

Alternative Dispute Resolution in the IPOPHL's Dispute Resolution System

Alternative dispute resolution (ADR) is a term referring to dispute resolution processes and techniques that act as a means for disagreeing parties to settle their dispute out of the court system and usually with the help of a third party. ADR may involve, but not limited to negotiation, arbitration and mediation (including conciliation). Republic Act No. 9285, or the Alternative Dispute Resolution Act of 2004 (ADR Act of 2004) promotes and encourages the use of ADR for the effective and speedy resolution of disputes filed before judicial and quasi-judicial bodies and administrative agencies of the government. ADR offers several advantages which include:

- Adherence to the concept of party autonomy in choosing the neutral they think has the expertise in the area of dispute.
- Flexibility of procedure thus, giving parties greater control over the way on which to resolve issues and eventually the conflict.
- Confidentiality of the proceedings allows greater focus on the merits of the dispute and limits disclosure of important IP assets such as trade secrets.
- If implemented the right way may result to lower cost of settling the dispute.
- Less adversarial promotes the preservation of relationships and the preservation of reputations.

The ADR program of IPOPHL involves mediation and arbitration and in combination with adjudication offers a three-tier option for parties to resolving their dispute. Mediation is a process of settling dispute with the help of a third neutral party called the mediator. The main function of the mediator is to facilitate the discussion and negotiation; and skillfully enjoins the parties to cooperate in order to come up with a mutually satisfactory settlement of their dispute. Mediation resolves disputes quickly and efficiently as parties work together with the mediator in finding a solution beneficial to both parties. Under IPOPHL ADR procedure, mediation is initially offered to the parties as the first viable option in resolving their IP dispute.

If the parties decide not to accept mediation or in case the parties requested for the termination of mediation proceedings, arbitration is offered as the next avenue in finding a resolution of their dispute. Arbitration is described as a binding procedure in which the dispute is submitted to one or more arbitrators who make a final decision on the dispute. If the parties refuse to submit their case to arbitration then it is considered that the parties have exhausted their option to use ADR in resolving their dispute and the case is reverted back to litigation as last resort for the resolution of the case. The transition of ADR to litigation, from mediation to arbitration then lastly to adjudication is considered the most practical and expeditious path in resolving IP disputes while giving the parties all the opportunities to resolve their dispute amicably.