Resolving Intellectual Property Disputes Through Arbitration in Malaysia: Comparative Analysis With Hong Kong And Singapore

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ABSTRACT

The significant development in technologies and innovations has led to the rise in the issuance of patents, trademarks and registrability of domain names. This progression tends to trigger friction between related parties, causing intellectual property (IP) disputes to become more common among businesses. With the rising number of IP cases, it is essential to consider proper dispute resolution mechanisms to resolve such issues, possibly by implementing specific statutory provisions. This paper aims to analyse and provide a better understanding of the significance of Alternative Dispute Resolution (ADR), particularly arbitration, in respect of resolving IP disputes in Malaysia. In this study, doctrinal research and a qualitative approach were employed by analysing the existing legal framework of the arbitration of IP dispute resolution in Malaysia and the selected jurisdiction of Hong Kong and Singapore. The Malaysian legislation on arbitration of IP disputes will be compared to these two jurisdictions, which serve as a benchmark for the implementation of relevant legislation governing IP dispute resolution. This study may contribute to providing knowledge to members of the public regarding the arbitration of IP disputes, thus considering arbitration as the means to resolve such disputes. Pertaining to the analysis of the existing law, it is imperative to scrutinise the Malaysian arbitration law in determining the arbitration of IP matters and to encourage the utilisation of arbitration as a powerful and convenient tool for resolving IP disputes outside the court.

Keywords: Arbitration, Alternative Dispute Resolution, Intellectual Property, Intellectual Property Dispute, Arbitral Award

INTRODUCTION

"Discourage litigation. Persuade your neighbours to compromise whenever you can. Point out to them how the nominal winner is often a real loser - in fees, expenses, and waste of time. As a peacemaker the lawyer has a superior opportunity of being a good man. There will still be business enough."

-Abraham Lincoln

The emergence of intellectual property (IP) is rapidly advancing in a broad range of goods and services which resulted from human creativity. Due to this, it becomes a concern as to the rising disputes originating from IP being common in businesses and covering a wide category of work. The broad range of subject matter, such as copyright, patent, trademark and industrial design that are protected under IP law led to the increasing numbers of IP disputes which have been resolved by way of litigation and arbitration as an alternative resolution. Although arbitration has been recognised for decades, legislations on IP in Malaysia are still behind in enforcing such avenues to resolve a dispute, instead prioritising litigation as the only means. This can be seen from the implementation of the Malaysian Arbitration Act 2005 and the various IP legislations, such as the Patents Act 1983, the Copyright Act 1987, the Trademarks Act 2019 and the Industrial Designs Act 1996, which are silent on the arbitration of IP disputes (Lam, 2014).

Malaysia's legal system is grounded in the Federal Constitution, which stands as the supreme law in the country. Alongside this, the common law tradition inherited from British colonial rule forms the backbone of Malaysia's legal system. This system governs civil and criminal matters, including contract, tort, and property law. Malaysian courts frequently draw upon English common law principles and precedents in their rulings (University of Hong Kong Libraries, n.d.).

Strategically located in Southeast Asia and the Asia-Pacific regions experiencing rapid economic growth Malaysia faces increasing numbers of legal disputes in recent decades. Its geographic position between two of the world's key maritime trade routes, the Straits of Malacca and the South China Sea, also enhances its appeal as a destination for arbitration (Chartered Institute of Arbitrators, Malaysia Branch, n.d.).

As a trade-oriented economy, Malaysia plays a vital role in the global market, supported by its openness to trade and investment. The country's participation in various bilateral and regional trade agreements further promotes broader market access (Ministry of Finance, Malaysia, 2024). In a similar vein, Singapore's legal system is firmly rooted in the English common law tradition. This legacy contributes to legal certainty, stability, and international compatibility, particularly in commercial matters. While other countries in the region such as Malaysia, India, Brunei, and Myanmar share this common law foundation, each applies it according to their distinct legal and policy frameworks (Tan & Chan, 2019). Hong Kong, too, maintains a strong commitment to the rule of law and judicial independence, both of which are essential to its status as a global financial hub. The common law system continues to operate in Hong Kong under constitutional protection, making it the only common law jurisdiction within China (Hong Kong SAR Government, n.d.). Since Malaysia's shared common law heritage with Singapore and Hong Kong, its growing role in international trade, and its strategic location, the country is well-positioned to advance reforms in the arbitration of intellectual property disputes.

In many jurisdictions, IP disputes were regarded as non-arbitrable since the disputes were traditionally dealt with before national courts (Gandhi, 2021). However, since IP plays an essential role in the global economy with the rise of internet domain name disputes and trade secrets, businesses must remain vigilant in ensuring their IP rights are protected. Hence, arbitration may be an ideal alternative for resolving IP disputes due to its confidential nature compared to the public proceedings in the civil courts (Nasaruddin & Tengku Anuar, 2021). Due to the uncertainty regarding the arbitration of IP disputes, it is crucial to establish whether a specific matter in dispute can be resolved through arbitration or if the courts must decide on it.

This study aims to analyse Malaysian legislation and to examine the law in other jurisdictions, i.e., Hong Kong and Singapore, in determining what is arbitrable in IP to eliminate the uncertainty of arbitration of IP disputes and therefore ensuring that arbitration is an effective method in resolving disputes. The laws of Hong Kong and Singapore are reviewed as benchmarks since both jurisdictions are considered leading pioneers in the context of arbitration of IP disputes.

LITERATURE REVIEW

Alternative Dispute Resolution (ADR) is an all-encompassing term which refers to multiple non-judicial methods of handling conflict between parties. ADR methods provide quicker and more cost-effective alternatives to litigation for resolving disputes (Leow, 2024). The main types of ADR include mediation, arbitration, negotiation, and conciliation. (Britton, 2024). Arbitration is regarded as an alternative dispute resolution method because of its many benefits, including the speed at which disputes can be resolved and the arbitrators' subject-matter competence. In 1994, the WIPO Arbitration and Mediation Centre was established to encourage the use of alternative dispute resolution in IP issues (Aljaber, 2024).

WIPO (2025) describes arbitration as a procedure in which a dispute is submitted, by agreement of the parties, to one or more arbitrators who make a binding decision over the dispute. In choosing arbitration, the parties choose a private dispute resolution procedure instead of going to court. Most often, arbitration is viewed as being opposed to litigation. Through the process of arbitration, a dispute is agreed to be brought to one or more arbitrators, who then render a legally enforceable ruling on the matter. Instead of going to court, the parties choose arbitration as a private conflict settlement process. (WIPO, 2025).

Although intellectual properties are not perceptible by touch, there exist sets of rights regarding the ownership, use and sale of items created using a person's intellect and creativity, such as musical compositions, logos, goods and products. Exactly how the owner enforces these rights will depend on the national laws of the country concerned, but countries often provide a mixture of civil and criminal penalties for infringement (WIPO, 2025).

Litigation continues to be the most preferred method of resolving IP disputes, even though ADR has long been available to IP litigants (Abraham, 2020). However, over time, issues concerning IP rights are increasingly being resolved through arbitration as a private and confidential process, particularly when parties from various jurisdictions are involved. There are certain aspects of IP disputes that arbitration can address more effectively than court litigation. In choosing the process for resolving disputes involving IP, there are several factors that must be taken into consideration. One of the factors affecting the arbitration of IP disputes is public policy of a specific state.

Moreover, arbitration is a dispute resolution mechanism based on a contract and with the consent of the parties involved. By the very nature of such an arrangement, it can be considered right *in personam*. A third party cannot be made binding to the award of an arbitration proceeding as they are not the party to such procedure. This makes it a general practice that arbitration in IP disputes can be applied only to right *in personam* and not to right *in rem* (Reed et al., 2021). Rights *in rem* are rights related to a specific property and can be enforced against anyone who interferes with that property. On the other hand, rights *in personam* are rights that involve a specific person and can only be enforced against that person. The dilemma arises because an IP right is a right that may be enforced against the entire globe, making it standard practice that arbitration in cases of IP disputes can only be applied to right *in personam* and not to right *in rem*.

There have always been arguments over whether the state should have the only authority to determine the validity, enforceability and recognition of IP rights since the state is the one that initially grants IP rights. In many nations, disputes involving copyright infringement that do not require registration can be resolved by arbitration. The issue primarily arises when it comes to patents and trademarks. The main argument is that since an arbitrator is chosen by the parties themselves, he or she cannot rule on issues pertaining to IP rights that were originally given by the states (Mantakou, 2009).

Abraham (2020) affirmed that in certain IP disputes such as patent cases, arbitration provides the advantage where the parties can choose arbitrators with specialist technical expertise. It is viable to appoint a person with first-hand knowledge and experience in that sector notwithstanding Malaysia has an IP court with specialised judges. This is due to the complexity of patent cases that require consideration of the relevant subject matter in making a proper judgement.

However, it is highly uncommon for the IP owner and the infringer to find themselves having already agreed to resolve their conflict through arbitration in Malaysia even though arbitration processes have been provided for by institutions such as the Kuala Lumpur Regional Centre for Arbitration (KLRCA), established in 1978 and later rebranded as the Asia International Arbitration Centre (AIAC) (Abraham, 2020). The arbitration of IP issues is also not addressed in the Malaysian Arbitration Act 2005 (AA 2005) (Abraham, 2020). Not only that, the Malaysian IP Acts such as Trademarks Act 2019, Copyright Act 1987, Patents Act 1983 and Industrial Designs Act 1996 only mention the court as a medium to enforce these Acts (Lam, 2014).

Norton Rose Fulbright (2022) notes that strong judicial support has been essential to Hong Kong's continued reputation as a leading arbitration hub. Eernisse and Kwong (2022) explain that Hong Kong's Arbitration (Amendment) Ordinance 2017 played a key role in reinforcing this position. In response, Singapore introduced the Intellectual Property (Dispute Resolution) Act 2019, confirming that IP disputes are arbitrable. This legislative move became a major advantage in promoting Singapore as a preferred arbitration venue.

International Arbitration Survey conducted by Queen Mary University of London (2025) revealed that 87% of respondents prefer international arbitration as a form of cross-border conflict settlement. The five most popular arbitration preferred seat are London, Singapore, Hong Kong, Beijing, and Paris. Given the success of both Hong Kong and Singapore in this area, Malaysia may benefit from adopting similar legislative reforms to

provide clearer guidance on the arbitration of IP disputes as In Hong Kong, the study by Abraham (2020) highlights that before the amendment of the Hong Kong Arbitration Ordinance in 2017 (Arbitration Ordinance), there was no provision explicitly discussing the arbitration of IP disputes, hence causing uncertainty. In resolving this uncertainty, Hong Kong has amended its Arbitration Ordinance, which was effective from 1 January 2018, addressing such issues by making it clear that all IP disputes are arbitrable. These amendments are included in Part 11A of the Arbitration Ordinance, which includes enforceability, validity, subsistence, infringement, ownership, scope and many other aspects of an IP dispute (Abraham, 2020).

It can also be seen in the study by Clark (2021) that before these amendments were introduced, generally, only disputes regarding the infringement and validity of IP rights could be arbitrated. Since the area of arbitration of IP disputes is often vague and unclear, relevant amendments are necessary to clarify such issues (Kalenský, 2019). It is also to be noted that one of the key factors in the amendment of the Arbitration Ordinance is due to the Hong Kong Government's effort to reinforce its status as the leading centre in international dispute resolution in the Asia-Pacific region (Brock et al., 2017). The study by Kalenský (2019) also reaffirms that the amendment is an attempt to continue promoting Hong Kong as one of the leading Asian jurisdictions favourable towards arbitration.

On the other hand, in discussing Singapore's position, it is affirmed by Wei and Fernando (2019) in their study that the arbitration of IP disputes has been clarified through the amendments made to the Singapore Arbitration Act 2001 (SAA) and International Arbitration Act 1994 (IAA). It was following the passing of the Intellectual Property (Dispute Resolution) Bill, which came into effect on 21 November 2019. Collopy and Yeo (2020) highlight the purpose of such changes and reform to the Bill was to strengthen the IP protection framework and to maintain Singapore's profile as an international arbitration hub.

These amendments confirm the subject matter to be arbitrated, which includes enforceability, infringement, validity, ownership or any other IP right aspect right (Abraham, 2020). It is also established in these Acts, as can be seen in the study by Reed et al. (2022), the arbitration of IP disputes is allowed, notwithstanding whether an IP right is a central issue or secondary to the central issues in dispute. Since the arbitration of IP disputes is now statutorily implemented in Singapore following the new amendments made to the SAA and IAA, it has ceased the misconception that IP disputes can only be resolved by national authorities or national courts (Wei & Fernando, 2019).

RESEARCH METHODOLOGY

The systematic, theoretical analysis of the procedures used in a field of research is known as methodology. It includes the theoretical examination of the body of procedures and rules related to a field of knowledge. It frequently includes ideas like stages, paradigms, theoretical models and quantitative or qualitative methodologies (Irny & Rose, 2005). The rationale for the research technique selections made by the researchers is required because it is thought to be the most crucial component of research (Crotty, 1998).

Adapting qualitative legal research, which is not numerical, setting it apart from quantitative (numerical) research. Research which questions the legal framework in each field is referred to as doctrinal or theoretical legal research. It is a type of legal analysis built on judicial reasoning and legislative enactment that includes in-depth research and creative synthesis, fusing together seemingly distinct doctrinal streams, as well as the process of extracting broad ideas from a non-specific collection of sources. The sources can be further classified into primary and secondary sources. Primary data and first-hand evidence are mostly found in primary sources, which also include interview transcripts, statistical information and creative works. A primary source would provide easy access to the research topic. On the other hand, secondary sources are second-hand information and study findings that are described, interpreted, or combined with primary sources. Examples include scholarly writings, book reviews, and journal articles.

The primary data gathered from the doctrinal approach will be collected through the legislations and case laws in Malaysia, Hong Kong and Singapore. Since this paper focuses on the arbitration of IP disputes in the respective countries, the primary source in this study for Malaysian law will be the Arbitration Act 2005. Other

than that, certain Malaysian IP Acts such as Trademarks Act 2019, Copyright Act 1987, Patents Act 1983 and Industrial Designs Act 1996 will also be examined to identify the option or means regarding IP disputes resolution in Malaysia.

The Hong Kong Arbitration Ordinance and Singaporean Arbitration Act, and International Arbitration Act will also be reviewed and perused. As for secondary sources, books which most of these sources are provided by the Perpustakaan Tun Abdul Razak (PTAR)'s library services, online sources from government and non-governmental websites, local and international reports, journal articles, newspaper articles, and thesis, as well as online database sources like LexisNexis and CLJ from the PTAR's online database, have been perused and analysed.

Other than that, a comparative study has also been conducted by comparing Malaysian law with Hong Kong and Singapore law. Comparative research is a method for researching legislation from several countries. It involves several procedures, including examining the laws and contrasting them on numerous criteria. It contrasts and emphasises the legal frameworks that various nations have adopted. In this research, comparative research will be carried out by comparing the law with regards to arbitration covered in the Malaysian Arbitration Act 2005 with the laws of Hong Kong and Singapore. These regulations will be analysed to identify the weaknesses and inadequacies of the law, hence will be able to propose recommendations.

Limitation Of the Study

This study is subject to several limitations. First, its focus is confined to Malaysia, with comparisons drawn from Hong Kong and Singapore. While these jurisdictions offer relevant points of reference, the findings may not be directly transferable to countries with different legal systems, institutional structures, or cultural contexts. Second, the research relies primarily on doctrinal analysis, using selected statutes, case law, and secondary literature. Although this approach allows for detailed legal interpretation, it may not reflect the full range of arbitration practices or judicial trends across the region. Third, the study does not include empirical data such as interviews, surveys, or in-depth statistical analysis, which limits insight into how arbitration is perceived and applied in practice in Hong Kong and Singapore in comparison to Malaysia.

RESULTS AND DISCUSSION

Arbitration of Intellectual Property Dispute in Malaysia

Section 4 of the Arbitration Act 2005 provides that parties can submit any dispute to arbitration including IP disputes, if doing so does not violate public policy or involve matters that Malaysian law considers non-arbitrable. Section 18 establishes the principle of kompetenz-kompetenz, allowing an arbitral tribunal to decide on its own jurisdiction, including whether a valid arbitration agreement exists. This section closely follows Article 16 of the UNCITRAL Model Law (Choong & Yap, 2025). The kompetenz-kompetenz doctrine has become a key topic in arbitration especially as arbitration increasingly replaces litigation in complex disputes (Sweet & Grisel, 2017). The doctrine of kompetenz-kompetenz rests on two key principles: first, that an arbitral tribunal has the authority to decide on its own jurisdiction without needing court intervention; and second, that courts will generally refrain from ruling on such matters until the tribunal has had an opportunity to do so.

In *TNB Fuel Services Sdn Bhd v China National Coal Group* [2013] 4 MLJ 857, the Court of Appeal confirmed this approach, stating that once a tribunal is properly constituted, it is fully capable of addressing jurisdictional challenges. This reflects the courts' general pro-arbitration stance, as seen in earlier decisions such as *CMS Energy Sdn Bhd v Poscon Corp* [2008] 6 MLJ 561. Additionally, Section 18(2)(a) confirms the separability of arbitration clauses, treating them as independent agreements that can be enforced even if the broader contract is challenged. Nonetheless, In Malaysia, resolving IP disputes through arbitration is still in its infancy compared to other jurisdictions like Hong Kong and Singapore.

The Asian International Arbitration Centre (2023) reports that its recent caseload involved 14 parties from three jurisdictions: Singapore (9), China (4), and Hong Kong (1). Consistent with previous years, construction

disputes made up the largest category, accounting for 57.28% of cases. This was followed by disputes arising from shareholders' agreements 13.59% and service agreements 12.62%. In contrast, intellectual property disputes remained minimal, comprising only 0.97% of the total cases. However, despite the absence of specific provisions, addressing the arbitration of IP disputes, arbitration may still be an option to resolve IP disputes in Malaysia. In *Colliers International Property Consultants (USA) and Anor v Colliers Jordan Lee and Jaafar (Malaysia) [2010] MLJU 650*, where Plaintiff made an application to register two arbitrals in the United Kingdom. However, the application was struck out because Defendant withdrew that application against the entry of the United Kingdom judgement.

The relevant awards, in this case, comprise two parts, first, an interim award which decided on the ownership of the "Colliers' trade name and mark and second, a monetary award consequent to the first award. The court held that the arbitration had determined very clearly the ownership vests in the Plaintiffs. The court recognised and registered this award. Defendant attempted valiantly but unsuccessfully to argue that the awards conflicted with the public policy of Malaysia and, therefore, pursuant to Section 39 (grounds for refusing recognition) of the Arbitration Act 2005, they should not be registered and enforced in Malaysia. Moreover, the judge disagreed with the Defendants' further arguments that the registration of these two arbitration awards conflicted with fundamental principles of justice or morality or was otherwise offensive to the public policy of Malaysia.

Furthermore, in *C & B Global Sdn Bhd v Getthiss (M) Sdn Bhd [2019] MLJU 347*, the Defendant made an application to stay an intellectual property dispute that has been commenced by writ action in the Intellectual Property Court to arbitration. The Plaintiff and the Defendant have an agreement which contains an arbitration clause stating that if any dispute, controversy or claim arises relating to the agreement, the arbitration shall take place in Malaysia and shall be the exclusive forum for resolving such dispute, controversy or claim. Subsequently, Plaintiff terminated the agreement and alleged that Defendant was in breach of the agreement, and Defendant continued to pass off Plaintiff's skin product and its related companies as if the agreement still subsisted. Defendant contended that the parties ought to have their disputes determined via arbitration by virtue of the plain and clear arbitration agreement, and Defendant then filed its application to stay the suit for reference to arbitration pursuant to Section 10 of the Arbitration Act 2005. The court held that Defendant has the genuine intention to have its dispute with Plaintiff arbitrated as agreed. The court allowed the application to be in the cause of the arbitration. Based on these two cases, Malaysian courts have shown a positive tendency to recognise and accept the arbitration of IP disputes.

Additionally, the provision on arbitration of IP disputes is absent in the Malaysian Arbitration Act 2005 and in the Asian International Arbitration Centre (AIAC) Arbitration Rules 2021. However, Section 4 of AA 2005 generally elaborates on the arbitration of the subject matter. Section 4(1) states that any dispute that the parties have agreed to submit to arbitration under an arbitration agreement may be determined by arbitration unless the arbitration agreement is contrary to public policy. This section permits IP disputes under an arbitration agreement to be submitted to arbitration so long as it is not contradictory to public policy. Section 4(2) provides that the court's jurisdiction over a particular dispute does not in itself prevent the determination of that dispute by arbitration. Thus, Section 4(2) does not prevent IP disputes from being determined by arbitration even though Malaysian courts have jurisdiction over the dispute.

However, in Malaysia, it is very unusual for the IP owner and infringer to have a prior agreement to resolve their disputes by arbitration. They do not consider incorporating arbitration clauses in their agreement. Thus, parties unable to opt for arbitration to resolve their IP dispute. One of the reasons parties refuse to choose arbitration is the ambiguity surrounding the arbitration of IP issues, particularly those involving the validity of IP, and the ambiguity over the enforceability of arbitral judgements in various jurisdictions. Moreover, there has not been a clear ruling on how the IP dispute can be arbitrated. As a result, many are still unsure about arbitration's viability in resolving IP disputes in Malaysia and opt to settle their differences through litigation to avoid any potential problems (Abraham, 2020).

Arbitration of Intellectual Property Dispute in Hong Kong and Singapore

Arbitration in Hong Kong is governed by the Hong Kong Arbitration Ordinance (Chapter 609 of the Laws of

Hong Kong) and is operated under the Hong Kong International Arbitration Centre (HKIAC) (Gearing & Liu, 2019). Historically, the uncertainty in arbitration of dispute or the execution of arbitral awards relating to IP in important jurisdictions have caused holders of IP rights to be hesitant in resolving issues involving such rights through arbitration. Due to this factor, Hong Kong has become one of the jurisdictions that adopted the legislative provisions addressing the issue of arbitration of IP disputes by passing the amendment to the Arbitration Ordinance in 2017. Through this amendment, parties may confidently initiate arbitrations to resolve IP disputes or seek to enforce arbitral awards with regards to IP-related rights (Brock et al., 2017).

On the other hand, in Singapore, arbitration is governed by the Arbitration Act 2001 and International Arbitration Act 1994. Similar to Hong Kong, Singapore also intends to bring legislative changes through the amendments to the Arbitration Act and International Arbitration Act in 2019. Both statutes clearly specify that the subject matter of an IP rights dispute is capable of settlement by arbitration (Wei & Fernando, 2019). These amendments include the subject matter that can be arbitrated and enforcement of arbitral awards, which are highlighted under Part 9A of the SAA and Part 2A of the IAA.

Among the amendments made to the Arbitration Ordinance and the Singapore Acts are clarifications that all disputes over IP-related rights may be submitted to arbitration and that it would not be contrary to the public policy to enforce arbitral awards involving such rights (Gearing & Liu, 2019). The wording 'as between the parties used in those legislations implies that the IP dispute may be resolved inter-partes (Prasad, 2020). This also applies to the arbitral award, which only binds the parties. Since a third-party licensee or third-party holder of a security interest in respect of the IP right is not considered as a party to the arbitral proceeding, such parties are not entitled to rely on the judgement enforcing the award, and only the parties themselves or any persons claiming through or under them would be able to rely on the same (Prasad, 2020). In other words, the judgement only affects the parties (in personam) and is not enforceable against the whole world (in rem).

The key provisions of the amendments in the Arbitration Ordinance, SAA and IAA are shown in Table 1 below.

Table 1: Key Provisions of Amendments

Key Provisions	**Hong Kong Arbitration Ordinance**	**Singapore Arbitration Act (SAA) & International Arbitration Act (IAA)**
Interpretation of IP dispute	**Section 103C**: IP dispute includes (a) enforceability, infringement, subsistence, validity, ownership, scope, duration or any other aspect of an IP right, (b) a transaction in respect of an IP right and (c) any compensation payable for an IP right.	**Section 52A(3) SAA & Section 26A(4) IAA**: IP dispute includes (a) enforceability, infringement, subsistence, validity, ownership, scope, duration or any other aspect of an IP right, (b) a transaction in respect of an IP right and (c) any compensation payable for an IP right.
Arbitration of IP dispute	**Section 103D(1)**: An IP dispute may be resolved by arbitration between the parties to the IP dispute.	**Section 52B(1) SAA & Section 26B(1) IAA**: An IP dispute may be resolved by arbitration between the parties to the IP dispute.
Applicable Issues	**Section 103D(3)**: Subsection (1) applies whether the IPR dispute is the main issue or an incidental issue in arbitration.	**Section 52B(2) SAA & Section 26B(2) IAA**: Subsection (1) applies whether the IP dispute is the main issue or an incidental issue in arbitration.

Limitation to settlement	**Section 103D(4)**: An IP dispute may be resolved by arbitration even if a specified entity in Hong Kong or elsewhere is given jurisdiction to deal with the dispute or if the law does not mention possible settlement of the IP right dispute by arbitration.	**Section 52B(3) SAA & Section 26B(3) IAA**: An IP dispute may be resolved by arbitration even if a specified entity in Singapore or elsewhere is given jurisdiction to deal with the dispute or if the law does not mention possible settlement of the IP right dispute by arbitration.
Arbitral award	**Section 103E(1)**: applies if an award deciding an IP dispute is made in arbitral proceedings.	**Section 52C(1) SAA & Section 26C(1) IAA**: apply if an award deciding an IP dispute is made in arbitral proceedings.
Effect of an arbitral award	**Section 103E(2)**: A third-party licensee or third-party holder of a security interest in respect of the IP right is not considered as a party to the arbitral proceedings.	**Section 52C(2) SAA & Section 26C(2) IAA**: A third-party licensee or third-party holder of a security interest in respect of the IP right is not considered as a party to the arbitral proceedings.
Recourse against an arbitral award	**Section 103F(2)**: the award is not in conflict with the public policy of Hong Kong only because the subject matter in respect of which the award is made relates to an IP dispute.	**Section 52D(2) SAA & Section 26D(2) IAA**: the award is not in conflict with the public policy of Hong Kong only because the subject matter in respect of which the award is made relates to an IP dispute.
Recognition and enforcement of an arbitral award	**Section 103E(2)**: It is not contrary to the public policy of Hong Kong to enforce an award only because the award is in respect of a matter that relates to an IP dispute.	**Section 26E IAA**: It is not contrary to the public policy of Hong Kong to enforce an award only because the award is in respect of a matter that relates to an IP dispute.

CONCLUSION AND RECOMMENDATIONS

Disputes regarding IP rights are increasingly important and rapidly evolving. Though arbitration has been practised in resolving IP disputes in Malaysia, it is still behind as compared to other jurisdictions such as Hong Kong and Singapore since litigation is prioritised more. Besides, the absence of specific provisions addressing the arbitration of disputes involving IP rights leads to uncertainty in determining which subject matter can be submitted to arbitration. This also caused a gap in the knowledge and information of the members of the public, thus raising more questions and reluctance to pursue arbitration as an ADR mechanism in resolving IP disputes.

Therefore, there is an imperative need for Malaysian legislation to improve the existing legal framework governing arbitration, specifically involving IP rights. The Malaysian parliamentary body should consider implementing a new amendment to the existing legislation that specifically allows all disputes related to IP rights to be arbitrated. Through the implementation, it would cease confusion of many people and thus provide better comprehension regarding the options and alternatives in resolving IP disputes.

Since litigation remains the main avenue to resolve IP disputes, the amendments addressing the issue of arbitration, and a public policy shall potentially lead the parties affected to consider submitting the conflict revolving IP rights to arbitration. The clarifications will provide the flexibility to accommodate different types of IP rights in various jurisdictions and possibly new types of IP-related disputes that may arise in the future.

Moreover, Malaysia may implement proper infrastructure for instance, Hong Kong and Singapore offer efficient institutions making them the world's most arbitration-friendly jurisdiction for resolving intellectual properties disputes. This initiative shall remove the uncertainty surrounding the arbitration of IP disputes and

instil confidence in parties that arbitration is an effective method to resolve IP disputes In Malaysia as opposed to litigation.

The researchers suggest that there are some areas that can be explored and studied for future research. This future research may consider analysing public awareness or professional perceptions of arbitration in Malaysia's IP landscape in comparison with Hong Kong and Singapore and explore arbitration's challenges more critically, including the potential cost burden on smaller IP rights holders and enforceability of arbitral awards in IP disputes across the respective jurisdictions.

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