



WIPO Mediation and Expedited Arbitration for Film and Media

Seminar on Dispute Prevention and Resolution
in the Film and Media Industry

London
January 20, 2011

Sarah Theurich, Legal Staff, WIPO Arbitration and Mediation
Center

World Intellectual Property Organization

- International organization, based in Geneva, Switzerland
- Dedicated to developing a balanced and accessible international intellectual property system
- 184 Member States
- Administers 24 treaties

- WIPO activities:
 - Normative
 - Development cooperation
 - Services

WIPO Arbitration and Mediation Center

- Established 1994, offices in Geneva and Singapore
- Provision of time and cost-effective alternative dispute resolution (ADR) services for intellectual property and related disputes between private parties
- International
- Specialized in IP/entertainment
- Not-for-profit
- Administration of cases
- Resource Center

WIPO Center Caseload

- **+230 mediations and arbitrations**
- **Contractual:**
 - production and co-production agreements
 - joint-ventures
 - financing agreements
 - film and TV rights distribution agreements
 - merchandising/licensing agreements
 - insurance agreements
 - new media agreements
 - copyright related agreements
 - TV and other media formats
 - settlement agreements
 - reciprocity agreements
- **Cases referred by courts to mediation**
- **Leading provider for domain name disputes: +30,000 domain name disputes since 2000 (e.g., <juliaroberts.com>, <harypotter.com>, <madonna.com>)**

WIPO Center Caseload

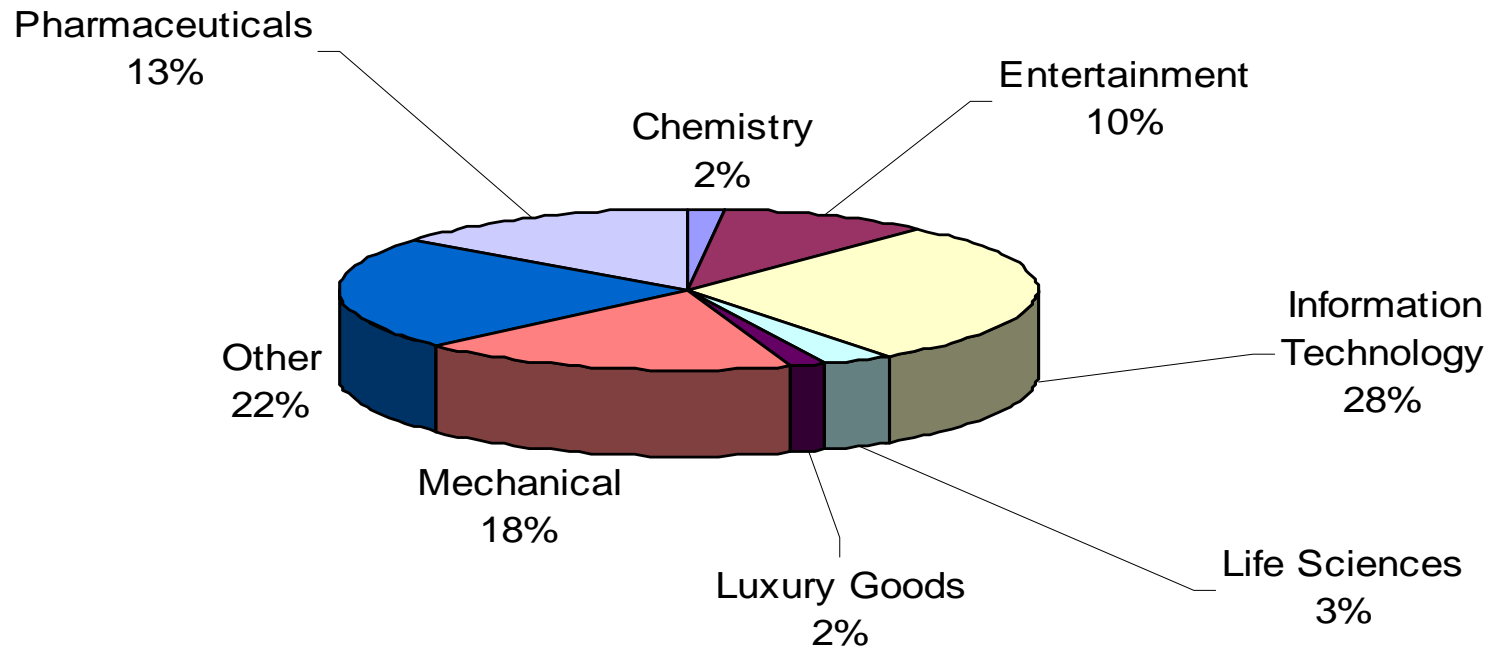
■ Parties involved have included

- Large Companies
- SMEs
- Collecting Societies
- Producers
- Individual Authors

■ Remedies


- Damages (Euro 20 K to Euro 600 M)
- Re-negotiation of agreements
- Declarations of infringement
- Creative Solutions

WIPO Cases: Business Areas



WIPO Mediation and Expedited Arbitration for Film and Media

www.wipo.int/amc/en/film



WIPO IP SERVICES

WORLD INTELLECTUAL PROPERTY ORGANIZATION

Deutsch | Español | Français

Contact us | Accessibility | Site map

ABOUT WIPO
IP SERVICES
PROGRAM ACTIVITIES
RESOURCES
NEWS & EVENTS

Home > IP Services > Arbitration and Mediation Center > Film and Media

ARBITRATION AND MEDIATION CENTER

About the Center

Arbitration

Mediation

Expert Determination

Recommended Clauses

Domain Names

Neutrals

Meetings and Workshops

Publications

What's New

Contact

E-NEWSLETTER

Subscribe to WIPO Arbitration and Mediation Center Mailing Lists

WIPO Mediation and Expedited Arbitration for Film and Media

The WIPO Arbitration and Mediation Center has developed the [WIPO Mediation and Expedited Arbitration Rules for Film and Media](#) specifically tailored to resolve potential disputes in the film and media sectors.

Developed in [cooperation](#) with industry experts, these [new rules](#), as well as the special model [contract clauses and submission agreements](#), are particularly appropriate for international film and media transactions where parties require an expedited arbitration process and mediation.

Areas of Dispute in the Film and Media Sectors

- production and co-production agreements
- joint-ventures
- copyright related agreements
- financing agreements
- distribution agreements
- broadcasting agreements
- completion bond agreements
- laboratory-access agreements
- funding agreements
- development agreements
- licensing
- music synchronization agreements
- merchandising agreements
- insurance agreements
- artist and talent agreements
- new media agreements
- sponsorship agreements
- co-ownership agreement
- confidentiality and non-disclosure agreements
- TV and other media formats

The fast moving nature of these sectors demands fast and cost-efficient dispute resolution tools. Mediation and arbitration can provide an efficient alternative to court litigation, especially for international disputes.

Potential users of the [WIPO Mediation and Expedited Arbitration Rules for Film and Media](#) include film makers, directors, actors, performers, guild and industry associations, producers, authors, screenwriters, creators, investors, financiers, film funds, performance bond companies, insurers, sales agents, entertainment, media and IP lawyers consultants and accountants, distributors, broadcasters, exhibitors, publishing houses, trade federations, collecting societies, users of creative material.

Rapid and Flexible Conflict Resolution Procedures

The [new rules](#) for film and media provide for a mediation procedure and an expedited arbitration procedure that can either be combined or used independently at the parties' option. These rules take account of the particular needs of those involved in the media and film sectors desiring an expedited procedure. The time limits in the WIPO Arbitration Rules applying to the various stages of the proceedings have been shortened in order to expedite the dispute resolution process chosen by the parties.

MEDIATION FOR FILM AND MEDIA

Request for Mediation

EXPEDITED ARBITRATION FOR FILM AND MEDIA

Request for Arbitration and Statement of Claim

WORLD INTELLECTUAL PROPERTY ORGANIZATION

WIPO Mediation and Expedited Arbitration for Film and Media

- Adapted for disputes arising out of cross-border or cross-regional film and media transactions, in particular co-production disputes
- Tailored Rules (shorter timelines, specific appointment procedure)
- Model dispute resolution contract clauses
- WIPO Film and Media Panel (international mediators, arbitrators and experts specialized in film and media matters)
- Reduced Fees
- WIPO ECAF
- Training

Mediation followed by Expedited Arbitration for Film and Media

■ Try mediation before expedited arbitration, at least until

- lapse of time period

- termination

■ Combining the benefits

- arbitration well-prepared

- increase of settlement chances

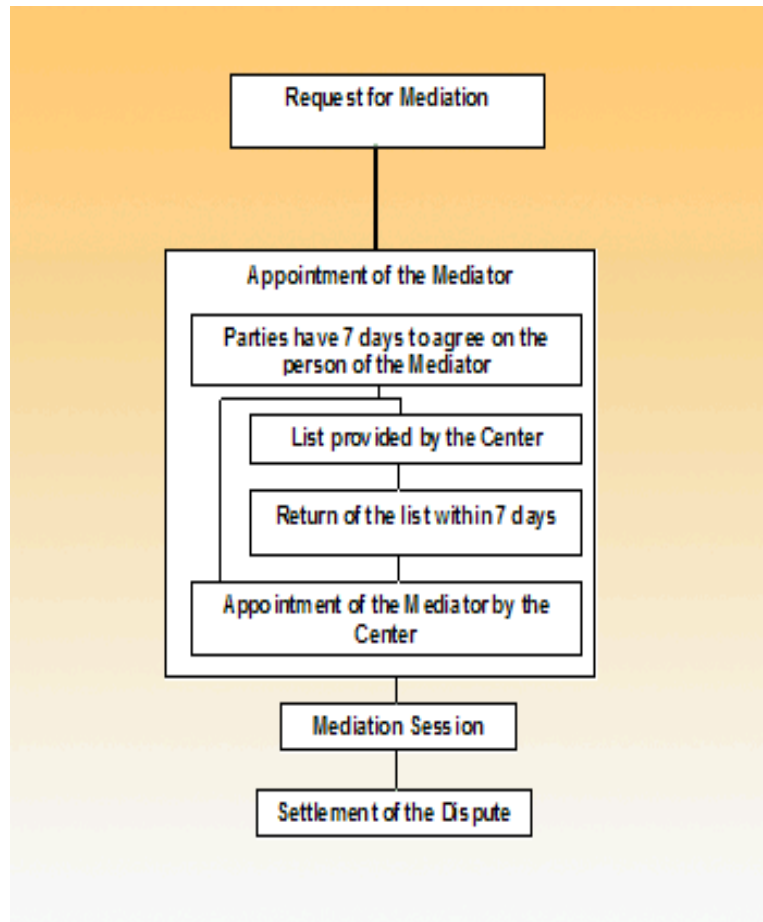
"Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be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



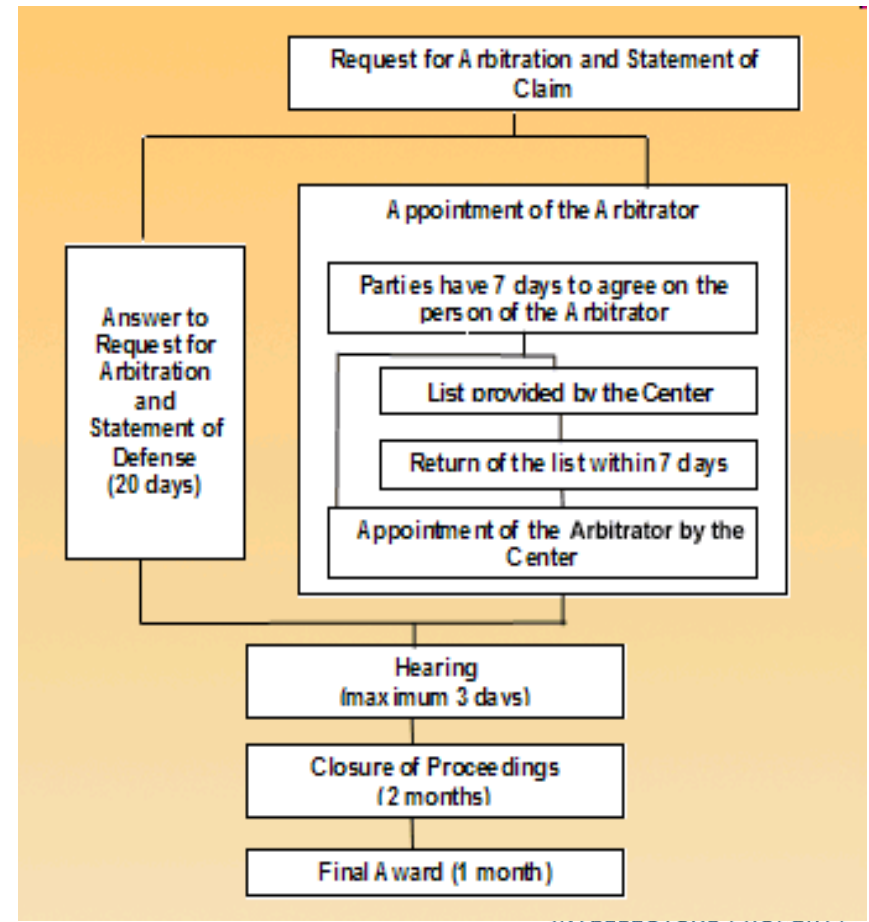
If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within [30][60] days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules for Film and Media. Alternatively, if, before the expiration of the said period of [30][60] 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 for Film and Media. The arbitral tribunal shall consist of a sole arbitrator. The place of arbitration shall be [...]. The language to be used in the arbitral proceedings shall be [...]. The dispute, controversy or claim referred to arbitration shall be decided in accordance with [...] law."

WIPO Mediation and Expedited Arbitration for Film and Media – the Procedure

WIPO Mediation for Film and Media



WIPO Expedited Arbitration for Film and Media



WIPO Mediation and Expedited Arbitration for Film and Media

TYPE OF FEE	AMOUNT IN DISPUTE	MEDIATION	EXPEDITED ARBITRATION
Administration Fee	Up to \$2.5 M	\$500	\$1,000
	Over \$2.5 M	\$1,000	\$2,000
Mediator and/or Arbitrator Fees	Up to \$ 2.5 M	Unless the parties agree otherwise, a rate of \$ 300 per hour as agreed by the Center in consultation with the parties and the mediator, capped at a maximum of \$ 10,000.	Unless the parties agree otherwise, a rate of \$ 300 per hour as agreed by the Center in consultation with the parties and the arbitrator, capped at a maximum of \$ 20,000
	Over \$ 2.5 M	Unless the parties agree otherwise, a rate of \$ 300 per hour as agreed by the Center in consultation with the parties and the mediator, capped at a maximum of \$20,000.	Unless the parties agree otherwise, a rate of \$ 300 per hour as agreed by the Center in consultation with the parties and the arbitrator, capped at a maximum of \$40,000.

WIPO Mediation and Expedited Arbitration for Film and Media - Format Dispute Resolution

- TV and other media format related dispute resolution
- As of April 2010, the WIPO Center and the Format Recognition and Protection Association (FRAPA) collaborate in alternative dispute resolution in the area of TV program format disputes
- Under this collaboration, the WIPO Center takes on FRAPA's existing mediation activity and administers TV format related disputes filed under the WIPO Mediation and Expedited Arbitration Rules for Film and Media

WIPO Electronic Case Facility

- **Web-based custom-created application**
 - For WIPO arbitration and mediation cases
 - By party agreement
- **Electronic case file**
 - Filing, storage, search, retrieval
 - Email alerts to all participants for each use of case file
- **Case management information**
 - Case overview, contact details

WIPO ECAF: Case File

ECAF HOME

[Help](#)
[Arbitration](#)
[Mediation](#)
[Expert Determination](#)
[Logout](#)

WIPO Electronic Case Facility (ECAF)

Case: WIPOA20020

Licensing v. AB Technics Inc.

Case Overview

Contact Information

Case File

Message Board

Neutral Message Board

Case File

Only documents to be recorded as part of the casefile should be submitted in the Case File.

Only first-level submissions will trigger an email notification to users.

Display issues from variations in browsers may be resolved by adjusting the Text Size in the browser menu.

 [Search Case](#)

 [Submit New File](#)

[Expand](#) | [Collapse](#)

To sort, you may click on the column headers

ITEM NO	SUBMITTED BY	DATE	SUBJECT	ANNEX
3	WIPO AMC Case Manager	04/06/09 14:44:26	Main Case File 3	1 [Add]
3.1		04/06/09 14:45:21	Annex 1	[Add]
2	WIPO AMC Case Manager	22/05/09 16:11:02	Main Case File 2	2 [Add]
2.1		22/05/09 16:11:22	Annex 1	3 [Add]
2.1.1		02/06/09 11:03:17	Annex 1	
2.1.2		21/09/09 12:05:27	Annex 2	

WIPO Arbitration Example - TV Rights Distribution Agreement

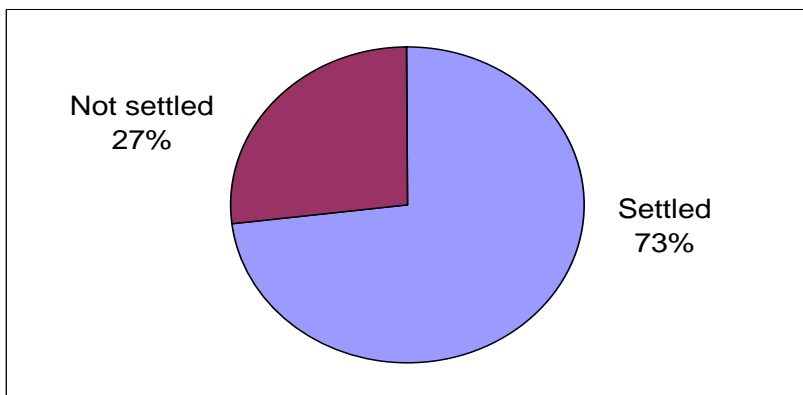
- Agreement between a sports federation and a media company that manages TV rights
- Exclusive TV distribution rights for certain regions
- WIPO Arbitration Clause, Sole Arbitrator, Swiss Law
- Company starts arbitration against sports federation
- Center provides list of arbitrators specialized in entertainment law and sports

Format Dispute Example

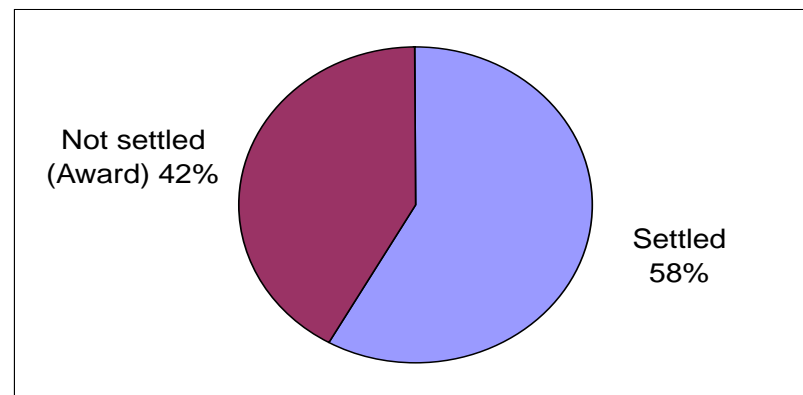
- Dispute between a format creator and a TV rights distributor
- Recognition of the creation of the TV format
- Issues of confidential information
- WIPO exercises its good offices to facilitate submission to mediation

WIPO Case Results: Settlement

Mediation



Arbitration



WIPO Expedited Arbitration for AGICOA

www.wipo.int/amc/en/arbitration/agicoa/

- AGICOA (Association of International Collective Management of Audiovisual Works)
- AGICOA Conflict Resolution:
 - First mandatory phase: AGICOA Conflict Resolution Procedure
 - Second Optional Phase: WIPO Expedited Arbitration for AGICOA:
 - Notification of Intention to file a request for arbitration
 - Language of procedure (English or French)
 - Reduced fees
 - AGICOA implements arbitral award
 - Special Panel of copyright and entertainment law arbitrators

WIPO Expedited Arbitration for EGEDA

www.wipo.int/amc/en/arbitration/egeda/

- “Entidad de Gestión de Derechos de los Productores Audiovisuales” (collecting society that represents and defends the interests of audiovisual producers in Spain)
- Disputes when two or more EGEDA rights holders who have declared their rights to EGEDA, claim to be entitled to certain exploitation rights
- First Mandatory Phase: EGEDA Conflict Resolution Procedure
- Second Optional Phase: WIPO Expedited Arbitration for EGEDA:
 - Notification of intention to file a request for arbitration
 - Language of procedure (Spanish and English)
 - Arbitrator’s fees: EUR 200 / hr, capped at EUR 4,000
 - EGEDA implements arbitral award
 - Panel of Copyright and Entertainment Law Arbitrators

Additional Information

- **WIPO Center Website:** *www.wipo.int/amc*

- **WIPO Events:** *www.wipo.int/amc/en/events/*
 - **WIPO-FRAPA Workshop “How to Resolve your Format Dispute?”**
MIPCOM, Cannes, April 2, 2011
 - **Masterclass on Legal Issues in the Film Industry**, Screen Singapore,
Singapore, June 2011
 - **WIPO Mediation Workshop**, Geneva, May 30 and 31, 2011
 - **WIPO Domain Name Workshop**, Geneva, October 11 and 12, 2011
 - **WIPO Arbitration Workshop**, Geneva, October 13 and 14, 2011

- **Email:** *arbiter.mail@wipo.int*
sarah.theurich@wipo.int