

4th IP Mediation Conference 2023

A business case for business

19 - 20 October 2023

Conference Programme

Hybrid event

EUIPO Auditorium and online

Thursday 19 October 2023

08:30-09:00 Registration

09:00-09:30 Welcome coffee / Connection

I. Welcome and Opening Statements

09.30 – 10.05

João Negrão – Executive Director of the EUIPO

Jorma Hanski – Chairperson of the Management Board of the EUIPO and Director, Patents and Trademarks at the Finnish Patent and Registration Office

José Antonio Gil Celedonio – Chairperson of the Budget Committee of the EUIPO and IP Attaché at the Spanish Permanent Representation to the EU

Savvas S. Papasavvas – Vice-President – General Court of the European Union

Gordon Humphreys – President *ad interim* of the Boards of Appeal and accredited mediator at the EUIPO

II. Keynote address

Mediation and Alternative Dispute Resolution: an institutional choice for driving competitive global business?

10.05 – 10.10

Keynote speaker:

Anna Joubin-Bret - Secretary of the United Nations Commission on International Trade Law, Director of the International Trade Law Division in the Office of Legal Affairs of the United Nations

Competitiveness remains the key issue for global business, both in terms of expansion, efficiency, corporate social responsibility and reputation. But how do institutions see mediation and alternative dispute resolution as contributing to the competitiveness of international business management?

III. Mediation and ADR policy developments in the EU and beyond: fit for business purposes?

10.10 -13.00

From the EU Directive on Mediation, through national regulations, to international developments like the Singapore Convention, a wealth of legislative and policy texts supporting and promoting the use of mediation and ADR are currently in force. In this context, new legislative packages have been announced, that may impact the alternative dispute resolution landscape in the field of IP in the EU. Does this current and proposed compendium provide a fully-fledged set of tools that are ready to be used by smaller and bigger businesses, or is anything missing?

10.10 -11.00 **Session 1 – Legal framework for mediation: do businesses have what they need?**

Panel discussion

The panellists will discuss the practical outcomes of the legal framework and policies in place to facilitate mediation, and specifically their usefulness for disputes in the field of IP. The panel will assess the extent to which this framework has constituted an incentive to choose mediation over litigation and whether it provides appropriate responses to the needs of businesses.

Moderator: James Nurton – Director at Lextel Partners

Speakers:

Goda Ambrasaitė-Balynienė – Judge at the Supreme Court of Lithuania

Nathalia Mazzonetto – Attorney and Mediator, Partner at Müller Mazzonetto

Ivana Ninčić Österle– Executive Director of the International Mediation Institute

Adrián Vázquez Lázara – Member of the European Parliament, Chair of the JURI Committee

11.00-11.30 **Networking coffee**

11.30-12.15 Session 2 – Can Europe become a global IP ADR hub?

Panel discussion

As the biggest trading block in the world, the EU is perfectly positioned to become a major ADR hub. But what are the ‘boots-on-the ground’ realities for business users of these services in Europe? There may be benefits to incorporating ADR into the upcoming EU legislative initiatives within the field of IP, especially for transnational business users. Hence, if the legislative proposals brought about by the EU Commission’s proposed ‘patent-package’ becomes a reality, the EU will enlarge and expand the scope for using, not only mediation, but alternative dispute resolution mechanisms at large. Nevertheless, what do businesses really want and what can they expect from the European Union and other international organisations when it comes to supporting their needs for efficient dispute resolution in the global market?

Moderator: Aleš Zalar – President of the European Centre for Dispute Resolution (ECDR), Former Minister of Justice of Slovenia

Speakers:

Guillaume de la Bigne – IP Attorney and Mediator at LLR

Gordon Humphreys – President *ad interim* of the Boards of Appeal and accredited mediator at the EUIPO

F. Peter Müller – Managing Partner at Müller Schupfner & Partner

Dr. Axel Walz - Regional Court Judge, Higher Regional Court of Munich

12.15-13.00 Session 3 – A deep dive into mediation models: voluntary or mandatory mediation – what works best?

Panel discussion

By nature, mediation is an entirely voluntary and flexible structured process. Some jurisdictions are, however, progressively incorporating this process as a mandatory step in their system of access to justice. In this panel discussion, we will hear about the pros and cons of the application of each of these models and what we can learn from these practices to better promote mediation.

Moderator: Nadja Alexander – Professor and Director of the Singapore International Dispute Resolution Academy (SIDRA)

Speakers:

Rowel Barba – Director General of the Intellectual Property Office of the Philippines

Pierre-Yves de Harven – Judge at the Brussels Business Tribunal

Leonardo D’Urso – Co-founder and CEO of the ADR Center

Joana Soares Correia – Chairperson of the Board of Directors of ARBITRARE

13.00-14.30 Networking buffet

IV. The Big Buy-In: what does mediation have to offer to lawyers and businesses?

14.30-17.40

Lawyers and in-house counsels have a pivotal role in the mediation process – but what’s really in it for them and their clients? When lawyers decide to recommend mediation to their client, they need to know, and show, their own added value in the process, which can be quite tricky as it draws on other areas of knowledge and a different set of skills. In the ‘Big Buy-In’, attendees will hear some practical experiences and specific relevant skills and techniques, to explain how lawyers might benefit from and contribute to taking negotiation to the ‘next level’ and help their clients to achieve mutually advantageous outcomes in the mediation process.

14.30-15.15 Session 4 – The lawyer as a problem-solver

Panel discussion

In difficult negotiations, clients turn to their lawyers as their problem-solvers, but often a mere legal education may prove to be insufficient. In effect, lawyers will need an all-encompassing knowledge and skills to counsel their clients on the legal viability of proposals during facilitated negotiations and to assess the associated risks. This may include anticipating how to cope with unexpected issues, such as VAT, competition law matters, foreign law, regulatory questions, territorial delimitations, etc. So, how can lawyers prepare to help their clients navigate the unforeseen legal issues in the mediation process?

Moderator: Sukanya Sarkar – Senior Reporter at Managing IP

Speakers:

Judit Lantos – Attorney at Law and Mediator at Judit Lantos Law Firm

Alessandra Romeo – Italian and European Trademark Attorney, Italian Mediator, and External Relations Officer of MARQUES, European Association of Trade Mark Owners

Mladen Vukmir – President of ECTA

15.15-15.45 Session 5 – Essential mediation advocacy skills for lawyers

Fireside chat

Succeeding in mediation calls for a mindset and a skillset that is radically different from the courtroom approach, and this is normally not addressed in the basic academic curriculum. Developing the right competencies is all the more pressing because the next generation of lawyers are less likely to have ‘their day in court’ as the negotiation and mediation culture evolves. What are the main advocacy skills and techniques that a lawyer should be equipped with for mediation?

Moderator: Isabel Philipps – Director of Policy and ADR Development at the Chartered Institute of Arbitrators (CI Arb)

Speakers:

Jeremy Lack – Attorney-at-Law and ADR Neutral at LAWTECH.CH

Dimitra Triantafyllou – Lawyer, Mediator, Arbitrator, Mediation & Negotiation Trainer at DELTAtotheEpsilon, Toolkit Company

15.45-16.15 Networking coffee

16.15-17.00 Session 6 – Don't get stuck on the settlement agreement

Panel discussion

The parties have reached the end of their mediation process and agree on the key elements for a friendly settlement. Congratulations! Now it's time for the lawyers to draft the settlement agreement, which 'shouldn't be that difficult, it's just like any other contract'. Or is it? Settlement agreements must address a world of complexities of their own, including satisfactory clauses on IP rights. What's the safest way forward?

Moderator: Alya Ladjimi – Manager at the International Centre for ADR at the International Chamber of Commerce (ICC)

Speakers:

Luca Barbero – CEO, Trademark Attorney at Studio Barbero SpA

Borja Díaz-Puertollano García – Associate in the Litigation, Arbitration and Mediation Department at Roca Junyent

David Perkins – Independent Mediator and Arbitrator

17.00-17.30 Session 7 – Closing the gap: the ADR balance sheet

Fireside chat

ADR – does that stand for Alternative Dispute Resolution or simply 'A Drop in Revenue' for IP practitioners? This session discusses the conclusions of an economist and a seasoned IP lawyer and mediator on the essence of alternative dispute resolution, using a balance sheet approach to weigh up the economic pros and cons of recommending and pursuing alternative dispute resolution instead of formal adversarial proceedings. In a counselling process with clients, how can IP practitioners assess the value of the IP dispute at hand?

Moderator: José Antonio Gil Celedonio – Chairperson of the Budget Committee of the EUIPO and IP Attaché at the Spanish Permanent Representation to the EU

Speakers:

Javier Fernández-Lasquetty – Partner at Elzaburu SLP and Associate Professor, IE Law School

Javier Soriano Gonzalvo – Programme Manager at the Alternative Dispute Resolution Service of the Boards of Appeal of the EUIPO

17.30-17.40 End of Day 1

20.00-22.30 Official Dinner

Friday 20 October 2023

09.00-09.30 Welcome coffee / Connection

V. Hands-on mediation

09.30-12.30

This part of the Conference will concentrate on the practice of mediation within the IP field and will focus on debriefing experiences from different angles.

09.30-09.45 – Session 8 – Keynote address: what I learnt from mediating

Keynote speaker:

Louise Otis – Lawyer, mediator, international administrative judge at the McGill University

Mediation is undeniably all about practice and sharing useful know-how. This personal insight will provide inspiration and explore the power of mediation to solve IP disputes.

09.45-10.30 – Session 9 – Mediation best practice: tips and traps for successful mediations

Panel discussion

How can we avoid the typical or unforeseen pitfalls in mediation? The most personal learning points from experienced lawyers, mediators and parties.

Moderator: Sven Stürmann – Chairperson of the Second and Third Board of Appeal and accredited mediator at the EUIPO

Speakers:

Amrik Kandola – Mediator at CEDR & ASK Mediation Limited

Elena Koltsaki – Affiliate Professor of Negotiations & Mediation Management and Lawyer-Mediator at ALBA Graduate Business School at the American College of Greece

Monika Rhein – Presiding Judge at Landgericht München I

Marie Aude Ziadé – Attorney at Law, Partner at Gowling WLG in Dispute Resolution and International Arbitration

10.30-11.00 – Session 10 – Ethics in Mediation

Mediation is often a journey through ethical dilemmas. How would you navigate this ocean? Try out your position!

Speakers:

Ioanna Mamali – Judge at the Piraeus Court of Appeal

Omer Shapira – Associate Professor of Law & Senior Lecturer at Ono Academic College

James South – Chief Executive of the Centre for Effective Dispute Resolution (CEDR)

11.00-11.30 Networking Coffee

11.30-12.00 – Session 11 – Watch out for the cultural minefield in mediation

Fireside chat

Assumptions, clichés, cultural stereotypes and generalisations can be really dangerous, and even more so in mediation, a highly interactive process based on rapport and inducing trust. How can we avoid getting trapped in this minefield?

Speakers:

Judith Kelbie – Director of London School of Mediation

George Lim – Consultant at Wee, Tay & Lim

Sergio Rizzo – Member of the Boards of Appeal of the EUIPO

VI. Mediation tech

12.00-13.30

Well-designed tools can support the parties, the mediators, and the mediation process. In this part of the programme, attendees will get an overview of the cutting-edge technologies designed to assist parties in solving their disputes.

12.00-12.30 – Session 12 – Reality check on tech and artificial intelligence in ADR

Presentation

Artificial intelligence (AI) has been described as a phenomenon that is shaping the nature of legal discourse, including in ADR. Various tools offering intelligent negotiation and decision-making support are now on offer. It is clear that the AI-enhanced systems are not a mere tool to aid dispute resolution, like a telephone or a calculator, but can they help? Can they become a new means or a forum of dispute resolution? What can we expect in the near future?

Speaker:

Miguel Ortega – Head of New Technologies Service at the Digital Transformation Department at the EUIPO

12.30-13.10 – Session 13 – Remote mediation: How can tech support international dispute resolution?

Panel discussion

Technology makes it possible to hear cases remotely, demonstrate evidence more effectively and submit case documents electronically. Online dispute resolution (ODR) mechanisms, which originated in the 1990s, have grown tremendously in the past few decades. Even as ODR tools become increasingly popular for dispute resolution, humans still experience emotions. Does ODR have the capacity to support this aspect of the resolution process and, if so, how?

Moderator: Harrie Temmink - Head of IP in the Digital World Service at the Observatory of the EUIPO

Speakers:

Joe Al-Khayat – Co-founder of Resolve Disputes Online

John Zeleznikow – Professor at La Trobe University

VII. Conclusions and closure

13.10-13.45

The final session will discuss the main conclusions of the programme providing a synthesis of the whole conference.

13.10-13.30 – Main conclusions: Young practitioners' highlights on the IP Mediation Conference

EUIPO Pan European Seal trainees discuss the main takeaways from the Conference.

Moderator: Camila Kryger - Administrative assistant – BoA Communication Correspondent at the Boards of Appeal, EUIPO

Speakers:

Olaya López Peña - Trust & Safety Associate, Accenture

Lucas van Harten – Examiner at the Benelux IP Office (BOIP)

13.30-13.45 – Closing remarks

Gordon Humphreys – President *ad interim* of the Boards of Appeal and accredited mediator at the EUIPO

13.45-15.30 – Networking Buffet

15.30 **End of Day 2 and End of the Conference**