торый совершил Добрыня Никитич. И если сравнивать, то битва с огромной огнедышащей змеёй нам кажется более правдоподобным геройским поступком, чем битва против смерча. В конечном итоге сказки несут в себе очень существенную информацию, так как сумели пройти через века и даже тысячелетия и все равно остаться на первом месте среди наших книг. Ведь в них сохраняются наша история, культура и обычаи русского народа.

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THE MECHANISMS OF CROSS-BORDER DISPUTE RESOLUTION IN RELATION TO INTELLECTUAL PROPERTY

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The existing system of cross-border dispute resolution in relation to intellectual property consists of two levels: national and supranational (international) level. National level means the system of national judicial and administrative bodies and methods of alternative dispute resolution that provide possibilities to solve the disputes in the sphere of intellectual property.

At the same time the following classification of national mechanisms on the basis of institutional and functional criteria can be provided:

1. Specialized judicial mechanisms with limited competence (Russia, Germany) that solve the limited number of disputes by subject or object matter in spite of institutional centralization. This fact illustrates the distribution of competences.

2. Specialized judicial mechanisms with full competence (Japan, the United Kingdom) that are characterized by institutional separation with state judicial system and the competence to solve all kinds of disputes in the sphere of intellectual property.

3. Specialized boards of judges for dispute resolution in the sphere of intellectual property (Belgium, Sweden, Belarus) that are functioning within the general jurisdiction courts and mean the separated division specialized in intellectual property.

4. Administrative bodies that are not the part of judicial system and belong to the patent office and are entitled to solve the limited number of disputes (Australia, China.

5. Alternative dispute resolution mechanisms that are regulated by any national law.

The analysis of structure and functions of dispute resolution mechanisms in relation to community-protected objects in the EU reveals that this mechanisms are institutionally different. This way the following groups can be separated:

1. Two-level system consisting of an administrative mechanism and partially centralized judicial mechanism of dispute resolution (the Community trademark and The Community industrial designs).

2. Two-level system consisting of an administrative mechanism and partially centralized judicial mechanism of dispute resolution (Unitary European patent).

3. Two-level system consisting of an administrative mechanism and partially centralized judicial mechanism of dispute resolution (selective achievements).

4. One-level administrative mechanism with limited competence (geographic indications).

The sub-level of alternative dispute resolution mechanisms constitutes the mechanisms of dispute resolution that solve the disputes on the basis of parties' agreement and does not have international or national legal nature. Such mechanisms are differentiated on the basis of a method of dispute resolution and the legal force of the decision:

1. Arbitral mechanisms (classical international commercial arbitration).

2. Intermediary mechanisms (judicial and non-judicial mediation, good offices, negotiations).

3. Consultative mechanisms (expert conclusions and consultations).

4. Sui generis mechanisms (UDRP, mini-trial).

At present moment all national systems of intellectual property protection face with problem based on the principle of territoriality. The principle of territoriality puts sufficient barriers against the recognition and enforcement of foreign judicial awards as well as arbitral awards related to intellectual property rights. Because of strict and flexible notion of territoriality the differences in relation to an arbitrability of intellectual property rights, legal remedies and special features of material and procedural regulations are giving the grounds to raise the questions of public order. In other words it means the impossibility to recognize and enforce the arbitral awards on the basis of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 [1].

The problem can be potentially resolved by different means. Firstly, it is important to unify the regulations of intellectual property rights. Secondly, it is important to establish the unified rules of jurisdiction for intellectual property disputes that shall balance the interests of states.

In the context of presented situation we recommend the parties of contractual relations in the sphere of the validity of industrial property rights to settle their disputes in the country where the right of intellectual property is registered. In our opinion, in the light of enforceability, the disputes of contractual and non-contractual nature are closely connected with mention jurisdiction because it allows avoiding further matter of recognition and enforcement of foreign award that may potentially breach the public order of the state where it shall be enforced.

In case of dispute settlement in relation to copyright and neighboring rights it is important to underline that the rights to these objects are more flexible and less involvement of public regulations. Consequently, the parties obtain the possibility to conclude prorogation agreements (agreements on the choice of competent court) and choose more convenient jurisdiction with sufficient decrease of unenforceability risks in relation to the award.

In relation to regional patent systems and mechanisms of unitary protection in the European Union, we have revealed the tendency to centralize the mechanisms of dispute resolution, e.g. the mechanism of Unified Patent Court in relation to Unitary European Patent. This mechanism is much more corresponding to the criterion of unitary protection and allows rendering institutional centralization and achieving the goal of the enforceable award for each state that participates in the European Union (the award has exterritorial effect).

At the same time, we would like to admit that the mechanism of dispute resolution that exist in the European Union for unitary protected intellectual property results do not fully correspond to the principle of unity even the most progressive variant. The principle of unity requires full centralization substantial, procedural and institutional aspects of dispute resolution. At present moment neither of the dispute resolution mechanisms does not have full autonomy from national law because of renvoi to the national substantial and procedural law and even to the law of conflicts. In this case the effectiveness of dispute resolution is dependent on the differences between national legal systems that contravene the unitary legal regime of community-protected objects. In the light of Unitary European Patent, the system of dispute resolution can also face with the challenges related to the integration into the system of European law that exists at the present stage of legal development.

The research of the matters related to the establishment of local dispute resolution mechanisms within the economic integration has great importance

in the light of plan to create the systems of unitary protection of the Eurasian Economic Union (trademarks and geographical indications). In our opinion, the system of dispute resolution mechanisms shall be based on the following principles:

1. the principle of two level institutional mechanism (the existence of administrative and judicial level, the judicial level provides the mechanism of appellation for the first instance awards);
2. the principle of centralization (dispute resolution in relation to all unitary protected objects, institutional separation from the national system of courts);
3. the principle of exclusive jurisdiction (the jurisdiction of the centralized court shall cover all the categories of disputes in relation to unitary protected objects without possibility to involve national courts);
4. the principle of full procedural regulation (the establishment of full procedure of dispute resolution without reference to the national law);
5. the principle of exterritorial effect of award (the award of the competent court in one state of the Eurasian Economic Union shall have the legal effect and be enforceable without the additional recognition).

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РЕГИОНАЛЬНЫЕ КОНФЛИКТЫ В ЛАТИНСКОЙ АМЕРИКЕ КОНЦА XX – НАЧАЛА XXI ВЕКА: АКТУАЛЬНОСТЬ И ОТРАЖЕНИЕ В ИСТОРИОГРАФИИ

В. В. Жур

Актуальность исследования потенциальных и действующих конфликтов в Латинской Америке в конце XX – начале XXI веков связана с тем, что основной повесткой дня в мировом сообществе в наше время является проблема безопасности и, соответственно, предотвращения вооруженной конфликтов, агрессий и террористических актов.

В настоящее время государства Латинской Америки уже на протяжении более чем полувека занимают одну из важнейших ниш в перечне факторов современных международных отношений. В краткосрочной перспективе данный статус останется неизменным в силу того, что вышеозначенный регион не воспринимается остальными факторами в качестве источника потенциальной угрозы международной безопасности. Латинская Америка ратует за сохранение действующей мировой финан-