

ARISE + ASEAN IPR

Workshop 2: Enhancing Skills for Mediators

Topic 4: Presentation of IP mediation services in ASEAN region

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21 October 2021

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Overview



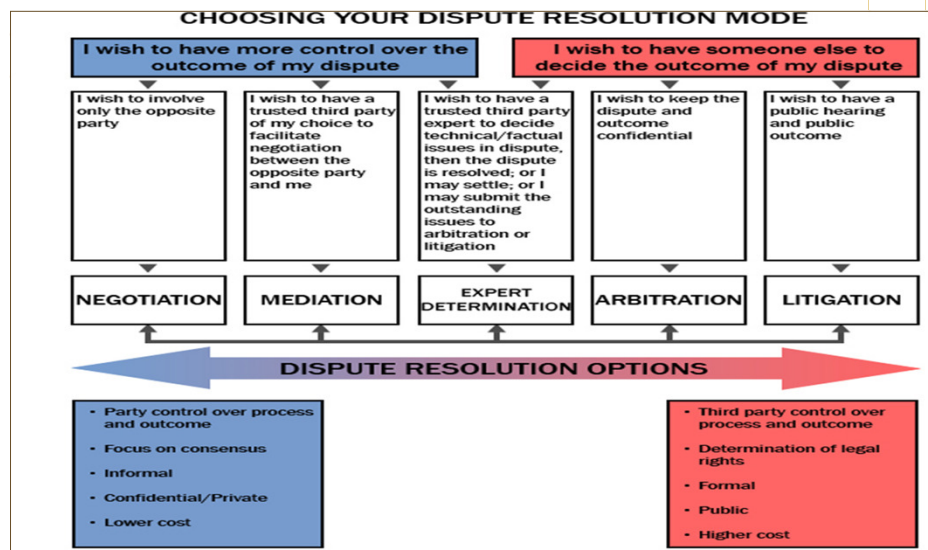
- Presentation of IP Mediation Services in ASEAN Region - Singapore
 - IPOS Offerings
 - Mediation
 - Operation
 - Success cases
 - Challenges / Best Practices

IP Dispute Resolution

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Dispute Resolution Spectrum



Alternative Dispute Resolution

"An ideal system of justice is one that delivers justice that is *customised* to each type of case, keeping in mind the subject matter, the parties, and the desired outcomes...In this regard, it would perhaps be timely to embrace a paradigm shift and understand "ADR" as a reference to "*Appropriate* Dispute Resolution" instead."

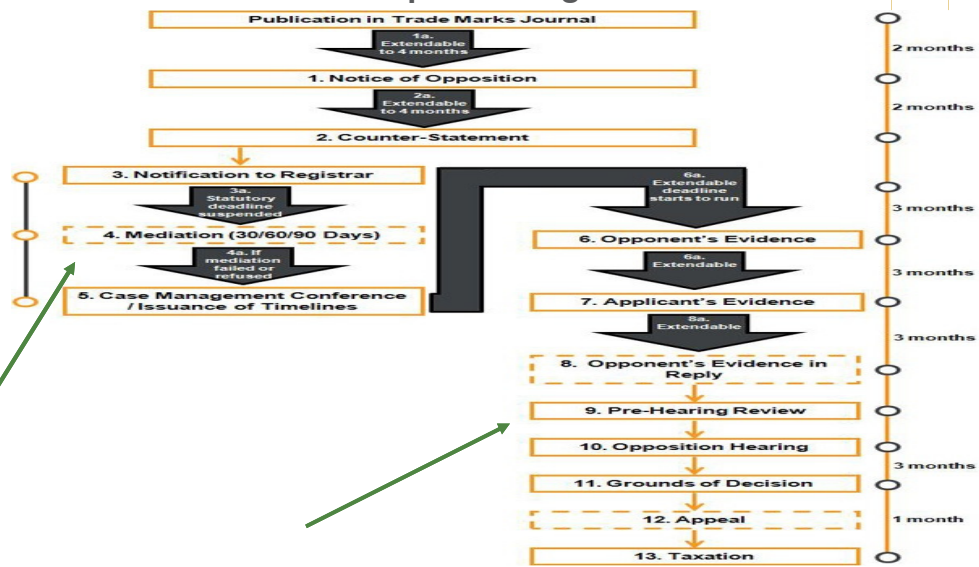
Chief Justice Sundaresh Menon
Global Pound Conference Series 2016 – Singapore
"Shaping the Future of Dispute Resolution & Improving Access to
Justice"
17 March 2016

IPOS Offerings

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Mediation at IPOS contentions proceedings



EMPS

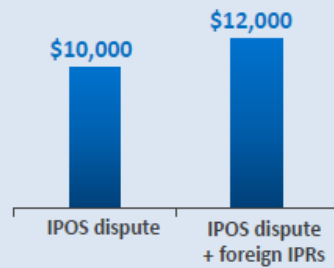


Enhanced Mediation Promotion Scheme (EMPS)

Funding for mediation undertaken by parties in dispute before IPOS, regardless of the mediation outcome

- Up to **\$10,000** per mediation case for:
- ✓ Mediation service provider’s administration fee
 - ✓ Mediator’s fee
 - ✓ Mediation-related agent fees (up to 50%)

Up to **\$12,000** per mediation case if the mediation also covers foreign intellectual property rights



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SUCCESS CASE AT IPOS

- **2019 case under EMPS**
 - Both parties foreign companies, flew to Singapore for the mediation
 - One party from the US and the other from **Thailand**
 - Resolved dispute before IPOS **and** also achieved **global resolution => total 6 jurisdictions (5 ASEAN) countries**
 - Singaporean IP lawyer completed mediation in **19.5 hours**
 - Total (administrative and mediator's) costs: SGD 11,349.98 (between 2 parties)
 - **Fully subsidized** under EMPS (mediator's fees and administration fees of the service provider)
 - Also **partially** defrayed mediation-related lawyer fees and disbursements

SUCCESS CASE AT IPOS

Thai Party:
*I am very glad that mediation in Singapore has helped us resolve the existing disputes and achieved a **win-win** outcome for all parties.*

US Party:
*The success of the mediation is **very significant** to us. Apart from settling existing disputes, the settlement ensured the **protection** of our company's **brand image** and the **rapid development of our business** in Southeast Asia.*

SUCCESS CASE AT IPOS

- **2017 case under IPOS Mediation Promotion Scheme (MPS)**
 - 2 parties embroiled in 4 trade mark disputes
 - One party is a major food and beverage business in SG and the other party is a relatively well-known UK entertainment outfit
 - Ensnared by disputes across different jurisdictions
 - Singapore based IP lawyer / mediator appointed
 - Resolved dispute before IPOS *and* also achieved *global* resolution
 - **Completed in 1 day, via video conferencing**
 - Total (administrative and mediator's) costs: **SGD 3,450.20** (between 2 parties)
 - **Fully subsidized** under MPS

SUCCESS CASE AT IPOS

Parties' feedback:

“We are *very happy* with the service we received and the result of the mediation.”

“...we would still use the mediation service if we thought it could assist us in settling a dispute in a cost-effective and timely manner *even if* funding is not available”.

SUCCESS CASE AT IPOS



▪ Case

- Singaporean construction company filed oppositions against 3 trade mark applications owned by 3 commercially related entities based in **Singapore, Malaysia and Indonesia**
- Resolved all outstanding proceedings on a **global** basis
- Singaporean IP lawyer as mediator and **1 day mediation**
- Settled **4 months** after commencement of mediation

SUCCESS CASE AT IPOS



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<https://www.wipo.int/amc/en/center/specific-sectors/ipos/mediation/case-examples.html>

Selected success cases at IPOS

S/N	Citation
1	K & Q Brothers Electrical Engineering Co. Pte. Ltd. & K&Q Fatt Pte Ltd, Quek Jia Ling, Quek Hong Peng, Quek Jia Hao [2021] SGIPOS MED 2
2	Gromark Consumers Enterprise Pte. Ltd. & GK Laboratory (Asia) Pte. Ltd. [2020] SGIPOS MED 2
3	Eley Trading Sdn Bhd & Kwek Soo Chuan [2020] SGIPOS MED 1

<https://www.ipos.gov.sg/manage-ip/resolve-ip-disputes/mediation>

Challenges/Best practice

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Challenges/best practices

- General
 - Need mindset change
 - Mediation is not an inferior Dispute Resolution option
 - Mediation is not a sign of weakness
- Specifics (in relation to the mediation option before IPOS)
 - Integration into contentious process
 - Introduction at early stage to cut costs
 - Funding
 - Need consent of both parties

