An Investigation of the Role of WIPO Arbitration Rules in Intellectual Property Dispute Resolutions

Hamid Nasseri
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Hamid Nasseri* and Abbas Borzouei**

Abstract

WIPO arbitration rules which became imperative in 2002 is one of the most comprehensive and professional rules for the settlement of intellectual property disputes. These arbitration rules are the best in settling intellectual property disputes when we take into consideration the significant issues relevant to the procedure of settling intellectual property disputes such as: the possibility of direct access of individuals to arbitration, the speed of arbitration, professionalism, organizational claims, predictions of the likelihood of appeal to alternative approaches, confidentiality of arbitration as well as the arrangement of protection schemes.

Key Words: Arbitration, Settlement, Disputes, Intellectual Property

* . MA Graduate of International Law. naseri.hamid@yahoo.com.
**. Assistant Professor of Hakim Sabzevari University
1. Introduction

For a long time, arbitration has played a significant and essential role in the settlement of disputes, civil lawsuits and international claims. Hence, some lawyers have defined arbitration in the following way: Arbitration is a process by which a natural third party issues a binding vote for the issue under dispute.¹

Intellectual property is a field which is exposed to various disputes and claims. The fact that issues and instances of intellectual property are not bound to specific places adds to the complexity of the claims made in this domain. Owing to the fact that intellectual property rights are concerned with the rights of individuals in national systems, the majority of dispute parties, national or international, are individuals.²

Arbitration is a common approach of dispute resolution regarding intellectual properties. Since 2002 when WIPO arbitration rules became imperative³, many disputes and claims regarding intellectual property have been referred to this center

for resolution. Disputes which are referred to Arbitration and Mediation Center of World Intellectual Property Organization for resolution are of various types; they may be contractual disputes such as those resulting from research and development agreements and distribution agreements for pharmaceutical products or they may be non-contractual disputes such as infringements of patents.  

This study intends to make an evaluation of the role of arbitration rules in intellectual property dispute resolutions with regard to the merits and demerits of WIPO arbitration rules so that the status of these arbitration rules in resolving intellectual property disputes are known.

2. Handling

2.1 Dispute Handling Procedures

2.1.1 Appeal to WIPO arbitration rules

In order to appeal to WIPO arbitration and mediation center, the parties involved in the dispute have to come to an agreement. According to the rules of the

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arbitration center, the agreement could be in the form of a stipulation of the contract or an independent contract after the dispute occurs.⁵

A tribunal could consist of one arbitrator or more than one which depends on the decision of the agreement parties.⁶ With regard to formal laws governing the rules, there is the possibility that the parties involved could choose some rules of WIPO arbitration rules to be enforced and decide on the rest otherwise.⁷ With regard to substantive laws governing the claim, the rule is to enforce the law agreed upon by the two parties unless the parties have not selected the applicable law which, in this case, any law which appears to be appropriate is determined by the tribunal and will be enforced. In case of explicit agreement of the parties, the tribunal can handle the dispute on the basis of justice and ex aequo at bono. However, the tribunal is required to consider the terms of the contract between the parties and act upon applicable commercial practices.⁸ As it can be inferred from article 3 and 59 of WIPO arbitration rules, the parties have freedom to choose the law governing the case in point and the way the case is handled by WIPO arbitration center.

⁵WIPO Arbitration Rules Art.3.
⁶Id.
⁷Id.Art.5.
⁸Id.Art.3(a),Art.59(a)
2.2 Arbitration tribunal formation

When the tribunal is formed according to WIPO arbitration regulation, any written statement, notice or other written documents which is sent to the center by one of the parties should be sent to the other party or to the arbitrator or arbitrators. The tribunal is also required to send a copy of all the decisions made to the arbitration center. The request for arbitration should include the issue under dispute, the biographical data of the parties involved and any information regarding the rights and properties as well as the dispute technology.

The defendant is required to send his response to the center as well as the plaintiff upon receiving the demand for arbitration by the plaintiff. The response time should not exceed 30 days. Moreover, the defendant can bring about a counterclaim if he wants to. The tribunal consists of a number of arbitrators that are agreed upon by the two parties. However, the tribunal will be formed by one single arbitrator if the parties involved have not decided on the number of arbitrators unless WIPO arbitration and mediation center decides that, due to the

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9. Id.Art.5(a),(b).
10. Id.Art.6.
11. Id.Art.9.
12. Id.Art.11.
sensitivity of the case, the tribunal has to consist of three arbitrators.\textsuperscript{13} If the parties have agreed on the way the arbitrators are selected\textsuperscript{14}, they will be selected accordingly.\textsuperscript{15}

The arbitrators should be the agreed-upon nationality. However, if the two parties have not agreed on the nationality of the arbitrators, they should not have the same nationality as either of the parties unless the case in point is such that the selection of a person having these qualities is necessary and required.\textsuperscript{16}

As it was mentioned before, WIPO arbitration rules have been stated in a way that maximum freedom is granted to the dispute parties to decide on the law governing the arbitration as well as the selection procedure of the arbitrators.

Arbitrators should be selected from different nationalities so that there is no room for bias and prejudice and maximum justice is ensured. Either of the parties has the right to change the arbitrators on acceptable and logical grounds\textsuperscript{17} and they

\textsuperscript{13}Id.Art.14.

\textsuperscript{14}Id.Art.15.(a).

\textsuperscript{15}Id.b.

\textsuperscript{16}Id.Art.20.

\textsuperscript{17}Id.Art.24.
have to announce the issue in a written statement to the center, the tribunal and the other party up to 15 days after the date of arbitrator selection or the time they become aware of the issue.\textsuperscript{18} If the other part has any claim with regard to the legitimacy of the arbitrators, he is required to send his response to the center and the other party within 15 days of the receipt of the notice.\textsuperscript{19} However, when there is a disagreement of the two parties with regard to the selection of the arbitrator, or arbitrators, the decision is to be made by the center.\textsuperscript{20}

WIPO arbitration rules tries to end the dispute fast and definitely on the issue of disqualification of the arbitrator or arbitrators by setting a period of 15 days and determining WIPO arbitration and mediation center as the reference for dispute resolution concerning arbitrator disqualification. Moreover, WIPO offers the possibility of changing the arbitrator and selecting another arbitrator if the two parties have an agreement in this regard.\textsuperscript{21}
2.3 Tribunal Competence

WIPO arbitration rules have given extensive qualification to tribunals. For example, the tribunal is qualified to respond to all the protests concerning the establishment, competence and domain of the arbitration agreement. Furthermore, it has the authority to decide on the value of any contract part of which is arbitration agreement.22

At the time of handling the dispute, the principle of equality of the parties should be taken into account and equal chances for defense should be granted to the parties.23 The place of arbitration is decided by the agreement of the two parties. If there is no agreement between the parties regarding the place of arbitration, it is determined by the center taking into account various issues including the status of the case as well as the opinions of the two parties.24 Moreover, the language of arbitration is decided by the agreement and if no agreement has been made, the language of the arbitration agreement will be set as the language of the tribunal.25

22.Id.Art.36.

23.Id.Art.38.(b).

24.Id.Art.39.

25.Id.Art.40.
The plaintiff is required to express his claims in written and documented form to the defendant as well as the tribunal within 30 days after receiving the notice of tribunal formation. The defendant is also required to announce his defense addressing the plaintiff and the tribunal within 30 days after receiving the claims of the plaintiff. However, the plaintiff and the defendant can modify or complete their claims or defense in the course of arbitration unless they have agreed otherwise or the tribunal does not see it as appropriate. The tribunal has the authority to issue a temporary order if necessary and order provision measures. For instance, the tribunal can order the selling of deposited goods or perishable products. The tribunal may also have a meeting with one of the parties to make arrangements with regard to the way the tribunal is formed or the schedule of the tribunal. All the sessions of the tribunal would be in the form of closed meetings with awareness of the parties with respect to the time and place. All the arguments made by the parties should be evaluated by the tribunal. The witnesses

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26 Id.Art.41.
27 Id.Art.42.(a).
28 Id.Art.44.
29 Id.Art.46,(a).
30 Id.art.53.
could be summoned and listened to if the tribunal thinks it is necessary.\textsuperscript{31} If the tribunal feels a need for professional advice, experts will be determined to assist the decision making of the tribunal by professional assessment of the case.\textsuperscript{32} The tribunal votes by the majority and the vote should be written, reasonable and documented unless it is stated otherwise in the arbitration agreement or the law rules against it. The vote has to be signed by all the arbitrators, and if it is not signed by one or more than one arbitrator, the reason should be expressed.\textsuperscript{33} The verdict should be issued within 9 months of the time of defense bill or the time of the tribunal meeting. If one of the parties objects to the verdict, the final verdict should be announced within 3 months of the time of the objection. In case the verdict is not announced in either of the two periods, the tribunal is required to express the reasons in written form to the center and the parties.\textsuperscript{34}

The two parties should execute the verdict, with no procrastination, according to the rules set by the arbitration center.\textsuperscript{35} However, these kinds of verdicts are

\textsuperscript{31}Id.54.
\textsuperscript{32}Id.Art.55.
\textsuperscript{33}Id.Art.62.
\textsuperscript{34}Id.Art.61.
\textsuperscript{35}Id.Art.64.
usually executed by national courts according to New York Convention.\textsuperscript{36} Also, it has been predicted in arbitration rules that in case the parties cancel the dispute before the verdict is announced by the tribunal, the tribunal isuses a conciliatory vote for the two parties. Before the tribunal issues its verdict, the parties could come to agreements on how to settle the dispute in different and alternative ways and the tribunal ends the arbitration.\textsuperscript{37} Compared to other types of arbitration rules, WIPO arbitration rules have the advantage that the parties involved in the dispute could come to a conciliation at the time of handling the case or any other time or make use of alternative dispute resolutions (ADR). Furthermore, WIPO arbitration rules offer the possibility of verdict modification or issuing a modified verdict if one of the parties ask for it.\textsuperscript{38}

3. Characteristics of WIPO arbitration rules

3.1 Advantages

3.1.1 The Possibility of Direct Appeal to Judgment Organization

Owing to the fact that the majority of disputes over intellectual property are disputes among individuals, it is necessary for individuals to have direct access to

\textsuperscript{36} New York Convention: This convention was formed in 1958 with the purpose of identifying and executing external verdicts between countries and 120 countries have membership of the convention so far.

\textsuperscript{37} Id.Art.65.(a).(b).

\textsuperscript{38} Id.Art.66.
judgment centers for the resolution of their disputes over intellectual property. Arbitration and Mediation Center of WIPO has offered this possibility, in its arbitration rules, for the individuals to resolve the disputes and claims in an international arena. The arbitration center of WIPO provides vast official and executional facilities including all services concerning translation, interpretation, consultation, and appropriate locations for holding arbitration meetings for the resolution of disputes. Over and above the services mentioned, the center offers considerable assistance to its clients regarding making contracts which stipulate reference to the arbitration center in cases of emergence of disputes, providing useful training on how to settle the disputes over intellectual property as well as offering consultations for dispute resolution by appealing to arbitration outside the official and executional system of WIPO. In fact, the arbitration rules set by the center provides special and organizational services in the form of Institutional arbitration which offers the possibility for a person or an organization to receive


41. Institutional arbitration: This type of arbitration is offered by organizations and institutions. In international domain, organizations and institutions such as WAMC, ICC, AAA and so on engage in dispute resolution via institutional arbitration and alternative approaches.
special services and facilities to resolve intellectual property disputes and claims which are unparalleled in any other center in the whole world.

3.2 **High Speed of Handling**

In the process of dispute resolution, the speed of handling is one of the most important issues. There has been an attempt in WIPO arbitration rules to reduce the speed of arbitration handling to the minimum level so that the handling starts 30 days from the time the dispute is referred to the tribunal. Of course, in expedited arbitrations, 30 days has been reduced to 20 years.

Articles 16 and 17 of WIPO arbitration rules has expressed that if there is procrastination in determining the arbitrator, the center itself will decide on the arbitrator. It is explicitly stated in part B of article 13 that each of the parties should guarantee that their deputies should have time enough to speed up the arbitration process. Also, in part A of article 23 the issue of speeding up of arbitration process is emphasized for the arbitrators. Part B of article 33 does not allow the reselection of the arbitrator by each of the parties in order to save time. Moreover, in article
34, the arbitrators committee is granted the right to prevent the repetition of earlier statements if the arbitrator is reselected. Even it is stated in article 35 that in case of the absence of the third arbitrator, two remaining arbitrators could start the process of arbitration. Article 38 requires the arbitrators to guarantee appropriate speed of arbitration procedure. Article 54 gives the authority to arbitrators to restrict the evidence offered by additional or inappropriate witnesses. It is inferred from the statement of WIPO arbitration rules that the principle of speed should be observed in all processes of arbitration. The principle of speed is one of most essential and fundamental principles governing WIPO arbitration rules and this shows its value more in issues of intellectual property which enjoy high economic values.

3.3 Professionalism of WIPO Arbitration Rules

WIPO arbitration rules should be considered as the most professional ones in the resolution of intellectual property disputes and claims. No other arbitration rules are comparable to WIPO arbitration rules in terms of professionalism. This is because the majority of arbitration organizations and arbitration rules are concerned with various types of commercial disputes whereas WIPO arbitration rules are specifically concerned with only disputes over intellectual property.
Hence, WIPO arbitration center is a professional center in the domain of the resolution of intellectual property disputes and claims.42

4. Institutional Arbitration43

The arbitration provided by WIPO Arbitration and Mediation Center is of institutional type which has the following advantages:

First, WIPO Arbitration and Mediation Center guarantees the good handling of arbitration. Under the supervision of this center and by this center, a tribunal is established which can set off a good arbitration process that could not be averted or nullified by any disturbance or lack of cooperation the parties or arbitrators.

Second, the arbitration rules of WIPO Arbitration and Mediation Center functions as an arbitration institution which supervises an unbiased arbitration procedure and could be an appropriate reference institution for settling the disputes between governments and individuals regarding intellectual property.


43 divides arbitration into Adhoc arbitration and Institutional arbitration.
Third, arbitration rules of WIPO Arbitration and Mediation Center controls the fees paid to the arbitrators and the costs of arbitration process. Thus, each of the parties knows what fees to pay in each part of arbitration procedure which is specifically determined in advance.

Fourth, arbitration rules offered by WIPO arbitration and mediation center which ensures the freedom of choice by each of the dispute parties, plaintiff and defendant, could play a significant and fundamental role in creating motivation on the part of the defendant to cooperate more in the process of arbitration of disputes. This issue is of high importance for the plaintiff too since he does not have to refer to national court for the establishment of tribunal and determining the arbitrator (if it is stated in the law of the country).

Fifth, WIPO arbitration rules compensate for the absence of a good and protective arbitration law for commercial agreements because it provides for freedom of choice between various laws governing dispute handling and even the freedom of choosing part of the rules of the handling process.
Sixth, WIPO Arbitration and Mediation Center is known as a neutral and unbiased institution. The principle of neutrality and avoidance of prejudice is observed in arbitration rules. This ensures a high value for WIPO arbitration and mediation center. In countries where political interference in arbitration procedures exists or the courts and laws do not have positive attitudes towards arbitration, owing to the institutional nature of WIPO, the parties involved in arbitration enjoy the advantage of a verdict which is issued by an honorable international organization and carries its name which adds to the value of the verdict on the part of the parties as well as governments.

Seventh, there is a sense of comfort and peacefulness in institutional arbitration and arbitration rules of mediation center. Many files have been handled under the supervision of WIPO arbitration regulation center. The parties involved in arbitration process are aware of the fact that they are dealing with a professional organization focusing on disputes and claims over intellectual property and also the fact that the organization sets up the arbitration process appropriately and issues the verdict.\textsuperscript{44} This indicates a sense of security and peace of mind concerning

\textsuperscript{44} It has to be observed that each case of arbitration is unique and that arbitrators are independent from institutions; they decide on behalf of arbitration institution on arbitration regulations as well as issues and the arbitration center of WIPO is no exception.
WIPO arbitration rules. Arbitrators are assisted in WIPO arbitration structure. The issue of referring the case to experts and forming a professional contract when it is needed is taken into account in WIPO arbitration rules.

Eighth, in arbitration procedures under the supervision of WIPO arbitration rules, there is witnessed no disputes between arbitrators and the parties with regard to determining the fees and costs of arbitration. WIPO Arbitration and Mediation Center has its own approach to determining the arbitration fees as with other arbitration institutions. This frees the minds of the arbitrators from the economic worries and makes them concentrate more on the process of arbitration and settling the disputes and claims.\(^45\)

Ninth, since WIPO arbitration rules have an institutional nature, they set their own standard of handling the arbitration process. The arbitration center sets up the arbitration sessions by itself and determines its schedule. Furthermore, the center provides for facilities and special resources such as translators, communication devices and so on for the two parties. The organization itself is responsible for responding to the two parties and third parties and the relationship between the arbitrators and the center is intra-organizational.

\(^{45}\)WIPO Arbitration Rules.Art.55.
5. Possibility of Appeal to Alternative Dispute Resolution

The possibility of using alternative dispute resolutions is taken into account in WIPO arbitration rules. Also, the parties could come to a conciliation which, in this case, the tribunal issues a conciliatory verdict. This possibility is important owing to the fact that the parties involved could enjoy the advantages of arbitration and other alternative approaches; that is, if the arbitrators could not, or do not want to, resort to WIPO arbitration rules for dispute resolutions, they could refer to alternative approaches under the supervision of the center and make use of the facilities and resources provided by the center such as introducing experts in the field.

6. Confidentiality of Arbitration

Disputes over intellectual property have common features; much information revealed in arbitration process is confidential so that the parties involved and owners of intellectual property do not want the information to be disclosed. In any case, businessmen who aspire to resolve disputes confidentiality, choose arbitration since the meetings are closed so that only the parties and their advisors have the right to enter the arbitration meetings and arbitrators are required to observe the confidentiality of information according to the demands and will of the parties.

46. Id. Art. 65.
involved. Since confidentiality of information is highly essential in issues of intellectual property, businessmen and the parties involved in arbitration are after arbitration rules that which can ensure maximum confidentiality; WIPO arbitration rules are a good choice in this regard because the principle of confidentiality of information is observed in them. Articles 73-76 of WIPO arbitration rules have endorsed confidentiality in four parts including (1) confidentiality of arbitration, (2) confidentiality of information revealed in proceedings, (3) secrecy of the verdict and (4) confidentiality of information on the part of the arbitrator. In discussions on confidentiality of information, WIPO arbitration rules focus on confidentiality of information as a requirement unless, when faced with arbitration challenges and verdict enforcement, law or authorized institutions ask for the information where the center reveals part of the information, not the whole, and this should be done with awareness of the other party and the tribunal. Article 52 of WIPO arbitration rules have explicit rules which allow the arbitrators to issue orders concerning provision measures regarding the keeping of commercial secrets and other confidential information. In addition, WIPO arbitration rules have explicitly stated that the evidence offered by the parties or witnesses which are

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49.Id.
used in the arbitration process are considered as confidential and should not be revealed for an individual or a third party without the agreement of the parties as well as the tribunal.\textsuperscript{50}

As for the witness, one who summons the witness is responsible for the information revealed by the witness; the degree and type of confidentiality of information is determined by the two parties.\textsuperscript{51}

As it was mentioned above, WIPO arbitration rules observes the confidentiality of the verdict issued by the tribunal and it is emphasized for the two parties.\textsuperscript{52} However, there are exceptional cases where the verdict could be revealed for a third party which include (1) the agreement of the parties, (2) the necessity of the awareness of public meetings, prior to the execution process of the tribunal, (3) the observation of legal requirements and maintenance of the rights of the parties. Concerning the confidentiality of information on the part of the arbitrator and the center, WIPO arbitration rules requires WIPO arbitration and mediation center to keep the confidentiality of information of the arbitration process, the verdict and any information that should not be revealed to the public unless the two parties

\textsuperscript{50}.Id.Art.74.(a).
\textsuperscript{51}.Id.(b).
\textsuperscript{52}.Id.Art.75.
come to other agreement types. This principle also applies to the documents and evidence used in the arbitration process unless the tribunal decides otherwise out of necessity in which case this exceptional case is taken into consideration within the limits of law and tribunal.

7. Prediction of Provisional Measures

Access to provisional and security measures with respect to issues and instances of intellectual property for the parties is of high significance. This fact is recognized more when there are cases of the misuses of the information by a third party. In dispute resolutions through courts, it is usually the case that one of the parties (the defendant) is not after handling the case and speed of arbitration and aspires for extending the time of handling the case. This could be a big shortcoming of judicial proceedings and could hurt the users of intellectual property, especially when one of the parties is quite familiar with the proceedings and wants to procrastinate the handling of the case. That is why WIPO arbitration rules allow the arbitrators to have an immediate handling and issue a temporary order. According to WIPO arbitration rules, the tribunal can issue orders or make arrangements including the maintenance of the goods under dispute. If it is a matter of perishable goods, WIPO arbitration rules allow the selling of the goods to

\textsuperscript{53}Id.Art.76(a).
a third party. The arrangements are in line with the demands of the two parties.\(^{54}\) According to WIPO arbitration rules, the tribunal has the right, in line with the demands of either of the two parties, to oblige the other party to observe the security and maintenance of issues related to the claim or have a counterclaim. These orders and arrangements are considered as part of the arbitrator’s decisions\(^{55}\) and also part of the proceedings and decision makings according to WIPO arbitration rules.

If one of the parties goes to the judicial court for the execution of security measures of the claim or counterclaim, this could not be considered as an instance of arbitration disqualification.\(^{56}\) However, the execution of these measures should not go against the arbitration agreement.\(^{57}\)

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\(^{54}\) Id. Art. 46 (a).

\(^{55}\) Id. (b).(c).


\(^{57}\) WIPO Arbitration Rules. Art. 46(d).
8. Shortcomings of WIPO Arbitration Rules

8.1 Restrictions of Appeal to WIPO Arbitration Rules

In line with article 1 of WIPO Arbitration Rules, dispute resolutions cases could be referred to WIPO Arbitration Center only if there is an arbitration agreement. Owing to the fact that issues and instances of intellectual property are versatile and are international in nature, especially when the case in point is of significant economic value, this could be considered as a big challenge for dispute resolution WIPO arbitration rules. The volitional and optional nature and limitations of appeal to WIPO arbitration rules which is based on the agreement between the parties have the disadvantages such as decreasing the motivation of owners of intellectual properties of high value to practice it as well as its negative impact on the enforcement of ownership rights and thus weakens the enforcement power of the property rights of the parties.

This could be considered a great shortcoming for WIPO arbitration regulations as compared to arbitration regulations as practiced by World Trade Organization (WTO). A closer look at the behind-the-door facts related to some of the

58 It has to be mentioned that WTO is an organization developed by nations. The dispute resolution committee of the organization could only resolve disputes between countries. The qualification granted to the committee to resolve disputes is granted by the organizers and individuals could subject their disputes to the organization just through the mediation of their countries; Allan Rosas, Implementation and enforcement of WTO Dispute settlement finding' An Perspective Au.J.INT.Economic.L.ISSN169-3034.135-139.2001. Bernard. M. Hoekman,
disputes subjected for resolution to world trade Organization, it becomes apparent that the private sector has been the prime reason for the dispute. For instance, in claims made for copyright and invention rights which were posed by USA, India, Canada and South Africa, pharmaceutical production companies played a great role in bringing about the dispute. The optionality and restrictions imposed on appealing to WIPO arbitration regulations which is based on the satisfaction of the two parties involved, decreases the chance of referring intellectual property disputes with high financial value as well as weakening the executonal power of the rights assigned to the parties.

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60. As another example, we could refer to Kodak/Fiji dispute in which the dispute was over the anticompetitive procedures of the two companies in Japan. For Havana/Clup dispute the dispute between the two companies concerned their way of using the brands in USA and Europe; Emet Ulrich petesmann,Justice as conflict Resolution: Proliferation fragmentation and Decentralization of Dispute sett/ ement in International Trade. European University Institue.5.(2004).

8.2 Negative Consequences of Confidentiality of Arbitration Process

In spite of the fact that the principle of confidentiality of arbitration process in intellectual property dispute resolutions is of high importance, it suffers from negative consequences. If the arbitration meetings are open to public, it strengthens judicial proceedings and consequently enhances the scientific status of WIPO arbitration processes. Moreover, open arbitration meetings increase the neutrality and independence of the arbitrators. It goes without saying that equality will be ensured under supervision. On the contrary, confidentiality of WIPO arbitration rules obliterates public supervision on WIPO arbitration process and decreases the degree of precision in the proceedings.\(^6^2\) Hence, it should be taken into account that confidentiality of WIPO arbitration rules does not necessarily guarantee the full advantage of the parties involved.

8.3 Higher Arbitration Fees of WIPO Arbitration Compared to Adhoc Arbitration

Owing to the fact that WIPO arbitration center offers institutional arbitration, it costs more than case arbitrations. This restricts the likelihood of appeal to this type of arbitration on the part of owners of intellectual property since they have lower financial power.

The fees imposed on the two parties involved in dispute resolution according to WIPO arbitration rules consist of the following: the plaintiff and the defendant should pay equal fees for the arbitration process which are determined by the center on receiving the tribunal notice from the center. The center decides on this early payment and it is prior to issuing the verdict. The time limit for the payment is 30 days. The fees to be paid include (1) arbitrator fees, (2) travel, correspondence and other arbitrators’ fees, (3) expert consultation fees and other fees that the tribunal decides they are necessary, (4) other additional and necessary fees for the arbitration process (such as the cost of holding the meetings and facilities required for court listenings). The payments have to be from deposits mentioned in article 70 as much as possible. If the fees are not paid within 30 days from the time the court notice is received, the center can contact the parties and require them to pay the fees. If one of the parties could not pay the fees within 15 days after the second court notice, it means that he/she has cancelled the claim or counterclaim. With respect to counterclaims, WIPO arbitration rules
decree that in case the costs of counterclaims far exceed the costs of the claim and necessitate the consideration of various issues, the center can ask for two separate payments (one for the claim and one for the counterclaim). When this happens, the total fee of the claim is to be paid by the plaintiff and the total fee of the counterclaim is to be paid by the defendant. All in all, the costs and fees imposed on the parties in WIPO arbitration rules is higher than the Adhoc Arbitration.

8.4 Lack of Enforcement Guarantee

According to WIPO arbitration rules, the parties involved in arbitration process should agree to arbitration rules and should have commitment to enforcement of the decisions made in the arbitration procedure. However, it is not predicted in WIPO arbitration rules that if one or both of the parties refuse to comply with the decisions, what decisions should be made by the center. In fact, the absence of obligatory enforcement guarantee for the verdict is a great shortcoming for WIPO arbitration rules as compared to dispute resolutions in World Trade Organization in which there is such enforcement guarantees. This has the consequence of lower motivation and interest on the part of the parties to refer to WIPO arbitration rules

68.Id.(d).
69.Id.Art.64.
when the cases are of high economic and financial value and ushers them to refer to institutions that have higher and stronger enforcement warrants. WIPO arbitration center can appeal to rules and rules of international law, for example, 1985 New York Convention, to enforce the law if the parties refuse to comply with the verdict. However, due to the complexities involved in issues of intellectual property and national rules and rules as well as ambiguities in international relations, this process could encounter many problems and obstacles.\textsuperscript{70}

9. Conclusion

The essential role of arbitration in dispute resolutions of various types is taken for granted in the modern world. Owing to the existence of different types of disputes and claims in the domain of intellectual property and the specific nature and high value of instances of intellectual property, it is necessary to have comprehensive and professional rules for dispute resolutions over intellectual property rights. This was fulfilled in the year 2002 when WIPO arbitration rules became imperative in the domain. WIPO arbitration rules are comprehensive and professional rules for dispute resolutions over intellectual property claims.

An evaluation of these rules illustrates their advantages and disadvantages. The disadvantages include the following: (1) restrictions on appeal to WIPO rules, (2) negative consequences of confidentiality, (3) higher costs of handling the case in this kind of arbitration as compared to adhoc arbitration, and (4) lack of enforcement guarantee. However, despite the shortcomings mentioned above, WIPO arbitration rules have the following advantages: (1) the possibility of direct access for individuals, (2) the high speed of handling, (3) professionalism of arbitration rules, (4) institutional nature of WIPO arbitration, (5) the possibility of making use of alternative dispute resolutions, (6) emphasis on confidentiality of information at each stage of the arbitration process, and (7) prediction of provisional measures for handling the case which is of high significance in dispute resolutions over intellectual property. The last advantage mentioned above intrigues the private sector to refer to WIPO arbitration rules for intellectual property disputes and claims and make use of the arbitration and mediation center in order to settle the disputes in the domain of intellectual property rights. Altogether, the advantages of WIPO arbitration rules override the disadvantages and set WIPO arbitration rules as one of the most comprehensive and professional rules for intellectual property dispute resolutions.