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Inaugural California International Arbitration Week: The Pacific Shift: Has International Arbitration's Centre of Gravity Moved?

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On the third day of the [Inaugural California International Arbitration Week](#), Silicon Valley Arbitration & Mediation Center ("SVAMC") held a webinar on the locus of international disputes. The focus of the session was the shifting seat of international disputes, as arbitration's centre of gravity is steadily advancing to the Pacific. This westward (from a United States perspective) movement has coincided with an increase in technology businesses' participation in alternative dispute resolution. Will this herald a decade of conflict settlement within and among the Pacific Rim's tech-centric businesses, and what does this mean for California's involvement in international arbitration? The session sought to address some of these issues. The panel was comprised of distinguished arbitrators and counsels involved with the SVAMC. It was moderated by Paul Cohen (President, SVAMC) and featured speakers Chiann Bao (International Arbitrator and Mediator, Arbitration Chambers), Sandra Jeskie (Arbitrator, Duane Morris LLP), Eric Chang (Principal, Chang Law), and Les Schiefelbein (Founder and CEO, Schiefelbein Global Dispute Resolution).

The Panelists' Views on the Meaning of the Pacific Shift

The Panelists agreed that the robust Asian economy, established dispute resolution hubs in the Asia-Pacific (particularly Hong Kong and Singapore), and the region's quickly innovating arbitration practices are together shaping the future of arbitration in the Pacific. Due to California's cultural and geographical proximity to the Pacific and a shared tech medium, the rapid development of arbitration in the Pacific could also have certain implications for California. The Panelists noted that the New York Convention is already widely accepted in the Pacific, making enforceability of arbitral awards a global possibility. Chiann Bao mentioned that there had been some real change in Asia's dispute resolution industry. Asia is no longer one of the blackwater for dispute. More than half the world's population resides in Asia, which naturally leads to more caseloads for local arbitral institutions. It is foreseeable that Hong Kong and Singapore will get a fair share of the tech disputes. There are already many innovations in institutional rules in the Pacific – for example, the Guangzhou Arbitration Commission has made some recent innovations in its online dispute resolution rules. Eric Chang also mentioned that the current Russia-Ukraine conflict has actually strengthened U.S.-Asia economic ties.

The Pacific Shift's Implication on California

The Panelists agreed that California is a centre for technology disputes and a rising number of disputes involving the entertainment industry. Les Schiefelbein pointed out that in the early 1990s, California was the place for the aerospace sphere. That industry relies upon international contracts, which leads to a large number of international disputes being resolved in California. In recent decades, Silicon Valley's development is seen as a unique phenomenon in the world. California law is universally considered commercially capable. Les Schiefelbein believes that California will be the 'place' for choice of law and choice of seat, as the reality is that international arbitration is a fusion of making things work. Due to the development of arbitration practices in the Asia Pacific and particularly Hong Kong, for example, it makes sense for California arbitrators and counsel to be used frequently to resolve technology disputes.

Chiann Bao mentioned that California is a diverse place – 15% of California's population is Asian-American, and more than half of them were actually born in Asia- which shows close cultural ties between Asia and California. Within California's booming technology sector more than 60% are employees are of Asian origin. The connection between California and the Pacific is real. With that connection, California also has the unique opportunity to maximize its potential as an international dispute resolution hub. Californian arbitrators and counsels are likely to have greater relevant know-how, which makes it easier for parties to not only draw on this pool of legal practitioners but also, before a dispute ever arises, to agree to California as the seat and agree to resolve disputes under California substantive law. Take the gaming industry as an example, the next generation Asian youth is already a quarter of the world's gaming market consumers, and this must be a draw for California's technology industry. California infrastructure also stands out for it to attract more disputes.

According to Sandra Jeskie, California is a top seat for resolving technology-related disputes as every company in California is a technology company in some way. Ten years ago, most of the arbitrations in California were patent-related. However, in recent years cases in California have become a lot more diverse. For example, cases involving Fintech and Medtech are starting to pick up. There is no doubt that California is always a global leader in tech dispute resolution, and it has also become a lot more accessible that it is used to be.

In addition, Eric Chang mentioned that even though there is much talk about the U.S.-China decoupling, it is undeniable that economies of the two countries are very interconnected. He noted that a handful of Chinese technology companies are currently subject to U.S sanctions, but it is still a very small pie of technology companies in China. Eric Chang stated that Los Angeles has always been a vast investment hub for Asian investors, which inevitably lead to more cases being resolved there. There is also a growing recognition of California law as the governing substantive law in international transactions, and thus this creates the possibility for California to be used as a seat for arbitration. He recognized that there are established dispute resolution venues in the Pacific, such as Singapore. However, international arbitration is not a zero-sum game, and with the growing pie, both California and the Asia-Pacific, will benefit from the growth.

Concluding Remarks

The webinar's overall theme was the shifting seat of international disputes, with arbitration's center of gravity increasingly migrating to the Pacific. The webinar primarily concentrated on California's involvement in international arbitration, particularly in disputes involving technology. Nonetheless, the Panelists were not able to spend much time talking on the relevance of emerging technologies, such as blockchain, NFT, and other decentralized technologies that are rapidly adopted by arbitration parties to save costs, improve security, and increase transparency. Despite this minor missing link, the Panelists were able to shed light on California's concerted effort to entice international arbitration businesses. Strong tech talents, uprising arbitration infrastructure, viable commercial laws, and geographical and cultural proximity to the Pacific will together make California a strong arbitration hub unlike any predecessor in the field.

More coverage of California International Arbitration Week is available [here](#).


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