

BUSINESS LAW

Other independent contracts

Dr. Zoltan Vig



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International contract for the construction of industrial works

- several specific sub-types of this contract
 - construction contracts, design, build and operate contracts, contract for construction of building, engineering works, design-build and turnkey
- usually **framework** contracts for very complex projects
- several **stages** (planning, building, installation of the equipment, training of the personnel, and providing spare parts)
- UNCITRAL has elaborated its Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works
- **FIDIC Suite of Contracts** is also often used in practice

International transfer of technology

- large construction projects several times involve international transfer of technology contract (sometimes this issue is regulated in the main contract)
- **technology**: systematic and practical applied technical knowledge which is required or useful for production processes or performance of services
- some technology (**invention**) is legally protected by industrial property rights (**patent**) for some time
 - novelty
 - inventiveness
 - industrial applicability of the invention is the test for patentability
 - patent offers protection for certain number of years, on a certain territory
- other industrial property rights: topographies of semiconductors, softwares, etc.

International transfer of technology

- can happen either
 - by the assignment of the property rights on the technology by the owner of the protected technical knowledge, or
 - by user's license (when the owner grants right to use the patent)
- on international level is regulated by the Paris Industrial Property Convention 1883
 - regulates international patent granting and right of priority (within one year from filing in any member state you can apply in any other)
 - requires national treatment for the applicants of other convention member's citizens, legal persons
 - World Intellectual Property Organization (WIPO) with its seat in Geneva administers the Convention
- European Patent Convention, which regulates centralized application, administered by the European Patent Office, seat in Munich

Know how

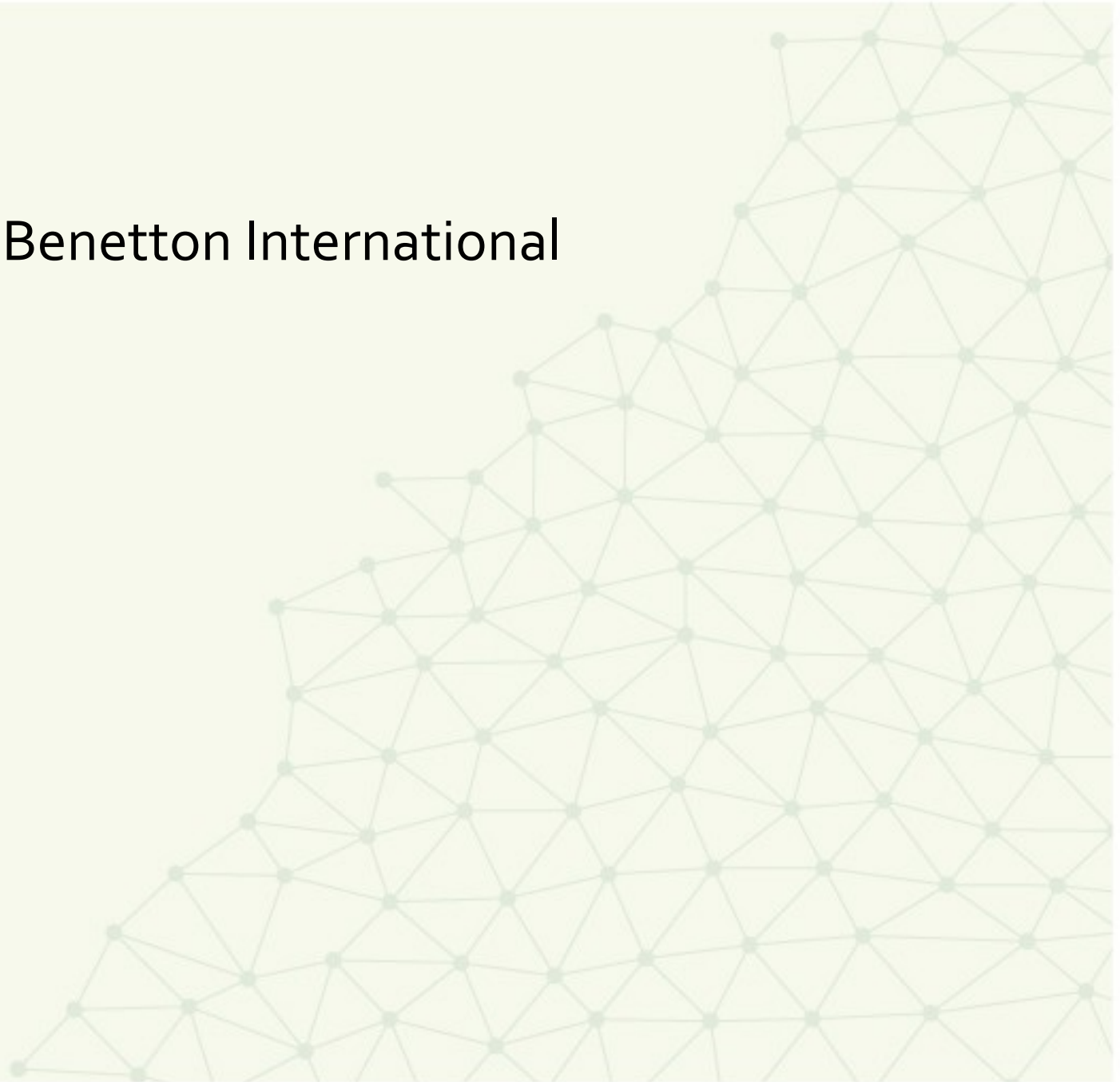
- secret technical knowledge related to production or services (knowledge not patented)
- protected only as a „trade secret“
- has value, but there is no property right on it
- EU Directive 2016/943 defines trade secret as any information which meets all of the following requirements:
 - (a) it is secret in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among or readily accessible to persons within the circles that normally deal with the kind of information in question;
 - (b) it has commercial value because it is secret;
 - (c) it has been subject to reasonable steps under the circumstances, by the person lawfully in control of the information, to keep it secret.

International franchise agreement

- franchisor grants right to the franchisee to sell goods or services under the distinctive sign of the franchisor and to make use of the uniform sales presentation
- franchisee has to pay certain fees, like initial franchise fee, royalty, etc.
- McDonalds franchise agreement

Reading

Eco Swiss v Benetton International



Useful sources

The FIDIC Suite of Contracts

https://fidic.org/sites/default/files/FIDIC_Suite_of_Contracts_o.pdf

UNCITRAL Legal Guide on Drawing Up International Contracts for the Construction of Industrial Works

https://www.uncitral.org/pdf/english/texts/procurem/construction/Legal_Guide_e.pdf

UNIDROIT CONVENTION ON INTERNATIONAL FINANCIAL LEASING

(OTTAWA, 28 MAY 1988) <https://www.unidroit.org/leasing-ol/leasing-english>

McDonalds franchise agreement

<https://www.sec.gov/Archives/edgar/data/1508478/000119312511077213/dex101.htm>

Thank you!



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