

WIPO Mediation and Arbitration Workshop

Munich, Germany, Thursday, November 9, 2017

Organized by
WIPO Arbitration and Mediation Center

In collaboration with
Max Planck Institute for Innovation and Competition
Munich IP Dispute Resolution Forum

Supported by
Licensing Executives Society (LES) Germany

DRAFT PROGRAM OUTLINE

Thursday, November 9, 2017

- 08:30 – 09:00 *Registration*
- 09:00 – 09:15 **I. Opening**
 Ignacio de Castro (Deputy Director, WIPO Arbitration and Mediation Center)
 Josef Drexl (Director, Max Planck Institute for Innovation and Competition)
 Axel Walz (Munich IP Dispute Resolution Forum)
 Heinz Goddar (Licensing Executives Society (LES), Germany)
- 09:15 – 09:30 **II. Overview: WIPO Arbitration and Mediation Center, including the WIPO Rules**
Session Leader: Heike Wollgast (Senior Legal Officer, WIPO Arbitration and Mediation Center)
1. Role of the WIPO Arbitration and Mediation Center
 2. WIPO Mediation and Arbitration Rules and WIPO mediators and arbitrators
- 09:30 – 10:00 **III. Intellectual Property Dispute Resolution – Recent Developments**
Session Leaders: Clement Ngai (Baker & McKenzie, Shanghai) and Sabine Rojahn (Taylor Wessing, Munich)
1. Special Features of Intellectual Property Disputes in Particular Patent Disputes
 2. Benefits and Limitations of Mediation and Arbitration in Intellectual Property Disputes as Compared to Court Litigation
- 10:00 – 10:45 **IV. Intellectual Property Mediation: The Conduct of a Mediation and the Role of the Different Actors**
Session Leader: Jon Lang (Independent Mediator, London)
1. Mediation stages – preparation, exploration, bargaining, negotiation and concluding phase
 2. Selection and Appointment of the Mediator
 - (i) Negotiating a suitable candidate
 - (ii) The WIPO Arbitration and Mediation Center's role
 3. The mediator's role and techniques
 4. The lawyers' role
 5. The parties' role
- 10:45 – 11:00 *Questions and Answers*
- 11:00 – 11:30 *Coffee Break*
- 11:30 – 12:00 **V. Concluding the Mediation**
Session Leader: Russell Levine
1. Exploring possible alternative solutions
 2. Settlement
 - (i) Terms of Agreement
 - (ii) Settlement Agreement
 - (iii) Enforceability
 3. Conclusion

12:00 – 12:45 **VI. Intellectual Property Arbitration**

Session Leaders: Trevor Cook (Wilmer Hale, New York) and Philip Groz (Schellenberg Wittmer, Zurich)

1. Legal Framework
 - (i) Arbitration Agreement
 - (ii) Place of Arbitration
 - (iii) Law Applicable to the Merits
 - (iv) Law of the Place of Enforcement
 - (v) Rules
2. Reputed Principles
 - (i) Party Autonomy
 - (ii) International Procedure
 - (iii) Confidentiality
3. Points of Tension and the Role of the Arbitrator
 - (i) Cost
 - (ii) Speed
 - (iii) Due Process
4. Recent Developments in International Arbitration

12:45 – 13:00 *Questions and Answers*

13:00 – 14:00 *Lunch*

14:00 – 14:45 **VII. The Conduct of Arbitration Proceedings**

Session Leaders: Rachael Kent (Wilmer Hale, Washington DC), David Perkins (WIPO Mediator and Arbitrator, London), and Tilman Niedermaier (CMS Hasche Sigle, Munich)

1. Written Submissions
 - (i) Request for Arbitration and Answer to the Request
 - (ii) Statement of Claim and Statement of Defense
 - (iii) Further Written Statements
2. Expedited Arbitration Compared to Arbitration
3. Selection and Appointment of the Tribunal
 - (i) Appointment Procedure
 - (ii) Appointment of a Three Member Tribunal
 - (i) Fees
 - (ii) Challenges
4. Evidence and IP
 - (i) Civil Law and Common Law Practice
 - (ii) Witnesses: Fact and Expert Witnesses, Form of Testimony - Written
 - (iii) Experts: Party Appointed and Tribunal Appointed
 - (iv) Scientific and Technical Evidence
 - (v) Request and Disclosure of Documents
 - (vi) Trade Secrets and Confidential Information
 - (vii) Privilege
5. Hearings
 - (i) Preparation for the Hearing
 - (ii) Conduct of the Hearing
 - (iii) Opening and Closing Statements
 - (iv) Witnesses – Oral Testimony and Examination
6. Post-hearing Briefs

- 14:45 – 15:15 **VIII. Interim and Emergency Relief**
Session Leader: Garreth Wong (Bird & Bird, London)
1. Availability
 2. Enforceability of Interim Awards
 3. Dealing with Urgent Requests
 4. Party Applications for Judicial Relief
 5. Emergency Relief
- 15:15 – 15:45 **IX. Awards**
Session Leader: Domitille Baizeau (Lalive, Geneva)
1. Decision-Making
 2. Types of Awards
 3. Drafting the Award and Informal Scrutiny
 4. Remedies
 5. Costs
 6. Applications for Correction or Additional Award
 7. Post-Award Contact with Parties or Counsel
 8. Enforcement
- 15.45 – 16:00 *Questions and Answers*
- 16.00 – 16:30 *Coffee Break*
- 16:30 – 17:15 **X. Industry Panel: The Use of ADR for IP and Technology Disputes**
Session Leaders: Vandita Chandrani (Procter & Gamble), Ingo Gehring (Siemens), and Michael Gross (Fraunhofer)
- 17:15 – 17:45 **XI. Drafting Effective Mediation and Arbitration Clauses and Submission Agreements for IP Disputes**
Session Leaders: Joachim Feldges (Allen & Overy, Munich) and Ignacio de Castro
1. Examples of Clauses and Submission Agreements
 2. Choosing the Place of Arbitration
 3. WIPO Clause Generator
- 17.45 – 18.00 *Questions and Answers*
- 18:00 *Closing*

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