



SINGAPORE  
INTERNATIONAL  
MEDIATION CENTRE

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**SINGAPORE INTERNATIONAL MEDIATION CENTRE WELCOMES NEW COLLABORATION  
WITH WORLD INTELLECTUAL PROPERTY ORGANIZATION TO TACKLE INTELLECTUAL  
PROPERTY AND TECHNOLOGY DISPUTES**

*The novel tie-up promotes the use of international mediation to resolve IP and technology disputes, which need efficient and effective solutions in the fast-moving digital world.*

SINGAPORE — The Singapore International Mediation Centre (SIMC) is pleased to collaborate with the World Intellectual Property Organization's<sup>1</sup> Arbitration and Mediation Center (WIPO Center) in a partnership to promote the use of mediation in the IP and technology sector.

Under the agreement, the WIPO Center and SIMC will join hands on areas of common interest. One area is case administration – this will potentially see both centres drawing on their respective strengths and successes, to help businesses resolve disputes successfully. Another area is raising awareness and education of mediation as an important tool to resolve IP and technology-related disputes.

The collaboration responds to the urgent need to address the numerous forms of disputes that have arisen in the IP and technology sector, given the growing pervasiveness of technology. These include disagreements relating to IP, licensing, franchising and distribution agreements, research and development, and technology transfer agreements. Many of these disputes arise in Asia and are often of high risk and high value<sup>2</sup>.

To address the negative impact of IP and technology-related disputes, both centres will explore synergies, leveraging their track records. The WIPO Center has administered over 740 mediation, arbitration and expert determination cases, mostly filed in recent years. SIMC has administered

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<sup>1</sup> WIPO is a specialised agency of the United Nations.

<sup>2</sup> Queen Mary University International Dispute Resolution Survey 2016: *Pre-empting and Resolving Technology, Media and Telecoms Disputes*. Asia reported the greatest number of disputes (37% of respondents had experience of more than 20 disputes; 25% said their largest disputes was over USD100m).



about 130 mediations to-date, and is seeing growing interest in the mediation of IP and technology-related disputes (see **Annex**).

Across the IP and technology sector, businesses operating in the fast-moving digital age recognise the need for swift and effective resolution, which call for alternative forms of dispute resolution. Mediation is gaining traction given its multiple benefits. Business users value mediation for its confidentiality, cost savings, speed and neutrality<sup>3</sup>. As mediation is an amicable process, relationships are preserved despite the disagreements. Mediation is also effective, with at least 70% of disputes at the WIPO Center and SIMC seeing successful settlement. Further, through frameworks such as the Singapore Convention on Mediation and hybrid dispute resolution procedures, mediation outcomes have enforceability and finality, ensuring that parties comply with the terms of their settlement.

To launch this collaboration, the WIPO Center and SIMC will hold a joint webinar on 27 October 2020. During this webinar, SIMC Chairman George Lim SC and Ignacio de Castro, Director of IP Disputes and External Relations Division at the WIPO Center, who signed the agreement earlier this year, will make opening remarks. During the webinar, experts will discuss recent trends and issues in IP and technology dispute settlement, including the growing need for expedited dispute resolution processes, how companies may take advantage of mediation to resolve disputes swiftly, and the significance of the Singapore Convention on Mediation.

Mr de Castro said: "The WIPO Arbitration and Mediation Center is delighted to conclude this strategic collaboration with SIMC, a leading mediation institution for international disputes in Singapore. We believe that this partnership will enable us to further contribute to the promotion of mediation for cross-border IP and technology disputes. We look forward to working with SIMC to support companies and innovators settle their disputes through more time and cost-effective alternatives to court litigation. Thanks to the work of WIPO mediators and the increased use of the

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<sup>3</sup> SIDRA International Dispute Resolution Survey 2020; *Comparing User Perspectives of Factor Importance and User Satisfaction* (p.9).



free online tools<sup>4</sup> offered by the WIPO Center, parties in WIPO mediations have achieved an 85,7% settlement rate in 2020.”

Ms Chiara Accornero, Representative of the WIPO Center in Singapore, said: “Disputes, if not addressed early, can seriously affect a business’s operations. The WIPO Center provides efficient case management, including online tools, to facilitate dispute settlement. The WIPO Center has a strong track record in settling complex, high-value cases, as well as a global list of mediators who are experts in the different areas of IP and technology.”

Mr Lim said: “We can expect IP and tech-related disputes to grow, given the internationalisation of IP creation and exploitation, and cross-border regulatory issues. These are not to be ignored as companies in this space now find cross-border collaboration to be increasingly commonplace and necessary. Disputes arising from such projects can be complicated with significant impact on consumers, given the international footprint of tech companies.”

“Finding all-rounded solutions that make commercial sense is a key feature of mediation. This minimises delays and protects long-term, multi-party relationships that are typical of many high-value technology projects. With the potential for both institutions to collaborate on cases, parties may now tap the synergies of two world-class institutions to consult for their disputes. We are pleased to partner with a world-class institution such as the WIPO Center and we look forward to a meaningful partnership.”

SIMC CEO Mr Chuan Wee Meng said: “This collaboration is a strong testament of both organisations’ commitment to helping businesses resolve disputes swiftly and effectively. Very often, bringing a matter to court is time consuming and costly, and may not always present an outcome that directly addresses the interests of parties. Around the world, the impact of the pandemic may affect the capacity of the courts and other adjudicative bodies. Mediation provides an alternative in suitable cases, for parties to obtain resolution swiftly in a way that other dispute resolution mechanisms cannot. For example, where there is disagreement at the onset of a

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<sup>4</sup> <https://www.wipo.int/amc/en/eadr/>.



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potential dispute, early intervention with the involvement of a mediator may offer parties perspective and encourage win-win solutions, resolving matters painlessly and amicably.”

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### **About the World Intellectual Property Organization (WIPO)**

The World Intellectual Property Organization (WIPO) is an intergovernmental organization and a specialized agency of the United Nations system of organizations with its headquarters located in Geneva, Switzerland, dedicated to developing a balanced and effective international IP system. Through its Arbitration and Mediation Center (WIPO Center), WIPO offers ADR services for the resolution of IP and technology disputes. In particular, the WIPO Center administers cases under the WIPO Mediation, Arbitration, Expedited Arbitration and Expert Determination Rules, as well as procedures for the resolution of Internet domain name disputes. As an independent, neutral, and non-profit service provider, the WIPO Center maintains an up to-date dispute management infrastructure and an international database of IP mediators, arbitrators and experts. Since November 1, 2017, the WIPO Center has been appointed by the Ministry of Law as one of the designated mediation service providers in Singapore under the Mediation Act.

### **About the Singapore International Mediation Centre (SIMC)**

The Singapore International Mediation Centre (SIMC) is a not-for-profit organisation that offers professional dispute resolution services tailored to the evolving needs of businesses in Asia. We work across multiple jurisdictions covering both common and civil law traditions. Our panel of over 70 international independent mediators have extensive experience resolving cross-border disputes and are highly regarded for delivering successful outcomes in complex, high-stakes commercial disputes. Since November 1, 2017, SIMC has been appointed by the Law Minister as one of the designated mediation service providers in Singapore under the Mediation Act.



## **ANNEX – Case Study of an international IP dispute settled through mediation at SIMC**

Pressed for time and with thousands of app users at stake, the case below demonstrates how international mediation led parties to a commercially viable solution in a day. This would not have been possible had they pursued the matter in court; the process would have taken a significantly longer time, and not met the real underlying interest of all parties.

1. The Singapore International Mediation Centre (SIMC) recently administered an intellectual property (IP)-related dispute involving a Singapore company, an overseas app developer and its sub-contractor here.
2. The company had contracted the app developer to develop and run an online platform for its clients. The app developer subsequently engaged a sub-contractor to run various aspects of the project, which was initially successful.
3. However, disputes started to arise as the relationship between the app developer and the sub-contractor soured. This led to a deterioration in service support, which affected the continued viability of the app, which had thousands of users.
4. Court proceedings had been initiated in Europe but the parties decided to mediate with SIMC. Through SIMC's end-to-end case administration, parties agreed on the details of the mediation, including selection of an experienced mediator with IP issues, scope, parties to be present, fees and running of the mediation session.
5. Over the course of a one-day session, with the assistance of the mediator and the parties' lawyers, the parties canvassed their respective issues and interests. The breakthrough came when the parties agreed to put the interests of the affected users first. The app developer and sub-contractor realised that it was in their commercial interest to maintain a good reputation and relations with their present and prospective clients; having their dispute made public through court proceedings would not achieve that. As part of the settlement, the two companies agreed on the amount of payment to be made between them; and that the responsibility for the app would be transferred to a third party whose reliability was acceptable to the Singapore company.



### **A WIPO Mediation of a Software License Dispute for Mobile Apps**

An Asian start-up and a US start-up entered into a license agreement for the use of mobile phone applications, which contained a dispute resolution clause referring to WIPO Mediation followed, in the absence of a settlement, by WIPO Arbitration.

A dispute arose between the parties regarding the authorized use of the application under the license. Following the Request for Mediation, the WIPO Center proposed several candidates and appointed as mediator an experienced IT lawyer in accordance with the parties' preferences.

The mediation took place entirely through telephone calls, either in plenary or in caucus. Within two months after the appointment of the mediator, a settlement agreement was reached with the mediator's assistance, including further collaboration between the parties.

### **A WIPO Unilateral Mediation of a Patent Dispute**

During a trade fair in Germany, a dispute arose between a Chinese company and a US company regarding the alleged infringement by the US company of a German patent held by the Chinese company. In an attempt to solve the dispute amicably, the Chinese company submitted a Unilateral Request for Mediation to the WIPO Center, in accordance with Article 4 of the WIPO Mediation Rules.

Following the filing of the Unilateral Request for Mediation, the parties commenced direct negotiations. During such negotiations, the US company agreed to cease selling the contentious products in Germany and to include a notice on their website that the products are not available at exhibitions in Germany.

The dispute was thus resolved through negotiations between the parties facilitated by the WIPO Center within a week, and at no cost to the parties.