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International Arbitration at an Inflection Point

WRITTEN BY

Victoria A. Alvarez | Jeremy Heep | Thomas Kinney | R. Zachary Torres-Fowler | Savannah Billingham-Hemminger

Key Trends to Watch at Troutman Pepper Locke's 2026 International Arbitration Forum

International arbitration remains a popular mechanism for resolving cross?border disputes because of its enforceability, neutrality, and flexibility.[1] At the same time, AI, third?party funding, and evolving expectations around transparency are reshaping what "good" arbitration strategy looks like. Leading surveys show that cost, delay, and uneven case management are now among the most frequently cited frustrations in the current arbitration landscape.[2]

The topics selected for Troutman Pepper Locke's upcoming International Arbitration Forum are not abstract. They map directly onto what recent empirical studies and institutional statistics identify as the main fault lines in current practice. The panels are built around the issues sophisticated parties are already confronting: confidentiality, ambiguous dispute resolution provisions, interim measures, and transparency. These are key areas on which to focus because every day contracts, disputes, and risk profiles are already being affected by them.

Collaboration and Licensing Disputes: Know?How as the New Battleground

Complex collaboration, licensing, manufacturing, and distribution arrangements — especially in life sciences, technology, and general intellectual property — have become a prime source of international disputes. The World Intellectual Property Organization (WIPO) notes that life sciences deals typically involve intricate webs of license, joint development, supply, and quality agreements, often tied to highly valuable IP and trade secrets. When relationships sour, the resulting disputes are technically complex, multijurisdictional, and can disrupt R&D, clinical trials, and product launches.[3]

That backdrop makes the focus on collaboration and licensing disputes particularly timely. As know?how and "negative know?how" migrate across borders via tech transfer and strategic partnerships, tribunals are increasingly asked to draw lines between legitimate learning and misuse of confidential information. Where suites of agreements govern a single relationship, practical questions loom large: how do you protect your trade secrets? What realistic options do you have for interim relief? How do you join all necessary parties?

These are not theoretical points. They go directly to how much value your organization actually preserves when a deal ends. A key area to watch is how tribunals and courts are treating documentation and disclosure of trade secrets and confidential information in these multiagreement structures, and how that in turn feeds back into enforcement, damages, and interim measures. Another is the growing risk of parallel proceedings — where trade

secret or noncompete claims end up in court while contract issues proceed in arbitration — raising cost, delay, and the possibility of inconsistent outcomes.

The Forum's case studies on life sciences technology transfer and distribution breakdowns will use recent practice to illustrate where current drafting and governance habits are out of step with the way arbitrators are actually analyzing know?how, non-competes, and post?termination conduct. If your business depends on collaboration or distribution networks, this is precisely where an early redesign of contract architecture can prevent multifront disputes later.

Arbitration Clauses That Work — or Don't — When Pressure Hits

Despite decades of guidance, "pathological" arbitration clauses remain a stubborn source of cost and uncertainty. Recent commentary catalogs recurring problems: references to nonexistent institutions or rules, "bare" clauses that say only that disputes shall be referred to arbitration without seat, rules, or appointment mechanism, and internally contradictory provisions that simultaneously point to arbitration and court jurisdiction.[4] Multitier clauses that require negotiation or mediation before arbitration add another layer of risk when their language is unclear or impracticable.[5]

Courts worldwide are still spending considerable time untangling competing jurisdiction and arbitration clauses, particularly where multiple related contracts use inconsistent dispute resolution language. Recent English case law, for example, has had to reconcile clashing clauses in layered reinsurance documentation, underscoring how easily parties can end up litigating which clause governs before they ever reach the merits.[6] In other words, litigation about litigation.

This is why clause drafting belongs on your risk radar now. The legal environment around arbitration has evolved — institutions have updated rules, soft law instruments now address AI, and courts have become both more supportive of arbitration and more attentive to public interest constraints. Boilerplate arbitration provisions written years ago often fail to account for multicontract structures, modern funding arrangements, or the reality that enforcement and interim relief will likely involve national courts.

The Forum's session on drafting will use recent "problem clauses" to illustrate how seemingly minor wording choices — a misnamed institution, a vague multitier provision, an uncoordinated hierarchy of documents — can drive months of satellite litigation. The practical payoff is the ability to audit and update your organization's standard clauses so they reflect not just what the contract drafters hoped for, but how tribunals and courts are actually approaching defective clauses today.

Efficiency, Speed, and the Rise of AI: What Users Are Really Asking For

Recent global survey work confirms that arbitration users still prize enforceability and neutrality, but are increasingly impatient with inefficiency. The 2025 Queen Mary/White & Case survey identified expedited procedures and early determination of manifestly unmeritorious claims as among the most effective tools to address causes of inefficiency such as lack of proactive case management or adversarial conduct by counsel.[7]

Institutions are responding. International Chamber of Commerce (ICC) statistics show sustained and significant

use of expedited procedures: in 2024, 152 cases were administered under the expedited track, with a six?month target from case management conference to award.[8] The Hong Kong International Arbitration Centre (HKIAC) and the Singapore International Arbitration Centre (SIAC) have raised monetary thresholds and promoted streamlined procedures to broaden access to fast?track options, explicitly citing user demand for greater speed and cost?control.[9] Comparative analyses of 2024 institutional statistics show that expedited and emergency mechanisms are no longer niche. [10] Rather, they are central to how parties design and manage high?value disputes.[11]

Overlaying all of this is AI. The 2025 survey indicates that more than 90% of participants expect to use AI tools in arbitration in the next five years, and more than half believe arbitrators will increasingly integrate AI into their work, primarily to save time, reduce costs, and minimize human error.[12] At the same time, concerns about errors, bias, and confidentiality risks are cited as major obstacles to broader deployment.[13] Institutions and professional bodies have started to respond with guidance that encourages responsible AI use while insisting on human judgment, transparency about material AI assistance, and protection of confidential data.[14]

The Forum's efficiency and AI session is designed against that backdrop. It will not simply ask whether arbitration is becoming too slow or too expensive — those questions have been asked for years. Instead, it will focus on how sophisticated users are now defining efficiency (time to resolution, predictability, impact on the business) and how they are leveraging expedited rules, early merits filtering, and AI tools. This is an area where in?house teams can materially change outcomes by setting expectations early, selecting institutions and seats that align with those expectations, and adopting internal policies on AI use that preserve privilege, confidentiality, and due process.

Ethics, Confidentiality, and Third?Party Funding: The Promise and the Trade?Offs

Confidentiality has long been marketed as one of arbitration's key advantages, particularly in IP?heavy and high?profile disputes,[15] and arbitration can provide confidentiality uniformly across jurisdictions. But when parties move into national courts to enforce or challenge awards, the open justice principle often collides with contractual and institutional expectations of privacy. Courts in England, Hong Kong, Singapore, and North America have taken differing approaches to sealing, publication, and the weight that should be given to the fact that the underlying process was confidential.[16]

At the same time, third?party funding has shifted from an exotic tool to a routine feature of many international cases. This has prompted a wave of institutional guidance focused on disclosure and conflicts of interest. The International Centre for Settlement of Investment Disputes (ICSID) 2022 Arbitration Rules require parties to disclose the existence and identity of any funder, including ownership and control, at the outset of proceedings and to update that information as circumstances change.[17] Legal guidance such as the ICCA?Queen Mary Task Force report and the Chartered Institute of Arbitrators (CIArb) Guideline on Third?Party Funding have consolidated an emerging consensus: disclosure of the fact and identity of funding is increasingly expected, even where the funding terms themselves remain confidential.[18]

The practical implication is that parties can no longer treat confidentiality and funding as purely private matters. Enforcement and challenge strategies may expose more of the arbitral record than originally anticipated. Funding arrangements may draw tribunals and courts into sensitive questions about conflicts, security for costs, and who truly controls the conduct of the case. And public interest considerations are prompting calls for greater

transparency even in ostensibly commercial cases.[19]

The Forum's closing panel will walk through this shifting landscape with a view to what in?house and external counsel should be doing now: drafting more realistic confidentiality provisions, planning enforcement pathways with publicity in mind, and structuring funding relationships and disclosures that anticipate institutional and judicial expectations rather than reacting to them mid?proceeding.

Why This Matters Even If You Never Set Foot in the Hearing Room

Across all four panels, the common thread is that international arbitration strategy can no longer be limited to choosing a reputable institution and a familiar seat. The data and developments of the last few years point to specific pressure points: how know?how and trade secrets are documented and protected in complex collaborations; how arbitration clauses in multicontract deals are drafted and coordinated; how efficiency tools and AI are used, governed, and explained to tribunals; and how confidentiality and funding expectations are aligned with evolving rules and court practice.

Those are exactly the issues the Forum will examine. For legal and business teams responsible for cross?border risk, the value lies not only in attending a particular event, but in using these themes as a checklist to stress?test existing contracts, dispute?resolution frameworks, and internal policies. We are monitoring these developments closely because they are already shaping outcomes in our clients' arbitrations. If your organization is a serious user — or potential user — of international arbitration, it is time to be monitoring them too, and Boston is an increasingly important place to do so.

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[1] 2025 International Arbitration Survey – White & Case / QMUL

[2] *Id.*

[3] Resolving Life Sciences Disputes Beyond the Courts – WIPO

[4] Avoiding Pathological Arbitration Clauses – Aceris Law; Pathological Arbitration Clauses – GAR

[5] Multi?tiered Clauses: Pros and Cons – Garrigues

[6] Conflicting Jurisdiction and Arbitration Clauses – Mayer Brown

[7] *Id.*

[8] ICC Arbitration Statistics 2024 – Jus Mundi

[9] HKIAC Updates on Fees and Expedited Procedures – Pinsent Masons

[10] Arbitration Statistics 2024 – Global Arbitration News

[11] *Id.*

[12] Key Insights from the 2025 QMUL Survey – Bristows

[13] 2025 International Arbitration Survey – White & Case / QMUL

[14] SVAMC AI Guidelines 2024; Navigating AI in International Arbitration – Faegre Drinker

[15] https://globalarbitrationreview.com/guide/the-guide-ip-arbitration/third-edition/article/why-arbitrate-international-ip-disputes

[16] Confidentiality Versus Transparency – Jus MundiArbitral Confidentiality in the Courts – Lexmarc Arbitration Blog

[17] ICSID Arbitration Rules 2022 – Rule 14

[18] ICCA?Queen Mary Task Force ReportCIArb Guidance on Third?Party Funding – Kluwer Arbitration Blog

[19] International Arbitration Trends and Topics for 2025 – Cleary Gottlieb

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