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**CONTOURS OF COMMERCIAL ARBITRATION: A  
DISQUISITION INTO THE ARBITRABILITY OF IP  
DISPUTES IN INDIA**

**Abstract**

With the changing role of the State, from dirigiste to protectionist, private interest, which originally found its roots in private negotiations, today depends on legal protection, in order to assure honesty, transparency and competition. The thrusting boost that globalisation has received coupled with the introduction of the Make in India campaign, has opened gates for a multitude of novel and advanced forms of commercial relationships which require thorough expertise, flexible rules and expeditious reliefs.

With over thousands of international commercial arbitrations taking place across the globe, India's chances of being the most sought after choice of seat depends largely on the nature of its laws. The State must ensure operation of laws that are more welcoming to international arbitrations while not compromising the authority of the sovereign institutions. This article aims to deal with the fairness, reasonableness and consequences of one such aspect of law dealing with disputes over intellectual property rights. This article also deconstructs the rationale behind the law and traces the extent of an Indian-seated Tribunal's competence.

**Keywords:** Arbitration, Intellectual Property, UNCITRAL, New York Convention, Public Policy.

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## 1. Introduction

An *essential negotii* of a valid arbitration agreement is the intent to arbitrate an arbitrable dispute.<sup>3</sup> Both the New York Convention and UNCITRAL Model Law are limited to disputes *capable of settlement by* arbitration.<sup>4</sup> The subject of the law applicable to issues of non-arbitrability is addressed specifically in Article V(2)(a), which provides that an award need not be recognized in a particular Contracting State if *the subject matter of the dispute is not capable of settlement by arbitration under the law of that country*.<sup>5</sup>

The arbitrability of IPR disputes, either substantially or incidentally in question, can be comprehended by the objective of operation of Arbitration and Intellectual Property Rights. A fair dispute resolution mechanism involving adjudication by the independent third party without following cumbersome procedure (causing unnecessary delay) and without defeating the public policy is what arbitration is aimed for. Whereas, IPR is purported to provide ‘legal (or statutory) recognition of exclusivity of utilization’ to the architect of an intangible product. Therefore, the technicality of arbitrability of IPR resides in enforceability of the award granted by Arbitral Tribunal.

For arbitrations proceeding in the territory of India, law of that jurisdiction should determine the threshold question whether the dispute is subject to arbitration.<sup>6</sup> Also since the Indian Courts will have jurisdiction to decide on matters of enforceability, the applicable law must be the law of the seat<sup>7</sup>, i.e. law of India.

Every civil or commercial dispute, contractual or non- contractual, which can be decided by a court, is, in principle, capable of being adjudicated and resolved by arbitration unless the jurisdiction of the Arbitral Tribunals is excluded either

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<sup>3</sup> Kaufmann-Kohler G/ Stucki B, “International Arbitration in Switzerland, A Handbook for Practitioners International Arbitration in Switzerland, A Handbook for Practitioners”, 2004, 1<sup>st</sup> ed., *Kluwer Law International*, 2004, p.18; Andrea Marco Steingruber, *Consent in International Arbitration*, 2012, 1<sup>st</sup> ed., OUP, 2012, ¶155-156; DFT 129 III 675, Swiss Federal Tribunal (8 July, 2003).

<sup>4</sup> United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 10 June 1958, art. II(1) & V(2)(a); UNCITRAL Model Law on International Commercial Arbitration, 21 June 1985, art. 34(2)(b)(i) & 36(1)(b)(i).

<sup>5</sup> United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 10 June 1958, art. V(2)(a); Albert Jan van den Berg, “The New York Arbitration Convention of 1958, Towards a Uniform Judicial Interpretation”, 1981, *Kluwer Law International*, 1981, 368-375.

<sup>6</sup> E. Gaillard/ J. Savage, *Fouchard, Gaillard, Goldman on International Commercial Arbitration*, 1999, *Kluwer Law International*, 1999, ¶655.

<sup>7</sup> ICC Award No. 14046, YCA 2010, 241 et seq. at 250.

expressly or by necessary implication.<sup>8</sup> Adjudication of certain categories of proceedings are reserved by the legislature exclusively for public fora as a matter of public policy. Certain other categories of cases, though not expressly reserved for adjudication by public fora, may by necessary implication stand excluded from the purview of private fora.<sup>9</sup>

Arbitral Tribunals in the past have described questions of patent invalidity as having no *erga omnes* effects<sup>10</sup> and have accordingly shown reluctance to resolve disputes involving the existence of intellectual property rights. The Law and Practice of Arbitration and Conciliation instantiates disputes relating to patent, trademarks and copyright as the first category of non-arbitrable disputes.<sup>11</sup> It is incompatible with the jurisprudence relating to arbitrability, to allow the arbitration of questions of validity or infringement of patents or challenges to the contractual nature of arbitration, since a private arbitrator is not authorised to dictate legal effects *erga omnes*.<sup>12</sup>

However, it is only rights which are valid as against the whole world that cannot be the subject of private arbitration.<sup>13</sup> The Supreme Court, in devising a test for arbitrability, has taken a straight-jacket umbrella formula thereby creating a mirror-house in the name of defining subject-matter arbitrability.

## 2. Current position

Insofar as the statutory scheme relating to arbitration is concerned, neither the Arbitration and Conciliation Act, 1996 nor the New York Convention, does not specifically exclude any category of disputes as being not arbitrable. Such categories of non-arbitrable subjects are only carved out by the courts, keeping in mind the principle of common law that certain disputes which are of public nature and thus not capable of Arbitration.<sup>14</sup> The Arbitral Tribunals are private fora chosen voluntarily by the parties to the dispute, to adjudicate their disputes in place of courts and tribunals which are public fora constituted under the laws of the country.

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<sup>8</sup> Francis Russell, *Russell on Arbitration*, 2002, 22<sup>nd</sup> ed. Sweet & Maxwell, 2002, 28 ¶2.007.

<sup>9</sup> Rakesh Malhotra v. Rajinder Kumar Malhotra, 2014 SCC OnLine Bom 1146 para 35.

<sup>10</sup> Interim Award, ICC Case No. 6097, 4(2) ICC Ct. Bull. 76 (1993).

<sup>11</sup> See more: O.P. Malhotra, *The Law and Practice of Arbitration and Conciliation: The Arbitration and Conciliation Act, 1996*, 2001, 3<sup>rd</sup> ed., Lexis Nexis, 2014.

<sup>12</sup> John Aeschlimann, 'The Arbitrability of Patent Controversies' 44 *J. Pat. Off. Soc'y* 655, 1962, 662-663..

<sup>13</sup> Lord Mustill/ Stewart C. Boyd, *Commercial Arbitration: 2001 Companion Volume* 73, 2000, 2<sup>nd</sup> ed. Butterworths Tolley, 2000.

<sup>14</sup> A. Ayyasamy v. A. Paramasivam, (2016) 10 SCC 386, 25.

Different High Courts and Supreme Courts have varied in their judicial pronouncements related to IPR. While Supreme Court has not made an elucidated binding demarcation, different benches of the same High Court have differed from each other exponentiating to conundrums.

High Court of Delhi in *Mundipharma AG v. Wockhardt Ltd.*<sup>15</sup> pondered over the Chapter XII of the Copyright Act 1957, relating to civil remedies in case of infringement of copyright. It was explicitly accentuated that the remedies arising out of Copyright infringement cannot be subject matter of arbitration and therefore any proceeding for such infringement must be instituted in district Court. In the case of *Ministry of Sound International v. M/S Indus Renaissance Partners*<sup>16</sup>, the Court was of view that arbitrability of IPR depends upon lack of absolute bar on the same. The Court observed that a contract must be constructed in the liberal manner and not in the pedantic and legislative manner. Later, while demarcating between *in rem* and *in personam* rights in *HDFC Bank v. Satpal Singh Bakshi*<sup>17</sup>, the Court observed that ‘all disputes relating to “right *in personam*” are arbitrable.

High Court of Bombay, in *SAIL case*<sup>18</sup>, while dealing with trademark infringement held that “*rights to a trademark and remedies in connection therewith are matters in rem and by their very nature not amenable to the jurisdiction of a private forum chosen by the parties*”. In *Deepak Thorat v. Vidli Restaurant Limited*<sup>19</sup>, the Bombay High Court reiterated the holdings of the *Eros Case*<sup>20</sup> which observed that IPR infringement fall within the ambit of *in personam*.

High Court of Madras in the case of *R.K. Production Pvt. Ltd. v. M/s. NK Theatres Pvt. Ltd.*<sup>21</sup> dealt with the non-payment of consideration and applicability of arbitration award over third party. The bench settled with the view such non-separable dispute cannot be referred to arbitration. *Lifestyle Equities CV v. QD Seatoman Designs Pvt. Ltd.*<sup>22</sup> case was concerned with the demarcation between disputed claim of copyright and validity of registration of a copyright. The Court concluded with the view that arbitration of infringement of patent can be referred to arbitration.

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<sup>15</sup> *Mundipharma AG v. Wockhardt Ltd.*, 1990 SCC OnLine Del 269

<sup>16</sup> *Ministry of Sound International v. M/S Indus Renaissance Partners*, 2009 SCC OnLine Del 11.

<sup>17</sup> *HDFC Bank v. Satpal Singh Bakshi*, 2012 SCC OnLine Del 4815

<sup>18</sup> *Steel Authority of India Limited (SAIL) v. SKS Ispat and Power Limited*, Notice of Motion (L) No. 2097 of 2014 in Suit No. 673 of 2014, decided on 21st November 2014.

<sup>19</sup> *Deepak Thorat vs. Vidli Restaurant Limited*, 2017 SCC OnLine Bom 7704.

<sup>20</sup> *EROS International Media Limited V. Telexmax Links India Pvt. Ltd.*, 2016 (6) ARBLR 121 (Bom).

<sup>21</sup> *RK Production Pvt. Ltd. v. M/s. NK Theatres Pvt. Ltd.*, 2012 SCC OnLine Mad 5029

<sup>22</sup> *Lifestyle Equities CV v. QDSeatoman Designs (P) Ltd*, 2017 SCC OnLine Mad 7055.

The Supreme Court in the landmark *Booz Allen case*<sup>23</sup> laid down the test on the basis of the nature of right in question. It stated that although a question relating to a *right in rem* cannot be adjudicated through arbitration, questions relating to rights *in personam* are arbitrable. The Supreme Court also acknowledged that this rule is not impeccable as the subordinate right *in personam* arising out of right *in rem* might be arbitrable. However, it must be noted that such part of judgement was merely an observation made by Supreme Court and hence does not create binding nature. The Court however did not enunciate patent related disputes or any of its particular type as not capable of settlement by arbitration.

According to the Indian jurisprudence, arbitration is not available to determine matters of invalidity, as the Patent Office does not recognise arbitral awards in this respect. However, the disputes arising out of contracts between parties, like patent licensing disputes, or disputes on authenticity of product and patent infringement, can be subject to arbitration.

Indeed, it is possible that a certain claim is not contained in the arbitration agreement or that it has been already judged by a previous award. It is clear then that arbitrability is not a condition of validity of the arbitration agreement, but it is a preceding condition, necessary for the tribunal in order to have jurisdiction. Inarbitrability affects only a precise claim, allowing the tribunal to assume jurisdiction over other claims, which are part of the same agreement. This happens because it is not the subject matter of the agreement which is, *in abstracto* inarbitrable, but this condition affects the specific disputes, which will be ad hoc determined as inarbitrable.

### 3. The anomalous demarcation

The law laid down by the SCI in the *Booz Allen Case*<sup>24</sup> clearly states that although subject matter of arbitration that involves rights *in rem* suffers from a disqualification of arbitrability, rights *in personam* are nonetheless arbitrable in nature. However, the SCI also recognized that this rule isn't infallible and that subordinate rights *in personam* that arise from rights *in rem* might be subject to arbitration<sup>25</sup>, like the IP disputes arising from commercial arrangements for the use of Intellectual Property, are arbitrable disputes.

Further, the more succinct approach in *Rakesh Malhotra case*<sup>26</sup> suggests that the test for arbitrability was to be made basing on the nature of the relief sought. This makes quite an objective test conveniently disregarding the effect in essence

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<sup>23</sup> *Booz Allen and Hamilton Inc. v. SBI Home Finance Ltd. & Ors.*, AIR 2011 SC 2507.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Rakesh Malhotra v. Rajinder Malhotra* (2015) 2 CompLJ 288 (Bom).

on the rights of any person.

Following the same principle, the Court in *Eros Case*,<sup>27</sup> held that the remedy sought in a commercial dispute relating to IPR infringement is *in personam* as it is against an individual and only binds that particular party.<sup>28</sup> Similarly, it was held in *Lifestyle Equities case*<sup>29</sup> that although there is a restriction to arbitrability of disputes relating to the validity of patents, disputes relating to the infringement of a patent is arbitrable.

However, an arbitral tribunal obviously cannot effect registrations of intellectual property rights or invalidate a patent generally, thereby affecting the rights of the public or third parties.

#### 4. Public policy

Section 48(2)(b) Arbitration and Conciliation Act, 1996<sup>30</sup> as well as its corresponding provision in the Model Law<sup>31</sup> makes it abundantly clear that enforcement can be refused on the ground that the award violates public policy. Thus, any award which is against the public policy of India can be challenged before the appropriate court of law, arbitral awards relating to patent infringement or validity could be denied as being against public policy or patently in violation of statutory provisions.

The exception of Article II (1) of New York Convention also encompasses disputes involving matters of public policy which are deemed inappropriate for resolution by arbitration, as distinguished from national judicial, administrative, or other governmental proceedings.

The complication emanates in finding equilibrium between interests of the parties in maintaining confidentiality, and the interests of the public, thereby, preventing the arbitration of disputes involving rights in rem or third-party interests. Apart from these, arbitration is criticised for lacking to envisage the effect of deterrence which is one of the pertinent issue focused by State while considering what constitutes public policy.

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<sup>27</sup> EROS International Media Limited V. Telemex Links India Pvt. Ltd., 2016 (6) ARBLR 121 (Bom).

<sup>28</sup> *Ibid.* ¶17, 19.

<sup>29</sup> Lifestyle Equities CV v. QD Seatoman Designs (P) Ltd, 2017 SCC OnLine Mad 7055, ¶ 5(p), 5(t).

<sup>30</sup> Arbitration & Conciliation Act, (Act No. 26 of 1996), §48(2) (b) (1996).

<sup>31</sup> UNCITRAL Model Law on International Commercial Arbitration, 21 June 1985, art. 4(2)(b) (ii).

## 5. Why must the Courts make a more meticulous determination

Firstly, Article V(2)(a)'s<sup>32</sup> formula cannot be directly transposed to the stage of enforcing arbitration agreements, as distinguished from arbitral awards.<sup>33</sup> In particular, the fact that a state might rely on its local non-arbitrability rules under Article (2)'s exception at the award enforcement stage in no way suggests that these provisions are binding on Tribunals.<sup>34</sup>

Secondly, it is necessary for national courts to subordinate domestic notions of arbitrability to the international policy favouring commercial arbitration.<sup>35</sup> Under this analysis, the fact that a particular matter is non-arbitrable in a domestic setting under a particular national law does not necessarily mean that it will be non-arbitrable in an international setting. Rather local non-arbitrability rules are often interpreted as applicable only in domestic matters.<sup>36</sup> The rationale for this conclusion has been that, in international cases, national conceptions of public policy and mandatory law should be moderated, in light of the existence of competing public policies of other states and the shared international policy of encouraging the resolution of international commercial disputes through arbitration.<sup>37</sup>

Thirdly, in resolving issues of non-arbitrability by reference to implied legislative intent and the competing policies of the New York Convention and a particular regulatory regime, courts in different jurisdictions have typically considered a common core of recurrent factors which includes the *public values* or *public interests* at issue,<sup>38</sup> the extent to which arbitral procedures are suited to resolution of the dispute,<sup>39</sup> whether such disputes involve unacceptable, systemic

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<sup>32</sup> United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 10 June 1958., art. V(2)(a).

<sup>33</sup> Julian D.M.Lev/Loukas A. Mistelis/Stefan M. Kroell, *Comparative International Commercial Arbitration*, 2003. ed., Wolters Kluwer International, 2003, ¶6-48.

<sup>34</sup> Award in ICC Case No. 5730, 117 J.D.I. (Clunet) 1029, 1033 (1990).

<sup>35</sup> *Mitsubishi Motors Corp. v. Soler Chrysler- Plymouth, Inc.*, 473 U.S. 639 (1985).

<sup>36</sup> *Scherk v. Alberto- Culter Co*, 417 U.S. 506 (1974).

<sup>37</sup> E. Gaillard/ J. Savage, *Fouchard, Gaillard, Goldman on International Commercial Arbitration*, 1999 ed. Kluwer Law International, 1999, ¶575; See more: Mourre & Radicati di Brozolo, 'Towards Finality of Arbitral Awards: Two Steps Forward and One Step Back' 23 *Journal of International Arbitration* 171, 2006.

<sup>38</sup> *Wilko v. Swan*, 346 U.S. 435 (1953); *SpA Abati Legnami v. Fritz Haupl*, Corte di Cassazione, 3221, Yearbook XVII (Italy no. 110) 529-533 (1992).

<sup>39</sup> *Wilko v. Swan*, 346 U.S., 438 (1953); *Mitsubishi Motors Corp. v. Soler Chrysler- Plymouth, Inc.*, 473 U.S. 640 (1985).



disparities of bargaining power between the parties<sup>40</sup> and the effect of a decision on third party rights.<sup>41</sup>

Most importantly, the current differentiation does not operate rationally for matters where determination of a right *in personam* arising out of a contract or any other relationship necessarily affects or causes to affect a question or determination of a question involving rights in rem. For example, a case where the sale of a patented product forms the essence of the contract or where a patented product has been sold with additional modification. In such cases, a Tribunal's determination on the validity of the sale would necessarily affect the patent rights of the patent-holder and the validity of any addition made to the original product. Such an order although made for the parties before the Tribunal would operate as against the whole world.

## **6. Advantages of arbitration of disputes remotely related to intellectual property**

Arbitration saves time and is available at any time the parties are ready to negotiate. Parties do not have to wait for the court to be ready. Once disputing parties choose summary adjudication, arbitration can be even more expedient. As such, arbitration appears to be a much more time-efficient solution.

While litigation may be slow and expensive, arbitrations can expedite cases and reduce courts' caseload without sacrificing the fairness of the resolution. International commercial arbitration can be much cheaper than international lawsuits because arbitration is quicker and has fewer requirements than formal litigation. The costs spent in litigation such as hiring expert witness, paying for discovery, and preparing exhibits can be huge, especially in complicated patent disputes. That apart, one cannot on any given odd day, forget the inconvenience that would be caused to a person or company seeking an interim relief in a commercial dispute by virtue of it involving a question relating to intellectual property.

Injunctions can be decisive in patent disputes as they restrain the defendant from infringing the patent in issue during the pendency of the proceedings. They can be of vital importance in maintaining market share, preventing price erosion, and pre-empting a loss of customer goodwill, among other things. An incidental advantage of obtaining a preliminary injunction in a patent dispute is that it may coax the parties to rationally settle their disputes without engaging in further legal proceedings. The utility of patent arbitration is evidenced by its increasing popularity in high-stakes disputes.

Arbitration is usually regarded as a tool to resolve the disputes with minimal

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<sup>40</sup> Mitsubishi Motors Corp. v. Soler Chrysler- Plymouth, Inc., 473 U.S. 646-50 (1985).

<sup>41</sup> Zimmerman v. Cont'l Airlines, Inc., 712 F.2d 55 (3d Cir. 1983) at 59-60.



damage to business relationships. Especially in patent disputes, the claimant and the respondent generally have a business relationship. If they can maintain their relationship the arbitration, they can go on to benefit from each other after the resolution. In contrast, parties may attack each other in a lawsuit, destroying future business opportunities without maintaining a friendly business relationship.

In commercial arbitration, the parties are more likely to choose the experts and the procedures. This will allow the parties convenience and flexibility. In patent cases specifically, experts chosen by the parties to be the arbitrators can judge the technology issues independently. In such cases, the arbitrators can review the expert reports instead of following it with blind deference.

## 7. Conclusion

In resolving issues of non-arbitrability by reference to implied legislative intent and the competing policies of the New York Convention and a particular regulatory regime, consideration must be given to a common core of recurrent factors. These include the *public values* or *public interests* at issue<sup>42</sup>, the extent to which arbitral procedures are suited to resolution of the dispute<sup>43</sup>, whether such disputes involve unacceptable, systemic disparities of bargaining power between the parties<sup>44</sup> and the effect of a decision on third party rights.<sup>45</sup>

The Arbitration and Conciliation Act, 1996 should be interpreted so as to bring in line the principles underlying its interpretation in a manner that is consistent with prevailing approaches in the common law world. Jurisprudence in India must evolve towards strengthening the institutional efficacy of arbitration. Deference to a forum chosen by parties as a complete remedy for resolving all their claims is but part of that evolution. Minimising the intervention of courts is again a recognition of the same principle.<sup>46</sup>

Challenges with respect to confidentiality of IP disputes which affect public at large can be addressed through legislation requiring that some or all of the proceeding be publicly disclosed. For example, USA laws explicitly allow arbitration of patent validity and infringement issues and arbitration of any aspect of patent interference disputes but a copy of any arbitral award must be given to the United States Patent and Trademark Office. Similarly, Switzerland practices the registration of an arbitral award with the authority which issues and maintains

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<sup>42</sup> Wilko v. Swan, 346 U.S. 427 (1953) at 435.

<sup>43</sup> *Ibid.* at 438; Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (1985) at 640.

<sup>44</sup> Mitsubishi Motors Corp. v. Soler Chrysler-Plymouth, Inc., 473 U.S. 614 (1985) at 646-50.

<sup>45</sup> Zimmerman v. Cont'l Airlines, Inc., 712 F.2d 55(3d Cir. 1983) at 59-60.

<sup>46</sup> A. Ayyasamy v. A. Paramasivam, (2016) 10 SCC 386, 53.

patents. Awards rendered in connection with the validity of intellectual property rights are recognized as the basis for entries in the register, provided these awards are accompanied by a certificate of enforceability issued by the Swiss court at the seat of the arbitral tribunal in accordance with Article 193 of Swiss Private International Law Act.

Such examples suggest that India can also increase and promote arbitration in IP disputes also ensuring balance between confidentiality and public interest with the help of effective legislation. Marc Blessing has also argued that the limit of arbitrability is not set by the interference of foreign mandatory rules of law, but only by the limits mandated on the grounds of public policy in international affairs. Concluding, it can be said that the limits are self-imposed rather than an express prohibition in the law<sup>47</sup>.

The bottom-line still remains that legislations are in reality the most efficient means of addressing the dispute. In pursuit of ease of adjudication under a straight-jacket formula we are running the risk of setting a stage hostile to contemporary technology. It is nothing short of disappointment that India is not being preferred as a seat of international arbitration merely because of apprehensions that the rigid rules of arbitrability will be a hurdle to fair, effective and expeditious relief. However, the true intention behind arbitration which came into being with the Alabama claims would not survive the test of ignorance and must therefore be preserved and advanced.

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<sup>47</sup> See more: Marc Blessing, 'Mandatory Rules of Law versus Party Autonomy in International Arbitration' 14(4) *Journal of International Arbitration*, 1997.

## **KONTURE TRGOVAČKE ARBITRAŽE: RASPRAVA O ARBITRABILNOSTI SPOROVA O PRAVU INTELEKTUALNOG VLASNIŠTVA U INDIJI**

### **Sažetak**

Sa promjenom uloge države, od kontrolora do zaštitnika, privatni interesi, koji potiču iz privatnih pregovora, danas zavise od pravne zaštite, kako bi se osigurala iskrenost, transparentnost i konkurencija. Poticaj koji je globalizacija dobila uz uvođenje *Make in India* kampanje, otvorio je vrata velikom broju novih i unaprijeđenih formi trgovačkih odnosa koje zahtijevaju stručnost, fleksibilna pravila i brzu pomoć.

S preko hiljadu međunarodnih trgovačkih arbitraža koje se odvijaju širom svijeta, prilika da Indija bude jedno od najtraženijih sjedišta arbitraže, većinom zavisi od prirode njenih zakona. Država mora osigurati zakone koji će biti naklonjeni arbitraži, a da pri tome neće ugroziti autoritet suverenih državnih organa. Ovaj rad je usmjeren na pravednost, opravdanost i posljedice takvog aspekta prava u sporovima o pravu intelektualnog vlasništva. Ovaj rad tematizira takođe i razloge koji se kriju iza donošenja takvih zakona, te obim nadležnosti arbitražnih tribunala kojima je sjedište u Indiji.

***Ključne riječi:*** arbitraža, intelektualno vlasništvo, vlasništvo, UNCITRAL, Njujorška konvencija, javni poredak.