

**National IP Rights in a Global
Economy.**

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National IP Rights in a Global Economy.

"There can hardly exist a body of men permanently united by any common interest that will not make for itself a court of justice if it be left for a few years to its own devices."

Pollock and Maitland History of English Law 667 (2d ed. 1898).

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*Article 22 (4) of Council Regulation (EC) No 44/2001 of 22
(Brussels 1):*

*22. The following courts shall have exclusive jurisdiction,
regardless of domicile:*

*(4) in proceedings concerned with the registration or validity
of patents, trade marks, designs, or other similar rights
required to be deposited or registered, the courts of the
Member State in which the deposit or registration has been
applied for, has taken place or is under the terms of a
Community instrument or an international convention
deemed to have taken place.*

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Article V of the New York Convention on the Recognition and Enforcement of Arbitral Awards

Article V. 2. Recognition and enforcement of an arbitral award may also be refused if the competent authority in the country where recognition and enforcement is sought finds that:

- (a) The subject matter of the difference is not capable of settlement by arbitration under the law of that country; or*
- (b) The recognition or enforcement of the award would be contrary to the public policy of that country.*

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“... the good citizens who may have difficulties among themselves will settle them like brothers by referring to the arbitration of some old man or the mayor of the commune. As for those who are troublesome, obstinate or quarrelsome, let them be ruined in the law courts: that is the justice that is due to them.”

Emperor Kangxi,

(Emperor of China from 1662 until 1722.)

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Potential Advantages of Arbitration

Control

Confidentiality

Appeals

Enforcement

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Control:

Choice of procedure

Appointment of the arbitrators of your choice.

Agreed time limits.

Relief

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Arbitration (Amendment) Bill 2016

103C. Interpretation: IPR dispute

In this Part, a dispute over an IPR (IPR dispute) includes—

- (a) a dispute over the enforceability, infringement, subsistence, validity, ownership, scope, duration or any other aspect of an IPR;
- (b) a dispute over a transaction in respect of an IPR; and
- (c) a dispute over any compensation payable for an IPR.

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Arbitration (Amendment) Bill 2016

103D. IPR disputes may be arbitrated

(1) An IPR dispute is capable of settlement by arbitration as between the parties to the IPR

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What are the advantages of Court proceedings?

Choice of Court

Public hearings

Public judgment.

Provisional Measures

Control over third parties

Appeals

Enforcement and costs

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