


Intellectual Property
Prof. Feroz Ali
Department of Humanities and Social Sciences
Indian Institute of Technology, Madras

Lecture – 62
Alternate Dispute Resolution

Alternate Dispute Resolution or ADR refers to means by which you can settle a dispute by employing certain dispute resolution methods. Now, this is distinct from a judicial determination. In a judicial determination, it is a person who files an infringement suit approaches the civil court and the civil court tries the matter and it comes to a conclusion. Not only is the process time consuming it also involves quite a lot of expenses as well.

ADR or alternate dispute resolution refers to different methods by which parties who are in dispute can resolve their disputes more efficiently. Whether, statutory disputes like infringement can be a subject matter of ADR is something which the courts have yet to determine.

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ADR

- Resolving IP disputes without having to start court proceedings
- Many forms of ADR
 - Arbitration
 - Mediation
 - Expert Determination


But, ADR could be used even before an infringement can arise. For instance there is a licensee who is refusing to pay the licence fee who has been paying the licensing fee till that point and he continues using the invention say it is a patent licence that the person enjoys without paying any royalties. In this case they will already be a licensee,

agreement and the agreement could provide for means of resolving disputes using ADR. So, if the licence has an arbitration clause then rather than initiating an infringement suit because any licensee who does not pay royalty could amount to infringement the licence the licensor can cancel the licence and file an infringement suit. The alternative would be to initiate alternate dispute resolution methods and to find a quick and an efficient settlement to the dispute.

Now, this area is used to resolve IP disputes without having to start court proceedings. So, it is most effective when there is no need to start or you have the area process in place before the court proceeding starts. Now, some of the ways in which you can have an alternative dispute resolution to your dispute is by arbitration, where the party is a point arbitrators and the arbitrators as a panel give a decision mediation which is not actually a decision that is rendered, but it is mediated settlement it is a kind of a settlement between the party a mediator facilitates the settlement and also by expert determination. If there is any dispute with regard to technical issue, the parties can appoint an expert and the expert and bind by the decision of the expert and move forward.

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WIPO



- WIPO Arbitration and Mediation Center
 - Established in 1993
 - Services of resolution of IP disputes b/w private parties
- Offers confidentiality of proceedings

Now, the WIPO World Intellectual Property Organisation has an arbitration and mediation centre which was established in 1993 and they have services for a resolution of IP dispute between private parties and it also offers confidentiality of proceedings.

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WIPO

- WIPO Internet Domain Name Dispute Resolution
 - Uniform domain name dispute resolution
 - Adopted by ICANN
 - UDRP applies to registrations in generic top level domains

We are already seen the WIPO has an internet domain name dispute resolution method and that is again it is one of the ADR methods and it is adopted and implemented by the ICANN and the registrations dispute with regard to registrations at the generic top level domain can be resolved before the WIPO internet domain name dispute resolution centre.