



# The Asia-Pacific Arbitration Review

2025

**Technology and arbitration:  
Illuminating your new road map**

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# Technology and arbitration: Illuminating your new road map

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## Summary

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## IN SUMMARY

This article explores recent changes by international arbitration institutions to incorporate technology into their operations, with a particular focus on the Korean Commercial Arbitration Board (KCAB) INTERNATIONAL.

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## DISCUSSION POINTS

- Global arbitral institutions' status of the digital case management platform
  - KCAB INTERNATIONAL's ODR system, which is yet to be incorporated
  - Benefits of hyper-innovative technologies in international arbitration
  - Preliminary issues to be aware of in ODR
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## REFERENCED IN THIS ARTICLE

- SIAC Rules
  - Protocol on Cybersecurity in International Arbitration
  - General Data Protection Regulation
- 

International arbitration institutions were standing in a world where there was no map when covid-19 challenged the inertial nature of the process of international arbitration. In response to the challenges posed by the pandemic era, numerous arbitral institutions have shifted their focus to digitalising their services. This adaptation aims to address the need for swift and effective resolution of disputes, aimed at the principal objective of many arbitral institutions that are committed to maintaining a cost-effective and efficient means of international dispute resolution. Thanks to online dispute resolution (ODR), coupled with information technology (IT) assistance, arbitration referrals and cases are allowed to be conducted by tribunals, where communications and management of the matter transpires on specialised digital platforms.

## GLOBAL ARBITRAL INSTITUTIONS' STATUS OF THE DIGITAL CASE MANAGEMENT PLATFORM

Globally renowned arbitral institutions were already reflecting these shifts in their amended rules to better guide the users. In August 2023, the Singapore International Arbitration Centre (SIAC) published the draft 7th edition of the SIAC Rules. Within the newly drafted Rules, SIAC introduced a digital case management platform called the SIAC Gateway. Under drafted Rule 4.2 'the Registrar may direct that the parties shall be required to upload all written communications to the SIAC Gateway'.<sup>[1]</sup> Other tribunals have also introduced similar digital platforms. In 2022, the International Chamber of Commerce (ICC) launched 'Case Connect' to make online case management easier. The Hong Kong International Arbitration Centre (HKIAC) also introduced Case Connect in 2021 and the Stockholm Chamber of Commerce's (SCC) case management platform was integrated in 2019.<sup>[2]</sup>

## KCAB INTERNATIONAL'S ODR SYSTEM

KCAB INTERNATIONAL is responding to this recent demand for the use of technology in arbitral proceedings. The government started the process by allocating a budget to set up the ODR application and system. The number of arbitral cases has already exceeded previous years, and the demand, market movement and other factors necessitated the call for the implementation of online platforms to continue to serve international clients effectively.

KCAB INTERNATIONAL already has state-of-the-art hearing facilities and other amenities, which allow clients to carry on with arbitration regardless of time and space. At the centre of Seoul, there are hearing room facilities catering to various sizes of hearings, and the arbitrators' lounge and library are ready to serve clients' needs.

The ODR system enables global parties to file and manage their matters through a specific platform established through the ODR system. Furthermore, the ODR system is linked to KCAB's payment system, enabling parties to make necessary payments as well as for KCAB to handle payments to arbitrators and mediators. The Korean court system took initial steps to digitise its system and the system has been very successful and well received by both the practitioners and the public in Korea. This allowed KCAB to examine the court system's digital platform as a benchmark in establishing KCAB's proprietary system.

The Korean government did its best to incorporate technology into judicial affairs to provide more effective services to the public and easier access to justice. Together with Korea's well-established infrastructure and with the high-speed internet network, the Ministry of Justice initiated the development of a judicial electronic system by requesting the Korean Institute of Science and Technology to conduct a study on the feasibility of judiciary electronic proceedings in 1979. Since the Ministry of Justice has been continuously digitalising judicial affairs, the courts established the Supreme Court IT centre and built auxiliary data centres in Daejeon, Busan and Kwangju for stable operation of information 24 hours a day, 365 days a year. Since the e-filing service for patent cases was commenced in April 2010, the system was extended to proceedings in civil cases in May 2011. With the implementation of the e-filing service, the number of users of the service picked up instantly. In 2023, there were a total of 389,823 e-filing cases; within eight years the number nearly doubled, reaching 844,549 cases filed through the online system. Over 90 per cent of civil cases are filed through the e-filing service, which is an indication that not only legal professionals but also the Korean public consider the e-filing service as a main method of litigation.

The success of the digitalisation of the Korean court system allowed KCAB INTERNATIONAL to establish initial benchmarks and milestones to achieve in terms of establishing a digitised platform. Along with KCAB INTERNATIONAL's existing personnel and KCAB's IT team, it is expected that the system would live up to the high standard of Korea's IT capabilities.

### **BENEFITS OF HYPER-INNOVATIVE TECHNOLOGIES IN INTERNATIONAL ARBITRATION**

International arbitration proceedings are mainly chosen due to their efficacy, speed and confidentiality in comparison to national trials. Embracing hyper-innovative technologies could help improve such aspects even more, especially their speed and convenience.

It is well known that technology, in particular artificial intelligence, has made a noticeable impact on the legal tech industry and naturally to the arbitration industry. However, the impact of AI, while emerging, is yet to be fully felt. From the information that is available and what is being predicted by experts, we expect the latest set of technologies to improve the efficiency of the arbitration management process, and allow greater access to large amounts of data

in a shorter period of time (for the benefit of both practitioners and the tribunal) and, for the institution, more accurate case management and an overview system. For example, case counsel would be able to prioritise the tasks in a more efficient way as well as keep track of the vast amount of pleadings involved in each matter. Furthermore, the institution will have a more efficient way to access and analyse information to identify the latest trends in the industry and attract new market segments to the ADR market.

### **Expediting The Arbitration Process And Approachability**

Gathering and reviewing evidence is a critical yet time-intensive step, involving going through an examination of emails, contracts and documents to extract relevant information that is essential for constructing claims and defences. This process usually requires comprehensive coverage; thus, it can be a cost-intensive aspect of the dispute resolution process. Fortunately, there are now AI tools that can proactively review those documents and alert users about which ones could be of use as evidence of claims and defences. AI tools are currently utilised within the major international law firms and perform with notable efficacy in streamlining the review and the disclosure of the process and improving the accuracy of the review.<sup>[3]</sup>

Legal drafting is also a crucial step in dispute resolution. After the review of the evidence, another way to gain time would be to use AI to draft a first legal brief, helping lawyers and counsel have a first basis to go from, as editing an existing document is usually less daunting than drafting one from scratch.<sup>[4]</sup> When it comes to the pleadings, AI also has the potential to assist lawyers with reviewing submissions. For example, AI can summarise all the key points, both for the submission as a whole and for each document.

Regarding the disclosure phase and the witness statement, AI can also come in handy. Indeed, voice and text-generative AI could prepare the first drafts of a statement. AI could also help in the transcription of hearings through voice-recognition and speech-conversation technologies. It can also translate foreign languages to serve global needs. Both of these technologies will need a human to proofread their work; however, it clearly improves the speed of the process, as it is always quicker to proofread than to start from scratch.<sup>[5]</sup>

### **Cost-effectiveness**

The utilisation of advanced AI tools proves particularly advantageous in the context of reviewing extensive datasets, where recurring issues necessitate thorough examination. For instance, widely used AI modules pre-equipped with capabilities to identify cartels, exemplify this efficiency. Through leveraging these modules, review teams can efficiently segregate over 99 per cent of reviewable documents before undergoing second-level human scrutiny.<sup>[6]</sup>

Such a streamlined approach not only expedites the review process but also yields substantial cost savings, as it minimises the need for extensive human labour and reduces the associated financial overheads. This underscores the significant financial benefits derived from the strategic deployment of AI technologies in legal proceedings, making them a cost-effective solution for addressing complex review tasks.

From the perspective of the customer who wishes to submit a new matter or case, the cost of using the ODR system is completely free. Of course, once the secretariat of an arbitral body agrees to carry on with the case then there will be filing and administrative fees. Yet, there is no cost for using the online system. The European Commission's ODR site explained

how ‘this site is free to use’ to make sure that those who want to bring the dispute through the EC’s ODR service to dispute resolution bodies come at an ease of burden of cost.<sup>[7]</sup>

### **Preliminary Issues To Be Aware Of In ODR**

Even though, as previously stated, there are benefits to using hyper-innovative technologies within the field of international arbitration, there are still potential threats to keep in mind. When it comes to using ODR, risks related to information security tend to be higher, as IT adds a new level of risks through the shift to electronic communications and digitised platform

### **Information Security**

Establishing an AI platform comes with a lot of challenges in terms of cybersecurity, but also with physical security. Many cyberattacks and data breaches happen because of human errors or mistakes in the physical world: leaving a USB stick in a public space, a laptop being stolen, a professional building ID card being stolen, leaving a computer unlocked when leaving a desk and not setting security protocols on a computer storing sensitive information.

When talking about an AI platform, it might also mean that the parties and the tribunal are not the only people with access to it, as it might be accessed by independent contractors or third-party vendors (consultants, experts, translators, interpreters, etc.), meaning people would have to ensure that their physical security level is as high as their cybersecurity level. Therefore, having access to an AI platform on computers with physical security issues can lead to the leak of that information, which is why information security must always be considered both physically and electronically.

When it comes to cybersecurity, the Protocol on Cybersecurity in International Arbitration (2022 edition) has been published by the ICCA, the New York City Bar and the International Institute for Conflict Prevention and Resolution,<sup>[8]</sup> which is a reliable basis to start from. However, it is not tailored to explore risks emanating from the use of AI.<sup>[9]</sup> Furthermore, there is no one-size-fits-all solution to information security; as cybersecurity is a fast-evolving field, no regulation can stay up to date with the state-of-the-art technology. Therefore, every party and tribunal must follow the latest best practices in terms of cybersecurity, which can be quite difficult to follow as it is constantly evolving and must always rely on the state-of-the-art technology.

Among the specific measures to be applied in international arbitration, here are the some of key categories according to the Protocol: ‘(a) asset management; (b) access controls; (c) encryption; (d) communications security; (e) physical and environmental security; (f) operations security; and (g) security incident management, including breach notification expectations and procedures.’<sup>[10]</sup> All those measures will need to be considered to ensure the mitigation of the risks related to information security threats.

Complementary to information security measures, data privacy compliance will be crucial when handling hyper-innovative technology in the field of international arbitration.

### **Data Privacy**

Challenges are also numerous in the field of international arbitration when it comes to data privacy and confidentiality. Indeed, data privacy is about protecting individuals’ rights and freedoms, and confidentiality means information that is meant to be kept secret or private. While there can be cases where there are confidential non-personal data and confidential

personal data, the challenges faced by data privacy and the protection of confidentiality due to AI are mostly similar. For this reason, they will be treated together in this section, through the angle of data privacy.<sup>[11]</sup>

The first question to arise is the concept of a 'global' AI platform. Being a global platform means that it will be subject to numerous legal obligations depending on the countries where it is deployed. When it comes to the field of data privacy, it can be very tricky because of the notorious General Data Protection Regulation (GDPR). While there is no specific guidance as to how GDPR applies in the field of international arbitration given by the regulation or the data protection authorities, and while the EU courts are generally not submitted to the jurisdiction of the data protection authorities,<sup>[12]</sup> the establishment of a global AI platform has a real impact on this topic.

Even though the GDPR is an EU regulation, its application comes with a lot of extraterritorial measures that can be difficult to handle outside of the European Union. The material and territorial scope of the GDPR can be cross-border and further extended and many global websites and platforms have adopted this regulation as a default one when it comes to data privacy.

While the GDPR will apply to any arbitration proceedings between EU parties using an AI platform, it also means that an arbitration taking place between an EU party and a non-EU party might also be subject to GDPR. The data protection obligations of the EU party might have a spillover effect on the other party using the same AI platform. It can also have an impact on two non-EU parties with an arbitration proceeding together, using the same global AI platform.

Therefore, the framework of this global AI platform will be the key to dealing with GDPR obligations: the IT architecture of this platform, its storage rules, its data server location, its user management, its data flows and more. All those IT decisions will have an impact on the application of data protection regulations, especially the GDPR and its extraterritorial measures, which can be difficult to avoid.

As a general conclusion, GDPR compliance is about identifying risks, how to manage them and how to mitigate them. Complete compliance is nearly impossible to achieve and is not required by the law, as this regulation focuses on the protection of individuals' rights and freedoms. However, every step of building an AI platform will have to be thoroughly thought about with data protection in mind, to ensure that all the necessary questions can find a satisfactory answer.

### **Hallucination, False Information And Fabricated Evidence**

Finally, one of the last challenges to consider is the after-effects of AI, which are hallucination, false information and fabricated evidence.

Despite how AI can be useful in terms of legal research and its convenience to the public, AI sometimes asserts incorrect answers or fabricated footnotes and sources, as has been shown in cases from various jurisdictions, including an incident in the United States where counsel relied on generative AI to draft a brief but some of the court decisions mentioned in the brief did not exist.

While these kinds of hallucinations can be double-checked, some might be too subtle to find, such as when cultural biases affect AI's output.<sup>[13]</sup> The data used when training the AI platform will be crucial to ensure the delivery of good results.<sup>[14]</sup> Their quantity but also their



quality will need to be thoroughly checked.<sup>[15]</sup> And despite all these measures, practitioners will need to keep in mind that AI does not understand questions: it only knows how to copycat to provide the most accurate answer.<sup>[16]</sup>

Another issue could be linked to the generation of forgeries by AI (deep-fake, photographs, videos). It might be impossible for the naked eye to detect, and even specific tools set up to identify AI-generated documents are still not fully accurate.<sup>[17]</sup> A party even can argue that genuine evidence is fake.<sup>[18]</sup> Therefore, the challenge remains in managing and validating AI's performance and output.

## CONCLUSION

At the time of writing this article, to say that technology and AI would have a significant impact on the legal and arbitration industry would be almost elementary and repetitive. The convergence and the eventual merger of the two are inevitable; the question is how best to navigate the new path created by the partnership. As mentioned, while the hype is high, many institutions, including KCAB INTERNATIONAL, are taking cautious steps to incorporate the groundbreaking technologies.

While the benefits are clearly visible, the cost of retaining the benefits must be weighed and the technology must be incorporated to ensure that the core values of ADR are maintained and complied with.

We have taken our first steps into the new journey in many aspects: new technology, a new attitude about ADR, new vision to create larger markets, etc. The technology will surely illuminate the new path we are travelling, and we are optimistic that the journey we have embarked on will lead to greater access to ADR and for ADR to offer more diversified services.

Finally, at the time of publishing of this article, we welcome Professor Seung Wha Chang as the new chairman of KCAB INTERNATIONAL. We look forward to Prof. Chang's new leadership in taking KCAB INTERNATIONAL to a new direction, encompassing and embracing the philosophy of greater access to ADR and providing elevated level of services to ADR users.

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## Endnotes

<sup>[1]</sup> *Arbitration Rules of the Singapore International Arbitration Centre, Consultation Draft* (Draft Rule 4.2). (2023). SIAC.

<sup>[2]</sup> Anchayil & Singh Kler, 2023.

<sup>[3]</sup> Bizikova et al., 2023.

<sup>[4]</sup> *ibid.*

<sup>[5]</sup> *ibid.*

<sup>[6]</sup> *ibid.*

<sup>[7]</sup> Online Dispute Resolution, n.d.

<sup>[8]</sup> *ibid.*

<sup>[9]</sup> Schafer, 2021.

[10] The ICCA Reports No. 6: ICCA-NYC Bar-CPR Protocol on Cybersecurity in International Arbitration | ICCA, 2022.

[11] A report on Data Protection in International Arbitration has been made by a Joint Task Force of ICCA and IBA in 2022. Regrettably, there is no mention of the impact of AI within this report, which left us with a lot of questions when it comes to establishing an AI platform for International Arbitration.

[12] ICCA–NYC Bar–CPR Protocol on Cybersecurity in International Arbitration, 2022.

[13] *Artificial intelligence in arbitration: evidentiary issues and prospects*, 2024.

[14] Magal et al., 2023.

[15] Ibid.

[16] Ibid.

[17] Ibid.

[18] Bartz, 2023.



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