

Services of the WIPO Arbitration and Mediation Center, including Recent Copyright Cases on Copyright Infrastructure



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WIPO Arbitration and Mediation Center

- Facilitates resolution of commercial disputes between parties involving IP and technology, through procedures other than court litigation, including mediation and arbitration
- Alternative Dispute Resolution (ADR) provider specialized in IP disputes
- WIPO mediators, arbitrators and experts experienced in IP and technology - able to deliver informed results efficiently
- International neutrality

Mediation

- Informal consensual process
- Neutral intermediary – mediator
 - assists parties in reaching settlement of their dispute
 - based on parties' respective interests
 - cannot impose a decision





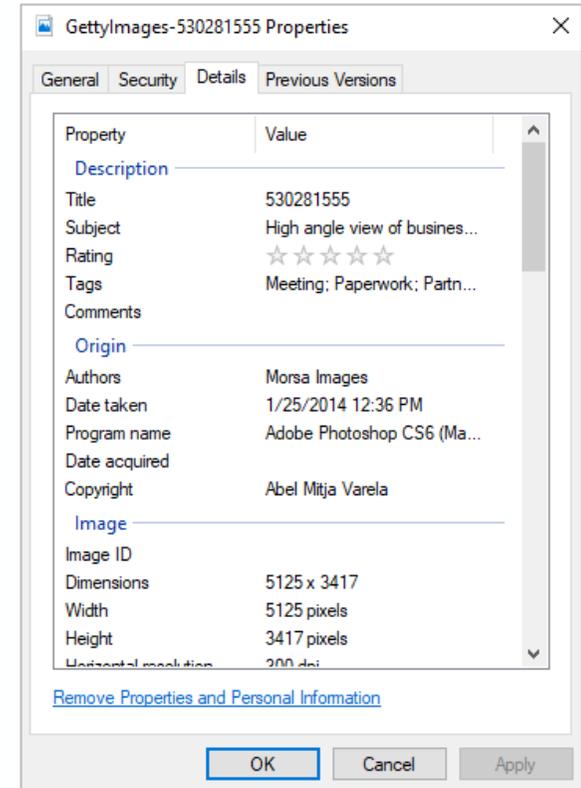
Arbitration

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

IP disputes involving metadata or identifiers

What are metadata and identifiers?

- Forms of data that describe other data or provide information about it
- Very useful for tracking information - especially in the digital world
- **Metadata**
 - File metadata: creation date, modification date, file size
 - Image metadata: date the photo was taken, camera manufacturer and model, GPS location
 - Audio metadata: artist, album, genre
- **Identifiers**
 - IP address
 - MAC address
 - ISBN (International Standard Book Number)
 - UPC (Universal Product Code)



Example: IP disputes involving metadata or identifiers

Metadata and identifiers can serve as important evidence in resolving IP disputes, especially in the creative industries

- A stock photo agency claims that an AI image generation software unlawfully copied and processed images protected by copyright **and the associated metadata** owned or represented by the agency, in order to generate images.
- A photographer alleges that a stock photo agency has been selling images taken from their portfolio without proper licensing. The dispute involves **metadata such as the date of creation and the location of the images**, which the photographer claims were altered by the agency to conceal the true origin of the images.
- A filmmaker claims that a video-sharing website is hosting unauthorized copies of their film. The dispute involves **metadata such as the creation date and the name of the filmmaker**, which the filmmaker claims were altered by the website to conceal the true origin of the film.

Example: IP disputes involving metadata or identifiers

- A music company sues a streaming service for using its songs without permission. The dispute involves the use of **unique identifiers to track the songs and determine their ownership**. The company claims that the service has been using the songs without paying the proper royalties.
- A software company sues a competitor for copying its source code and using it in their own software without permission. The dispute involves the use of **unique identifiers such as version numbers and dates to track the code and determine its ownership**. The company claims that the competitor has been using its proprietary code without paying the proper royalties.
- An author accuses a publisher of reprinting their book without permission. The dispute involves the use of **unique identifiers such as ISBN numbers** to track the book and determine its ownership. The author claims that the publisher has been selling unauthorized copies of their book.

WIPO-MCST Survey Report

■ ADR Mechanisms for B2B Digital Copyright and Content-Related Disputes

■ +1,000 replies

■ 129 countries

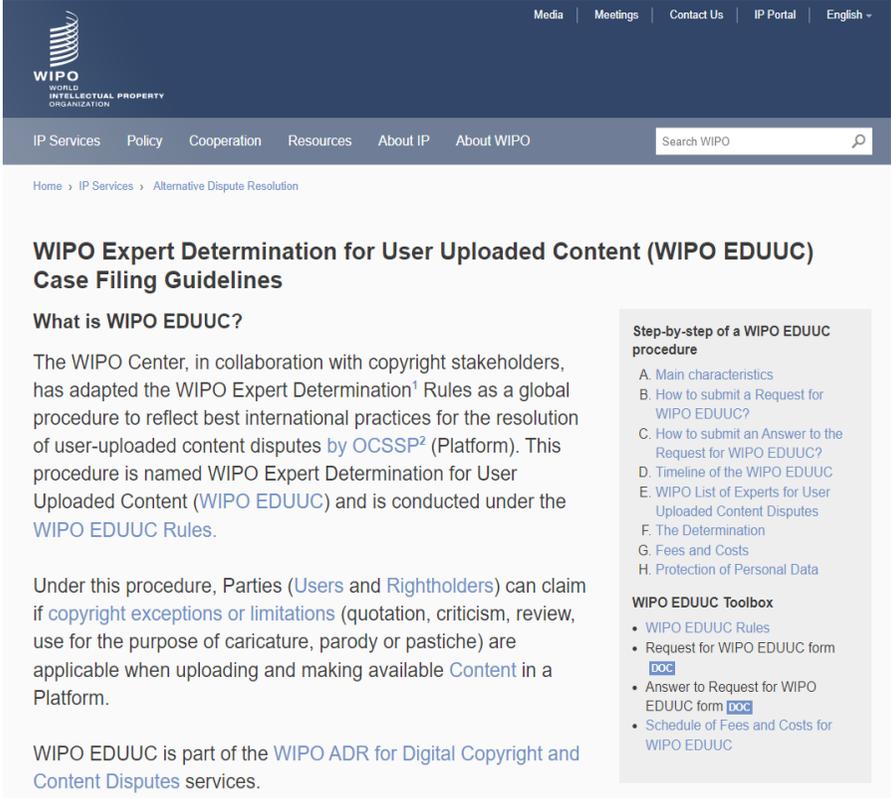


WIPO Expert Determination for User Uploaded Content (WIPO EDUUC)

■ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market

Article 17(9) - Use of protected content by online content-sharing service providers

“... online content-sharing service providers put in place an effective and expeditious complaint and redress mechanism that is available to users of their services in the event of disputes over the disabling of access to, or the removal of, works or other subject matter uploaded by them. [...] Member States shall also ensure that out-of-court redress mechanisms are available for the settlement of disputes..”



The screenshot shows the WIPO website's navigation bar with links for Media, Meetings, Contact Us, IP Portal, and English. Below the navigation bar is a search bar and a menu with links for IP Services, Policy, Cooperation, Resources, About IP, and About WIPO. The main content area is titled "WIPO Expert Determination for User Uploaded Content (WIPO EDUUC) Case Filing Guidelines". It includes a section "What is WIPO EDUUC?" which explains that the WIPO Center has adapted the WIPO Expert Determination Rules as a global procedure for resolving user-uploaded content disputes. It also mentions that the procedure is named WIPO Expert Determination for User Uploaded Content (WIPO EDUUC) and is conducted under the WIPO EDUUC Rules. A second section states that under this procedure, Parties (Users and Rightholders) can claim copyright exceptions or limitations for quotation, criticism, review, or parody. A sidebar on the right lists a "Step-by-step of a WIPO EDUUC procedure" with eight steps: A. Main characteristics, B. How to submit a Request for WIPO EDUUC?, C. How to submit an Answer to the Request for WIPO EDUUC?, D. Timeline of the WIPO EDUUC, E. WIPO List of Experts for User Uploaded Content Disputes, F. The Determination, G. Fees and Costs, and H. Protection of Personal Data. Below this is a "WIPO EDUUC Toolbox" with links to WIPO EDUUC Rules, Request for WIPO EDUUC form (DOC), Answer to Request for WIPO EDUUC form (DOC), and Schedule of Fees and Costs for WIPO EDUUC. The footer of the page includes the WIPO | ADR Arbitration and Mediation Center logo.

WIPO Expert Determination for User Uploaded Content (WIPO EDUUC)

- **Single Expert** appointed by the WIPO Center
- To decide whether the **content uploaded by a user in a platform** is Non-Infringing
- **Non-infringing** means that the content subject to removal or blocking by the platform may benefit from one of the following **copyright exceptions or limitations**:
 - quotation
 - criticism
 - review
 - use for the purpose of caricature, parody, or pastiche

WIPO Expert Determination for User Uploaded Content (WIPO EDUUC) - The Spanish Implementation





Sección Primera de la Comisión de Propiedad Intelectual



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Mediación

Arbitraje

Arbitraje sustitución de tarifas

Determinación de tarifas

Control de tarifas

Resolución de Controversias en materia de derechos de autor y contenido digital por la OMPI

Resolución de Controversias en materia de derechos de autor y contenido digital por la OMPI

La Dirección General de Industrias Culturales, Propiedad Intelectual y Cooperación del Ministerio de Cultura y Deporte de España colabora con el [Centro de Arbitraje y Mediación de la Organización Mundial de la Propiedad Intelectual](#) (OMPI) para adaptar a la legislación española y publicitar los distintos procedimientos de resolución alternativa de controversias (Alternative Dispute Resolution o ADR por sus siglas en inglés) en materia de derechos de autor y contenido digital ofrecidos por el Centro de Arbitraje y Mediación de la OMPI.

- ▶ [Mediación y arbitraje de la OMPI](#)
- ▶ [Decisión de experto de la OMPI para los contenidos en línea cargados por usuarios](#)
- ▶ [Contacto](#)

Mediación y arbitraje de la OMPI [Subir](#)

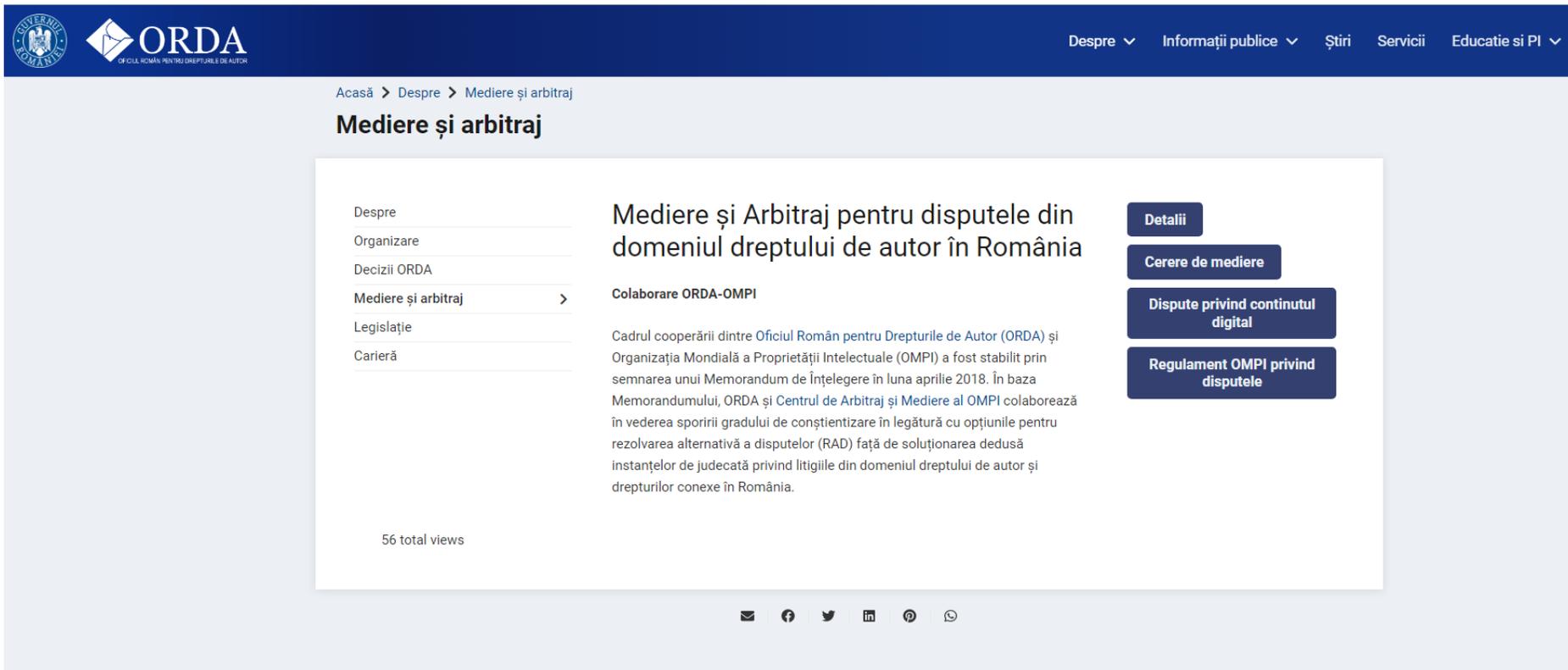
El Centro de Mediación y arbitraje de la OMPI presta servicios de mediación y arbitraje para resolver controversias en materia de derechos de autor.

Los siguientes modelos de acuerdo de sometimiento a mediación y arbitraje de la OMPI de las controversias en materia de derechos de autor y contenido digital contienen los elementos necesarios para ayudar a las partes a someter a mediación o arbitraje de la OMPI las controversias que pudieran surgir entre ellas en esta materia.

Las partes pueden emplear directamente estos modelos o adaptarlos a sus necesidades.

- ▶ [Modelo de acuerdo de sometimiento a mediación de la OMPI para controversias sobre derechos de autor y contenidos digitales](#)
- ▶ [Modelo de acuerdo de sometimiento a arbitraje \(acelerado\) de la OMPI para controversias sobre derechos de autor y contenidos digitales](#)

WIPO Expert Determination for User Uploaded Content (WIPO EDUUC) - The Romanian Implementation

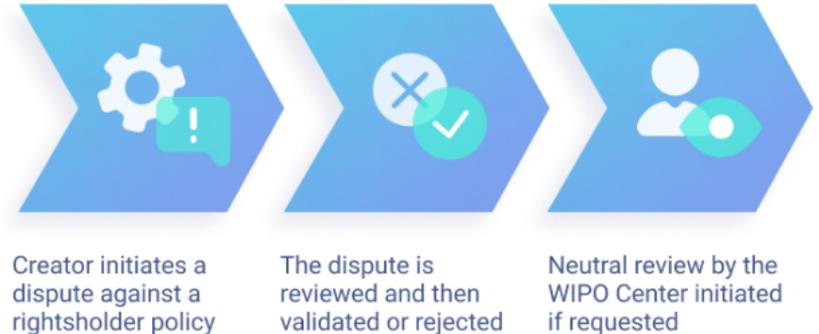


The screenshot shows the ORDA website interface. At the top left is the logo of the Romanian Government and the ORDA logo (Oficiul Român pentru Drepturile de Autor). The top right navigation bar includes links for 'Despre', 'Informații publice', 'Știri', 'Servicii', and 'Educație și PI'. The main content area features a breadcrumb trail 'Acasă > Despre > Mediere și arbitraj' and a title 'Mediere și arbitraj'. A left sidebar lists menu items: 'Despre', 'Organizare', 'Decizii ORDA', 'Mediere și arbitraj' (highlighted with a right arrow), 'Legislație', and 'Carieră'. The main text area is titled 'Mediere și Arbitraj pentru disputele din domeniul dreptului de autor în România' and includes a sub-heading 'Colaborare ORDA-OMPI'. The text describes the cooperation between ORDA and OMPI, signed in April 2018, aimed at increasing awareness of alternative dispute resolution (RAD) for user-uploaded content. To the right of the text are four dark blue buttons: 'Detalii', 'Cerere de mediere', 'Dispute privind conținutul digital', and 'Regulament OMPI privind disputele'. Below the text, it shows '56 total views' and a row of social media sharing icons (email, Facebook, Twitter, LinkedIn, Pinterest, and Messenger).



Example: WIPO EDUUC adapted for PEX

- PEX's Attribution Engine incorporates a dispute resolution procedure
- This procedure aims to quickly resolve disputes between right holders and users uploading content
- When the Attribution Engine informs a platform of a copyright match in user-generated content (by using, for example, metadata or identifiers), the platform applies the associated right holders' licensing policy
- Users can dispute the application of the policy against their content and claim that the content is not infringing copyright
- The platform registers the dispute with the Attribution Engine, which verifies the claim and informs the right holder
- The right holder may request for **a review of the decision of the Attribution Engine by a neutral appointed by the WIPO Center**



Rightsholder dispute resolution options include:

- ✓ **Release the policy** – this will allow the content to be published
- ✓ **Affirm the policy** – this action will inform the uploader that the rightsholder is standing by the policy application.

If the claim is affirmed and the user still disagrees, both parties can direct complaints to a dispute resolution panel, in collaboration with trusted institutions, which reviews the claim and decides what action to take for that upload. The platform is indemnified from any legal risk once they comply with the panel's decision. All parties may resort to other litigation once the dispute resolution process has been exhausted.

Contact Us



- Queries: arbiter.mail@wipo.int
- Further information: wipo.int/amc
- [WIPO Center LinkedIn](#)
- [WIPO Center Newsletter](#)
- [WIPO Center Webinars](#)