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RESEARCH ARTICLE

The Next Frontier: The Arbitrability of Intellectual Property Disputes

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Abstract: Intellectual property rights (IPRs) are private rights and are only as strong as the means to enforce them. In this light, arbitration has been an increasingly attractive alternative for parties to resolve their disputes due to its efficiency, specialty, confidentiality, and deference to party autonomy. Arbitral awards can likewise be enforced across jurisdictions that are signatories to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. However, the capability of parties to submit IPR matters to arbitration is sometimes limited by the State under its laws. This study will explore possible solutions to the arbitrability of IPR disputes by examining national laws, especially that of ASEAN countries. These countries have adopted diverse approaches to arbitrability under domestic legislation which can be divided into four clusters. The first cluster limits arbitrable disputes to those which are not contrary to public policy. The second cluster limits arbitrable disputes to only commercial disputes. A third cluster limits arbitrable disputes to only those concerning rights in the commercial sector or concerned with economic matters. Finally, one cluster explicitly provides for the arbitrability of IPR disputes. In conclusion, the various treatments of jurisdictions to the arbitrability of IPRs lead to uncertainty and unpredictability of arbitration as an alternative mode of resolving disputes. To settle the issues of arbitrability, the author recommends that IPR disputes be classified as arbitrable or non-arbitrable, depending on their nature. Arbitrable disputes should be the IPR disputes that are commercial in nature, such as licensing & royalty disputes. In contrast, non-arbitrable disputes should be those which involve the sovereign's prerogative to deny or grant an application for intellectual property protection or those that involve public interest.

Keywords: Intellectual property, alternative dispute resolution, and arbitrability.

Introduction

The protection of intellectual property (IP) is now a priority in Asia due to the increased movement of goods & services and the rise of the digital age (South-East Asia IPR SME Helpdesk, 2017). According to the World Intellectual Property Organization (WIPO), of the top 20 offices for patent filings in 2020, several countries are in Asia, such as China, Japan, Indonesia, and Singapore (ASEAN IP, 2021). In the same vein, among the top offices for trademark filing, Asian offices account for 70.6% of worldwide filing (WIPO, 2020).

IP is also a determinant of investment. In a study involving 120 countries, the Organisation for Economic Co-operation and Development (OECD)

found that there is a positive correlation between a strong intellectual property rights (IPR) regime and foreign direct investment (FDI) over fifteen years. It was estimated that a 1% increase in the strength of patent protection correlates to a 2.8% increase in FDI, while a 1% increase in trademark and copyright protection correlates to a 3.8% and 6.8% increase in FDI, respectively (Cavazos R., Lippoldt, D., and Senft, J., 2010 as cited in International Chamber of Commerce, 2011). Indeed, intellectual property is becoming more relevant as it is essential in determining the competitive position of a business (American Bar Association, n.d.).

IP rights are generally private rights as public authorities cannot *motu proprio* prosecute IP violation cases. If the right holders refuse or fail to enforce their rights, the State will not act upon IP violations, no matter how rampant (WIPO,1999). Accordingly, intellectual property rights are only as strong as the means and willingness to enforce them (WIPO, n.d.). According to Lanjouw and Lerner (1997), among the factors that affect a right holder's decision to initiate IP litigation are the expectation of winning, the size of the case, and the legal costs associated with its enforcement. If it is expensive to prosecute IP violations, then there will be increased tolerance of infringement. Consequently, the value of IP protection decreases, and people will not find it worthwhile to avail of IP protection (Brilliant, 2005).

In this light, arbitration has been an increasingly attractive alternative for parties to resolve their disputes due to its efficiency (WIPO, n.d.). Arbitration provides a cheap, efficient, and multi-jurisdictional dispute settlement mechanism that greatly benefits businesses. Such a mechanism is particularly advantageous to Micro, Small, and Medium Enterprises (MSMEs), which comprise 88.8% to 99.9% of total establishments in the ASEAN, numbering about 64 million individual businesses and employing around 51.7% to 97.2% of individuals (ASEAN Secretariat, n.d.).

Succinctly, this paper is divided into three parts: the first part explains why arbitration is appropriate for IPR disputes. The second part elaborates on the diverse approaches of jurisdictions, especially the ASEAN, concerning the matters that can be subject to arbitration. Finally, the third part suggests a possible approach to the arbitrability of IP disputes.

Arbitration is well-suited for intellectual property disputes

Arbitration is a voluntary dispute resolution process in which the parties appoint one or more private judges to render a binding award (Alternative Dispute Resolution Act of 2004 of the Philippines, 2004). Arbitration is generally consensual & voluntary, but once the parties have consented to submit their disputes exclusively to arbitration, they cannot renege on this agreement.[1] Any dispute, as long as it is arbitrable, can be a subject of arbitration if parties agree to it (WIPO, n.d.).

According to WIPO (n.d.), arbitration has certain unique characteristics as compared to traditional court litigation, which makes it suitable for IP cases. Arbitration is primarily confidential as opposed to litigation in court proceedings. This suits the nature of IP disputes which usually require confidentiality since it involves trade secrets or sensitive product designs or technology. Further, arbitration allows parties to appoint their own private judges. They can choose a person or persons who specializes in a particular field. This is apt for IP disputes which can be highly technical. For instance, patent disputes may involve emerging technologies such as artificial intelligence, micro-organic processes, and other scientific fields. On the side of copyright, the same can touch upon computer programming and information technology. Finally, arbitration awards are relatively easier to enforce because more than 165 states are parties to the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. This is appropriate for intellectual property disputes as cases usually involve multiple proceedings in various jurisdictions. Infringing goods may be manufactured and sold in jurisdictions outside the territorial protection of a patent or trademark (WIPO, n.d.).

The Arbitrability of Intellectual Property Disputes

Given the usefulness of arbitration, it can be a preferred mode of dispute resolution for stakeholders. However, one issue that remains to be resolved in numerous jurisdictions is the arbitrability of intellectual property disputes.

The concept of arbitrability refers to matters that can be settled through arbitration. Generally, parties are free to submit their disputes to arbitration. It is limited only by the restrictions placed by national laws. As such, there are some disputes by its close relationship with the public interest, which the State reserves for resolution by a competent court (Kleiman and Pauly, 2019).

There are two notions of arbitrability. Subjective arbitrability refers to the capacity of an entity to enter into an arbitration agreement. This usually revolves around the legal capacity of an individual, corporation, or state entity. On the other hand, objective arbitrability refers to the specific categories of disputes that cannot be referred to arbitration (Freimane, 2021). For example, in the Philippines, certain disputes are expressly provided as incapable of settlement, such as the civil status of persons, the validity of a marriage, any ground for legal separation, the jurisdiction of courts, future legitime, and criminal liability (Republic Act No. 386, 1949).

On the matter of objective arbitrability, various jurisdictions have also adopted a diverse approach. According to Kleiman and Pauly (2019), some countries have liberalized arbitrable subject matters, while some emphasize state control and reserve some matters within the province of the courts. The diversity complicates the realm of enforcement of arbitral awards. For example, if an award is rendered by an arbitral tribunal with a seat in a country that allows arbitration of IP disputes, the same is in danger of not being recognized in a jurisdiction wherein IP disputes are not arbitrable (Rathi, 2019).

A common ground for the limits of arbitrable disputes and the refusal of a State to recognize an arbitral award is when it is violative of public policy.

In general, courts worldwide interpret the concept of public policy in a very narrow light, such as those which cause serious injustice. The Philippines, in *Mabuhay Holdings Corporation v. Sembcorp Logistics Limited* (2018), involving the enforcement of an international commercial award, adopted the narrow approach of public policy where refusal of enforcement is limited to when it would violate the forum state's most basic notions of morality and justice. On the contrary, in Singapore, the concept of public policy for setting aside an award, whether domestic or foreign, is the same (UNCITRAL Secretariat, 2012). Under Section 44 of the International Arbitration Order of the Constitution of Brunei Darussalam (2009), it provides that a foreign award may be refused enforcement if the court finds that the subject matter is not capable of arbitration or the same is contrary to public policy. Article 66 of the Arbitration and Alternative Dispute Resolutions Law of Indonesia (1999), however, provides a different standard. As a non-model law jurisdiction, International Arbitration Awards may only be enforced if it is not in conflict with public order as opposed to the public policy concept under the 1958 New York Convention.

Intellectual property disputes in some jurisdictions are treated as a matter of public policy. There have been varying interpretations of the notion of arbitrability of IP disputes across jurisdictions. It has been argued that IP rights are primarily granted by national authorities. It is not arbitrable as these should be resolved by the public body within its national framework and not through a private process (WIPO, n.d.). In Germany, the jurisdiction to nullify patents belongs only to the Federal Patent Court, although patent infringement claims can be subject to arbitration (Patent Act (Patentgesetz, PatG), 1980). In the United States, in *Ballard Medical Products v. Earl Wright* (1987), the Court of Appeals cautioned that arbitrators, though they consider public policy in doing their job, are not roving patent offices that can pass upon the validity of patents. The court further went that if the arbitrators had invalidated the patent, one of the parties could have petitioned to vacate the arbitral award on the ground that the arbitrator had exceeded their powers.

Another line of thought supports the notion that some IPR disputes are arbitrable. In *Booz Allen Hamilton v SBI Home Finance* (2011), the Indian Supreme Court stated that an arbitral tribunal could pass upon every dispute that a court can decide. Nonetheless, criminal offenses cannot be subject to arbitration. Worthy of note is that infringement actions may take the form of a criminal proceeding when the accused is charged with violating the penal laws of the State or that of a civil proceeding when the prayer of the claimant comprises of an action for damages or a restraining order.

Without a doubt, a dispute involving damages or claims of compensation or royalties is arbitrable as it does not involve public interest, nor does it involve a public entity (Rathi, 2019). Likewise, under Article 28 of the "*Ley de Marcas*" of Spain, parties may submit proceedings in relation to the registration of a

trademark. Nonetheless, the same could not concern matters which relate to the formal defect or registration prohibitions of a trademark.

On the extreme side, some laws allow for the arbitrability of all IPR disputes. For example, under Article 48 of the Industrial Property Code of Portugal (2008), an arbitral tribunal can be constituted to try all issues "granting or refusing industrial property rights and those regarding transfers, licenses, declarations of expiry or any other acts that affect, alter or extinguish industrial property rights."

In the ASEAN, only a few states have rulings expressly concerning the interpretation of public policy in the context of intellectual property disputes. As to arbitrability and scope of the arbitration agreement, ASEAN countries have adopted diverse approaches under their domestic legislation. These approaches can be divided into four clusters.

One cluster limits arbitrable disputes to those which are not contrary to public policy. Under the International Arbitration Order of Brunei, Section 13 thereof provides that any disputes which the parties have agreed to submit to arbitration may be determined by such process unless it is contrary to public policy. It further provides that the fact that the law confers jurisdiction to any court of law but does not refer the matter to arbitration does not, in itself, indicate that the dispute is not capable of determination by arbitration. Given this, intellectual property disputes are arbitrable even if the jurisdiction to decide the same is lodged with the courts and the intellectual property office.

In the same manner, the Arbitration Act of Malaysia (2005, revised in 2011) adopts the same wording as that of Brunei. Article 5 of the Malaysian Arbitration Act provides that it applies to all arbitrations to which the Federal Government or the Government of any component state of Malaysia is a party. Thus, it can be argued that the intellectual property office of Malaysia can be bound by the decisions of arbitral tribunals on the cancellation of the registration of IPRs. Likewise, the Philippines, in its Civil Code (1949), adopted a broad approach to arbitrability and limited non-arbitrable disputes to matters concerning the civil status of persons, the jurisdiction of courts, future legitime, the status of marriages, and criminal liability.

Another cluster limits arbitrable disputes to only commercial disputes. The Commercial Arbitration Law of the Kingdom of Cambodia (2006) applies only to commercial disputes. Article 2 (i) adopts the wide interpretation of the term "commercial" so as to cover all matters arising from all relationships of commercial nature. Arguably, this includes intellectual property matters that are commercial such as licensing disputes. Nonetheless, it may be said to impliedly exclude non-commercial disputes such as the denial of the State of an application for registration. The new arbitration law of Vietnam also expanded the scope of arbitrable disputes from a narrow definition of commercial activities. Under the Arbitration Ordinance of 2011 of Vietnam, arbitral tribunals can also resolve disputes where one of the parties is engaged in commercial activities (Ching & Crovo, n.d.).

Another interesting cluster is found under the Arbitration and Alternative Dispute Resolution Law of Indonesia. Under Article 5 thereof, only disputes concerning rights in the commercial sector, which have the force of law between the parties and are fully controlled by the parties to the dispute, are capable of settlement by arbitration. This reservation in Indonesian law greatly impacts the settlement of IP disputes. As previously stated, intellectual property disputes may involve matters that are not fully in the parties' control, such as an allegation of the invalidity of a registered patent or trademark.

On the other hand, the Law on Economic Dispute Resolution No. 51/NA (2005) of Laos provides that for a dispute to be properly resolved by arbitration and mediation, it must be an economic dispute, must be agreed upon by the parties, and shall not pertain to a dispute which the courts of Laos is adjudicated or has issued by a final judgment. This poses a difficulty, particularly to disputes over individuals involving copyrighted works in the context of fair use in education, because these disputes are not inherently commercial or economic in nature.

Finally, there is one cluster that explicitly provides for the arbitrability of IPR disputes. In 2019, Singapore passed an amendment to its laws explicitly stating that arbitral awards concerning IPRs are not considered contrary to public policy. It also provides that IPR disputes are not incapable of settlement by reason that the laws do not mention the possibility that the same can be settled through arbitration or that the resolution is lodged to a specified entity such as the IP Office (Kang & Oh, 2019).

The uncertainty of the arbitrability of intellectual property disputes makes end-users hesitant in submitting disputes to arbitration if the award will only be set-aside or refused recognition by the courts in a different jurisdiction.

To finally resolve this issue, it is suggested by the author that intellectual property disputes be classified into arbitrable and non-arbitrable disputes, depending on their nature. The first category covers commercial disputes between the parties. As such, the same should be subject to arbitration. The second category of disputes involves a sovereign's prerogative to deny or grant an application for intellectual property protection or those which involve public interest.

Category 1: Suggested Arbitrable Disputes

Type	*Reasoning*
Licensing and Royalty disputes	These disputes are primarily commercial in nature.
Ownership, assignment, or transfer disputes, including those between employer and employee	Ownership of IPRs should be arbitrable disputes. This includes ownership disputes over state-funded research and projects. It bears noting that in some jurisdictions, there are special laws such as the Philippine Technology Transfer Act (2009) that govern the ownership of state-funded research and are treated as a special class of IP ownership. This category should also include ownership disputes between employers and employees because in some jurisdictions, including the Philippines, labor disputes are subject to a special kind of arbitration under its labor code.
Civil action for infringement and unfair competition.	Civil actions for infringement include claims for damages due to infringement. The same also includes requests for provisional measures such as a restraining order. This, however, assumes that the infringer has an arbitration agreement with the claimant, such as when a party violates the terms of its contract with the IPR holder as when he sells counterfeit goods alongside original goods. In the same vein, unfair competition arises from a person's passing off of his goods as that of another. It is akin to infringement, but in some jurisdictions like the Philippines, prior registration of IP is not a prerequisite (Republic Act No. 8293 as amended, 2016).
Other contractual and commercial disputes involving IP.	Disputes under this category include the scope of rights granted under an agreement, disputes involving trade secrets, technology transfer agreements, etc.
Payment of adequate remuneration under a compulsory license	Although it is submitted that the grant or denial of compulsory licenses should not be arbitrable, any dispute regarding the determination of remuneration should be subject to arbitration. This is primarily an economic and commercial dispute as the TRIPS requires that such compensation should be based on the economic value of the invention (Agreement on Trade-Related Aspects of Intellectual Property Rights as Amended by the 2005 Protocol, 1995).

Category 2: Suggested Non-Arbitrable Disputes	
Type	*Reasoning*
Grant or denial of compulsory licensing or use by the government of the IP	As previously stated, compulsory licensing is the exercise of a sovereign state to grant a third person the right to produce the invention under certain conditions. Disputes concerning the grant or denial of such license should not be arbitrable as it primarily concerns matters of public interest.
Inter partes cases including disputes as to the scope and coverage of the grant by the State.	Inter partes cases are those which involve the opposition and cancellation of intellectual property registrations. These disputes should not be arbitrable as they will ultimately affect a State's decision on whether or not to grant an IPR. However, it should be highlighted that the State, in some jurisdictions, requires a panel of three with two experts in the subject matter, with the director of legal affairs acting as the chairman of the panel, to decide on a case. This process is not arbitration. Rather, it is an administrative decision of the intellectual property office.
Office actions by the State entity concerning the application	Office actions are communications made by the office to the applicant about defects in the formal and substantive examination of the IP that is to be registered. These should not be arbitrable since this involves the exercise of the State of its sovereign powers.
Criminal action for infringement and unfair competition.	It is generally accepted that criminal proceedings are not arbitrable.

Conclusion

Protecting intellectual property rights (IPRs) is a priority for rights holders. Due to the peculiar nature of IPRs, disputes are usually highly technical and multi-jurisdictional, and the proceedings require specialization, confidentiality, and urgency.

In this manner, arbitration should be the preferred mode of dispute resolution. Arbitration is primarily a creature of the parties' consent and is only limited by express prohibitions under the law. The concept of arbitrability refers to matters that can be settled through arbitration. At present, only a few countries prohibit the arbitrability of certain IPR disputes. In the same vein, only Singapore has expressly provided that awards on IPR disputes are not contrary to public policy. The silence of the laws creates uncertainty and deters parties from utilizing arbitration in the resolution of their disputes.

There is a need to classify the arbitrability of IP disputes to determine which actions can be subjected to arbitration - a more efficient and specialized mode of dispute resolution that can be enforced across various jurisdictions.

In this light, the author proposes that IPR disputes be classified as either arbitrable or non-arbitrable. In a nutshell, non-arbitrable disputes should include actions of the State in the exercise of its power to grant, deny, or curtail IPR registrations and criminal infringement. These disputes should not be subjected to a private mode of dispute resolution because it involves the prerogative of the State to enforce its laws and its policy. All other matters arising in relation to civil actions from infringement, those regarding the ownership of IP or contractual IP disputes, should be arbitrable given that these arise from purely private or commercial matters that parties can compromise.

Footnote

1 In some jurisdictions, there are laws that mandate that certain disputes be subjected to arbitration. For example, in the Philippines, Labor disputes must undergo compulsory arbitration before a labor arbiter. To clarify, this is certainly a mode of alternative dispute resolution but this is not the arbitration that is being discussed in this context because even though it is a means outside the court system, there is still intervention by a public officer.

References

Act 646, Malaysia Arbitration Act of 2005 (Revised 2011).

Agreement on Trade-Related Aspects of Intellectual Property Rights as Amended by the 2005 Protocol Amending the TRIPS Agreement 1995.

American Bar Association. (n.d.). "Products of the Mind" Require Special Handling: Arbitration Surpasses Litigation for Intellectual Property Disputes. https://www.adr.org/sites/default/files/document_repository/AAA192_Intellectual_Property_Disputes.pdf.

An Act to Institutionalize the Use of an Alternative Dispute Resolution System in the Philippines and to Establish the Office for Alternative Dispute Resolution, and for Other Purposes, Rep. Act No. 9285, (Apr. 2, 2004) (Phil.), https://lawphil.net/statutes/repacts/ra2004/ra_9285_2004.html

An Act to Ordain and Institute the Civil Code of the Philippines, Rep. Act No. 386, (Jun. 18, 1949) (Phil.), https://www.officialgazette.gov.ph/1949/06/18/republic-act-no-386/

An Act Prescribing the Intellectual Property Code and Establishing the Intellectual Property Office, Providing for its Powers and Functions, and for Other Purposes, Rep. Act No. 8293, (Jun. 6, 1997) (Phil.), https://www.officialgazette.gov.ph/1997/06/06/republic-act-no-8293/

An Act Providing the Framework and Support System for the Ownership, Management, Use, and Commercialization of Intellectual Property Generated from Research and Development funded by Government and for Other Purposes, Rep. Act No. 10055, (Jul. 27, 2009) (Phil.), https://lawphil.net/statutes/repacts/ra2010/ra_10055_2010.html

ASEAN IP. (2021) 'IP Filing Statistics in ASEAN' Retrieved July 31, 2021, from https://www.aseanip.org/Statistics/IP-Filing-Statistics-in-ASEAN.

ASEAN Secretariat. (n.d.) 'ASEAN Commemorates Micro, Small and Medium-Sized Enterprises Day' *ASEAN | ONE VISION ONE IDENTITY ONE COMMUNITY* Retrieved August 4, 2021, from https://asean.org/asean-economic-community/sectoral-bodies-under-the-purview-of-aem/micro-small-and-medium-enterprises/international-msme-day/.

Ballard Medical Products, Plaintiff/appellant, v H Earl Wright, Defendant/cross-appellant, United States Federal Circuit 823 F.2d 527 (Fed. Cir. 1987).

Booz Allen & Hamilton Inc v. SBI Home Finance Ltd (2011) 5 SCC 532 (Supreme Court of India).

Brilliant, M. (2005). 'Testimony before the House Judicial Subcommittee on the Courts, the Internet and Intellectual Property'.

Ching TS and Crovo G. (n.d.). The New Law on Commercial Arbitration in Vietnam.

Commercial Arbitration Law of the Kingdom of Cambodia, (2006).

Freimane, N. (2021). Arbitrability: Problematic Issues Of The Legal Term', Riga Graduate School Of Law. Retrieved August 6, 2021, from https://sccinstitute.com/media/56097/arbitrability-problematic-issues. pdf.

Industrial Property Code of Portugal, Decree-Law 36/2003 of 5 March and amended by Decree-Law 318/2007 of 26 September, Decree-Law 360/2007 of 2 November, Decree-Law 143/2008 of 25 July and Law 16/2008 of 1 April.

International Arbitration Order of the Constitution of Brunei Darussalam (2009).

International Chamber of Commerce, *Intellectual Property: Powerhouse for Innovation and Economic Growth* (ICC-BASCAP). https://iccwbo.org/publication/intellectual-property-powerhouse-for-innovation-and-economic-growth/ citing Cavazos R., Lippoldt, D. and Senft, J. (2010)

Kang, A. and Oh, P-P. (2019). 'IP Update: Amendments to the Singapore Arbitration Act And International Arbitration Act to Clarify the Arbitrability of IP Disputes in Singapore'. https://www.twobirds.com/~/media/pdfs/singapore/2019/bbatmd20191126-v2-amendments-to-the-singapore-arbitration-act-and-international-arbitration-act.pdf?la=en&hash=61C6F9C0427BABAC240CCE803B18A4D378FBEB6B.

Kleiman, E. and Pauly, C. (2019). The Guide to Challenging and Enforcing Arbitration Awards. Retrieved August 6, 2021, from https://globalarbitrationreview.com/guide/the-guide-challenging-and-enforcing-arbitration-awards/1st-edition/article/arbitrability-and-public-policy-challenges.

Lanjouw, J. & Lerner, J. (1997). The Enforcement of Intellectual Property Rights: A Survey of the Empirical Literature, NBER Working Papers 6296, National Bureau of Economic Research, Inc.

Law No. 30 of 1999, Arbitration and Alternative Dispute Resolutions Law of Indonesia (1999).

Mabuhay Holdings Corporation, Petitioner, v Sembcorp Logistics Limited, Supreme Court of the Philippines, G.R. No. 212734 (2018).

On the Promulgation of the Law on Resolution of Economic Disputes of Laos (2005).

Patent Act as published on 16 December 1980 (Federal Law Gazette 1981 I p. 1), as last amended by Article 4 of the Act of 8 October 2017 (Federal Law Gazette I p. 3546).

Policy Complements to the Strengthening of IPRs in Developing Countries, OECD Trade. Policy Working Paper No. 104. http://www.oecd-ilibrary. org/trade/policy-complements-to-the-strengthening-of-iprs-in-developing-countries_5km7fmwz85d4-en.

Rathi, D. (2019). Arbitrability of Patent Disputes: American and Indian Perspective. Retrieved

August 5, 2021, from https://www.latestlaws.com/media/2019/11/1573546804.pdf.

South-East Asia IPR SME Helpdesk. (2017). Intellectual Property and the ASEAN Economic Community (AEC). https://www.southeastasia-iprhelpdesk.eu/sites/default/files/publications/AEC-English.pdf.

UNCITRAL Secretariat, (2012). *UNCITRAL 2012 Digest of Case Law on the Model Law on International Commercial Arbitration*.

World Intellectual Property Organization. (1999). The Role Of The Government Authorities In The Enforcement Of Intellectual Property Rights. Retrieved August 1, 2021, from https://www.wipo.int/edocs/mdocs/sme/en/wipo_ipr_ju_bey_99/wipo_ipr_ju_bey_99_5b.pdf.58 Asia Pacific Journal of IP Management and Innovation 1(1) June 2022 World Intellectual Property Organization. (2020). World Intellectual Property Indicators 2020.

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