

THE SERVICES OF THE WIPO ARBITRATION CENTER

International Center for the
Resolution of Intellectual Property Disputes



WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA 1996

THE SERVICES OF THE WIPO ARBITRATION CENTER

International Center for the
Resolution of Intellectual Property Disputes



WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA 1996

WIPO PUBLICATION
No. 445 (E)

ISBN: 92-805-0555-6

WIPO 1994
Reprinted 1995, 1996

CONTENTS

Pages

I. INTRODUCTION	7
II. THE WIPO ARBITRATION CENTER: INSTITUTIONAL ARRANGEMENTS	
WIPO	8
WIPO Arbitration Center	8
WIPO Arbitration Council	11
WIPO Arbitration Consultative Commission	11
III. DISPUTE-RESOLUTION PROCEDURES OFFERED	
Types of Procedures	16
Advantages	17
Who May Refer Disputes?	18
What Sort of Disputes May Be Referred? .	19
How to Refer Disputes	19
IV. GOOD OFFICES: SUBMISSION ADVISORY SERVICE	
Purpose	20
Method of Operation	20
Advantages	22
V. MEDIATION	
Mediation: What It Is	23
Role of the Center	23
Fees of the Center	24
Mediator's Fees	24
Recommended Contract Clause and Submission Agreement	25
Venue of Mediation	25

	<i>Pages</i>
VI. ARBITRATION	
Arbitration: What It is	26
Role of the Center	27
Fees of the Center	29
Arbitrator's Fees	29
Recommended Contract Clause and Submission Agreement	30
Place of Arbitration	31
VII. EXPEDITED ARBITRATION	
Expedited Arbitration: What It Is	32
Role and Fees of the Center; Arbitrator's Fees	33
Recommended Contract Clause and Submission Agreement	33
VIII. MEDIATION FOLLOWED, IN THE ABSENCE OF A SETTLEMENT, BY ARBITRATION	
The Nature of the Combined Procedure ...	35
Role and Fees of the Center; Mediator's and Arbitrator's Fees	35
Recommended Contract Clause and Submission Agreement	36
IX. LISTS OF WIPO MEDIATORS AND ARBITRATORS	
Appointments by the Center in Cases Administered by the Center	38
Appointments by the Center in Cases Not Administered by the Center	39

*Pages***X. SCHEDULE OF FEES**

Mediation	40
Arbitration	42
Expedited Arbitration	47
Mediation Followed, in the Absence of a Settlement, by Arbitration	47
Appointment of Mediators or Arbitrators in Cases Not Administrated by the Center	48

**XI. CONFERENCES AND TRAINING
PROGRAMS**

Conferences	49
Training Programs	49

**XII. FURTHER INFORMATION
AND DOCUMENTATION** 50

I. INTRODUCTION

The WIPO Arbitration Center administers a number of procedures, which are alternatives to court litigation, for the resolution of international commercial disputes involving intellectual property. Those procedures operate within the legal framework which has grown out of international commercial arbitration and which is recognized in both national laws and international conventions.

The present publication is intended to give an introduction to the WIPO Arbitration Center, the dispute-resolution procedures that it administers and the other services that it offers. The publication is divided into Sections containing brief information on the following subjects:

- the institutional arrangements of the WIPO Arbitration Center (Section II),
- an overview of the types of dispute-resolution procedure administered by the Center, and the perceived advantages of those procedures (Section III),
- the Submission Advisory Service offered by the Center to facilitate recourse to the dispute-resolution procedures administered by the Center (Section IV),
- mediation (Section V),
- arbitration (Section VI),
- expedited arbitration (Section VII),
- the combined procedure of mediation followed, in the absence of a settlement, by arbitration (Section VIII),
- the lists of specialized mediators and arbitrators maintained by the Center (Section IX),
- the Schedule of Fees applicable to the dispute-resolution procedures administered by the Center (Section X),
- the conferences and training programs organized by the Center (Section XI),
- the further information and documentation that is available from the Center (Section XII).

II. THE WIPO ARBITRATION CENTER: INSTITUTIONAL ARRANGEMENTS

WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

WIPO is an intergovernmental organization whose headquarters are located in Geneva, Switzerland. It is a specialized agency of the United Nations system of organizations and has 155 Member States.

WIPO has a history of over 110 years, going back to 1883, when the Paris Convention for the Protection of Industrial Property was adopted, and to 1886, when the Berne Convention for the Protection of Literary and Artistic Works was adopted.

WIPO is responsible for the promotion of the protection of intellectual property throughout the world. It administers some 16 multilateral treaties dealing with the legal and administrative aspects of intellectual property.

Over 50 nationalities are represented on the secretariat of WIPO, the International Bureau. The staff of the International Bureau comprises around 500 persons.

The annual income of the International Bureau is around 120 million Swiss francs. The principal source of that income is fees paid by the private users of the international registration services (for patents, trademarks and industrial designs) administered by the International Bureau, which account for around 80% of the income of the regular budget.

WIPO ARBITRATION CENTER

The WIPO Arbitration Center is an administrative unit of the International Bureau of WIPO. The establishment of the Center was approved by the General Assembly of WIPO in September 1993. The Center commenced operations in October 1994. It is located in Geneva, Switzerland.

The Center has two main roles, namely, the role of administering authority and the role of resource center.

The Center as Administering Authority

The Center administers four dispute-settlement procedures:

- mediation under the WIPO Mediation Rules,
- arbitration under the WIPO Arbitration Rules,
- expedited arbitration under the WIPO Expedited Arbitration Rules, and
- a combined procedure of mediation under the WIPO Mediation Rules followed, in the absence of a settlement, by arbitration under the WIPO Arbitration Rules.

As administering authority, the role of the Center is to perform the tasks and to make the decisions that are assigned to it by the WIPO Mediation, Arbitration or Expedited Arbitration Rules. One of those tasks is to appoint, where the parties do not themselves do so, or fail to do so within the periods of time set out in the Rules, the mediator or arbitrator. For this purpose, the Center maintains lists of specialized mediators and arbitrators (see Section IX, below). A fuller description of the tasks performed by the Center as administering authority is given below in the Sections on each of the procedures administered by the Center.

The WIPO Rules have been designed for use in any legal system. Mediations or arbitrations conducted in accordance with WIPO Rules may take place anywhere in the world.

Any person having legal capacity, regardless of national affiliation, may refer a dispute to any of the procedures administered by the Center.

The Center as Resource Center

As a resource center, the WIPO Arbitration Center endeavors to act as a bridge between the fields of intellectual property, on the one hand, and extrajudicial dispute-resolution, on the other hand. Specifically, the Center provides the following services in this respect:

- (i) The Center provides assistance in the drafting of contract clauses for use in contracts to refer future disputes under those contracts to a dispute-settlement procedure administered by the Center, as well as in the drafting of submission agreements to refer existing disputes to such a procedure.
- (ii) The Center provides the service of Good Offices (a Submission Advisory Service) where it will, at the request of a party to a dispute, endeavor to act as intermediary in convening a meeting of the parties to the dispute to discuss the submission of the dispute to a procedure administered by it (see Section IV, below).
- (iii) The Center will, against payment of a fee, appoint a mediator or an arbitrator at the request of the parties to a dispute submitted to mediation or arbitration that is not administered by the Center (see Section IX, below).
- (iv) The Center organizes conferences on various themes relating to the resolution of intellectual property disputes through mediation, arbitration or other dispute-settlement alternatives, as well as conducts training programs for mediators and arbitrators (see Section XI, below).
- (v) The Center makes available publications and documentation relating to the resolution of intellectual property disputes (see Section XII, below).

The Center is counselled in the discharge of its functions by two bodies, the WIPO Arbitration Council and the WIPO Arbitration Consultative Commission.

WIPO ARBITRATION COUNCIL

The WIPO Arbitration Council is composed of representatives of both the private and public sectors. The role of the Council is to provide advice and to make recommendations to the Center on matters of planning and policy, particularly in relation to the WIPO Mediation Rules, WIPO Arbitration Rules and WIPO Expedited Arbitration Rules.

The WIPO Arbitration Council is composed of the following six members:

- Marc **BLESSING**, President, Swiss Arbitration Association (ASA);
- Michael **HOELLERING**, General Counsel, American Arbitration Association (AAA);
- The Rt. Honorable Sir Michael **KERR**, Honorary President, London Court of International Arbitration (LCIA);
- Zentaro **KITAGAWA**, Professor of Law, and Director of Kyoto Comparative Law Center, Kyoto University, Japan;
- Jürgen **SCHMID-DWERTMANN**, Deputy Director General, Federal Ministry of Justice, Germany;
- **TANG** Houzhi, Professor, Vice-Chairman, China International Economic and Trade Arbitration Commission (CIETAC).

WIPO ARBITRATION CONSULTATIVE COMMISSION

The WIPO Arbitration Consultative Commission is composed of leading experts in the areas of arbitration and intellectual property. The principal function of the Consultative Commission is to provide opinions and advice to the WIPO Arbitration Center on non-routine issues in respect of which the WIPO Arbitration Rules require a decision to be taken by the Center in the course of the administration of an arbitration, such as the challenge, release or replacement of an arbitrator and certain aspects of questions concerning arbitrators' fees. For this purpose, the Center constitutes, whenever required, ad hoc

committees composed of three members of the Consultative Commission. In special circumstances (such as the unavailability of a member of the Consultative Commission having knowledge of a particular national law in issue), the Center may also appoint an outside expert who is not a member of the Consultative Commission to serve on such an ad hoc committee.

The WIPO Arbitration Consultative Commission is composed of the following members:

– Mohamed **ABOUL-ENEIN**, Director, Cairo Regional Centre for International Commercial Arbitration (Egypt);

– Guillermo **AGUILAR-ALVAREZ**, Aguilar Alvarez & Asociados, Mexico D.F. (Mexico);

– Gerald **AKSEN**, Reid & Priest, New York; Member, Board of Directors, and Former General Counsel, American Arbitration Association (AAA); Chairman, Association of the Bar of the City of New York (United States of America);

– Sheikh Salah **AL-HEJAILAN**, Law Office of Salah Al-Hejailan, Riyadh and Jeddah; Chairman, Higher Board, Euro-Arab Arbitration System (Saudi Arabia);

– Sheikha Haya Rashed **AL KHALIFA** (Mrs.), Haya Rashed Al Khalifa Law Firm (Bahrain);

– Austin **AMISSAH**, President, Court of Appeal, Botswana; Former member, Court of Appeal, Ghana; Legal Consultant (Ghana);

– Piero **BERNARDINI**, Ughi & Nunziante, Rome; Professor of Law; Vice-Chairman, Italian National Committee on Arbitration (Italy);

– Karl-Heinz **BÖCKSTIEGEL**, Professor, Cologne University; President, London Court of International Arbitration (LCIA); Vice-Chairman, German Institute of Arbitration (DIS) (Germany);

– Robert **BRINER**, Lenz & Staehelin, Geneva; WIPO Liaison for the Intellectual Property Specialist Group, The Chartered Institute of Arbitrators; Chair, Business Law Section, International Bar Association (IBA) (Switzerland);

– James **CARTER**, Sullivan & Cromwell, New York; Co-Chair, Corporate Counsel Committee, American Arbitration Association (AAA); Chair, International Law Section, American Bar Association (ABA) (United States of America);

– **CHENG** Dejun, Director, Legal Affairs Department, China Council for the Promotion of International Trade (CCPIT); Vice-Chairman and Secretary General, China International Economic and Trade Arbitration Commission (CIETAC); Vice-Chairman, Beijing Conciliation Centre (China);

– Joan **CLARK** (Ms.), Ogilvy, Renault, Montreal; Executive President, International Association for the Protection of Industrial Property (AIPPI) (Canada);

– Bernardo **CREMADES**, J.Y.B. Cremades y Asociados, Madrid; President, Spanish Court of Arbitration; Member, London Court of International Arbitration (LCIA) (Spain);

– Yves **DERAINS**, Derains & Partners, Paris; Former Secretary General, International Court of Arbitration, International Chamber of Commerce (ICC) (France);

– Ulf **FRANKE**, Secretary General, The Arbitration Institute of the Stockholm Chamber of Commerce; Secretary General, International Council for Commercial Arbitration (ICCA) (Sweden);

– Mayer **GABAY**, Attorney-at-Law, Jerusalem; Chairman, Israel Patents and Copyright Law Revision Committees; Judge, United Nations Administrative Tribunal (Israel);

– Sudargo **GAUTAMA**, Professor of Law; Vice-Chairman, Indonesian National Arbitration Organization (BANI) (Indonesia);

– Horacio A. **GRIGERA NAÓN**, Senior Counsel, International Finance Corporation, Washington; Member, London Court of International Arbitration (LCIA) (Argentina);

– James F. **HENRY**, President, CPR Institute for Dispute Resolution, New York (United States of America);

- Gerold **HERRMANN**, Secretary, United Nations Commission on International Trade Law (UNCITRAL) (Germany);
- Eva **HORVÁTH** (Ms.), President, Court of Arbitration, Hungarian Chamber of Commerce, Budapest (Hungary);
- J. Martin **HUNTER**, Barrister, Essex Court Chambers, London; Member, London Court of International Arbitration (LCIA) (United Kingdom);
- Tadashi **ISHIKAWA**, Oh-Ebashi Law Office, Osaka; Member, Council, Japanese Association of the Law of Civil Procedure; Former Vice-Chairman, International Relations Committee, Japan Federation of Bar Associations (Japan);
- François **KNOEPFLER**, Knoepfler Gabus Gehrig, Neuchâtel; Member, Council of the Swiss Institute of Comparative Law, Lausanne; Chairman, Swiss Association of International Law; Member, Executive Committee of the Swiss Arbitration Association (ASA) (Switzerland);
- Yoshio **KUMAKURA**, Nakamura & Partners, Tokyo; Member, Council, Asian Patent Attorneys Association (APAA) (Japan);
- Pierre **LALIVE**, Emeritus Professor, Geneva University; Honorary President, Swiss Arbitration Association (ASA) (Switzerland);
- Martin **LUTZ**, Lenz & Staehelin, Zurich; Secretary General, International Association for the Protection of Industrial Property (AIPPI) (Switzerland);
- Kéba **M'BAYE**, Former Judge, International Court of Justice; Vice-President, International Olympic Committee (IOC) (Senegal);
- Werner **MELIS**, Chairman, International Arbitral Centre, Austrian Federal Economic Chamber, Vienna; Vice-President, London Court of International Arbitration (LCIA); Vice-President, International Council for Commercial Arbitration (ICCA) (Austria);

– Jan **PAULSSON**, Freshfields, Paris; Vice-President, London Court of International Arbitration (LCIA) (Sweden);

– David **PLANT**, Fish & Neave, New York; Chair, ADR Committee, American Intellectual Property Law Association (AIPLA) (United States of America);

– Robert **RAVEN**, Morrison & Foerster, San Francisco; Chair, Section on Dispute-Resolution, American Bar Association (ABA) (United States of America);

– Michael Ernst **SCHNEIDER**, Etude Lalive & Partners, Geneva; Member, Executive Committee, Swiss Arbitration Association (ASA) (Switzerland);

– Hans **SMIT**, Stanley H. Fuld Professor of Law and Director, Parker School of Foreign and Comparative Law, Columbia University, New York; Associate Professor, University of Paris I (Netherlands);

– Sang Hyun **SONG**, Professor of Law, Seoul National University; President, Korean Intellectual Property Research Society, Inc; Member, Advisory Committee, Korean Supreme Court (Republic of Korea);

– Sir Laurence **STREET**, Retired Chief Justice of the Supreme Court of New South Wales (Australia);

– Yasuhei **TANIGUCHI**, Professor of Law, Kyoto University; President, Japan Association of Civil Procedure (Japan);

– Albert Jan **VAN DEN BERG**, Stibbe, Simont, Monahan, Duhot, Amsterdam; Vice-President, Netherlands Arbitration Institute (NAI) (Netherlands);

– S. Amos **WAKO**, Attorney General, Attorney General's Chambers, Nairobi (Kenya).

III. DISPUTE-RESOLUTION PROCEDURES OFFERED

TYPES OF PROCEDURE

The WIPO Arbitration Center administers four dispute-resolution procedures. The procedures have different legal implications and consequences, as well as differing advantages. A brief description of each of the procedures is given below, and a fuller description in the individual Sections on each procedure.

Mediation

Mediation (also known as conciliation) is a procedure in which a neutral intermediary, the mediator, endeavors, at the request of the parties to a dispute, to assist them in reaching a mutually satisfactory settlement of the dispute. The mediator does not have any power to impose a settlement on the parties. Mediation is also voluntary in the sense that either party may, if it so chooses, abandon the mediation at any stage prior to the signing of an agreed settlement.

Arbitration

Arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to an arbitrator or to a tribunal of several arbitrators who give a decision on the dispute that is binding on the parties. In contrast to a mediation, once the parties have freely agreed to submit a dispute to arbitration, a party cannot unilaterally withdraw from the arbitration.

Expedited Arbitration

Expedited arbitration is, as its name suggests, a form of arbitration in which certain modifications are introduced in order to ensure that the arbitration can be conducted and an award rendered in a shortened time frame and, consequently, at a reduced cost. To achieve those objectives, the modifications provide for a sole arbitrator (rather than a tribunal of several arbitrators), shortened time periods for each of the steps involved in the arbitration proceedings, and condensed hearings before the sole arbitrator.

Mediation Followed, in the Absence of a Settlement, by Arbitration

This procedure combines, sequentially, both mediation and arbitration. Where the parties agree to submit to the procedure, they must first endeavor to resolve the dispute through mediation. If a settlement is not reached through mediation within the period of time designated by the parties (either 60 or 90 days are recommended), the dispute may be referred by either party to arbitration for a binding decision.

ADVANTAGES

Compared to court litigation, there are a number of advantages which the procedures described above share in common. Each procedure also offers particular advantages, which are described in the individual Sections devoted to each procedure.

The general advantages of the procedures are:

- (i) The procedures can result in considerable *savings of time and cost*. A mediation or arbitration can be commenced immediately and the parties do not need to await the allocation of court time.
- (ii) The procedures offer *autonomy* to the parties in choosing the applicable law, procedure and language of the proceedings, as well as flexibility in designing or adapting the procedure to their own particular circumstances.
- (iii) The procedures are based on the law and practice that has grown out of international commercial arbitration and are *neutral* to the law, language and institutional culture of the parties. They are administered by the WIPO Arbitration Center, part of an international organization with an international secretariat. Moreover, a venue that is neutral to the national affiliations of the parties can be chosen as the place in which the procedure will take place.

- (iv) In the highly technical area of intellectual property, it is possible to ensure that *specialized expertise* is represented on the arbitral tribunal or in the person of the mediator.
- (v) The procedures may be conducted in full *confidentiality*. The WIPO Mediation Rules and the WIPO Arbitration Rules contain not only provisions concerning the confidentiality of the mediation or arbitration as a whole, but also special measures directed at preserving the confidentiality of trade secrets involved in a dispute.
- (vi) The procedures offer a means of settling a dispute through a *single procedure*. Where a dispute concerns subject matter covered by intellectual property titles in a number of different countries, one procedure may have particular advantages of economy and efficiency over several different national court actions.

WHO MAY REFER DISPUTES?

As mentioned above, the dispute-resolution procedures administered by the Center are open to all persons, regardless of national affiliations. There is no requirement that a person be connected in a particular way (such as by nationality or residence) with a State that is party to any particular treaty administered by WIPO.

Both individuals and enterprises or other entities having a recognized juridical personality may submit disputes to the procedures administered by the Center.

A State entity may be party to a dispute submitted to a procedure administered by the Center, provided that the State entity has, like any other party to a dispute that is referred to the Center, validly expressed its consent in writing to the reference of the dispute to such a procedure.

WHAT SORT OF DISPUTES MAY BE REFERRED?

The Center offers specialized services for the resolution of *intellectual property* disputes. However, the dispute-settlement procedures administered by the Center are not limited to dealing with disputes involving intellectual property questions. Such a limitation to purely intellectual property matters has been avoided in order to ensure that disputes may be resolved efficiently, effectively and comprehensively, without the need to refer them to other arbitration institutions or centers, and without incurring delays through arguments over the competence of an arbitral tribunal or mediator to deal with matters that may not be characterized directly as “intellectual property matters.”

HOW TO REFER DISPUTES

There are two ways in which disputes may be referred to a procedure administered by the Center.

First, a clause may be inserted in a contract providing for all *future* disputes arising under that contract to be submitted to one of the procedures administered by the Center. Recommended contract clauses to this effect are included in the individual Sections below on each of the procedures administered by the Center.

The second way in which a dispute may be referred is by a submission agreement between the parties to an *existing* dispute that provides for that dispute to be submitted to a procedure administered by the Center. Recommended submission agreements for the reference of existing disputes are also included in the Sections below on each of the procedures administered by the Center.

The Center also provides advice to interested parties on the drafting of contract clauses and submission agreements.

IV. GOOD OFFICES: SUBMISSION ADVISORY SERVICE

PURPOSE

Disputes arise not only in the context of an existing contractual relationship, such as the relationship between manufacturer and distributor or between licensor and licensee, but also between parties which do not stand in any existing contractual relationship. An alleged infringement of an intellectual property right is a typical example of a dispute which commonly occurs between parties which do not stand in a contractual relationship. In such cases, because of the absence of an existing contractual relationship, the communications between the parties may often be limited to formal communications setting out the alleged rights and liabilities of the parties in relation to the dispute. The resulting climate prevailing between the parties is more likely to lend itself to insistence on perceived rights and liabilities than to discussion of the various possible means of resolving the dispute.

In such situations, there may also be distinct advantages in seeking to resolve the dispute through a procedure other than court litigation. The aim of the Center's Submission Advisory Service is to provide an opportunity for parties to a dispute to consider the advantages of submitting the dispute to such a procedure. In order to provide this opportunity, the Center offers to perform the role of a neutral intermediary in seeking to bring the parties to a dispute together. It will, if the parties agree, preside over a meeting of the parties convened for the purpose of discussing the possible submission of the dispute to a procedure administered by the Center, and provide, in appropriate circumstances, assistance in drafting a submission agreement.

METHOD OF OPERATION

The Center's Submission Advisory Service is open to anyone. While the Service may be expected to be particularly useful in respect of those disputes where the parties do not stand in a business relationship, the

Service is equally open to parties to a dispute which does arise in the context of a business relationship. Such parties may wish to use the Service either because the contract defining the business relationship does not provide for a means of dispute-resolution, or because they wish to discuss the possibility of modifying the means that are provided in the contract.

The Service is entirely *informal*. No special application or request form is required. A party wishing to use the Service has simply to approach the WIPO Arbitration Center and to request it to endeavor to convene a meeting between the parties to the dispute. For that purpose, the party should provide the names and contact details of the parties to the dispute and, if applicable, their representatives, as well as a brief description of the dispute. That description is required merely for the purpose of enabling the Center to identify with precision the dispute when communicating with the parties.

The Service is *confidential*. Any details supplied by the parties to the Center will be maintained in the strictest confidence and will not be communicated to any outside parties. No recording of any kind is made by the Center of any meeting.

Meetings between parties to a dispute that are arranged by the Center are *without prejudice* to the rights of the parties in relation to the subject matter of the dispute. Prior to such meetings, each party will be requested to sign an undertaking that it will not use any statements, disclosures or offers made at any such meeting in any other proceedings, whether relating to the dispute or not.

The Service is entirely *voluntary and non-binding*. This means that the party making the request to the Center may withdraw its request or withdraw from any ensuing negotiations at any stage that it wishes. Similarly, and naturally, the other party to the dispute is under no obligation whatsoever to cooperate in any way and may choose to ignore the request to take part in a meeting for the purpose of considering the possibility of submitting the dispute to a procedure administered by the Center.

The Center does not charge for the Service. However, if a meeting is, at the parties' request, scheduled to take place outside Geneva, the travel and subsistence expenses of the Center must be paid, in advance of the meeting, by the parties in equal shares (unless they agree on some other division of those costs between themselves).

ADVANTAGES

There are several advantages offered by the Service that parties may wish to consider in assessing whether to use it.

The first, and obvious, advantage is the provision of a neutral forum for informal communication between the parties when such a forum might not otherwise exist.

If a meeting of the parties takes place, the meeting provides the opportunity for the parties to consider the range of options available to them in resolving their dispute, designing the dispute-resolution procedure that is most suitable to the circumstances of the dispute, and setting up the steps that are to be followed in implementing that procedure.

The parties remain in complete control, since the Service is entirely voluntary and non-binding.

V. MEDIATION

MEDIATION: WHAT IT IS

Mediation, which is also known as conciliation, is a procedure in which a neutral intermediary, the mediator, is appointed in order to assist the parties to a dispute in reaching a mutually satisfactory settlement of the dispute. Such a settlement, if reached, is then expressed in the form of an enforceable contractual agreement between the parties.

Mediation is a non-binding procedure in two senses. First, the mediator does not have any power to impose a settlement on the parties. Secondly, either party may, if it so chooses, abandon the mediation process at any stage prior to the signing of an agreed settlement. In order to be successful, therefore, mediation depends very much on the good faith commitment of the parties to exploring the possibility of a settlement, as well as on the skill of the mediator and the confidence that the mediator is able to inspire in the parties.

Because it is a non-confrontational procedure, mediation is often considered to be particularly suitable to disputes arising in the context of an existing business relationship. In those contexts, mediation offers the opportunity to reach a settlement that is conducive to the maintenance or further development of the business relationship.

ROLE OF THE CENTER

The role of the WIPO Arbitration Center in a mediation administered by it is defined in the WIPO Mediation Rules. Those Rules provide for the Center

- to receive the Request for Mediation which initiates the mediation process;
- to appoint the mediator, where the parties do not themselves do so and do not provide for another procedure for appointment;
- to determine, in consultation with the parties and the mediator, the fees of the mediator;

- to obtain from each party an advance deposit covering the estimated costs of the mediation, including the mediator's fees and the other envisaged expenses, to administer payments out of those deposits and to account to the parties at the end of the mediation in respect of the deposits. Interest accruing on deposits administered by the Center is credited to the parties.

In addition, the Center will, where so desired by the parties, provide meeting and party rooms and interpretation and secretarial assistance. Where the mediation takes place at WIPO, the meeting and party rooms are provided free of charge. A charge is made for any other services, such as interpretation or secretarial assistance, which is separate from the registration fee payable to the Center for the administration of a mediation.

FEES OF THE CENTER

The Center charges a registration fee which is calculated by reference to the value of the mediation. The basis of calculation of the registration fee is set out in the Schedule of Fees contained in Section X, below.

MEDIATOR'S FEES

The fees of the mediator are calculated on an hourly or daily rate. A range of minimum and maximum hourly and daily rates for mediator's fees is set out in the Schedule of Fees contained in Section X, below. The fees are fixed within the minimum and maximum rates by the Center, after consultation with the mediator and the parties, taking into account the amount in dispute, the complexity of the subject matter of the dispute and any other relevant circumstances. The Center also determines the currency of the fees and the modalities and timing of their payment.

Unless the parties agree otherwise, the mediator's fees, as well as the registration fee of the Center and all other expenses of the mediation, are payable in equal shares by the parties.

RECOMMENDED CONTRACT CLAUSE AND SUBMISSION AGREEMENT

In order to refer *future* disputes under a contract to mediation under the WIPO Mediation Rules, the following clause is recommended for insertion in the contract:

“Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be ... The language to be used in the mediation shall be ...”

In order to refer an *existing* dispute to mediation under the WIPO Mediation Rules, the following submission agreement is recommended:

“We, the undersigned parties, hereby agree to submit to mediation in accordance with the WIPO Mediation Rules the following dispute:

[Brief description of the dispute]

“The place of mediation shall be ... The language to be used in the mediation shall be ...”

VENUE OF MEDIATION

It is for the parties to choose where they wish the mediation to take place. Mediations administered by the Center may take place anywhere in the world.

VI. ARBITRATION

ARBITRATION: WHAT IT IS

As opposed to mediation, which is the continuation of direct negotiations between the parties with the aid of a neutral intermediary, arbitration involves the adjudication of rights by a tribunal composed of one or several arbitrators (referred to in the following as “the Tribunal”), who have the power to render a decision that is binding on the parties.

The procedure followed by the Tribunal, the power of the Tribunal, the rights and obligations of the parties and the role of the WIPO Arbitration Center as administering authority are defined in the WIPO Arbitration Rules.

It is for the parties to choose whether there will be a sole arbitrator or several arbitrators. If they do not exercise a choice, the WIPO Arbitration Rules provide for a sole arbitrator, unless the circumstances of the case are such that the Center, in its discretion, determines that a Tribunal composed of three arbitrators is appropriate.

The parties also choose the language of the arbitration. If they do not do so, the WIPO Arbitration Rules provide that the language of the arbitration will be the language of the contract clause or submission agreement by virtue of which the dispute has been referred to arbitration under the WIPO Arbitration Rules, subject to a power on the part of the Tribunal to determine otherwise, in the light of any observations made by the parties and the circumstances of the arbitration.

The law applicable to the substance of the dispute is also chosen by the parties. Failing a designation on the part of the parties, the Tribunal is empowered under the WIPO Arbitration Rules to apply the law that it determines to be appropriate.

The decision rendered by the Tribunal in the form of an award is final and binding on the parties and not usually subject to an appeal on the merits to a court of law.

In the majority of cases of international commercial arbitration, the parties comply with the award without the need to seek court enforcement. Where court enforcement is necessary, the procedure is relatively straightforward by virtue of the 1958 New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards. Over 90 States are party to the New York Convention, which obliges contracting States to recognize and enforce foreign arbitral awards subject to a limited number of specified exceptions.

ROLE OF THE CENTER

The role of the Center as administering authority is, as mentioned above, set out in the WIPO Arbitration Rules. In general, the Center's role extends to six main functions:

- (i) Upon the commencement of an arbitration, it is for the Center to ensure that the arbitral proceedings get under way smoothly and that the Tribunal is established as required. In particular, at this stage, the Center
 - processes the written statements and other communications by the parties up until the establishment of the Tribunal;
 - appoints, in accordance with the provisions of the Rules, where the parties themselves do not do so or where an arbitrator is not appointed within the applicable time limit, the arbitrator;
 - determines the fees of the arbitrator.
- (ii) The Center monitors compliance with certain prescribed time limits. In particular, it has the power, under the Rules, to extend certain time limits. In addition, the Rules require the Tribunal to give a status report to the Center where the arbitration proceedings are not declared closed or the award is not rendered within certain designated time periods.

- (iii) After the establishment of the Tribunal, the Center may be called upon to take certain decisions which it is either impossible or inappropriate for the Tribunal itself to take, notably decisions on the challenge, release or replacement of an arbitrator. Such decisions will be referred by the Center to an ad hoc committee of the WIPO Arbitration Consultative Commission for an opinion. The parties are notified of the composition of the committee of the WIPO Arbitration Consultative Commission to which the decision is referred for opinion.
- (iv) The Center will, where the parties so desire, arrange for administrative support services for the arbitration, in the form of hearing rooms, retiring rooms for the parties, recording equipment, interpretation and secretarial assistance. Where the arbitration is held at WIPO, the hearing and party rooms are provided free of charge. A charge is made for the provision of other services, such as interpretation, translation or secretarial assistance, which is separate from the Center's fees for administering the arbitration (see below).
- (v) The Center requires the payment of an advance deposit from each party in respect of the costs of the arbitration, administers payments under those deposits and accounts to the parties on the deposits at the conclusion of the arbitration. Interest accruing on deposits administered by the Center is credited to the parties.
- (vi) The Center processes the award rendered by the Tribunal.

FEES OF THE CENTER

Two kinds of fees are payable to the Center in respect of an arbitration administered by it.

The first is a registration fee, which is calculated by reference to the amount in dispute, and which is payable by the Claimant at the time of submitting the Request for Arbitration.

The second is an administration fee, again calculated by reference to the amount in dispute, which is payable in respect of the claim by the Claimant and in respect of any counter-claim by the Respondent.

The basis of calculation of the registration fee and the administration fee is set out in the Schedule of Fees contained in Section X.

As mentioned above, where the hearings are held at WIPO, the Center provides hearing and party rooms free of charge. For other administrative support services, such as interpretation or secretarial assistance, a separate charge from the registration fee and the administration fee is made.

ARBITRATOR'S FEES

The Center is responsible for fixing the amount and currency of the fees of the arbitrator, and the modalities and timing of their payment, after consultation with the arbitrator and the parties.

For this purpose, the Schedule of Fees, which is contained in Section X, below, establishes minimum and maximum ranges for the fees of the arbitrator. Within the minimum and maximum ranges, the fees will be determined taking into account the estimated time needed by the arbitrator for conducting the arbitration, the amount in dispute, the complexity of the subject matter of the dispute, the urgency of the case and any other relevant circumstances.

RECOMMENDED CONTRACT CLAUSE AND SUBMISSION AGREEMENT

In order to refer *future* disputes under a contract to arbitration under the WIPO Arbitration Rules, the following clause is recommended for insertion in the contract:

“Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of [three arbitrators][a sole arbitrator]. The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute, controversy or claim shall be decided in accordance with the law of ...”

In order to refer an *existing* dispute to arbitration under the WIPO Arbitration Rules, the following submission agreement is recommended:

“We, the undersigned parties, hereby agree that the following dispute shall be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules:

[Brief description of the dispute]

“The arbitral tribunal shall consist of [three arbitrators][a sole arbitrator]. The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute shall be decided in accordance with the law of ...”

PLACE OF ARBITRATION

The place of arbitration usually determines the law that will apply to the arbitration, that is, the law that will regulate, in particular, the relationship between the arbitration proceedings and the extent to which the courts of the place of arbitration may or will entertain actions in relation to the arbitration.

Under the WIPO Arbitration Rules, it is for the parties to agree upon the place of the arbitration, which may be anywhere in the world. If the parties do not so agree, the Center decides the place of arbitration in the light of any observations made by the parties and the circumstances of the arbitration.

VII. EXPEDITED ARBITRATION

EXPEDITED ARBITRATION: WHAT IT IS

Expedited arbitration is the same as arbitration under the WIPO Arbitration Rules (referred to in the following as "conventional arbitration"), but with certain modifications introduced in order to ensure that the arbitration can be conducted in a shortened time frame and, consequently, at a reduced cost.

The principal modifications introduced in order to meet the objectives of reduced time and cost are:

- (i) Whereas in conventional arbitration the Claimant may file the Statement of Claim later and separately from the Request for Arbitration that initiates the arbitration, in an expedited arbitration the Statement of Claim must be filed by the Claimant *with* the Request for Arbitration. Similarly, the Respondent must file the Statement of Defense *with* the Answer to the Request.
- (ii) The time periods applicable in the case of an expedited arbitration for the accomplishment of various steps in the arbitration proceedings are shorter than in the case of a conventional arbitration.
- (iii) In an expedited arbitration, there is always a sole arbitrator.
- (iv) Any hearings before the arbitrator in an expedited arbitration are intended to be condensed and may not, save in exceptional circumstances, exceed three days.

Expedited arbitration is a procedure that may be particularly suitable for cases where the value in dispute is insufficiently large to justify recourse either to court litigation or to conventional arbitration. Similarly, it may be considered desirable by small enterprises, which cannot afford to commit the financial resources or management time that would be required by court litigation or conventional arbitration. In addition, where a result is required urgently, expedited arbitration may be the appropriate procedure.

ROLE AND FEES OF THE CENTER; ARBITRATOR'S FEES

The role of the WIPO Arbitration Center in an expedited arbitration administered by it is defined in the WIPO Expedited Arbitration Rules. Since those Rules are the same as the WIPO Arbitration Rules, with the exception of the modifications introduced to ensure a quicker procedure, the Center's role is the same in an expedited arbitration as in a conventional arbitration (see Section VI, above).

Similarly, the types of fees payable to the Center in respect of an expedited arbitration are the same, and are calculated on the same basis, as the fees payable for a conventional arbitration.

The fees of the sole arbitrator in an expedited arbitration are also determined in the same way as the fees of the arbitrator in a conventional arbitration. Naturally, the urgency of the case will be a factor that may assume particular importance in determining the amount of the arbitrator's fees within the minimum and maximum ranges of arbitrator's fees set out in the Schedule of Fees contained in Section X, below.

RECOMMENDED CONTRACT CLAUSE AND SUBMISSION AGREEMENT

In order to refer *future* disputes under a contract to expedited arbitration under the WIPO Expedited Arbitration Rules, the following clause is recommended for insertion in the contract:

“Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules. The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute, controversy or claim shall be decided in accordance with the law of ...”

In order to refer an *existing* dispute to expedited arbitration under the WIPO Expedited Arbitration Rules, the following submission agreement is recommended:

“We, the undersigned parties, hereby agree that the following dispute shall be referred to and finally determined by arbitration in accordance with the WIPO Expedited Arbitration Rules:

[Brief description of the dispute]

“The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute shall be decided in accordance with the law of ...”

VIII. MEDIATION FOLLOWED, IN THE ABSENCE OF A SETTLEMENT, BY ARBITRATION

THE NATURE OF THE COMBINED PROCEDURE

Mediation followed, in the absence of a settlement, by arbitration is a combined procedure. The dispute is submitted first to mediation under the WIPO Mediation Rules. Then, if a settlement is not reached within a defined period of time (it is recommended that the parties provide for either 60 or 90 days), or if a party refuses to participate or to continue to participate in the mediation, the dispute is referred for a binding decision through arbitration under the WIPO Arbitration Rules (or, if the parties so agree, through expedited arbitration).

The advantage of the combined procedure is the incentive that it offers for a good faith commitment by both parties to the mediation process, since the consequence of a failure to reach an agreed settlement will be more tangibly measurable in terms of the financial and management commitment that would need to be incurred in the subsequent arbitration procedure.

ROLE AND FEES OF THE CENTER; MEDIATOR'S AND ARBITRATOR'S FEES

The role of the WIPO Arbitration Center is the same in each part of the combined procedure as described above in the Sections on mediation and arbitration.

The same fees are payable to the Center in respect of the mediation component as in a mediation under the WIPO Mediation Rules. Likewise, if the dispute proceeds to arbitration, the same fees are payable to the Center in respect of the arbitration component as in an arbitration under the WIPO Arbitration Rules, *except that* the Center will credit the registration fee paid for the mediation against the registration fee payable for the arbitration.

Similarly, the mediator's fees and the arbitrator's fees are determined in the same way as in a mediation under the WIPO Mediation Rules and an arbitration under the WIPO Arbitration Rules, respectively.

RECOMMENDED CONTRACT CLAUSE AND SUBMISSION AGREEMENT

In order to refer *future* disputes under a contract to the combined procedure, the following clause is recommended for insertion in the contract:

“Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be submitted to mediation in accordance with the WIPO Mediation Rules. The place of mediation shall be ... The language to be used in the mediation shall be ...

“If, and to the extent that, any such dispute, controversy or claim has not been settled pursuant to the mediation within [60][90] days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. Alternatively, if, before the expiration of the said period of [60][90] days, either party fails to participate or to continue to participate in the mediation, the dispute, controversy or claim shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of [three arbitrators][a sole arbitrator]. The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute, controversy or claim referred to arbitration shall be decided in accordance with the law of ...”

In order to refer an *existing* dispute to the combined procedure, the following submission agreement is recommended:

“We, the undersigned parties, hereby agree to submit to mediation in accordance with the WIPO Mediation Rules the following dispute:

[Brief description of the dispute]

“The place of mediation shall be ... The language to be used in the mediation shall be ...

“We further agree that, if, and to the extent that, the dispute has not been settled pursuant to the mediation within [60][90] days of the commencement of the mediation, it shall, upon the filing of a Request for Arbitration by either party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. Alternatively, if, before the expiration of the said period of [60][90] days, either party fails to participate or to continue to participate in the mediation, the dispute shall, upon the filing of a Request for Arbitration by the other party, be referred to and finally determined by arbitration in accordance with the WIPO Arbitration Rules. The arbitral tribunal shall consist of [three arbitrators][a sole arbitrator]. The place of arbitration shall be ... The language to be used in the arbitral proceedings shall be ... The dispute referred to arbitration shall be decided in accordance with the law of ...”

IX. LISTS OF WIPO MEDIATORS AND ARBITRATORS

The WIPO Arbitration Center maintains lists of persons who are specially qualified to act as mediators and arbitrators. The lists contain in respect of each such person information on the person's experience and training in mediation and arbitration, as well as on the person's specialized expertise in one or several of the various fields of intellectual property.

The lists are the primary source used by the Center when it is called upon to recommend to the parties, or to make appointments of, mediators or arbitrators.

There are two sorts of cases, which are described in the following paragraphs, in which the Center may be called upon to make appointments.

APPOINTMENTS BY THE CENTER IN CASES ADMINISTERED BY THE CENTER

The WIPO Mediation Rules, the WIPO Arbitration Rules and the WIPO Expedited Arbitration Rules provide for the Center to appoint a mediator or arbitrator in certain circumstances in respect of mediations or arbitrations administered by the Center.

In the case of mediations, the *WIPO Mediation Rules* provide for the mediator to be appointed by the parties. However, where the parties do not themselves appoint the mediator, and do not specify another procedure for the appointment of the mediator, the mediator will be appointed by the Center. An appointment by the Center is made only after consultation with the parties.

In the case of conventional arbitrations, the *WIPO Arbitration Rules* contain detailed provisions on the manner in which arbitrators are to be appointed. Where there is a sole arbitrator, they provide for the parties to appoint the sole arbitrator jointly. Where there are three arbitrators, each party appoints one arbitrator and the two arbitrators so appointed jointly appoint the third, presiding arbitrator. Where the

parties themselves fail to exercise a right to make an appointment within a designated time period, or where the presiding arbitrator is not appointed within the applicable period of time, the appointment is made by the Center.

In cases where the Center is called upon to make an appointment of a sole or presiding arbitrator, the WIPO Arbitration Rules provide for the Center to send a list of identical names of prospective arbitrators to each of the parties for them to indicate any objections and to express preferences in relation to the prospective arbitrators on the lists. Details of the professional experience, qualifications and training of the prospective arbitrators on the list are sent with the list. The prospective arbitrator who receives the highest preference on the marked lists returned by the parties will, assuming availability and the absence of any disqualifying circumstances, be appointed by the Center.

In the case of expedited arbitrations, the *WIPO Expedited Arbitration Rules* provide for the parties to appoint jointly the sole arbitrator. Where they do not do so within the designated time period, the Center appoints the sole arbitrator. In view of the emphasis on a quicker procedure, it does not send a list of prospective arbitrators to the parties, but makes the appointment in the exercise of its discretion.

APPOINTMENTS BY THE CENTER IN CASES NOT ADMINISTERED BY THE CENTER

The Center will also, at the request of parties to a dispute, and against payment of a fee, appoint a mediator or an arbitrator for mediations or arbitrations that are not administered by it (such as ad hoc mediations or arbitrations or mediations or arbitrations administered by another institution). The amount of the fee charged for this service is set out in the Schedule of Fees contained in Section X.

X. SCHEDULE OF FEES

(All amounts are in United States dollars)

MEDIATION

Fees of the Center

Registration Fee (Article 21, WIPO Mediation Rules)

1. The amount of the registration fee shall be 0.1% of the value of the mediation, subject to a maximum registration fee of \$10,000. By way of example, the following registration fees would be payable where the value of the mediation is the following amounts:

<i>Value of Mediation</i>	<i>Registration Fee</i>
\$500,000	\$500
\$1,000,000	\$1,000
\$5,000,000	\$5,000
\$10,000,000 and above	\$10,000

2. The value of the mediation is determined by the total value of amounts claimed.
3. Where the Request for Mediation does not indicate any claims for a monetary amount or the dispute concerns issues that are not quantifiable in monetary amounts, a registration fee of \$750 shall be payable, subject to adjustment. The adjustment shall be made by reference to the registration fee that the Center, after consultation with the parties and the mediator, determines in its discretion to be appropriate in the circumstances.
4. Any monetary amounts in dispute expressed in currencies other than United States dollars shall, for the purposes of calculating the registration fee, be converted to amounts expressed in United States dollars on the basis of the official United Nations exchange rate prevailing on the date of submission of the Request for Mediation.

Mediators' Fees**Indicative Hourly and Daily Rates**
(Article 22, WIPO Mediation Rules)

	<i>Minimum</i>	<i>Maximum</i>
Per hour	\$300	\$600
Per day	\$1,500	\$3,500

ARBITRATION

Fees of the Center

I. Registration Fee

(Article 67, WIPO Arbitration Rules)

<i>Amount of Claim</i>	<i>Registration Fee</i>
Up to \$1,000,000	\$1,000
\$1,000,001 to \$10,000,000	\$2,000
Over \$10,000,000	\$3,000

Notes

1. Where the amount of the claim is not specified at the time of submitting the Request for Arbitration, a registration fee of \$1,000 shall be payable, subject to adjustment when the Statement of Claim is filed.
2. Where a claim is not for a monetary amount, a registration fee of \$1,000 shall be payable, subject to adjustment. The adjustment shall be made by reference to the registration fee that the Center, upon examination of the Request for Arbitration or the Statement of Claim, determines to be appropriate in the circumstances.
3. The amount of claims expressed in currencies other than United States dollars shall, for the purposes of calculating the registration fee, be converted to amounts expressed in United States dollars on the basis of the official United Nations exchange rate prevailing on the date of submission of the Request for Arbitration.

II. Administration Fee

(Article 68, WIPO Arbitration Rules)

<i>Amount of Claim or Counter-Claim</i>	<i>Administration Fee</i>
Up to \$100,000	\$1,000
\$100,001 to \$1,000,000	\$1,000 + 0.40% (of the amount above \$100,000)
\$1,000,001 to \$5,000,000	\$4,600 + 0.20% (of the amount above \$1,000,000)
\$5,000,001 to \$20,000,000	\$12,600 + 0.10% (of the amount above \$5,000,000)
Over \$20,000,000	\$27,600 + 0.05% (of the amount above \$20,000,000 up to a <i>maximum</i> administration fee of \$35,000)

Notes

1. Where a claim or counter-claim is not for a monetary amount, the Center shall determine an appropriate administration fee.
2. For the purpose of calculating the administration fee, the percentage figures are applied to each successive part of the amount of claim or counter-claim. For example, if the amount of claim is \$5,000,000, the administration fee would be calculated as follows:

\$100,000		\$1,000
\$900,000 (difference between \$100,000 and \$1,000,000)	0.40%	\$3,600
\$4,000,000 (difference between \$1,000,000 and \$5,000,000)	0.20%	<u>\$8,000</u>
<u>\$5,000,000</u>		<u>\$12,600</u>

3. The maximum administration fee payable is \$35,000.
4. The amounts of claims or counter-claims expressed in currencies other than United States dollars shall, for the purposes of calculating the administration fee, be converted to amounts expressed in United States dollars on the basis of the official United Nations exchange rate prevailing on the date of submission of the claim or of the counter-claim, respectively.

Arbitrators' Fees (See Table, page 45)

Notes

1. For the purpose of calculating the amount of claims, the value of any counter-claim is added to the amount of the claim.
2. For the purpose of calculating the minimum and maximum amounts of the arbitrators' fees, the percentage figures are applied to each successive part of the whole amount of claims. For example, if the amount of claim is \$1,500,000, the minimum fees for a sole arbitrator would be calculated as follows:

\$100,000			\$2,000
\$400,000 (difference between \$100,000 and \$500,000)	2.00%		\$8,000
\$500,000 (difference between \$500,000 and \$1,000,000)	1.50%		\$7,500
\$500,000 (difference between \$1,000,000 and \$1,500,000)	1.00%		<u>\$5,000</u>
<u>\$1,500,000</u>			<u>\$22,500</u>

3. Where a claim or counter-claim is not for a monetary amount, the Center shall, in consultation with the arbitrators and the parties, determine an appropriate value for the claim or counter-claim for the purpose of determining the arbitrators' fees.
4. The amounts of claims or counter-claims expressed in currencies other than United States dollars shall, for the purpose of determining the arbitrators' fees, be converted to amounts expressed in United States dollars on the basis of the official United Nations exchange rate prevailing on the date of submission of the claim or of the counter-claim, respectively.

Arbitrators' Fees
(Article 69, WIPO Arbitration Rules)

Amount of Claims	Fees			
	Minimum		Maximum	
	Sole Arbitrator	Three-person Tribunal	Sole Arbitrator	Three-person Tribunal
Up to \$100,000	\$2,000	\$5,000	10.00%	25.00%
\$100,001 to \$500,000	\$2,000 + 2.00% (of the amount above \$100,000)	\$5,000 + 5.00% (of the amount above \$100,000)	\$10,000 + 4.00% (of the amount above \$100,000)	\$25,000 + 10.00% (of the amount above \$100,000)
\$500,001 to \$1,000,000	\$10,000 + 1.50% (of the amount above \$500,000)	\$25,000 + 3.75% (of the amount above \$500,000)	\$26,000 + 3.50% (of the amount above \$500,000)	\$65,000 + 8.75% (of the amount above \$500,000)
\$1,000,001 to \$2,000,000	\$17,500 + 1.00% (of the amount above \$1,000,000)	\$43,750 + 2.50% (of the amount above \$1,000,000)	\$43,500 + 2.00% (of the amount above \$1,000,000)	\$108,750 + 5.00% (of the amount above \$1,000,000)
\$2,000,001 to \$5,000,000	\$27,500 + 0.75% (of the amount above \$2,000,000)	\$68,750 + 1.90% (of the amount above \$2,000,000)	\$63,500 + 1.50% (of the amount above \$2,000,000)	\$158,750 + 3.75% (of the amount above \$2,000,000)
\$5,000,001 to \$10,000,000	\$50,000 + 0.50% (of the amount above \$5,000,000)	\$125,750 + 1.25% (of the amount above \$5,000,000)	\$108,500 + 1.00% (of the amount above \$5,000,000)	\$271,250 + 2.50% (of the amount above \$5,000,000)
\$10,000,001 to \$25,000,000	\$75,000 + 0.30% (of the amount above \$10,000,000)	\$188,250 + 0.75% (of the amount above \$10,000,000)	\$158,500 + 1.00% (of the amount above \$10,000,000)	\$396,250 + 2.50% (of the amount above \$10,000,000)
Over \$25,000,000	\$120,000 + 0.25% (of the amount above \$25,000,000)	\$300,750 + 0.65% (of the amount above \$25,000,000)	\$308,500 + 1.00% (of the amount above \$25,000,000)	\$771,250 + 2.50% (of the amount above \$25,000,000)

5. The amounts and percentage figures specified in the Table for a three-person Tribunal represent the total fees payable to such a Tribunal, and not the fees payable to each arbitrator. Such fees shall be distributed between the three persons in accordance with the unanimous decision of those three persons. In the absence of such a decision, the distribution shall be 40 per cent for the presiding arbitrator, and 30 per cent for each of the other two arbitrators.
6. Where, by the agreement of the parties, a number of arbitrators other than one or three is appointed to a Tribunal, the scale of minimum and maximum fees for the Tribunal in question shall be determined by the Center. That scale shall be so determined by multiplying the scale for a sole arbitrator by the number of arbitrators reduced by a factor that takes account of the sharing of work and responsibility among the arbitrators.

EXPEDITED ARBITRATION

The fees of the Center are the same as for an arbitration under the WIPO Arbitration Rules.

The arbitrator's fees are determined in the same way as the fees of an arbitrator in an arbitration under the WIPO Arbitration Rules.

MEDIATION FOLLOWED, IN THE ABSENCE OF A SETTLEMENT, BY ARBITRATION

The fees payable to the Center in respect of the mediation component are those payable for a mediation under the WIPO Mediation Rules. If the dispute proceeds to arbitration, the fees payable in respect of the arbitration are those payable for an arbitration under the WIPO Arbitration Rules **EXCEPT THAT** the Center will credit the registration fee paid for the mediation (up to a maximum amount of \$3,000) against the registration fee payable for the arbitration.

The fees of the mediator are determined in the same way as the fees of the mediator in a mediation under the WIPO Mediation Rules. Likewise, if the dispute proceeds to arbitration, the arbitrator's fees are determined in the same way as the fees of an arbitrator in an arbitration under the WIPO Arbitration Rules.

APPOINTMENT OF MEDIATORS OR ARBITRATORS IN CASES NOT ADMINISTRATED BY THE CENTER

For each request to appoint a mediator or an arbitrator, a fee of \$750 is payable to the Center.

Notes

1. The fee of \$750 is payable by the party requesting the Center to appoint the mediator or the arbitrator.
2. No action will be taken by the Center on a request to appoint a mediator or an arbitrator until the fee of \$750 has been paid.
3. The fee of \$750 covers any related services to be rendered by the Center in connection with the appointment, such as a decision on a challenge or replacement of an arbitrator.

XI. CONFERENCES AND TRAINING PROGRAMS

The WIPO Arbitration Center organizes both conferences on particular themes relating to mediation, arbitration and the resolution of intellectual property disputes, and training programs designed specifically for mediators or arbitrators or those wishing to receive training as mediators or arbitrators.

CONFERENCES

Conferences are designed for large audiences and are intended to illustrate the advantages, opportunities and limitations of particular dispute-resolution procedures, or to provide an occasion for a detailed examination of a particular theme.

TRAINING PROGRAMS

Training Programs are designed for a limited number of participants and are intended to teach skills for, and to provide detailed insight into, mediation or arbitration, particularly under the WIPO Mediation Rules and the WIPO Arbitration Rules.

Details of planned conferences and training programs are available from the Center.

XII. FURTHER INFORMATION AND DOCUMENTATION

The following publications are available in the following languages:

WIPO Arbitration Center: Introductory Information	Arabic, English, French, Japanese, Spanish	Free of Charge
WIPO Mediation, Arbitration and Expedited Arbitration Rules and Recommended Contract Clauses and Submission Agreements	Arabic, English, French, Spanish	Free of Charge
Proceedings of the Worldwide Forum on the Arbitration of Intellectual Property Disputes organized jointly by WIPO and the American Arbitration Association (AAA), Geneva, March 3 and 4, 1994	English, French	30 Swiss francs
Proceedings of the Conference on Rules for Institutional Arbitration and Mediation jointly organized by WIPO and the Swiss Arbitration Association (ASA), Geneva, January 20, 1995	English	30 Swiss francs

The above-mentioned publications and further information may be obtained from:

WIPO Arbitration Center
Director: Francis Gurry
34, chemin des Colombettes
1211 Geneva 20
Switzerland

Telephone: (41-22) 730 91 11

Facsimile: (41-22) 733 54 28 (WIPO)

(41-22) 740 37 00 (Direct to Center).

WIPO Liaison Office in New York
2, United Nations Plaza
Room 560 (5th Floor)
New York NY 10017
United States of America

Telephone: (1-212) 963 6813

Facsimile: (1-212) 963 4801

