

## New Developments in Chinese Arbitration \*

### Summary

**\* Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The session at the Washington Arbitration Update (WAU) in Beijing focused on recent developments in Chinese arbitration law, featuring a panel of distinguished experts. The panel was introduced by Helen Shi, a partner at a law firm, and included speakers such as Miss Chow, Mr. Wong, Professor Lu, and Mr. Sheila.

Helen Shi emphasized the importance of the discussion on the evolving landscape of arbitration in China, particularly in light of recent legislative changes. Miss Chow provided insights into amendments to the Civil Procedure Law (CPL) effective January 1, 2025, which will significantly impact how the nationality of arbitral awards is determined and how foreign arbitral awards can be enforced in China. The amendments shift the criteria from the location of the arbitration institution to the place where the award is made, aligning Chinese law more closely with the New York Convention.

Professor Lu highlighted the unique requirements of Chinese arbitration law, particularly regarding the designation of arbitration commissions. He noted that recent judicial interpretations have expanded the definition of what constitutes an arbitration commission, allowing for greater flexibility in arbitration agreements.

The panel also discussed the current prohibition against ad hoc arbitration in China, although there are emerging local regulations in places like Shanghai that suggest a more liberal approach could be on the horizon. Miss Universe elaborated on the evolving landscape, indicating that while ad hoc arbitration is not yet fully permitted, there are ongoing efforts to reform this aspect of the law.

Mr. Wong addressed the role of arbitration in intellectual property disputes, noting a rise in such cases and the varying legislative environments outside of China that support arbitration in IP matters. He cited statistics indicating a significant volume of IP-related arbitration cases handled by Chinese institutions, suggesting a growing recognition of arbitration's benefits in this area.

The session concluded with reflections on the practical implications of these developments

for arbitration practitioners in China, highlighting the need for ongoing dialogue and adaptation to enhance the arbitration framework in line with international standards. A coffee break followed the session, allowing participants to network and discuss the insights shared.

### **Authors**

Helen H. Shi, ZHAO Fang, WANG Zhengzhi, Prof. LU Song, YE Weina, SHI Lei

### **Topics**

China, Arbitration, Developments, Evolution

### **Category**

WAU

### **Full Transcript**

00:00:02

Again, it is at with

00:00:05

the great pleasure that that

00:00:07

we officially give the floor

00:00:10

to our first panel in

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Beijing or first v a

00:00:15

c. Good morning. This for

00:00:19

the recording purposes. It is

00:00:21

with great pleasure that we

00:00:23

give the floor to our

00:00:25

first panel and the it

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is that for me a

00:00:30

great honor to introduce the

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panel on developments in in

00:00:39

Chinese law to have a

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panel with expert on Chinese

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arbitration knowing that there have

00:01:02

been lately many developments in

00:01:05

the law of arbitration in

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China and what better topic

00:01:13

to start the world arbitration

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update from Being a for

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the rest of the world

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about to start concerning the

00:01:22

study and Analysis of the

00:01:25

Chinese arbitration law. So it

00:01:28

is with great pleasure that

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I I am introducing miss

00:01:33

Helen she having she is

00:01:38

a partner and find that

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law and she has a

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practice that focuses on these

00:01:49

people resolution including of course

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International commercial arbitration and litigation

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serves as a vice president

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of the IC Code of

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arbitration and co-chair of the

00:02:02

IPA asia-pacific arbitration among so

00:02:06

many things and I could

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go on and on but

00:02:09

I know that me she

00:02:10

would not appreciate it. So

00:02:11

it is with great honor

00:02:13

that I give the floor

00:02:15

to me. She welcome. Good

00:02:43

morning of w a u

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and also missed my dear

00:03:01

panel speakers and the distinguished

00:03:03

to cast the morning. Let

00:03:07

me first introduce over experience

00:03:09

to the panel speakers. Missed

00:03:17

telephone Miss Chow is the

00:03:19

partner of freaking Connors and

00:03:22

the mister bong, don't you?

00:03:25

Miss Wong is a pawner

00:03:26

of the global law lawyers

00:03:28

Mr. Wong primarily practice in

00:03:32

the field of Ip protection

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and the commercialization and the

00:03:37

oso serves as an arbitrator

00:03:39

was several institutions such as

00:03:42

bacc Tak Fiat since 2023.

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He has been the chief

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editor of the China international

00:03:52

IP arbitration annual report. four

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consecutive late two years professor

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alusso professor professor at for

00:04:06

China foreign affairs university and

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the old sort of very

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experienced independent arbitrator. Mr. Sheila

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is a pawner of Miss

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Elena is international partner of

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herb Smith fresh views. As

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the founders of w w

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a u Jose just introduced

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one of the functions of

00:04:41  
of the wau is to

00:04:43  
provide updated information on International

00:04:46  
arbitration to the arbitration community

00:04:48  
that why the first a

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panel discussion of this two

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days event. It was for

00:04:57  
discussing the update and a

00:04:59  
new development of arbitration in

00:05:01  
China. In this session, the

00:05:04  
experience to arbitration practitioners will

00:05:07  
introduce the update on legislation

00:05:11  
legislative institutional rules in relation

00:05:18  
to Chinese arbitration and the

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update on the arbitration practice

00:05:23

in China in relation to

00:05:24

the IP related dispute less

00:05:28

first in white mister mister.

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Forgiving her talk on the

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Amendments of the civil procedure

00:05:38

law and how it affects

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on the nationality of the

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arbitration award and enforcement before

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arbitration award in China, Miss.

00:05:48

Peace. Is good morning? Good

00:06:01

morning everyone. It's my honor

00:06:03

to be here. So today

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I'm going to give you

00:06:07

an update regarding at you

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know, the new Amendment on

00:06:12

the civil procedure law which

00:06:14

will have a significant impact

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on the arbitration practice in

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these two amendments are relevant

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to today's discussion. What is

00:06:28

the new criteria for determining

00:06:30

the nationality of arbitral awards?

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And the other is relevant

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to how to file a

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case before a p i

00:06:39

c code for enforcing foreign

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arbitral award. So January 1st,

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2025 the new civil procedure

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law came into effect introduced

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to amendment that relevant to

00:06:58

arbitration specifically article 297 and

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304 stipulate that the nationality

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of any arbitral award will

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be decided according to the

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place where it is made

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and let's see, let's look

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at some old laws. So

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under the old CPL of

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2021 the nationality of an

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arbitral award is decided according

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to the place of Patricia

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institution, which renders these arbitral

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award. So we all know

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that an arbitration institution. They

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all prayed different Brown. Carry

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out activities in different seats.

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So sometimes just woke up

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cause confusion in terms of

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especially in terms in Folsom

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and where the court needs

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to decide the applicable law

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to review the arbitral award.

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So under the old laws

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the approach is actually somehow

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inconsistent with Article 1 of

00:08:14

the New York convention because

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the New York convention Mendes

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the enforcement according to the

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territory where the award is

00:08:24

made. Let's explore a little

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bit regarding the historical evolved

00:08:32

evolution of the case law

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to understand the Genesis of

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the new amendments to 20

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years ago in Walloon case

00:08:44

an ICC award was imposed

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as a French award. But

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the Isis I would actually

00:08:50

was made in the United

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States one year later and

00:08:55

she only pays an ICC

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award made in Hong Kong

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has also imposed as a

00:09:02

friendship would rather than a

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Hong Kong award during those

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times actually the Chinese food

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rendered wearing these issues. So

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for instance in 2006 the

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shoe from People's Court decided

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in Zubland case that a

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nice TC arbitration agreement stipulating

00:09:25

arbitration. Shanghai to be non

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and void this is because

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Eva and to now the

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PLC arbitration laws. Do you

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does not stipulate that Anna

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for real magician institution can

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be registered and operate in

00:09:43

China. This is something that

00:09:45

the new arbitration law would

00:09:47

try to resolve and two

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years later, However, the Ningbo

00:09:52

Court decided in another case

00:09:55

that can I see Sellwood

00:09:58

rendered in Beijing can be

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enforced as a non-domestic award

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in China according to the

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New York, Mansion was welcomed

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by the institution and by

00:10:13

the arbitration Community but a

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raise the legal question because

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when a dog getting the

00:10:20

New York convention China specifically

00:10:24

made a reservation And Article

00:10:27

1 of the New York

00:10:28

convention that is China will

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only impose the 48-hour to

00:10:33

a wood made outside of

00:10:35

China. China will not enforce

00:10:37

the nun massive award according

00:10:40

to the New York convention.

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The decision was inconsistent with

00:10:47

the reservation of China as

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part of the convention the

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turning point of this discourse

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appeared in 2013 in two

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landmark cases. That is a

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long like his name bolt

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balloon taste the soup from

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People's Court affirmed the validity

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of to ICC arbitration agreement

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stipulating ICC application respectively in

00:11:16

Beijing and Shanghai. So this

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these remarkable cases marked a

00:11:23

shift of the legal landscape.

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The Nimble case in 2016

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elite case so I cannot

00:11:32

attack a word be enforced

00:11:36

as a phone call. Then

00:11:40

in 2020 came the very

00:11:42

famous Brentwood kids in Bramble

00:11:44

case. The Guangzhou called was

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asked to enforce an ICC

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award rent in Guangzhou wizard

00:11:54

endorsement of soup in people's

00:11:56

called Guangzhou Court decided that

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this award was a Chinese

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award and trophy in force.

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According to the local laws

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that are PSD code enforce

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an undomesticated award as a

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Chinese a word even without

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clearly even without any legal

00:12:24

basis under the Chinese law.

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Now we have the new

00:12:29

Amendment of the CPL which

00:12:32

reflected the judicial development observed

00:12:36

in Brentwood case and Amanda

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will have a significant impact

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on the future of the

00:12:44

arbitration practice the First Amendment

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lies with Article 1 of

00:12:51

the New York convention previously

00:12:54

arbitral award will not have

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any legal background to be

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enforced in China either under

00:13:03

the New York convention under

00:13:05

the local law. But now

00:13:07

the new Amendment provides the

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legal ground for the enforcement

00:13:11

of non domestic a word

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made by forming a petition

00:13:16

institution in China and also

00:13:19

extends the enforceability not only

00:13:24

to the non domestic. I

00:13:28

hook up a betrothal a

00:13:29

word made in China. So

00:13:32

this amendment demonstrate April arbitration

00:13:36

stands without violating China's reservation

00:13:41

under the New York, mention

00:13:43

the case before a Chinese

00:13:50

code enforcement of foreign arbitral

00:13:53

award and under the old

00:13:55

Lord. There are only two

00:13:58

connections when you want to

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impose a very opportune voting

00:14:01

China either the respondents domicile

00:14:05

showed in China or the

00:14:08

responders shall have asses in

00:14:10

China, but question raised and

00:14:14

the Christie's of criticism came

00:14:16

in regarding those Provisions in

00:14:18

practice. So for instance, if

00:14:21

an arbitral award only contains

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decorator, it's on the right

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Trail ruling such as Formatia

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of the respondents breach-of-contract then

00:14:31  
question raised to regarding whether

00:14:33  
the applicant will be able

00:14:36  
to recognize and impose search

00:14:38  
for a habit of wood

00:14:39  
in China is the respondent

00:14:41  
is neither recited or not

00:14:44  
have any assets in China,

00:14:46  
especially with the applicants should

00:14:53  
be deprived of the opportunity

00:14:54  
to recognize or impose their

00:14:58  
arbitral award. If they do

00:15:01  
not have enough resources to

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locate the respondents as is

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now we see the new

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Amendment address to post criticism

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in practice. They added two

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notches. Enforcing flooring arbitral award.

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What is that if the

00:15:22

applicants Thomas out is in

00:15:24

China than the actual word

00:15:26

can be enforced in China.

00:15:27

Oh is the applicant cannot

00:15:30

find any above connection then

00:15:34

appropriate connections with a dispute

00:15:37

involving the word might be

00:15:39

established as a last resort.

00:15:42

So the new amendment addressed

00:15:46

the issues in the practice

00:15:48

and demonstrated a more flexible

00:15:51

and open stands for enforcing

00:15:55

arbitral award and therefore is

00:15:57

a very welcome amendment that

00:16:00

ends my presentation today. Thank

00:16:04

you very much. Thank you.

00:16:10

Missed y'all for giving us

00:16:12

the update on the announcement

00:16:14

of the CPL. I would

00:16:17

like to ask about the

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door panel speakers want to

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comment on this new and

00:16:24

Mandarin maybe Professor Lu? Thank

00:16:27

you. Good morning, everyone. I'm

00:16:33

very few privileged to be

00:16:36

invited to this panel and

00:16:38

talk about some of the

00:16:40

new developments of the Chinese

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low in the sphere of

00:16:44

arbitration 22 points before that.

00:16:55

I would like to give

00:16:58

a special thanks to the

00:17:00

Chinese Supreme people's called because

00:17:03

they're so practical you set

00:17:05

up the foundation for these

00:17:07

new announcement of the Chinese

00:17:09

civil procedure. No, Who issues

00:17:12

number one as you know,

00:17:15

that the Chinese arbitration law

00:17:18

article 16 has a unique

00:17:21

requirement require that the validity

00:17:25

of an arbitration Clause she'll

00:17:28

include a designation of an

00:17:31

arbitration Commission. So what does

00:17:35

it mean an arbitration commission?

00:17:37

So there is some dispute

00:17:39

someone out here that this

00:17:43

arbitration commission only refers to

00:17:46  
the the Chinese arbitration commission

00:17:50  
which registered with the Chinese

00:17:51  
authorities. I want this is

00:17:54  
you're going to concept it's

00:17:57  
a wrong understanding the Supreme

00:17:59  
Court a later Mustafa mentioned

00:18:03  
in those cases is qualify

00:18:06  
as the arbitration commission under

00:18:10  
Chinese arbitration law article 16.

00:18:13  
So any orbital institution in

00:18:17  
the world will qualify now

00:18:19  
under Chinese arbitration law 6016.

00:18:22  
I wish the support of

00:18:25

supreme People's Court decision. So

00:18:27

first point second point is

00:18:31

a mistrial mention that the

00:18:35

concept of seat of arbitration

00:18:37

was introduced and accepted over

00:18:39

the past, baby. Five to

00:18:42

10 years by the Supreme

00:18:45

Court asked the detect a

00:18:48

connecting factor to the nationality

00:18:51

of an arbitral award show.

00:18:54

The previous Chinese civil procedure

00:18:57

law says that foreign arbitral

00:19:00

institution of foreign institutions will

00:19:09

be recognized in 4th in

00:19:10

China by the location of

00:19:20

a falling object or Institution.

00:19:24

Not a change that use

00:19:27

the seat of arbitration or

00:19:29

place of arbitration as the

00:19:31

connecting factor to determine the

00:19:34

national. That's what America thank

00:19:41

you Professor Lu. Professor loose,

00:19:51

let's move to the next

00:19:54

topic Manning of you may

00:19:56

know and also as Professor

00:19:58

Lu just to introduced arbitration

00:20:02

law article 16 require the

00:20:06  
definition of arbitration Commission in

00:20:11  
the arbitration cost to make

00:20:12  
it as close to be

00:20:13  
a balance. So that means

00:20:15  
the Chinese law doesn't allow

00:20:18  
any of the hawk arbitration

00:20:20  
or the arbitration must be

00:20:22  
administrated arbitration institution. Do we

00:20:29  
have any update? Maybe some

00:20:31  
local regulations has allowed that

00:20:35  
would like mixed up folder

00:20:36  
allowing ad hoc arbitration in

00:20:39  
certain specific area. Miss Universe

00:20:43  
will bring this topic to

00:20:45  
us. Misty at please Thank

00:20:57  
you very much. Helen, very

00:21:01  
happy to be here today

00:21:02  
and to see a what

00:21:05  
a patrician update to come

00:21:07  
to China and I'm very

00:21:09  
glad that the first session

00:21:10  
this morning is on new

00:21:12  
updates on Chinese arbitration law.

00:21:16  
And as you have already

00:21:18  
had a flavor from the

00:21:21  
presentation made by my job

00:21:23

and also the comments from

00:21:24

at Professor blue and Helen

00:21:26

are the Oscars in unique

00:21:28

features of arbitration in China

00:21:31

and that to a large

00:21:32

extent is perhaps because that

00:21:35

are arbitration law is Mother

00:21:37

dated and there are certain

00:21:39

rules or Provisions, which a

00:21:43

note that are not entirely

00:21:44

in line with International practices

00:21:47

at and that includes what

00:21:51

miss y'all mentioned as for

00:21:53

example, you know that this

00:21:55

the concept of Under Piazza

00:21:58

arbitration law wasn't fully recognized

00:22:01

in an arbitration law. It

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is. It uses a Concepts

00:22:08

such as the location of

00:22:09

arbitration commission as a replacement

00:22:12

of the seat of oxygen.

00:22:13

That's why and another and

00:22:15

feature is that Helen Ann

00:22:19

and professor already mentioned. We

00:22:21

do not allow at Hawkeye

00:22:24

Patrician as you could say

00:22:26

from this light and because

00:22:29

so, I think that's the

00:22:31

type of their article 16

00:22:32

says that a ballad arbitration

00:22:35

agreement must specify and a

00:22:37

patrol institution and therefore at

00:22:41

hog arbitration in China is

00:22:43

not permitted and that is

00:22:45

to say that Ad hoc

00:22:48

arbitration seated in China is

00:22:50

not permitted as as you

00:22:53

could see it from the

00:22:54

the last bullet point is

00:22:56

it indeed he's admitted is

00:23:01

it he's recognized that ad

00:23:04

hoc arbitration could be seated

00:23:06

elsewhere in other jurisdictions and

00:23:08

an In-N-Out would rendered in

00:23:11

those at Hawkeye patricians could

00:23:13

be enforced in China but

00:23:17

coming back to our topic

00:23:18

today arbitration at hog arbitration.

00:23:20

See you today. Mainland. China

00:23:22

is not permitted under the

00:23:24

existing Piatti arbitration law, but

00:23:26

in reality in reality commercial

00:23:30

parties, the may have need

00:23:32

to have a talk about

00:23:33

Patricia. There are few examples

00:23:35

as some of you may

00:23:39

know at Freddy's on pole.

00:23:42

Reporting by Beijing arbitration commission

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saying that they have offered

00:23:47

Human facility to ad hoc

00:23:50

arbitrations conducted what I mean

00:23:52

that the in that case

00:23:53

the seat was Hong Kong

00:23:55

and the parties agree as

00:23:59

I think the agreement was

00:24:01

also governed by Hong Kong

00:24:02

law and it was a

00:24:04  
valid at all at home

00:24:05  
grab attrition agreement, but it

00:24:06  
was between Chinese party to

00:24:08  
hearing was conducted at the

00:24:10  
Beijing arbitration commission and then

00:24:12  
send those cases demonstrate that

00:24:14  
Chinese commercial parties sometimes to

00:24:16  
use at her application in

00:24:19  
their business operations. And it

00:24:25  
just the fact that our

00:24:27  
parents arbitration. Lord is not

00:24:29  
allowed is not consistent with

00:24:31  
that commercial needs and and

00:24:35

therefore in past 10 years

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more than 10 years. You

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see various groups of people

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organizations try to liberate that

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prohibition will ruin China. and

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and You would see that

00:24:51

I'm obviously the first step

00:24:53

was taken by by the

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Chinese judiciary's particularly our Supreme

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People's Court and back in

00:25:00

2017 in the context of

00:25:03

free trade zones where you

00:25:06

know, our government allows more

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liberated rules. The Chinese Supreme

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People's Court issued an opinion

00:25:13

to say that enterprises Incorporated

00:25:16

in free trade zones, May

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submit their dispute arbitration the

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exact wording used in the

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opinions that it did not

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say, you know, I expressly

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at whole conversation, but it

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says that parties or Enterprises

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Incorporated in free trade zones,

00:25:35

May submit the dispute to

00:25:37

arbitration at a certain location

00:25:40

pursuant to certain rules and

00:25:44

handled by certain at personal

00:25:49

individuals. And that you know

00:25:53

most of the sort of

00:25:55

people in in in in

00:25:56

arbitration Community as a permission

00:25:59

to ad hoc arbitration, but

00:26:01

that is restricted to dispute

00:26:03

between Enterprises Incorporated in free

00:26:07

trade zones. And that message

00:26:09

was repeated in an SPC

00:26:13

opinion on Pacific free-trade Zone

00:26:16

Sharingan free trade zone and

00:26:18

issued in 2017. So that

00:26:20

was the first step but

00:26:22

you know, as many people

00:26:24

have pointed out these are

00:26:26

sort of a general provision

00:26:29

issued by SPC at 1000

00:26:34

set out detailed rules as

00:26:36

to you know, how at

00:26:38

her situation could be implemented

00:26:40

in practice who would be

00:26:42

the appointing authority, you know,

00:26:44

where would the parties find

00:26:45

their arbitrators and excetera and

00:26:49

Hence, you could see that

00:26:50

the second step is that

00:26:54

you know, certain local legislators

00:26:56

and certain local judicial Administration

00:27:00

say it was to take

00:27:02

a further step to set

00:27:04

up more detailed rules on

00:27:05

that and I'm based in

00:27:08

Shanghai. So so I'm bringing

00:27:10

the Shanghai rules at the

00:27:12

Shanghai legislators at the end

00:27:14

of 2003 at 2023 and

00:27:18

last year. He should a

00:27:20

municipal regulations promotion development of

00:27:23

international commercial arbitration Center. And

00:27:26

then that's in Osco 20

00:27:28

of that regulation as a

00:27:29

legislature specifically said that eating

00:27:33

well explore mechanisms for at-home

00:27:36

AB attrition of Auburn belated

00:27:38

commercial and Maritime disputes in

00:27:41

Shanghai when it says engine

00:27:43

hot. It means seated in

00:27:44

Shanghai. So that is the

00:27:46

general legislation. Published last year

00:27:50

in Shanghai and further to

00:27:53

that just a month ago

00:27:55

in March 2012 a couple

00:27:58

of months ago 20 the

00:28:01

typo. It should be 2024

00:28:04

instead of 14 M. The

00:28:07

Shanghai Bureau of Justice published

00:28:09

assess both measures for it

00:28:13

hasn't yet become effective, but

00:28:15

it's doubtful comment. It says

00:28:19

that in Shanghai certain disputes

00:28:23

could be submitted to I

00:28:25

hope I'll be treated and

00:28:27

there it sat out the

00:28:28

first Subway points. Are you

00:28:30

could say that it set

00:28:31

out certain parameters for at

00:28:35

hog arbitration to apply so

00:28:37

Festival applies to Forum related

00:28:40

Maritime and Commercial disputes, and

00:28:42

so it doesn't apply to

00:28:45

serve purely domestic for those

00:28:47

who are familiar with p

00:28:49

You would know that we

00:28:50

make a distinction between domestic

00:28:51

dispute and formulated a dispute

00:28:55

and this measure would apply

00:28:57

to formulated Maritime and Commercial

00:29:00

disputes. And secondly, there are

00:29:03

sort of scope by reference

00:29:08

to parties in corporation where

00:29:10

they incorporate so it would

00:29:12

only applies Enterprises Incorporated in

00:29:14

Shanghai free-trade Zone both parties

00:29:17

Incorporated in or it could

00:29:20

be a Enterprises Incorporated in

00:29:24

Shanghai pudong district and another

00:29:27

party. It doesn't specify which

00:29:29

party that could be. It

00:29:30

could be a party incorporating

00:29:32

other jurisdictions or in other

00:29:35

parts of China and the

00:29:37

category is that you know,

00:29:38

you would be between Enterprises

00:29:42

Incorporated in Shanghai or other

00:29:44

Enterprises Incorporated so we could

00:29:47

see there. On the one

00:29:49

hand this measures. Limit the

00:29:54

scope of application to form

00:29:56

related Maritime commercial dispute, but

00:29:59

on the other hand it

00:30:00

try to sort of expand

00:30:02

the scope of art application

00:30:03

in terms of you know,

00:30:05

the party is identity in

00:30:07

there. You could see that

00:30:09

it does not only apply

00:30:11  
to certain parties Incorporated in

00:30:14  
free trade zones. It could

00:30:15  
apply to parties incorporating in

00:30:17  
Shanghai or you could apply

00:30:19  
to you know, this was

00:30:20  
between a party in incorporating

00:30:23  
puto and another party and

00:30:25  
that other part could be

00:30:26  
be incorporating anywhere else. And

00:30:28  
so I think that's that's

00:30:30  
quite interesting and what the

00:30:34  
the measure is published by

00:30:37  
Shall Have Justice tries to

00:30:39

achieve is further than that

00:30:41

also provided certain rules on

00:30:46

how parties could appoint arbitrator

00:30:49

and how I have arbitration

00:30:51

could be conducted in Shanghai.

00:30:53

including you know who the

00:30:58

appointing authority could be who

00:31:00

you know how whether the

00:31:02

tribunal could hire 6th Street

00:31:05

and excetera so you can

00:31:07

see that the measures and

00:31:08

courage I actually saw it

00:31:11

says that you will support

00:31:12

the Shanghai Arbitration Association, which

00:31:16

is an a private Association

00:31:20

on one the arbitration community

00:31:22

in Shanghai support to publish

00:31:26

is recommended list of who's

00:31:29

performing at Hawkeye patricians it

00:31:32

also and support the association

00:31:35

to publish a set of

00:31:36

rules to be using at

00:31:38

Hawk applications in Shanghai and

00:31:40

that you know, despite the

00:31:44

party's otonabee to appoint any

00:31:47

anyone else who qualified under

00:31:49

any other Rose Encourage local

00:31:55

institutions to provide necessary services

00:31:57

for example painting Services, you

00:32:00

know providing of Treasury services

00:32:03

or case management showcase fighting

00:32:08

of management of case File

00:32:11

services to parties in in

00:32:13

such at hog arbitrations. And

00:32:15

therefore that is the local

00:32:17

roads are there is some

00:32:20

sort of institutional guidelines published

00:32:22

as well as a c

00:32:24

Shanghai International arbitration Center has

00:32:27

followed up and published a

00:32:28

series of five lines in

00:32:31

terms of you know, how

00:32:32

they could act as an

00:32:35

appointment or tee and provide

00:32:36

other services to parties in

00:32:38

that helicopter Asians. Am I

00:32:41

still coming back to you

00:32:43

know, what we discussed at

00:32:44

the beginning of the presentation

00:32:46

that obvious directions on the

00:32:47

Piazza arbitration law despite the

00:32:50

efforts of the Chinese judiciary's

00:32:52

as well as But legislators

00:32:54

in terms of trying to

00:32:58

liberalise the the rules or

00:33:01

restrictions in China. I think

00:33:03

the PLC is Hardaway still

00:33:06

that the PRC arbitration law,

00:33:07

you know as the main

00:33:10

door company option seated in

00:33:13

China still does not allow

00:33:15

at her competition at this

00:33:17

stage. And therefore you would

00:33:20

see that in a recent

00:33:22

released draft revised arbitration loader.

00:33:27

Andrew's trying to serve more

00:33:30

than ice or innovate of

00:33:33

the area of that hog

00:33:34

arbitration in China the proposed

00:33:37

rules for ad hoc arbitration

00:33:41

in relation to farm-related commercial

00:33:45

disputes. So and you may

00:33:47

see in the upcoming new

00:33:49

PRC arbitration do that at

00:33:50

how competition is permitted for

00:33:53

4. Latest commercial disputes and

00:33:55

there will be such an

00:33:56

other rules which will operate

00:33:58

in this at hog options.

00:34:00

For example, the the future

00:34:03

the upcoming Patricia might provide

00:34:07

that you know, in case

00:34:09

has that part is good

00:34:11

in that point the arbitrator's

00:34:12

it could apply to a

00:34:13

local course to designate an

00:34:16

option institution at the appointing

00:34:18

authority in that case and

00:34:20

in a very small Force

00:34:22

to support her at her

00:34:25

competition in the Parc at

00:34:27

the well be submitted the

00:34:29

revised drawings. The arbitration do

00:34:31

would be submitted to the

00:34:32

standing committee of the national

00:34:34

people's Congress from initial view

00:34:37

this year. And so they

00:34:38

choose their so that concludes

00:34:41

my presentation and that's the

00:34:42

development Zone at Hawkeye patrician.

00:34:50

Thank you, miss you for

00:34:52

bringing this update to us.

00:34:54

Hopefully the new vision of

00:34:58

the law would allow athoc

00:35:04

arbitration in China, but, you

00:35:07

know most of the panel

00:35:08

speakers and also the audiences

00:35:10  
are practitioners arbitration practitioners in

00:35:14  
China. So I'm wondering I

00:35:16  
know you know from academics.

00:35:18  
This is the situation is

00:35:20  
Will coming and promoting the

00:35:23  
PRC, but I'm not sure

00:35:27  
if you know that I

00:35:38  
would like to hear the

00:35:39  
view from maybe don't follow

00:35:42  
or should I say you

00:35:43  
should like. Agreed that the

00:35:51  
young man from the policymakers

00:35:56  
intend to respect more party

00:36:01

autonomy, which is the genitive

00:36:03

kind of good thing for

00:36:04

each operation what that means

00:36:09

were more like what I

00:36:12

mean square foot for the

00:36:14

parties for the companies will

00:36:16

companies actually thinking now we

00:36:19

have this operation. I will

00:36:21

move from choosing institution arbitration

00:36:24

awards choosing a population has

00:36:30

recognized have a long time

00:36:34

or even have more tradition

00:36:36

in that observation the gender

00:36:39

transition to be that Unique

00:36:48

advantages of observation like last

00:36:51

week, but is that really

00:36:52

a advantage in our hearts

00:36:55

are not really are trying

00:36:58

to create issues for each

00:36:59

other Association weather intervention war

00:37:03

match mental institution will actually

00:37:06

reduce the content. I'm probably

00:37:09

leaving for go for institution

00:37:14

options then after I do

00:37:16

my own gas is that

00:37:17

of course is also my

00:37:19

discussion with clients to enter

00:37:21

users the other than in

00:37:23

certain areas where you're so

00:37:25

strong tradition of options such

00:37:27

as Maritime or Commodities trading

00:37:29

almost all of the time.

00:37:31

I don't care whatever you

00:37:34

whatever which will allow me

00:37:37

to resolve the dispute in

00:37:38

the most car sent an

00:37:39

efficient manner will be the

00:37:41

thing you choose for me.

00:37:42

So I guess that will

00:37:43

be also from the practitioners.

00:37:48

Republican states with them. You

00:37:50

should choose is because this

00:37:51

is only good from the

00:37:53

police and have to look

00:37:56

into what really matters and

00:37:59

works in that thing in

00:38:01

there specific contract and Fingers

00:38:03

to the Face. Yes. Fatima

00:38:25

okay. Thank you. Yes, I

00:38:31

guess that opposed to introduce

00:38:34

the current environment of the

00:38:37

opposition in China. It is

00:38:39

a positive sign but I

00:38:41

guess that our distinguished guests

00:38:43

will have a question, you

00:38:45

know, because when I dropped

00:38:47

the last year's annual review

00:38:49

on the commercial dispute resolution

00:38:51

therapy, I see the data

00:38:54

that last year the 279

00:38:59

audition institution administered more than

00:39:03

six hundred thousand cases in

00:39:05

China in China. The institutional

00:39:09

is very prosperous to the

00:39:12

question raised as to why

00:39:14

do we need at Hope

00:39:16

a patrician now in China,

00:39:18

so probably I have my

00:39:20

own gas because last year

00:39:22

also. Phasing out of commission

00:39:26

was holding the a praga

00:39:28

meeting and the representative from

00:39:31

the ministry of Justice announced

00:39:33

that it is China's intention

00:39:36

to beautiful International arbitration This

00:39:40

Year resolution center in the

00:39:43

future International arbitration. Centre will

00:39:48

be very inconvenient not to

00:39:50

have at home Gabba treasure,

00:39:52

you know as the as

00:39:54

you know as a whole,

00:39:56

you know, every one of

00:39:57

them answered in the arbitration

00:39:59

practice and when I also

00:40:01

and also she like the

00:40:02

most rated mad at you

00:40:03

know positive development, but I

00:40:05

will comment on the difficulty.

00:40:07

Actually, we will encounter in

00:40:10

developing at her cavitation in

00:40:12

China because we don't have

00:40:14

to be invited by the

00:40:15

judicial Bureau of Shanghai to

00:40:21

give their comments regarding the

00:40:25

Drive to regulation on promotion

00:40:28

of the ad hoc was

00:40:30

summarized some of the difficulties

00:40:31

that I hook a Patricia

00:40:38

covers, especially those special Industries

00:40:43

like a shouldn't mention the

00:40:45

maritime industry and the commodity

00:40:49

trading and also investment arbitration.

00:40:51

So the participant of our

00:40:53

players they actually do not

00:40:58

need, you know much assistance

00:41:00

from the institution. They will

00:41:02

Halo made their own proceeding

00:41:04

so Patricia, it is essential

00:41:08

to have the judicial support

00:41:11

to resolve some difficulty about

00:41:13

that lot during the day

00:41:15

at have a petition for

00:41:16

instance the constitution of arbitral

00:41:18

tribunal or reach you say

00:41:20

schnoor replacement of a patrol

00:41:22

at you know, Avoiding to

00:41:27

measure something like that. But

00:41:29

these issues actually might not

00:41:32

be easily resolved resolved only

00:41:34

five local legislation because the

00:41:37

pulse power is wanted by

00:41:40

the law the without his

00:41:42

amendment of civil procedure law

00:41:44

or without the amendment of

00:41:45

The arbitration law. It is

00:41:49

somehow I did a bit

00:41:50

difficult for the court to

00:41:53

give support to the ad-hoc

00:41:55

application for his reputation of

00:41:58

the tribunal member if there

00:42:00

is any irregularity the who

00:42:03

has the power to recuse

00:42:04

the arbitrator will the appointing

00:42:07

institution have the power If

00:42:10

it really depends and if

00:42:12

you know the court needs

00:42:13

to hear the case and

00:42:15

you try to refuse the

00:42:17

arbitrator who gives them the

00:42:19

power it should be the

00:42:20

legislative power to the court

00:42:23

but rather than by any

00:42:24

local regulation, so this is

00:42:27

something with live that will

00:42:28

be, you know, better results,

00:42:30

if either a national legislation

00:42:33

and issues regarding the ancient

00:42:36

magus's granted by the hold

00:42:38

of you know in child

00:42:43

support in Shanghai know that

00:42:46

because we're very big, very

00:42:58

positive that we also have

00:43:01

a long way to go.

00:43:08

thank you for all those

00:43:22

years, you know trying to

00:43:24

bring inventive matters to resolve

00:43:26

critical issues in the Chinese

00:43:29

arbitration, so I believe What's

00:43:37

the arbitration institution head down

00:43:40

and also the local legislator

00:43:42

have. Are sort of invented

00:43:46

matters will have certain influence

00:43:49

power to the legislation. Therefore

00:43:53

allowing the legislation to pass

00:43:55

the new arbitration law or

00:43:58

city of civil procedure law

00:43:59

giving you 40, So I'm

00:44:08

at Hawkeye Patricia are very

00:44:10

invited to buy presentation and

00:44:14

become has from dolphin and

00:44:16

she like, thank you very

00:44:17

much. And now let's move

00:44:21

to the next topic for

00:44:23

the evidentiary guidelines and the

00:44:25

practices using SeaTac as sort

00:44:29

of a reasonably amended rules

00:44:33

on Advertising guidelines as a

00:44:36

list of Chevrolet. Thank you.

00:44:50

Cycle Holland two things to

00:44:52

know before I start. West

00:44:55

Allen has just mentioned. I

00:44:57

will comment or use the

00:44:59

recent animal of the seat

00:45:01

across as a hook a

00:45:02

party today. We're in the

00:45:03

value of p a c

00:45:04

and a regretful that are

00:45:07

fancy a thousand protect me

00:45:10

from commenting on another institution

00:45:12

Street. Party have a General

00:45:15

Motors to the practicing in

00:45:17

China. That's small part of.

00:45:27

Because that's something which we

00:45:31

think will be of relevance

00:45:32

to today's top hit for

00:45:33

the generous seed of David

00:45:35

why you which is to

00:45:37

bridge the differences of legal

00:45:39

contracts in legal traditions and

00:45:41

evidence is apparently a one

00:45:43

area which we do see

00:45:44

height difference of color difference

00:45:47

between different legal Traditions a

00:45:49

common law and civil law.

00:45:50

And trying to practice in

00:45:51

over 6 practice. So I

00:45:55

will actually going to the

00:45:57

cruise I would like to

00:46:01

say a few words about

00:46:02

the traditional features of evidentiary

00:46:05

rules and practices in Chinese

00:46:07

operation for the bank for

00:46:09

the benefits of her friends

00:46:10

coming from other jurisdictions post

00:46:13

in this room, and also

00:46:14

I know so that's going

00:46:15

to be the contact for

00:46:17

our discussion about the amendment

00:46:19

stand-up what the future will

00:46:21

look like. So several key

00:46:23

features of the evidence practice

00:46:27

in Chinese operation for the

00:46:30

practice is strongly influenced by

00:46:32

the evidence rules and practice

00:46:34

in Chinese Court proceedings lower

00:46:38

regulations. There's no a strict

00:46:40

requirement that the operation of

00:46:43  
the judicial interpretations for the

00:46:49  
album through Spotify. Because most

00:46:52  
tax returns supposed to litigation

00:46:53  
optrician and also there are

00:46:55  
many options who are formal

00:46:56  
charges. So they're still quite

00:46:58  
strongly influenced by the core

00:47:00  
practice has been there several

00:47:05  
key features of the oven

00:47:06  
and screws. Or there's a

00:47:08  
heavy Reliance on reply to

00:47:14  
proof and convince the court

00:47:16  
or the tribunal you have

00:47:18  
to have documentary evidence to

00:47:20  
present your case of course

00:47:21  
will be expensive electronic or

00:47:26  
other form of fun like

00:47:28  
rockets. And the other side

00:47:32  
of the coin you said

00:47:33  
there's a very limited use

00:47:36  
or Reliance of witness statements

00:47:38  
and even last for oral

00:47:39  
testimony of the witnesses, as

00:47:43  
a matter of law again.

00:47:45  
The law allows the parties

00:47:48  
to produce a witness statements

00:47:49

and allow winners to give

00:47:51

evidence or testimony interference during

00:47:54

practices a lot nicer than

00:47:59

10% or 5% of the

00:48:01

cases. He will see one

00:48:03

or two when it says

00:48:04

just like he's very discreet

00:48:06

have certain issues which is

00:48:08

important but not reflected in

00:48:09

the dark machado's and of

00:48:11

course, there's no very popular

00:48:15

to have the Gangnam style

00:48:17

of cross-examination of Witnesses in

00:48:19

in hearings. So that also

00:48:21

means that he rents you

00:48:22

really smart for her then

00:48:24

we'll see in a position

00:48:25

in our passport Hong Kong

00:48:27

Singapore u.s. War UK And

00:48:31

also similarly for expert Outfitters

00:48:33

from time to time. There

00:48:35

may be a table unicorn

00:48:37

it experts or consult with

00:48:39

experts on certain issues. That's

00:48:42

very uncommon for party to

00:48:46

reduce their Olin party appointed

00:48:49

experts or as a list

00:48:55  
of African culture legal tradition

00:48:58  
thing almost no problems your

00:49:07  
own pocket if you try

00:49:09  
to sell something on the

00:49:11  
other end and if you

00:49:13  
are unable to gather from

00:49:14  
the other party, then you

00:49:15  
probably would be able to

00:49:16  
do that again as a

00:49:18  
matter for the parties always

00:49:20  
are San Fabian or cord

00:49:22  
to say actually the time

00:49:23  
according you should do Rockdale

00:49:24

party to produce this particular

00:49:26

but in reality Entertain. Replaced

00:49:32

most of the time and

00:49:33

even if you do is

00:49:34

much much less and much

00:49:35

much narrower Sea and the

00:49:37

talking about she noticed every

00:49:38

process in overseas electrician were

00:49:41

a common law dedication. Sometimes

00:49:43

it's just like one or

00:49:44

two documents. So with that

00:49:46

contacts with we look into

00:49:47

how the recent trends for

00:49:52

the party for councils to

00:49:54

try to bring the common

00:49:56

law teachers or overseas oxygen

00:49:58

features in in others into

00:50:01

the Chinese population. One thing

00:50:04

that has been down from

00:50:05

time to time these two

00:50:06

on the case by case

00:50:08

places to adopt International guidelines,

00:50:10

of course everyone in this

00:50:12

room and I will be

00:50:13

very familiar with the idea

00:50:14

Russe. I'm taking a \$5

00:50:16

in insurance application which is

00:50:18

sort of a hybrid or

00:50:19

a combination of the common

00:50:21

law and civil law Traditions.

00:50:22

So they'll be some level

00:50:23

of fun when it's testimony

00:50:25

process a nation to stop

00:50:27

but not as extensive as

00:50:29

the u.s. USB port version

00:50:32

and also they will be

00:50:35

the other version of the

00:50:37

kind of a common I've

00:50:39

been through switch is prop

00:50:40

ruse ruse and efficient conduct

00:50:42

of presidents in our operation

00:50:44

in this Ward, but on

00:50:52

the idea Ruth just like

00:50:54

22, has one is that

00:50:56

if you have the tribunal

00:50:57

which is very common law

00:50:59

on favorite word, like for

00:51:02

example words Lawyer or if

00:51:06

you have the console part

00:51:07

is coming from the unlock

00:51:08

restriction. They may be able

00:51:10

to agree on a few

00:51:11

or P or equivalent to

00:51:12

a degree or one the

00:51:20  
tribunal so Diversified and you

00:51:21  
don't have a fully International

00:51:24  
tribunal see the top a

00:51:28  
new Square the parties agree

00:51:29  
in their option agreement to

00:51:32  
adopt idea rules at the

00:51:33  
guideline for the events. Would

00:51:35  
you say that in one

00:51:36  
of the cases we handle

00:51:37  
years ago in the Sea-Tac

00:51:38  
option where it's easy and

00:51:42  
follow the rules so that

00:51:48  
we do have some level

00:51:52  
and actually quite extensive level

00:51:54  
of Discovery, and we do

00:51:55  
have the very calm lost

00:51:57  
our hearing so five days

00:51:59  
or six nation of expert

00:52:01  
Witnesses. Those are the kind

00:52:04  
of the contacts and we

00:52:05  
come to the real cord

00:52:07  
of the development in in

00:52:08  
in China side. So in

00:52:10  
2015 at Sea-Tac for the

00:52:13  
first time published its own

00:52:16  
guidelines on the outlets. And

00:52:20

it to a large extent

00:52:21

follow what has been provided

00:52:24

and Rosie idea guidelines, of

00:52:27

course also can buy some

00:52:28

but I'll be released it

00:52:33

provides some left in the

00:52:35

kind of Nations, which is

00:52:37

more commonly sing in the

00:52:38

common law jurisdiction. So there's

00:52:40

a vision of Discovery is

00:52:41

a vision of witness on

00:52:44

party appointed official has a

00:52:47

thing of this rule is

00:52:49

that if it's a sad

00:52:50

is only applies in cases

00:52:52

where the parties agree to

00:52:54

adopt the Sea-Tac. Life has

00:52:57

no I don't have a

00:52:58

statistics are so kind of

00:53:08

discussions with Chicago other practitioners

00:53:10

sweetheart is that with this

00:53:13

rule Flatline published for nearly

00:53:15

nine years. It is nothing

00:53:18

very often. You will practice

00:53:20

because the population so limited

00:53:24

and that unless both parties

00:53:26

are coming from or International

00:53:28

parties and their friend is

00:53:29

which other properties I don't

00:53:34

want to what Not probably

00:53:38

the reason Trump the recent

00:53:40

amendments in the seat a

00:53:41

cruise, which is an article

00:53:43

of 41.4 which provides that

00:53:46

unless otherwise agreed by the

00:53:49

parties. So I decide to

00:53:51

apply in her part of

00:53:53

the state Sakai lights on

00:53:54

to hear the case. However,

00:53:57

the darkness of apples do

00:53:58

not constitute the interesting part

00:54:03

of this Rose buzzer for

00:54:04

a change the previous in

00:54:06

Canton which is effectively I'll

00:54:08

ping you make a Sim

00:54:09

to opt-out mechanism. Of course,

00:54:13

it's still leave the discussion

00:54:14

to the top, you know,

00:54:15

so it doesn't really say

00:54:17

you don't have to apply

00:54:18

those rules but it doesn't

00:54:20

is no longer conditioner. So

00:54:26

I've already seen cases where

00:54:28

the populace familiar with the

00:54:30  
more International practice or be

00:54:33  
waiting for thinking that the

00:54:34  
guidelines. Taste even with all

00:54:39  
parties confident they can resort

00:54:41  
to this new probation and

00:54:43  
apply the rules. And second

00:54:45  
part of the interesting of

00:54:47  
hissing circus information is sad

00:54:49  
that I didn't discuss this

00:54:55  
with my own guess is

00:54:57  
that if it's already part

00:54:59  
of the ruse, it will

00:55:01  
mean that if there's any

00:55:02  
departure activation from the roads

00:55:04  
are going to be like

00:55:06  
wider implications on the validity

00:55:08  
of the final work, but

00:55:10  
it is still stand as

00:55:11  
a kite line which leave

00:55:13  
the disruption to the tribunal

00:55:15  
to decide whether and to

00:55:16  
exemplify then actually enhance the

00:55:19  
flexibility Indie it in operation

00:55:22  
self. A society such a

00:55:25  
small department, but it's actually

00:55:27  
give rise to more things.

00:55:30

We can think about in

00:55:31

the future weather things will

00:55:33

change and how things will

00:55:35

change in the future. So

00:55:36

here I post a 3

00:55:38

open questions for the audience

00:55:41

and for the institution and

00:55:43

practitioners to think about and

00:55:44

share their views. I just

00:55:49

made this exchange weather all

00:55:52

the institutions like the essay

00:55:53

self will similarly published in

00:55:58

cases where the most national

00:56:01

International parties and whether they

00:56:03

also change their ruse to

00:56:05

make it more likely to

00:56:07

be applied. Add a second

00:56:10

question is that will the

00:56:12

album Skyline send factors becomes

00:56:14

more alike or more diverse

00:56:17

to have some interesting discussions

00:56:22

with some famous African practitioners

00:56:24

in the common law jurisdiction.

00:56:25

He cannot imagine how to

00:56:29

get the twos of the

00:56:31

case without doing cross-examination. But

00:56:34

equally I also hear some

00:56:36

comments from those are well-known

00:56:37

practitioner a natural option after

00:56:40

another, no jurisdiction sing that

00:56:42

in his experiences no matter

00:56:44

what is the common-law way

00:56:46

of dealing with silence or

00:56:47

civil always fearing lest others.

00:56:49

It's just a different Blues

00:56:53

to come to pretty similar

00:56:55

grounds. I found a note

00:56:57

outside that is sent out

00:56:59

the channel to stand is

00:57:00

that the part of the

00:57:01

international part of the parties

00:57:04  
in a shot of the

00:57:05  
ocean will try to a

00:57:06  
line because of the emergence

00:57:08  
of the audio cut lines

00:57:09  
so all the things and

00:57:11  
then try to learn from

00:57:12  
each other and Taylor made

00:57:14  
the Earth. I've been through

00:57:15  
in an average slice of

00:57:17  
practice. But whether they'll be

00:57:20  
this necessary means that the

00:57:22  
comment of style which is

00:57:24  
very influential in Nerdist internship

00:57:26

operation is really the past

00:57:28

practice or it's just a

00:57:31

good practice for certain type

00:57:33

of Jesus and they'll be

00:57:34

things that can be learned

00:57:34

from the Civil practice. And

00:57:37

of course that's also part

00:57:39

of my last class open

00:57:40

question, which is that to

00:57:42

understand the, lost. Our evidence

00:57:44

proves will be up top

00:57:45

top top adopted in Chinese

00:57:47

efficient even e-application City in

00:57:51

Hong Kong or Singapore or

00:57:52

New York or London and

00:57:55

even in cases where the

00:57:56

the roof or the oven

00:58:00

Scott life probiotics. There should

00:58:02

be some Discovery. When is

00:58:04

the next actual extent of

00:58:06

those Discovery win his cross-examination

00:58:09

etcetera is still very large

00:58:11

fry. So if you have

00:58:13

a tribunal which has presided

00:58:15

Fire USA to get for

00:58:16

you as for my charge,

00:58:17

you probably expect to have

00:58:18

a very expensive Discovery. But

00:58:21

if you have more similar

00:58:23

background or paperwork and professional

00:58:26

operator, which has less experience

00:58:29

is the Discovery will be

00:58:31

more limited. So they'll still

00:58:33

be things that a part

00:58:35

is what consoles can to

00:58:36

either St. Louis to Taylor

00:58:39

make a strategy to suit

00:58:42

their objective and the specifics

00:58:45

of their case my presentation,

00:58:49

and also welcome to use

00:58:50

her mother's thank you. Thank

00:58:53

you. Thank you for sharing

00:58:59

your application on the sea

00:59:02

packs evidence rules. We know

00:59:05

who is the main actor

00:59:08

has roles know. I'm not

00:59:14

published in 2015, but during

00:59:25

the last 29 years. I

00:59:28

don't know how many zika

00:59:29

cases had actually adopted this

00:59:32

Abbott injury. I think this

00:59:35

is a game-changer. So I

00:59:38

am very interested to know

00:59:40

a professor lose of the

00:59:42

valuation on this new revisions

00:59:44

of the city allowing the

00:59:46

Tribunal. Thank you for the

00:59:53

previous version of the Sea-Tac

01:00:07

evidence guideline. I was too

01:00:10

restrictive only allow its application

01:00:14

based upon the agreement of

01:00:15

the parties. Now, you know

01:00:18

that the new the amended

01:00:20

version. Trinity into effect at

01:00:24

the beginning of this year

01:00:25

since the tribunal has mentioned

01:00:31

the amended SeaTac 41 empower

01:00:38

the tribunal to make that

01:00:40

decision Same to you at

01:00:46

the beginning. Was dropped it

01:00:52

an issue. It's because we

01:00:54

see that there is a

01:00:56

great difference between the arbitration

01:01:00

practice of the Chinese arbitration

01:01:04

an international commercial arbitration. And

01:01:07

also the second reason is

01:01:08

that there is only a

01:01:09

few legislative Provisions in the

01:01:14

arbitration for five of them

01:01:17

talking about the issue of

01:01:20

evidence. So that leaves also

01:01:24

a vacuum for the practitioners

01:01:27

to practice of arbitration so

01:01:32

that it is to try

01:01:36

to establish the bridge International

01:01:39

practice and Chinese practice. And

01:01:43

of course combined those two

01:01:45

practice and try to fill

01:01:48

in some gaps left by

01:01:50

the Allure. insulation the biggest

01:01:54

challenge of the amended version

01:01:57

is is to allow the

01:02:00

tribunal to make a decision

01:02:01

on his own initiative to

01:02:04

fly the kite line, of

01:02:06

course, you know all the

01:02:07

trees look different on The

01:02:09

Roaster of SeaTac. 1800 fast

01:02:18

I'll be treated so it

01:02:20

has experience so they may

01:02:27

feel comfortable or uncomfortable to

01:02:31

practice some of them on

01:02:39

his chargers. They are so

01:02:41

familiar with the evidence rules,

01:02:44

you know, the arbitration Act

01:02:48

is heavily impacted by the

01:02:53

Chinese traditional practice. The the

01:02:57

newly amended the supreme court

01:03:01

evidence rules. There's a difference.

01:03:06

I think the new rules

01:03:08

has some changes. I will

01:03:10

mention later maybe only a

01:03:12

burden of on the standard

01:03:15

of proof so you can

01:03:17

see the difference. So I

01:03:19

think the guideline will provide

01:03:23

some help assistance to both

01:03:28

the Chinese and international lawyers

01:03:31

offer instant International. You may

01:03:35

find it familiar to see

01:03:36

there is document production the

01:03:39

cross-examination of witnesses Faxon experts.

01:03:44

But also the guideline draw

01:03:47

your attention to a special

01:03:49

Chinese practice that all the

01:03:52

documents have to be presented

01:03:53

during the hearing and the

01:03:56

parties has the right to

01:03:57

question those of the January.

01:04:06

And the relevance and also

01:04:09

other aspects of the documents.

01:04:15

That brings your attention to

01:04:17

their East practice. Say the

01:04:19

following Council may find it

01:04:21

some familiar and son. I

01:04:28

think they can and if

01:04:31

they buy the evidence Before

01:04:40

Chinese New Years, there were

01:04:42

also some because I missed

01:04:47

you last night, especially on

01:04:53

issues of document production and

01:04:55

examination of witnesses, which has

01:04:59

learned a lot from the

01:05:01

iiba rose from the Chinese.

01:05:05

Some of the Chinese arbitration

01:05:07

practitioners may not be familiar

01:05:10

by using by applying The

01:05:14

Graduate. Rawnsley has a mansion

01:05:26

lyrics to different differences. I

01:05:29

rent the new Chinese quotes.

01:05:33

If your friend code rules

01:05:36

only evidence from civil cases,

01:05:38

you know, the the Chinese

01:05:43

food Chinese traditional practices has

01:05:48

put a very heavy burden

01:05:49

on the plaintiff. what they

01:05:54

say the the button the

01:05:56

standard of proof is What

01:06:00

in Chinese? maybe in images

01:06:07

now the new rules they

01:06:10  
delete that expression. They use

01:06:14  
Beyond any doubt. which which

01:06:17  
is very very heavy but

01:06:19  
you know in international arbitration

01:06:22  
practice the burden is balance

01:06:25  
of probability of evidence rules

01:06:31  
has been introduced in the

01:06:33  
street and guidelines acceptance because

01:06:38  
if you produce a large

01:06:42  
floor or similar matters of

01:06:46  
seriousness and you and you're

01:06:48  
the proof of the pudding

01:06:49  
will be higher heavy on

01:06:53

I mean the Scandal would

01:06:56

be higher. I hope they

01:07:01

will use this as a

01:07:03

sister than got lines to

01:07:05

direct their future arbitration practice.

01:07:08

Thank you Professor Lowell for

01:07:12

sharing your yang psyched. Let's

01:07:14

move to the next topic

01:07:16

because we have very limited

01:07:17

time Mr. Wong don't you

01:07:21

will give us an introduction

01:07:24

on the update on the

01:07:26

role of arbitration in assets

01:07:28

with an IP this puce.

01:07:30

Miss Wong. Thank you. Thank

01:07:38

you Helen. Good morning. Good

01:07:41

morning. Good morning, everyone. Very

01:07:47

happy to be here as

01:07:50

you have found my coat

01:07:53

panelist professors lawyers are talking

01:07:58

about legislation or regulation policy

01:08:02

about arbitration. I think it's

01:08:07

that that makes sense having

01:08:11

topics. Let me try to

01:08:13

show you that easy topic.

01:08:17

What's happening about the it

01:08:20

disputes by the we can

01:08:23

you know, how do you

01:08:25

trade dispute arbitration? You may

01:08:31

notice the recent this is

01:08:35

where one of the Hot

01:08:39

Topic is recent years whether

01:08:42

i t a n German

01:08:43

scampi arbitrated people discussing how

01:08:50

to reach an agreement for

01:08:54

the alleged infringers and IP

01:09:01

rights holders. Is that possible.

01:09:05

How can that be possible

01:09:09

between such parties? In reality,

01:09:15

we all know the ITT

01:09:17

spews the case number a

01:09:20

rising every year we can

01:09:23

sees the numbers are the

01:09:25

roads icy today April 26th

01:09:30

increasing and such as disputes

01:09:36

at 8 America's registration patents

01:09:41

and patent prosecution patents bet

01:09:49

that if he can these

01:09:52

disputes be arbitrated. On what

01:09:57

hand do we noticed they

01:10:00

are legislations mostly outside China.

01:10:07

I like Singapore United States

01:10:12

and Hong Kong. They are

01:10:14

legislations already. They said well,

01:10:18

whatever they do is I

01:10:21

mean I could dispute is

01:10:23

all of these can be

01:10:25

arbitrated on the other hand

01:10:28

in China China. Are we

01:10:31

still debating we argue about

01:10:35

the budget a variety of

01:10:39

a patent disputes and Z's

01:10:42

kind of the arbitrator. Let

01:10:49

me share some numbers with

01:10:52

you as he's sixteen almost

01:10:56

Seventeen Chinese institutions. They always

01:11:08

set up their own IP

01:11:10  
address. What do they call

01:11:11  
centers or institutions with the

01:11:17  
committee of the past few

01:11:21  
years almost 3,000 cases and

01:11:28  
don't buy these seven almost

01:11:31  
70 they are also big

01:11:37  
tote amount of a dispute.

01:11:44  
This number I'm about at

01:11:49  
Sea-Tac we talk about a

01:11:51  
seed packs this morning to

01:11:53  
about 15% of disputes received

01:12:01  
at the Sea-Tac is ipg

01:12:05  
Spirits, MO. About 15% of

01:12:14

these 15% It disputes involving.

01:12:19

The customer is a hundred

01:12:28

Mount of money. I almost

01:12:33

past 5 years. Photos of

01:12:43

people are practitioners. They are

01:12:48

in favor of a be

01:12:51

treating I could use two.

01:12:52

Youths are they found meaning

01:12:54

strong points about Saturday magnetism

01:12:58

about arbitration like an efficiency

01:13:04

flexibility are confidentiality except for

01:13:08

I'm not going to I'm

01:13:14

not going to go through

01:13:16

all these strong points since

01:13:20

we don't have enough time

01:13:22

to ask me a few

01:13:26

words about Aziz report. This

01:13:29

is the annual report published

01:13:31

by see that we did

01:13:34

this last two years. Are

01:13:38

you can easily find these

01:13:40

publication if you are interest

01:13:43

we organized a group of

01:13:46

lawyers professors, of course, most

01:13:50

of the traders to we

01:13:54

are already if you are

01:14:04

interest are you can also

01:14:06

see Albert Raptors highlights of

01:14:13

the Quote, I'm going to

01:14:16

create review about Aziz highlights

01:14:21

of these two annual reports.

01:14:23

We do a study. Of

01:14:27

course, I combining some serious

01:14:31

and the actual cases together.

01:14:35

We want to do some

01:14:38

comparison. Also, we you my

01:14:42

to some International lawyers and

01:14:44

arbitrators working with us. We

01:14:47

want to have the global

01:14:49

perspective to our base with

01:15:02

you in chapters 3 and

01:15:06

4. I believe we discuss

01:15:09

the we folks. We fixed

01:15:14

on this rushing about the

01:15:16

arbitrator bility, which is the

01:15:19

biggest area biggest. How big

01:15:23

For those who I interesting

01:15:27

IP a dispute arbitration by

01:15:29

institutions course at the last

01:15:37

chapter. We also are provided

01:15:39

some IP protection cases the

01:15:47

industry's like Digital internet from

01:16:00

the farthest end of the

01:16:03

actual experience for myself. I

01:16:06

feel the arbitration is impotent

01:16:12

meaning of channel to settling

01:16:15

disputes even for those patterns.

01:16:23

30 catches and registration places

01:16:29

for academics. I think this

01:16:38

is still a long way

01:16:40

to go out here. I

01:16:42

just wasted the whole application

01:16:49

filled out to eat on

01:16:52

the way. It's going. Okay

01:16:55

that's concludes my presentation. Thank

01:16:58

you. Thank you. Thank You

01:17:03

by my you thanking me

01:17:05

for your comments because as

01:17:08

a practitioner in prison number

01:17:12

of the arbitration proceeding your

01:17:15

IP area, for example, I

01:17:17

C licensing fee Terminal B.

01:17:27

I think this is the

01:17:31

area where is most interesting

01:17:33

in the sense that they

01:17:34

were going to be a

01:17:35

lot of sanding and sort

01:17:38

of foreign shopping at the

01:17:39

beginning of the case because

01:17:41

this has been discussing the

01:17:44

events on Monday with us,

01:17:47

we're in agreement for example

01:17:53

for a fishing license agreement

01:17:56

and then they could be

01:17:58

also like a party of

01:18:00

the parties to the contract.

01:18:02

Violets toxic to the license

01:18:06

war party will need to

01:18:08

think about whether they want

01:18:09

to pursue the case and

01:18:11

arbitration or pursue the case

01:18:13

against the party was a

01:18:15

flight of the Condor hardacre

01:18:16

at 8 at court and

01:18:18  
it could also be all

01:18:19  
the cases we are from

01:18:20  
sample on the validity of

01:18:22  
the Titans were other it

01:18:24  
whether you want to do

01:18:26  
the case and arbitration. We

01:18:27  
want to bring Case International

01:18:29  
court for substitute to butter

01:18:38  
you can get like I'm

01:18:39  
suing Junction weather at the

01:18:41  
latest age. You can try

01:18:42  
to set aside for a

01:18:44  
lack of ability or if

01:18:47

there's a lack of leaching

01:18:49

decisions of The Pretender at

01:18:51

will have you know, whether

01:18:52

that's a grand for a

01:18:53

rejection. Which is due tomorrow.

01:19:06

Thank you, considering the large

01:19:09

number of the arbitration cases

01:19:11

managed by Chinese arbitration institutions.

01:19:13

We use these new developments,

01:19:17

but we are only have

01:19:18

one and a half hour

01:19:19

off of today's discussion. Thank

01:19:21

you very much for my

01:19:23

dear panel speakers for sharing

01:19:25

your experience. And also I

01:19:31

benefited from their practical experience.

01:19:33

We nuke forward. Thank you.

01:19:58

. So, thank you. Well,

01:20:00

they take the picture will

01:20:03

have a small coffee break.

01:20:04

So feel they still free

01:20:06

to grab some coffee and

01:20:07

something to eat and we'll

01:20:08

see you back at 11:30

01:20:09

for the next. Thank you.

01:19:58

. So, thank you. Well,

01:20:00

they take the picture will

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have a small coffee break.

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So feel they still free

01:20:06

to grab some coffee and

01:20:07

something to eat and we'll

01:20:08

see you back at 11:30

01:20:09

for the next. Thank you.

00:00:02

Again, it is at with

00:00:05

the great pleasure that that

00:00:07

we officially give the floor

00:00:10

to our first panel in

00:00:13

Beijing or first v a

00:00:15

c. Good morning. This for

00:00:19

the recording purposes. It is

00:00:21

with great pleasure that we

00:00:23

give the floor to our

00:00:25

first panel and the it

00:00:28

is that for me a

00:00:30

great honor to introduce the

00:00:34

panel on developments in in

00:00:39

Chinese law to have a

00:00:55

panel with expert on Chinese

00:00:59

arbitration knowing that there have

00:01:02

been lately many developments in

00:01:05

the law of arbitration in

00:01:10

China and what better topic

00:01:13

to start the world arbitration

00:01:15

update from Being a for

00:01:18

the rest of the world

00:01:19

about to start concerning the

00:01:22

study and Analysis of the

00:01:25

Chinese arbitration law. So it

00:01:28

is with great pleasure that

00:01:29

I I am introducing miss

00:01:33

Helen she having she is

00:01:38

a partner and find that

00:01:45

law and she has a

00:01:47

practice that focuses on these

00:01:49

people resolution including of course

00:01:50

International commercial arbitration and litigation

00:01:54

serves as a vice president

00:01:57  
of the IC Code of

00:01:59  
arbitration and co-chair of the

00:02:02  
IPA asia-pacific arbitration among so

00:02:06  
many things and I could

00:02:08  
go on and on but

00:02:09  
I know that me she

00:02:10  
would not appreciate it. So

00:02:11  
it is with great honor

00:02:13  
that I give the floor

00:02:15  
to me. She welcome. Good

00:02:43  
morning of w a u

00:02:51  
and also missed my dear

00:03:01  
panel speakers and the distinguished

00:03:03

to cast the morning. Let

00:03:07

me first introduce over experience

00:03:09

to the panel speakers. Missed

00:03:17

telephone Miss Chow is the

00:03:19

partner of freaking Connors and

00:03:22

the mister bong, don't you?

00:03:25

Miss Wong is a pawner

00:03:26

of the global law lawyers

00:03:28

Mr. Wong primarily practice in

00:03:32

the field of Ip protection

00:03:34

and the commercialization and the

00:03:37

oso serves as an arbitrator

00:03:39

was several institutions such as

00:03:42

bacc Tak Fiat since 2023.

00:03:48

He has been the chief

00:03:50

editor of the China international

00:03:52

IP arbitration annual report. four

00:03:56

consecutive late two years professor

00:04:01

alusso professor professor at for

00:04:06

China foreign affairs university and

00:04:09

the old sort of very

00:04:09

experienced independent arbitrator. Mr. Sheila

00:04:15

is a pawner of Miss

00:04:24

Elena is international partner of

00:04:26

herb Smith fresh views. As

00:04:35

the founders of w w

00:04:37

a u Jose just introduced

00:04:39

one of the functions of

00:04:41

of the wau is to

00:04:43

provide updated information on International

00:04:46

arbitration to the arbitration community

00:04:48

that why the first a

00:04:54

panel discussion of this two

00:04:55

days event. It was for

00:04:57

discussing the update and a

00:04:59

new development of arbitration in

00:05:01

China. In this session, the

00:05:04

experience to arbitration practitioners will

00:05:07

introduce the update on legislation

00:05:11

legislative institutional rules in relation

00:05:18

to Chinese arbitration and the

00:05:20

update on the arbitration practice

00:05:23

in China in relation to

00:05:24

the IP related dispute less

00:05:28

first in white mister mister.

00:05:32

Forgiving her talk on the

00:05:35

Amendments of the civil procedure

00:05:38

law and how it affects

00:05:40

on the nationality of the

00:05:42

arbitration award and enforcement before

00:05:45

arbitration award in China, Miss.

00:05:48

Peace. Is good morning? Good

00:06:01

morning everyone. It's my honor

00:06:03

to be here. So today

00:06:05

I'm going to give you

00:06:07

an update regarding at you

00:06:10

know, the new Amendment on

00:06:12

the civil procedure law which

00:06:14

will have a significant impact

00:06:16

on the arbitration practice in

00:06:19

these two amendments are relevant

00:06:25

to today's discussion. What is

00:06:28

the new criteria for determining

00:06:30

the nationality of arbitral awards?

00:06:34

And the other is relevant

00:06:36

to how to file a

00:06:37

case before a p i

00:06:39

c code for enforcing foreign

00:06:42

arbitral award. So January 1st,

00:06:48

2025 the new civil procedure

00:06:52

law came into effect introduced

00:06:55

to amendment that relevant to

00:06:58

arbitration specifically article 297 and

00:07:03

304 stipulate that the nationality

00:07:08

of any arbitral award will

00:07:11

be decided according to the

00:07:13

place where it is made

00:07:15

and let's see, let's look

00:07:18

at some old laws. So

00:07:20

under the old CPL of

00:07:22

2021 the nationality of an

00:07:26

arbitral award is decided according

00:07:29

to the place of Patricia

00:07:33

institution, which renders these arbitral

00:07:37

award. So we all know

00:07:39

that an arbitration institution. They

00:07:43

all prayed different Brown. Carry

00:07:46

out activities in different seats.

00:07:50

So sometimes just woke up

00:07:52

cause confusion in terms of

00:07:55

especially in terms in Folsom

00:07:58

and where the court needs

00:08:00

to decide the applicable law

00:08:02

to review the arbitral award.

00:08:05

So under the old laws

00:08:07

the approach is actually somehow

00:08:11

inconsistent with Article 1 of

00:08:14

the New York convention because

00:08:16

the New York convention Mendes

00:08:20

the enforcement according to the

00:08:22

territory where the award is

00:08:24

made. Let's explore a little

00:08:29

bit regarding the historical evolved

00:08:32

evolution of the case law

00:08:35

to understand the Genesis of

00:08:38

the new amendments to 20

00:08:41

years ago in Walloon case

00:08:44

an ICC award was imposed

00:08:46

as a French award. But

00:08:49

the Isis I would actually

00:08:50

was made in the United

00:08:52

States one year later and

00:08:55

she only pays an ICC

00:08:57

award made in Hong Kong

00:08:59

has also imposed as a

00:09:02

friendship would rather than a

00:09:04

Hong Kong award during those

00:09:07

times actually the Chinese food

00:09:10

rendered wearing these issues. So

00:09:14

for instance in 2006 the

00:09:16

shoe from People's Court decided

00:09:19

in zubland case that a

00:09:21

nice TC arbitration agreement stipulating

00:09:25

arbitration. Shanghai to be non

00:09:28

and void this is because

00:09:30

Eva and to now the

00:09:33

PLC arbitration laws. Do you

00:09:36

does not stipulate that Anna

00:09:38

for real magician institution can

00:09:41

be registered and operate in

00:09:43

China. This is something that

00:09:45

the new arbitration law would

00:09:47

try to resolve and two

00:09:49

years later, However, the Ningbo

00:09:52

Court decided in another case

00:09:55

that can I see Sellwood

00:09:58

rendered in Beijing can be

00:10:00

enforced as a non-domestic award

00:10:03

in China according to the

00:10:06

New York, Mansion was welcomed

00:10:10

by the institution and by

00:10:13

the arbitration Community but a

00:10:15

raise the legal question because

00:10:18

when a dog getting the

00:10:20

New York convention China specifically

00:10:24

made a reservation And Article

00:10:27

1 of the New York

00:10:28

convention that is China will

00:10:30

only impose the 48-hour to

00:10:33

a wood made outside of

00:10:35

China. China will not enforce

00:10:37

the nun massive award according

00:10:40

to the New York convention.

00:10:41

The decision was inconsistent with

00:10:47

the reservation of China as

00:10:50

part of the convention the

00:10:52

turning point of this discourse

00:10:55

appeared in 2013 in two

00:10:59

landmark cases. That is a

00:11:00

long like his name bolt

00:11:02

balloon taste the soup from

00:11:05

People's Court affirmed the validity

00:11:07

of to ICC arbitration agreement

00:11:12

stipulating ICC application respectively in

00:11:16

Beijing and Shanghai. So this

00:11:19

these remarkable cases marked a

00:11:23

shift of the legal landscape.

00:11:26

The Nimble case in 2016

00:11:29

elite case so I cannot

00:11:32

attack a word be enforced

00:11:36

as a phone call. Then

00:11:40

in 2020 came the very

00:11:42

famous Brentwood kids in Bramble

00:11:44

case. The Guangzhou called was

00:11:47

asked to enforce an ICC

00:11:50

award rent in Guangzhou wizard

00:11:54

endorsement of soup in people's

00:11:56

called Guangzhou Court decided that

00:11:59

this award was a Chinese

00:12:02

award and trophy in force.

00:12:05

According to the local laws

00:12:06

that are PSD code enforce

00:12:15

an undomesticated award as a

00:12:18

Chinese a word even without

00:12:20

clearly even without any legal

00:12:24

basis under the Chinese law.

00:12:27

Now we have the new

00:12:29

Amendment of the CPL which

00:12:32

reflected the judicial development observed

00:12:36

in Brentwood case and Amanda

00:12:40

will have a significant impact

00:12:41

on the future of the

00:12:44

arbitration practice the First Amendment

00:12:49

lies with Article 1 of

00:12:51

the New York convention previously

00:12:54

arbitral award will not have

00:12:58

any legal background to be

00:13:00

enforced in China either under

00:13:03

the New York convention under

00:13:05

the local law. But now

00:13:07  
the new Amendment provides the

00:13:09  
legal ground for the enforcement

00:13:11  
of non domestic a word

00:13:14  
made by forming a petition

00:13:16  
institution in China and also

00:13:19  
extends the enforceability not only

00:13:24  
to the non domestic. I

00:13:28  
hook up a betrothal a

00:13:29  
word made in China. So

00:13:32  
this amendment demonstrate April arbitration

00:13:36  
stands without violating China's reservation

00:13:41  
under the New York, mention

00:13:43  
the case before a Chinese

00:13:50

code enforcement of foreign arbitral

00:13:53

award and under the old

00:13:55

Lord. There are only two

00:13:58

connections when you want to

00:14:00

impose a very opportune voting

00:14:01

China either the respondents domicile

00:14:05

showed in China or the

00:14:08

responders shall have asses in

00:14:10

China, but question raised and

00:14:14

the Christie's of criticism came

00:14:16

in regarding those Provisions in

00:14:18

practice. So for instance, if

00:14:21

an arbitral award only contains

00:14:23

decorator, it's on the right

00:14:25

Trail ruling such as Formatia

00:14:28

of the respondents breach-of-contract then

00:14:31

question raised to regarding whether

00:14:33

the applicant will be able

00:14:36

to recognize and impose search

00:14:38

for a habit of wood

00:14:39

in China is the respondent

00:14:41

is neither recited or not

00:14:44

have any assets in China,

00:14:46

especially with the applicants should

00:14:53

be deprived of the opportunity

00:14:54

to recognize or impose their

00:14:58

arbitral award. If they do

00:15:01

not have enough resources to

00:15:03

locate the respondents as is

00:15:06

now we see the new

00:15:08

Amendment address to post criticism

00:15:12

in practice. They added two

00:15:15

notches. Enforcing flooring arbitral award.

00:15:20

What is that if the

00:15:22

applicants Thomas out is in

00:15:24

China than the actual word

00:15:26

can be enforced in China.

00:15:27

Oh is the applicant cannot

00:15:30

find any above connection then

00:15:34

appropriate connections with a dispute

00:15:37

involving the word might be

00:15:39

established as a last resort.

00:15:42

So the new amendment addressed

00:15:46

the issues in the practice

00:15:48

and demonstrated a more flexible

00:15:51

and open stands for enforcing

00:15:55

arbitral award and therefore is

00:15:57

a very welcome amendment that

00:16:00

ends my presentation today. Thank

00:16:04

you very much. Thank you.

00:16:10

Missed y'all for giving us

00:16:12

the update on the announcement

00:16:14

of the CPL. I would

00:16:17

like to ask about the

00:16:18

door panel speakers want to

00:16:21

comment on this new and

00:16:24

Mandarin maybe Professor Lu? Thank

00:16:27

you. Good morning, everyone. I'm

00:16:33

very few privileged to be

00:16:36

invited to this panel and

00:16:38

talk about some of the

00:16:40

new developments of the Chinese

00:16:42

low in the sphere of

00:16:44

arbitration 22 points before that.

00:16:55

I would like to give

00:16:58

a special thanks to the

00:17:00

Chinese Supreme people's called because

00:17:03

they're so practical you set

00:17:05

up the foundation for these

00:17:07

new announcement of the Chinese

00:17:09

civil procedure. No, Who issues

00:17:12

number one as you know,

00:17:15

that the Chinese arbitration law

00:17:18

article 16 has a unique

00:17:21

requirement require that the validity

00:17:25

of an arbitration Clause she'll

00:17:28

include a designation of an

00:17:31

arbitration Commission. So what does

00:17:35

it mean an arbitration commission?

00:17:37

So there is some dispute

00:17:39

someone out here that this

00:17:43

arbitration commission only refers to

00:17:46

the the Chinese arbitration commission

00:17:50

which registered with the Chinese

00:17:51

authorities. I want this is

00:17:54

you're going to concept it's

00:17:57

a wrong understanding the Supreme

00:17:59

Court a later Mustafa mentioned

00:18:03

in those cases is qualify

00:18:06

as the arbitration commission under

00:18:10

Chinese arbitration law article 16.

00:18:13

So any orbital institution in

00:18:17

the world will qualify now

00:18:19

under Chinese arbitration law 6016.

00:18:22

I wish the support of

00:18:25

supreme People's Court decision. So

00:18:27

first point second point is

00:18:31

a mistrial mention that the

00:18:35

concept of seat of arbitration

00:18:37

was introduced and accepted over

00:18:39

the past, baby. Five to

00:18:42

10 years by the Supreme

00:18:45

Court asked the detect a

00:18:48

connecting factor to the nationality

00:18:51

of an arbitral award show.

00:18:54

The previous Chinese civil procedure

00:18:57

law says that foreign arbitral

00:19:00  
institution of foreign institutions will

00:19:09  
be recognized in 4th in

00:19:10  
China by the location of

00:19:20  
a falling object or Institution.

00:19:24  
Not a change that use

00:19:27  
the seat of arbitration or

00:19:29  
place of arbitration as the

00:19:31  
connecting factor to determine the

00:19:34  
national. That's what America thank

00:19:41  
you Professor Lu. Professor loose,

00:19:51  
let's move to the next

00:19:54  
topic Manning of you may

00:19:56  
know and also as Professor

00:19:58

Lu just to introduced arbitration

00:20:02

law article 16 require the

00:20:06

definition of arbitration Commission in

00:20:11

the arbitration cost to make

00:20:12

it as close to be

00:20:13

a balance. So that means

00:20:15

the Chinese law doesn't allow

00:20:18

any of the hawk arbitration

00:20:20

or the arbitration must be

00:20:22

administrated arbitration institution. Do we

00:20:29

have any update? Maybe some

00:20:31

local regulations has allowed that

00:20:35

would like mixed up folder

00:20:36

allowing ad hoc arbitration in

00:20:39

certain specific area. Miss Universe

00:20:43

will bring this topic to

00:20:45

us. Misty at please Thank

00:20:57

you very much. Helen, very

00:21:01

happy to be here today

00:21:02

and to see a what

00:21:05

a patrician update to come

00:21:07

to China and I'm very

00:21:09

glad that the first session

00:21:10

this morning is on new

00:21:12

updates on Chinese arbitration law.

00:21:16

And as you have already

00:21:18

had a flavor from the

00:21:21

presentation made by my job

00:21:23

and also the comments from

00:21:24

at Professor blue and Helen

00:21:26

are the Oscars in unique

00:21:28

features of arbitration in China

00:21:31

and that to a large

00:21:32

extent is perhaps because that

00:21:35

are arbitration law is Mother

00:21:37

dated and there are certain

00:21:39

rules or Provisions, which a

00:21:43

note that are not entirely

00:21:44

in line with International practices

00:21:47

at and that includes what

00:21:51

miss y'all mentioned as for

00:21:53

example, you know that this

00:21:55

the concept of Under Piazza

00:21:58

arbitration law wasn't fully recognized

00:22:01

in an arbitration law. It

00:22:05

is. It uses a Concepts

00:22:08

such as the location of

00:22:09

arbitration commission as a replacement

00:22:12

of the seat of oxygen.

00:22:13

That's why and another and

00:22:15

feature is that Helen Ann

00:22:19

and professor already mentioned. We

00:22:21

do not allow at Hawkeye

00:22:24

Patrician as you could say

00:22:26

from this light and because

00:22:29

so, I think that's the

00:22:31

type of their article 16

00:22:32

says that a ballad arbitration

00:22:35

agreement must specify and a

00:22:37

patrol institution and therefore at

00:22:41

hog arbitration in China is

00:22:43

not permitted and that is

00:22:45

to say that Ad hoc

00:22:48

arbitration seated in China is

00:22:50

not permitted as as you

00:22:53

could see it from the

00:22:54

the last bullet point is

00:22:56

it indeed he's admitted is

00:23:01

it he's recognized that ad

00:23:04

hoc arbitration could be seated

00:23:06

elsewhere in other jurisdictions and

00:23:08

an In-N-Out would rendered in

00:23:11

those at Hawkeye patricians could

00:23:13

be enforced in China but

00:23:17

coming back to our topic

00:23:18

today arbitration at hog arbitration.

00:23:20

See you today. Mainland. China

00:23:22

is not permitted under the

00:23:24

existing Piatti arbitration law, but

00:23:26

in reality in reality commercial

00:23:30

parties, the may have need

00:23:32

to have a talk about

00:23:33

Patricia. There are few examples

00:23:35

as some of you may

00:23:39

know at Freddy's on pole.

00:23:42

Reporting by Beijing arbitration commission

00:23:45

saying that they have offered

00:23:47

Human facility to ad hoc

00:23:50

arbitrations conducted what I mean

00:23:52

that the in that case

00:23:53

the seat was Hong Kong

00:23:55

and the parties agree as

00:23:59

I think the agreement was

00:24:01

also governed by Hong Kong

00:24:02  
law and it was a

00:24:04  
valid at all at home

00:24:05  
grab attrition agreement, but it

00:24:06  
was between Chinese party to

00:24:08  
hearing was conducted at the

00:24:10  
Beijing arbitration commission and then

00:24:12  
send those cases demonstrate that

00:24:14  
Chinese commercial parties sometimes to

00:24:16  
use at her application in

00:24:19  
their business operations. And it

00:24:25  
just the fact that our

00:24:27  
parents arbitration. Lord is not

00:24:29  
allowed is not consistent with

00:24:31  
that commercial needs and and

00:24:35  
therefore in past 10 years

00:24:38  
more than 10 years. You

00:24:39  
see various groups of people

00:24:41  
organizations try to liberate that

00:24:45  
prohibition will ruin China. and

00:24:48  
and You would see that

00:24:51  
I'm obviously the first step

00:24:53  
was taken by by the

00:24:54  
Chinese judiciary's particularly our Supreme

00:24:57  
People's Court and back in

00:25:00  
2017 in the context of

00:25:03  
free trade zones where you

00:25:06

know, our government allows more

00:25:07

liberated rules. The Chinese Supreme

00:25:10

People's Court issued an opinion

00:25:13

to say that enterprises Incorporated

00:25:16

in free trade zones, May

00:25:18

submit their dispute arbitration the

00:25:22

exact wording used in the

00:25:24

opinions that it did not

00:25:27

say, you know, I expressly

00:25:29

at whole conversation, but it

00:25:30

says that parties or Enterprises

00:25:33

Incorporated in free trade zones,

00:25:35

May submit the dispute to

00:25:37

arbitration at a certain location

00:25:40

pursuant to certain rules and

00:25:44

handled by certain at personal

00:25:49

individuals. And that you know

00:25:53

most of the sort of

00:25:55

people in in in in

00:25:56

arbitration Community as a permission

00:25:59

to ad hoc arbitration, but

00:26:01

that is restricted to dispute

00:26:03

between Enterprises Incorporated in free

00:26:07

trade zones. And that message

00:26:09

was repeated in an SPC

00:26:13

opinion on Pacific free-trade Zone

00:26:16

Sharingan free trade zone and

00:26:18

issued in 2017. So that

00:26:20

was the first step but

00:26:22

you know, as many people

00:26:24

have pointed out these are

00:26:26

sort of a general provision

00:26:29

issued by SPC at 1000

00:26:34

set out detailed rules as

00:26:36

to you know, how at

00:26:38

her situation could be implemented

00:26:40

in practice who would be

00:26:42

the appointing authority, you know,

00:26:44

where would the parties find

00:26:45

their arbitrators and excetera and

00:26:49

Hence, you could see that

00:26:50

the second step is that

00:26:54

you know, certain local legislators

00:26:56

and certain local judicial Administration

00:27:00

say it was to take

00:27:02

a further step to set

00:27:04

up more detailed rules on

00:27:05

that and I'm based in

00:27:08

Shanghai. So so I'm bringing

00:27:10

the Shanghai rules at the

00:27:12

Shanghai legislators at the end

00:27:14

of 2003 at 2023 and

00:27:18

last year. He should a

00:27:20

municipal regulations promotion development of

00:27:23

international commercial arbitration Center. And

00:27:26

then that's in Osco 20

00:27:28

of that regulation as a

00:27:29

legislature specifically said that eating

00:27:33

well explore mechanisms for at-home

00:27:36

AB attrition of Auburn belated

00:27:38

commercial and Maritime disputes in

00:27:41

Shanghai when it says engine

00:27:43

hot. It means seated in

00:27:44

Shanghai. So that is the

00:27:46

general legislation. Published last year

00:27:50

in Shanghai and further to

00:27:53

that just a month ago

00:27:55

in March 2012 a couple

00:27:58

of months ago 20 the

00:28:01

typo. It should be 2024

00:28:04

instead of 14 M. The

00:28:07

Shanghai Bureau of Justice published

00:28:09

assess both measures for it

00:28:13

hasn't yet become effective, but

00:28:15

it's doubtful comment. It says

00:28:19

that in Shanghai certain disputes

00:28:23

could be submitted to I

00:28:25

hope I'll be treated and

00:28:27

there it sat out the

00:28:28

first Subway points. Are you

00:28:30

could say that it set

00:28:31

out certain parameters for at

00:28:35

hog arbitration to apply so

00:28:37

Festival applies to Forum related

00:28:40

Maritime and Commercial disputes, and

00:28:42

so it doesn't apply to

00:28:45

serve purely domestic for those

00:28:47

who are familiar with p

00:28:49

You would know that we

00:28:50

make a distinction between domestic

00:28:51

dispute and formulated a dispute

00:28:55

and this measure would apply

00:28:57

to formulated Maritime and Commercial

00:29:00

disputes. And secondly, there are

00:29:03

sort of scope by reference

00:29:08

to parties in corporation where

00:29:10

they incorporate so it would

00:29:12

only applies Enterprises Incorporated in

00:29:14

Shanghai free-trade Zone both parties

00:29:17

Incorporated in or it could

00:29:20

be a Enterprises Incorporated in

00:29:24

Shanghai pudong district and another

00:29:27

party. It doesn't specify which

00:29:29

party that could be. It

00:29:30

could be a party incorporating

00:29:32

other jurisdictions or in other

00:29:35

parts of China and the

00:29:37

category is that you know,

00:29:38

you would be between Enterprises

00:29:42

Incorporated in Shanghai or other

00:29:44

Enterprises Incorporated so we could

00:29:47

see there. On the one

00:29:49

hand this measures. Limit the

00:29:54

scope of application to form

00:29:56

related Maritime commercial dispute, but

00:29:59

on the other hand it

00:30:00

try to sort of expand

00:30:02

the scope of art application

00:30:03

in terms of you know,

00:30:05

the party is identity in

00:30:07

there. You could see that

00:30:09

it does not only apply

00:30:11

to certain parties Incorporated in

00:30:14

free trade zones. It could

00:30:15

apply to parties incorporating in

00:30:17

Shanghai or you could apply

00:30:19

to you know, this was

00:30:20

between a party in incorporating

00:30:23

puto and another party and

00:30:25

that other part could be

00:30:26

be incorporating anywhere else. And

00:30:28

so I think that's that's

00:30:30

quite interesting and what the

00:30:34

the measure is published by

00:30:37

Shall Have Justice tries to

00:30:39

achieve is further than that

00:30:41

also provided certain rules on

00:30:46

how parties could appoint arbitrator

00:30:49

and how I have arbitration

00:30:51

could be conducted in Shanghai.

00:30:53

including you know who the

00:30:58

appointing authority could be who

00:31:00

you know how whether the

00:31:02

tribunal could hire 6th Street

00:31:05

and excetera so you can

00:31:07

see that the measures and

00:31:08

courage I actually saw it

00:31:11

says that you will support

00:31:12

the Shanghai Arbitration Association, which

00:31:16

is an a private Association

00:31:20

on one the arbitration community

00:31:22

in Shanghai support to publish

00:31:26

is recommended list of who's

00:31:29

performing at Hawkeye patricians it

00:31:32

also and support the association

00:31:35

to publish a set of

00:31:36

rules to be using at

00:31:38

Hawk applications in Shanghai and

00:31:40

that you know, despite the

00:31:44

party's otonabee to appoint any

00:31:47

anyone else who qualified under

00:31:49

any other Rose Encourage local

00:31:55

institutions to provide necessary services

00:31:57

for example painting Services, you

00:32:00

know providing of Treasury services

00:32:03

or case management showcase fighting

00:32:08

of management of case File

00:32:11

services to parties in in

00:32:13

such at hog arbitrations. And

00:32:15

therefore that is the local

00:32:17

roads are there is some

00:32:20

sort of institutional guidelines published

00:32:22

as well as a c

00:32:24

Shanghai International arbitration Center has

00:32:27

followed up and published a

00:32:28

series of five lines in

00:32:31

terms of you know, how

00:32:32

they could act as an

00:32:35

appointment or tee and provide

00:32:36

other services to parties in

00:32:38

that helicopter Asians. Am I

00:32:41

still coming back to you

00:32:43

know, what we discussed at

00:32:44

the beginning of the presentation

00:32:46

that obvious directions on the

00:32:47

Piazza arbitration law despite the

00:32:50

efforts of the Chinese judiciary's

00:32:52

as well as But legislators

00:32:54

in terms of trying to

00:32:58

liberalise the the rules or

00:33:01

restrictions in China. I think

00:33:03

the PLC is Hardaway still

00:33:06

that the PRC arbitration law,

00:33:07

you know as the main

00:33:10

door company option seated in

00:33:13

China still does not allow

00:33:15

at her competition at this

00:33:17

stage. And therefore you would

00:33:20

see that in a recent

00:33:22

released draft revised arbitration loader.

00:33:27

Andrew's trying to serve more

00:33:30

than ice or innovate of

00:33:33

the area of that hog

00:33:34

arbitration in China the proposed

00:33:37

rules for ad hoc arbitration

00:33:41

in relation to farm-related commercial

00:33:45

disputes. So and you may

00:33:47

see in the upcoming new

00:33:49

PRC arbitration do that at

00:33:50

how competition is permitted for

00:33:53

4. Latest commercial disputes and

00:33:55

there will be such an

00:33:56

other rules which will operate

00:33:58

in this at hog options.

00:34:00

For example, the the future

00:34:03

the upcoming Patricia might provide

00:34:07

that you know, in case

00:34:09

has that part is good

00:34:11

in that point the arbitrator's

00:34:12

it could apply to a

00:34:13

local course to designate an

00:34:16

option institution at the appointing

00:34:18

authority in that case and

00:34:20

in a very small Force

00:34:22

to support her at her

00:34:25

competition in the Parc at

00:34:27

the well be submitted the

00:34:29  
revised drawings. The arbitration do

00:34:31  
would be submitted to the

00:34:32  
standing committee of the national

00:34:34  
people's Congress from initial view

00:34:37  
this year. And so they

00:34:38  
choose their so that concludes

00:34:41  
my presentation and that's the

00:34:42  
development Zone at Hawkeye patrician.

00:34:50  
Thank you, miss you for

00:34:52  
bringing this update to us.

00:34:54  
Hopefully the new vision of

00:34:58  
the law would allow athoc

00:35:04  
arbitration in China, but, you

00:35:07

know most of the panel

00:35:08

speakers and also the audiences

00:35:10

are practitioners arbitration practitioners in

00:35:14

China. So I'm wondering I

00:35:16

know you know from academics.

00:35:18

This is the situation is

00:35:20

Will coming and promoting the

00:35:23

PRC, but I'm not sure

00:35:27

if you know that I

00:35:38

would like to hear the

00:35:39

view from maybe don't follow

00:35:42

or should I say you

00:35:43

should like. Agreed that the

00:35:51

young man from the policymakers

00:35:56

intend to respect more party

00:36:01

autonomy, which is the genitive

00:36:03

kind of good thing for

00:36:04

each operation what that means

00:36:09

were more like what I

00:36:12

mean square foot for the

00:36:14

parties for the companies will

00:36:16

companies actually thinking now we

00:36:19

have this operation. I will

00:36:21

move from choosing institution arbitration

00:36:24

awards choosing a population has

00:36:30

recognized have a long time

00:36:34

or even have more tradition

00:36:36

in that observation the gender

00:36:39

transition to be that Unique

00:36:48

advantages of observation like last

00:36:51

week, but is that really

00:36:52

a advantage in our hearts

00:36:55

are not really are trying

00:36:58

to create issues for each

00:36:59

other Association weather intervention war

00:37:03

match mental institution will actually

00:37:06

reduce the content. I'm probably

00:37:09

leaving for go for institution

00:37:14

options then after I do

00:37:16

my own gas is that

00:37:17

of course is also my

00:37:19

discussion with clients to enter

00:37:21

users the other than in

00:37:23

certain areas where you're so

00:37:25

strong tradition of options such

00:37:27

as Maritime or Commodities trading

00:37:29

almost all of the time.

00:37:31

I don't care whatever you

00:37:34

whatever which will allow me

00:37:37

to resolve the dispute in

00:37:38

the most car sent an

00:37:39

efficient manner will be the

00:37:41

thing you choose for me.

00:37:42

So I guess that will

00:37:43

be also from the practitioners.

00:37:48

Republican states with them. You

00:37:50

should choose is because this

00:37:51

is only good from the

00:37:53

police and have to look

00:37:56

into what really matters and

00:37:59

works in that thing in

00:38:01

there specific contract and Fingers

00:38:03

to the Face. Yes. Fatima

00:38:25

okay. Thank you. Yes, I

00:38:31

guess that opposed to introduce

00:38:34

the current environment of the

00:38:37

opposition in China. It is

00:38:39

a positive sign but I

00:38:41

guess that our distinguished guests

00:38:43

will have a question, you

00:38:45

know, because when I dropped

00:38:47

the last year's annual review

00:38:49

on the commercial dispute resolution

00:38:51

therapy, I see the data

00:38:54

that last year the 279

00:38:59

audition institution administered more than

00:39:03

six hundred thousand cases in

00:39:05

China in China. The institutional

00:39:09

is very prosperous to the

00:39:12

question raised as to why

00:39:14

do we need at Hope

00:39:16

a patrician now in China,

00:39:18

so probably I have my

00:39:20

own gas because last year

00:39:22

also. Phasing out of commission

00:39:26

was holding the a praga

00:39:28

meeting and the representative from

00:39:31

the ministry of Justice announced

00:39:33

that it is China's intention

00:39:36

to beautiful International arbitration This

00:39:40

Year resolution center in the

00:39:43

future International arbitration. Centre will

00:39:48

be very inconvenient not to

00:39:50

have at home Gabba treasure,

00:39:52  
you know as the as

00:39:54  
you know as a whole,

00:39:56  
you know, every one of

00:39:57  
them answered in the arbitration

00:39:59  
practice and when I also

00:40:01  
and also she like the

00:40:02  
most rated mad at you

00:40:03  
know positive development, but I

00:40:05  
will comment on the difficulty.

00:40:07  
Actually, we will encounter in

00:40:10  
developing at her cavitation in

00:40:12  
China because we don't have

00:40:14  
to be invited by the

00:40:15

judicial Bureau of Shanghai to

00:40:21

give their comments regarding the

00:40:25

Drive to regulation on promotion

00:40:28

of the ad hoc was

00:40:30

summarized some of the difficulties

00:40:31

that I hook a Patricia

00:40:38

covers, especially those special Industries

00:40:43

like a shouldn't mention the

00:40:45

maritime industry and the commodity

00:40:49

trading and also investment arbitration.

00:40:51

So the participant of our

00:40:53

players they actually do not

00:40:58

need, you know much assistance

00:41:00

from the institution. They will

00:41:02

Halo made their own proceeding

00:41:04

so Patricia, it is essential

00:41:08

to have the judicial support

00:41:11

to resolve some difficulty about

00:41:13

that lot during the day

00:41:15

at have a petition for

00:41:16

instance the constitution of arbitral

00:41:18

tribunal or reach you say

00:41:20

schnoor replacement of a patrol

00:41:22

at you know, Avoiding to

00:41:27

measure something like that. But

00:41:29

these issues actually might not

00:41:32

be easily resolved resolved only

00:41:34

five local legislation because the

00:41:37

pulse power is wanted by

00:41:40

the law the without his

00:41:42

amendment of civil procedure law

00:41:44

or without the amendment of

00:41:45

The arbitration law. It is

00:41:49

somehow I did a bit

00:41:50

difficult for the court to

00:41:53

give support to the ad-hoc

00:41:55

application for his reputation of

00:41:58

the tribunal member if there

00:42:00

is any irregularity the who

00:42:03

has the power to recuse

00:42:04  
the arbitrator will the appointing

00:42:07  
institution have the power If

00:42:10  
it really depends and if

00:42:12  
you know the court needs

00:42:13  
to hear the case and

00:42:15  
you try to refuse the

00:42:17  
arbitrator who gives them the

00:42:19  
power it should be the

00:42:20  
legislative power to the court

00:42:23  
but rather than by any

00:42:24  
local regulation, so this is

00:42:27  
something with live that will

00:42:28  
be, you know, better results,

00:42:30

if either a national legislation

00:42:33

and issues regarding the ancient

00:42:36

magus's granted by the hold

00:42:38

of you know in child

00:42:43

support in Shanghai know that

00:42:46

because we're very big, very

00:42:58

positive that we also have

00:43:01

a long way to go.

00:43:08

thank you for all those

00:43:22

years, you know trying to

00:43:24

bring inventive matters to resolve

00:43:26

critical issues in the Chinese

00:43:29

arbitration, so I believe What's

00:43:37

the arbitration institution head down

00:43:40

and also the local legislator

00:43:42

have. Are sort of invented

00:43:46

matters will have certain influence

00:43:49

power to the legislation. Therefore

00:43:53

allowing the legislation to pass

00:43:55

the new arbitration law or

00:43:58

city of civil procedure law

00:43:59

giving you 40, So I'm

00:44:08

at Hawkeye Patricia are very

00:44:10

invited to buy presentation and

00:44:14

become has from dolphin and

00:44:16

she like, thank you very

00:44:17

much. And now let's move

00:44:21

to the next topic for

00:44:23

the evidentiary guidelines and the

00:44:25

practices using SeaTac as sort

00:44:29

of a reasonably amended rules

00:44:33

on Advertising guidelines as a

00:44:36

list of Chevrolet. Thank you.

00:44:50

Cycle Holland two things to

00:44:52

know before I start. West

00:44:55

Allen has just mentioned. I

00:44:57

will comment or use the

00:44:59

recent animal of the seat

00:45:01

across as a hook a

00:45:02

party today. We're in the

00:45:03

value of p a c

00:45:04

and a regretful that are

00:45:07

fancy a thousand protect me

00:45:10

from commenting on another institution

00:45:12

Street. Party have a General

00:45:15

Motors to the practicing in

00:45:17

China. That's small part of.

00:45:27

Because that's something which we

00:45:31

think will be of relevance

00:45:32

to today's top hit for

00:45:33

the generous seed of David

00:45:35

why you which is to

00:45:37

bridge the differences of legal

00:45:39

contracts in legal traditions and

00:45:41

evidence is apparently a one

00:45:43

area which we do see

00:45:44

height difference of color difference

00:45:47

between different legal Traditions a

00:45:49

common law and civil law.

00:45:50

And trying to practice in

00:45:51

over 6 practice. So I

00:45:55

will actually going to the

00:45:57

cruise I would like to

00:46:01

say a few words about

00:46:02

the traditional features of evidentiary

00:46:05

rules and practices in Chinese

00:46:07

operation for the bank for

00:46:09

the benefits of her friends

00:46:10

coming from other jurisdictions post

00:46:13

in this room, and also

00:46:14

I know so that's going

00:46:15

to be the contact for

00:46:17

our discussion about the amendment

00:46:19

stand-up what the future will

00:46:21

look like. So several key

00:46:23

features of the evidence practice

00:46:27

in Chinese operation for the

00:46:30

practice is strongly influenced by

00:46:32

the evidence rules and practice

00:46:34

in Chinese Court proceedings lower

00:46:38

regulations. There's no a strict

00:46:40

requirement that the operation of

00:46:43

the judicial interpretations for the

00:46:49

album through Spotify. Because most

00:46:52

tax returns supposed to litigation

00:46:53

optrician and also there are

00:46:55

many options who are formal

00:46:56

charges. So they're still quite

00:46:58

strongly influenced by the core

00:47:00

practice has been there several

00:47:05

key features of the oven

00:47:06

and screws. Or there's a

00:47:08

heavy Reliance on reply to

00:47:14

proof and convince the court

00:47:16

or the tribunal you have

00:47:18

to have documentary evidence to

00:47:20

present your case of course

00:47:21

will be expensive electronic or

00:47:26

other form of fun like

00:47:28

rockets. And the other side

00:47:32

of the coin you said

00:47:33

there's a very limited use

00:47:36

or Reliance of witness statements

00:47:38

and even last for oral

00:47:39

testimony of the witnesses, as

00:47:43

a matter of law again.

00:47:45

The law allows the parties

00:47:48  
to produce a witness statements

00:47:49  
and allow winners to give

00:47:51  
evidence or testimony interference during

00:47:54  
practices a lot nicer than

00:47:59  
10% or 5% of the

00:48:01  
cases. He will see one

00:48:03  
or two when it says

00:48:04  
just like he's very discreet

00:48:06  
have certain issues which is

00:48:08  
important but not reflected in

00:48:09  
the dark machado's and of

00:48:11  
course, there's no very popular

00:48:15  
to have the Gangnam style

00:48:17  
of cross-examination of Witnesses in

00:48:19  
in hearings. So that also

00:48:21  
means that he rents you

00:48:22  
really smart for her then

00:48:24  
we'll see in a position

00:48:25  
in our passport Hong Kong

00:48:27  
Singapore u.s. War UK And

00:48:31  
also similarly for expert Outfitters

00:48:33  
from time to time. There

00:48:35  
may be a table unicorn

00:48:37  
it experts or consult with

00:48:39  
experts on certain issues. That's

00:48:42  
very uncommon for party to

00:48:46

reduce their Olin party appointed

00:48:49

experts or as a list

00:48:55

of African culture legal tradition

00:48:58

thing almost no problems your

00:49:07

own pocket if you try

00:49:09

to sell something on the

00:49:11

other end and if you

00:49:13

are unable to gather from

00:49:14

the other party, then you

00:49:15

probably would be able to

00:49:16

do that again as a

00:49:18

matter for the parties always

00:49:20

are San Fabian or cord

00:49:22

to say actually the time

00:49:23

according you should do Rockdale

00:49:24

party to produce this particular

00:49:26

but in reality Entertain. Replaced

00:49:32

most of the time and

00:49:33

even if you do is

00:49:34

much much less and much

00:49:35

much narrower Sea and the

00:49:37

talking about she noticed every

00:49:38

process in overseas electrician were

00:49:41

a common law dedication. Sometimes

00:49:43

it's just like one or

00:49:44

two documents. So with that

00:49:46

contacts with we look into

00:49:47

how the recent trends for

00:49:52

the party for councils to

00:49:54

try to bring the common

00:49:56

law teachers or overseas oxygen

00:49:58

features in in others into

00:50:01

the Chinese population. One thing

00:50:04

that has been down from

00:50:05

time to time these two

00:50:06

on the case by case

00:50:08

places to adopt International guidelines,

00:50:10

of course everyone in this

00:50:12

room and I will be

00:50:13

very familiar with the idea

00:50:14

Russe. I'm taking a \$5

00:50:16

in insurance application which is

00:50:18

sort of a hybrid or

00:50:19

a combination of the common

00:50:21

law and civil law Traditions.

00:50:22

So they'll be some level

00:50:23

of fun when it's testimony

00:50:25

process a nation to stop

00:50:27

but not as extensive as

00:50:29

the u.s. USB port version

00:50:32

and also they will be

00:50:35

the other version of the

00:50:37

kind of a common I've

00:50:39

been through switch is prop

00:50:40

ruse ruse and efficient conduct

00:50:42

of presidents in our operation

00:50:44

in this Ward, but on

00:50:52

the idea Ruth just like

00:50:54

22, has one is that

00:50:56

if you have the tribunal

00:50:57

which is very common law

00:50:59

on favorite word, like for

00:51:02

example words Lawyer or if

00:51:06

you have the console part

00:51:07

is coming from the unlock

00:51:08

restriction. They may be able

00:51:10

to agree on a few

00:51:11  
or P or equivalent to

00:51:12  
a degree or one the

00:51:20  
tribunal so Diversified and you

00:51:21  
don't have a fully International

00:51:24  
tribunal see the top a

00:51:28  
new Square the parties agree

00:51:29  
in their option agreement to

00:51:32  
adopt idea rules at the

00:51:33  
guideline for the events. Would

00:51:35  
you say that in one

00:51:36  
of the cases we handle

00:51:37  
years ago in the Sea-Tac

00:51:38  
option where it's easy and

00:51:42

follow the rules so that

00:51:48

we do have some level

00:51:52

and actually quite extensive level

00:51:54

of Discovery, and we do

00:51:55

have the very calm lost

00:51:57

our hearing so five days

00:51:59

or six nation of expert

00:52:01

Witnesses. Those are the kind

00:52:04

of the contacts and we

00:52:05

come to the real cord

00:52:07

of the development in in

00:52:08

in China side. So in

00:52:10

2015 at Sea-Tac for the

00:52:13

first time published its own

00:52:16

guidelines on the outlets. And

00:52:20

it to a large extent

00:52:21

follow what has been provided

00:52:24

and Rosie idea guidelines, of

00:52:27

course also can buy some

00:52:28

but I'll be released it

00:52:33

provides some left in the

00:52:35

kind of Nations, which is

00:52:37

more commonly sing in the

00:52:38

common law jurisdiction. So there's

00:52:40

a vision of Discovery is

00:52:41

a vision of witness on

00:52:44

party appointed official has a

00:52:47  
thing of this rule is

00:52:49  
that if it's a sad

00:52:50  
is only applies in cases

00:52:52  
where the parties agree to

00:52:54  
adopt the Sea-Tac. Life has

00:52:57  
no I don't have a

00:52:58  
statistics are so kind of

00:53:08  
discussions with Chicago other practitioners

00:53:10  
sweetheart is that with this

00:53:13  
rule Flatline published for nearly

00:53:15  
nine years. It is nothing

00:53:18  
very often. You will practice

00:53:20  
because the population so limited

00:53:24

and that unless both parties

00:53:26

are coming from or International

00:53:28

parties and their friend is

00:53:29

which other properties I don't

00:53:34

want to what Not probably

00:53:38

the reason Trump the recent

00:53:40

amendments in the seat a

00:53:41

cruise, which is an article

00:53:43

of 41.4 which provides that

00:53:46

unless otherwise agreed by the

00:53:49

parties. So I decide to

00:53:51

apply in her part of

00:53:53

the state Sakai lights on

00:53:54

to hear the case. However,

00:53:57

the darkness of apples do

00:53:58

not constitute the interesting part

00:54:03

of this Rose buzzer for

00:54:04

a change the previous in

00:54:06

Canton which is effectively I'll

00:54:08

ping you make a Sim

00:54:09

to opt-out mechanism. Of course,

00:54:13

it's still leave the discussion

00:54:14

to the top, you know,

00:54:15

so it doesn't really say

00:54:17

you don't have to apply

00:54:18

those rules but it doesn't

00:54:20

is no longer conditioner. So

00:54:26

I've already seen cases where

00:54:28

the populace familiar with the

00:54:30

more International practice or be

00:54:33

waiting for thinking that the

00:54:34

guidelines. Taste even with all

00:54:39

parties confident they can resort

00:54:41

to this new probation and

00:54:43

apply the rules. And second

00:54:45

part of the interesting of

00:54:47

hissing circus information is sad

00:54:49

that I didn't discuss this

00:54:55

with my own guess is

00:54:57

that if it's already part

00:54:59

of the ruse, it will

00:55:01

mean that if there's any

00:55:02

departure activation from the roads

00:55:04

are going to be like

00:55:06

wider implications on the validity

00:55:08

of the final work, but

00:55:10

it is still stand as

00:55:11

a kite line which leave

00:55:13

the disruption to the tribunal

00:55:15

to decide whether and to

00:55:16

exemplify then actually enhance the

00:55:19

flexibility Indie it in operation

00:55:22

self. A society such a

00:55:25

small department, but it's actually

00:55:27

give rise to more things.

00:55:30

We can think about in

00:55:31

the future weather things will

00:55:33

change and how things will

00:55:35

change in the future. So

00:55:36

here I post a 3

00:55:38

open questions for the audience

00:55:41

and for the institution and

00:55:43

practitioners to think about and

00:55:44

share their views. I just

00:55:49

made this exchange weather all

00:55:52

the institutions like the essay

00:55:53

self will similarly published in

00:55:58

cases where the most national

00:56:01

International parties and whether they

00:56:03

also change their ruse to

00:56:05

make it more likely to

00:56:07

be applied. Add a second

00:56:10

question is that will the

00:56:12

album Skyline send factors becomes

00:56:14

more alike or more diverse

00:56:17

to have some interesting discussions

00:56:22

with some famous African practitioners

00:56:24

in the common law jurisdiction.

00:56:25

He cannot imagine how to

00:56:29

get the twos of the

00:56:31

case without doing cross-examination. But

00:56:34

equally I also hear some

00:56:36

comments from those are well-known

00:56:37

practitioner a natural option after

00:56:40

another, no jurisdiction sing that

00:56:42

in his experiences no matter

00:56:44

what is the common-law way

00:56:46

of dealing with silence or

00:56:47

civil always fearing lest others.

00:56:49

It's just a different Blues

00:56:53

to come to pretty similar

00:56:55

grounds. I found a note

00:56:57

outside that is sent out

00:56:59

the channel to stand is

00:57:00  
that the part of the

00:57:01  
international part of the parties

00:57:04  
in a shot of the

00:57:05  
ocean will try to a

00:57:06  
line because of the emergence

00:57:08  
of the audio cut lines

00:57:09  
so all the things and

00:57:11  
then try to learn from

00:57:12  
each other and Taylor made

00:57:14  
the Earth. I've been through

00:57:15  
in an average slice of

00:57:17  
practice. But whether they'll be

00:57:20  
this necessary means that the

00:57:22

comment of style which is

00:57:24

very influential in Nerdist internship

00:57:26

operation is really the past

00:57:28

practice or it's just a

00:57:31

good practice for certain type

00:57:33

of Jesus and they'll be

00:57:34

things that can be learned

00:57:34

from the Civil practice. And

00:57:37

of course that's also part

00:57:39

of my last class open

00:57:40

question, which is that to

00:57:42

understand the, lost. Our evidence

00:57:44

proves will be up top

00:57:45

top top adopted in Chinese

00:57:47

efficient even e-application City in

00:57:51

Hong Kong or Singapore or

00:57:52

New York or London and

00:57:55

even in cases where the

00:57:56

the roof or the oven

00:58:00

Scott life probiotics. There should

00:58:02

be some Discovery. When is

00:58:04

the next actual extent of

00:58:06

those Discovery win his cross-examination

00:58:09

etcetera is still very large

00:58:11

fry. So if you have

00:58:13

a tribunal which has presided

00:58:15

Fire USA to get for

00:58:16

you as for my charge,

00:58:17

you probably expect to have

00:58:18

a very expensive Discovery. But

00:58:21

if you have more similar

00:58:23

background or paperwork and professional

00:58:26

operator, which has less experience

00:58:29

is the Discovery will be

00:58:31

more limited. So they'll still

00:58:33

be things that a part

00:58:35

is what consoles can to

00:58:36

either St. Louis to Taylor

00:58:39

make a strategy to suit

00:58:42

their objective and the specifics

00:58:45  
of their case my presentation,

00:58:49  
and also welcome to use

00:58:50  
her mother's thank you. Thank

00:58:53  
you. Thank you for sharing

00:58:59  
your application on the sea

00:59:02  
packs evidence rules. We know

00:59:05  
who is the main actor

00:59:08  
has roles know. I'm not

00:59:14  
published in 2015, but during

00:59:25  
the last 29 years. I

00:59:28  
don't know how many zika

00:59:29  
cases had actually adopted this

00:59:32  
Abbott injury. I think this

00:59:35

is a game-changer. So I

00:59:38

am very interested to know

00:59:40

a professor lose of the

00:59:42

valuation on this new revisions

00:59:44

of the city allowing the

00:59:46

Tribunal. Thank you for the

00:59:53

previous version of the Sea-Tac

01:00:07

evidence guideline. I was too

01:00:10

restrictive only allow its application

01:00:14

based upon the agreement of

01:00:15

the parties. Now, you know

01:00:18

that the new the amended

01:00:20

version. Trinity into effect at

01:00:24

the beginning of this year

01:00:25

since the tribunal has mentioned

01:00:31

the amended SeaTac 41 empower

01:00:38

the tribunal to make that

01:00:40

decision Same to you at

01:00:46

the beginning. Was dropped it

01:00:52

an issue. It's because we

01:00:54

see that there is a

01:00:56

great difference between the arbitration

01:01:00

practice of the Chinese arbitration

01:01:04

an international commercial arbitration. And

01:01:07

also the second reason is

01:01:08

that there is only a

01:01:09

few legislative Provisions in the

01:01:14

arbitration for five of them

01:01:17

talking about the issue of

01:01:20

evidence. So that leaves also

01:01:24

a vacuum for the practitioners

01:01:27

to practice of arbitration so

01:01:32

that it is to try

01:01:36

to establish the bridge International

01:01:39

practice and Chinese practice. And

01:01:43

of course combined those two

01:01:45

practice and try to fill

01:01:48

in some gaps left by

01:01:50

the Allure. insulation the biggest

01:01:54

challenge of the amended version

01:01:57

is is to allow the

01:02:00

tribunal to make a decision

01:02:01

on his own initiative to

01:02:04

fly the kite line, of

01:02:06

course, you know all the

01:02:07

trees look different on The

01:02:09

Roaster of SeaTac. 1800 fast

01:02:18

I'll be treated so it

01:02:20

has experience so they may

01:02:27

feel comfortable or uncomfortable to

01:02:31

practice some of them on

01:02:39

his chargers. They are so

01:02:41

familiar with the evidence rules,

01:02:44

you know, the arbitration Act

01:02:48

is heavily impacted by the

01:02:53

Chinese traditional practice. The the

01:02:57

newly amended the supreme court

01:03:01

evidence rules. There's a difference.

01:03:06

I think the new rules

01:03:08

has some changes. I will

01:03:10

mention later maybe only a

01:03:12

burden of on the standard

01:03:15

of proof so you can

01:03:17

see the difference. So I

01:03:19

think the guideline will provide

01:03:23

some help assistance to both

01:03:28

the Chinese and international lawyers

01:03:31

offer instant International. You may

01:03:35

find it familiar to see

01:03:36

there is document production the

01:03:39

cross-examination of witnesses Faxon experts.

01:03:44

But also the guideline draw

01:03:47

your attention to a special

01:03:49

Chinese practice that all the

01:03:52

documents have to be presented

01:03:53

during the hearing and the

01:03:56

parties has the right to

01:03:57

question those of the January.

01:04:06

And the relevance and also

01:04:09

other aspects of the documents.

01:04:15

That brings your attention to

01:04:17  
their East practice. Say the

01:04:19  
following Council may find it

01:04:21  
some familiar and son. I

01:04:28  
think they can and if

01:04:31  
they buy the evidence Before

01:04:40  
Chinese New Years, there were

01:04:42  
also some because I missed

01:04:47  
you last night, especially on

01:04:53  
issues of document production and

01:04:55  
examination of witnesses, which has

01:04:59  
learned a lot from the

01:05:01  
iiba rose from the Chinese.

01:05:05  
Some of the Chinese arbitration

01:05:07

practitioners may not be familiar

01:05:10

by using by applying The

01:05:14

Graduate. Rawnsley has a mansion

01:05:26

lyrics to different differences. I

01:05:29

rent the new Chinese quotes.

01:05:33

If your friend code rules

01:05:36

only evidence from civil cases,

01:05:38

you know, the the Chinese

01:05:43

food Chinese traditional practices has

01:05:48

put a very heavy burden

01:05:49

on the plaintiff. what they

01:05:54

say the the button the

01:05:56

standard of proof is What

01:06:00

in Chinese? maybe in images

01:06:07

now the new rules they

01:06:10

delete that expression. They use

01:06:14

Beyond any doubt. which which

01:06:17

is very very heavy but

01:06:19

you know in international arbitration

01:06:22

practice the burden is balance

01:06:25

of probability of evidence rules

01:06:31

has been introduced in the

01:06:33

street and guidelines acceptance because

01:06:38

if you produce a large

01:06:42

floor or similar matters of

01:06:46

seriousness and you and you're

01:06:48

the proof of the pudding

01:06:49

will be higher heavy on

01:06:53

I mean the Scandal would

01:06:56

be higher. I hope they

01:07:01

will use this as a

01:07:03

sister than got lines to

01:07:05

direct their future arbitration practice.

01:07:08

Thank you Professor Lowell for

01:07:12

sharing your yang psyched. Let's

01:07:14

move to the next topic

01:07:16

because we have very limited

01:07:17

time Mr. Wong don't you

01:07:21

will give us an introduction

01:07:24

on the update on the

01:07:26

role of arbitration in assets

01:07:28

with an IP this puce.

01:07:30

Miss Wong. Thank you. Thank

01:07:38

you Helen. Good morning. Good

01:07:41

morning. Good morning, everyone. Very

01:07:47

happy to be here as

01:07:50

you have found my coat

01:07:53

panelist professors lawyers are talking

01:07:58

about legislation or regulation policy

01:08:02

about arbitration. I think it's

01:08:07

that that makes sense having

01:08:11

topics. Let me try to

01:08:13

show you that easy topic.

01:08:17

What's happening about the it

01:08:20

disputes by the we can

01:08:23

you know, how do you

01:08:25

trade dispute arbitration? You may

01:08:31

notice the recent this is

01:08:35

where one of the Hot

01:08:39

Topic is recent years whether

01:08:42

i t a n German

01:08:43

scampi arbitrated people discussing how

01:08:50

to reach an agreement for

01:08:54

the alleged infringers and IP

01:09:01

rights holders. Is that possible.

01:09:05

How can that be possible

01:09:09

between such parties? In reality,

01:09:15

we all know the ITT

01:09:17

spews the case number a

01:09:20

rising every year we can

01:09:23

sees the numbers are the

01:09:25

roads icy today April 26th

01:09:30

increasing and such as disputes

01:09:36

at 8 America's registration patents

01:09:41

and patent prosecution patents bet

01:09:49

that if he can these

01:09:52

disputes be arbitrated. On what

01:09:57

hand do we noticed they

01:10:00

are legislations mostly outside China.

01:10:07

I like Singapore United States

01:10:12  
and Hong Kong. They are

01:10:14  
legislations already. They said well,

01:10:18  
whatever they do is I

01:10:21  
mean I could dispute is

01:10:23  
all of these can be

01:10:25  
arbitrated on the other hand

01:10:28  
in China China. Are we

01:10:31  
still debating we argue about

01:10:35  
the budget a variety of

01:10:39  
a patent disputes and Z's

01:10:42  
kind of the arbitrator. Let

01:10:49  
me share some numbers with

01:10:52  
you as he's sixteen almost

01:10:56

Seventeen Chinese institutions. They always

01:11:08

set up their own IP

01:11:10

address. What do they call

01:11:11

centers or institutions with the

01:11:17

committee of the past few

01:11:21

years almost 3,000 cases and

01:11:28

don't buy these seven almost

01:11:31

70 they are also big

01:11:37

tote amount of a dispute.

01:11:44

This number I'm about at

01:11:49

Sea-Tac we talk about a

01:11:51

seed packs this morning to

01:11:53

about 15% of disputes received

01:12:01

at the Sea-Tac is ipg

01:12:05

Spirits, MO. About 15% of

01:12:14

these 15% It disputes involving.

01:12:19

The customer is a hundred

01:12:28

Mount of money. I almost

01:12:33

past 5 years. Photos of

01:12:43

people are practitioners. They are

01:12:48

in favor of a be

01:12:51

treating I could use two.

01:12:52

Youths are they found meaning

01:12:54

strong points about Saturday magnetism

01:12:58

about arbitration like an efficiency

01:13:04

flexibility are confidentiality except for

01:13:08

I'm not going to I'm

01:13:14

not going to go through

01:13:16

all these strong points since

01:13:20

we don't have enough time

01:13:22

to ask me a few

01:13:26

words about Aziz report. This

01:13:29

is the annual report published

01:13:31

by see that we did

01:13:34

this last two years. Are

01:13:38

you can easily find these

01:13:40

publication if you are interest

01:13:43

we organized a group of

01:13:46

lawyers professors, of course, most

01:13:50

of the traders to we

01:13:54  
are already if you are

01:14:04  
interest are you can also

01:14:06  
see Albert Raptors highlights of

01:14:13  
the Quote, I'm going to

01:14:16  
create review about Aziz highlights

01:14:21  
of these two annual reports.

01:14:23  
We do a study. Of

01:14:27  
course, I combining some serious

01:14:31  
and the actual cases together.

01:14:35  
We want to do some

01:14:38  
comparison. Also, we you my

01:14:42  
to some International lawyers and

01:14:44  
arbitrators working with us. We

01:14:47

want to have the global

01:14:49

perspective to our base with

01:15:02

you in chapters 3 and

01:15:06

4. I believe we discuss

01:15:09

the we folks. We fixed

01:15:14

on this rushing about the

01:15:16

arbitrator bility, which is the

01:15:19

biggest area biggest. How big

01:15:23

For those who I interesting

01:15:27

IP a dispute arbitration by

01:15:29

institutions course at the last

01:15:37

chapter. We also are provided

01:15:39

some IP protection cases the

01:15:47

industry's like Digital internet from

01:16:00

the farthest end of the

01:16:03

actual experience for myself. I

01:16:06

feel the arbitration is impotent

01:16:12

meaning of channel to settling

01:16:15

disputes even for those patterns.

01:16:23

30 catches and registration places

01:16:29

for academics. I think this

01:16:38

is still a long way

01:16:40

to go out here. I

01:16:42

just wasted the whole application

01:16:49

filled out to eat on

01:16:52

the way. It's going. Okay

01:16:55

that's concludes my presentation. Thank

01:16:58

you. Thank you. Thank You

01:17:03

by my you thanking me

01:17:05

for your comments because as

01:17:08

a practitioner in prison number

01:17:12

of the arbitration proceeding your

01:17:15

IP area, for example, I

01:17:17

C licensing fee Terminal B.

01:17:27

I think this is the

01:17:31

area where is most interesting

01:17:33

in the sense that they

01:17:34

were going to be a

01:17:35

lot of sanding and sort

01:17:38

of foreign shopping at the

01:17:39

beginning of the case because

01:17:41

this has been discussing the

01:17:44

events on Monday with us,

01:17:47

we're in agreement for example

01:17:53

for a fishing license agreement

01:17:56

and then they could be

01:17:58

also like a party of

01:18:00

the parties to the contract.

01:18:02

Violets toxic to the license

01:18:06

war party will need to

01:18:08

think about whether they want

01:18:09

to pursue the case and

01:18:11

arbitration or pursue the case

01:18:13

against the party was a

01:18:15  
flight of the Condor hardacre

01:18:16  
at 8 at court and

01:18:18  
it could also be all

01:18:19  
the cases we are from

01:18:20  
sample on the validity of

01:18:22  
the Titans were other it

01:18:24  
whether you want to do

01:18:26  
the case and arbitration. We

01:18:27  
want to bring Case International

01:18:29  
court for substitute to butter

01:18:38  
you can get like I'm

01:18:39  
suing Junction weather at the

01:18:41  
latest age. You can try

01:18:42  
to set aside for a

01:18:44  
lack of ability or if

01:18:47  
there's a lack of leaching

01:18:49  
decisions of The Pretender at

01:18:51  
will have you know, whether

01:18:52  
that's a grand for a

01:18:53  
rejection. Which is due tomorrow.

01:19:06  
Thank you, considering the large

01:19:09  
number of the arbitration cases

01:19:11  
managed by Chinese arbitration institutions.

01:19:13  
We use these new developments,

01:19:17  
but we are only have

01:19:18  
one and a half hour

01:19:19

off of today's discussion. Thank

01:19:21

you very much for my

01:19:23

dear panel speakers for sharing

01:19:25

your experience. And also I

01:19:31

benefited from their practical experience.

01:19:33

We nuke forward. Thank you.

01:19:58

. So, thank you. Well,

01:20:00

they take the picture will

01:20:03

have a small coffee break.

01:20:04

So feel they still free

01:20:06

to grab some coffee and

01:20:07

something to eat and we'll

01:20:08

see you back at 11:30

01:20:09

for the next. Thank you.

01:19:58

. So, thank you. Well,

01:20:00

they take the picture will

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01:20:08

see you back at 11:30

01:20:09

for the next. Thank you.