

## How WIPO mediation and arbitration can help you to resolve your licensing disputes

Leandro Toscano  
Head, Business Development Unit

Oscar Suárez  
Legal Case Manager

WIPO Arbitration and Mediation Center

# In this webinar

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## In this webinar

- How to use mediation or arbitration for licensing disputes
- How to draft efficient dispute resolution clauses for licensing agreements

# Licensing of intellectual property (IP) rights

*“IP licensing is a frequently used means of exploitation of IP, including in the process of commercialization of research results.”*

Successful Technology Licensing, WIPO

*“A license is the permission by the owner [of a patented invention] to another person or legal entity to perform, in the country and for the duration of [the patent rights], one or more of the acts which are covered by the exclusive rights to [the patented invention] in that country. The concept of “license” applies also to the exclusive rights in other objects of industrial property.”*

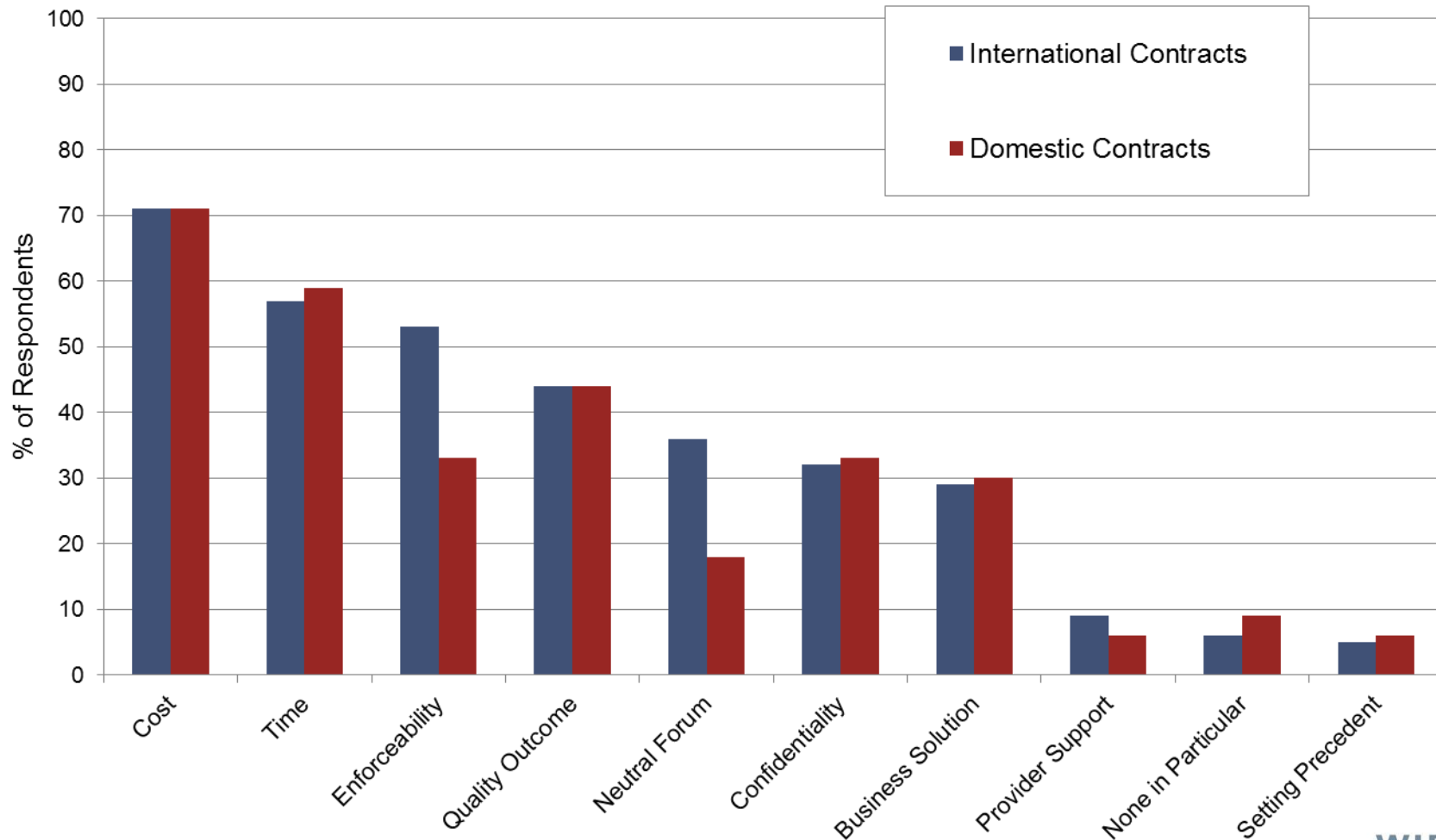
WIPO Intellectual Property Handbook: Policy, Law and Use

- Licensing agreement
  - partnership between IP rights owner (licensor)
  - and another who is authorized to use such rights (licensee)
  - in exchange for an agreed payment (fee or royalty)

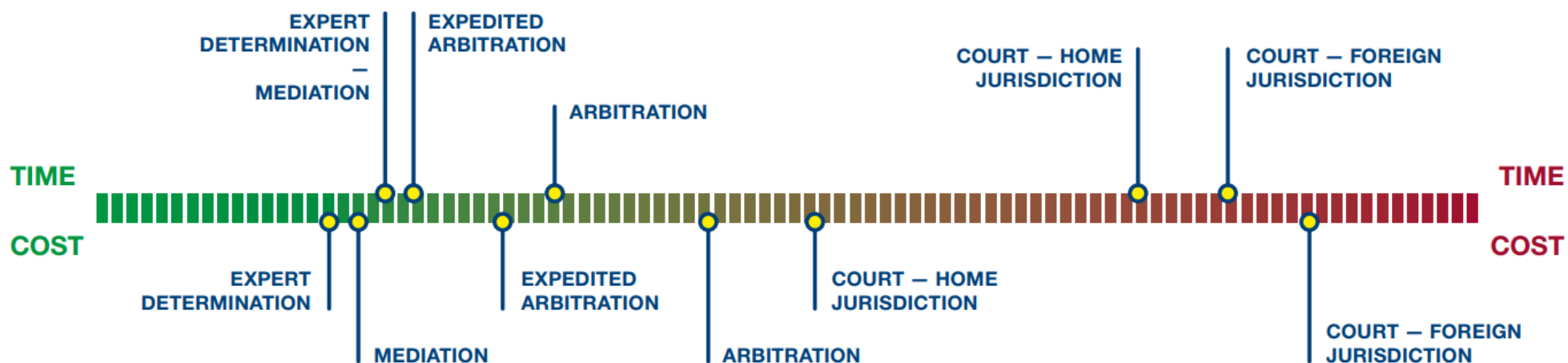
# Some notes on licensing agreements and disputes

- Among technology-related agreements, licenses most frequently give rise to disputes
  - Concerning issues such as scope and existence of the license, products, quality standards, profits, and determination and payment of royalty rates
  - More often where parties are based in different jurisdictions
    - 90% of survey respondents concluded agreements with parties from other jurisdictions
    - 80% of survey respondents concluded agreements with parties from other jurisdictions on technology registered in more than one country

# Considerations in choice of dispute resolution clause



# Time and cost of IP dispute resolution



# 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.

# Pre-empting and Resolving Technology, Media and Telecoms Disputes

- 75% of organizations surveyed have a dispute resolution policy
  - Mediation is the most encouraged mechanism, followed by arbitration
  - The three most important elements of arbitration are: institution, seat, and confidentiality
- 92% of respondents consider arbitration well suited to TMT disputes
- 82% of respondents foresee an increase in the use of arbitration
- Respondents expect ownership of IP and licensing of technology to continue to be a likely source of disputes

# 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



# 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 (including licensing) - able to deliver informed results efficiently
- International neutrality



# 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**

Alternative Dispute Resolution

# WIPO mediation and arbitration cases

## Copyright

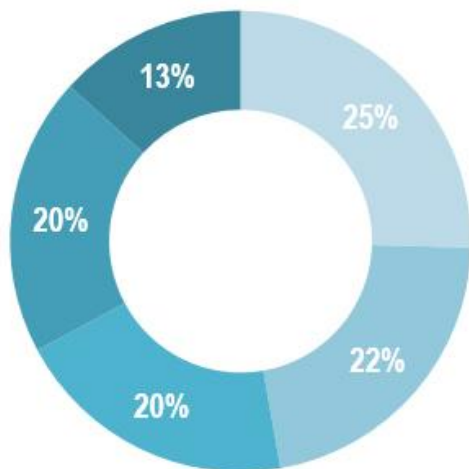
Art  
Broadcasting  
Collective Management  
Entertainment  
Film and Media  
Infringements  
TV Formats

## Commercial

Design  
Distribution  
Energy  
Franchising  
Marketing  
Sports

## Trademarks

Coexistence  
Infringements  
Licenses  
Oppositions  
Revocations



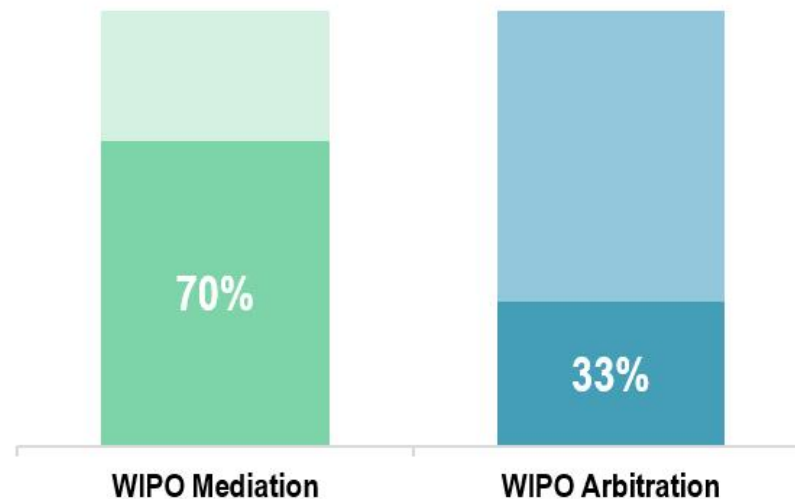
## Patents

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

## ICT

Mobile Apps  
Outsourcing  
Systems Integration  
Software Development  
Software Licensing  
Telecommunications

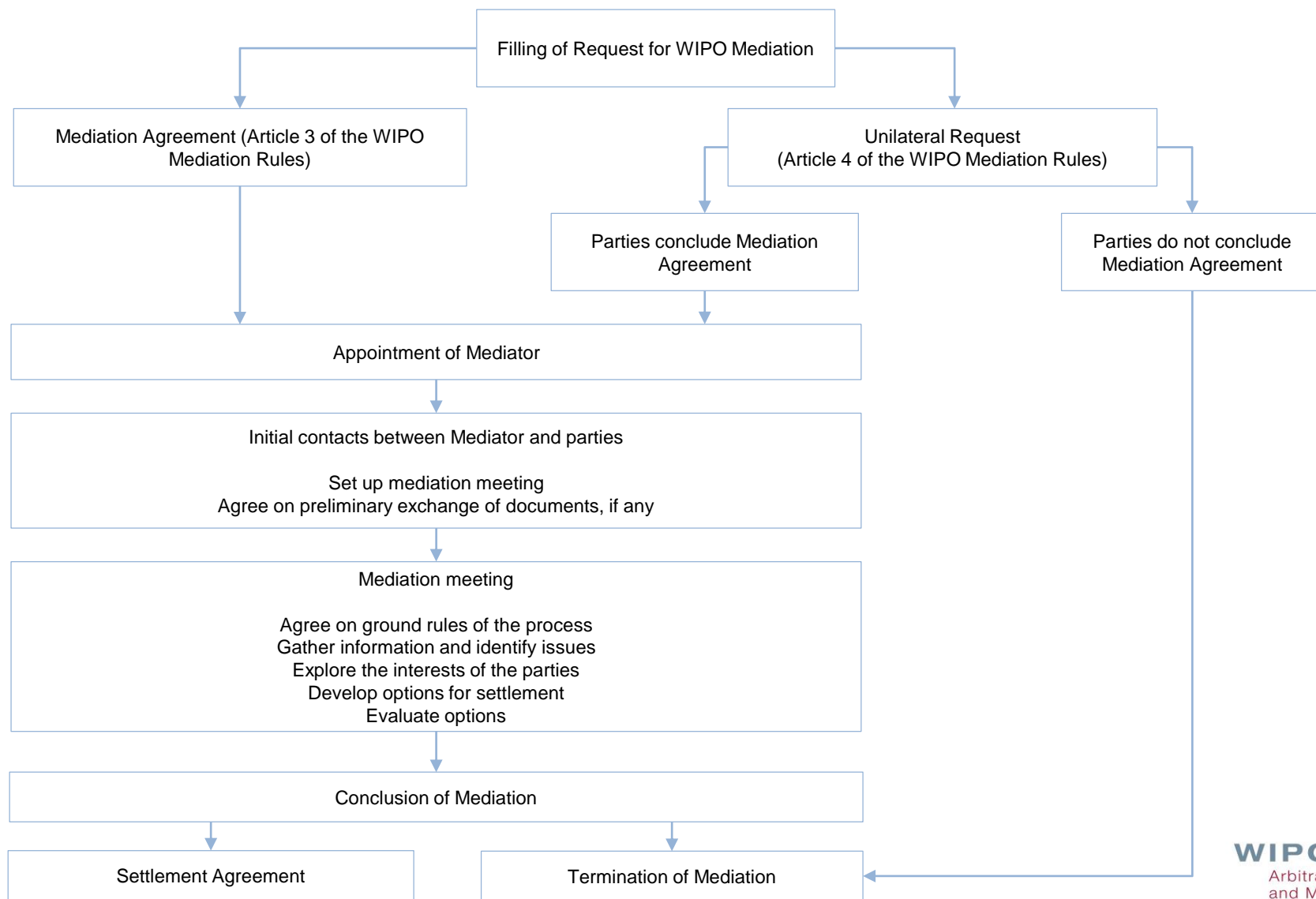
## Settlement rates



# WIPO case examples related to licensing disputes

- WIPO Mediation
  - Settlement before appointment of mediator
  - Settlement as a result of mediation
  - Settlement outside mediation
  
- WIPO Arbitration / WIPO Expedited Arbitration
  - Dispute decided by arbitral award
  - Settlement recorded in arbitral award
  - Procedural issues
  
- Contractual
- Non-contractual

# Principal steps in a WIPO Mediation





# WIPO Mediation case example (1)

## *Settlement before appointment of mediator*

- Patent licensing agreement
- European university and spin-off company
  - Dispute resolution clause: WIPO Mediation followed by WIPO Arbitration
- University initiated mediation
  - Settlement before appointment of mediator

# WIPO Mediation case example (2)

## *Settlement before appointment of mediator*

- Licensing agreement for patents related to chemical compound
  - US parties
  - Dispute resolution clause: WIPO Mediation followed by WIPO Expedited Arbitration
- Notice of termination of agreement alleging breach of contract
- Request for WIPO Mediation filed by the other party
  - Withdrawal of notice of termination of agreement
    - Termination of mediation

# WIPO Mediation case example (3)

## *Settlement as a result of mediation*

- Technology licensing agreement with application for patent registration before European Patent Office (EPO)
  - European research institute and European company
  - Dispute resolution clause: WIPO Mediation followed by court litigation in Munich
- Three years later, company alleged invalidity of licensing agreement and requested refund of royalties due to rejection of patent application
- Research institute initiated WIPO Mediation requesting payment of royalties
- Parties requested WIPO Center to provide list of mediator candidates experienced in drafting licensing agreements and specialized in patent law
  - One-day mediation session in Munich
  - Settlement agreement enabled extended collaboration between parties
    - Amendment of license, payment of royalty rates based on future decisions on patent application, and additional option to conclude R&D agreement
- Duration: less than three months

# WIPO Mediation case examples (4)

## *Settlement as a result of mediation*

- Licensing agreement for US, European and Asian telecommunication patents
  - European telecom company and US company involved in development of wireless products
  - Dispute resolution clause: WIPO Mediation followed by WIPO Arbitration
- Four years later parties disagreed on scope of applications for which licensee could use licensed technology
  - Licensor alleged that licensee had violated its patents by using licensed technologies beyond licensing scope
- European telecom company initiated WIPO mediation
  - WIPO Center suggested mediators candidates specialized in patents and telecom technology
  - Parties settled dispute with mediator's assistance
  - Duration: five months

# WIPO Mediation case example (5)

## *Settlement as a result of mediation*

- Software licensing agreement
  - Two European companies
  - Dispute resolution clause: WIPO Mediation followed by WIPO Expedited Arbitration
- Dispute related to additional license fees
- Joint filing of Request for WIPO Mediation
  - Parties concluded additional detailed mediation agreement regulating confidentiality and mediation procedure
    - e.g., exchange of documents, role of the mediator, mediation techniques, mediator's fees
- Settlement reached with assistance of mediator in one-day mediation session

# WIPO Mediation case example (6)

## *Settlement outside mediation*

- Licensing agreement related to technology for microphone products
  - US manufacturer and European company
  - Dispute resolution clause: WIPO Mediation followed by court litigation in European jurisdiction
  - Licensing agreement assigned to another US company
- Litigation between both US companies in multiple jurisdictions
- Joint request to initiate WIPO Mediation
  - Patent expert appointed as mediator
  - Exchange of statements on licensing scope, royalties, contract breach clause, costs, settlement of litigation
  - One-day hearing in Geneva
    - Parties exchanged settlement options and agreed to use mediation discussions in later management meetings
- Duration: two months

# WIPO Mediation case example (7)

## *Settlement outside mediation*

- License option agreement
  - European university holding pharmaceutical patent applications in several countries and European pharmaceutical company
  - Pharmaceutical company exercised option
  - Parties started to negotiate a license agreement
- After three years of negotiations parties were unable to agree on licensing terms
- Joint request for WIPO Mediation
  - As requested by parties, WIPO Center appointed as mediator lawyer with important experience in pharmaceutical industry and licensing
  - Parties requested mediator to help them reach an agreement on licensing terms
  - One-day mediation meeting allowed parties to identify issues and deepen understanding of legal circumstances
    - Parties continued direct negotiations amongst themselves and reached settlement agreement

# WIPO Mediation case example (8)

## *Settlement outside mediation*

- Licensing agreement for software applications
  - US software developer and European provider of telecom services
  - Dispute resolution clause: WIPO Mediation followed by WIPO Expedited Arbitration
- Dispute related to whether licensee was entitled to let certain affiliated parties have access to software, and whether additional license fees were due in respect of those third parties
- WIPO Mediation procedure
  - WIPO Center appointed mediator specialized in software disputes in accordance with parties' preferences
  - Parties developed mutually acceptable framework for mediation process and solved a number of the issues in dispute
  - Using some of the options developed during mediation, direct negotiations between parties continued after termination of mediation to agree on their remaining issues



# WIPO Mediation case example (9)

## *Mediation to avoid prolonged and expensive multijurisdictional litigation*

- Technology company holding patents on three continents disclosed patented invention to manufacturer in consulting contract
  - Contract neither transferred nor licensed any rights to manufacturer
- Manufacturer started selling products, which consulting company alleged included the patented invention
- Consulting company threatened to file patent infringement court proceedings in jurisdictions in which it was holding patents
- Parties started negotiating a patent license with help of external experts but failed to agree on royalties
  - Multimillion dollar damages sought by consulting company significantly exceeded amount that manufacturer was willing to offer
- Joint submission to WIPO Mediation
  - WIPO Center suggested potential mediators with specific expertise in patents and relevant technology
  - Two-day meeting in which parties reached settlement on royalties and also agreed on future consulting contracts

# WIPO Mediation case example (10)

## *Telephone mediation*

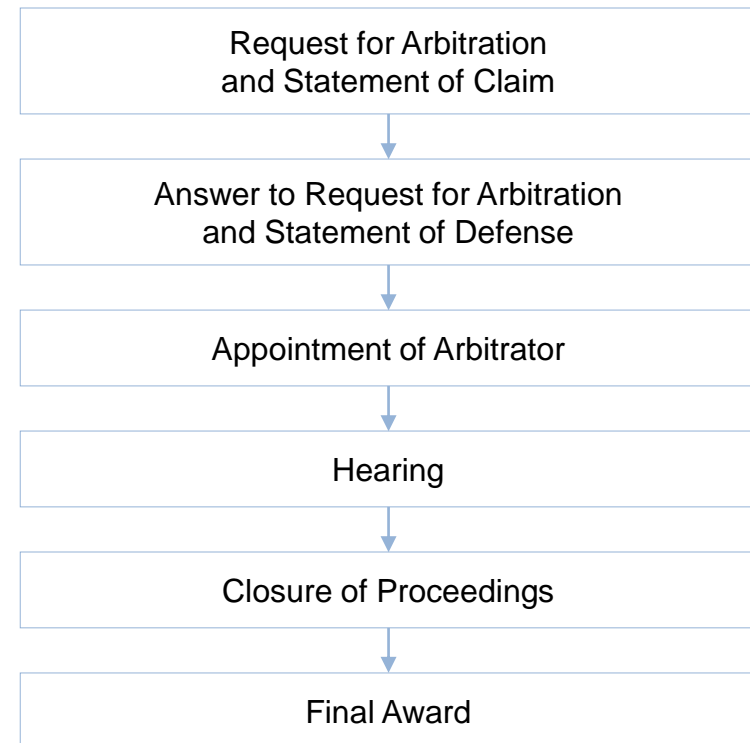
- License agreement on the use of mobile phone applications
  - Asian company and US-based start-up
  - Dispute resolution clause: WIPO Mediation followed by WIPO Arbitration
- Dispute regarding authorized use of application under license, in particular whether such use was to be made against payment or free of charge
- WIPO Mediation procedure
  - WIPO Center proposed mediator candidates and appointed mediator experience in technology-oriented cases in accordance with parties' choice
  - Mediation sessions took place entirely through telephone conversations
    - Caucus telephone conversations and calls involving both parties
  - Within two months after appointment of mediator, settlement agreement was reached with mediator's assistance, including joint interest in further collaborations between the parties

# Principal steps in a WIPO Arbitration

## WIPO Arbitration



## WIPO Expedited Arbitration



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

# WIPO Arbitration case example (1)

## *Dispute decided by arbitral award*

- Trademark license and supply agreement for medical product
  - Two European pharmaceutical companies
  - As agreed by parties, licensee authorized affiliated company to also commercialize medical product as sub-licensee
  - Dispute resolution clause: WIPO Expedited Arbitration Rules
- After some time parties tried to renegotiate terms of license and supply agreement
  - Negotiations failed, licensor terminated agreement
  - Sub-licensee commenced trademark registration proceedings for medical product with similar functions as product commercialized under initial agreement
    - Trademark granted; both licensees used it for commercialization of such medical product
    - Licensor commenced WIPO Expedited Arbitration proceedings
      - Claims of infringement of its earlier trademark
      - WIPO Center proposed arbitrator candidates with considerable expertise of pharmaceutical disputes
      - One-day hearing in Geneva
      - Final award rendered eight months after commencement

# WIPO Arbitration case example (2)

*Interim measures; Dispute decided by arbitral award*

- Trademark licensing and distribution agreement for luxury products
  - Two European companies
  - Agreement covered several European countries
  - Dispute resolution clause: WIPO Expedited Arbitration Rules, Geneva place of arbitration
- Several years after conclusion of agreement, differences on products commercialization arose and licensor terminated contract
- Other party filed Request for WIPO Expedited Arbitration, claiming unjustified termination of license and damage request
  - Following proposals made by WIPO Center, parties agreed on experienced arbitration practitioner
  - After appointment both parties requested interim measures relating to remaining products on stock and to further use of trademark for commercialization
  - Sole arbitrator assessed substantive issues, jurisdiction and conditions for interim measures under applicable law

# WIPO Arbitration case example (3)

*Dispute decided by three-member tribunal*

- Patent and know-how license agreement
  - European inventor holding patents in Australia, Europe and North America, and Asian company
  - Dispute resolution clause: WIPO Arbitration, three-member tribunal
- Parties disagreed on who should pay patents renewal fees
- Company terminated license
- Inventor filed Request for WIPO Arbitration, claiming damages and requesting declaration that he was free to use the patents
  - Three arbitrators appointed had substantial IP expertise and necessary skills to consider evidence in different languages
  - Award rendered 14 months after commencement
    - Asian company had not been entitled to contract termination and was ordered to pay damages and return to inventor prototypes, plans and documents

# WIPO Arbitration case example (4)

## *Settlement recorded in arbitration award*

- Patent licensing agreement
  - North American inventor and European company
  - Dispute resolution clause: WIPO Arbitration Rules
- Inventor terminated agreement following a number of disputes concerning payments and initiated WIPO Arbitration proceedings
  - Sole arbitrator nominated jointly by parties
  - Preparatory conference to discuss procedural order
- Parties informed WIPO Center that they were attempting to settle dispute and requested stay of proceedings; sole arbitrator granted stay of the proceedings
- Parties reached settlement agreement which was recorded in the form of consent award

# WIPO Arbitration case example (5)

## *Settlement after hearing*

- Patent license and development agreement
  - European company holder of process patents for extraction and purification of substance with medical uses and European company with expertise in medical application of substance
  - Dispute resolution clause: WIPO Arbitration
- Patent holder filed Request for WIPO Arbitration alleging that other party failed to start agreed developing activities
  - Respondent argued technical problems attributable to Claimant had forced it to terminate agreement, and filed counterclaim for breach of contract
  - Parties could not agree on arbitrator, WIPO Center appointed attorney with considerable experience in technology at issue
  - Sole arbitrator held three-day hearing in Geneva
    - Parties produced evidence, including witnesses
    - After hearing, parties held private meeting and agreed to settle dispute



# WIPO Arbitration case example (6)

*Negotiation followed by arbitration; Settlement in arbitration*

- License agreement relating to medical products
  - US company and eight European companies
  - Dispute resolution clause: good faith negotiation period (30 days), followed by WIPO Arbitration, to be conducted in Geneva before sole arbitrator, specific time limits
- Dispute related to deduction of certain taxes from licensee fee payments
- 30-day negotiation period without settlement
- WIPO Arbitration proceedings
  - Parties jointly appointed Swiss arbitrator
  - Dispute settled on date set for hearing, and arbitration terminated

# WIPO Arbitration case example (7)

## *Interim measures; Settlement in arbitration*

- License agreement to provide mobile payment service in a number of Asian countries
  - Asian company and European software developer
  - Dispute resolution clause: WIPO Arbitration
- Dispute related to performance of license agreement
- Asian company submitted Request for WIPO Arbitration
- Also obtained interim order (Article 48(d) of the WIPO Arbitration Rules) freezing developer's bank accounts from national court of developer's domicile
- WIPO Arbitration proceedings
  - Developer requested interim award ordering company
    - to discharge freezing order
    - to enjoin it from initiating any further action in court without prior consent of arbitrator
    - to provide a bank guarantee to secure payment of developer's counterclaim
  - Arbitrator declined to undertake action in direct relation to court case, and ordered company to provide bank guarantee
  - Conciliation conference at suggestion of arbitrator and with parties' consent, to communicate parties provisional conclusions
    - Although parties did not immediately settled, they were able to do so after further discussions in weeks that followed

# WIPO Arbitration case example (8)

## *Consolidation of arbitration proceedings*

- Three separate online gaming license agreements
  - European game software developer and several licensees based in South America and Europe
  - Dispute resolution clauses: Two software licensing agreements included WIPO Expedited Arbitration, third agreement did not include arbitration clause
- Licensees jointly initiated WIPO Expedited Arbitration, claiming breach of contract and software defects
- On the same day, game software developer submitted three requests for WIPO Expedited Arbitration against each licensee, claiming damages for breach of contract
  - Parties agreed on appointment of one of the candidates proposed by WIPO Center to act as sole arbitrator
  - Given the complex factual and legal links between the four parallel arbitrations, parties agreed to submit all claims into one set of proceedings by concluding jurisdictional and consolidation agreement
  - Final award within a year of commencement

# WIPO Arbitration case example (9)

## *Bifurcation in arbitration*

- Exclusive patent licensing agreement
  - European pharmaceutical company holding patents US, Europe and Asia, and US pharmaceutical company
  - License contained obligation for US company to obtain regulatory approval for product with US Food and Drug Administration
  - Dispute resolution clause: WIPO Arbitration
- European company terminated license agreement alleging that US company had breached its contractual obligation to disclose developments related to invention
- European company filed Request for WIPO Arbitration
  - Sought declaration of breach of contract and that European company was entitled to terminate license agreement
  - Also requested order that US company deliver all information related to development of pharmaceutical product and inquiry as to damages
  - Sole arbitrator issued procedural order bifurcating proceedings
    - First hearing to only deal with issues of liability
    - Damages to be dealt with at later stage, if applicable

# WIPO Arbitration case example (10)

## *Problematic arbitration clause*

- Exclusive patent license agreement
  - Asian inventor that held several US and EPO patents over components used in sport goods and US manufacturer
  - Dispute resolution clause: WIPO Expedited Arbitration
    - Problematic clause: WIPO Rules to resolve disputes regarding patent validity and enforceability, and Rules of another arbitration institution to resolve any other dispute arising from license agreement
- Discrepancies related to payment of royalties
- Inventor filed Request for WIPO Expedited Arbitration claiming breach contract
  - Parties could not agree on sole arbitrator; WIPO Center appointed European patent lawyer with substantial experience in US patent law
  - Given the complex structure of dispute resolution clause, manufacturer challenged jurisdiction of sole arbitrator regarding some of the patents
  - Sole arbitrator dealt with challenge as a preliminary issue confirming its jurisdiction
  - Extensive hearing (8 days) where parties filed evidence and examined witnesses
  - Sole arbitrator issued final award finding that manufacturer had infringed some claims of US patent and that the infringed patent was invalid

# Routes to WIPO ADR

- ADR contract clause
  - WIPO model clauses: [www.wipo.int/amc/en/clauses](http://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 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](mailto: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](http://www.wipo.int/amc/en/clauses)

# Clause example for your licensing agreement: 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

**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

**Core Elements** ?

**Place of Mediation**

Language of the Mediation

Duration of the Mediation Proceedings

**Additional Elements** ?

Qualifications of the Mediator

Conduct of the Mediation

#### Arbitration

**Core Elements** ?

Number of Arbitrators

Place of Arbitration

Language of Arbitration

Substantive Law

**Additional Elements** ?

Appointment Procedure

Qualifications of the Arbitrators

ECAF

Evidence

Time Period of Delivery of the Final Award

Appeal

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

# 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](mailto: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](mailto:arbitrator.mail@wipo.int) and to the requesting party.

Place and Date: \_\_\_\_\_

Signature: \_\_\_\_\_

# 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 ADR for FRAND Disputes

The WIPO Arbitration and Mediation Center (the “WIPO Center”) makes available tailored model submission agreements that parties may use to refer a dispute concerning the determination of fair, reasonable and non-discriminatory (FRAND) terms to WIPO Mediation, WIPO Arbitration or WIPO Expedited Arbitration. The WIPO model submission agreements seek to ensure a cost- and time-effective FRAND determination and have been developed further to a series of consultations conducted by the WIPO Center with leading patent law, standardization and arbitration experts from a number of jurisdictions. The WIPO Center also took into account comments made by some members and the Secretariat of the European Telecommunication Standards Institute (ETSI). The following options are available:

- WIPO Mediation options:
  - [WIPO Mediation for FRAND Disputes](#)
  - In the absence of a mediation agreement: [Unilateral Request for WIPO Mediation for FRAND Disputes](#)
- WIPO Arbitration options:
  - [WIPO Arbitration for FRAND Disputes](#)
  - [WIPO Expedited Arbitration for FRAND Disputes](#)
- Multi-tier model submission agreements:
  - [WIPO Mediation followed by Arbitration for FRAND Disputes](#)
  - [WIPO Mediation followed by Expedited Arbitration for FRAND Disputes](#)



### FEATURED

Guidance on  
WIPO FRAND  
Alternative Dispute  
Resolution (ADR)

世界知识产权组织  
FRAND 替代性  
争议解决机制  
(ADR) 指南

[www.wipo.int/amc/en/center/specific-sectors/ict/frand/](http://www.wipo.int/amc/en/center/specific-sectors/ict/frand/)

## 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](http://www.wipo.int/amc/en/mediation/pledge.html)

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and Mediation  
Center

# Contact us

- Queries: [arbiter.mail@wipo.int](mailto:arbiter.mail@wipo.int)
- Further information: [www.wipo.int/amc](http://www.wipo.int/amc)
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