

# SAUDI ARABIA – PROTECTION OF IPRS<sup>1</sup>

## (DS567)

PARTIES		AGREEMENT	TIMELINE OF THE DISPUTE	
Complainant	<i>Qatar</i>	<i>TRIPS Arts. 3.1, 4, 9, 14.3, 16.1, 41.1, 42, 61</i>	Establishment of Panel	<i>18 December 2018</i>
			Circulation of Panel Report	<i>16 June 2020</i>
Respondent	<i>Kingdom of Saudi Arabia</i>		Notification of appeal	<i>28 July 2020</i>

### 1. MEASURE AND PRODUCT AT ISSUE

- **Measure at issue:** Measures relating to the piracy by beoutQ, a broadcasting entity, of the proprietary content of beIN, a global sports and entertainment company headquartered in Qatar.

### 2. SUMMARY OF KEY PANEL FINDINGS

- **Panel's jurisdiction (DSU Arts. 3.4, 3.7 and 11):** The Panel found that it could not decline to exercise its jurisdiction over the claims of WTO-inconsistency that fell within its terms of reference and that the matter was justiciable.
- **TRIPS Arts. 41.1 (general obligations) and 42 (civil and administrative procedures and remedies):** The Panel found that Saudi Arabia had acted inconsistently with TRIPS Art. 42 by taking measures that, directly or indirectly, had had the result of preventing beIN from obtaining Saudi legal counsel to enforce its IP rights through civil enforcement procedures before Saudi courts and tribunals (i.e. anti-sympathy measures). The Panel also considered that this violation of TRIPS Art. 42 had given rise to a consequential violation by Saudi Arabia of the obligation under TRIPS Art. 41 to “ensure that enforcement procedures as specified in this Part are available under their law”.
- **TRIPS Art. 61 (criminal procedures):** The Panel found that Saudi Arabia had acted inconsistently with the first sentence of TRIPS Art. 61 to “provide for criminal procedures and penalties to be applied” to the operations of beoutQ.
- **TRIPS Art. 73 (security exception):** The Panel concluded that the requirements for invoking TRIPS Art. 73(b)(iii) were met in relation to inconsistencies with TRIPS Arts. 41.1 and 42 of the “anti-sympathy measures” but not in relation to inconsistencies with TRIPS Art. 61 arising from Saudi Arabia’s non-application of criminal procedures and penalties to beoutQ.

### 3. OTHER ISSUES

- **Respondent’s refusal to interact with the complainant:** Throughout the proceeding, Saudi Arabia took the position that, consistent with its severance of all relations with Qatar (including diplomatic and consular relations), and the essential security interests that motivated it to take that action, it would not interact, or have any direct or indirect engagement, with Qatar in any way in the dispute. Regarding the organizational meeting, the Panel decided to consult with the parties exclusively through a written procedure. The Panel also modified the standard Working Procedures to reflect the special circumstances.

<sup>1</sup> *Saudi Arabia – Measures concerning the Protection of Intellectual Property Rights*. Panel report subject to pending appeal.