X. International Balkan and Near Eastern Social Sciences Congress Series - Ohrid / Macedonia

October 27-28, 2018

University "St. Kliment Ohridski" Faculty of Economics/Macedonia
University of Agribusiness and Rural Development/Bulgaria
IBANESS

PROCEEDINGS

Editors
Prof.Dr. Dimitar NIKOLOSKI
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FOREWORD

International Balkan and Near Eastern Congress Series brings together many distinguished social and behavioral science researchers from all over the world. Participants find opportunities for presenting new research, exchanging information, and discussing current issues.

We are delighted and honored to host the IBANESS Congress Series in Ohrid / Macedonia. Presented papers have been selected from submitted papers by the referees. Sincere thanks to those all who have submitted papers.

We hope that through exchange of the presented researches and experiences, the Congress will enhance communication and dissemination of knowledge in Balkan and Near Eastern Countries.

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Industrial Property Disputes Resolution Using Arbitration And Mediation

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Abstract: Considering the prominence of the industrial property for its originators or owner, as well as the impact that it has on the overall economic development, the effective protection of these rights is a subject to continuous updating and improvement. The disputes arising in connection with the rights of the industrial property, except being subject to litigation, can also be solved by using some of the alternative methods of dispute resolution such as arbitration and mediation. This paper will contain an analysis of the objective arbitrability and objective mediability of these disputes, as well as benefits from the application of the alternative measures, in terms of the regular judicial protection in the civil proceedings. The answer of the question whether disputes referring to industrial property rights can be resolved by arbitration and mediation should be found in the legislation of every country, since not every country allows an alternative way of resolution of these disputes. The situation in the Macedonian legislation and institutional organization in terms of the alternative dispute resolution of intellectual property also will be elaborated. Special emphasis will be made on the work of the Centre for Arbitration and Mediation under the World Intellectual Property Organization (WIPO). The purpose of this paper is to show the advantages of the application of the alternative methods for protection of industrial property. The regular use of mediation and arbitration would contribute for increasing the efficiency when protecting the industrial property rights, which would provide broader access to justice.

Keywords: industrial property disputes, arbitration, mediation, WIPO.

1. Introduction

In conditions when global and national economies development and growth and development of business subject have become mostly determined by industrial property, the efficient protection of such rights is gathering momentum. Trend of industrial property rights registration and protection has become a global process, which is inevitably present in Macedonian society also. Industrial property rights which are protected according to the Law on industrial property in the Republic of Macedonia[1] are the following: patent, industrial design, trademark, origin designation and geographical designation. So, between 2003 and 2013, the State Office of Industrial Property in the Republic of Macedonia issued 3 952 decisions for patent grants, during the same period 10 218 decisions for trademark recognition were issued and total of 8 814 industrial designs were recognized. (Државен завод за индустриска сопственост, 2013)

Any unauthorized application, regulation, limitation, imitation, association, disturbing of rights etc., contrary to the provisions of the Law on Industrial Property is considered as violation of reported and recognized rights established by the Law on Industrial Property. Imitation is considered when the average goods i.e. services purchaser, regardless of the type of product, can notice a difference only if they pay very good attention, i.e. if there is a translation or transcription in relation to the trademark, i.e. transliteration. The person whose right gained according to the LID is violated has a right to protection, by filing a lawsuit in court authorized for resolving industrial property disputes.

As a signatory of the Agreement on trade aspect of industrial property rights – TRIPS[2], Macedonia has obliged to stipulate efficient and effective legal measures and legal instruments for preventing violations of the industrial property rights and legal instruments which deter from doing further violations. Procedures should be impartial and fair, should not be complicated and long, i.e. should not last unreasonably long and with no unexplained adjournments and delays. (Пепељугоски, 2003:110)

2. Arbitration and mediation of industrial property disputes

Instead of choosing legal protection, as an alternative, parties often agree to use mediation or arbitration for resolving future or already occurring disputes. Mediation and arbitration as alternative mechanisms for

[1]Закон за индустриската сопственост, *Службен весник на Р. Македонија,* 21/2009, 24/2011, 12/2014, 41/2014 (further on ZIS).

[2]Article 41.Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) (1994).

disputes provide disputes resolution between parties outside of court, in a private forum, mediated by qualified neutral mediator/s, appointed by the parties.

Agreeing on arbitration or mediation of certain dispute means derogation of national court protection of certain disputes, under determined conditions, but also acknowledgement of legal effect of the arbitration decision or settlement concluded in the mediation procedure. Every country, in accordance with its economic and social politics, determines which types of disputes can be resolved by ADR methods, and which types of disputes exclude such possibility. According to the Law on International Trade Arbitration[3], based on parties' agreement, international trade arbitration can be agreed for parties who fulfill the following conditions: those are disputes which parties freely dispose and for which an exclusive jurisdiction of courts in the Republic of Macedonia is not stipulated. Similarly, conditions for arbitration of disputes are stipulated without international element according to the Law on Litigation Procedure[4]. So, arbitration in a dispute will be applied if the dispute refers to property and rights which parties freely dispose and disputes which are not under exclusive jurisdiction of courts (Knezevic, Pavic, 2009:51). Article 1 of the Law on Mediation[5] states the outlines of objective mediation: disputable relations in which parties can freely dispose of their requests, unless an exclusive jurisdiction is stipulated by another law or body.

The answer of the question whether disputes referring to industrial property rights can be resolved by arbitration and mediation should be found in the legislation of every country, since not every country allows an alternative way of resolution of these disputes. We are witnessing the trend of disputes limits expansion which may be resolved by arbitration or mediation. Much legislation differentiates between private authorizations and interest of parties in industrial property disputes, with authorizations and public interest of country in these disputes when it appears as carrier of "ius imperium" and protector of public order. So, for example in situations referring to issues related to licenses agreements, compensation for trademark application etc. private interests dominate, unlike situations referring to deciding on recognition of industrial property rights, which are resolved in separate administrative procedure[6]. Recognition of industrial property rights is regulated in separate legal procedure which includes public right registration in an appropriate register. That part of the procedure precisely indicates the authorizations of the country as "ius imperium" which justifies the conclusion that arbitration in relation to recognition of these rights is excluded. Excluding private methods of disputes resolving by accepting the main argument for "protection of public order" gradually in theory loses its primate. The most acceptable argument for limitation of arbitration only to certain type of industrial property disputes is focused on legally binding force of arbitration decisions and agreements. Since arbitration decision, which draws its strength from arbitration agreement, is only binding for parties and has no wider domain of activity, the arbitrary cannot reach a decision acting as "erga omnes". In that case the principle of publicity will not be respected and activity "erga omnes" which is performed by entering the recognized right in an appropriate register. In Switzerland, the recognition of industrial property rights can be subject to arbitration, but only if it is accompanied by confirmation of enforceability issued by a competent national court, the recognized arbitration right will be entered in national register of intellectual property. (Grantham, 1996:186)

Many developing countries, as a result of their dependency on technology development, are very sensitive to the question of arbitration and mediation of these disputes, so due to those reasons do not allow using of arbitration and mediation in industrial property disputes. Even in the USA disputes for right to a patent were not resolved by arbitration until the Congress explicitly allowed using arbitration in 1983. (Green, 2006:8)

In comparative law, in Belgium disputes for which parties can settle can be resolved by arbitration, even Belgian law on patens expressly permits using arbitration for ownership, validity, violations and licensing of

[3] Article 1 par. 2 and par. 6.Закон за меѓународна трговска арбитража на Република Македонија, Службен весник на Република Македонија, 39/06, further on ZMTA.By adoption of ZMTA, R. of Macedonia was listed among countries which legal decisions are based on Model Law on international trade arbitration of UNCITRAL. http://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/1985Model_arbitration_status.html.

[4]Art. 441 Закон за парничната постапка, Службен весник на Република Македонија, 79/2005, 110/2008, 83/2009 и 116/2010, further on ZPP.

[5]Закон за медијацијата, Службен весник на Република Македонија, 188/2013.

[6]Art. 19 and 20 of ZIS regulate that procedure for acquiring, realizing, maintain and protecting the industrial property rights is an administrative procedure, subsidiary application of Law on administrative procedure has been determined, possibility to conduct administrative dispute etc.

patents. Procedure for issuing compulsory license and disputes for expiration of validity of patent due to not paying annual tax are not resolved by arbitration. In France arbitration in disputes for protection of patents and trademarks is expressly permitted. Disputes for validity of registered rights are not resolved by arbitration. In Italy the public prosecutor is authorized to act "ex officio" in procedures for validity of trademark and patent right and regardless of whether parties in dispute are domestic or foreign persons, the state court is authorized. In this way arbitration is excluded in terms of validity of these rights by setting a barrier "protection of public order".

By exception, arbitrators can decide on the validity of these rights when they appear as previous issue in intellectual property rights by which parties can freely dispose. In the USA arbitration can be agreed for all disputes related to validity of patent or violation of patent rights. Additional court activities and activities by the Commissioner for patents and trademarks are necessary so that the recognized patent right by arbitration can perform action. Besides positive arbitration decision, Commissioner has the right to refuse to recognize the patent.

Difficulties in terms of objective arbitration appear in relation to moral rights also which arise from industrial property rights, which are inalienable and are closely connected to personality of author/inventor. It is considered that arbitration should be allowed in terms of such issues also, considering that realization of moral rights can be subject to settlement and in that way authors at least partially dispose of them. This paragraph is supported by view that moral and material rights of authors are closely correlated, so moral rights get their own economic value (in that sense violation of moral rights results in damage). (De Werra, 2012:301)

3. Mediation and arbitration procedure v.s civil court protection

Popularity of alternative methods for resolving industrial property disputes is due to many factors, on the one hand advantages offered by ADR methods and on the other hand drawbacks of court procedure. The most frequent reason for application of ADR methods is the simplicity of the procedure, which is mostly single instance, unlike court procedure which might be multistage[7]. Costs are lower, fewer people are engaged, procedures are less formal, they take place in several meetings and procedures are shorter (usually the maximum for procedure duration is stipulated – art. 20 par. 2 of ZM stipulates 60 days term), and mostly institutions themselves offering arbitration services in their rulebooks determine the maximum duration period for a procedure to be finished. In average mediation procedures in Arbitration and Mediation Centre at WIPO last from 1 to 5 months. Arbitration procedure at WIPO lasts 7 months in average until reaching final arbitration decision, when "expedited arbitration" is chosen as a way for resolution. When arbitration procedure is held by one arbitrary, it lasts somewhat longer that an expedited arbitration, while duration of arbitration by three arbitrators depends on determined term for delivery and submission of documents, schedule of hearings etc. (Schallnau, 2012:9) Procedure efficiency is maintained in such a way that in the rulebooks of arbitrations institutions case management and adoption of timetable (framework) of procedure are entered.[8]

Arbitrary i.e. mediator neutrality especially when it comes to international disputes, the right of parties to chose the arbitrary/mediator by themselves which means having confidence in the arbitrators, is a main advantage of "soft" ways of disputes resolving. Obligations of independence and impartiality are widely accepted and emphasized in rules and codices of many arbitration institutions and organizations. In order to help arbitration tribunals and institutions in dealing with this matter, IBA (International Bar Association) established Guidelines for conflict of interest in international arbitration, making application lists categorized in green, orange and red list. The fact that arbitrators and mediators can be experts of area referring to a dispute, possessing specific knowledge and skills etc. is another reason for preferring these methods for disputes resolving. Arbitration in certain specific cases can be trusted to experts – lawyers who deal with representation

[7]In the R. of Macedonia, according to art. 372 par. 2 line 5 of ZPP, in disputes related to protection and application of inventions and technical upgrades, samples, models and marks and to right to use firm or name, as well as in disputes of unfair competition and monopolistic behavior except for monetary claims by those basis, revision is always allowed regardless of the value of the dispute.

[8]New rules in Ljubljana stipulate that arbitration council in early phase of procedure and after counseling with parties should adopt timely draft of procedure. Within such timeframe terms and number of further written submissions are determined, term for conducting of hearing, term for reaching arbitration decision etc. (Calič, 2014:6)

in specific branches of industry or people with no legal, but some kind of professional education. (Knezevic et al. 2009:20) In that sense, acquiring mediator license is not under condition of having law degree by ZM, but having finished high education. Taking into consideration the complexity and specificity of protection of intellectual property, legislator in RM intends to provide quality and expertise in court procedure in a different way.[9] Unlike court procedure which is public, in arbitration and mediation public is absent, the procedure is confidential, which is complementary to relations subject of dispute. Usually it is discussed about confidential relations, trade secrets or the presence of public in some procedure might poorly reflect on the credibility and image of legal subject in the society. Manner of disputes resolving, especially mediation is suitable a lot more for long-term business relations and collaboration of parties in procedure, unlike court procedure. Arbitration decisions are usually voluntarily enforced by the parties, and in situation of forceful enforcement, decisions are normally more easily recognized outside the origin countries than court decisions. This is due to the fact that majority of countries have ratified the New York convention for recognition and enforcement of arbitration decisions.[10]

4. Arbitration and mediation in industrial property disputes in the Republic of Macedonia

Sole arbitration institution in the Republic of Macedonia is the Permanent Court of Arbitration within the Economic Chamber in Skopje, established according to the Law on Economic Chambers and Statute of Economic Chambers of Macedonia. The Permanent court – Arbitration within the Economic Chamber of Macedonia is authorized to act in arbitration deciding on domestic disputes and international disputes if it has been agreed by the parties. Parties can agree on jurisdiction of Court of Arbitration within the Arbitration for resolving disputes for rights which parties freely dispose of and for which an exclusive jurisdiction of courts of the Republic of Macedonia has not been stipulated. For updating the arbitration deciding of disputes and implementation of actual trends in this sphere, the Assembly of the Economic Chamber of Macedonia adopted new Rulebook of operation of the Permanent court – Arbitration within the Economic Chamber of Macedonia in 2011[11]. Upon request of one of the parties, within arbitration authorizations a procedure for settlement of dispute can be conducted. For procedure for resolution of dispute by settlement a document for agreement on arbitration is not necessary.

Advantages of conducting arbitration instead of court procedure are already stated and well known in business world globally.

However, besides that, according to available statistic data, in front of the Permanent Court of Arbitration within SKM, until December 2016, 44 procedures were initiated, most of which were international element disputes. Of the total number of initiated procedures, 23 procedures had international element, while 21 of the procedures had no international element. In the last 5 years a tendency for increasing the number of arbitration procedures without international element has been observed. Also, there is a tendency for increasing the number of initiated procedures. So, in 2014, 1 procedure was initiated, however in 2015, 5 procedures were initiated, while in 2016, 8 procedures were initiated.[12][13] They are mostly trade disputes with a foreign element, debtor-creditor relations, contract disputes.[14] [15]

[9]In R.M. according to art. 31 par. 2 of the Law on courts, regarding disputes of authors and other related rights and industrial property rights, court with expanded jurisdiction are authorized. Regardless of the value of dispute, for these disputes in first degree a council always reaches a decision – art. 36, par. 5 of ZPP.

[10]Convention for recognition and enforcement of foreign arbitration decisions (New York convention) of 1958, ratified by 159 countries, among which R. of Macedonia by the Law on ratification of Convention for recognition and enforcement of foreign arbitration decisions (Off. Paper of SFRJ, International agreements no. 11/81) ://www.uncitral.org/uncitral/en/uncitral_texts/arbitration/NYConvention_status.html [09.10.2018].

[11]Revised text of the Rulebook of Permanent chosen court – Arbitration within Economic Chamber of Macedonia includes: Rulebook of Permanent court – Arbitration within Economic Chamber of Macedonia no. 07-1177/8 dd. 20.04.2011 and Decision for amendment of Rulebook of Permanent court – Arbitration within Economic Chamber of Macedonia no. 3479/8 dd. 15.12.2011, adopted by the Assembly of the Economic Chamber of Macedonia.

[12] The total value of disputes for which procedures were conducted at PISA within SKM in 2014 is 11.511 EUR, in 2015 21.096.897 EUR and in 2016, 408.169 EUR.

Of the existing statistic data, of 44 procedures initiated at the Permanent Court of Arbitration of SKM only one dispute referred to industrial property rights. The procedure was conducted in 2002, as a dispute with a foreign element and in front of an Arbitration Council. The dispute had arisen as a result of contractual violation of a concluded contract for license between the plaintiff and the defendant. The value of the dispute was 456.365 DEM (German marks). The procedure was finished within 196 days or 6 months and 15 days. The costs for the procedure were in the amount of 406.144 denars. During the procedure no provisional measure was imposed.[16]

By Decision for determination of Lists of arbitrators of Permanent chosen court – Arbitration within Economic Chamber of Macedonia dd. 30.11.2011, 27 arbitrators were named in disputes with no international element, as well as 59 arbitrators in international element disputes.

Progress in terms of resolving dispute of domain and trademarks is done also by adopting the Rulebook for arbitration procedure within Macedonian Academic Research Network MARnet[17], which regulates the way of resolving disputes among other things and in situations when user of domain has no right or legal interest for using the domain which such name or using is contrary to the principle of diligence and good faith.

The right for resolving disputes does not prohibit right of parties to conduct dispute at authorized court, another arbitration body or another authorized body for disputable issue. Furthermore, in arbitration procedure according to the Rulebook within MARnet it is not permitted to emphasize another request and to reach another decision as compensation to contractual and von contractual damage, not any condemnatory decision, except decision to deny the right to use a domain and to grant it to the claimant for which a modification in the register is done obligatorily[18].

Another form of alternative resolution of disputes including disputes of international element, which is recognized by the Macedonian law, is mediation. Considering the poor interest and distrust towards new way of disputes resolving, and due to development and promotion of mediation, state undertook the obligation for creating Mediation development program, but also to subsidize part of mediation costs in the amount of paid award to the mediator and costs of mediator according to the Tariff for award and compensation of costs[19]. Therefore, the legal frame is fully harmonized with Directive 2008/52/EZ of European Parliament and Council of 21st of May 2008 in terms of certain aspects of mediation in civil and trade issues. Encouraging alternative ways of resolving economic disputes and industrial property disputes also, extended in stipulating obligatory previous effort to resolve the dispute by mediation in the Law on litigation procedure[20]. Currently 31 mediators

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[13] A reply to request for information for research submitted by the author of the dissertation, no. 68-26/2 of 07.12.2016, The Permanent Court of Arbitration within the Chamber of Commerce in Macedonia. The data for 2016 relate to period until 01.12.2016

[14] Interview with the President of the Permanent Court of Arbitration within the Chamber of Commerce in Macedonia, Prof. D-r Arsen Janevski, Kapital no. 369 of 19.09.2011, page 11.

[15] From experience in Croatia: the annual number at the Permanent Court of Arbitration within the Chamber of Commerce is from 30, up to 110 disputes valued from 40 to 30 million euros, and unlike that, in the Croatian courts the current value of trade matter disputes is around 10 billion euros and they are characterized by slow decision making – the Chamber of Commerce of Macedonia, Biznis info no. 167 od 20.02.2014, page 4-5.

[16] Reply to a request for information for research submitted by the author of the dissertation, no. 68-26/2 of 07.12.2016, The Permanent Court of Arbitration within the Chamber of Commerce in Macedonia.

[17]Rulebook is adopted in December 2013 by the Management Board of Macedonian academic research network MARnet.

[18]Article 3,7 and art. 26 of the Rulebook for arbitration procedure within MARnet Skopje, December 2013, as well as article 25, 26 and 31 line 9 of Rulebook for organization and management with premium Macedonian MK domain and premium Macedonian MKD domain dd. 21.05.2014.

[19]Separate conditions for subsidizing are defined in article 28 of the Law on mediation (Off. Gazette of R. of Macedonia no. 188/2013).

[20]In economic disputes which value does not overcome 1.000.000 denars, according to which procedure is conducted by lawsuit in court, parties are obliged, before submitting lawsuit to try to settle the dispute by mediation. When submitting lawsuit of par. 1 of this article, plaintiff is obliged to submit written evidence issued by mediator that attempt to solve the dispute by mediation has not succeeded. Lawsuit with no submitted evidence will be dropped by the court- Proposal to law on amendments to the Law on litigation procedure.

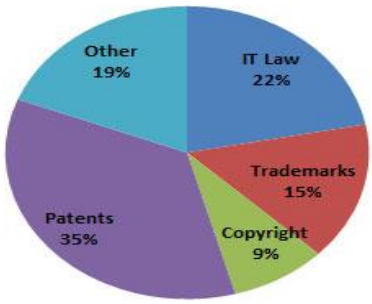
are registered in the mediators' register[21]. In 2009, when more than 100 thousand subpoenas were sent by written indication that dispute can be solved by mediation, around 60 cases were formed and only 8 of them have been successfully resolved[22].

5. Acting of Arbitration and Mediation Center within World Intellectual Property Organization (WIPO)

Growing interest for industrial property disputes resolution by using alternative methods can be meet by choosing some of the respectable institutions and organizations with vast experience of that area. Examples for such institutions are World Intellectual Property Organization (WIPO) and International Economic Chamber according to which statistics, around 12% of cases resolved at the International arbitration court include intellectual property issues also. (International Trade Centar, 2003:14) As specialized agency at UN, WIPO was established at the Conference for intellectual property in Stockholm in 1967, to improve the protection of intellectual property and encouraging creative activity. On 23.07.1993, the Republic of Macedonia became 138th member country of WIPO. (Дабовиќ, Пепељугоски, 2008:59)

Within WIPO an Arbitration and Mediation Center has been established which is authorized to provide help for parties for resolution of intellectual property disputes, as well as to provide some of the ways for alternative disputes resolution: arbitration, expedited arbitration, mediation and expert determination (expert opinion). Arbitration and Mediation Center of WIPO besides offering help to parties in concluding contracts for alternative resolution of already occurred disputes[23], helps them choose mediators, arbitrators and experts through data base consisted of over 1500 experts of intellectual property area. Among activities of the Arbitration and Mediation Center special attention should be paid to mechanisms for disputes resolution related to internet domain names, which have resulted in over 41 000 cases being processed so far[24]. Arbitration and Mediation Center so far has administered over 580 mediation cases, arbitration and expert determination cases.[25] Depending on the will of the parties, procedures of the Center have been conducted in several languages as following: English, French, German, Italian and Spanish. Although it was established in 1994 majority of cases have been submitted for resolution in recent years. The Center, in the interest of transparency, publishes descriptive examples of disputes also which were solved by mediation and arbitration. Subject of mediation and arbitration at WIPO center are copyright disputes, contracts for distribution of pharmaceutical products, IT disputes including licensed software, mutual investments contracts, violation of patents, patent licensing, technology transfer contracts, trademarks disputes, TV broadcasting rights, telecommunication contracts etc.[26]

Structure of alternatively resolved disputes at the Arbitration and Mediation Center of WIPO



[21] http://www.pravda.gov.mk/mediatori retrieved 04.10.2018

[22] Interview with the Mediators Chamber President Zoran Petkovik published on http://www.telegraf.mk/aktuelno/195162-mirno-resavanje-na-sporovi-tuzenite-ne-doagjaat-na-medijacija

[23]http://www.wipo.int/amc/en/clauses/

[24] http://www.wipo.int/amc/en/domains/ [09.10.2018]

[25] http://www.wipo.int/amc/en/center/caseload.html [04.10.2018]

[26] http://www.wipo.int/amc/en/center/caseload.html[06.01.2017]

Statistic data of the Center indicate that in about 10% of mediation, arbitration and expert determination, one of the parties in the dispute is person from Asia and mostly from: China, Singapore, Japan, Indonesia and Malaysia. In 25% of these cases the material law of Singapore has been implemented. (Boog, Menz, 2014:109)

The following data attests to the success of procedures at the Center: 69% of the conducted procedures have been successfully resolved.

According to the conducted international research for resolution of disputes related to technologies transfer published in March 2013, 94% of surveyed subjects[27] responded that there is a clause for amicable settlement of disputes stipulated in the contracts. (WIPO Arbitration and Meditation Center, 2013) Dominant place in clauses for disputes resolution take clauses for courts' jurisdiction (32%), but immediately followed by arbitration clause (30%) and mediation (12%). Mediation in 17% of cases is part of multistage clause, and after certain court procedure or arbitration. 76% of mediation and arbitration conducted by WIPO Center are based on clauses included in existing contracts of parties which stipulate that all future disputes will be processed by mediation or arbitration by WIPO, while the remaining 24% are based on mediation and arbitration agreed for already occurred dispute. Respondents believe that they will waste more time and will have more costs if disputes are resolved by the court than by arbitration and mediation[28]. Data acquired by this research are an important indicator for the direction in which international companies' opinions are headed which are more present in our territory in terms of issue for resolution of disputes occurred by industrial property rights.

6. Conclusion

Specialized and professional personal structure, efficiency of disputes resolution, acceptable costs of procedure conducting, confidentiality and discretion of procedure, and also popularization of mediation and arbitration as alternative way of disputes resolution, are directly correlated with inflow of foreign investments and thus the transfer of technologies, economic growth and development etc. The conclusion that intellectual property rights are only valuable if their protection is efficiently conducted is inevitably imposed. The opinion is justified that with no efficient means of conducting intellectual property rights protection innovation and creativity are discouraged and investments are lowered. Alternative disputes resolution cannot be driver of economic development, but it is of course pillar of security of investors, inventors, authors and other carriers of industrial property rights. Insufficient informing results in rare application of some of ADR methods in the Republic of Macedonia and almost constant application of conventional court protection. Current condition in the Republic of Macedonia indicates that a lot has to be done for further affirmation and promotion of ADR methods and advantages offered by them, to increase the efficiency of protection of industrial property rights on one hand and would disburden courts from large number of complex disputes for which they are not specialized on the other hand.

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[27]393 subjects from 62 different countries from Europe, North America, Asia, South America, Oceania, Caribbean, Central America and Africa.

[28] Assumptions of respondents are that in court they need about 3 years to resolve a dispute, unlike mediation where 8 months are needed or arbitration – little more than a year, while costs are 5-8 times lower when dispute is resolved by mediation instead of court procedure. (WIPO Arbitration and Meditation Center,2013)

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