Objective Arbitrability Of Industrial Property Disputes

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Abstract: As well know method for resolving disputes, especially when involving parties are from different countries, the arbitration has become very popular nowadays. National legislators have a fully freedom to regulate the limits of objective arbitrability in the lex nationalis. As a result of this, we can testify inconsistancy in commparative law when defining the boundaries of objective arbitrability, esspecialy arbitrability of industrial porperty rights. Intellectual property disputes have a few characteristics that may be better addressed by arbitration than by civil procedure. The subject of analysis of this paper are the comparative solutions that regulate the objective arbitrability of industrial property disputes. According to this analysis we can make a conclusion that some countrise have broader approach to arbitrability of industrisal property rights, but some still does not. The analysis shows that most of the countries are unanomios that arbitration is allowed for disputes which are arising from disposable industrial property rights. This analysis was made in order to see if it is necessary in which types of industrial property disputes it is justified to expand the limits of objective arbitrability pro futuro.

Key Words: Arbitration, objective arbitrability, industrial property rights.

1. INTRODUCTION

At the beginning of the XXI century, as never before, the objective arbitrability of industrial property disputes was the focus of scientific interest. This situation was largely caused by the non-regulation of the limits of objective arbitrability in the UNCITRAL Model Law on International Commercial Arbitration and the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. This situation allowed each national legislation to separately determine the limits of objective arbitrability according to a general legal criterion. This situation has been further complicated by disputes in the field of industrial property because we are talking about disputes that are still predominantly under the judicial monopoly of the state. The various treatments of jurisdictions to the arbitrability of intellectual rights lead to uncertainty and unpredictability of arbitration as an alternative mode of resolving dispute.

Precisely because of this, the subject of analysis of this paper is the comparative solutions that regulate the objective arbitrability of industrial property disputes. This analysis was made in order to see if it is necessary and if yes, in which types of industrial property disputes it is justified to expand the limits of objective arbitrability pro futuro.

2. OBJECTIVE ARBITRABILITY

From a theoretical, but also a practical point of view, the determination of the limits of objective arbitrability causes the most interest, but also problems. This is because objective arbitrability is not defined neither by the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, nor by the UNCITRAL Model Law on International Commercial Arbitration.

With this alone, it is left to each state according to a general legal criterion to regulate the limits of objective arbitrability in the lex nationalis. As a result, national legislations opt for a general or general clause with or without certain limitations and exceptions. All that contributes to diversity in regulating the objective limits of arbitrability.

Usually and most often, objective arbitrability is reduced to disputes over rights that the parties can freely dispose of (dispositive rights). In the Swiss and German law it is determined that the subject of an arbitration agreement can be: "any property claim", in the Austrian law the determination of objective arbitrability is linked to: "the right of the parties to conclude an agreement on the subject of the dispute", in the French legislation with : "the possibility of free disposal of the subject of the dispute". The English law, on the other hand, does not limit the objective arbitrability, but follows the established practice of the English courts in this matter.

Throughout the national arbitration laws, examples can also be found where disputes that are not objectively arbitrable are explicitly stated. [1]

National legislations often correct the scope of objective arbitrability, with an additional criterion that refers to the exclusive competence of national courts for certain disputes, which are not arbitrable ratione jursdictionis. In this way, objective arbitrability includes disputes over rights that the parties can dispose of freely, and for which there are no obstacles in connection with the institution of exclusive jurisdiction according to national law. Starting from the importance of a certain type of dispute for the state, with the ratione jurisdictionis limitation, a monopoly is placed on the judicial mechanism for resolving legally foreseen disputes. Some of the modern arbitration laws do not have provisions for the additional presumption of arbitrability ratione jursdictionis, with the justification that it would seriously affect the development of arbitration practice.

3. OBJECTIVE ARBITRABILITY OF INDUSTRIAL PROPERTY DISPUTES

Object of interest of a large number of polemics and discussions in scientific and professional circles is the objective arbitrability of industrial property disputes. Controversies arise from different legal solutions, attitudes and treatment of these disputes. Traditionally, regarding disputes in the field of industrial property, the question of arbitrability is considered problematic. Although there is a principled agreement that industrial property disputes are arbitrable, there is still some uncertainty and confusion in the national legal ether.

This is proven by the Study conducted by the International Court of Arbitration at the International Chamber of Commerce based in Paris (The ICC International Court of Arbitration, 1998). Namely, the Study divides the countries into four categories in terms of their attitude towards the arbitrability of industrial property disputes, namely: a) countries that completely deny the arbitrability of industrial property disputes, b) countries that determine the arbitrability based on public policy, c) countries that allow arbitration of all types of industrial property disputes and e) countries that do not have a solid and defined position both in legislation and in judicial practice.

The study itself proves that at the national positive legal level the limits of the objective arbitrability of industrial property disputes range from one extreme to the other (extreme). It is precisely because of this that the challenge of arbitration theory is to overcome this situation, that is, to regulate the arbitrability of industrial property disputes in a common consensus according to the best arbitration practices and the needs of national civil process systems. The starting point for this is of course the comparative review of the positive legal solutions at the national level.

4. ARBITRABILITY OF INDUSTRIAL PROPERTY DISPUTES IN COMPARATIVE LAW

Many developing countries, as a result of the rapid progress of technology (which cannot simultaneously follow the law!), are "sensitive" to the issue of arbitrability of industrial property disputes. For this reason, on a comparative level, extreme solutions can also be encountered – that do not allow arbitration settlement of industrial property disputes at all. This is confirmed by the situation in the legislation of Latin American and African countries, which even today are on the list of countries where the arbitrability of industrial property disputes is not widely accepted. So for example in Brazil, until a few years ago it was not possible to register a license agreement in the Register of Patents and Trademarks if the agreement contained an arbitration clause (Povržrnić, 2005). The Republic of South Africa also has a negative approach to the arbitrability of industrial property disputes, because in accordance with Article 18 paragraph 1 of the Law on Patents from 1978, the exclusive jurisdiction of the courts in these disputes is foreseen (Lamb & Garcia, 2008). Surprisingly, but also in the United States, patent rights disputes were not arbitrable for a long time. This situation remained until 1983 when the Congress expressly permitted arbitrability of rights' validity, enforcement, and violations of these rights (Green et al., 2006).

Against this a priori resistance to arbitral settlement of industrial property disputes, on a comparative legal level, examples can also be found in a totally opposite direction – that all disputes in the field of industrial property are

[1] For example, with the Provisional Civil Act of 1852, which was applied to the area of Croatia without Istria, Dalmatia, the Mediterranean and Vojna Kraina, disputes between spouses about the validity of marriage and disputes about the legality of the birth of children were exempted from arbitration. The Italian Code of Civil Procedure in Article 806 stipulates that, among other things, arbitration is excluded in disputes about personal status and divorce.

arbitrable. A true proof of this is the Swiss law, according to which even disputes regarding the validity of industrial property rights can be subject to arbitration. In the context of this, in the Swiss law if the award is followed by a certificate of enforceability issued by the competent national court, the right recognized by the arbitration will be entered in the national register of intellectual property (Grantham, 1996 and Lenz & Staehelin, 1994).

However, on a comparative level, the arbitrability of industrial property disputes is usually regulated somewhere in the middle between the two aforementioned extremes, according to the needs of the national civil process systems, but also according to the legal tradition of the states.

So, for example, in the Netherlands, disputes about the validity of patents are excluded from arbitration, because the District Court in The Hague is exclusively competent for them (Wessing, 2021).

In the United States, all disputes relating to patent validity or patent infringement may be subject to arbitration. For a patent right recognized by an arbitral award to take effect, additional actions from a court and the Commissioner of Patents and Trademarks are required. Despite a positive arbitration award, the commissioner has the right to refuse to recognize the patent. Although there is no statutory regulation on the arbitrability of trademark validity or infringement disputes in the United States, pursuant to the established case law of the federal courts, it is accepted that said disputes are arbitrable. [2]

In Germany, a distinction is made between disputes over the validity of industrial property rights and disputes arising from infringement of these rights (Pagenberg, 1994). The Patent Court in Germany has exclusive jurisdiction over deciding on the cancellation of patents and the issuance of compulsory licenses (Petrović, 2013). The Patent Court has exclusive jurisdiction over deciding on the cancellation of patents and the issuance of compulsory licenses. The arbitration decision cannot decide on the validity of these rights because these rights are not at the disposal of the parties (Pagenberg, 1994). However, recently, debates on the arbitrability of patent validity disputes have been developing in scientific circles, but only in the direction of limiting the effect of the inter partes arbitration decision (Smith et al., 2006 p.334).

Arbitration in patent and trademark disputes is expressly permitted in France. Disputes about the validity of registered rights are not arbitrable. If the arbitration award contains a decision on the validity of a patent, it cannot be recognized and enforced in France. The same conclusion applies if it is a question of a decision on the violation of rights which is criminally regulated (Smith et al.,2006 p.334). According to the New York Convention, these decisions will not be recognized as non-arbitrable or contrary to public policy.

In Belgium, disputes that the parties can agree on are arbitrable, even the Belgian Patent Law expressly allows for arbitration of the ownership, validity, infringement and licensing of patents. The final decision on total or partial invalidation of the patent made by arbitration is recorded in the Register and has an effect erga omnes (Crupi, 2013/2014). Compulsory licensing proceedings and patent expiration disputes due to non-payment of an annual fee are not arbitrable (Grantham, 1996, p.186, and Briner et al., 1994).

In Italy, in proceedings for the validity of trademark and patent rights, the public prosecutor is authorized to act ex officio, and regardless of whether the parties of the dispute are domestic or foreign, the state court is competent. [3] In this way, the arbitrability of the validity of these rights is excluded by placing an obstacle such as "protection of public order". Exceptionally,

[2] More See Saucy Susan Products Inc v. Allied Old English Inc. 200 F.Supp.724; the case of Necchi Sewing Machine Sales Corp. v. Necchi S.P.A, 369, F2.d 579. In the case of Saucy Susan Products Inc v. Allied Old English Inc the court ruled that disputes regarding trademarks and trade names are arbitrable. Litigation party Allied has commenced arbitration proceedings against Saucy Susan. Immediately thereafter, Saucy Susan filed a lawsuit in the competent court against Allied for trademark infringement and unfair competition. Allied insisted that the arbitration proceedings continue and the court proceedings be stopped. The court ruled that disputes regarding trademark rights and unfair competition were subject to an arbitration agreement. The court reasoned that Saucy Susan did not object to the arbitrability of the dispute, but that the agreed arbitration of these disputes did not conflict with state congressional policy. As a result, the court ruled that trademark rights disputes are arbitrable under federal law.

[3] According to article 56 and article 59 of Trademark Law (Royal Decree No. 929 of June 21, 1942, as last amended by Legislative Decree No. 480 of December 4, 1992) and art. 75 and art.78 of Patent Law Royal Decree No. 1127 of June 29, 1939 as last amended by Legislative Decree No. 198 of March 19, 1996.

arbitrators may rule on the validity of these rights when it arises as a preliminary issue in disputes over intellectual property rights freely disposed of by the parties.

Regarding industrial property disputes in Portugal, according to the Law on Arbitration, they are arbitrable if they refer to property-legal claims and if exclusive jurisdiction is not provided for. Since 2003, according to the Law on Industrial Property, the possibility for the parties to agree to settle future disputes through arbitration has been explicitly established.[4] According to the Industrial Property Law, disputes regarding the validity of industrial property rights are beyond the jurisdiction of arbitration courts and can only be decided by state courts. A specific legal solution is mandatory arbitration, either in front of institutional or ad hoc arbitration, for certain disputes arising from infringement of medical patents and additional protection certificates (Lousa & Silvia, 2015).

Difficulties in relation to objective arbitrability also arise in relation to moral rights arising from industrial property rights, which are non-transferable and closely related to the personality of the author/inventor. Despite disagreements in the doctrines of the arbitrability of the moral rights of authors, the Court of Appeal in France has at least once confirmed that disputes about the moral rights of authors are arbitrable. It is considered that arbitration should be allowed in relation to such issues as well, given that the exercise of moral rights may be subject to agreement and thus the authors at least partially dispose of them. This approach can also be supported by the view that the moral rights and economic rights which belong to the authors are closely interrelated (at least under the view which is in line with monist theory of copyright law) that moral rights have an economic value (I.e also because the violation of the moral rights can lead to payment of monetary damages) (De Werra, 2012).

In comparative law, there is another type of disputes that are related to industrial property, and are considered non-arbitrable - labor disputes. According to the national legislation of Greece[5], labor disputes are expressly non-arbitrable, so these disputes cannot be submitted and resolved through arbitration. Likewise, in Italy and France, disputes about inventions from employment are not arbitrable. This solution is criticized in scientific circles because it narrows the circle of arbitrable disputes without special reasons.

As a conclusion and cross-section of the comparative analysis, it can be stated that there are two approaches in national legislation regarding the arbitrability of disputes about the validity of these rights, i.e. those situations that are linked to the public powers of the state and which require registration in public registers. According to one approach which is most widely accepted in European countries, industrial property disputes are non-arbitrable, while according to the other approach which is accepted in Switzerland and the United States, all disputes regarding the validity of patents, trademarks and designs are arbitrable.

5. ARGUMENTS PRO ET CONTRA ARBITRABILITY OF CERTAIN INDUSTRIAL PROPERTY DISPUTES

Although the attitude towards the arbitrability of industrial property disputes is not unified on a comparative level, the number of countries that a priori take a negative attitude towards the arbitrability of these disputes is decreasing (Lamb, & Garcia, 2008). Real proof of this are the disputes that arise due to the violation of the contractual relationship (Blackaby et al., 2009).

Disputes arising from a contractual relationship are the best example of bona fide arbitration settlement of disputes in the field of industrial property. Most often, the arbitration agreement for this type of dispute is in the form of an arbitration clause in the main agreement concluded between the parties to the dispute.

Unlike disputes that arise from a contractual relationship if the dispute arises from non-contractual liability, if the parties decide on arbitration, this can only happen by concluding an arbitration compromise after the creation of the binding relationship. From the very nature and origin of the relationship, as well as the fact that the parties had not previously established a legal relationship, the possibility of arbitration being

[4] See Art. 48 and Art. 49 of the Portugal Industrial Property Code.

[5] Section 34 (2) and Section 48 (2), Arbitration and Conciliation Act of Greece. Non-arbitrable disputes include those involving rights and obligations resulting from or relating to criminal offences, matrimonial conflicts, insolvency and winding up matters, testamentary matters requirements contained grants of probate, letters of administration, declaration matters and succession certificates, and eviction or tenancy matters covered by special statutes, patent, trademark and copyright disputes where in the legal protection can only be granted by the designated courts with jurisdiction to grant reliefs or redress.

agreed upon by concluding an arbitration clause in these situations is eliminated.

Many legislations, when determining the scope of arbitrability in industrial property disputes, also distinguish from the aspect of whether the dispute arose for certain private powers and interests of the parties or the dispute was related to the public interest of the state (when it appears as the holder of ius imperium and protector of public order). So, for example, in a situation where we are talking about issues related to license agreements, compensation for the use of a trademark, and the like, the private interests of the parties prevail, in contrast to situations where the recognition of industrial property rights is decided, which is done in a separate administrative procedure, i.e. determining the validity of these rights, when the public interest prevails. Similar, according to Hofileña (2022), office actions by the State entity concerning the application should not be arbitrable since this involves the exercise of the State of its sovereign powers.

The recognition of industrial property rights is regulated in a special legal procedure, which includes the public registration of the right in an appropriate register. As an argument for retaining the competence of the state in the part of determining the validity of these rights, it is pointed out that if certain state authorities are competent to recognize these rights, they should also decide on the validity, that is, the cancellation of these rights. Exactly that part of the procedure indicates the powers of the state as ius imperium, so certain legislations that have accepted this position justify the conclusion that arbitration in relation to the recognition and determination of the validity of these rights is excluded.

The exclusion of private methods fors dispute resolution by accepting the main argument "the protection of public order" is gradually losing its primacy in theory. The most acceptable argument for limiting arbitration to only certain types of industrial property disputes focuses on the binding force of arbitral awards and agreements. Since the arbitral award, which derives its force from the arbitration agreement, is solely binding on the parties and has no wider scope of action, the arbitrator cannot make an award that acts erga omnes. For example, when a recognized patent will be the subject of a license agreement and a dispute would arise from the same agreement, the arbitration may decide which of the parties in the dispute has rights in relation to the patent. If it is determined in the arbitration procedure that the patent is not valid, then the decision would have legal effect only between the parties in the dispute, and not against all others (erga omnes) (Grantham, 1996).

An example of the arbitration practice, when despite the fact that the issue of the validity of the patent was objectively non-arbitrable, and the arbitration made a decision with effect inter partes, is the dispute conducted before the ICC case number 6097 from 1989. In the specific case, a Japanese company concluded two industrial patent license agreements with a German company. The parties included in the agreements a detailed arbitration clause under which they agreed to the jurisdiction of the ICC arbitration. Regarding the applicable law, the parties agreed that the contract will be interpreted according to Japanese law, while the applicable German law will first be authoritative for possible violations of industrial property rights and possible consequences of the violations. Zurich was chosen as the place of arbitration. The licensor initiated arbitration proceedings because the licensee violated the patent and the contract. In the answer, the defendant raised an objection that the patent was not valid, that is, that at the time of recognition, the patent was not new, which makes the invention unpatentable, that is, the right to the patent is invalid. The arbitration tribunal considered the arbitrability of the patent validity issue from the perspective of Swiss and German law. According to Swiss law, there were no obstacles for the arbitration to decide on the validity of the patent, but according to the applicable German law, the arbitral tribunal could not make a decision on the validity of the patent. In order to literally comply with the arbitration clause, which covered all disputes related to the license agreement, the will of the parties should be transferred to the arbitration, but also to avoid situations where a legal dispute would be conducted in parallel before a competent national court for validity of the patent, so the arbitration proceedings would be suspended for five or more years, the arbitral tribunal decided that it was competent to decide on the validity of the patent, whereby the decision would have effect inter partes (Jansson, 2010). This decision of the tribunal was criticized due to the fact that the arbitral tribunal, when making the decision, was guided more by the desire of the parties to settle the dispute by arbitration, than by the applicable law, which did not allow the arbitral tribunal to decide on the validity of the patent due to the existence of the exclusive competence of a national court on patent validity issues. However, it should be noted that the will of the parties for arbitration

settlement of disputes will not produce a legal effect if the state does not allow the existence of arbitration as a method of settlement of disputes (Jansson, 2010 p.37)

In order to overcome the problems during the arbitration procedure when the issue of making a decision on the validity of industrial property rights is imposed, it is proposed that the initiated arbitration procedure be stopped, and that the competent court or administrative body make a decision on the validity of the right from industrial property as a prior matter (Plakolli-Kasumi, 2015).

But, of course, this solution can be reflected in the prolongation of the arbitration procedure and the loss of the efficiency of the procedure, a quality of the arbitration procedure due to which it is known as a good substitute for judicial protection.

The justification for the non-arbitrability of disputes on the validity of patents, due to the protection of public order, which is carried out in the procedure for the recognition of patents, when the state, that is, bodies authorized by it carry out examination of patents, receives criticism. Thus, it is pointed out that non-arbitrability is justified if the competent state bodies conduct a substantial, complete examination of the validity of the patent, but not if the same is done only on the basis of a formal examination of the application. If the state authority, representative of the state and its sovereignty, does not examine the patent completely, it is contradictory how public interests are protected with the exclusive jurisdiction of the state courts. In this way, patent validity disputes that are not fully examined by the state or other competent state body during their validity should be considered arbitrable (Mistelis & Brekoulakis, 2009). Realistically, this is more likely to be applied in patent ownership disputes, where patent entitlement is being determined, than in patent invalidity proceedings.

Arguments that these disputes cannot be subject to arbitration because decisions in arbitration proceedings have effect only inter partes, and therefore cannot affect industrial property rights that have effect erga omnes also become problematic in theory (Mantakou, 2009). This is due to the fact that court judgments do not have erga omnes effect, at least in continental law, unless something else is provided by law. It should be noted that arbitration decisions, just like court decisions, have res judicata effect.

The real question and dilemma is whether arbitral awards can serve as a basis for amendments to the Patent Registers. If the dispute is arbitrable and the arbitral award is final, there is no doubt that arbitral awards can serve as a basis for entry in the register. According to the existing legal solution in the Republic of North Macedonia, art. 144 of the Law on Private International Law: "The court of the Republic of North Macedonia is exclusively competent for disputes related to the registration and validity of a patent, trademark or service mark, industrial sample and model or other industrial property rights that must be deposited or registered, regardless of whether the issue is raised in a lawsuit or as part of the defense in the proceedings, if in the Republic of North Macedonia: 1) the application for depositing or registering of that right was submitted or 2) depositing or registration of that right was carried or 3) on the basis of a ratified international agreement it is considered that the deposit or registration of that right has been carried out"[6]. Whereas, in accordance with the provisions of the Law on Industrial Property, based on the decisions of the court in connection with the disputes regarding the recognition of the inventor or the author, as well as in cases where the right to a trademark is disputed, the plaintiff may request that an entry be made in the Register as holder of the right for which he will be issued a corresponding document.

6. CONCLUSION

The trend of expanding the boundaries of objective arbitrability in modern law does not bypass industrial property disputes either.

However, despite the efforts for national approximation of the rules for objective arbitrability, there is still no unified concept for the arbitrability of industrial property disputes. The main reason for this is the fact that supranational instruments of arbitration law do not regulate this issue at all.

The legal gap in supranational arbitration law instruments regarding the limits of objective arbitrability must be filled. This is proven by the national comparative analysis of the arbitrability of industrial property disputes, which is quite colorful, but also by the fact that arbitration laws are increasingly liberalized.

In the supranational instruments for arbitration law, the limits of objective arbitrability should not only be determined and clarified, but they must also be in harmony with the institution of the

[6] Law on International Private Law ("Official Gazette of the Republic of North Macedonia" No. 32/2020).

exclusive jurisdiction of the lex nationalis. This is because the comparative analysis shows that there are no legal obstacles to using arbitration for disputes which are arising from disposable industrial property rights.

On the other hand, the comparative analysis also shows that arbitration as an alternative to court proceedings in disputes regarding the registration and validity of industrial property rights in the majority of modern legislation (with the exception of the United States and Switzerland, which allow the settlement of these disputes before arbitration) is not allowed. The main reason for this, is the fact that in the majority of national legislations an exclusive jurisdiction is provided for disputes regarding the registration and validity of industrial property rights.

Despite the national protectionist policy towards disputes regarding the registration and validity of industrial property rights, taking into account the characteristics of arbitration (flexibility, confidentiality, efficiency, simplicity of the procedure (which make arbitration a suitable mechanism for resolving industrial property disputes), it seems that the possibility of arbitration should be opened for these disputes as well. This is because it is justified that the arbitrators can decide on the validity of these rights, especially in situations where the question of their validity arises as a preliminary issue in intellectual rights disputes property that the parties can freely dispose. Otherwise, the efficiency of the entire arbitration procedure may be called into question, especially if one of the parties during the procedure maliciously objects to the validity of industrial property rights.

REFERENCES

Blackaby, N., Partasides, C., Redfern, A., Hunter. M. (2009) REDFERN AND HUNTER ON INTERNATIONAL ARBITRATION. Oxford University press.

Briner, R. (1994) The Arbitrability of Intellectual Property Disputes with Particular Emphasis on the Situation in Switzerland. Worldwide Forum on the Arbitration of Intellectual Property Disputes Worldwide Forum on the Arbitration of Intellectual Property Disputes (wipo.int).

Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958).

Crupi, M. (2013-2014). Patent arbitration: a European comparative analysis, Tesi di Laurea Magistrale in Giurisprudenza, Università Commerciale Luigi Bocconi Scuola di Giurisprudenza.

Grantham. W. (1996). The arbitrability of International Intellectual Property Disputes, Berkeley Journal of International Law, Volume 14, Issue 1, (174-221).

Green, A. (2006). International Intellectual Property Dispute Resolution. McKenna Long & Aldridge LLP.

Hofileña, D. H (2022). The Next Frontier: The Arbitrability of Intellectual Property Disputes. Asia Pacific Journal of IP Management and Innovation 1(1). 51-58.

Jansson, T (2010). Arbitrability regarding Patent Law- An International Study, Master Thesis. Faculty of Law, University of Lund.

Lamb, S., Garcia, A. (2008). Arbitration of Intellectual Property Disputes. Global Arbitartion Review, The European and Middle Eastern Arbitration Review.

Lousa, N.F,& Silva, R. G. (2015). Arbitrating Intellectual property disputes in Portugal: Case study. Kluwer Arbitration Blog

Mantakou, A. P. (2009). Part II Substantive Rules on Arbitrability, Chapter 13 - Arbitrability and Intellectual Property Disputes, Arbitrability International & Comparative Perspectives, Kluwer Law International.

Mistelis, L. A., & Brekoulakis, S. L (2009). Arbitrability International & Comparative Perspectives. Kluwer Law International.

Pagenberg, J. (1994). The arbitrability of Intellectual Property Disputes in Germany, Worldwide Forum on the Arbitration of Intellectual Property Dispute. World Intellectual Property Organization (WIPO) and American Arbitration Association (AAA), Worldwide Forum on the Arbitration of Intellectual Property Disputes (wipo.int)

Petrović, M. (2013) Punovažnost arbitražnog sporazuma. Zbornik radova Harmonizacija građanskog prava u region.(479-499).

Plakolli-Kasumi, L. (2015). The Notion of "Ordre Public": Arbitrability of Patent Law Disputes. Journal of Alternative Disputes Resolution in Kosovo, vol.1, 12-24.

Povržrnić. P., (2005). Arbitrabilnost sporova iz područja industrijskog vlasništva. Pravo u gospodarstvu-časopis za gospodarsko-pravnu teoriju I praksu, godište 44, svezak 2. (145-162).

Smith, M. A., Cousté, M., Hield, T., Jarvis, R., Kochupillai, M., Leon, B., Rasser, J.C., Sakamoto, M., Shaughnessy, A., Branch, J. (2006). Arbitration of Patent Infringement and Validity Issues Worldwide. Harvard Journal of Law & Technology Volume 19, Number 2. (299-356).

The ICC International Court of Arbitration (1998) Final Report on Intellectual Property Disputes and Arbitration, Bulletin Vol.9/No 1.

Triva, S., Uzelac, A. (2007). Hrvatsko arbitražno pravo-Komentar Zakona o arbitraži I drugi izvori hrvatskog arbitražnog prava, Narodne Novine d.d , Zagreb.

Véron, R. (1995). Arbitration of Intellectual Property Disputes in France, Procedures for Settling Disputes. International Business Lawyer, 132-134.

Werra, J.D, (2012), Arbitrating International Intellectual Property Disputes: Time to Think Beyond the Issue of (Non)-Arbitrability. International Business Law Journal No.3/2012, 299-317.

World Intellectual Property Organization. (n.d). 'Why Arbitration in Intellectual Property?. Retrieved July 18, 2021, from https://www.wipo.int/amc/en/arbitration/why-is-arb.html. United Nations

Закон за индустриската сопственост („Службен весник на Република Македонија" бр. 21/2009, 24/2011, 12/2014, 41/2014, 152/2015, 53/2016 и 83/2018 и „Службен весник на Република Северна Македонија" бр. 31/2020).

Закон за меѓународна трговска арбитража на Република Македонија,(Сл. Весник на Р. Македонија бр.39/06).

Закон за меѓународно приватно право („Службен весник на Република Северна Македонија“ бр.32/2020).

Зороска-Камиловска, Т. (2015). Арбитражно право. Правен факултет „Јустинијан I“-Скопје.