

David Lewis
International Mediation Institute, USA
davidaglewis@aol.com

The Adoption of International Arbitration as the Preferred ADR Process in the Resolution of International Intellectual Property Disputes

Abstract: This article, which is intended for arbitration practitioners, demonstrates that international arbitration as a subset of the field of alternative dispute resolution (ADR) offers a useful toolkit for the expeditious resolution of international intellectual property law disputes. The article demonstrates how the theory and practice of international arbitration is particularly well poised to address some of the specific considerations and requirements of paramount concern to the international intellectual property lawyers and their clients. The article will explain how the inherent features of the international arbitration legal landscape combine to indicate that it should be considered as the preferred method of ADR and explain how each of these features can provide both time and cost efficiencies. The article will identify the legal reasoning behind the benefits inherent to choosing international arbitration and will also address those circumstances when international arbitration may be precluded or otherwise considered unsuitable for intellectual property matters. The article examines several distinct benefits that international arbitration uniquely offers to international intellectual property law users and highlights some areas of the field that require additional caution.

Keywords: ADR, arbitration, commercial law, dispute resolution, intellectual property

Introduction

International intellectual property disputes mostly reside in a nebulous legal space between the domestic law from which the right is derived and the international commercial law from which it is placed into the international marketplace. This article will examine how international arbitration can offer significant benefits to

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Arbitration of International Intellectual Property Disputes Thomas D. Halket, 2012-05-01 The Arbitration of International Intellectual Property Disputes which is designed not only for arbitration counsel and arbitrators but also for in house counsel and transactional lawyers provides a thorough guide to the use of arbitration to resolve these disputes Both practical as well as scholarly it starts by exploring how and why arbitration can provide the best way to resolve these disputes and how to draft an effective arbitration provision It then covers the principal unique issues which can arise in the arbitration itself from choosing the tribunal through confidentiality discovery validity determinations choice of law provisional and final remedies and enforceability With the world more and more dependent upon technology of all types the continued and growing importance of intellectual property cannot be understated There has been and will continue to be an accompanying explosion in the number and complexity of transactions in which intellectual property is a critical if not the critical element Many of these transactions cross national boundaries as do the disputes which inevitably arise from them But international intellectual property disputes present complexities not encountered in either intellectual property disputes which are confined to one country or other international commercial disputes The Arbitration of International Intellectual Property Disputes will serve as a handy reference and guide for navigating through the complex maze of intellectual property and arbitration

International Intellectual Property Arbitration Trevor Cook, Trevor M. Cook, Alejandro I. Garcia, 2010-01-01 More and more intellectual property disputes tend to be multijurisdictional in nature and parties everywhere are turning to international arbitration as the most promising means of resolution Although these two legal specialisms intellectual

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Handbook of Intellectual Property Research Irene Calboli, Maria Lilla Montagnani, 2021 This book offers a comprehensive overview of the methods and approaches that could be used as guidelines to address and develop scholarly research questions related to intellectual property law bringing together contributions from a diverse group of scholars who derive from a wide range of countries backgrounds and legal traditions

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