

# Kluwer Arbitration Blog

## Swiss Arbitration Summit – Shaping the Future of Arbitration Together: Extension of Arbitration Clauses to Non-signatories and AI in Practice

Juliette Asso-Richard (Lalive), Felix Dasser, Dilber Devitre (Homburger), Manya Gopalakrishnan, Nikolina Marusic, Korinna von Trotha (Swiss Arbitration), Andrea Meier (Schellenberg Wittmer), and Nino Sievi (Nater Dallafior Rechtsanwälte AG) · Friday, January 17th, 2025

The [Swiss Arbitration Summit](#) is back! Following the resounding success from its [first edition](#) in Geneva last year, the [second edition](#) of the Summit is scheduled to take place this year in Zurich from January 29, 2025 to February 2, 2025. The Summit is more than just a conference. It is an immersive experience that brings together arbitration practitioners, in-house legal counsel and representatives from arbitration institutions from around the world. Last year, more than 550 arbitration practitioners from over 45 jurisdictions attended at some point. As part of the Summit experience, attendees will also have the possibility to enjoy a weekend in the Swiss Alps.

The theme of the 2025 edition is “Shaping the Future of Arbitration Together”. The main two conferences – the [ASA Winter Conference by the Swiss Arbitration Association \(ASA\)](#) and the [Innovation Conference by the Swiss Arbitration Centre](#) – will focus on two distinct – yet both crucial – issues for the future of international arbitration: (i) the extension of arbitration clauses to non-signatories and (ii) AI in practice.

### Extension of Arbitration Clauses to Non-Signatories

The extension of arbitration clauses to non-signatories is a complex and evolving area of international arbitration law. While the approaches may vary depending on the jurisdiction, recent case laws demonstrate a general pro-arbitration trend, ensuring that arbitration agreements are enforced against non-signatories under appropriate conditions.

For example, in Switzerland, an arbitration agreement may bind non-signatories if they have interfered in the negotiation or performance of a contract containing an arbitration clause, thereby implying their agreement to such clause. In three recent decisions of September 4, 2023 ([4A\\_144/2023](#), [4A\\_146/2023](#) and [4A\\_148/2023](#)), the Swiss Federal Tribunal confirmed that the key factor in extending an arbitration agreement to non-signatories is whether the non-signatories have manifested their willingness to be bound by the arbitration agreement. It further clarified, in two decisions of October 12, 2023 ([ATF 5A\\_739/2022](#) and [5A\\_740/2022](#)), that the non-signatory must also repeatedly and constantly interfere in the performance of the contract.

In France, while the principle of extending arbitration clauses to non-signatories has been liberally applied by French courts, essentially as long as these non-signatories are involved in the performance of a contract, recent case law indicates a return to emphasizing the parties' intention and the necessity to establish the non-signatory's consent to the arbitration agreement (see Paris Court of Appeal, December 6, 2022, *Eckes-Granini Group c/ M. W.*, n° 21/11615; Paris Court of Appeal, June 6, 2023, *Malaisie c/ consorts Kiram*, n° 21/21386) or even the initial parties' consent to extend the arbitration clause to a third party (Paris Court of Appeal, June 13, 2023, *Malakoff Corporation Berhad* n° 21/07296).

In India, in the *Cox and Kings Ltd. v. SAP India Private Ltd* decision of December 6, 2023, the Indian Supreme Court had confirmed that non-signatory group companies can, in principle, be bound by arbitration agreements under the "group of company doctrine", provided that certain conditions are met (including the mutual intent of the parties).

UK and US courts have adopted a stricter approach, rarely applying the "group of companies" doctrine to join non-signatories to an arbitration, and preferring instead the stricter "alter ego" doctrine that focuses on fairness and equity.

To better understand the nuances between various jurisdictions and the recent case law updated, the ASA Winter Conference will take a fresh look at the law and practice of extending arbitration clauses.

The first panel, featuring [Andrea Meier \(Walder Wyss\)](#), [Carine Dupeyron \(Darrois Villey Maillot Brochier\)](#), [Steven Finizio \(WilmerHale\)](#), [Yoshimi Ohara \(Nagashima Ohno & Tsunematsu\)](#), and [Leyou Tameru \(TWA & Partners\)](#), will discuss how courts and tribunals assess the extension of arbitration clauses in practice in France, the UK, the US, India, Ethiopia, Kenya, Singapore, Japan, and Switzerland. The panel will also explore whether there has been an increase or decrease in extension cases in recent years, whether any extension theories have gained or lost ground, whether the concept of consent is under threat, whether there is a need for regulation through the *lex arbitri* or institutional rules and, finally, whether there is a civil law / common law divide.

A second panel featuring [Utku Cosar \(Arbitration Chambers\)](#), [Laurence Shore \(Seladore Legal\)](#), [Teresa Giovannini \(LALIVE\)](#), and [Manish Aggarwal \(Three Crowns\)](#), will discuss special applications of extension of arbitration clauses, in particular extension to funders, States, subcontractors, and parent companies.

Lastly, a third panel featuring [Christopher Boog \(Schellenberg Wittmer and President of the Arbitration Court of the Swiss Arbitration Centre\)](#), [Christian Koller \(Professor, University of Vienna\)](#), [Cecilia Carrara \(Legance\)](#), [Nadja Jaisli Kull \(Bär & Karrer\)](#), [Eduardo Damião Gonçalves \(Mattos Filho\)](#), and [Stefan Kröll \(Center for International Dispute Resolution Director, Bucerius Law School\)](#) will address corporate disputes and the particular challenges that arise in that regard, including how to bind shareholders to the arbitration clause.

## AI in Practice

The landscape of international arbitration is facing a profound shift with the introduction and use of Artificial Intelligence ("AI"), which has been integrated at various stages of the arbitration process. AI-powered tools can assist counsel and arbitrators in their day-to-day practice, including

with (i) the selection of arbitrators, (ii) the analysis of large volumes of case data or of case law, (iii) document production, and (iv) the drafting of briefs and awards. Whilst these tools can reduce costs and increase efficiency in the arbitration process, they can also raise significant regulatory and ethical questions in relation to risks of fairness and bias, some of which have been addressed in the 2024 AI Act and the 2024 guidelines set out by the Silicon Valley Arbitration & Mediation Center (“SVAMC”).

Whilst these risks and challenges had been discussed in the 2024 Innovation Conference, this year’s edition will focus on showcasing AI powered tools that exist and how they can assist arbitration practitioners in their day-to-day practice.

Marc Veit (LALIVE and founder of Exhibit Manager) will illustrate how AI can be of assistance to arbitration practitioners involved in large arbitration with a high volume of documents. Asking the computer to prepare a timeline, a summary of correspondence on a specific issue between specific parties or locate documents concerning a specific fact is no longer wishful thinking, it is already possible. Nathalia Schomerus (CMS) will then demonstrate how AI can assist arbitration practitioners with drafting. Karin Mülchi (Bridge Legal Group) will provide practical guidance on the key questions that arbitration practitioners need to ask themselves when selecting external AI service providers. She will also provide useful tips on how to successfully implement the selected AI-powered tools in law firms or institutions. Lastly, Nicolas Torrent (Legal Counsel and co-President Swiss LegalTech Association (SLTA)) will deliver a practical workshop on prompt engineering, i.e. drafting the best prompts to get the most effective results from various AI powered tools. This workshop will be a practical demonstration with active input from the attendees.

## Other Events

In addition to these two main conferences, the Summit will offer a masterclass on oral advocacy for young practitioners organized by ASA below 40 in collaboration with their fellow under-40 associations from Germany (DIS40), France (CFA40), Italy (AA40), Austria (YAAP), and Liechtenstein (LISbelow40), featuring Domitille Baizeau (LALIVE), Steven Finizio (WilmerHale) and Christopher Boog (Schellenberg Wittmer and President of the Arbitration Court of the Swiss Arbitration Centre). The Summit will also include dozens of conferences hosted by law firms and organizations on various topics that will affect the future of arbitration. Other events organized during the Summit include a morning run along Zurich’s lake shoreline, a networking breakfast session organized by ArbitralWomen, a pub quiz night with ASA below 40 and Swiss VYAP, opening and closing cocktails and a gala dinner. The Summit will culminate in a weekend in snowy Davos in the Swiss Alps, where participants can engage in their preferred winter sports or just relax.

The Swiss Arbitration Summit is organized under the aegis of ASA and the Swiss Arbitration Centre by a Task Force composed of Felix Dasser (Homburger and President of ASA), Korinna von Trotha (Executive Director of ASA and the Swiss Arbitration Centre), Nikolina Marusic (ASA), Manya Gopalakrishnan (ASA), Andrea Meier (Walder Wyss), Dilber Devitre (Homburger), Juliette Asso (LALIVE), and Nino Sievi (Nater Dallafior).

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A graphic for a survey report. It features a dark background with a circular inset showing a gavel on a glowing digital circuit board. The text is white and blue. A blue button with a white arrow points to the right.

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