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**Judicial Review of Arbitral Awards under
the Unified Patent Court's Mediation and
Arbitration Framework: Challenges and
Solutions from a Transatlantic Perspective**

Gabriel M. Lentner

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Editors: Siegfried Fina, Mark Lemley, and Roland Vogl

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Abstract

This paper examines the emerging role of the Patent Mediation and Arbitration Centre (PMAC) within the Unified Patent Court (UPC) framework and addresses the critical question of how arbitral awards rendered under PMAC rules should be reviewed in annulment proceedings. Although the UPCA establishes a specialized forum for patent disputes in Europe, the absence of a harmonized annulment mechanism for PMAC awards generates uncertainty, because review currently depends on the *lex arbitri* of the arbitration seat. This study evaluates three potential solutions—creating a self-contained annulment mechanism, designating specialized national courts, and anchoring the legal seat in Lisbon or Ljubljana—to enhance predictability and safeguard the integrity of patent arbitration in the EU.

Adding a transatlantic perspective, the paper contrasts these proposals with U.S. practice under the Federal Arbitration Act (FAA) and the strong pro-arbitration stance of U.S. courts, which generally limit judicial review to narrow statutory grounds. The paper explores whether the U.S. model of deference to arbitral autonomy could inform the design of a European review system, while accounting for the UPC's supranational character and the need to preserve EU public policy. By combining doctrinal analysis with comparative insights, the paper argues for a balanced approach that ensures legal certainty and uniformity in Europe without undermining the flexibility and efficiency that make arbitration attractive for complex patent disputes.

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1. Introduction

The creation of the Unified Patent Court (UPC) represents the European Union's (EU) most ambitious effort to replace fragmented national patent litigation with a centralized and specialized judicial framework for European and Unitary patents.¹ As part of the UPC's architecture, the Patent Mediation and Arbitration Centre (PMAC) was established to provide parties with a 'one-stop-shop'² including alternative dispute resolution (ADR) mechanisms tailored to the unique demands of patent litigation, including disputes involving complex licensing arrangements and standard-essential patents.³ The PMAC was the result of recognizing the growing relevance of ADR, specifically arbitration, with respect to IP in practice.⁴ Yet while considerable attention has been devoted to the substantive jurisdiction and procedural design of the UPC itself,⁵ surprisingly little attention has been paid to a foundational question concerning the PMAC⁶: who should review PMAC arbitral awards when a party seeks

¹ Ana A Betancourt, 'Cross-Border Patent Disputes: Unified Patent Court or International Commercial Arbitration?' (2016) 32(82) *Utrecht Journal of International and European Law* 44, 46–47; Gary B Born and Sonya Ebermann, 'A New Patent Mediation and Arbitration Centre for Europe' (2023) 40(3) *Journal of International Arbitration* 231, 231; Aurora Plomer, 'The Unified Patent Court and the Transformation of the European Patent System' (2020) 51(7) *IIC* 791.

² Sam Granata, 'The Patent Mediation and Arbitration Centre: a centre of opportunities' in Christophe Geiger, Craig A Nard and Xavier Seuba (eds), *Intellectual Property and the Judiciary* (Edward Elgar Publishing 2018) 256; Sam Granata, 'The Unified Patent Court: A One-Stop-Shop IP Dispute Resolution Entity. The Patent Mediation and Arbitration Centre (PMAC)' in Gerold Zeiler and Alexander Zojer (eds), *Resolving IP Disputes* (NWV 2018).

³ Pierfrancesco C Fasano, 'The Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC): A Game Changer for European Patent Disputes' (2023) 76(3) *Dispute Resolution Journal* 71; Born and Ebermann (n 1); Heinz Goddar and others, 'Potential of the Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC)' (2025) 22(7) *UCLR* 335.

⁴ World Intellectual Property Organization, *WIPO Caseload Summary: WIPO Arbitration, Mediation, Expert Determination Cases and Good Offices Requests* (2026) (the number of cases referred to ADR at the WIPO Arbitration and Mediation Center rose from 114 cases in 2016 up to 1461 cases in 2026), <https://www.wipo.int/amc/en/center/caseload.html> (accessed 1 September 2026). See also GyooHo Lee, Keon-Hyung Ahn and Jacques de Werra, 'Euro-Korean Perspectives on the Use of Arbitration and ADR Mechanisms for Solving Intellectual Property Disputes' (2024) 30(1) *Arbitration International* 91, 122–123; Granata, 'The Unified Patent Court: A One-Stop-Shop IP Dispute Resolution Entity. The Patent Mediation and Arbitration Centre (PMAC)' (n 2) 76 Betancourt (n 1).

⁵ See eg. Paul England, *A practitioner's guide to the unified patent court and unitary patent* (2nd edn, Hart Publishing 2025); Simon Klopschinski, 'The Unified Patent Court: A Supranational Tribunal – Case Note on UPC (LD The Hague) GRUR-RS 2024, 14271' 2024(9) *GRUR Patent* 395; Simon Klopschinski, 'On the interpretation of the UPCA in the light of national case law and the practice of the EPO' 2024(12) *GRUR Patent* 568; Simon Klopschinski, 'Entscheidungen des EPG vor dem BVerfG und dem EGMR' 2025(1) *GRUR Patent* 14; Simon Klopschinski, 'Die zeitliche Zuständigkeit des Einheitlichen Patentgerichts– Teil 1-3' 2026(1-3) *GRUG Patent* 7, 74, 138.

⁶ See also Seun Lari-Williams and Esther van Zimmeren, 'Reimagining the Unified Patent Court as a Multi-Door Courthouse' (2026) 75(3) *GRUR International* 207, 207.

to challenge them? The answer matters because the effectiveness of any arbitral system depends not only on the quality of the arbitral decision-making but also on the coherence and predictability of the mechanisms governing post-award review.⁷

The current framework leaves that question largely unanswered. Although the Agreement on a Unified Patent Court (AUPC) provides in Art 35 the legal foundation for the PMAC, it does not establish a comprehensive and dedicated annulment regime for arbitral awards rendered under its auspices.⁸ Instead, the review of PMAC awards remain dependent upon the lex arbitri of the arbitral seat freely chosen by the disputing parties and the national courts of that seat's jurisdiction.⁹ This arrangement creates a significant structural tension within the UPC project. On the one hand, the PMAC is intended to function as a specialized component of a broader European patent system designed to promote centralization and legal certainty.¹⁰ On the other hand, the validity of PMAC awards may ultimately depend upon review by different domestic courts depending on the choice of the parties, which apply divergent arbitration laws and possessing varying degrees of familiarity with complex patent-law issues.¹¹

The resulting fragmentation threatens to undermine the objectives that motivated the creation of a unified system. Particularly in disputes involving standard essential patents (SEPs), fair,

⁷ Peter Georg Picht, 'Arbitration through the Unified Patent Court's PMAC' in Simon Klopschinski and Mary-Rose McGuire (eds), *Research Handbook on Intellectual Property Rights and Arbitration* (Edward Elgar Publishing 2024);

⁸ Jacques de Werra, 'Patent Arbitration under the Agreement on a Unified Patent Court' in Duncan Matthews and Paul Torremans (eds), *European Patent Law* (De Gruyter 2023); Peter Georg Picht, 'Arbitration through the Unified Patent Court's PMAC' in Simon Klopschinski and Mary-Rose McGuire (eds), *Research Handbook on Intellectual Property Rights and Arbitration* (Edward Elgar Publishing 2024).

⁹ Sam Granata, The Patent Mediation and Arbitration Centre: A Centre of Opportunities, in Christophe Geiger, Craig A. Bard & Xavier Seuba (eds) *Intellectual Property and Judiciary* (Edward Elgar 2018) 255, 258; Born GB and Ebermann S, 'A New Patent Mediation and Arbitration Centre for Europe' (2023) 40 *Journal of International Arbitration* 239.

¹⁰ Pierfrancesco C Fasano, 'The Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC): A Game Changer for European Patent Disputes' (2023); Peter Tochtermann, "Settlement" in Oxford University Press eBooks (Oxford University Press 2018).

¹¹ Ana Georgina Alba Betancourt, "Cross-Border Patent Disputes: Unified Patent Court or International Commercial Arbitration?" (2016) 32 *Utrecht Journal of International and European Law* 44; P Picht, "Unitary Patent System: what the patent mediation and arbitration centre can('t) decide" [2018] MPGPuRe (Max Planck Society).

reasonable and non-discriminatory (FRAND) licensing, competition law, and other technically sophisticated questions, reliance upon differing national standards of judicial supervision may generate uncertainty regarding the finality and enforceability of PMAC awards.¹²

This paper argues that the absence of a harmonized review mechanism constitutes one of the most significant unresolved institutional questions facing the PMAC. It examines several potential approaches (already raised in the literature)¹³ to the review of PMAC awards: the creation of an internationalized ad hoc annulment committee modeled in part on the self-contained annulment system of the International Centre for Settlement of Investment Disputes (ICSID), the designation of specialized domestic courts within UPC Contracting States, and the concentration of supervisory jurisdiction through the designation of a single legal seat in either of the PMAC's dual headquarters in Lisbon or Ljubljana.¹⁴ While each model offers distinct advantages and disadvantages, the paper contends that greater harmonization is necessary to preserve both the legitimacy of PMAC arbitration and the broader objective of establishing a coherent European patent dispute-resolution framework. At the same time, the restrictive approach of US courts in reviewing arbitral awards could serve as a model for courts in the EU to achieve the same goals through a review mechanism that is narrowly confined to fundamental procedural and public-policy concerns avoids transforming annulment proceedings into a de facto appeal on the merits— and at the same time preserving the principle of finality of arbitral awards. By situating the PMAC within broader debates concerning arbitral finality, judicial oversight, and institutional specialization, this paper contributes to the

¹² Peter D Camesasca and Konstantina E Sideri, “PMAC: Not Quite FRAND Conciliation - a Comparison with the EU SEP Regulation's More Ambitious Attempt to Resolve FRAND Licensing Disputes” (2025) 20 *Journal of Intellectual Property Law & Practice* 800; Heinz Goddar et al., “Potential of the Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC)” (2025) 22 *US-China Law Review* 335.

¹³ See already Danilo Ruggero Di Bella, ‘Pitfalls and Solutions to the Annulment Procedure of PMAC Arbitral Awards’ (EJIL:Talk! 15 April 2025) <https://www.ejiltalk.org/pitfalls-and-solutions-to-the-annulment-procedure-of-pmac-arbitral-awards/>.

¹⁴ Eugénio Lucas, “The Need for a Unified Patent Court” (2020) 12 *Lexonomica*; Pierfrancesco C Fasano, “The Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC): A Game Changer for European Patent Disputes” (2023).

emerging literature on the future of patent arbitration in Europe and the continuing evolution of the UPC system.¹⁵

2. The Institutional Context

The PMAC serves as a critical, albeit nascent, institutional pillar of the UPC, designed to offer a specialized venue for ADR within the unitary patent landscape.¹⁶ While the centre functions as a component of the UPC's broader structural architecture¹⁷ the precise jurisdictional contours for the annulment of its arbitral awards remain critically underspecified. As mentioned, this ambiguity creates a notable legal vacuum, particularly regarding the interface between the PMAC's autonomy and the mandatory oversight required for example by European public policy and competition law.¹⁸

In principle, the PMAC is set up to provide mediation and arbitration facilities for disputes within the scope of the Unified Patent Court Agreement (AUPC), with the capability to manage cases even prior to the initiation of formal judicial litigation.¹⁹ Operating as an integral component of the UPC's structural design, the centre ensures institutional alignment through a unified governance model, where its leadership and budgetary oversight are managed directly by the UPC's Administrative Committee.²⁰ Beyond this administrative linkage, the PMAC is intended to facilitate a multi-door courthouse environment offering various dispute resolution

¹⁵ Werra, 'Patent Arbitration under the Agreement on a Unified Patent Court' (n 8); Jacques de Werra, 'New Developments of IP Arbitration and Mediation in Europe: The Patent Mediation and Arbitration Center Instituted by the Agreement on a Unified Patent Court' [2014] *Revista brasileira de arbitragem* 17.

¹⁶ Georg Picht (n 8); Fasano (n 3).

¹⁷ Seun Lari-Williams and Esther van Zimmeren, "Reimagining the Unified Patent Court as a Multi-Door Courthouse" (2025) 75 *GRUR International* 207.

¹⁸ Heinz Goddar et al., "Potential of the Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC)" (2025) 22 *US-China Law Review* 335; Gary B Born and Sonya Ebermann, "A New Patent Mediation and Arbitration Centre for Europe" (2023) 40 *Journal of International Arbitration* 231. It is unclear whether the recent *Seraing* decision of the Court of Justice of the European Union (CJEU) has an effect beyond international sports arbitration, see *Royal Football Club Seraing SA v FIFA* (Case C-600/23) EU:C:2025:565.

¹⁹ Born and Ebermann (n 1); Georg Picht (n 8); Lari-Williams and van Zimmeren (n 6).

²⁰ Pierfrancesco C Fasano, "The Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC): A Game Changer for European Patent Disputes" (2023).

processes by offering tailored procedural mechanisms—such as mediation, expert determination and arbitration—that complement (or replace) traditional patent litigation.²¹

Since the UPC exercises supranational jurisdiction over European and Unitary patents, the PMAC is a pivotal institutional instrument empowered to resolve disputes that fall within the court's exclusive substantive competence.²² The PMAC's jurisdiction is therefore effectively limited to disputes involving European and Unitary Patents and supplementary protection certificates (Art 32(1) AUPC).²³ It also does not cover all EU Member States, since the UPC only cover the – at the time of writing – eighteen States which ratified the Agreement on a Unified Patent Court.²⁴ It therefore cannot offer a fully comprehensive enforcement mechanism across the EU.²⁵

Still for those 18 EU Member States, the PMAC could function as a specialized gateway that offers parties a sophisticated mechanism to arbitrate within the UPC's hierarchical structure linked to the system's harmonized body of case law.²⁶ However, the determination of the arbitration seat remains of paramount significance, as it serves as the primary nexus for defining the applicable legal framework governing the procedural review, court assistance and potential annulment of an arbitral award.²⁷ This reliance on the *lex loci arbitri* exposes the arbitration outcome to the specific national procedural standards of the law of the seat of the

²¹ Seun Lari-Williams and Esther van Zimmeren, “Reimagining the Unified Patent Court as a Multi-Door Courthouse” (2025) 75 GRUR International 207.

²² Werra, ‘Patent Arbitration under the Agreement on a Unified Patent Court’ (n 8).

²³ Peter D Camesasca and Konstantina E Sideri, 'PMAC: not quite FRAND conciliation - a comparison with the EU SEP Regulation's more ambitious attempt to resolve FRAND licensing disputes' (2025) 20 Journal of Intellectual Property Law & Practice 800, 804.

²⁴ See <https://www.unifiedpatentcourt.org/en>.

²⁵ Camesasca and Sideri (n 23).

²⁶ Born and Ebermann (n 1); Granata, ‘The Patent Mediation and Arbitration Centre: a centre of opportunities’ (n 2).

²⁷ Camesasca and Sideri (n 23).

arbitration chosen by the parties, thereby complicating the objective of a uniform, supranational oversight mechanism for IP-related disputes.²⁸

Consequently, the resulting divergence in supervisory standards threatens to jeopardize the legal certainty necessary for the consistent enforcement of European patent titles.²⁹ That is also why some commentators concluded that ‘in the ongoing competition between various fora, ie UPC, EU national courts and UK courts, PMAC lacks the institutional authority, procedural integration and jurisdictional reach to position itself as a globally attractive venue for FRAND dispute resolution.’³⁰ This contention will be analyzed further below.

A. Applicable Arbitration Rules

The PMAC’s procedural framework is anchored in its Arbitration and Mediation Rules, which are specifically designed to incorporate modern features such as provisions for online proceedings and specialized mechanisms for FRAND-related disputes.³¹ These rules were adopted after a public consultation process in April 2026 by the Administrative Committee. They function as the applicable arbitration rules and therefore supplement the overarching UPC Agreement—specifically Articles 35, 39, 52, and 79—by providing structured protocols for the commencement of proceedings and the management of sensitive proprietary information.³² Crucially, while these rules promote procedural efficiency, Article 35(2) AUPC imposes a vital jurisdictional constraint by explicitly prohibiting the PMAC from adjudicating on the validity

²⁸ Werra, ‘New Developments of IP Arbitration and Mediation in Europe: The Patent Mediation and Arbitration Center Instituted by the Agreement on a Unified Patent Court’ (n 15).

²⁹ Pierfrancesco C Fasano, ‘The Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC): A Game Changer for European Patent Disputes’ (2023).

³⁰ Camesasca PD and Sideri KE, ‘PMAC: not quite FRAND conciliation - a comparison with the EU SEP Regulation’s more ambitious attempt to resolve FRAND licensing disputes’ (2025) 20 *Journal of Intellectual Property Law & Practice* 805.

³¹ Seun Lari-Williams and Esther van Zimmeren, ‘Reimagining the Unified Patent Court as a Multi-Door Courthouse’ (2025) 75 *GRUR International* 207.

³² Georg Picht (n 8).

or limitation of a patent.³³ Consequently, any arbitral award rendered under these rules must navigate the boundary between contractual licensing disputes and the exclusive competence of the UPC to determine patent validity, ensuring that settlements do not indirectly encroach upon the court's prerogative.³⁴ Should such an award inadvertently touch upon patent validity, the resulting interaction with the UPC system necessitates that the seat's judiciary—bound by the *lex loci arbitri*—maintains a high degree of scrutiny to ensure that procedural outcomes do not deviate from the harmonized standards of EU patent law.³⁵

While Art 35(2) AUPC refers to settlements only and not to arbitral awards or decisions of an arbitral tribunal, there is no indication that this term should be interpreted restrictively to only cover consent awards.³⁶

B. Annulment Under National Law

The governing *lex arbitri* mandates that annulment proceedings remain connected to the procedural standards of the chosen seat, thereby subjecting PMAC awards to the national judicial review regimes of the seat chosen by the disputing parties. That seat may, pursuant to Rule 4 of the PMAC Rules of Operation, be either Portugal or Slovenia, or elsewhere. And there can be various reasons why parties wish to choose a seat other than Lisbon or Ljubljana, such as the neutrality of the state where the arbitration shall be localized and of the *lex arbitri* that shall govern the dispute.³⁷

³³ Goddar and others (n 3) 337. See also Werra, 'New Developments of IP Arbitration and Mediation in Europe: The Patent Mediation and Arbitration Center Instituted by the Agreement on a Unified Patent Court' (n 15) 27; Georg Picht (n 8) 7 et seq.

³⁴ Siddharth Jasrotia, "GAR's Guide to IP Arbitration (2021): A Critical Appraisal" (2021) 16 Journal of Intellectual Property Law & Practice 1154.

³⁵ See generally on the arbitrability of IP disputes concerning validity, Antje Baumann, 'Arbitrability of IPRs disputes' in Simon Klopschinski and Mary-Rose McGuire (eds), *Research Handbook on Intellectual Property Rights and Arbitration* (Edward Elgar Publishing 2024) 13 et seq.

³⁶ See for a sophisticated argument to this effect, Born and Ebermann (n 1) 234–236.

³⁷ Lee, Ahn and Werra (n 4) 121.

With that choice comes also the determination of whose arbitration law applies and whose courts will decide in annulment proceedings. This reliance on potentially any national law for the oversight of arbitral awards risks creating jurisdictional fragmentation, as the procedural scope of judicial intervention in practice may vary between legal regimes, even within the EU.³⁸ This jurisdictional uncertainty is compounded by the fact that national courts are tasked with evaluating procedural validity and compliance with public policy under divergent standards, which may lead to inconsistent judicial interpretations of the same patent licensing dispute.³⁹ Such fragmentation inevitably undermines the uniformity of the European patent litigation system, as local courts apply distinct thresholds for reviewing arbitral compliance with both procedural requirements and the mandatory application of EU public policy.⁴⁰

The specialized nature of patent law raises a more fundamental institutional question concerning the suitability of different domestic courts as supervisory authorities over PMAC arbitration. Patent disputes regularly involve highly technical legal and economic assessments that extend well beyond the expertise typically expected of generalist judges.⁴¹ Contemporary patent litigation increasingly requires familiarity not only with questions of patent validity and infringement, but also with complex issues arising from standard-essential patents, FRAND licensing commitments, portfolio valuation methodologies, royalty-stacking theories, comparable-license analyses, and sophisticated damages models.⁴² The growing importance of

³⁸ See also Danilo Ruggero Di Bella, ‘Pitfalls and Solutions to the Annulment Procedure of PMAC Arbitral Awards’ (EJIL:Talk! 15 April 2025) <https://www.ejiltalk.org/pitfalls-and-solutions-to-the-annulment-procedure-of-pmac-arbitral-awards/>.

³⁹ Cf *ibid.*

⁴⁰ See eg. Sara Migliorini and João Ilhão Moreira, “Clashing Frameworks: The EU AI Act and Arbitration” (2025) 17 *European Journal of Risk Regulation* 140.

⁴¹ Cf Di Bella (n 38).

⁴² See generally Mark A Lemley and Carl Shapiro, ‘Patent Holdup and Royalty Stacking’ (2007) 85 *Texas Law Review* 1991; J Gregory Sidak, ‘The Meaning of FRAND, Part I: Royalties’ (2013) 9 *Journal of Competition Law & Economics* 931; Jorge L Contreras, ‘A Brief History of FRAND: Analyzing Current Debates in Standard Setting and Antitrust Through a Historical Lens’ (2015) 80 *Antitrust Law Journal* 39; Anne Layne-Farrar and Koren W Wong-Ervin, ‘Methodologies for Calculating FRAND Royalty Rates and Damages: An Analysis of Existing Case Law’ (SSRN Working Paper, 2015); Tim W Dornis, ‘Standard-Essential Patents and FRAND Licensing: At the Crossroads of Economic Theory and Legal Practice’ (2020) 11 *Journal of European Competition Law & Practice* 575.

such issues in international intellectual property dispute resolution has contributed to the increasing use of arbitration and other forms of alternative dispute resolution.⁴³ In particular, FRAND-related disputes have become a significant area of attention within patent ADR frameworks.⁴⁴ These questions have generated extensive specialist jurisprudence and economic literature, often requiring the participation of technical experts and judges with substantial experience in intellectual property law. Accordingly, the suitability of domestic courts to supervise PMAC awards must be assessed not only by reference to their formal jurisdiction under the *lex arbitri*, but also by reference to their institutional capacity to evaluate patent-related jurisdictional, procedural, and public-policy issues.⁴⁵

Admittedly, annulment proceedings are not intended to constitute a merits appeal.⁴⁶ Under most arbitration laws, judicial review is confined to procedural defects, excesses of jurisdiction, public policy violations, and other limited grounds.⁴⁷ Nevertheless, the *lex arbitri* determines the applicable grounds and scope of annulment review, which may differ across national legal systems and produce divergent approaches to the supervision of comparable awards.⁴⁸ Even a formally restrained review may therefore require courts to engage with patent-specific concepts. For example, allegations that an arbitral tribunal exceeded its mandate, violated due process, or rendered an award contrary to public policy may necessitate at least a basic

⁴³ Siddharth Jasrotia, “GAR’s Guide to IP Arbitration (2021): A Critical Appraisal” (2021) 16 *Journal of Intellectual Property Law & Practice* 1154. Werra, ‘New Developments of IP Arbitration and Mediation in Europe: The Patent Mediation and Arbitration Center Instituted by the Agreement on a Unified Patent Court’ (n 15).

⁴⁴ Peter Tochtermann, “Mediation of IP Disputes” in Edward Elgar Publishing eBooks (Edward Elgar Publishing 2024); Peter D Camesasca and Konstantina E Sideri, “PMAC: Not Quite FRAND Conciliation - a Comparison with the EU SEP Regulation’s More Ambitious Attempt to Resolve FRAND Licensing Disputes” (2025) 20 *Journal of Intellectual Property Law & Practice* 800.

⁴⁵ Antje Baumann, “Arbitrability of IPRs Disputes” in Edward Elgar Publishing eBooks (Edward Elgar Publishing 2024).

⁴⁶ Margaret L Moses, *The principles and practice of international commercial arbitration* (4th edn, Cambridge University Press 2024) 214 et seq; Gary Born, *International commercial arbitration* (Third edition, Kluwer Law International 2021); Nigel Blackaby and others, *Redfern and Hunter on International Arbitration* (6th edn, Oxford University Press 2015).

⁴⁷ Blackaby and others (n 46); Born (n 46).

⁴⁸ Antje Baumann, “Arbitrability of IPRs Disputes” in Edward Elgar Publishing eBooks (Edward Elgar Publishing 2024); Sara Migliorini and João Ilhão Moreira, “Clashing Frameworks: The EU AI Act and Arbitration” (2025) 17 *European Journal of Risk Regulation* 140.

understanding of the technical and economic framework within which the tribunal operated. Courts lacking familiarity with patent law may consequently struggle to distinguish between genuine procedural defects and challenges that merely disguise disagreement with the tribunal's substantive assessment.

One possible response is the adoption of a highly deferential standard of review. By according substantial weight to the findings of PMAC tribunals and resisting invitations to revisit technical determinations indirectly, national courts can mitigate the risks associated with limited institutional expertise. Such deference would also be consistent with the broader arbitration-friendly approach of most jurisdictions, intended to preserve the finality and autonomy of arbitral awards. Yet deference alone cannot fully resolve the problem. Excessive reliance on varying national standards of judicial restraint may generate divergent approaches to award review across jurisdictions,⁴⁹ thereby undermining legal certainty and predictability for parties choosing PMAC arbitration.

3. Reform Options

A. An Ad Hoc Annulment Committee: An Internationalized Model of Review

The most ambitious solution would be the creation of a self-contained annulment mechanism operating at the supranational level through an ad hoc Annulment Committee.⁵⁰ Such a mechanism would draw inspiration from the ICSID Convention, which famously removed post-award review from domestic courts and entrusted it to ad hoc committees constituted

⁴⁹ Sara Migliorini and João Ilhão Moreira, "Clashing Frameworks: The EU AI Act and Arbitration" (2025) 17 *European Journal of Risk Regulation* 140.

⁵⁰ See generally on the ICSID Annulment mechanism Gabriel Bottini, 'Present and Future of ICSID Annulment: The Path to an Appellate Body?' (2016) 31(3) *ICSID Review* 712; Rudolf Dolzer, Ursula Kriebaum and Christoph Schreuer, *Principles of International Investment Law* (3rd edn, Oxford University Press 2022) Chapter 15b.

under international law.⁵¹ The principal attraction of this model is that it aligns the review mechanism with the supranational character of the institution that generated the award.

From an institutional perspective, PMAC arbitration differs from ordinary commercial arbitration.⁵² While arbitral tribunals generally derive their legitimacy exclusively from party autonomy,⁵³ the PMAC owes its existence to the UPC framework established by an international treaty pursuing broader objectives of European patent integration.⁵⁴ The PMAC therefore occupies a position somewhere between a purely private arbitral institution and a public adjudicatory mechanism established by the Contracting States.⁵⁵ This hybrid character provides a plausible normative foundation for removing annulment proceedings from domestic legal systems and relocating them to an international plane.

A dedicated annulment committee would generate significant gains in terms of expertise. Committee members could be selected from a roster of patent specialists, arbitrators, and competition-law experts familiar with issues such as SEP licensing, FRAND commitments, patent valuation, portfolio licensing practices, and the interface between patent and antitrust law. Unlike national courts, whose exposure to PMAC disputes may be sporadic, an institutionalized review body would develop a coherent body of jurisprudence concerning the permissible scope of arbitral authority, procedural fairness, public policy review, and arbitrability within the patent context.⁵⁶

⁵¹ Dolzer, Kriebaum and Schreuer (n 50) 435. Bottini (n 50) 712 et seq.

⁵² Peter D Camesasca and Konstantina E Sideri, 'PMAC: not quite FRAND conciliation - a comparison with the EU SEP Regulation's more ambitious attempt to resolve FRAND licensing disputes' (2025) 20(12) *Journal of Intellectual Property Law & Practice* 800, 804; Born and Ebermann (n 1) 233.

⁵³ Born (n 46); Blackaby and others (n 46).

⁵⁴ Lari-Williams S and van Zimmeren E, 'Reimagining the Unified Patent Court as a Multi-Door Courthouse' (2026) 75 *GRUR International* 211.

⁵⁵ Werra, 'New Developments of IP Arbitration and Mediation in Europe: The Patent Mediation and Arbitration Center Instituted by the Agreement on a Unified Patent Court' (n 15).

⁵⁶ Cf Di Bella (n 38).

An equally important advantage concerns uniformity. As noted, under the current arbitration paradigm, the grounds for annulling an award depend largely upon the arbitration law of the seat. A treaty-based annulment mechanism would allow the Contracting States to formulate a single set of annulment grounds applicable to all PMAC awards, thereby significantly enhancing predictability.⁵⁷

Yet this proposal is not without challenges. The principal objection concerns its compatibility with the New York Convention framework. Unlike ICSID awards, which benefit from a unique enforcement regime established by treaty, PMAC awards would presumably remain subject to the ordinary regime governing international commercial arbitration. The New York Convention would therefore remain relevant to the recognition and enforcement of PMAC awards, and any attempt to exclude national court review would need to address the relationship between that regime and the proposed international mechanism.⁵⁸ A complete exclusion of national court review might therefore create tension with domestic constitutional principles and with the supervisory role traditionally exercised by courts at the seat of arbitration.⁵⁹ The practical viability of this proposal may thus depend upon careful drafting that preserves a limited role for domestic courts while nevertheless making the international review mechanism the exclusive avenue for substantive annulment proceedings.

Consequently, while an ad hoc annulment committee constitutes the most coherent solution from the perspective of institutional design, its implementation would likely require either an amendment to the UPCA or the adoption of a supplementary protocol that clearly delineates the relationship between the PMAC, domestic courts, and the broader system of international

⁵⁷ Cf Di Bella (n 38)

⁵⁸ Peter D Camesasca and Konstantina E Sideri, “PMAC: Not Quite FRAND Conciliation - a Comparison with the EU SEP Regulation’s More Ambitious Attempt to Resolve FRAND Licensing Disputes” (2025) 20 *Journal of Intellectual Property Law & Practice* 800.

⁵⁹ Under EU law this might also be a particular challenge in light of the CJEU’s case law concerning review of arbitral awards, see Conor Hay, ‘Arbitration as a Threat to the CJEU’ 85(1) *Cambridge Law Journal* (2026) 30.

arbitration law. The need for such clarification is reinforced by the existing proposal to clarify the enforceability of arbitration awards in the PMAC framework, potentially by reference to the New York Convention, as well as the relationship between PMAC proceedings and the UPCA.⁶⁰

Another downside is the inconsistency of the jurisprudence developed by annulment committees under the ICSID convention.⁶¹ The practice of the ad hoc annulment committees shows that these are essentially ad hoc tribunals making it institutionally difficult to develop a consistent line of case law.⁶² This is also why within the UNICTRAL Working Group on reforming investor-state dispute settlement (ISDS) a standing appeal mechanism is proposed instead of the existing ad hoc system.⁶³

For these reasons, the model of ad hoc annulment committees for the PMCA would not offer substantial advantages compared to the existing structure.

⁶⁰ Peter D Camesasca and Konstantina E Sideri, “PMAC: Not Quite FRAND Conciliation - a Comparison with the EU SEP Regulation’s More Ambitious Attempt to Resolve FRAND Licensing Disputes” (2025) 20 *Journal of Intellectual Property Law & Practice* 800.

⁶¹ David D Caron, ‘Framing the Work of ICSID Annulment Committees’ (2012) 6(1) *World Arbitration and Mediation Review* 173; Christoph H Schreuer, ‘From ICSID Annulment to Appeal: Halfway Down the Slippery Slope’ (2011) 10 *Law and Practice of International Courts and Tribunals* 211; Dohyun Kim, ‘The Annulment Committee’s Role in Multiplying Inconsistency in ICSID Arbitration: The Need to Move Away from an Annulment-Based System’ (2011) 86 *New York University Law Review* 242.

⁶² On the problem of consistency see e.g. Martin Jarrett, ‘ISDS 2.0: time for a doctrine of precedent?’ (2024) 27(1) *Journal of International Economic Law* 41; August Reinisch, ‘The Role of Precedent in ICSID Arbitration’ [2008] *Austrian Arbitration Yearbook* 495; Philipp Janig and August Reinisch, ‘General Principles and the Coherence of International Investment Law: of Res Judicata, Lis Pendens and the Value of Precedents’ in Mads T Andenæs (ed), *General principles and the coherence of international law* (Brill/Nijhoff 2019); Patrick M Norton, ‘The Role of Precedent in the Development of International Investment Law’ (2018) 33(1) *ICSID Review - Foreign Investment Law Journal* 280; L. Reed, ‘The De Facto Precedent Regime in Investment Arbitration: A Case for Proactive Case Management’ (2010) 25(1) *ICSID Review - Foreign Investment Law Journal* 95; Patrick M Norton, ‘The Use of Precedents in Investment Treaty Arbitration Awards’ (2014) 25 *American Review of International Arbitration* 167.

⁶³ See <https://unctral.un.org/en/appellatemechanism>.

B. Designating Specialized Domestic Courts: A Decentralized but Expertise-Based Model

A less revolutionary alternative would preserve judicial review within domestic legal systems while ensuring that such review is exercised by judges possessing adequate patent-law expertise. Under this approach, each Contracting State would designate one or more specialized courts competent to hear challenges against PMAC awards.⁶⁴

The rationale behind this proposal is familiar within European intellectual property law. The EU has repeatedly concentrated jurisdiction over unitary rights in selected domestic courts to promote consistency and expertise.⁶⁵ The Unified Patent Court and other specialized intellectual-property tribunals provide useful precedents: although such courts remain embedded in national or supranational judicial structures, their specialized functions enable them to contribute to a broader European judicial architecture.⁶⁶

Applied to PMAC arbitration, such specialization would address one of the principal concerns associated with annulment proceedings: the risk that generalist courts misunderstand highly technical patent issues. Even though annulment actions are theoretically limited to procedural grounds, judges frequently need to understand the technical and economic context of a dispute to determine whether a tribunal exceeded its mandate, denied due process, or violated public policy. Specialized courts are substantially better positioned to conduct this assessment without

⁶⁴ Cf Di Bella (n 38).

⁶⁵ Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) [2017] OJ L154/1, art 123; Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs [2002] OJ L3/1, arts 80-92 (establishing Member State designation of specialised EU trade mark courts and Community design courts); European Union Intellectual Property Office, ‘EU Trade Mark and Community Design Courts’ <<https://www.euipo.europa.eu/en/law/law-overview/eu-trade-mark-legal-texts>> accessed 1 September 2026. See also Agnieszka Sztoldman, ‘Procedural Autonomy of National Courts Acting as EU Trade Mark Courts: How Far Can the Effectiveness of Unitary Character of EUTMs Be Ensured?’ (2024) 19 *Journal of Intellectual Property Law & Practice* 281.

⁶⁶ Tamar Khuchua, ‘The Future Perspectives of the European Unified Patent Court in the Light of the Existing Intellectual Property Courts in the United States and Japan’ (2024) 27 *The Journal of World Intellectual Property* 488.

inadvertently transforming annulment proceedings into a disguised merits review. The continuing role of domestic courts in monitoring procedural fairness, while avoiding excessively intrusive review, is consistent with the traditional supervisory function of courts at the seat of arbitration.⁶⁷

Moreover, concentration of jurisdiction would gradually generate a body of specialized jurisprudence relating specifically to PMAC awards. Judges repeatedly confronted with issues concerning SEP disputes, FRAND determinations, and competition-law objections would develop expertise that generalist courts cannot easily replicate. Such institutional specialization could also support the broader objective of achieving consistency and accuracy in the adjudication of complex patent disputes.⁶⁸

Nevertheless, this solution stops short of fully resolving the fragmentation problem. Although review would be undertaken by specialized courts, those courts would continue to apply different national arbitration laws. Divergences in annulment standards, judicial culture, and procedural approaches would therefore persist. The quality of review might improve, but complete harmonization would remain elusive. Comparative experience confirms that substantial differences may remain among jurisdictions concerning the competent courts, available appeals, the exclusion of annulment proceedings, and the substantive grounds for annulment.⁶⁹

A further limitation concerns geographical scope. PMAC arbitrations may be conducted outside the territory of UPC Contracting States. In such circumstances, the designated specialist courts would lack supervisory jurisdiction, leaving review once again in the hands of courts

⁶⁷ William W Park, “Duty and Discretion in International Arbitration” (1999) 93 *American Journal of International Law* 805.

⁶⁸ Tamar Khuchua, “The Future Perspectives of the European Unified Patent Court in the Light of the Existing Intellectual Property Courts in the United States and Japan” (2024) 27 *The Journal of World Intellectual Property* 488.

⁶⁹ Caroline Verbruggen, “Annulment and Enforcement of Arbitral Awards in Belgium” (October 18, 2018).

that may possess little familiarity with European patent litigation. Because the law of the arbitral seat governs proceedings to set aside an award, the location of the seat would remain decisive in determining the applicable supervisory framework.⁷⁰

For these reasons, the specialized-court model may be understood as a pragmatic compromise. It preserves the traditional architecture of international arbitration while simultaneously reducing the competence gap that currently exists between highly specialized PMAC tribunals and potentially non-specialized reviewing courts. It would therefore improve the quality of domestic supervision without eliminating the need for further harmonization of the applicable annulment standards.⁷¹

C. Lisbon or Ljubljana as the Exclusive Seat: A Centralized Territorial Model

This proposal relies upon the well-established distinction between the legal seat and the physical venue of arbitration. Contemporary arbitration law recognizes that proceedings may be conducted anywhere while remaining legally anchored to a specific jurisdiction.⁷² By designating a single legal seat through the PMAC Rules, all annulment proceedings would generally be brought before the courts of the chosen jurisdiction, subject to the applicable jurisdictional and procedural rules.⁷³

The principal advantage lies in concentration. Instead of potentially dozens of courts across various jurisdictions reviewing PMAC awards, review would be entrusted to only two. Such concentration would facilitate the development of expertise, consistency, and jurisprudential coherence.⁷⁴ Judges in Lisbon and Ljubljana would become repeat players in PMAC-related disputes, allowing them to build institutional competence comparable to that developed by

⁷⁰ Antje Baumann, “Arbitrability of IPRs Disputes” in Edward Elgar Publishing eBooks (Edward Elgar Publishing 2024).

⁷¹ Caroline Verbruggen, “Annulment and Enforcement of Arbitral Awards in Belgium” (October 18, 2018).

⁷² Di Bella (n 38). See also Born (n 46); Blackaby and others (n 46).

⁷³ Di Bella (n 38).

⁷⁴ Ibid.

specialized patent courts. Concentrating review in a limited number of courts could also promote more uniform and accurate adjudication, objectives associated with specialized intellectual-property courts.⁷⁵

A further benefit relates to the uniform application of EU law. Patent arbitration increasingly intersects with questions of EU competition law, particularly in SEP and FRAND disputes.⁷⁶ Because competition rules may constitute an important dimension of public policy, their misapplication can have significant consequences during annulment and enforcement proceedings.⁷⁷ Concentrating supervisory jurisdiction in courts located within the EU judicial system could help ensure a more consistent interpretation of these issues and maintain access, where appropriate, to the preliminary-reference mechanism before the Court of Justice of the European Union.

Additionally, this model would replicate the logic underlying several EU jurisdictional arrangements, namely the concentration of judicial competence in a limited number of courts to preserve uniform interpretation of unitary rights.⁷⁸ The objective would not simply be administrative efficiency but the creation of a stable and predictable body of review jurisprudence capable of supporting the PMAC's broader mission. At the same time, the review would need to remain limited: international arbitration generally depends on restricting

⁷⁵ Tamar Khuchua, "The Future Perspectives of the European Unified Patent Court in the Light of the Existing Intellectual Property Courts in the United States and Japan" (2024) 27 *The Journal of World Intellectual Property* 488.

⁷⁶ Nicolas Petit, 'EU Competition Law Analysis of FRAND Disputes' (2017) SSRN Electronic Journal; Tim W Dornis, 'Standard-Essential Patents and FRAND Licensing: At the Crossroads of Economic Theory and Legal Practice' (2020) 11 *Journal of European Competition Law & Practice* 575; Giuseppe Colangelo, 'FRAND Determination under the European SEP Regulation Proposal: Discarding the Huawei Framework?' (2024) 20 *European Competition Journal* 393. See also Case C-170/13 *Huawei Technologies Co Ltd v ZTE Corp and ZTE Deutschland GmbH* EU:C:2015:477.

⁷⁷ Di Bella (n 38).

⁷⁸ *Ibid.*

annulment and enforcement review to exceptional circumstances rather than permitting a general reconsideration of the merits.⁷⁹

The weakness of this proposal is that it remains dependent upon a single (or rather two) national legal order(s). Unlike an internationalized annulment committee, review would still occur under Portuguese or Slovenian arbitration law. Although this would substantially reduce fragmentation, it would not eliminate it entirely, since jurisdictions may differ regarding competent courts, appellate avenues, the possibility of excluding annulment proceedings, and the substantive grounds for annulment.⁸⁰ Furthermore, parties from outside Europe may question why one national court system should enjoy a privileged supervisory role over a dispute-resolution mechanism intended to serve a broader international patent community. Finally, concentrating review in two seats could create institutional pressure to examine complex competition-law issues too extensively and comparative scholarship cautions that a full *révision au fond* is inconsistent with the internationally prevalent preference for limited review of arbitral awards.⁸¹

4. The US Model of Deference

The United States Federal Arbitration Act (FAA) imposes strict statutory limits on judicial oversight, confining annulment to narrow procedural defects under § 10 and reflecting a robust legal preference for arbitral finality.⁸² By strictly limiting annulment to instances of fraud, corruption, or arbitrator misconduct, the FAA minimizes judicial intervention to preserve the

⁷⁹ Filippo Fontanelli et al., ‘Lights and Shadows of the WTO-Inspired International Court System of Investor-State Dispute Settlement’ (2016) 1 European Investment Law and Arbitration Review Online 191.

⁸⁰ Caroline I” (October 18, 2018).

⁸¹ Hanna L Stamer, “Should German Courts Review Competition Law Awards on the Merits? Significance of the German Federal Supreme Court’s Decision of 27 September 2022” (2023) 40 Journal of International Arbitration 765.

⁸² See generally, Victoria R Orlowski, ‘FAA Section 10 Applications to Vacate an Award (Including “Manifest Disregard”)’ in Laurence Shore and others (eds), *International Arbitration in the United States* (Kluwer Law International 2018); Gabriel M Wilner, Larry Edmonson and Martin Domke, *Domke on Commercial Arbitration* (Thomas Reuters 2026) 39:1 et seq.

integrity of the private adjudicatory process.⁸³ Furthermore, the U.S. Supreme Court's decision in *Hall Street* affirmed that these statutory grounds are exclusive, precluding parties from contractually expanding the scope of judicial review to include substantive errors of fact or law.⁸⁴ This categorical prioritization of finality over party autonomy underscores a judicial policy designed to prevent the transformation of arbitration into a mere gateway for secondary merits litigation.⁸⁵ For the European context, this stringent model offers a valuable lesson in minimizing judicial interference to prevent the erosion of arbitral efficiency.⁸⁶

A. FAA Review Standards

The status of nonstatutory grounds, particularly 'manifest disregard of the law,' remains contested after *Hall Street*.⁸⁷ Although some US courts have treated the doctrine as unavailable or as subsumed within the statutory grounds, others have continued to recognize it in a limited form.⁸⁸ Any such doctrine must therefore be applied cautiously: it cannot function as a vehicle for correcting ordinary errors of law or fact without undermining the FAA's preference for finality.⁸⁹ Similarly, proposals for a public-policy exception to protect against awards that

⁸³ Orłowski (n 82) 503–504; Peter B Rutledge, "Arbitration and Article III" [2007] SSRN Electronic Journal; Margaret L Moses, "Can Parties Tell Court What to Do? Expanded Judicial Review of Arbitral Awards" [2004].

⁸⁴ *Hall Street Associates, LLC v Mattel, Inc* 552 US 576 (2008) (US Supreme Court).

⁸⁵ Archis Parasharami and Timothy Tyler, 'Finality over Choice: *Hall Street Associates, L.L.C. v. Mattel, Inc.* (U.S. Supreme Court)' (2008) 25 *Journal of International Arbitration* 613; Nicholas R Weiskopf and Matthew S Mulqueen, 'Hall Street, Judicial Review of Arbitral Awards, and Federal Preemption' (2010) 29 *Review of Litigation* 361.

⁸⁶ This is also an issue of award finality, see for the US context eg. Michael H LeRoy, 'Misguided Fairness? Regulating Arbitration By Statute: Empirical Evidence of Declining Award Finality' (2007) 83 *Notre Dame Law Review* 551.

⁸⁷ See eg. Stuart M Boyarsky, 'The Uncertain Status of the Manifest Disregard Standard One Decade After *Hall Street*' (2018) 123 *Dickinson Law Review* 167 et seq; Orłowski (n 82).

⁸⁸ See *ibid*.

⁸⁹ Debates exist as to the extent of judicial review to protect federal statutory rights and/or federal public policy, see Kenneth R Davis, 'The End of an Error: Replacing "Manifest Disregard" with a New Framework for Reviewing Arbitration Awards' (2012) 60 *Cleveland State Law Review* 87, 126; Michael H LeRoy, 'Are Arbitrators Above the Law? The "Manifest Disregard" Standard' (2011) 52 *Boston College Law Review* 137, 187; Norman S Poser, 'Judicial Review of Arbitration Awards: Manifest Disregard of the Law' (1998) 64 *Brooklyn Law Review* 471, 518; Patrick Sweeney, 'Exceeding Their Powers: A Critique of Stolt-Nielsen and Manifest Disregard, and a Proposal for Substantive Arbitral Award Review' (2014) 71 *Washington and Lee Law Review* 1571 et seq.

condone unlawful conduct or threaten fundamental federal interests should remain narrowly confined and should not become a pretext for merits reconsideration.⁹⁰

Consequently, European institutional design should draw on the US experience by limiting annulment to clearly defined grounds involving procedural integrity, jurisdictional excess, and other fundamental defects. The annulment mechanism should thus avoid open-ended doctrines modeled on the more uncertain strands of US ‘manifest disregard’ jurisprudence.⁹¹ By confining annulment to verifiable defects and preventing substantive reappraisal of technical or legal determinations, the courts can promote a predictable enforcement framework that protects both arbitral finality and the rule of law.

B. Transatlantic Lessons

While US deference offers a compelling template for preserving arbitral efficiency, the European legal order must account for its unique supranational character, where the interplay between national courts and EU competition law, for example, necessitates a more robust oversight mechanism for effective judicial protection of EU law than the rather deferential FAA framework.⁹² Unlike the US federalist model, the European framework must navigate the mandatory nature of Union public policy, which requires courts to ensure that arbitral outcomes do not frustrate competition law or the fundamental protections of the European legal order.⁹³ In this regard, the annulment mechanism should reject a full *Révision au fond* in favor of a structured, narrow review limited to objective compliance with public policy, including competition law.⁹⁴ This necessitates a delicate calibration, as excessive judicial scrutiny risks undermining the high degree of reliability and enforceability that arbitration requires to

⁹⁰ See eg. Davis (n 89) 91.

⁹¹ See *Cole v Burns International Security Services* 105 F 3d 1465 (DC Cir 1997).

⁹² Phillip Landolt, ‘EU law in international arbitration: the example of Switzerland’ (2025) 41 *Arbitration International* 566–567.

⁹³ *Ibid.*

⁹⁴ mandates Hanna L Stamer, ‘Should German Courts Review Competition Law Awards on the Merits?’ (2023) 40 *Journal of International Arbitration* 765.

function as a viable alternative to litigation. Ultimately, the annulment mechanism's review threshold must balance this imperative for substantive oversight against the structural necessity of finality, ensuring that intervention remains an exceptional safeguard rather than a routine appellate feature.⁹⁵

5. Conclusion

Ultimately, the success of the PMAC will depend not only on the quality of its arbitral proceedings, but also on the quality and coherence of the mechanisms available to review its awards. The establishment of the UPC itself was predicated on the recognition that patent disputes are sufficiently complex, technically sophisticated, and economically consequential to warrant adjudication by a specialized supranational court rather than by a fragmented network of national tribunals. The same logic extends, albeit in a different form, to the review of PMAC arbitral awards. If patent arbitration is entrusted to highly qualified arbitrators possessing expertise in patent law, licensing practices, FRAND disputes, competition-law issues, and the valuation of innovation assets, it is legitimate to question whether ordinary annulment proceedings before potentially non-specialized domestic courts can adequately safeguard the objectives that motivated the creation of the PMAC in the first place. At the same time, the principle of arbitral finality requires that review remain exceptional and not become a vehicle for routine reconsideration of the merits. The appropriate model should therefore combine specialized oversight with a narrowly defined review standard that preserves the efficiency and enforceability of arbitration while ensuring compliance with fundamental public-policy requirements.

⁹⁵ Theresa Fenner, "What Is the Impact of Annulment Decisions at the Seat of Arbitration on the Enforcement of Arbitral Awards Internationally? The German v. the French Approach" (2025).

This concern is not merely theoretical. The effectiveness of any specialized dispute-resolution mechanism may ultimately be undermined if its decisions remain vulnerable to review by institutions lacking equivalent expertise. In such circumstances, the benefits sought through specialization at the arbitral stage risk being diluted at the post-award stage. A fragmented system of judicial review may generate divergent approaches to annulment, inconsistent interpretations of procedural guarantees, and varying conceptions of public policy, particularly in relation to matters involving standard-essential patents, FRAND commitments, and EU competition law. Such outcomes would run counter to the broader objective of fostering a coherent and predictable framework for the resolution of European patent disputes. The review architecture should therefore promote institutional consistency and legal certainty while preserving the finality and efficiency that make arbitration attractive.

Whether through an internationalized *ad hoc* annulment committee, the designation of specialized domestic courts, the concentration of supervisory jurisdiction at a single legal seat, or some combination thereof, there are compelling reasons to pursue greater harmonization in the review of PMAC awards. For the future development of patent ADR, a predictable and specialized annulment mechanism would strengthen confidence in PMAC proceedings without transforming judicial review into a substantive appeal.⁹⁶

⁹⁶ Cf the debate surrounding the effectiveness of judicial review of sports arbitration required by the CJEU, see Mees Brenninkmeijer and Paul E Trinel, ‘The Relationship between EU Law and Sports Arbitration in ISU v Commission : The Good, the Bad, and the Ugly’ (2025) 41 *Arbitration International* 767; Tim Hülskötter, ‘Effective Judicial Protection against Arbitral Awards in EU Law: The Seraing-Powers’ (2026) 26 *The International Sports Law Journal* 306.