MEDIATION OF IP DISPUTES:
A PHILIPPINE EXPERIENCE

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OUTLINE

I. INTRODUCTION

II. IP MEDIATION MECHANISM

III. PROCEDURE

IV. BEST PRACTICES IN IP MEDIATION

V. CONCLUSION
I. INTRODUCTION

Challenges of globalization

- Fast-paced international trade
- Increasing interface of economies
- Evolving business models
- Advancement of technologies

Effective IPR enforcement

- Time
- Cost
- Competence
- Predictability
- Implementation of decisions
II. IP MEDIATION MECHANISM

- Establishment of IP Mediation Office
  - mandatory referral of cases
  - providing settlement period
  - confidentiality of the proceedings
  - providing sanctions
- Bureau of Legal Affairs
  - ADR Services
- Accreditation Process for Mediators
- Training for Mediators
  - Integrated Mediators’ IP Rights and Skills Training
- WIPO Center and IPOPHL Collaboration
III. PROCEDURE

- IP Cases (ODG, BLA, DITTB, or Bureau of Copyright)
- Referral of the case to Alternative Dispute Resolution Services (ADRS)
  - ADRS brief the parties on mediation (Parties choose between IPOPHL or WIPO mediation)
  - **IPOPHL Mediation**
    - Selection of Mediator
    - Mediation Proper
    - If settled, ADRS submits the compromise agreement to the originating office for approval
    - If not settled, ADRS brief the parties on arbitration
  - **WIPO Mediation**
    - IPOPHL notifies WIPO Center and issues order suspending proceedings
    - If settled, WIPO submits the compromise agreement to IPOPHL for approval
    - If not settled, WIPO notifies and returns the case to IPOPHL
### Table 1: Acceptance Rate

<table>
<thead>
<tr>
<th>Year</th>
<th>Settled</th>
<th>Total Cases Mediated</th>
<th>Acceptance Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>381</td>
<td>279</td>
<td>73.2%</td>
</tr>
<tr>
<td>2012</td>
<td>298</td>
<td>166</td>
<td>55.7%</td>
</tr>
<tr>
<td>2013</td>
<td>250</td>
<td>125</td>
<td>50.0%</td>
</tr>
<tr>
<td>2014</td>
<td>238</td>
<td>135</td>
<td>56.7%</td>
</tr>
<tr>
<td>2015 (as of April 13)</td>
<td>60</td>
<td>24</td>
<td>40.0%</td>
</tr>
<tr>
<td>Total</td>
<td>1,227</td>
<td>729</td>
<td>59.4%</td>
</tr>
</tbody>
</table>
### Table 1: Success Rate

<table>
<thead>
<tr>
<th>Year</th>
<th>No. of Cases Referred</th>
<th>No. of Cases that to Undergo Mediation</th>
<th>Acceptance Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>2011</td>
<td>90</td>
<td>279</td>
<td>32.2%</td>
</tr>
<tr>
<td>2012</td>
<td>83</td>
<td>166</td>
<td>50.0%</td>
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<tr>
<td>2013</td>
<td>55</td>
<td>125</td>
<td>44.0%</td>
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<tr>
<td>2014</td>
<td>69</td>
<td>135</td>
<td>51.1%</td>
</tr>
<tr>
<td>2015 (as of April 13)</td>
<td>12</td>
<td>24</td>
<td>50.0%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>309</strong></td>
<td><strong>729</strong></td>
<td><strong>42.4%</strong></td>
</tr>
</tbody>
</table>
IV. Best Practices in IP Mediation

- Establishment of a dedicated unit tasked to handle mediation program
- Consistency of rules and procedures to national and international standards
- Ensuring confidentiality of the proceedings
- Mandatory referral of IP cases for mediation
- Imposition of appropriate sanction for non-appearance during briefing and meetings
- Ensuring that mediators are well qualified to handle mediation cases
- Implementation of decorum on mediation to ensure integrity of the proceedings and that of the system
V. CONCLUSION

- Mediation is a potent tool to resolve IP disputes in a cost effective manner especially when the parties are driven with genuine business considerations.
- Mediation can result to a positive outcome not only with respect to a pending case but any and all related issues and cases that hamper the conduct of business.
- Mediation mechanism must be well organized and structured.
- Mediators are properly selected and trained.
- People and platform for mediation services are credible and capable.
Thank you.