright and Industrial Designs 421–24 (2d ed. 2017).
[5] *The Designs Act, 2000*
[6] *V.K. Ahuja, Law Relating to Industrial Designs 233–36 (2011).*

FRAME OF INQUIRY

This paper examines the adequacy of the remedial framework under Section 22 of the Designs Act, 2000 in addressing commercial-scale infringement of jewellery designs in contemporary India. Specifically, it interrogates whether the statutory remedies available to design proprietors are proportionate to the heightened economic value of jewellery as a commodity and sufficient to deter the growing prevalence of counterfeiting and unauthorized reproduction[7]. This inquiry further interrogates the systemic gaps created by the intersection of the Copyright and Designs Acts.

The central argument advanced is that the existing statutory remedies are fundamentally inadequate and fail to reflect present market realities. This inadequacy results in a systemic failure to meaningfully protect original design creators and, paradoxically, creates perverse incentives that enable and perpetuate design piracy within the jewellery industry[8].

SCOPE AND SIGNIFICANCE OF THE INQUIRY

This paper confines its analysis to design infringement under the Designs Act, 2000, deliberately excluding trademark infringement and passing-off claims, notwithstanding their potential doctrinal overlap in practice. The focus on jewellery design protection is intentional as jewellery occupies a distinct position within the intellectual property landscape, combining high aesthetic originality with substantial intrinsic material value, thereby rendering it uniquely susceptible to commercial-scale piracy[9].

The significance of this inquiry lies not merely in examining the formal contours of the statutory framework, but in evaluating the extent to which its practical operation fulfils its stated objectives, namely, the protection of intellectual property rights and the incentivization of original design innovation. By foregrounding enforcement outcomes rather than doctrinal abstraction, the paper seeks to expose the disconnect between legislative intent and market reality.

Furthermore, this inquiry seeks to expose the 'doctrinal cul-de-sac', a systemic failure where the forced migration from copyright to design law, triggered by commercial success beyond the fifty-unit threshold, results in a total collapse of statutory protection for original

[7] *Shamnad Basheer & Pankhuri Shrivastava, Deterrence Deficit in Indian IP Law 6 NUJS L. Rev. 287 (2013).*
[8] *Prashant Reddy T., Design Piracy and the Failure of Remedies, 5 NUJS L. Rev. 389 (2012).*
[9] *S. Chatterjee, Jewellery Design Protection in India, 26 Journal of Intellectual Property Rights. 89 (2021).*

jewellery designs.

LEGAL FRAMEWORK: THE DESIGNS ACT,2000

Definition and Registrability of Design

Section 2(d) of the Designs Act, 2000 defines a "design" as "the features of shape, configuration, pattern, ornament or composition of lines or colours applied to any article whether in two-dimensional or three-dimensional form by any industrial process or means, whether manual, mechanical or chemical or by any other means, which in the finished article appeal to and are judged solely by the eye[10]."

In the context of jewellery, this definition presents both doctrinal opportunity and interpretive complexity. An original gold bracelet incorporating distinctive filigree work, novel geometric configurations, or unique ornamental compositions is, in principle, capable of satisfying the statutory threshold for design protection. However, the application of this ostensibly broad definition to jewellery designs raises nuanced questions concerning originality, visual appeal, and the demarcation between protectable aesthetic features and unprotected functional elements.

The stringent registrability requirements under Section 4 pose distinct and often disproportionate challenges. Jewellery designs are frequently conceived and circulated within highly informal commercial ecosystems such as through trade exhibitions, wholesaler catalogues, showroom displays, bespoke client commissions, and increasingly through digital platforms such as social media and e-commerce listings. Such modes of circulation, while commercially indispensable, risk constituting "prior publication" or "public disclosure" for the purposes of the Act, thereby disqualifying otherwise original designs from registration[11].

The Supreme Court's interpretation in *Bharat Glass Tube Limited v. Gopal Glass Works Limited*, which equates "new or original" with the absence of any prior public knowledge or reproduction, exacerbates this vulnerability[12]. For jewellery artisans and small design houses, the act of showcasing a novel design to attract buyers, often a necessary precursor

[10] *The Designs Act,2000*
V.K. Ahuja, Intellectual Property Rights in India 341–44 (2019).
[11] *V.K. Ahuja, Intellectual Property Rights in India 356–58 (2019).*
Aqa Raza, Originality under Indian Design Law, 27 Journal of Intellectual Property Rights 114 (2022).
[12] *Bharat Glass Tube Ltd. v. Gopal Glass Works Ltd., (2008) 10 SCC 657.*

to financial viability may simultaneously extinguish the possibility of statutory protection. This creates a paradox wherein market participation itself becomes legally penalising[13].

Consequently, while Section 4 purports to safeguard originality, its rigid application particularly when read alongside the Supreme Court's strict construction operates to systematically exclude jewellery designers from effective protection. This doctrinal rigidity fails to account for the commercial realities of the jewellery trade and disproportionately disadvantages artisans and SMEs, thereby undermining the broader legislative objective of incentivising original design creation[14].

Remedies under Sections 22–23: The Statutory Framework

Section 22 of the Designs Act, 2000 addresses the "piracy of registered designs" and delineates the acts constituting infringement[15]. Section 22(1) prohibits, inter alia, the unauthorised application of a registered design or its fraudulent or obvious imitation to any article in the registered class for the purpose of sale, the importation of infringing articles without the consent of the registered proprietor; and the publication or exposure for sale of any article bearing the infringing design.

The remedial structure for such infringement is set out in Section 22(2), which offers the registered proprietor a binary choice[16]. The proprietor may elect to recover a statutory sum not exceeding ₹25,000 per contravention, recoverable as a contract debt, subject to an aggregate ceiling of ₹50,000 per design. Alternatively, the proprietor may institute a civil suit seeking damages and injunctive relief against further infringement, with the proviso that the total monetary recovery in respect of any single design shall not exceed ₹50,000.

This remedial framework reveals a pronounced incongruity between statutory relief and commercial harm, particularly in relation to luxury and ornamental goods. While Section 22 formally recognises the proprietary interests of registered design owners, the statutory cap on monetary recovery significantly undermines its deterrent effect. In the jewellery industry, where a single successful design may generate revenues running into several lakhs or even crores of rupees, the prospect of a maximum recovery of ₹50,000 renders

[13] *Prashant Reddy T., 5 NUJS L. Rev. 389 (2012).*
[14] *Ministry of MSME, Govt. of India, Annual Report 2023–24*
[15] *The Designs Act, 2000.*
[16] *V.K. Ahuja, Law Relating to Industrial Designs 233–36 (2011).*

infringement economically rational for counterfeiters[17]. Consequently, the combined effect of a limited protection term and a severely constrained remedial regime operate to dilute the practical enforceability of design rights, thereby weakening the statute's capacity to achieve its core objective of incentivising original design creation.

The structural difficulties posed by Section 4's strict registrability requirements assume even greater significance when read in conjunction with the infringement and remedial framework under Section 22 of the Designs Act, 2000. Section 22 confers enforceable rights and corresponding remedies, exclusively upon registered proprietors, rendering registration not merely beneficial but indispensable to legal protection[18]. Consequently, jewellery designs that fail to satisfy the rigorous novelty and non-disclosure standards under Section 4 are entirely excluded from the protective ambit of Section 22, irrespective of their originality, commercial success, or vulnerability to large-scale copying.

This exclusionary effect is particularly pronounced in the jewellery sector, where unauthorised reproduction is often rapid, technologically sophisticated, and commercially scaled. Even where a design qualifies for registration, Section 22 read with Section 23 restricts the proprietor's remedies to injunctive relief and a capped monetary recovery, a limitation that bears little relation to the high market value of luxury and ornamental goods. The result is a remedial architecture that is both narrow in access and weak in deterrent effect.

Judicial treatment of ornamental and luxury goods underscores this doctrinal imbalance. In *Bharat Glass Tube Limited v. Gopal Glass Works Limited*, although the dispute concerned glass designs, the Supreme Court emphasised that design protection is confined strictly to visual appeal and originality, excluding functional or commonly used aesthetic elements[19]. This reasoning, when transposed to jewellery, operates restrictively: traditional motifs, ornamental flourishes, and culturally embedded patterns, hallmarks of jewellery craftsmanship are often denied protection on the ground of lack of novelty, despite substantial creative variation.

Similarly, in *Microfibres Inc. v. Girdhar & Co.*, the Delhi High Court, while dealing with upholstery and textile designs, highlighted the limited overlap between copyright and design

[17] *Shamnad Basheer & Pankhuri Shrivastava, Deterrence Deficit in Indian IP Law, 6 NUJS L. Rev. 287 (2013).*
[18] *Shamnad Basheer, The Interface Between Copyright and Design Law in India, 1 NUJS L. Rev. 423, 441–45 (2008).*
[19] *Bharat Glass Tube Ltd. v. Gopal Glass Works Ltd. (2008) 10 SCC 657*

protection and reinforced the need for registration under the Designs Act to sustain infringement claims[20]. The Court's insistence on formal statutory compliance illustrates the precarious position of jewellery designers, whose creations, once applied industrially, may lose copyright protection while simultaneously failing to secure design registration[21].

In *Ritika Private Limited v. Biba Apparels Private Limited*, concerning fashion garments, the Delhi High Court denied injunctive relief on the ground that the designs had not been registered under the Designs Act, despite evidence of copying[22]. The reasoning is instructive for jewellery design disputes, even demonstrable imitation of commercially successful ornamental designs does not attract protection absent registration, reinforcing the remedial void faced by luxury-goods designers.

Collectively, these decisions reveal a systemic disjunction between the economic realities of ornamental and luxury goods markets and the formalistic contours of design law enforcement[23]. When stringent registrability standards under Section 4 are combined with the registration-dependent and quantitatively limited remedies under Section 22, the legal framework fails to offer meaningful protection to jewellery designers. This dual rigidity not only weakens deterrence against commercial-scale infringement but also tacitly legitimises design piracy by rendering infringement a low-risk, high-reward enterprise.

THE INADEQUACY OF STATUTORY REMEDIES

The structural inadequacy of the remedial framework under Section 22 of the Designs Act, 2000 becomes particularly evident when examined through concrete instances of judicial enforcement. The decision of the Delhi High Court in *Dabur India Limited v. Rajesh Kumar & Others* serves as an instructive illustration of the remedy gap inherent in the statute[24].

In this case, Dabur India Limited, a prominent consumer goods manufacturer, had secured registration for the distinctive shape and configuration of its honey bottle under the Designs Act. The defendants were found to have manufactured and marketed packaging that was substantially identical in shape and visual appearance for competing honey products. Upon establishing infringement, the Court granted relief in favour of the registered proprietor.

[20] *Microfibres Inc. v. Girdhar & Co. 2009 (40) PTC 519 (Del)*
[21] *N.S. Gopalakrishnan & T.G. Agitha, Principles of Intellectual Property 213–15 (Eastern Book Co. 2014).*
[22] *Ritika Pvt. Ltd. v. Biba Apparels Pvt. Ltd., 2016 (65) PTC 145 (Del)*
[23] *Rahul Bajaj, The Formalism of Indian Design Law, 6 NUJS L. Rev. 221, 230–33 (2013)*
[24] *Dabur India Ltd. v. Rajesh Kumar, 2008 (37) PTC 227 (Del)*

However, the inadequacy of the statutory regime manifested most acutely at the stage of quantification of relief. The damages ultimately awarded bore little discernible relationship to the commercial gains derived by the infringer through the sale of infringing goods. While the judgment did not disclose detailed figures, contemporaneous legal commentary and practitioner analyses of the case consistently observed that the monetary relief granted was markedly disproportionate to the revenues generated from the infringing activity. As a result, the expected cost of infringement remained significantly lower than its anticipated commercial benefit.

Notably, the Court declined to award exemplary or punitive damages despite the deliberate and commercially motivated nature of the infringement[25]. Although such judicial restraint reflects a traditional common law aversion to punitive remedies absent explicit statutory mandate, its practical effect was to leave the design proprietor under-compensated and the infringer insufficiently deterred. The case thus illustrates a systemic deficiency within Section 22: even successful litigation may fail to neutralise the economic incentives that drive design piracy, thereby undermining the statute's stated objective of effective intellectual property protection.

DELAY, CONTINUED INFRINGEMENT AND THE EROSION OF COMMERCIAL VALUE

A parallel deficiency in the statutory enforcement regime arises not from the formal inadequacy of remedies, but from the temporal delays that characterise their implementation. The decision of the Delhi High Court in *Dart Industries Inc. v. Techno Plast* illustrates how procedural lag can effectively nullify substantive rights under the Designs Act, 2000[26].

In this case, Dart Industries Inc., a manufacturer of industrial products, was the registered proprietor of a design relating to specialised equipment housings. The defendant, Techno Plast, commenced the manufacture and sale of products bearing a substantially identical design. Although infringement proceedings were initiated, the litigation extended over several years, during which the defendant continued to market and distribute the infringing products without restraint. By the time interim injunctive relief was eventually granted, the

[25] *Mathias Siems, Punitive Damages in Intellectual Property Law, 28 Oxford Journal of Legal Studies 395, 401–05 (2008)*

[26] *Dart Indus. Inc. v. Techno Plast, 2007 (34) PTC 129 (Del)*

infringer had secured significant market penetration, consumer familiarity, and sustained revenue streams.

The case demonstrates that even where courts ultimately recognise and vindicate design rights, the delay inherent in adjudication permits infringers to exhaust much of the commercial value of the design during the proceedings. Each day of continued unauthorised sales erodes the exclusivity that design protection is intended to secure, rendering post hoc monetary compensation largely illusory. In such circumstances, infringement becomes a temporally strategic enterprise, exploiting judicial delay as an economic advantage.

QUANTITATIVE INDICATORS OF SYSTEMIC DESIGN PIRACY

Available empirical indicators further suggest that design infringement operates at a scale that far exceeds the deterrent capacity of the statutory framework. Industry reports and enforcement studies consistently estimate that counterfeit and spurious goods constitute a substantial proportion of products sold in Indian consumer markets, with particularly high prevalence in apparel, fashion, and luxury-adjacent sectors, including jewellery[27]. The market for spurious goods has been valued in trillions of rupees in recent financial years, with evidence of continued expansion.

Consumer behavior data also indicates that counterfeiting is sustained both by deception and by conscious participation, with a significant proportion of purchasers knowingly opting for counterfeit goods due to price differentials[28]. These patterns suggest that design piracy is not episodic or accidental, but organised, commercially rational, and deeply embedded within supply chains.

Against this magnitude of economic activity, the statutory ceiling of ₹50,000 under Sections 22–23 of the Designs Act assumes negligible deterrent significance[29]. When infringement yields revenues measured in lakhs or crores, the statutory penalty becomes an acceptable cost of doing business rather than a meaningful sanction[30].

[27] *OECD & EUIPO, Trends in Trade in Counterfeit and Pirated Goods 47–52 (2019).*

[28] *V.K. Unni, Counterfeit Goods and Consumer Psychology, 15 Journal of Intellectual Property Rights 201, 205–07 (2010).*

[29] *The Designs Act, 2000*

[30] *Rahul Bajaj, Remedies and Deterrence Under Indian Design Law, 15 Journal of Intellectual Property Rights. L. 87, 104–08 (2013)*

COMMODITY INFLATION AND THE AMPLIFICATION OF REMEDY INADEQUACY

The inadequacy of statutory remedies is further amplified by commodity price inflation, particularly in relation to gold. Periods of elevated gold prices in recent years have dramatically increased the intrinsic value of jewellery, independent of design innovation[31]. At prevailing market rates, a moderately weighted 22-carat gold necklace carries material value alone running into several lakhs of rupees. When combined with the creative contribution of the designer, manifested through intricate filigree, gemstone arrangement, or innovative structural techniques, the total commercial value of a single design can increase substantially.

In such a market, the unauthorised replication and sale of even a small number of counterfeit pieces may generate revenues far exceeding the maximum statutory recovery available to the registered proprietor. The remedy-to-loss ratio is thus fundamentally inverted: the economic harm suffered by the design owner may be several hundred times greater than the legal remedy available upon successful enforcement[32].

This disparity produces a predictable and rational economic outcome. From the perspective of the infringer, the expected cost of infringement, calculated as the probability of detection multiplied by the capped statutory penalty remains substantially lower than the anticipated profit from unauthorised replication. The statutory framework, as currently structured, therefore fails not merely in compensation but in deterrence, incentivising continued infringement rather than preventing it[33].

THE FIFTY UNIT THRESHOLD AND THE PARADOX OF COMMERCIAL SUCCESS

Section 15(2) of the Copyright Act, 1957 provides that copyright protection in a work ceases once a design "capable of being registered" under the Designs Act, 2000 is produced or reproduced more than fifty times by an industrial process[34]. While ostensibly intended to delineate the boundary between artistic expression and industrial design, this quantitative

[31] *Ministry of Commerce & Industry, Govt. of India, Gems and Jewellery Export Data Report.*
[32] *Deterrence and Proportionality in IP Remedies, 34 European Intellectual Property Rev. 812, 818–22 (2012).*
[33] *Rahul Bajaj, Design Law Reform in India: The Case for Enhanced Remedies, 7 NUJS L. Rev. 301, 318–21 (2014).*
[34] *The Copyright Act, 1957.*

threshold generates acute practical difficulties for jewellery producers operating at moderate scales of production.

For small and medium jewellery enterprises, commercial viability often necessitates the annual production of sixty to one hundred units of a successful signature design. Upon crossing the fifty-unit threshold, copyright protection in the applied design is extinguished entirely, notwithstanding the design's aesthetic sophistication, creative labour, or substantial economic value. At this juncture, the proprietor is compelled at least in theory to seek protection under the Designs Act. In practice, however, this pathway is foreclosed. Section 4 of the Designs Act prohibits the registration of designs that have already been publicly disclosed through use, a condition almost invariably satisfied by the time production exceeds fifty units.

The result is a doctrinal cul-de-sac: copyright protection lapses automatically, while design registration is rendered legally impossible[35]. This outcome must be understood considering the broader enforcement failures examined earlier. As demonstrated, even where design registration is secured, the remedial framework under Sections 22 and 23 offers only limited monetary relief and is further undermined by procedural delay. Where registration is unavailable altogether, the proprietor is left without any meaningful statutory protection, despite demonstrable originality and commercial success.

This structural gap amplifies the deterrence failure inherent in the existing framework. The fifty-unit threshold effectively penalises scale and market acceptance, transforming commercial success into a legal liability[36]. For infringers, the implications are equally predictable: once a jewellery design has crossed the threshold and entered the public domain by law, unauthorised reproduction becomes virtually risk-free. The absence of enforceable rights, combined with historically weak remedies and delayed adjudication, renders infringement economically rational and legally insulated.

JUDICIAL PRECEDENT DEMONSTRATING THE INADEQUACY OF STATUTORY REMEDIES

Judicial application of Sections 22 and 23 of the Designs Act, 2000 consistently reveals a structural disjunction between the establishment of infringement and the effectiveness of

[35] *Ritika Pvt. Ltd. v. Biba Apparels Pvt. Ltd., 2016 (65) PTC 145 (Del)*
Anubha Sinha, Fashion and the Design Registration Trap, 8 Indian J. L. & Tech. 112, 119–23 (2016).
[36] *Shamnad Basheer, Copyright–Design Interface in India, 1 NUJS L. Rev. 423, 440–45(2008)*

the remedies available thereafter. A review of design infringement litigation across consumer goods, industrial products, and luxury jewellery illustrates that while courts are often willing to grant injunctive relief upon satisfaction of the infringement test, the statutory framework fails to provide proportionate or deterrent monetary relief.

In *Cello Household Products v. Modware India*, the plaintiff held a registered design for its "PURO" plastic water bottle, distinguished by a unique overall shape, surface ornamentation, and two-tone colour configuration[37]. The defendant marketed the "KUDOZ" bottle, which reproduced the essential visual features of the registered design. The Court applied the settled "overall visual impression" test, emphasising that infringement must be assessed from the perspective of the average consumer and that originality need not reside in each individual component so long as the composite configuration is distinctive. On this basis, infringement was established and injunctive relief granted.

However, the case exemplifies the remedial inadequacy inherent in the statute. Notwithstanding clear copying and commercial exploitation, any claim for damages under the Designs Act would have been subject to the statutory ceiling of ₹50,000. In the context of mass-market consumer goods, where infringing products may be sold in tens of thousands of units over the course of litigation, such a cap bears no rational relationship to the infringer's profits or the proprietor's losses. The result is a remedial outcome that vindicates the right in principle while failing to neutralise the economic incentives underlying infringement.

A similar pattern emerges *in MS Niki Tasha (India) Pvt. Ltd. v. MS Faridabad Gas Gadgets Pvt. Ltd.*, which concerned the infringement of registered designs for gas stove front panels[38]. The Court found that the defendant had replicated the plaintiff's registered designs and granted injunctive relief accordingly. Yet, as in numerous design infringement disputes, the infringing activity had continued unabated throughout the pendency of the proceedings, a period that plausibly extended over several years. During this interval, the defendant was able to consolidate market presence, establish consumer recognition, and derive commercial benefit far exceeding any monetary recovery available under Sections 22 and 23. The case thus illustrates how procedural delay, when combined with capped damages, allows infringers to exhaust the economic value of a design before judicial intervention becomes

[37] *Cello Household Prods. v. Modware India, 2017 SCC OnLine Bom 9264; 2018 (76) PTC 45 (Bom)*
[38] *M.S. Niki Tasha (India) Pvt. Ltd. v. M.S. Faridabad Gas Gadgets Pvt. Ltd., 2012 (50) PTC 419 (Del)*

effective.

The inadequacy of the statutory remedy framework becomes even more pronounced in the context of luxury jewellery, as demonstrated by *Bulgari S.P.A. v. Amaris Flagship Store*[39]. In this case, Bulgari alleged infringement of its iconic "Serpenti Ocean Treasure Necklace" design, asserting that the defendant's "Shield-It Necklace" reproduced distinctive filigree patterns, gemstone arrangements, and the overall aesthetic configuration of the original design. Despite cease-and-desist notices, the defendant continued marketing the impugned product. Justice Sanjeev Narula granted ad-interim injunctive relief, recognising a strong prima facie case of copyright infringement and passing off and underscoring the importance of intellectual property protection in the luxury goods sector.

While the decision affirms judicial sensitivity to high-value design rights, it simultaneously exposes the limits of statutory remedies. Even in a case involving a globally recognised luxury brand with substantial market value and demonstrable reputational harm, the maximum monetary recovery available under the Designs Act had damages been pursued would remain capped at ₹50,000. In economic terms, this amount represents a negligible fraction of the commercial value of a single high-end jewellery design, let alone the cumulative revenues generated through unauthorised replication. The disproportion between harm and remedy persists irrespective of the proprietor's scale or sophistication.

Collectively, these cases demonstrate that the inadequacy of design law remedies is not anecdotal but systemic. Courts routinely establish infringement and grant injunctions, yet the statutory architecture deprives them of the ability to impose remedies that meaningfully compensate proprietors or deter infringers. When combined with procedural delay and the economic realities of contemporary consumer and luxury goods markets, the capped remedial framework transforms design infringement into a calculated commercial risk rather than a legally disincentivised wrong[40]. This persistent mismatch between judicial findings and statutory consequences lies at the core of the enforcement failure afflicting design protection in India.

[39] *Bulgari S.P.A. v. Amaris Flagship Store, 2024 SCC OnLine Del*
[40] *Rahul Bajaj, Design Law Reform in India, 7 NUJS L. Rev. 301, 320–22(2014)*

SPECIFIC INADEQUACIES IN THE REMEDIAL FRAMEWORK UNDER SECTION 23

The Structural Deficiency of the Statutory Damages Cap

The most conspicuous weakness in the remedial architecture of the Designs Act, 2000 lies in the statutory ceiling on monetary recovery prescribed under Sections 22 and 23. The maximum recoverable amount of ₹50,000, conceived in an earlier economic context, has remained unchanged since the enactment of the statute[41]. At the time comparable penalty structures were incorporated into Indian intellectual property legislation in the latter half of the twentieth century, such a sum represented a meaningful commercial sanction. In contemporary terms, however, the figure has been rendered nominal by inflation and market expansion.

In present-day commercial conditions, ₹50,000 represents a negligible fraction of the value implicated in design infringement disputes. In the jewellery sector in particular, the intrinsic material value of a single counterfeit item may itself approach or exceed this statutory cap, even before accounting for the creative contribution of the design proprietor. The legislature's failure to index the damages ceiling to inflation or market value has thus progressively hollowed out the deterrent function of the remedy, transforming it into a symbolic rather than substantive sanction[42].

The Ambiguous Distinction Between Contractual Debt and Damages

Section 22(2) establishes two ostensibly distinct remedial pathways: recovery of a fixed statutory sum as a contractual debt, and the institution of a civil suit for damages accompanied by injunctive relief[43]. While courts have generally interpreted this structure as offering the proprietor an election between remedies, the statute provides little guidance on the circumstances in which each option is appropriate.

In practice, this ambiguity imposes a disproportionate burden on small and medium enterprises. Recovery of contractual debt is procedurally expedient but rigidly capped, bearing no relationship to the scale of infringement or the quantum of loss suffered. A suit

[41] *Ministry of Commerce & Industry, Statement of Objects and Reasons, Designs Act, 2000.*
[42] *Dev Gangjee, Deterrence and Proportionality in IP Remedies, 34 European Intellectual Property Review 812, 818–22(2012)*
[43] *P. Narayanan, Intellectual Property Law 493–97 (4th ed. 2017).*

for damages, by contrast, requires detailed evidentiary proof of market impact, loss of goodwill, and diversion of profits, an undertaking that significantly increases litigation cost, complexity, and duration. For resource-constrained design proprietors, this creates a strategic dilemma between accepting manifest under-compensation or pursuing protracted litigation with uncertain outcomes[44]. The remedial framework thus privileges procedural form over substantive justice.

Judicial Reluctance to Award Exemplary or Punitive Damages

Although Indian courts possess the doctrinal authority to award exemplary or punitive damages in cases of deliberate and egregious infringement, design law jurisprudence reflects a marked reluctance to exercise this discretion. In *Dabur India Limited v. Rajesh Kumar*, notwithstanding clear evidence of intentional design replication undertaken for commercial gain, the Court declined to award exemplary damages, reiterating that such relief should remain exceptional[45].

While judicial caution against routine punitive awards is understandable, its application within the design law context has the unintended consequence of insulating wilful infringers from meaningful sanction. Unlike copyright and trademark litigation, where courts have increasingly employed exemplary damages to deter counterfeiting and bad-faith infringement, design infringement remains largely confined to compensatory relief, which is itself subject to statutory limitation. This asymmetry signals a systemic devaluation of design rights within the broader intellectual property hierarchy.

The Absence of Profit Disgorgement as a Remedial Tool

Perhaps the most consequential omission in the Designs Act is the absence of any provision for disgorgement of profits. The statute does not empower courts to require infringers to surrender profits earned through unauthorised use of registered designs. As a result, even where infringement is established, the infringer may retain most illicit gains[46].

The economic implications of this omission are stark. Where an infringer derives substantial revenue from the sale of counterfeit goods, the statutory framework permits the retention of profits far exceeding the maximum recoverable damages payable to the proprietor. Such an

[44] *S. Ranganathan, Judicial Delay and IP Enforcement in India, 4 Indian Journal of Intellectual Property Rights 55, 63–67(2012)*
[45] *Dabur India Ltd. v. Rajesh Kumar, 2008 (37) PTC 227 (Del)*
[46] *Rahul Bajaj, Design Law Reform in India, 7 NUJS Law Review 301, 315–18 (2012)*

outcome not only fails to restore the injured party but actively rewards infringement. By contrast, several international design protection regimes incorporate profit disgorgement as a core remedial principle, recognising that deterrence is achieved not through nominal penalties but by eliminating the economic incentive to infringe.

MARKET CONTEXT: GOLD PRICE ESCALATION AND THE RISING VALUE OF JEWELLERY DESIGN

Recent movements in global and domestic gold markets provide an essential economic backdrop against which the adequacy of design law remedies must be assessed. During the 2024–2025 period, the commodity value of gold reached historically elevated levels[47]. Domestic prices peaked in early 2025, before stabilising later in the year at levels significantly higher than pre-2023 averages. Over a twelve-month period, gold prices registered sustained appreciation, driven by geopolitical instability, currency volatility, and heightened retail and institutional investment demand.

Crucially, rising gold prices amplify the vulnerability of jewellery designs to commercial-scale infringement. As the intrinsic material value of a single jewellery piece escalates, the profitability of unauthorised replication correspondingly increases[48]. Where the material cost of a necklace alone runs into several lakhs of rupees, even limited counterfeiting activity can yield substantial returns. For a small design house producing a modest number of units annually, the economic value embedded in a single successful design may vastly exceed the remedial limits imposed by the Designs Act, 2000.

This phenomenon intensifies the deterrence failure identified earlier. High commodity prices raise the stakes of infringement without any parallel recalibration of statutory remedies, thereby widening the gap between economic harm and legal consequence[49].

The Mismatch Between Asset Value and Legal Protection

The incongruity between the contemporary value of jewellery designs and the remedial framework under Sections 22 and 23 of the Designs Act becomes particularly stark when examined quantitatively.

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[47] *Reserve Bank of India, Macroeconomic and Monetary Developments Report (2025).*

[48] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 102–08 (2013)*

[49] *Dev Gangjee, Deterrence and Proportionality in IP Remedies, 34 European Intellectual Property Review 812, 818–22 (2012)*

The following comparison illustrates the structural imbalance:

Economic Characteristics of Jewellery Designs	**Corresponding Legal Protection under the Designs Act, 2000**
Intrinsic gold value per jewellery piece frequently running into several lakhs of rupees	Maximum statutory monetary recovery capped at ₹50,000 per design
Significant independent design value attributable to craftsmanship, originality, and aesthetic innovation	No mechanism for value-based or market-linked damage assessment
Annual revenues of small and medium jewellery design houses often extending into tens of lakhs or crores	Fixed recovery ceiling irrespective of scale of infringement or turnover
High profit margins from counterfeiting due to elevated commodity prices and brand imitation	Remedies insufficient to neutralise economic incentives for infringement
Commercial exploitation of designs during peak market relevance	Statutory remedies remain static and inflation-insensitive

This comparison demonstrates that the statutory remedy framework fails to operate proportionately in relation to the economic interests it seeks to protect[50]. The law treats high-value and low-value designs identically for remedial purposes, disregarding both market scale and inflationary realities. Therefore, infringement in the jewellery sector particularly during periods of elevated gold price becomes a rational commercial risk rather than a legally disincentivised wrong[51].

Normative Implication

When viewed alongside earlier discussions on statutory overlap, limited remedies, judicial delay, and the absence of profit-based recovery, the market dynamics of gold pricing further

[50] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 309–22(2013)*

[51] *Dev Gangjee, Deterrence and Proportionality in IP Remedies, 34 European Intellectual Property Review 812, 819–22. (2012)*

expose the structural inadequacy of existing design protection. The escalation in commodity value magnifies the consequences of infringement while leaving the remedial architecture static[52]. This mismatch undermines the fundamental objectives of intellectual property law, which is the protection of creative labour and the incentivisation of innovation and calls for a reassessment of design law remedies considering contemporary economic conditions[53].

STRUCTURAL CHALLENGES IN DESIGN LAW ENFORCEMENT

While the inadequacy of remedies under Sections 22 and 23 of the Designs Act, 2000 constitutes the core substantive deficiency in India's design protection regime, enforcement-related structural failures further weaken the law's deterrent capacity. Even where infringement is doctrinally established, systemic delays, institutional limitations, and administrative inefficiencies substantially dilute the effectiveness of available legal relief[54]. These enforcement barriers assume particular significance in the jewellery sector, where designs are trend-sensitive, high-value, and vulnerable to rapid replication.

Judicial Backlog and Procedural Delay

The Indian judicial system continues to grapple with chronic case backlogs, and design infringement disputes are not insulated from this broader institutional problem[55]. Such disputes are ordinarily adjudicated as conventional civil suits, without any statutorily mandated prioritisation or expedited timetable. As a result, proceedings frequently extend over several years, with interim relief applications alone often taking between three to seven years to reach final determination.

During this period of procedural inertia, infringing activity typically continues unabated. Infringers remain free to manufacture and market unauthorised products, allowing them to consolidate market presence, dilute brand distinctiveness, and normalise consumer confusion. Even where temporary injunctions are ultimately granted, they often arrive after the commercially significant lifecycle of the design has passed, rendering relief largely

[52] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 320–22(2013)*
[53] *N.S. Gopalakrishnan & T.G. Agitha, Principles of Intellectual Property 19–23 (Eastern Book Co. 2014)*
[54] *S. Ranganathan, Judicial Delay and IP Enforcement in India, 4 Indian Journal of Intellectual Property Law 55, 63–67 (2012)*
[55] *National Judicial Data Grid, Pendancy Statistics Report (latest ed.)*

symbolic[56]. In the context of jewellery where seasonal collections and consumer preferences evolve rapidly such delays negate the functional value of injunctive remedies.

Absence of Specialised Design Adjudication

Although the Commercial Courts Act, 2015 has enabled the establishment of specialised commercial divisions within certain High Courts, India lacks tribunals or judicial benches dedicated specifically to design law[57]. Design infringement cases are therefore adjudicated by generalist judges, whose exposure to the technical, aesthetic, and market-specific aspects of design protection may be limited.

This institutional gap increases the likelihood of doctrinal inconsistency and factual misapprehension, particularly in assessing visual similarity, consumer perception, and market substitution, central elements in design infringement analysis[58]. In jewellery disputes, where design differentiation may turn on subtle ornamental features or configuration choices, the absence of specialised adjudication risks underappreciation of design originality and economic harm.

Administrative Delays in Design Registration

Enforcement challenges are further compounded at the pre-litigation stage by delays within the design registration system. The Office of the Controller of Designs continues to experience significant examination backlogs, with applications often awaiting scrutiny for extended periods[59]. Designs filed in one calendar year may not receive examination reports until one or two years later.

For industries such as jewellery and fashion accessories, where commercial relevance is closely tied to short product cycles and evolving trends, such delays effectively deprive proprietors of meaningful statutory protection during the period of peak market value[60]. The result is a protection gap in which designs are commercially exploited without effective legal safeguards, reinforcing the incentive structure for unauthorised replication.

[56] *S. Ranganathan, Judicial Delay and IP Enforcement in India, 4 Indian Journal of Intellectual Property Law 55, 65–67.(2013)*

[57] *Ministry of Law & Justice, Statement of Objects and Reasons, Commercial Courts Act, 2015.*

[58] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 314–18.(2013)*

[59] *Office of the Controller General of Patents, Designs & Trade Marks, Annual Report 2023–24.*

[60] *Anubha Sinha, Fashion, Design Law and Registration Requirement, 8 Indian J. L. & Tech. 112, 120–23 (2016)*

Jurisdiction	**Design Protection Framework**	**Damages Framework**	**Exemplary / Punitive Damages**	**Profit Disgorgement**
India	Registration-based protection (10–15 years) under the Designs Act, 2000	Statutory cap of ₹50,000 irrespective of commercial scale	Rare, discretionary, and judicially restrained	Not provided
European Union	Registered and Unregistered Community Designs	Market-value-linked and loss-based damages	Available in appropriate cases	Available
United States	Design Patents	Enhanced damages for wilful infringement	Statutorily recognised	Indirectly available through unjust enrichment principles
United Kingdom	Registered and Unregistered Designs	Full economic loss and account of profits	Available	Explicitly available

This comparison reveals that India's framework offers the least robust remedial protection among comparable jurisdictions, particularly in its failure to provide proportionate damages, exemplary relief, or profit-based recovery[61]. The disparity becomes especially pronounced

[61] *Council Regulation (EC) No. 6/2002 on Community Designs arts. 19–32*

in high-value sectors such as jewellery, where infringement yields substantial economic returns. Legislative Gaps and Proposed Reforms.

LEGISLATIVE GAPS AND PROPOSED REFORMS

The foregoing analysis identifies several critical legislative shortcomings within the Designs Act, 2000:

The Designs Act, 2000, suffers from critical legislative gaps that necessitate comprehensive reform, starting with the revision of outdated damage caps currently fixed at ₹50,000, which bear no rational relationship to modern market realities or the intrinsic value of gold[62]. Furthermore, the lack of an exemplary damage's framework and the absence of profit disgorgement provisions effectively insulate wilful infringers from meaningful sanctions, allowing them to retain illicit gains and rendering design piracy an economically rational enterprise[63]. These substantive failures are compounded by structural challenges, including a lack of expedited enforcement procedures to prevent the "temporal erosion" of design value during litigation and an inefficient registration infrastructure that creates an administrative backlog, leaving commercially sensitive designs vulnerable during their peak market lifecycle[64]. Addressing these gaps through inflation-adjusted caps, statutory recognition of punitive damages, and administrative modernization is essential to transforming design protection into a functional deterrent within the Indian jewellery sector.

Concluding Link to Jewellery-Specific Concerns

Taken together, remedy inadequacy and enforcement failure form a mutually reinforcing cycle that systematically disadvantages jewellery design proprietors[65]. High commodity values, short product lifecycles, and ease of replication magnify the consequences of delay and under-compensation. Without legislative recalibration and institutional reform, design law in India risks remaining normatively sound yet functionally ineffective, particularly in sectors where design constitutes the principal source of competitive value.

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[62] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 104–08 (2013)*

[63] *Pravin Anand & Saif Khan, Punitive Damages in Indian IP Litigation, 3 SCC J. 1, 6–9 (2009)*
Design Law Reform in India, 7 NUJS L. Rev. 301, 315–18 (2014)

[64] *S. Ranganathan, Judicial Delay and IP Enforcement in India, 4 Indian Journal of Intellectual Property Law 55, 63–67 (2012)*

[65] *Rahul Bajaj, Remedies Under the Designs Act: A Critical Reappraisal, 5 Indian Journal of Intellectual Property Law 87, 318–22 (2013)*

PROPOSED REFORMS TO THE DESIGN PROTECTION FRAMEWORK

The persistent inadequacies in India's design protection regime, manifested through obsolete damage caps, weak deterrence, and procedural delay necessitate a multi-tiered legislative and regulatory overhaul. To restore the efficacy of design protection, reform must be two-fold, it must first address the doctrinal cul-de-sac that leaves designs in a legal vacuum, and second, it must overhaul a remedial framework rendered obsolete by the commodity inflation of 2026.

1. Immediate Statutory Amendments to the Designs Act, 2000

The first phase of reform requires urgent revisions to the existing liability framework to reflect contemporary market values: Value-Responsive Damage Caps**:** Section 22(2)(a) must be revised to reflect the current "Age of Commodity Inflation[66]". Given that gold prices reached ₹15,370 per gram in February 2026, a single high-value ornament can now far exceed the current ₹50,000 aggregate cap. A revised framework should permit recovery of ₹2 lakhs per infringing act, with an aggregate cap of ₹5 lakhs as a minimum inflation adjustment.

Statutory Exemplary Damages**:** Section 22 should explicitly authorize exemplary damages for deliberate or commercially motivated infringement. Empowering courts to award enhanced damages up to five times the proven actual loss would harmonize design law with copyright and trademark jurisprudence and deter "low-risk, high-reward" piracy[67].

2. The Cornerstone Reform: Profit Disgorgement

Notwithstanding the importance of enhanced damages, the absence of profit disgorgement remains the most serious structural flaw in the Designs Act. In the jewellery sector, where infringing replicas can yield profits running into lakhs or crores of rupees due to high material value, allowing an infringer to retain illicit gains after paying a nominal fine institutionalizes under-deterrence.

A statutory profit disgorgement clause would fundamentally recalibrate incentives by shifting the focus from proprietor loss to infringer gain. This mechanism is particularly vital for the jewellery industry because it addresses evidentiary asymmetry, and infringers are better positioned to disclose sales data than proprietors are to prove the exact quantum of

[66] *Section 22, Designs Act, 2000.*
[67] *Dabur India Ltd. v. Rajesh Kumar, 2008 (37) PTC 227 (Del)*

market diversion.

3. Resolving the Doctrinal Cul-de-sac: A Sui Generis Regime

To fully resolve the "doctrinal cul-de-sac" identified in the introduction, where designs lose copyright protection after 50 units but are barred from design registration due to prior disclosure[68]. India should adopt a sector-specific sui generis protection regime for jewellery. Key components should include:

Automatic Protection upon Creation: Like copyright, jewellery designs should receive protection without mandatory registration. This ensures that original creations are protected the moment they are exposed to the market, bypassing the 12–18-month administrative backlog that currently leaves designs vulnerable during their peak commercial lifecycle.

Protection for Handcrafted Designs: The legislation must explicitly recognize handcrafted jewellery as a protected category, regardless of production volume. This would eliminate the ambiguity of "artistic craftsmanship" and safeguard the livelihoods of traditional artisans.

4. Procedural and Institutional Acceleration

Legislative reform must be complemented by the elimination of "procedural inertia":

Specialized Adjudication**:** The establishment of specialized design benches within High Courts would ensure technical accuracy in assessing visual similarity and market substitution.

Fast-Track Timelines**:** Design infringement suits should be designated for expedited adjudication, with interim relief applications decided within a fixed limit of 18 months to prevent the "temporal erosion" of design value.

Administrative Modernization: The Office of the Controller of Designs should adopt AI-assisted prior-art searches to reduce examination timelines to 3–4 months, ensuring protection is granted while the design remains trend-relevant.

Normative Justification

These reforms are not merely administrative adjustments but a public law imperative. By recognizing the distinctive economic and artistic attributes of jewellery and introducing remedies like profit disgorgement, the law can finally transform jewellery design from a legally vulnerable asset into a robust category of intellectual property. Without these changes, the legal framework will continue to reward piracy and penalize the very innovation it is intended to foster.

[68] *Section 15, Copyright act, 1957, Section 4, Designs Act, 2000*

THE CASE FOR SUI GENERIS PROTECTION OF JEWELLERY DESIGNS

The persistent doctrinal instability and remedial inadequacy within India's existing framework strongly support the case for sector-specific sui generis protection for jewellery designs. Jewellery occupies a legally anomalous position: it is simultaneously an artistic expression, a functional commodity, and a high-value store of wealth. As established in the preceding sections, neither the Copyright Act nor the Designs Act adequately captures this hybrid character, especially amidst the commodity inflation of 2026.

1. Automatic Protection: Resolving the Doctrinal Cul-de-sac Any sui generis framework must provide automatic protection upon creation, dispensing with mandatory registration as a condition precedent. This directly resolves the "doctrinal cul-de-sac" created by the 50-unit threshold under Section 15 of the Copyright Act[69]. By granting protection the moment a design is fixed in material form, the law ensures that original creations are protected during their peak commercial lifecycle, bypassing the 12–18-month administrative backlog that currently leaves designers vulnerable.
2. Extended Protection Duration and Commercial Reality The protection term must reflect jewellery's unique lifecycle. Unlike fast-moving industrial goods, jewellery designs particularly those in gold and precious stones, often remain relevant for decades. A protection term of 25 years would strike a balance between the proprietor's need to recoup significant investment in the face of record-high gold prices and the public interest in market competition.
3. Explicit Recognition of Handcrafted Artistry The regime must affirmatively recognize handcrafted jewellery as a protected category. By protecting handcrafted designs regardless of production volume, the law would eliminate the judicial uncertainty surrounding "artistic craftsmanship" and safeguard the livelihoods of traditional artisans whose works often fall between the cracks of current statutes[70].

4. A Vehicle for Modern Remedies Crucially, this sui generis regime should serve as the formal home for the cornerstone reform of profit disgorgement. In a market where gold has reached ₹15,370 per gram, the intrinsic value of the material makes "capped"

[69] *Section 15, Copyright Act, (1957)*
[70] *Microfibres Inc. v. Girdhar & Co., 2009 (40) PTC 519 (Del)*

damages obsolete[71]. A sui generis Act would allow for an uncapped, profit-based recovery system specifically tailored to the high-margin realities of the jewellery trade.

5. Integration with International Standards Finally, a sui generis regime should incorporate streamlined cross-border enforcement mechanisms. Given that jewellery counterfeiting is an international enterprise, sector-specific legislation would enable Indian designers to protect their heritage and innovation in global markets more effectively than the current, rigid Designs Act permits.

Normative Justification

A sui generis jewellery design regime is a logical extension of intellectual property orthodoxy. By recognizing the distinctive economic, cultural, and artistic attributes of jewellery, such a regime would transform jewellery design from a legally vulnerable asset into a robust category of intellectual property, restoring coherence, deterrence, and fairness to India's creative economy.

CONCLUSION

The legal architecture governing jewellery design protection in India reveals a profound disconnect between formal doctrine and functional efficacy. At the centre of this failure lies the remedial framework under Sections 22 and 23 of the Designs Act, 2000. The statutory cap of ₹50,000 on recoverable damages, introduced at the turn of the millennium has become economically insignificant in the context of contemporary jewellery design and commercial-scale counterfeiting.

Judicial experience confirms this structural deficiency, Decisions such as *Dabur India Limited v. Rajesh Kumar*, *Dart Industries Inc. v. Techno Plast*, and *Bulgari S.P.A. v. Amaris Flagship Store* demonstrate that while courts readily find infringement, the monetary recovery remains grossly disproportionate to actual losses and infringer profits. This disparity produces a perverse economic calculus in which infringement becomes a rational, low-risk commercial strategy.

The inadequacy of remedies is further magnified by prevailing market conditions. The escalation of gold prices, reaching record highs of ₹15,370 per gram in February 2026, has dramatically increased the intrinsic value of jewellery designs. In this environment, a single infringing act may yield profits running into several lakhs of rupees, while the maximum statutory recovery remains a mere fraction of that value. Furthermore, the rigid fifty-unit

[71] *Bharat Glass Tube Ltd. v. Gopal Glass Works Ltd. (2008) 10 SCC 657*

threshold under Section 15 of the Copyright Act continues to leave successful designers in a "doctrinal cul-de-sac," where they lose copyright protection upon commercial success but are often barred from design registration due to prior disclosure.

Meaningful reform is therefore imperative to protect one of India's most significant creative industries. Legislative intervention must include the establishment of a sui generis protection regime that recognizes the unique artistic and industrial hybridity of jewellery, inflation-adjusted and value-responsive remedy caps, explicit statutory recognition of exemplary and punitive damages for wilful infringement, the introduction of profit disgorgement mechanisms to eliminate the economic incentive for piracy and expedited adjudicatory procedures and specialized enforcement forums.

Addressing this imbalance is not only a matter of private right enforcement but a public law imperative essential to sustaining innovation, craftsmanship, and fair competition in India's jewellery sector.