

# AIPLA

## American Intellectual Property Law Association

### Alternative Dispute Resolution Committee

### Bulletin No. 3: ADR Rules, Organizations and Resources

## INTRODUCTION

This is the last of three bulletins intended to provide general reference information regarding Alternative Dispute Resolution Rules, Organizations, and Resources. The first bulletin was directed to ADR Options, and the second to ADR Considerations.

*AIPLA's ADR Policy Statement provides that:*

Each practicing member of this Association is encouraged to be knowledgeable about alternative dispute resolution processes, and where appropriate, is encouraged to advise the member's clients of the availability, values and characteristics of these alternatives to litigation so that clients can make an informed choice concerning the use of litigation or alternative dispute processes, or both, for resolution of disputes, whether present or prospective.

## ADR RULES AND ORGANIZATIONS

The following list of ADR rules, organizations and resources is intended to be merely illustrative, not comprehensive. Given the explosive growth of ADR in all fields of law, particularly in the intellectual property field and in the international arena, we anticipate that this list will serve as only a useful starting point for lawyers and their clients.

### AMERICAN INTELLECTUAL PROPERTY LAW ASSOCIATION (AIPLA)

In addition to its ADR policy which encourages members to become knowledgeable with and advise clients of ADR processes, AIPLA maintains an Arbitration and Mediation Registry. Listing in the Registry requires AIPLA membership, five or more years experience as an attorney, at least eight hours of training and a \$50 annual fee. The Registry is voluntary, and the AIPLA does not endorse any particular neutral or undertake to verify credentials. Also, AIPLA does not charge any administrative fees for access to the Registry, which is available on the AIPLA home page at <http://www.aipla.org>

AIPLA also presents ADR programs from time to time at its annual and mid-year meetings, and has organized a special committee to coordinate ADR training programs, initiate other ADR-related programs for implementing AIPLA policy, and to publish an *Alternative Dispute Resolution Guide*.

### CENTER FOR PUBLIC RESOURCES (CPR)

CPR includes as a stated mission to install alternative dispute resolution into the mainstream of corporate law department and law firm practice. The CPR Institute for Dispute Resolution is a non-profit leadership alliance of 500 major corporations and law firms with involvement in ADR. CPR maintains a wide variety of internet-available ADR educational material, as well as a CPR Panels of Distinguished Neutrals trained and available for mediation and arbitration of business disputes. CPR resources include a specific technology panel that includes experienced intellectual property law practitioners. You can contact CPR at 366 Madison Avenue, New York, NY 10017. Phone: (212) 949-6490; Fax: (212) 949-8859; Internet: <http://www.cpradr.org>.

CPR has also established a Technology Committee to develop protocols and model agreements designed for technology disputes, and also a Technology Panel to serve as neutrals in those disputes.

### AMERICAN ARBITRATION ASSOCIATION (AAA)

The AAA is a non-profit organization with headquarters in New York City and regional offices in major cities throughout the U.S. providing a range of ADR services. The AAA's administrative charges are based on filing and service fees related primarily to the amount of the claim or a fee determined by AAA where a monetary claim is not asserted. Communication with AAA can be addressed to 335 Madison Avenue, 10<sup>th</sup> Floor, New York, NY 10017-4605; Phone: (212) 716-5800; Fax: (212) 716-5905; Internet: <http://www.adr.org>

There are a wide variety of either national or local ADR providers and training sources too numerous to mention here. A comprehensive listing of these providers can be found in the Martindale Hubbell *Dispute Resolution Directory* and in AIPLA's *Alternative Dispute Resolution Guide*.

By way of example, the following non-law firm providers/training sources may be useful to you in pursuing ADR:

### PROVIDERS

J.A.M.S.  
Suite 300, 1920 Main Street  
Irvine, CA 92614  
Phone: (949) 224-1810 Fax: (949) 224-1818  
<http://www.jamsadr.com>  
(Many other U.S. offices)

A.D.R. Systems of America, L.L.C.  
180 W. Washington, Tenth Floor  
Chicago, Illinois 60602  
Phone: (312) 960-2260 Fax: (312) 960-2270  
<http://www.adrsystems.com>

National Patent Board  
401 S. Old Woodward Ave.  
Birmingham, MI 48009-6611  
<http://www.patentboard.org>

### TRAINING SOURCES

American Bar Association  
Section Of Dispute Resolution  
740 15th Street, N.W.  
Washington, D.C. 20005-1009  
Phone: (202) 662-1680 Fax: (202) 662-1683  
<http://www.abanet.org/dispute>

Association for Conflict Resolution  
1527 New Hampshire Ave NW  
Washington, D.C. 20036  
Phone: (202) 667-9700 Fax: (202) 265-1968  
<http://www.acr@acresolution.org>

AIPLA does not endorse any of the above organizations or represent by listing them here that they have unique capabilities for dispute resolution in the intellectual property field.

### INTERNATIONAL ORGANIZATIONS

Perhaps the most well-known organization for ADR in the international arena, at least with respect to commercial arbitration, is the International Chamber of Commerce (ICC) headquartered in Paris, France. More recently, the World Intellectual Property Organization (WIPO) has established an Arbitration and Mediation Center for the resolution of international intellectual property disputes. In addition

to offering administered ADR procedures requiring a registration fee, WIPO offers an informal Submission Advisory service for parties who do not have a pre-existing business relationship and may not understand the advantages and possibilities of referring a dispute to WIPO's administered ADR procedures. It also offers training at its headquarters in Geneva, Switzerland and has under consideration establishment of an Emergency Interim Relief Facility.

The London Court of International Arbitration (LCIA) and Chartered Institute of Arbitrators (CIA) also provides international commercial arbitration services. For further information on these organizations, please direct your inquiries to:

International Chamber of Commerce (ICC)  
International Court of Arbitration  
38, Cours Albert 1er  
75008 Paris, France  
Phone: 011 33149 53 28 28  
Fax: 011 33149 53 29 33  
[http://www.iccwbo.org/index\\_court.asp](http://www.iccwbo.org/index_court.asp)

WIPO Arbitration and Mediation Center  
34, chemin des Colombettes  
P.O. Box 18  
1211 Geneva 20, Switzerland  
Phone: 011 41 22 338 9111  
Fax: 011 41 22 740 3700  
<http://www.wipo.int/center/index.html>

London Court of International Arbitration  
The International Dispute Resolution Centre  
8 Breems Buildings, Chancery Lane  
London EC4A 1HP, England  
Phone: 011 44 020 7405 8008  
Fax: 011 44 020 7405 8009  
<http://www.lcia-arbitration.com>

The Chartered Institute of Arbitrators  
International Arbitration Centre  
12 Bloomsbury Square  
London WC1A 2LP, England  
Phone: 011 44 020 7421 7444  
Fax: 011 44 020 7404 4023  
<http://www.arbitrators.org>

### FEDERAL COURTS

An increasing number of federal district courts are annexing ADR procedures, both mandatory and voluntary. The local rules of each district must be carefully checked to determine what, if any, ADR procedures are mandated or offered.

A listing of court-annexed ADR programs can also be found in the Martindale Hubbell Dispute Resolution Directory. Such programs range from Early Neutral Evaluation (ENE) to various combinations of arbitration, mediation, case evaluation and summary jury trials. AIPLA's *Alternative Dispute Resolution Guide* also contains a useful summary of the earlier ADR court-annexed procedures.

## STATE AND LOCAL ORGANIZATIONS

State and local bar organizations also provide ADR programs and training resources. Local arbitration and mediation service providers can typically be found under "Arbitration Services" and "Mediation Services" in telephone directories.

## ADR ARBITRATION AND MEDIATION RULES

Among the advantages of ADR are the flexibility of the procedures and the ability to shape them to unique circumstances in individual disputes. Generally speaking, the parties are free to create an ADR procedure. As useful starting points, you should be aware of the existence of the Federal Arbitration Act (9 U.S.C. §§ 1 et. seq.), the Uniform Arbitration Act, and a variety of state arbitration statutes supporting the Uniform Arbitration Act in whole or in part. In both mediation and arbitration, organizations such as AAA and CPR have developed sets of rules which address the various procedures and procedural matters which are needed to carry out an ADR process. Some examples of the sets of rules that are available are as follows:

- AAA Commercial Arbitration Rules
- AAA Commercial Mediation Rules
- AAA Patent Arbitration Rules
- AAA Supplementary Procedures for Complex Disputes
- CPR Model ADR Procedures in Technology Disputes
- CPR Rules of Non-Administered Arbitration of Patent and Trade Secret Disputes
- CPR Model ADR Processes in Business Disputes
- CPR Model ADR Procedures - Minitrial
- ICC Rules of Conciliation and Arbitration
- London Court of International Arbitration Rules
- Chartered Institute of Arbitrators Arbitration Rules
- UNCITRAL Arbitration Rules
- WIPO Arbitration Rules
- WIPO Mediation Rules

There are also rules and codes governing the ethical conduct of neutrals. AAA has a seven-canon code of ethics for arbitrators in commercial disputes, and is working to develop standards for mediators.

State and local bar organizations also provide codes, guidelines and rules governing the ethical conduct of ADR neutrals. For example, the State Bar of Texas has issued a set of fifteen ethical guidelines for mediators. A particular concern in these rules or in fashioning an ADR procedure is the confidentiality of material made available in the ADR process, whether arbitration, mediation or some hybrid form, and the neutrality of the person asked to resolve the dispute. The most meaningful use of ADR is accomplished by your familiarity with various ADR procedures, providers, rules and common problems before a dispute has arisen and, where appropriate, before assisting your clients in the drafting of contract provisions. Although it is not necessary for lawyers to be fully accredited as neutrals, AIPLA does suggest that all of its members become familiar with ADR through programs offered by it and other organizations, and through comprehensive, yet readable treatises such as the above-mentioned *Alternative Dispute Resolution Guide* available through AIPLA headquarters.

## Related Bulletins:

- ADR Options
- ADR Considerations

*The AIPLA Alternative Dispute Resolution Committee wishes to thank Michael McGovern, James McKeown, Rodrick Thompson and Alan Kowalchuk for their contributions to this bulletin.*

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