



Mediation and Arbitration for Green Innovation Disputes

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WIPO Arbitration and Mediation Center

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In this webinar

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In this webinar

- What is green innovation?
- Introduction of WIPO GREEN
- Why mediation and arbitration for green innovation disputes?
- How to draft efficient dispute resolution clauses for your green innovation contracts

The evolving risk landscape

Top 5 Global Risks in Terms of Likelihood

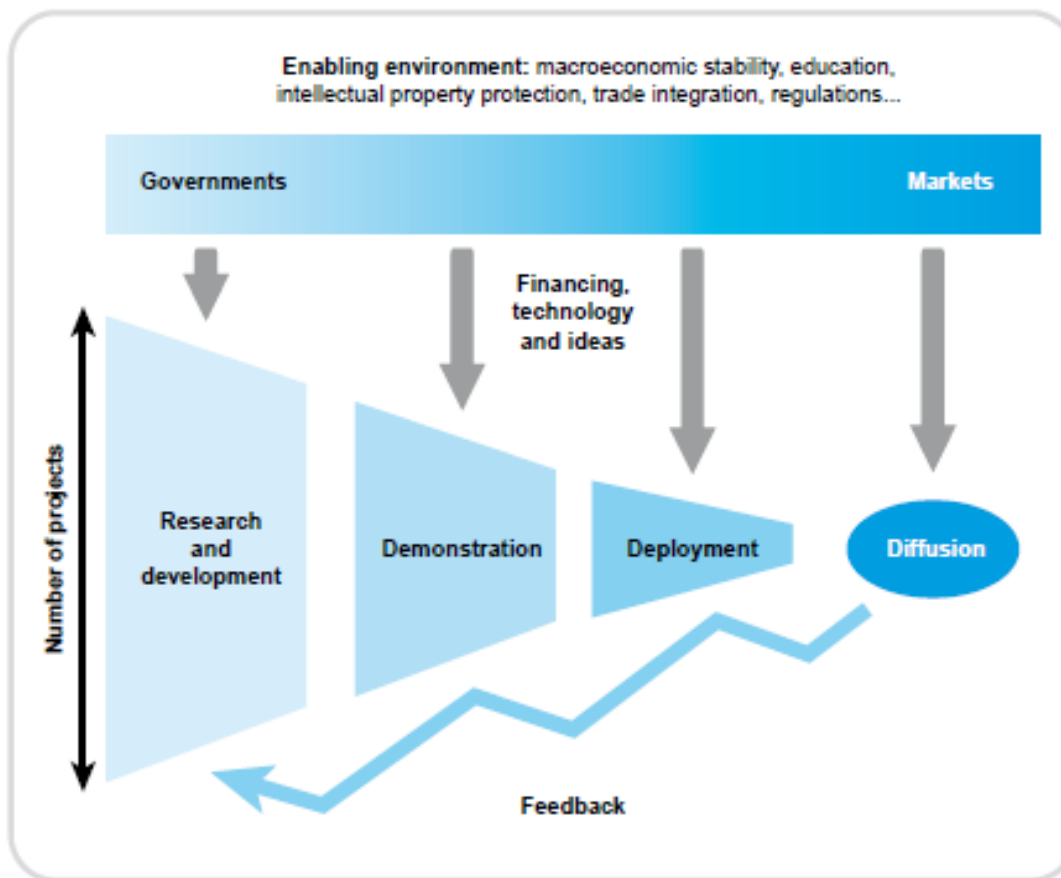
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1st	Infrastructure breakdown	Blow up in asset prices	Asset price collapse	Asset price collapse	Storms and cyclones	Income disparity	Income disparity	Income disparity	Interstate conflict	Involuntary migration	Extreme weather	Extreme weather	Extreme weather	Extreme weather
2nd	Chronic diseases	Middle East instability	China economic slowdown	China economic slowdown	Flooding	Fiscal imbalances	Fiscal imbalances	Extreme weather	Extreme weather	Extreme weather	Involuntary migration	Natural disasters	Climate action failure	Climate action failure
3rd	Oil price shock	Failed and failing states	Chronic diseases	Chronic disease	Corruption	Greenhouse gas emissions	Greenhouse gas emissions	Unemployment	Failure of national governance	Climate action failure	Natural disasters	Cyberattacks	Natural disasters	Natural disasters
4th	China hard landing	Oil price shock	Global governance gaps	Fiscal crises	Biodiversity loss	Cyberattacks	Water crises	Climate action failure	State collapse or crisis	Interstate conflict	Terrorist attacks	Data fraud or theft	Data fraud or theft	Biodiversity loss
5th	Blow up in asset prices	Chronic diseases	Deglobalization (emerging)	Global governance gaps	Climate change	Water crises	Population aging	Cyberattacks	Unemployment	Natural catastrophes	Data fraud or theft	Climate action failure	Cyberattacks	Human-made environmental disaster

Top 5 Global Risks in Terms of Impact

	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
1st	Blow up in asset prices	Blow up in asset prices	Asset price collapse	Asset price collapse	Fiscal crises	Financial failure	Financial failure	Fiscal crises	Water crises	Climate action failure	Weapons of mass destruction	Weapons of mass destruction	Weapons of mass destruction	Climate action failure
2nd	Deglobalization	Deglobalization (developed)	Deglobalization (developed)	Deglobalization (developed)	Climate change	Water crises	Water crises	Climate action failure	Infectious diseases	Weapons of mass destruction	Extreme weather	Extreme weather	Climate action failure	Weapons of mass destruction
3rd	Interstate and civil wars	China hard landing	Oil and gas price spike	Oil price spikes	Geopolitical conflict	Food crises	Fiscal imbalances	Water crises	Weapons of mass destruction	Water crises	Water crises	Natural disasters	Extreme weather	Biodiversity loss
4th	Pandemics	Oil price shock	Chronic diseases	Chronic disease	Asset price collapse	Fiscal imbalances	Weapons of mass destruction	Unemployment	Interstate conflict	Involuntary migration	Natural disasters	Climate action failure	Water crises	Extreme weather
5th	Oil price shock	Pandemics	Fiscal crises	Fiscal crises	Energy price volatility	Energy price volatility	Climate action failure	Infrastructure breakdown	Climate action failure	Energy price shock	Climate action failure	Water crises	Natural disasters	Water crises

■ Economic
 ■ Environmental
 ■ Geopolitical
 ■ Societal
 ■ Technological

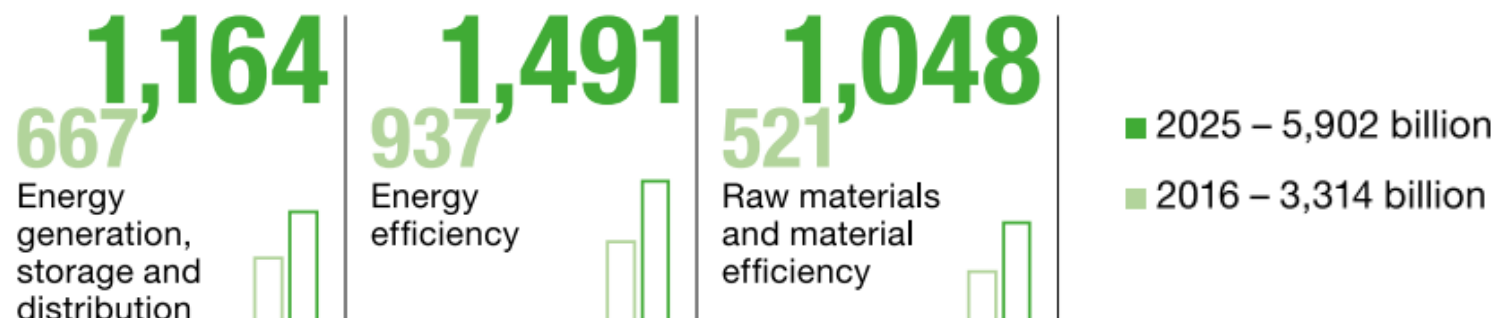
Policy affects every link of the innovation chain



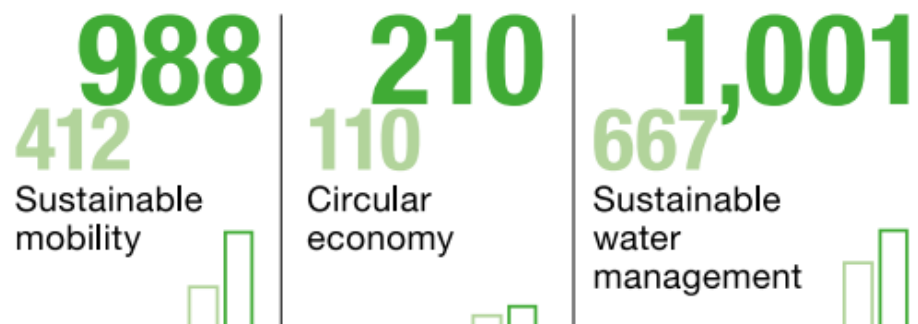
Source: World Bank 2010a (adapted from IEA 2008)

Green technology growth outlook

(in billion euros)



Demand for green technology is expected to grow by **6.9 percent** annually to **5,902 billion euro** in 2025



What is WIPO GREEN?



An online platform for technology exchange that contributes to the accelerated adaptation, adoption and deployment of green technology solutions



WIPO GREEN connects those seeking environmentally sustainable solutions with technology and service providers



Enable adaptation and deployment of green solutions through collaborative approaches, a transparent marketplace and reduced transaction costs



Engage closely with the private sector, the source of ~80% of innovation in the green space



Support innovation and innovators, particularly in the developing world



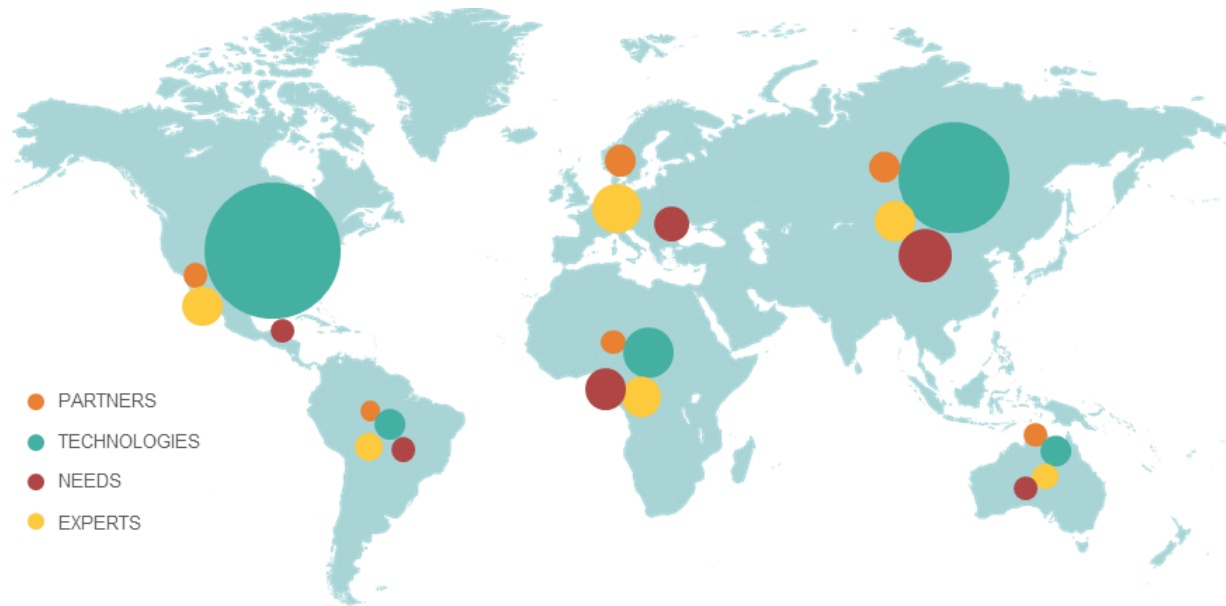
Constructively **contribute** to global policy dialogue

How does WIPO GREEN work?



- **Platform** - Freely accessible listings of 3,800+
 - ✓ Technologies, services, and intellectual property
 - ✓ Needs for products, processes, know-how transfer, collaboration
 - ✓ Business expertise ([Experts Database](#))

How does WIPO GREEN work?



- **100+ Partners** from various sectors
 - ✓ MNCs, SMEs, research institutes, IGOs, NGOs,...
 - ✓ Providing insight and collaborating on events and projects
- **Matchmaking**
 - ✓ Via database and acceleration projects

How to join WIPO GREEN

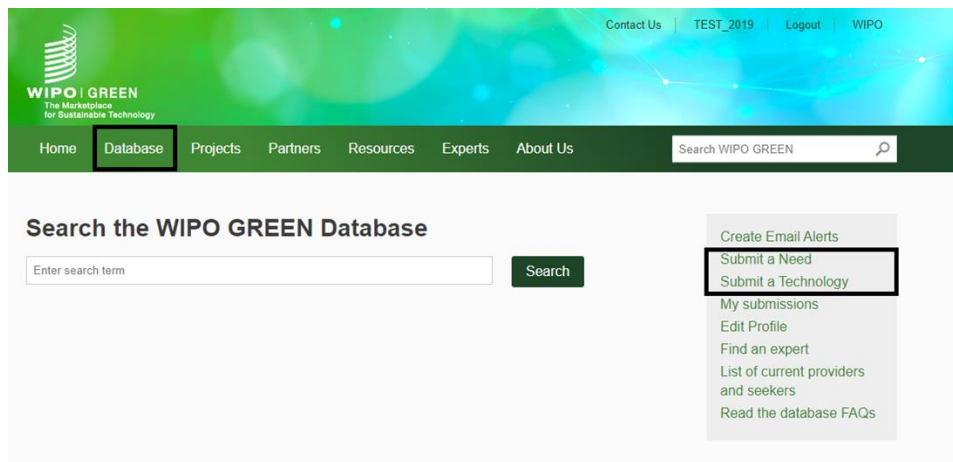
Join as a **user** and add to the global platform of over 3,000 technologies and needs!

- **Register** through the [WIPO GREEN website](#)
- Submit your [technology](#) and/or [need](#)

Join as a **partner** and engage in acceleration projects, joint publications, and Committees!

- Send us a letter with the proposed contribution and the acceptance of the Charter.

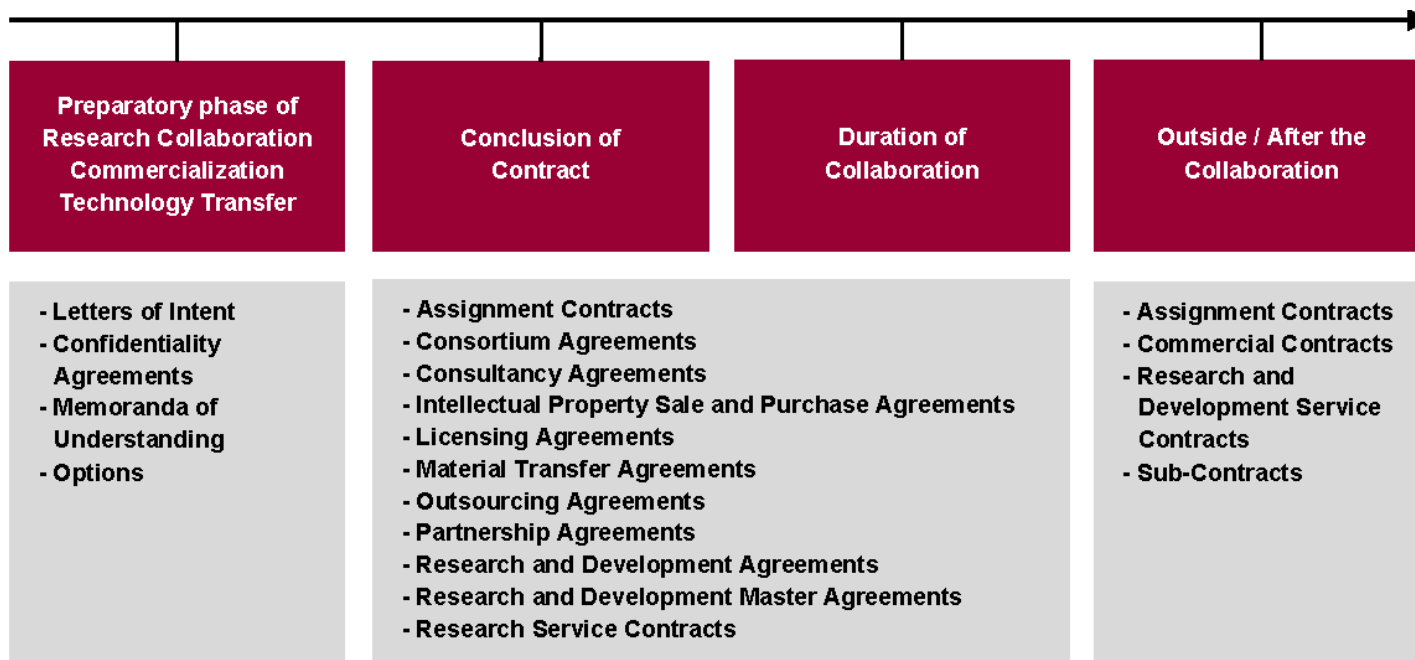
We regularly share updates on our partners' work with the WIPO GREEN network (almost 7,000 members) and through WIPO social media



Disputes in innovation processes

- International and domestic R&D and transfer of technologies involve rich variety of contracts and transactions
- Complex legal, commercial or management issues, often including IP rights
- Research partners from different institutional backgrounds may have diverging expectations and understandings of creating, using and exploiting IP rights

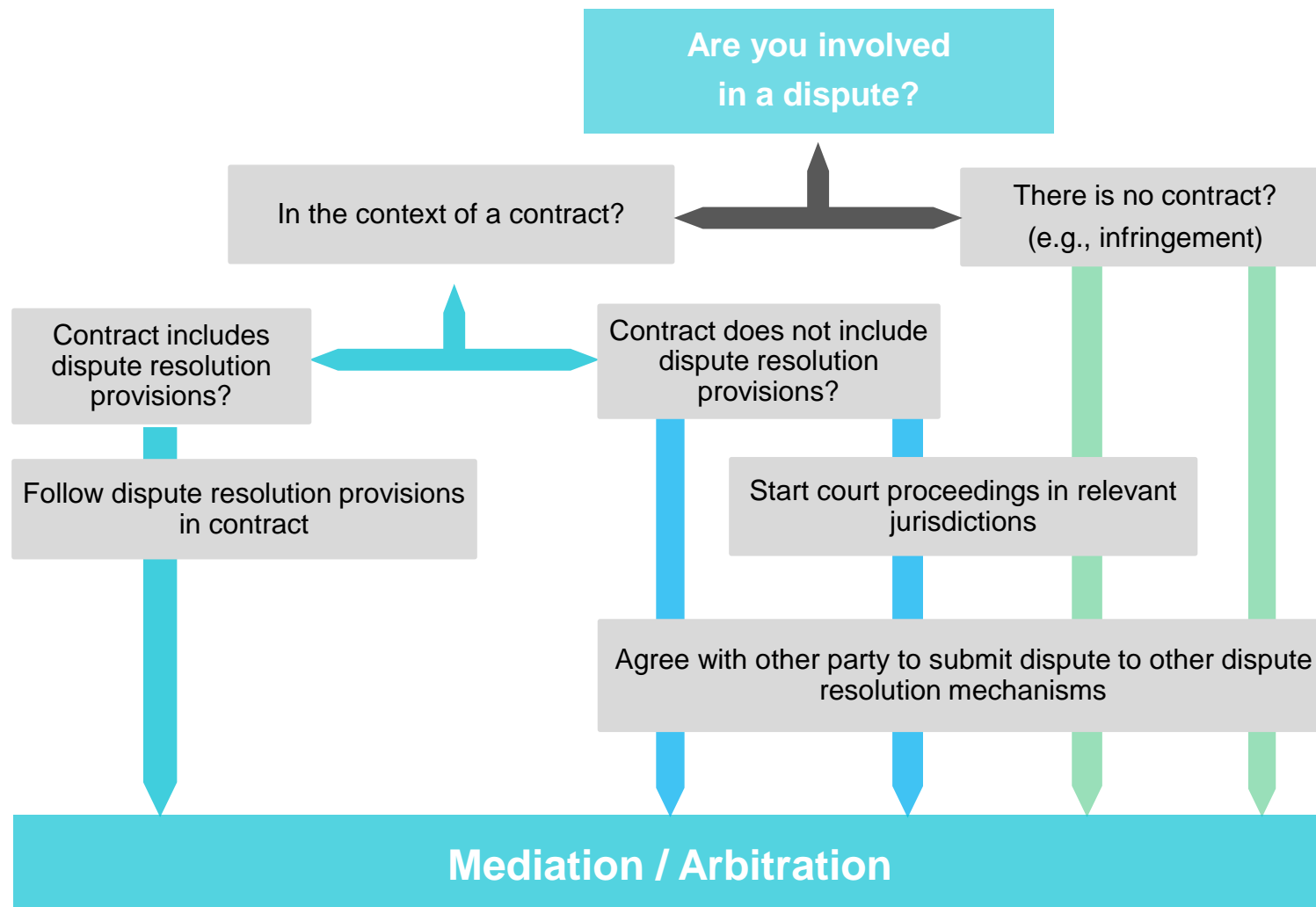
Disputes in innovation processes



Parties to innovation disputes

- associations
- consultants
- foundations
- funding bodies
- government agencies
- industry
- inventors
- project management agencies
- research organizations
- scientists
- start-up companies
- technology transfer offices
- technology centers
- universities

Dispute resolution process



Mediation

- Informal consensual process
- Neutral intermediary – mediator
 - assists parties in reaching settlement of their dispute
 - based on parties' respective interests
 - cannot impose a decision
- Settlement agreement has force of a contract
- Leaves open court or arbitration options

Arbitration

- Consensual procedure
- Parties submit dispute to one or more chosen arbitrators
- Binding and final decision (award)
 - based on parties' rights and obligations
 - enforceable internationally
- Normally forecloses court options

Court litigation vs. Arbitration / Mediation

	Court Litigation	Arbitration	Mediation
Party agreement needed to initiate	✘	✓	✓
Parties can select specialized neutral	✘	✓	✓
Neutral is a decision maker	✓	✓	✘
Confidential	✘	✓	✓
Efficient for international disputes	✘	✓	✓
Parties can shape proceedings	✘	✓	✓
Possibility of appeal	✓	limited	n.a.
International enforcement of outcome	limited	✓	n.a.

WIPO Arbitration and Mediation Center

- Facilitates the resolution of commercial disputes between private parties involving IP, through procedures other than court litigation, including mediation and arbitration
 - Offices in Geneva and Singapore
 - Users around the world
- ADR provider specialized in IP and technology disputes
 - WIPO mediators, arbitrators and experts experienced in IP and technology - able to deliver informed results efficiently
- International neutrality



What is the WIPO Center's role?

■ WIPO Center is available to

- provide information and procedural advice
- assist parties in considering the referral of a dispute to WIPO proceedings
- assist parties in the selection of specialized mediators, arbitrators and experts
- arrange for support services, including meeting rooms and videoconferencing facilities

■ WIPO Center does not

- provide legal advice or represent parties in dispute
- force any party to refer a dispute to or participate in WIPO proceedings

Routes to WIPO ADR

- ADR contract clause
 - WIPO model clauses: www.wipo.int/amc/en/clauses
- ADR submission agreement (e.g., in existing non-contractual disputes)
- Unilateral request for WIPO Mediation by one party (Art. 4 WIPO Mediation Rules)
- Court referrals

WIPO Good Offices

- Disputes where one or both parties consider submitting the dispute to mediation or arbitration
 - No previous agreement on how to resolve the dispute
 - Infringements
 - Cases pending before the courts

- Procedural advice

- No fees at this stage

WIPO mediation and arbitration cases

Copyright

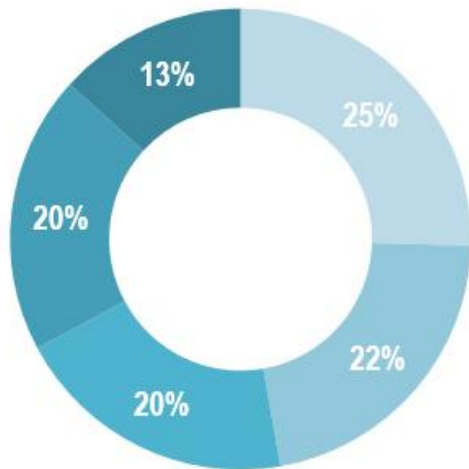
Art
Broadcasting
Collective Management
Entertainment
Film and Media
Infringements
TV Formats

Commercial

Design
Distribution
Energy
Franchising
Marketing
Sports

Trademarks

Coexistence
Infringements
Licenses
Oppositions
Revocations



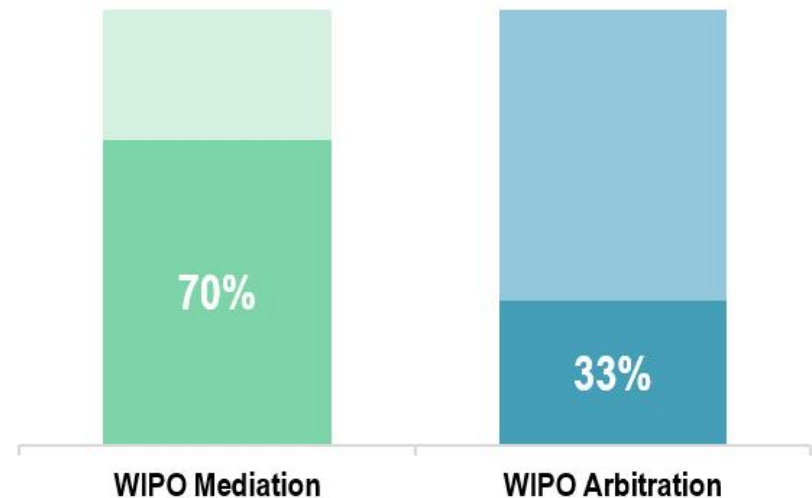
Patents

Cross-licensing
Infringements
Licenses
Ownership
Patent Pools
R&D / Tech
Transfer
Royalty Payment

ICT

Mobile Apps
Outsourcing
Systems Integration
Software Development
Software Licensing
Telecommunications

Settlement rates

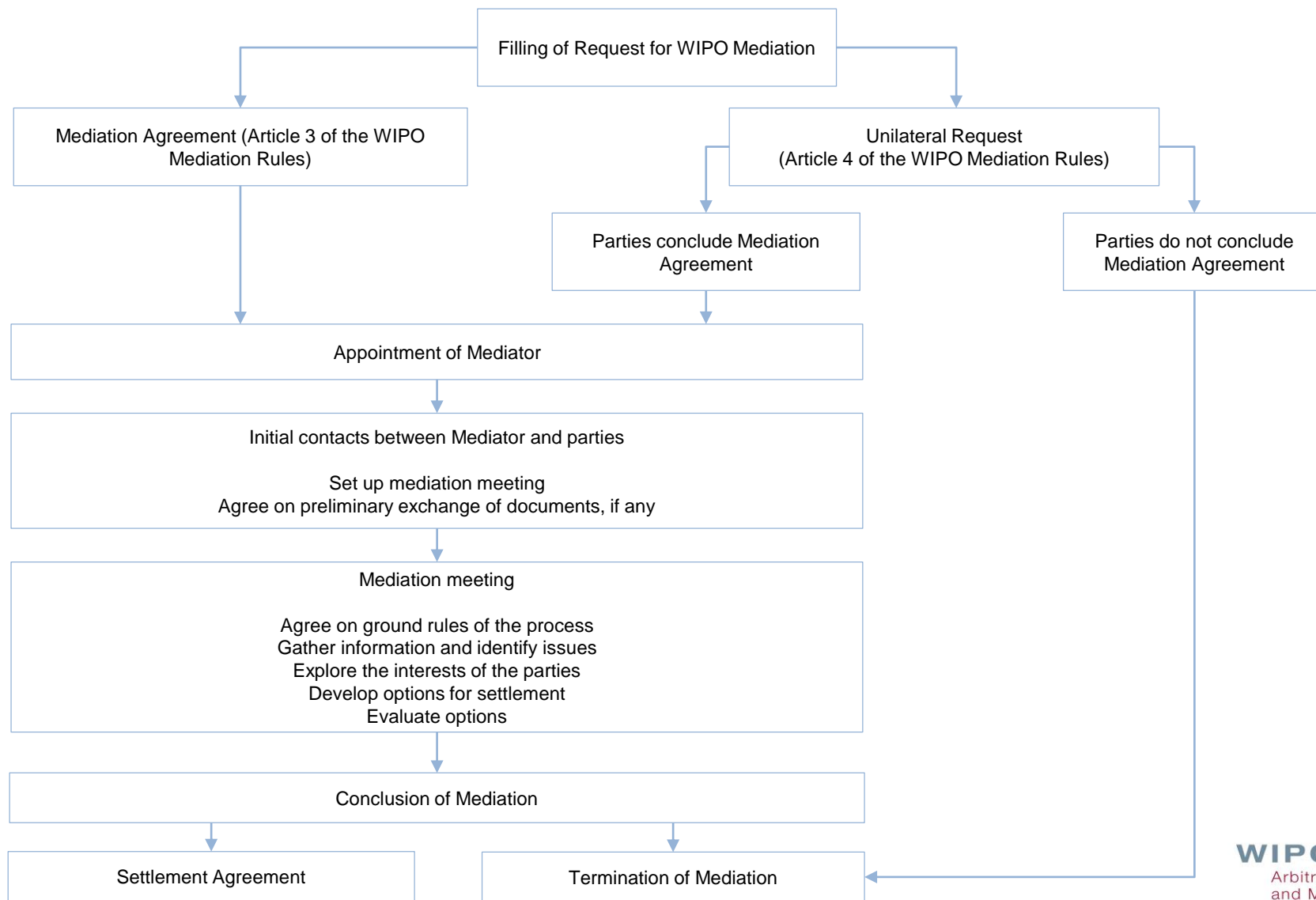


WIPO ADR Rules (2020)

- IP and technology specific elements
 - e.g., confidentiality, technical evidence, interim relief
- Applicable to all commercial disputes
- Flexibility
 - Pre-structure entire proceeding
 - For most part can be modified by arrangement between mediator or arbitrator and parties
- For domestic and international disputes
 - Accommodating different legal/procedural traditions

WIPO Mediation,
Arbitration,
Expedited Arbitration
and Expert
Determination Rules
and Clauses

Principal steps in a WIPO Mediation

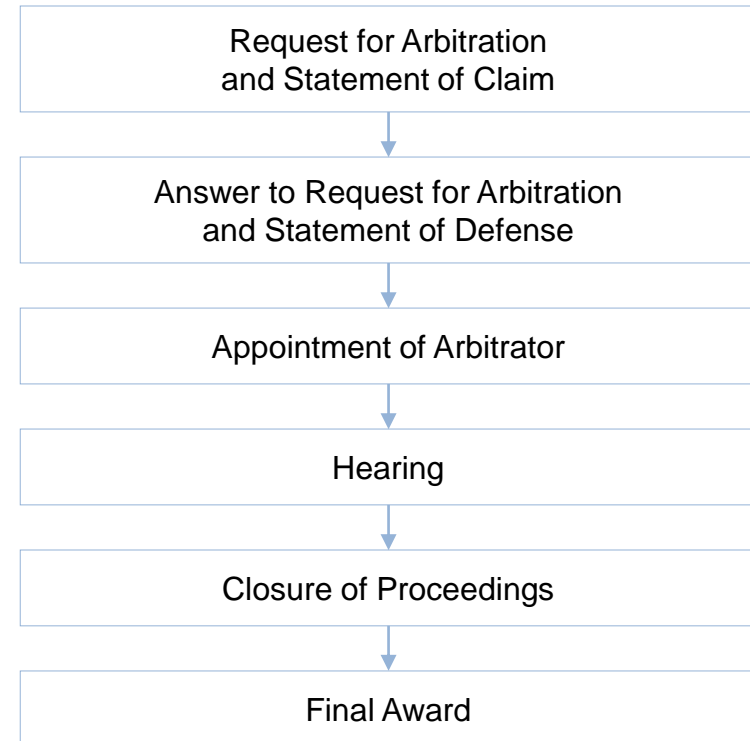


Principal steps in a WIPO Arbitration

WIPO Arbitration



WIPO Expedited Arbitration



- One exchange of pleadings
- Shorter time limits
- Sole arbitrator
- Shorter hearings
- Fixed fees

Arbitration and mediation for WIPO GREEN technology providers and seekers



The screenshot shows the WIPO website header with the logo and navigation links: Media, Meetings, Contact Us, and IP Portal. Below the header is a secondary navigation bar with links for IP Services, Policy, Cooperation, Resources, About IP, and About WIPO, along with a search bar labeled "Search WIPO". The main content area features a breadcrumb trail: Home > IP Services > Alternative Dispute Resolution. The title "WIPO | ADR" is displayed in blue and red. The main heading is "Time- and Cost-Efficient Alternative Dispute Resolution Services for WIPO GREEN Technology Providers and Seekers". The text describes the services provided by the WIPO Arbitration and Mediation Center, including a 25% reduction on registration and administration fees for WIPO GREEN technology providers or seekers.

WIPO | ADR

Time- and Cost-Efficient Alternative Dispute Resolution Services for WIPO GREEN Technology Providers and Seekers

The [WIPO Arbitration and Mediation Center](#) provides alternative dispute resolution (ADR) services that are regularly used by multinational corporations, small and medium-sized enterprises (SMEs), research and development (R&D) centers, universities and inventors from around the world.

A 25% reduction on the WIPO Center's [registration and administration fees](#) applies if at least one party to the dispute is a [WIPO GREEN](#) technology provider or seeker.

www.wipo.int/amc/en/center/wipogreen

WIPO Center's case experience

WIPO Mediation

- **Research cooperation agreement for renewable energy technology**
 - European university and European company concluded an R&D consortium agreement related to renewable technologies for electricity generation
 - Dispute related to allocation of amounts to continue developing the project

- **Consortium agreement for development of ecosystem services**
 - Several European parties participated in a consortium agreement for the development of ecofriendly crop productivity
 - Dispute related to exclusion of a party from the consortium

WIPO Center's case experience

WIPO Arbitration

- **Construction of reactor to be used in renewable fuel production facility**
 - Two European companies concluded an agreement for the design and manufacture of a reactor module to be used in renewable fuel production facility in Europe
 - Dispute related to alleged breach of contractual obligations
 - Dispute resolution clause included WIPO Mediation followed by WIPO Arbitration
 - Parties agreed not to pursue mediation phase and started WIPO Arbitration procedures

- **Photovoltaic solar power systems dispute**
 - Three European companies concluded an agency agreement to promote photovoltaic projects in Europe
 - Dispute related to breach of contractual obligations

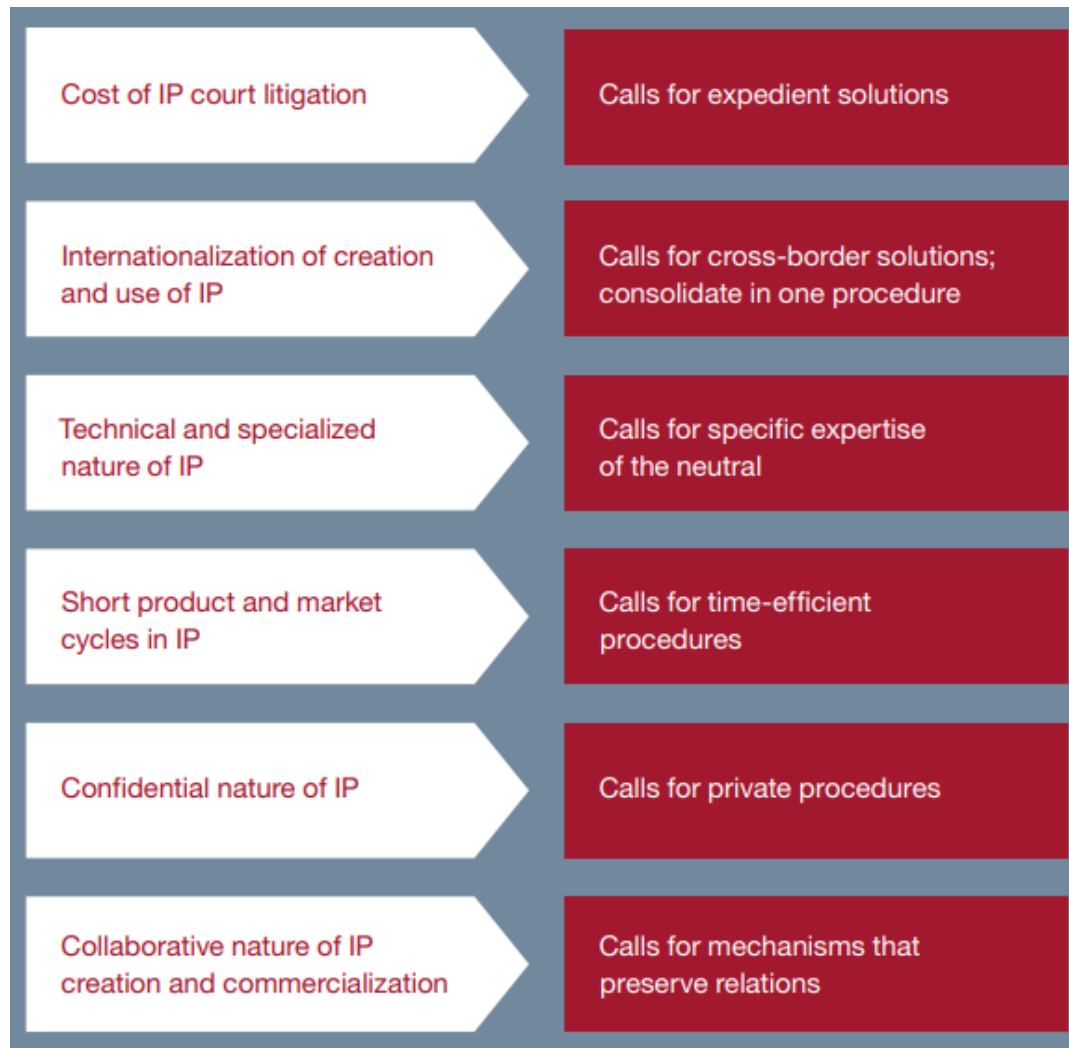
Dispute resolution trends and developments

- Model R&D Agreements recommending WIPO Mediation followed by WIPO Expedited Arbitration
 - DESCA 2020 Model Consortium Agreement (European Union research funding program Horizon 2020)
 - IPAG (Intellectual Property Agreement Guide) Model Agreements
 - Sample Agreements for R&D Cooperation (Federal Ministry for Economic Affairs and Energy of Germany)
 - Spanish Patent and Trademark Office (OEPM) Model Agreements

- Use of online case administration tools
 - WIPO eADR online docket
 - Videoconferencing facilities


- 2019 Singapore Convention on Mediation

Why mediation and arbitration for innovation disputes?



WIPO GREEN licensing checklist

- A walkthrough of issues to consider when planning a technology transfer licensing agreement
- Free download at:
<https://www3.wipo.int/wipogreen/en/network/index.html#licensing>



WIPO Green Licensing Checklist

Before you begin...

Important: This checklist can help to identify the issues that you will encounter in negotiating an agreement (contract) that relates to intellectual property and technology. [Part I](#) addresses the most relevant items to be considered for a license agreement. [Part II](#) lists some additional points for development collaborations. This checklist is neither exhaustive nor is it a substitute for professional legal advice. It is made available in editable form so that you can adapt it to your specific needs. A list of [References and Resources](#) at the end of this checklist provides a selection of links to further information.

This checklist generally assumes that you are a prospective "licensee", i.e., a person or an entity that seeks an agreement to use proprietary technology that is protected in some respect by intellectual property (IP) rights. If you are a prospective "licensor", that is a person or entity that owns technology protected by IP rights, you can still use this checklist, but keep in mind that many of the checklist items are written from the licensee's perspective. In a few appropriate places, the checklist addresses an issue from the perspective of a licensor.

The order of items in [Part I](#) of this checklist is organized in a certain way to make it easier and clearer for you to see and think about the issues. Tackle the issues in this order.

- [Section 1](#) is about the kind of agreement you are negotiating. This is important. Do not skip over it.
- [Section 2](#) is about the subject matter of the license agreement—the WHAT of the agreement. What technology and IP do you want? These issues are important and not always appreciated as difficult issues.
- [Section 3](#) is about your rights as a licensee—the HOW of the agreement. How can you use the technology/IP? These issues are complicated, detailed, and important because they affect the value of the license.
- [Section 4](#) is about the financial terms—HOW MUCH you as a licensee will pay and what risks both licensor and licensee will take. This issue is what people always jump to in negotiation, but in practice it is not the most difficult to resolve. Do not jump to financial issues until you have covered the first three sets of issues because the financial terms are determined by the WHAT ([Section 2](#)) and the HOW ([Section 3](#)).
- [Section 5](#) is about certain concluding contract clauses, such as how the agreement can be terminated, how disputes will be addressed, how to interpret the agreement, etc. You might say this is the WHERE of the agreement, because these terms may govern whether disputes will be resolved in court or arbitration, what country law applies if the contracting parties originate from different jurisdictions, where you will have jurisdiction to enforce the agreement, etc.

WIPO Green Licensing Checklist

WIPO ADR model clauses

Recommended WIPO Contract Clauses and Submission Agreements

Referral to WIPO dispute resolution procedures is consensual. To facilitate party agreement, the WIPO Center provides recommended contract clauses (for the submission of future disputes under a particular contract) and submission agreements (for existing disputes, including those referred by courts).

Recommended WIPO Contract Clauses and Submission Agreements:

- Mediation
- Arbitration
- Expedited Arbitration
- Expert Determination
- Mediation followed, in the absence of a settlement, by [expedited] arbitration
- Mediation followed, in the absence of a settlement, by expert determination
- Mediation followed, in the absence of a settlement, by court litigation
- Expert determination, binding unless followed by [expedited] arbitration

The recommended WIPO contract clauses and submission agreements are also available in Chinese, French, German, Greek, Japanese, Korean, Portuguese and Spanish.

To assist parties in the drafting of clauses and submission agreements, the WIPO Center makes available the [WIPO Clause Generator](#).

WIPO ADR Options

If you need further assistance when drafting your clause, you can contact us by email at arbiter.mail@wipo.int or by phone at +41 22 338 8247.

[WIPO Clause Generator](#)

[Drafting Efficient Dispute Resolution Clauses](#)

www.wipo.int/amc/en/clauses

Clause example for your contract: mediation followed by expedited arbitration

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, **shall be submitted to mediation in accordance with the WIPO Mediation Rules**. The place of mediation shall be **[specify place]**. The language to be used in the mediation shall be **[specify language]**.

If, and to the extent that, **any such dispute**, controversy or claim **has not been settled pursuant to the mediation within [60][90] days of the commencement of the mediation**, it shall, **upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules**. Alternatively, if, before the expiration of the said period of [60][90] days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be **[specify place]**. The language to be used in the arbitral proceedings shall be **[specify language]**. The dispute, controversy or claim referred to arbitration shall be decided in accordance with **[specify jurisdiction]** law.

Some pointers on mediation and arbitration clauses

- Combine options
 - Include mediation
 - Like court cases, mediation and arbitration cases get settled
- If arbitration, consider an expedited version
- ‘Institutional’ or ‘ad hoc’?
 - Hard to agree on procedure once dispute arisen
 - Do you know suitable mediators or arbitrators?
 - Which administering institution?
- Use model clauses as basis and modify/extend only as necessary
 - Do not divide per type of right, remedy, dispute, or party case status
 - Consider expressly excluding discovery and similar mechanisms
- Dispute resolution clauses in related agreements
 - Consistency; agreements involving multiple parties

WIPO
WORLD INTELLECTUAL PROPERTY ORGANIZATION

Home | IP Services | Alternative Dispute Resolution | WIPO Clause Generator

WIPO | ADR

WIPO Clause Generator

Step 3 – Build your clause: WIPO Mediation followed, in the absence of a settlement, by Arbitration Clause

Mediation

The parties should determine where they want the mediation to take place.

The place of mediation shall be

Clear Next

Arbitration

Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules.

The place of mediation shall be [specify place].

The language to be used in the mediation shall be [specify language].

If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within [specify timeline] days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. Alternatively, if, before the expiration of the said period of [specify timeline] days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules.

The arbitral tribunal shall consist of [a sole arbitrator][three arbitrators].

The place of arbitration shall be [specify place].

The language to be used in the arbitral proceedings shall be [specify language].


The dispute, controversy or claim shall be decided in accordance with the law of [specify jurisdiction].

Step 4 – Download or copy the final result

Download Copy to clipboard Print clause

Unilateral Request for WIPO Mediation

- Request for WIPO Mediation by one party in the absence of a mediation clause (Art. 4 WIPO Mediation Rules)



Request for WIPO Mediation
(Article 4 of the WIPO Mediation Rules)

Note: The requesting party shall complete sections 1 and 2(a). The other party shall complete section 2(b).

1. Parties

Please provide the following contact information:

Requesting Party	Other Party
Name:	Name:
Country of domicile:	Country of domicile:
Tel:	Tel:
E-mail:	E-mail:
Address:	Address:
Represented by:	Represented by:
Tel:	Tel:
E-mail:	E-mail:
Address:	Address:

2. Dispute

Please provide a brief description of the dispute:

a) The requesting party agrees to submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules.

Please sign this form and submit it to arbitrator.mail@wipo.int and to the other party.

Place and Date: _____

Signature: _____

b) The other party agrees to submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules.

Please sign this form and submit it to arbitrator.mail@wipo.int and to the requesting party.

Place and Date: _____

Signature: _____

WIPO Mediation Pledge for IP and Technology Disputes

The World Intellectual Property Organization (WIPO) through its Arbitration and Mediation Center contributes to awareness of alternative dispute resolution (ADR) options for resolving IP and technology disputes.

Without binding parties, the WIPO Mediation Pledge for IP and Technology Disputes seeks to encourage the use of mediation to reduce the impact of disputes in innovation and creative processes.

As a signatory of this Pledge, we recognize that mediation may offer a more collaborative, time- and cost-efficient manner of resolving commercial disputes related to IP and technology than court litigation.

In light of this, to the extent we consider this appropriate:

Companies, Universities, R&D Centers, and Individuals

- We are prepared to explore the inclusion of mediation clauses in contracts and agreements we are party to;
- In the absence of such clauses, we are prepared to explore the resolution of existing disputes through mediation.

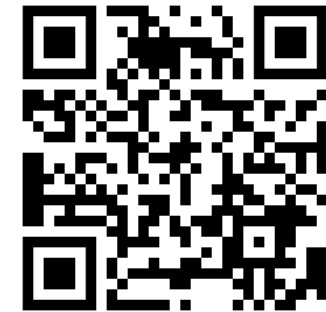
Lawyers and Law Firms

So that clients can make informed choices:

- We are prepared to explore with clients the inclusion of mediation clauses in contracts and agreements they are party to;
- In the absence of such clauses, we are prepared to explore with clients the resolution of existing disputes through mediation.



**400+ signatories
from
90+ countries**



Join the Pledge!

www.wipo.int/amc/en/mediation/pledge.html

WIPO | ADR
Arbitration
and Mediation
Center



WIPO GREEN

Queries: wipo.green@wipo.int

Further information: www.wipo.int/green

[WIPO GREEN Newsletter](#)

[Register as a database user](#)

WIPO Arbitration and Mediation Center

Queries: arbiter.mail@wipo.int

Further information: www.wipo.int/amc

[WIPO Center's LinkedIn](#)

[WIPO ADR Highlights Newsletter](#)

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