

## **International arbitration is an ideal method for resolving tech disputes**

Technology (spanning AI, advanced robotics, data analytics to the internet of things (IoT)) is fundamentally shifting the way that individuals, businesses and governments interact with one another.

This rapid change increases complexity, and uncertainties in the field. Thus, it is of no surprise that across all stakeholder levels, tech disputes are becoming more prevalent. In recent years, commercial tech disputes across the globe and, in particular, in Europe, have made headlines, ranging from the telecommunications and IT sectors to the med-tech space with many more such arbitrations staying out of the public eye. Moreover, the proportion of tech disputes at ICSID appears to have doubled in 2022 compared to three years ago.

In recent years, international arbitration has emerged as an effective mechanism for resolving intricate cross-border disputes spanning various industries, notably within the technology sector. Technology companies have increasingly embraced international arbitration for resolving disputes in diverse contexts. Notable instances include LG Corporation's successful arbitration award in a patent infringement case against its Japanese rival, Sharp Corporation; Plintron Holdings' defense against breach of contract allegations brought by Brazil's Surf Telecom; and Monsoon Blockchain Storage's victory in arbitration against Korean LED manufacturer, Magic Micro, for violating a share purchase agreement in 2018.

While technology firms have traditionally turned to commercial arbitration, both domestically and internationally, there's a rising trend of companies resorting to investor-state arbitration to address grievances related to alleged harmful conduct by states affecting their investments. For instance, in January of the previous year, Huawei, a Chinese telecommunications giant, initiated arbitration proceedings against Sweden following the latter's refusal to lift a ban on Huawei products in its 5G rollout. Huawei invoked provisions of the China-Sweden Bilateral Investment Treaty (BIT), alleging that Sweden's ban contravened its rights as a Chinese investor under the BIT.

In a final example from a different region, a multi-national technology company, and its relevant domestic subsidiary, recently turned to an investment treaty to resolve a dispute with a Latin American State. After notifying the State of the dispute, the company was able to resolve the issue amicably.

In another instance from a distinct geographic region, a multinational technology enterprise and its domestic subsidiary resolved a dispute with a Latin American state through an investment treaty. After notifying the state of the dispute, the company reached an amicable resolution.

### [Why is Arbitration ideal for High-Tech disputes?](#)

1. Arbitration is more adept at resolving complex technical or scientific disputes due to its provision of expert decisions.
2. In arbitration, parties have the option to choose an experienced arbitrator possessing industry-specific knowledge, expertise in the relevant science and/or technology, and familiarity with any legal and regulatory frameworks.
3. Arbitration minimizes the potential for harm to established long-term relationships with business partners and clients.

4. In arbitration, there are no appeals on the merits, resulting in cost savings for companies by circumventing time-consuming court appeals.
5. Non-disclosure or confidentiality agreements are routinely employed in various commercial settings to safeguard trade secrets and confidential business information.

**Sources:**

Toby Fisher, Korea's LG wins damages in a dispute with Sharp, *Global Arbitration Review* (May 30, 2022), available at <https://globalarbitrationreview.com/article/koreas-lg-wins-damages-in-dispute-sharp>.

Plintron succeeds in Arbitration against Surf Telecom, *Plintron* (June 8, 2022), available at <https://plintron.com/plintron-succeeds-in-arbitration-against-surf-telecom/>.

*Monsoon Blockchain Storage, Inc. v. Magic Micro Co.*, ICDR Case No. 01-19-0002-4620, Final Award (April 14, 2022), available at <https://jusmundi.com/en/document/decision/en-monsoon-blockchain-storage-inc-v-magic-micro-co-ltd-final-award-thursday-14th-april-2022>.

*Huawei Technologies Co. v. Kingdom of Sweden*, ICSID Case No. ARB/22/2, Request for Arbitration (Jan. 7, 2022), available at <https://www.italaw.com/cases/9128>.

Arbitration in Technology Disputes Eric Leikin, Lutz Riede, Matthias Hofer and Sue Ng Freshfields Bruckhaus Deringer 11 November 2022, <https://globalarbitrationreview.com/review/the-european-arbitration-review/2023/article/arbitration-in-technology-disputes#footnote-083>