

Alternative Dispute Resolution in Copyright





World Intellectual Property Organization (WIPO)

- Leads development of global IP system to promote innovation and creativity
- IP and Innovation Ecosystems Sector (IES)
 - Helps WIPO Member States develop IP and innovation ecosystems, including through national IP strategies
 - Supports enterprises in IP commercialization and using IP for business growth

WIPO Arbitration and Mediation Center

- Facilitates the resolution of commercial disputes between private parties involving IP and technology, through procedures other than court litigation, including mediation and arbitration
 - Offices in Geneva and Singapore
 - Users around the world
- ADR provider specialized in IP disputes
 - WIPO mediators, arbitrators and experts experienced in IP and technology - able to deliver informed results efficiently
- International neutrality



Why ADR for IP Disputes

- Cost and duration of IP court litigation
- Internationalization of creation and use of IP
- Technical and specialized nature of IP
- Short product and market cycles in IP
- Confidential nature of IP
- Collaborative nature of IP creation and commercialization





IP ADR Developments

- Increased number of ADR cases related to IP and innovation disputes
 - ADR increasingly used by SMEs, startups, innovators and creators
- Use of multi-tiered dispute resolution clauses
 - Mediation + arbitration/litigation
- Online case administration tools
 - Videoconferencing tools
 - Case administration platforms, WIPO eADR
- International, regional and national IP and ADR legislation

Examples of Areas of Dispute

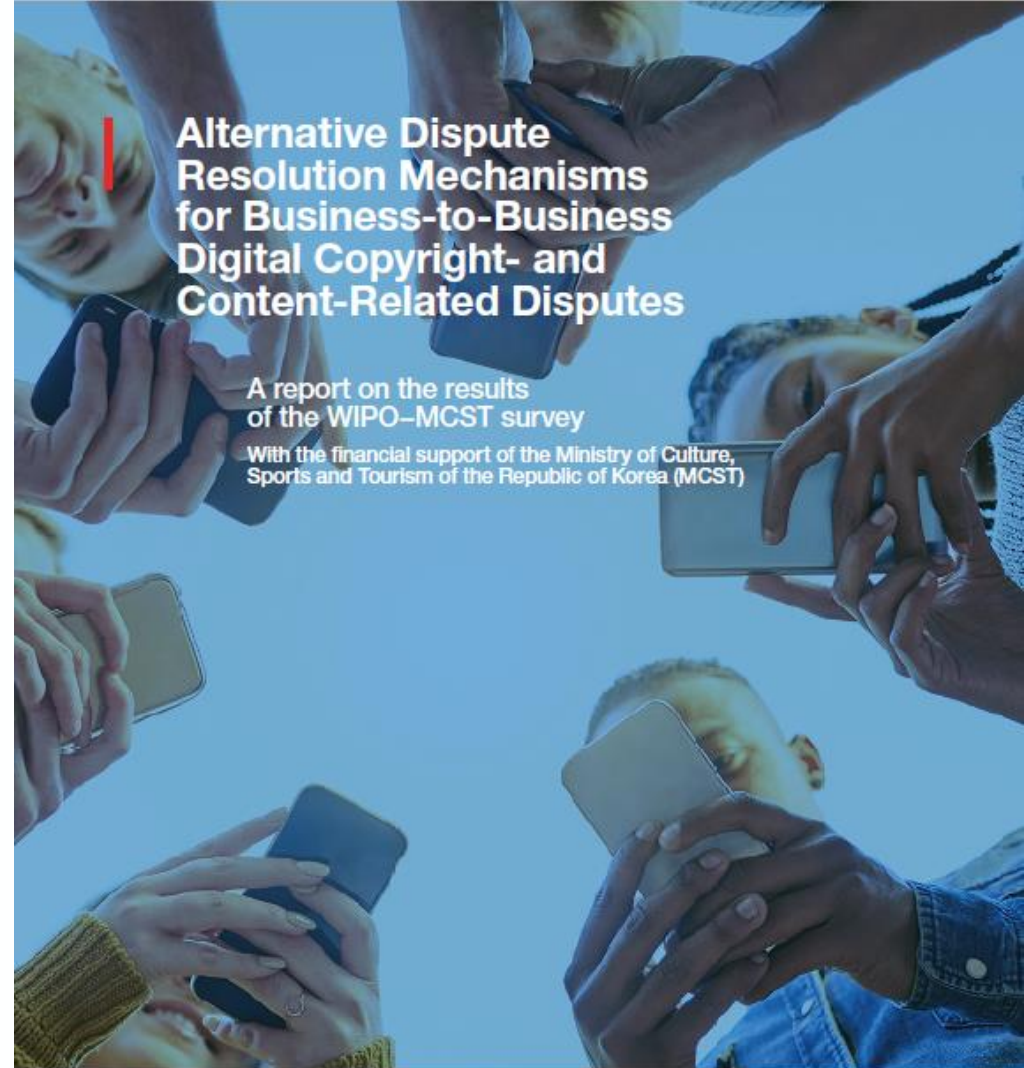
- Company specialized in digital effects and producer concerning agreement for co-production of animated film
- TV distribution company and international sports federation concerning agreement for exclusive broadcasting of sports competitions
- Video game company and developer regarding copyright infringement, payment of royalties and blocking of streaming of eSports competitions on online platform
- Photographer and media company regarding publication of photographs on internet without authorization or payment
- CMOs and digital cable operators concerning remuneration for TV stations offered by cable operators based established common tariff
- Copyright violation of scenario for computer game
- Unauthorized use of character in online audiovisual works
- Author of production and streaming companies regarding amount of royalties
- Creator and event organizer regarding copyright infringement of digital effects to be used in live broadcasting of sports competitions
- Company and software developer regarding scope of software licensing agreement to provide mobile payment services in certain countries
- Startup companies regarding licensing agreement for mobile apps
- Author and online platform regarding copyright infringement of music

WIPO-MCST Survey Report

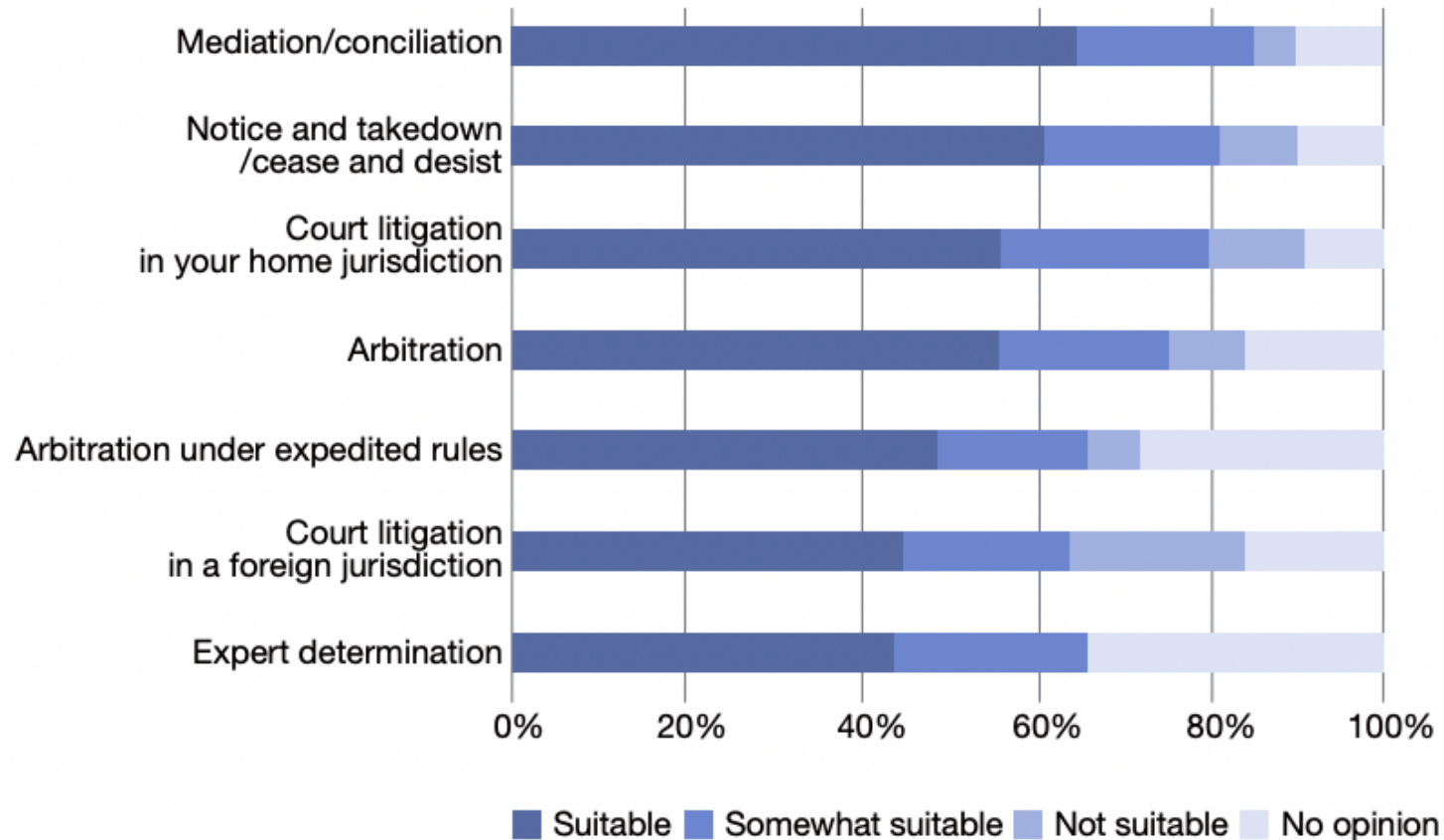
■ ADR Mechanisms for B2B Digital Copyright and Content-Related Disputes

■ +1,000 replies

■ 129 countries



Perception of Dispute Resolution Mechanisms



EU Directive 2019/790 on Copyright and Related Rights in the Digital Single Market

■ Access to and availability of audiovisual works on video-on-demand platforms

Article 13 - Negotiation mechanism

“...parties facing difficulties related to the licensing of rights when seeking to conclude an agreement for the purpose of making available audiovisual works on video-on-demand services may rely on the assistance of an impartial body or of mediators.”

■ Fair remuneration in exploitation contracts of authors and performers

Article 21 - ADR

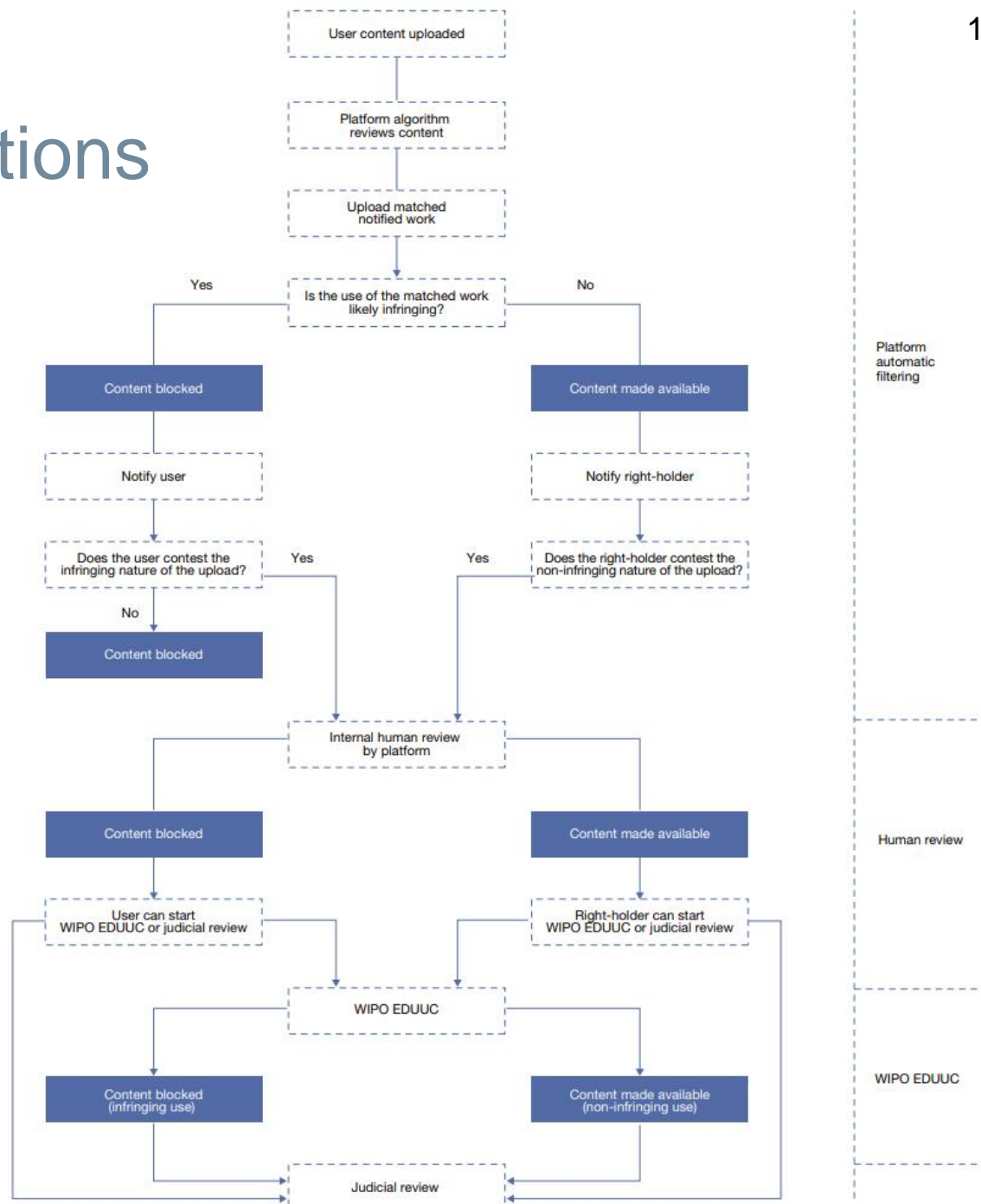
“...disputes concerning the transparency obligation ... and the contract adjustment mechanism ... may be submitted to a voluntary, alternative dispute resolution procedure.”

■ 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”

ADR Practical Applications

- WIPO Model Mediation Submission Agreement for Negotiation of Licenses for Audiovisual Works on Video-on-Demand Services
- WIPO Model Mediation Submission Agreement for Disputes Regarding Transparency Obligation and/or Contract Adjustment
- WIPO Expert Determination for User Uploaded Content Disputes (EDUUC)





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