

- 1) The substantial dispute in **Filanto v. Chilewich** revolves around whether Filanto is bound by the arbitration clause in a contract for the sale of goods. Chilewich offered a contract including the clause, but Filanto delayed signing and eventually returned the contract with an objection to arbitration. Despite this, Filanto began production under the contract. Chilewich argues that Filanto's conduct, such as starting performance, indicated acceptance of the arbitration clause. Filanto contends that the delay in signing and the explicit objection to the clause means they are not bound by it, leading to a dispute over contract formation.

- **Why did Filanto delay in signing the contract, and how might this affect the court's view of their actions?**

Filanto delayed signing the contract likely because they were unsure or uncomfortable with certain terms, particularly the arbitration clause. However, this delay, combined with their actions (such as starting performance), may be seen by the court as inconsistent with rejecting the contract. In contract law, especially in international contracts, a delayed response can sometimes be interpreted as a lack of objection, and conduct (like beginning performance) might imply acceptance of the terms. This is crucial when it comes to clauses like arbitration, where failing to object in a timely manner can lead to being bound by them.

- **Can a party be bound by a contract clause, like the arbitration clause, without explicitly agreeing to it? What legal principles support this?**

Yes, a party can be bound by a contract clause even if they do not explicitly agree to it, especially if their conduct suggests acceptance. This is based on the legal principle of **implied acceptance**, where a party's actions (such as beginning performance under the contract) indicate that they are treating the contract as binding. Courts often look at whether a "reasonable person" in the same situation would view the actions as acceptance. In **Filanto v. Chilewich**, Filanto's commencement of production and failure to raise timely objections could be viewed as conduct that signaled their acceptance of the entire contract, including the arbitration clause.

- **Why is Filanto's performance under the contract important in this dispute?**

Filanto's performance under the contract is crucial because, by starting production, they acted as if they had accepted the terms of the contract. In contract law, a party's actions can speak louder than words or delayed signatures. This **performance-based acceptance** means that even if Filanto delayed formally signing the contract or expressed objections later, the fact that they started fulfilling their obligations indicated a willingness to be bound by the contract, including the arbitration clause. The court likely viewed this performance as evidence of acceptance, despite the lack of a formal agreement.

- **What is the significance of the arbitration clause, and why might Filanto have objected to it?**

The arbitration clause is significant because it dictates how disputes will be resolved—specifically, in this case, that disputes must be resolved through arbitration in Moscow. Arbitration clauses can be contentious because they take the dispute resolution process out of the courts and into private arbitration, which can be more expensive or less favorable, depending on the jurisdiction. Filanto likely objected because they preferred litigation in a different forum or believed that arbitration in Moscow would be disadvantageous, given the costs, procedural rules, or neutrality concerns.

- **What could Filanto have done differently to ensure they weren't bound by the arbitration clause?**

To avoid being bound by the arbitration clause, Filanto could have taken several steps:

1. **Promptly respond** to Chilewich's contract offer and immediately object to the arbitration clause in writing.
2. **Refuse to begin performance** under the contract until there was a clear, signed agreement on all terms, including the dispute resolution process.
3. **Propose alternative terms** for the dispute resolution clause (e.g., litigation in a neutral court) and ensure that negotiations on this point were concluded before proceeding with the contract. By doing these

things, Filanto would have made it clear that they did not accept the arbitration clause and avoided any ambiguity that their actions implied agreement.

- **How do international contract law principles apply in this case?**

International contract law principles, particularly those found in the **United Nations Convention on Contracts for the International Sale of Goods (CISG)**, likely apply to this case. The CISG emphasizes the importance of the parties' **intent** and their **conduct** in determining whether a contract has been accepted. It also stresses the need for clear communication between parties regarding any objections to contract terms. In **Filanto v. Chilewich**, the court would have considered these principles, focusing on Filanto's actions (beginning performance) and their delayed objections to the arbitration clause. These actions led the court to conclude that Filanto was bound by the arbitration clause, even though they had not explicitly agreed to it.

- 2) I believe that Filanto's delayed acceptance and its initiation of performance under the contract suggest an implied acceptance of the terms, including the arbitration clause. Courts often look at the conduct of the parties, and Filanto's actions might reasonably be interpreted as agreeing to the arbitration clause despite not signing immediately.