



Welcome to the new interview of '[Digital Coffee Break in Arbitration](#)' by [Svenja Wachtel](#). I am an attorney and arbitrator in the field of international arbitration and the founder of Digital Coffee Break in Arbitration, an initiative creating a debate around digital transformation in international arbitration. In this series, I discuss the latest trends in the field, covering topics such as the use of technology, digital transformation, and digitalization. Digital Coffee Break in Arbitration invites you to grab a drink, sit back and enjoy first-hand insights from General Counsel, arbitrators, legal scholars and other practitioners from all over the world of international arbitration.

Mr. [Leonid Shmatenko](#) is a vital member of Eversheds Sutherland's data protection and technology law team. His expertise spans regulatory and general issues in eSports and Blockchain. He advises eSports associations, clubs, and crypto startups on legal matters, including ICOs. Additionally, Leonid specializes in international arbitration, representing parties in various esteemed organizations. He currently pursues a PhD in international law and serves as an external lecturer at the National Law University of Ukraine. With bar admissions in Switzerland and Germany, he previously worked at leading law firms in Geneva, Munich, and Paris.



And what is your strategy in dealing with them?

In dealing with the unique challenges of eSports arbitration and eSports cases in general, I have developed a strategy that focuses on a combination of thorough preparation, technological understanding, adaptability, and cultural awareness. Here's how I approach these cases:

In-Depth Industry Knowledge: Staying well-informed about the eSports industry is crucial. This involves not just understanding the legal aspects but also immersing myself in the gaming culture, being familiar with popular games, tournament structures, and the general norms of the eSports community. Regularly reading industry news, attending eSports events and conferences, and engaging with the community are part of this continuous learning process.

Technological Savvy: Given the importance of technology in eSports, I make it a point to stay updated on the latest developments in gaming technology and digital rights. Collaborating with technical experts, when necessary, especially in cases involving complex technical issues, is a key part of my strategy.

Flexibility and Adaptability: Recognizing the dynamic and rapidly evolving nature of eSports,

I maintain a flexible and adaptable approach to arbitration. This means being prepared to deal with unique case scenarios and evolving legal questions and being open to innovative dispute resolution methods.

Cross-Cultural Competence: Understanding and respecting the diverse cultural backgrounds of the parties involved is essential, especially in international disputes. This involves being mindful of different legal traditions and business practices, as well as communication styles and expectations.

Maintaining Neutrality and Fairness: As in any arbitration, maintaining impartiality and ensuring a fair process for all parties involved is paramount. This involves being vigilant about potential conflicts of interest and being transparent in all proceedings.

Effective Communication: Clear and effective communication is critical, especially given the varying backgrounds of the parties involved. I strive to ensure that legal concepts and proceedings are communicated in a way that is understandable to all, irrespective of their legal or gaming knowledge.

Focus on Timeliness: Recognizing the time-sensitive nature of eSports disputes, I prioritize efficient case management to ensure timely resolution of disputes, while still allowing adequate time for a thorough

consideration of all issues.

Many countries might not have specific regulations or legal frameworks in place for eSports. How do you navigate in this uncharted terrain? Do you take inspiration from the regulations in physical sports?

Navigating the uncharted legal terrain of eSports in countries without specific regulations or frameworks requires a nuanced approach that blends legal innovation with insights from traditional sports, while also adapting general legal principles to the unique context of eSports. My strategy involves drawing parallels from the legal and regulatory practices of traditional sports, which provide a foundational understanding of issues like contracts, team management, and dispute resolution. However, these principles need careful adaptation to address the digital nature and global reach of eSports.

In the absence of specific eSports laws, I rely on general legal principles, applying them to eSports circumstances. This includes contract law, intellectual property rights, labor laws, and international private law, all interpreted in a way that suits the specificities of eSports. Given the global nature of eSports, looking at how different countries and legal systems handle similar issues is also invaluable. This comparative approach offers a range of legal solutions and best practices that can be tailored to local contexts.

Staying informed and proactive about the latest developments and changes in the legal landscape of eSports is crucial. This requires continuous research and education. Collaboration with stakeholders like game developers, players, teams, and eSports organizations is also key to understanding their perspectives and creating practical legal solutions.

In countries lacking specific eSports regulations, my role often extends to policy development and advocacy, working with legal experts, industry stakeholders, and government bodies to develop appropriate legal frameworks and regulations for eSports.

Dealing with such a nascent and rapidly evolving field demands flexibility and creativity, being open to novel legal interpretations and innovative approaches to dispute resolution and governance. The goal is always to find balanced legal solutions that promote the growth and integrity of eSports, ensuring fair and equitable treatment for all parties involved.

When dealing with parties in eSports contracts and disputes who may have never met in person, how do you facilitate communication and understanding between them effectively?

In handling eSports contracts and disputes involving parties who may have never met in person, the key is to foster effective communication and understanding through a combination of technology, clarity, cultural sensitivity, and empathy. Utilizing video conferencing tools is crucial for facilitating face-to-face interactions,

helping build personal connections across distances. It's important that all parties are comfortable with these technologies for seamless communication.

Communicating legal concepts and the nuances of disputes in clear, jargon-free language is essential, especially given the diverse backgrounds of the parties

involved. This ensures that everyone fully understands the proceedings and the issues at stake. Being culturally sensitive to different communication styles, business practices, and legal norms is also vital to avoid misunderstandings and build trust.

Practicing active listening and showing empathy towards each party's position aids in understanding their underlying concerns and interests, fostering a more collaborative and solution-focused environment. Keeping all parties regularly informed through updates and follow-ups is crucial to keep everyone engaged and informed, a key aspect in processes where in-person meetings are not possible.

Encouraging open dialogue and ensuring that parties feel comfortable expressing their views and concerns helps in clarifying issues and working towards mutually acceptable solutions. As an arbitrator, effectively

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moderating interactions, managing discussions constructively, and guiding parties through the dispute resolution process is a significant part of my role.

By integrating these methods, I aim to overcome the challenges posed by the lack of in-person interactions, ensuring a fair and efficient resolution process, and building confidence in virtual dispute resolution mechanisms in the eSports domain.

In the virtual landscape of esports, how often do you rely on online dispute resolution mechanisms instead of traditional physical arbitration? Are there any specific challenges and advantages associated with this approach?

In the virtual landscape of esports, the reliance on online dispute resolution (ODR) mechanisms instead of traditional physical arbitration will become increasingly common. This shift is primarily driven by the digital nature of the industry and the global distribution of its stakeholders.

The use of ODR is rising due to several factors. The first is the geographical dispersion of players, teams, and organizations involved in esports. Parties are often located in different countries, making online platforms more practical and cost-effective for resolving disputes. Additionally, the digital-first mindset of the esports community aligns well with ODR, as stakeholders are generally tech-savvy and comfortable with online interactions.

The challenges associated with ODR primarily revolve around technology. Ensuring reliable and secure digital platforms for arbitration is crucial, as is safeguarding the confidentiality and integrity of the proceedings. There's also the need to ensure that all parties have equal access to and familiarity with the technology used, to prevent any imbalance in representation or participation.

The advantages of ODR in esports are significant. It offers greater flexibility in scheduling and can be more efficient and less costly than traditional, in-person arbitration. ODR allows for faster resolution of disputes, which is crucial in an industry where time-sensitive decisions can have substantial impacts. The online format also fits naturally with the digital

and innovative ethos of esports, making it a more comfortable and familiar environment for many of the parties involved.

In your journey to be a specialised professional in esports, what are the knowledge gaps you had to fill which a traditional law school experience did not offer?

In my journey to specialize in esports law, I had to bridge several knowledge gaps beyond what traditional law school offered. This included gaining a deep understanding of gaming and esports culture, which is crucial for interpreting legal issues within the context of esports. I also needed to develop technological proficiency, as the esports industry heavily relies on gaming technology and digital platforms.

A deeper focus on digital media and intellectual property rights specific to online content was necessary, along with a nuanced understanding of contract law as it applies to players, teams, and sponsors in esports. Given the global nature of esports, an enhanced grasp of international and cross-jurisdictional law became essential, particularly for handling cross-border contracts and disputes.

Additionally, adapting traditional dispute resolution knowledge to the esports context, especially online dispute resolution, was important. This included familiarizing myself with regulatory frameworks specific

to esports, such as governance structures and player rights. To fill these gaps, I engaged in continuous learning through industry news, events, networking, and specialized courses in technology law and digital media. This ongoing process was crucial in shaping my expertise in esports law.

With the increasing popularity of eSports, what potential opportunities do you see for cross-disciplinary collaboration between legal professionals, technology experts, and industry specialists to address the unique legal challenges and opportunities in the eSports sector?

The increasing popularity of esports opens up numerous opportunities for cross-disciplinary collaboration between legal professionals, technology experts, and industry specialists. This collaboration

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is vital to address the unique legal challenges and opportunities in the rapidly evolving esports sector.

One significant opportunity lies in developing comprehensive legal frameworks and contracts tailored to esports. Legal professionals can work with industry specialists to understand the nuances of esports, including competition structures, player contracts, and sponsorship deals. Technology experts can provide insights into the digital aspects of gaming, streaming rights, and intellectual property issues related to online content and software.

Another area for collaboration is in the realm of dispute resolution. Here, legal professionals and technology experts can work together to create and refine online dispute resolution mechanisms that are suitable for the global and digital nature of esports. This includes establishing arbitration processes that cater to the fast-paced nature of the industry and leveraging technology for efficient and effective dispute resolution.

Would you say that data privacy and cybersecurity play a vital role in eSports?

Data privacy and cybersecurity are crucial areas in esports where cross-disciplinary collaboration is essential. With the vast amounts of data generated in online gaming, legal professionals and technology experts must collaborate to ensure compliance with data protection laws and to safeguard against cyber threats.

Moreover, there is an opportunity to collaborate on regulatory and compliance issues. As esports continues to grow, there will be an increasing need for clear regulations and standards. Legal professionals, technology experts, and industry specialists can work together to advocate for sensible policies that promote the growth of esports while ensuring fair play and ethical standards.

In terms of commercial opportunities, collaboration can help in navigating the complex landscape of

sponsorships, advertising, and merchandising in esports. Legal expertise is crucial in contract negotiations and protecting intellectual property, while industry specialists can offer insights into market trends and opportunities.

Ensuring the confidentiality and security of communications, especially in a virtual setting, is critical. Using secure communication platforms and setting clear guidelines on confidentiality is necessary to maintain the integrity of the process. Finally, educational initiatives can benefit from this cross-

disciplinary approach.

Developing courses and seminars that cover the legal, technological, and business aspects of esports can prepare future professionals for the unique challenges of this sector.

Given the fast-paced and dynamic nature of the eSports industry, how do you stay up to date with

the latest developments and changes in regulations to effectively advise your clients?

Staying abreast of the latest developments and regulatory changes in the fast-paced esports industry involves a comprehensive strategy. I ensure continuous learning and research by regularly reading industry-specific publications (such as esportslegal.news – the equivalent of GAR for legal esports news), legal journals, and news updates (such as esportsinsider.com), focusing on both general esports news and specific legal advancements. Active participation in professional networks, forums, and associations related to esports and gaming law is also key. Attending conferences, seminars, and webinars not only keeps me updated on legal developments but also allows me to engage with other professionals and experts in the field.

Collaborating with technology experts is crucial, as it helps me understand the implications of technological advancements in esports and how these might influence legal and regulatory frameworks. Regular interactions with clients and industry stakeholders provide practical insights into emerging issues and challenges, offering a direct perspective on the real-world impact of legal

changes.

Further, enrolling in specialized courses or training programs related to esports law and digital media enriches my knowledge and keeps my skills up to date. Monitoring relevant legal cases and arbitrations in esports is also an integral part of my approach, helping me understand how laws and regulations are being interpreted and applied in practice. This multifaceted strategy allows me to maintain a comprehensive and current understanding of the esports landscape, ensuring that I can provide informed and effective legal advice to my clients.

That is very insightful and those interested to enter in this field should definitely look into. As the industry continues to evolve, what opportunities do you see for lawyers to specialize and carve out niche areas of practice related to eSports and digital entertainment?

As the esports industry continues to evolve, it presents a wealth of opportunities for lawyers to specialize and carve out niche areas of practice. The intersection of gaming, technology, and law creates unique demands that are specific to the digital entertainment landscape.

And are there any specific areas of law that would particularly help to enter the industry?

Absolutely, here are some potential areas of specialization:

Intellectual Property Law: With the creation and use of digital content being central to esports, there's a growing need for legal expertise in intellectual property rights management, licensing, and protection. Lawyers can specialize in issues related to game development, streaming rights, and content distribution.

Contract Law: Specialization in drafting, negotiating, and enforcing contracts tailored to esports is crucial. This includes player contracts, sponsorship deals, team agreements, and partnership contracts with game

developers and platforms.

Dispute Resolution and Arbitration: Given the global nature of esports, lawyers can specialize in international dispute resolution, focusing on arbitration and mediation tailored to the industry. This includes handling contract disputes, intellectual property issues, and player-team conflicts.

Employment Law: As the professionalization of esports continues, there's a need for lawyers specializing in employment law, addressing issues like player rights, working conditions, and employment contracts.

Regulatory Compliance and Governance: Lawyers can focus on the regulatory aspects of esports, advising clients on compliance with international and local regulations. This includes understanding the governance structures of esports bodies and compliance with anti-doping, fair play, and other ethical standards.

Data Privacy and Cybersecurity: With the vast amounts of data generated in online gaming, specialization in data privacy and cybersecurity is increasingly important. Lawyers in this niche can advise on data protection laws, privacy policies, and cybersecurity measures.

Emerging Technologies: As new technologies like virtual reality and blockchain become more integrated into digital entertainment, lawyers can specialize in these areas, understanding their legal implications in gaming and esports.

Commercial and Marketing Law: Specializing in the commercial aspects of esports, including advertising, merchandising, and branding, is another growing area. This includes navigating the legalities of marketing strategies and sponsorship agreements.

One last question for you today, As an experienced practitioner in international arbitration, what advice

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would you give to students and young lawyers who aspire to break into this field? What steps can they take to build their expertise and gain valuable experience in international arbitration?

My advice to students and young lawyers aspiring to enter this field centers around building a strong foundation in relevant legal principles and gaining practical experience. Here's how they can start their journey:

Solidify Legal Knowledge: Begin with a strong understanding of the fundamentals of law in your home jurisdiction, particularly those areas most relevant to arbitration, such as contract law, international law, and dispute resolution. Specialized courses or modules in arbitration during law school can provide a good foundation.

Pursue Specialized Education: Consider pursuing further education such as an LLM or certificates in international arbitration. These programs offer in-depth knowledge and often provide opportunities to learn from experienced arbitrators.

Get Practical Experience: Look for internships or clerkships with law firms, arbitration institutions, or in-house legal departments that deal with international arbitration. Even experience in related legal fields can be valuable. Though, do not let rip you off when offered 'free internships'. You also have to rent a flat and pay for your food.

Participate in Moot Competitions: Involvement in moot court competitions, especially those focused on arbitration like the Vis, Jessup or FDI Moot, can provide practical experience and exposure to the world of international arbitration.

Develop Language Skills: Proficiency in multiple languages can be a significant advantage in international arbitration, given its global nature.

Network and Build Connections: Attend conferences, seminars, and workshops on arbitration. Join professional organizations and networks related to international arbitration to meet practitioners and expand your professional circle. However, don't be too

desperate and clingy when approaching practitioners. They do understand that you want our foot in the door but you might scare them away.

Stay Informed: Keep up to date with the latest developments in international arbitration. Regularly read relevant journals, follow industry news, and participate in webinars and online forums.

Publish and Contribute: Writing articles or blogs on arbitration topics or contributing to legal publications can help build your profile in the field and demonstrate your interest and knowledge.

Be Persistent and Patient: Building a career in international arbitration can take a lot of time. Persistence, coupled with continuous learning and networking, is key.

Seek Mentorship: Finding a mentor who is experienced in international arbitration can provide invaluable guidance, insights, and opportunities to learn from their expertise.

Thanks for joining me Leonid!