

Arbitrability of IP disputes: the Latvian perspective

Dr. Vadim Mantrov

Lecturer at University of Latvia



Overview

1. Preliminary remarks
2. The position of EU law
3. The position of Latvian law

Preliminary remarks

- Types of IP cases
 - Contractual matters
 - Infringements
 - Registration
 - Validity
- The understanding of the nature of IP: the continental European approach
- The objectives of EU law
- CJEU jurisprudence
 - Controversial approaches
 - Specific approaches

EU law

- Common regulation (i.e. the Enforcement Directive) – no regulation on arbitration/jurisdiction
- Separate EU legal acts – no regulation on arbitration/jurisdiction (with exceptions discussed further)
- CJEU jurisprudence for interpretation of these legal acts – no discussion of arbitration/jurisdiction

EU law (cont.)

- The Brussels I Regulation, old & new (the Brussels Convention, the Lugano Convention)
- Art 22 (4)
- Exclusive jurisdiction of state courts on registration & validity disputes
- The scope: international, EU, and national registrable IP objects

CJEU: the GAT case

„In the light of the position of Article 16(4) within the scheme of the Convention and the objective pursued, the view must be taken that the exclusive jurisdiction provided for by that provision **should apply whatever the form of proceedings in which the issue of a patent's validity is raised**, be it by way of an action or a plea in objection, at the time the case is brought or at a later stage in the proceedings” (C-4/03, GAT, para 24; affirmed in: C-616/10, para 45).

EU law (cont.)

- Derogations from the Brussels regime
- Arts 91-94, 101-201 CMTR; Arts Arts 79 – 83, 92-93 CDR
- Exclusive jurisdiction of Community Trade Mark Courts and Community Design Courts
- The scope of jurisdiction: infringements and validity of Community trade marks and Community designs

The Latvian position

- Sui generis IP laws = silence
- **Yet:** envisages a particular first instance court for hearing infringement, registration, and validity disputes
- Conclusion: infringement, registration, and validity disputes over registrable objects may not be subject to arbitration

The Latvian position (cont.)

- The Arbitration Act (entered into force on 01 January 2015)
 - An arbitration agreement may cover any civil dispute
 - Excluded disputes: silence about IP

Conclusion about the Latvian position

- Infringement, registration, and validity disputes of registrable IP objects → not arbitrable
- Disputes of non-registrable IP objects → depending on an object?
- Contractual matters → arbitrable (subject to the regulation of excluded disputes)



Thank you for your attention!

Any questions?

further inquiries: dr.vadim.mantrov@gmail.com