



NCC-WIPO Webinar: Mediation and Arbitration for Entertainment Disputes

Leandro Toscano

Oscar Suárez

WIPO Arbitration and Mediation Center

WIPO Arbitration and Mediation Center

In this webinar

Send your questions for Q&A

Download handouts:

- Guide to WIPO Mediaiton
- Guide to WIPO Arbitration
- WIPOADR Rules
- WIPO Mediation Pledge
- WIPO Unilateral Request for Mediation

Receive webinar recording

In this webinar

- About WIPO and WIPO Center
- NCC and WIPO Center collaboration
- Why mediation and arbitration for entertainment disputes?
 - WIPO Mediation
 - Procedure
 - Role of the mediator
 - Case Examples
 - WIPO Mediation Pledge
 - WIPO Arbitration and Expedited Arbitration
 - Procedure
 - Role of the arbitrator
 - Case Examples
- WIPO ADR Clauses



World Intellectual Property Organization (WIPO)

Promotes innovation and creativity

- For the economic, social and cultural development of all countries
- Through a balanced and effective international IP system
- WIPO provides IP services that encourage individuals and businesses to innovate and create
 - Alternative Dispute Resolution (ADR) services to reduce the impact of disputes on innovation and creative processes



- Facilitates the resolution of commercial disputes between private parties involving IP and technology, through procedures other than court litigation, including mediation and arbitration
 - Offices in Geneva and Singapore
 - Users around the world
- ADR provider specialized in IP disputes
 - WIPO mediators, arbitrators and experts experienced in IP and technology, including from Nigeria
- International neutrality
- Global leader in domain name dispute resolution services



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



Why Consider IP ADR?

Cost of IP court litigation
 Expedient solutions

Internationalization of creation and use of IP Cross-border solutions; consolidate in one procedure

Technical and specialized nature of IP
 Specific expertise of the neutral

Short product and market cycles in IP
 Time-efficient procedures

Confidential nature of IP
 Private procedures

Collaborative nature of IP creation and commercialization
 Mechanisms that preserve relations

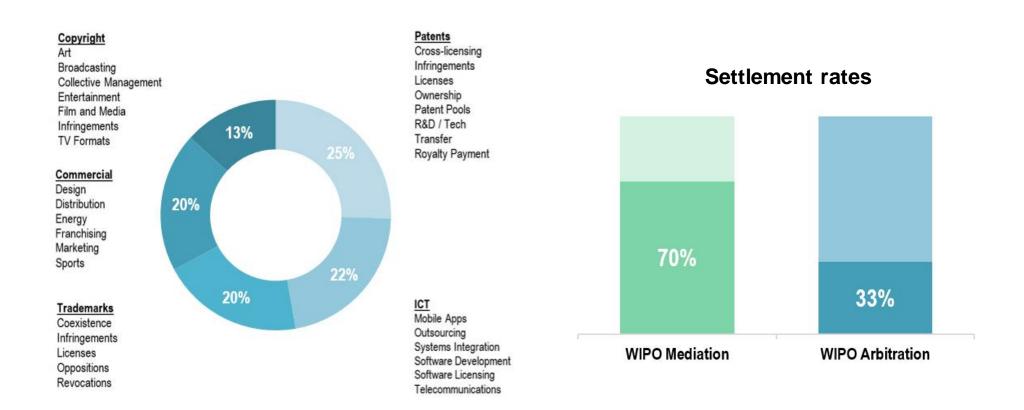
WIPO | ADR Arbitration and Mediation Center

ADR Developments

- Growing acceptance; increased number of cases
- Corporate dispute policies and pledges
- Use of multi-tiered dispute resolution clause (e.g., mediation + arbitration, mediation + court litigation)
- Use of technology (e.g., videoconferencing facilities, online case administration – WIPO eADR)
- International and national legislative efforts
- Mediation incentives, promotion schemes
- United Nations Convention on International Settlement Agreements Resulting from Mediation (Singapore Convention)

and Mediation Center

WIPO Mediation and Arbitration Cases





Audiviosual works

- Dispute between two European companies specialized in digital effects and a Latin American producer related to an agreement for co-production of animated film
- Dispute between TV distribution company and international sports federation related to agreement for exclusive broadcasting of sports competitions in Asia-Pacific
- Dispute between two Asian producers and European producer related to agreement for development of pilot for TV reality show
- Dispute between the author of audiovisual production and Asian streaming companies regarding royalties
- Dispute between association of film producers and website operator related to online copyright infringement

Musical Works

- Dispute between publishing associations and CMO regarding royalty distribution for public communication on TV of musical works
- Dispute related to unpaid royalties to author of musical work included in TV series produced by multinational entertainment company and broadcasted through OTT platform
- Dispute between author and online platform regarding removal of musical work due to copyright infringement

Photographic works

- Dispute between European photographer and Asian media company related to publication of photographs on Internet without authorization or payment
- Dispute between company that provides copyright enforcement services (on behalf of European media group), and European company, related to payment of royalties for unauthorized use of photographs on website

Social Media Platforms Disputes

- Copyright infringement dispute related to unauthorized use of website content on social media platform
- Copyright infringement dispute related to copying cartoon character from social media account

Software Disputes

- Dispute between Asian company and European software developer related to scope of a software licensing agreement to provide mobile payment services in Asian countries
- Dispute between US software developer and European company related to on-line license agreement of a security software WIPO ADR

and Mediation Center

Video/Online Games

- Dispute between video game company and developer related to copyright infringement, payment of royalties, and blocking of streaming of e-sports competitions on online platform
- Dispute related to violation of copyrights regarding scenario for computer game
- Dispute between creator of a character for online game and another party, related to the unauthorized use of character in online audiovisual works



NCC-WIPO Collaboration

- Memorandum of Understanding in 2020
- Promotion of ADR for copyright disputes in Nigeria



WIPO ADR Rules (2020)

IP and technology specific elements

- e.g., confidentiality, technical evidence, interim relief
- Applicable to all commercial disputes

Flexibility

- For domestic and international disputes
 Accommodating different legal/procedural traditions
- WIPO Mediation and Expedited Arbitration for Film and Media

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

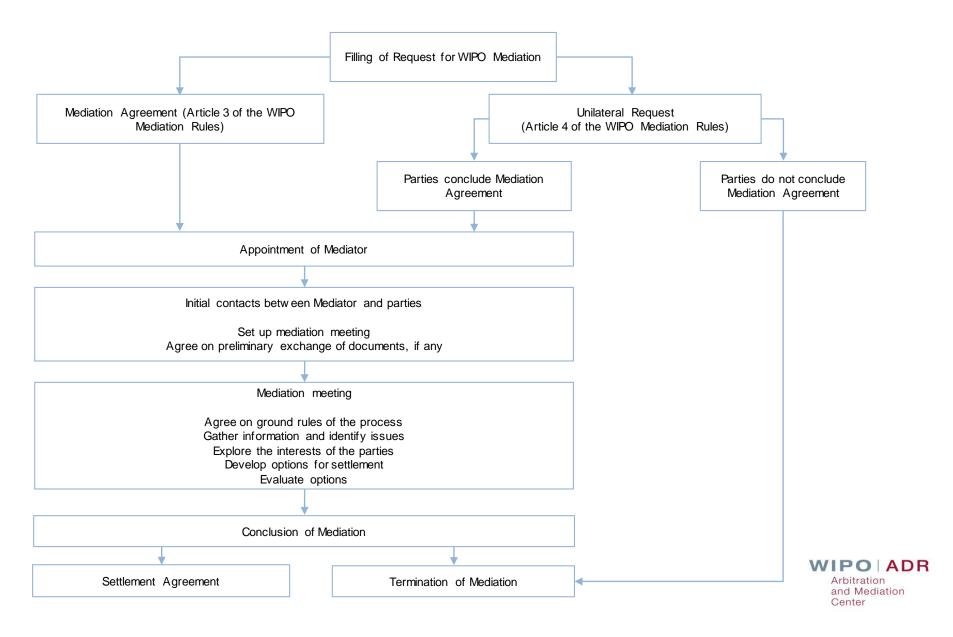


What is Mediation?

- 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



Principal Steps in a WIPO Mediation



WIPO Mediation Rules

(Effective from January 1, 2020)

- Scope of Application of Rules
- Commencement of the Mediation
- Appointment of the Mediator
- Representation of Parties and Participation in Meetings
- Conduct of the Mediation
- Role of the Mediator
- Confidentiality
- Termination of the Mediation
- Administration Fee
- Fees of the Mediator
- Exclusion of Liability
- Waiver of Defamation
- Suspension of Running of Limitation Period under the Statute of Limitations



Request for WIPO Mediation (Article 3, WIPO Mediation Rules)

WIPO IP PORTAL MENU IP Alternative Dispute Reso			HELP 🌐 EN	glish login	WIP
	MEDIATION UNILATERAL REQUEST FOR MEDIATION ARBITRATION EXP	EDITED ARBITRATION GOOD OFFICES SERVICES			
	Request for WIPO Med	Submit Request			
	This electronic filing form allows you to complete and submit a Reque and Mediation Center. Upon submission, a copy of this Request will be Should you prefer to file a Request for WIPO Mediation without using th <u>Guidelines</u> and <u>additional online resources</u> for WIPO Mediation. Mandatory fields are marked as [*].	sent to the Responding Party.			
	Name [Requesting Party] *	Name [Responding Party] *			
	Address *	Address *			
	Telephone	Telephone			
	E-mail *	E-mail *			
	Represented By	Represented By			

Unilateral Request for WIPO Mediation

- In the absence of a mediation agreement, a party can propose submitting a dispute to mediation
 - Complete and sign the Request for WIPO Mediation
 <u>www.wipo.int/amc-forms/adr/unilateral-mediation</u>
 - Upon receipt of the Request, the WIPO Center is available to provide information on the WIPO Mediation process to the other party



Unilateral Request for WIPO Mediation

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: Country of domicile: Tel: Country of domicile: Tel: Tel: E-mail: Address: Address: Represented by: Tel: Tel: E-mail: Address: Address: Address: 2. Dispute E-mail: Please provide a brief description of the dispute:	Request for WIPO Mediation (Article 4 of the WIPO Mediation Rules)	WIPO ADR Arbitration and Mediation Center
1. Parties Please provide the following contact information: Requesting Party Other Party Name: Country of domicile: Country of domicile: Tel: E-mail: Address: Represented by: E-mail: Tel: E-mail: Address: Represented by: Tel: E-mail: Address: Represented by: Tel: E-mail: Address: Address: 2. Dispute E-mail: Please provide a brief description of the dispute:	<u>Note</u> : The requesting party shall complete se	ctions 1 and 2(a). The other party shall
Please provide the following contact information: Requesting Party Other Party Name: Country of domicile: Country of domicile: Tel: E-mail: Country of domicile: E-mail: Address: Address: Address: Represented by: Represented by: Tel: Tel: E-mail: Address: 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 arbiter.mail@wipo.int and to the other party. Please sign this form and submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules. Please sign this form and submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules. Please sign this form and submit it to arbiter.mail@wipo.int and to the requesting party. Place and Date:	complete section 2(b).	
Requesting Party Other Party Name: Country of domicile: Tel: Country of domicile: Tel: E-mail: Address: Address: Represented by: Represented by: Tel: E-mail: Address: Address: Represented by: Tel: E-mail: Address: Address: Address: 2. Dispute Please provide a brief description of the dispute:	1. Parties	
Name: Name: Country of domicile: Country of domicile: Tel: Tel: E-mail: Address: Address: Address: Represented by: Tel: Tel: E-mail: Address: Represented by: Tel: E-mail: Address: Represented by: Tel: E-mail: Address: Address: 2. Dispute Please provide a brief description of the dispute:	Please provide the following contact informati	ion:
Country of domicile: Country of domicile: Tel: Tel: E-mail: Address: Address: Address: Represented by: Represented by: Tel: Tel: E-mail: Address: Represented by: Tel: E-mail: Address: Address: Fel: E-mail: Address: 2. Dispute Please provide a brief description of the dispute:	Requesting Party	Other Party
Tel:	Name:	
E-mail: Address: Address: Address: Address: Address: Address: Represented by: Tel: E-mail: Address: Tel: E-mail: Address: Address		
Address: Address: Represented by: Represented by: Tel: Tel: E-mail: Address: Address: Address: 2. Dispute Please provide a brief description of the dispute:		
Represented by: Tel: Tel: E-mail: Address: 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 arbiter.mail@wipo.int and to the other party. Place and Date:		
Tei: E-mail: Address: Tei: E-mail: Address: Please provide a brief description of the dispute: Address: Please sign this form and submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules. Please sign this form and submit it to <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:	Address:	Address:
Tei: E-mail: Address: Tei: E-mail: Address: Please provide a brief description of the dispute: Address: Please sign this form and submit the above-described dispute to mediation in accordance with the WIPO Mediation Rules. Please sign this form and submit it to <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:	Represented by:	Represented by:
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 arbiter.mail@wipo.int and to the other party. Place and Date:	Tel:	
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 <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:	E-mail:	
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 <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:	Address:	Address:
accordance with the WIPO Mediation Rules. Please sign this form and submit it to <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:	2. Dispute Please provide a brief description of the dispu	ute:
accordance with the WIPO Mediation Rules. Please sign this form and submit it to <u>arbiter.mail@wipo.int</u> and to the other party. Place and Date:		
Place and Date:	a) The requesting party agrees to submit the accordance with the WIPO Mediation Rules.	above-described dispute to mediation in
Signature:	Please sign this form and submit it to <u>arbiter.r</u>	mail@wipo.int and to the other party.
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 <u>arbiter.mail@wipo.int</u> and to the requesting party. Place and Date:	Place and Date:	
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 <u>arbiter.mail@wipo.int</u> and to the requesting party. Place and Date:	Signature:	
with the WIPO Mediation Rules. Please sign this form and submit it to <u>arbiter.mail@wipo.int</u> and to the requesting party. Place and Date:		
Place and Date:	b) The other party agrees to submit the above with the WIPO Mediation Rules.	e-described dispute to mediation in accordance
	Please sign this form and submit it to <u>arbiter.r</u>	mail@wipo.int and to the requesting party.
Signature:	Place and Date:	
	o:	

WIPO | ADR Arbitration and Mediation Center

Role of the Mediator

Promote settlement in any manner that s/he believes to be appropriate

No authority to impose a settlement



WIPO Mediation Case Example: TV Copyright Royalty Dispute

A group of European CMOs and a number of digital cable operators were involved in a dispute concerning the remuneration for national and foreign TV stations offered by cable operators based on an established common tariff. The parties agreed to refer the dispute to WIPO Mediation by subscribing a submission agreement. In the agreement, the parties indicated the names of a WIPO mediator and a copyright expert to assist them with the technical discussions on tariffs and national and international copyright law. The parties reached a settlement agreement within four months.

WIPO Mediation Case Example: TV Format Dispute

A dispute concerning the copy of a TV format for a quiz show arose between production companies based in the United Kingdom and Germany. The UK company, which created and developed the TV format, claimed that there were substantial similarities between its show and another game show produced by the German company. Following exchanges between the parties, they agreed to submit the dispute to mediation in accordance with the WIPO Mediation Rules for Film and Media. The parties managed to settle their dispute after a one-day meeting with the mediator, opening the possibility for collaboration between the companies.

WIPO Mediation Case Example: Mobile Apps Dispute

Startup companies based in the Middle East and in the United States entered into a license agreement for the use of mobile phone applications, which contained a dispute resolution clause referring to WIPO Mediation followed, in the absence of a settlement, by WIPO Arbitration. A dispute arose between the parties regarding the authorized use of the application under the license, and in particular, whether such use was to be made against payment or free of charge. The mediation sessions took place entirely via remote communication tools and within two months after the appointment of the mediator, a settlement agreement was reached with the mediator's assistance. The parties expressed interest in continuing collaborating

25

WIPO | ADR Arbitration and Mediation Center

More on WIPO Mediation

Webinar: Mediation under the WIPO Rules

WIPO Center Webinars

Guide to WIPO Mediation
www.wipo.int/edocs/pubdocs/en/wipo_pub_449_2018.pdf

WIPO Mediation Rules

WIPO Mediation case examples

General information on mediation

Guide to WIPO Mediation





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.



500+ signatories from 100+ countries



Join the Pledge!

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

WIPO | ADR Arbitration and Mediation Center

What is 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

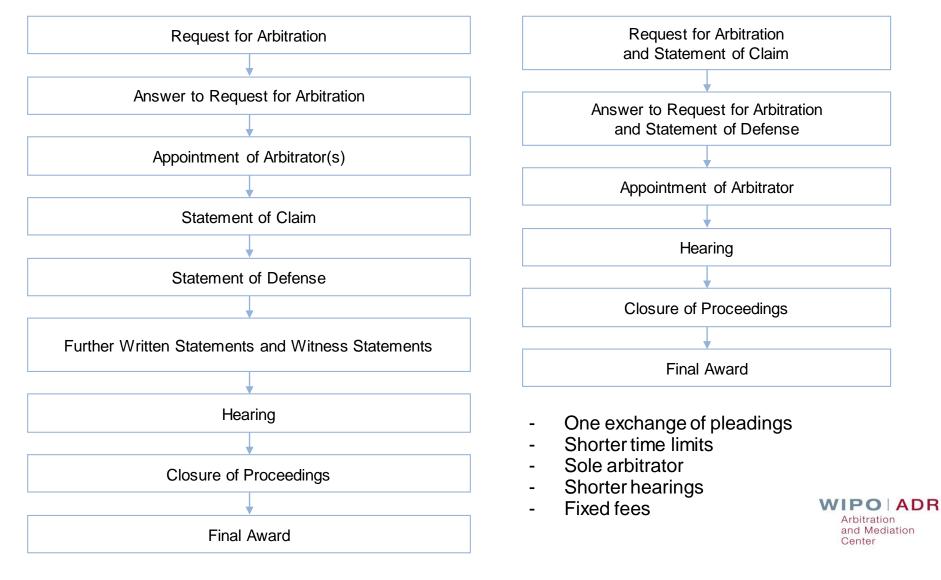




Principal Steps in a WIPO Arbitration

WIPO Arbitration





WIPO Arbitration Rules

(Effective from January 1, 2020)

- Scope of Application of Rules
- Commencement of the Arbitration
 - Request for Arbitration
 - Answer to the Request
- Composition and Establishment of the Tribunal
 - Number and Appointment of Arbitrators
 - Impartiality and Independence
- Conduct of the Arbitration
 - General Powers of the Tribunal

- Place of Arbitration
- Preparatory Conference
- Interim Measures
- Evidence
- Hearings
- Closure of Proceedings
- Awards and Other Decisions
- Fees and Costs
- Confidentiality
- Exclusion of Liability
- Waiver of Defamation



Role of the Arbitrator

- Conduct arbitration in such manner as it considers appropriate
- Respect due process and ensure each party is given a fair opportunity to present its case
- Ensure that arbitral procedure takes place with due expedition
- Organize preparatory conference and set schedule of proceedings
- Order interim measures, including injunctions
- Determine admissibility and relevance of evidence
- Hold hearings
- Render final award
- May suggest parties to explore settlement



WIPO Arbitration Case Example: Broadcast Rights Distribution Agreement Dispute

A TV distribution company requested arbitration in a dispute against an international sports federation based on the WIPO Arbitration Rules pursuant to a broadcast rights distribution agreement. The agreement related to the exclusive broadcast distribution of sports competitions to television audiences in Asia and the Pacific regions. The TV distribution company claimed damages for breach of contract.

Following consultations between the parties and the Center, the Center appointed a sole arbitrator experienced in media and sport issues. The sole arbitrator considered documentary evidence, held a hearing for the examination of witnesses, and rendered a final award rejecting the claims within a year of the commencement of the arbitration.

WIPO Arbitration Case Example: TV Pilot Production Dispute

Two Asian parties and a European party concluded an agreement for the development of a pilot for a TV reality show. The Asian parties to the agreement subrogated their position to a Latin-American company.

According to the claimant, after several years of contractual relationship, and several payments done by the Latin-American party, the European party did not fulfill its contractual obligations in delivering the TV pilot on time and under the quality and characteristics established under contract.

Parties included in their original agreement a clause to WIPO Expedited Arbitration. Once the request for arbitration was filed, the WIPO Center helped in the appointment of the sole arbitrator, out of list of experts in arbitration and film and media.

WIPO ADR Arbitration and Mediation Center

WIPO Arbitration Case Example: Film Co-production Dispute

Two European parties and a Latin-American party entered into a film co-production agreement for the development of an animated film. Claimants stated an undue unilateral termination of the agreement by the Defendant. The Defendant's counter-claim stated that they were entitled to the unilateral termination, due to several contractual breaches by the Claimants (e.g., low quality of the materials). The contract included a WIPO Expedited Arbitration clause.

The parties nominated a sole arbitrator out of a list of candidates that was prepared by the Center. The proceeding was particularly loaded with procedural incidents, injunctive relief requests and the active involvement of the arbitrator to solve this requests and allow for the proceeding to move along. The Defendants presented a counter-claim memorial. There was a two-days hearing session, followed by the issuance of the final award.

WIPO Mediation followed by Expedited Arbitration Case Example: Website Development Dispute

A publishing house entered into a contract with a software company for the development of a new web presence. The project had to be completed within one year and included a clause submitting disputes to WIPO Mediation and, if settlement could not be reached within 60 days, to WIPO Expedited Arbitration.

After some time, the publishing house was not satisfied with the services delivered by the developer, refused to pay, threatened rescission of the contract and asked for damages. The publishing house filed a request for mediation. While the parties failed to reach a settlement, the mediation enabled them to focus the issues that were addressed in the ensuing expedited arbitration proceeding. Following the termination of the mediation, the publishing house initiated expedited arbitration proceedings. In the course of the one-day hearing the parties expressed their desire to settle their case, asking the arbitrator to prepare a settlement proposal. The parties accepted the arbitrator's proposal and requested the arbitrator to issue a consent award.

More on WIPO Arbitration

WIPO Center Webinars

Guide to WIPO Arbitration
<u>https://www.wipo.int/edocs/pubdocs/en/wipo_pub_919_2020.pdf</u>

WIPOArbitration Rules <u>https://www.wipo.int/amc/en/arbitration/rules/index.html</u>

WIPO Expedited Arbitration Rules <u>https://www.wipo.int/amc/en/arbitration/expedited-rules/</u>

WIPO Arbitration case examples

General information on Arbitration and Expedited Arbitration

https://www.wipo.int/amc/en/arbitration/

Guide to WIPO Arbitration





Recap: Mediation and Arbitration Compared

	Mediation	Arbitration	
Parties	Either party may unilaterally withdraw from the procedure.	Once the parties have validly agreed to submit a dispute to arbitration, neither party may unilaterally withdraw from the procedure.	
Mediator/ arbitrator	The mediator functions as a "catalyst" or settlement facilitator, but cannot impose a settlement on the parties.	The arbitrator(s) ("tribunal") has the authority to decide the case in a final award.	
Scope	Any settlement is agreed by the parties and is based on the parties' interests, which may be broader than their legal positions.	The tribunal addresses the parties' legal positions on the basis of the applicable substantive law.	
Outcome	Any settlement agreement is binding between the parties as a matter of contract law.	Awards are legally binding on the parties, final and enforceable internationally.	

37

ADR

and Mediation Center

How Can You Use WIPO ADR?

For what kind of disputes?	How to refer disputes to WIPO ADR	WIPO resources
For potential future contractual disputes	Inclusion of ADR contract clause	WIPO model ADR clauses
For existing disputes (e.g., IP infringement)	ADR submission agreement by all parties	WIPO model ADR submission agreements
	Unilateral request by one party	Unilateral Request for WIPO Mediation
For existing disputes pending in national courts	ADR submission agreement by all parties	WIPO model ADR submission agreements
	Unilateral request by one party	Unilateral Request for WIPO Mediation

WIPO model clauses: <u>www.wipo.int/amc/en/clauses</u>

WIPO Clause Generator: <u>www.wipo.int/amc-apps/clause-generator</u>

Clause Example for your Contract: Mediation followed by Expedited Arbitration

<u>Any dispute</u>, 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, <u>shall be submitted to mediation in</u> <u>accordance with the WIPO Mediation Rules</u>. The place of mediation shall be [<u>specify place</u>]. The language to be used in the mediation shall be [<u>specify language</u>].

If, and to the extent that, <u>any such dispute</u>, controversy or claim <u>has not been settled pursuant to the</u> <u>mediation within [60][90] days of the commencement of the mediation</u>, it shall, <u>upon the filing of a</u> <u>Request for Arbitration by either party, be referred to and finally determined by arbitration in</u> <u>accordance with the WIPO Expedited Arbitration Rules</u>. 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.

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



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.	
Core Elements 🕑	The place of mediation shall be specify place.	
Place of Mediation Language of the Mediation	Clear Next	
Duration of the Mediation Proceedings Additional Elements Qualifications of the Mediator	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].	
Conduct of the Mediation	The language to be used in the mediation shall be [specify language].	
Arbitration Core Elements Number of Arbitrators	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	
Language of Arbitration	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.	
Substantive Law	The arbitral tribunal shall consist of [a sole arbitrator][three arbitrators].	
Additional Elements Appointment Procedure	The place of arbitration shall be [specify place]. The language to be used in the arbitral proceedings shall be [specify language].	
Qualifications of the Arbitrators	The dispute, controversy or claim shall be decided in accordance with the law of [specify jurisdiction].	
Evidence		
Time Period of Delivery of the Final Award		
Appeal		
Step 4 – Download or copy the final result		
Download Copy to clipboard P	hint clause	



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

Online form: <u>www.wipo.int/amc-forms/adr/good-offices-services</u>

In this webinar

- About WIPO and WIPO Center
- NCC and WIPO Center collaboration
- Why mediation and arbitration for entertainment disputes?
 - WIPO Mediation
 - WIPO Arbitration and Expedited Arbitration
- WIPO ADR Clauses



Contact Us

- Queries: <u>arbiter.mail@wipo.int</u>
- Further information: <u>www.wipo.int/amc</u>
- WIPO Center LinkedIn
- WIPO Center Newsletter
- WIPO Center Webinars

