



Best Practice of Mediation as an IPR alternative dispute resolution in DGIP Indonesia

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Introduction to Mediation in DGIP Indonesia

- ❑ Mediation is an alternative dispute resolution for resolving the IPR dispute by implementing mutually agreed-upon procedures outside of formal court proceedings.
- ❑ The mediation process at DGIP is voluntary, neutral (impartial), and confidential.
- ❑ The implementation of mediation is facilitated by reliable, competent and certified mediators.
- ❑ If both parties involved in the dispute have reached a peace/mutual agreement (agreeing to a settlement), “peace agreement” document will be made.

Accredited Mediators In DGIP

24

Directorate of Law Enforcement DGIP

27

Another directorates in DGIP

31

IP Regional Offices

Scope of Mediation



Mediation upon request/application

- Mediation before criminal charges
- Mediation is conducted before there is a file submission to the prosecutor's officer



Mediation upon Complaint Report

The dispute resolution process through Mediation can be conducted since the complaint is received.

NOTE :

- Article 60 Paragraph (2) of Regulation of the Minister of Law and Human Rights Number 1 of 2023 on the Management of Criminal Investigation in the Field of Intellectual Property. "For criminal offenses related to copyright, related rights, patents, or simple patents, before proceeding with criminal charges , it is mandatory to first attempt dispute resolution through mediation".
- Article 60 Paragraph (3) of Regulation of the Minister of Law and Human Rights Number 1 of 2023 on the Management of Criminal Investigation in the Field of Intellectual Property. "The dispute resolution process through Mediation can be conducted since the complaint is received."

Mediation case from 2021–2024

NOTE :

- FOR COPYRIGHT, 24 CASES WERE SUCCESSFULLY MEDIATED
- FOR TRADEMARKS, 11 CASES WERE SUCCESSFULLY MEDIATED
- FOR INDUSTRIAL DESIGN, 1 CASE WAS SUCCESSFULLY MEDIATED
- FOR PATENTS , 1 CASE WAS SUCCESSFULLY MEDIATED

MEDIATION CASE	Total
COPYRIGHT	55
TRADEMARK	38
DESAIN INDUSTRY	4
PATENT	4
TOTAL CASE	101

TRADEMARK CASE



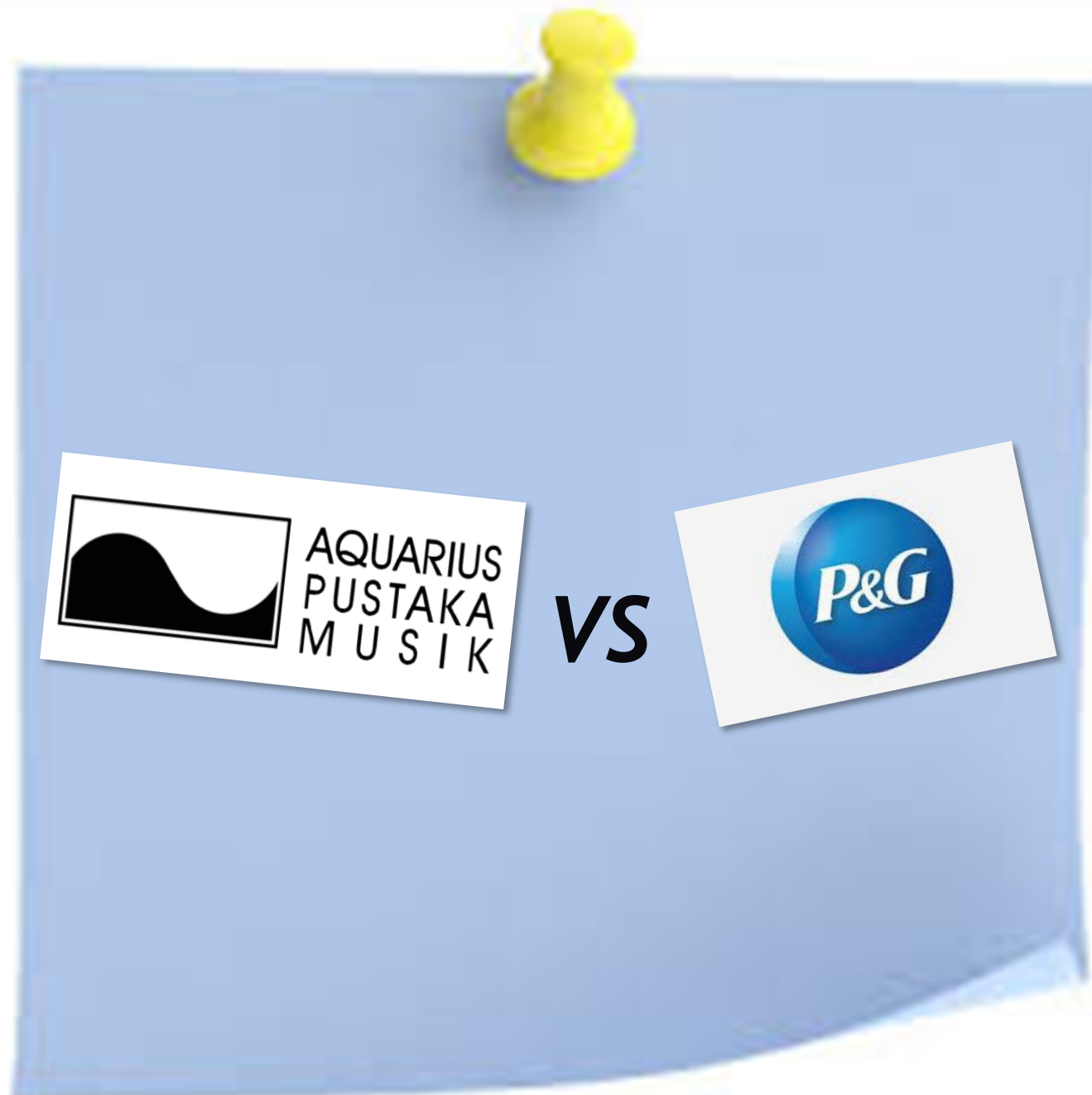
They started as good friends and later established a joint business in watches by registering a legal entity.

However, problems arose because one of the parties registered the watch brand ELVANO as a brand unilaterally and in the name of an individual.

The other party felt that this was his idea in terms of the branding that he had created.

So DGIP formed a Mediation Team to mediate this case. In the end they reconciled by transferring ownership rights to the person who found the brand first. And the other party were willing to pay compensation and stopped selling "Elvano".

COPY RIGHT CASE



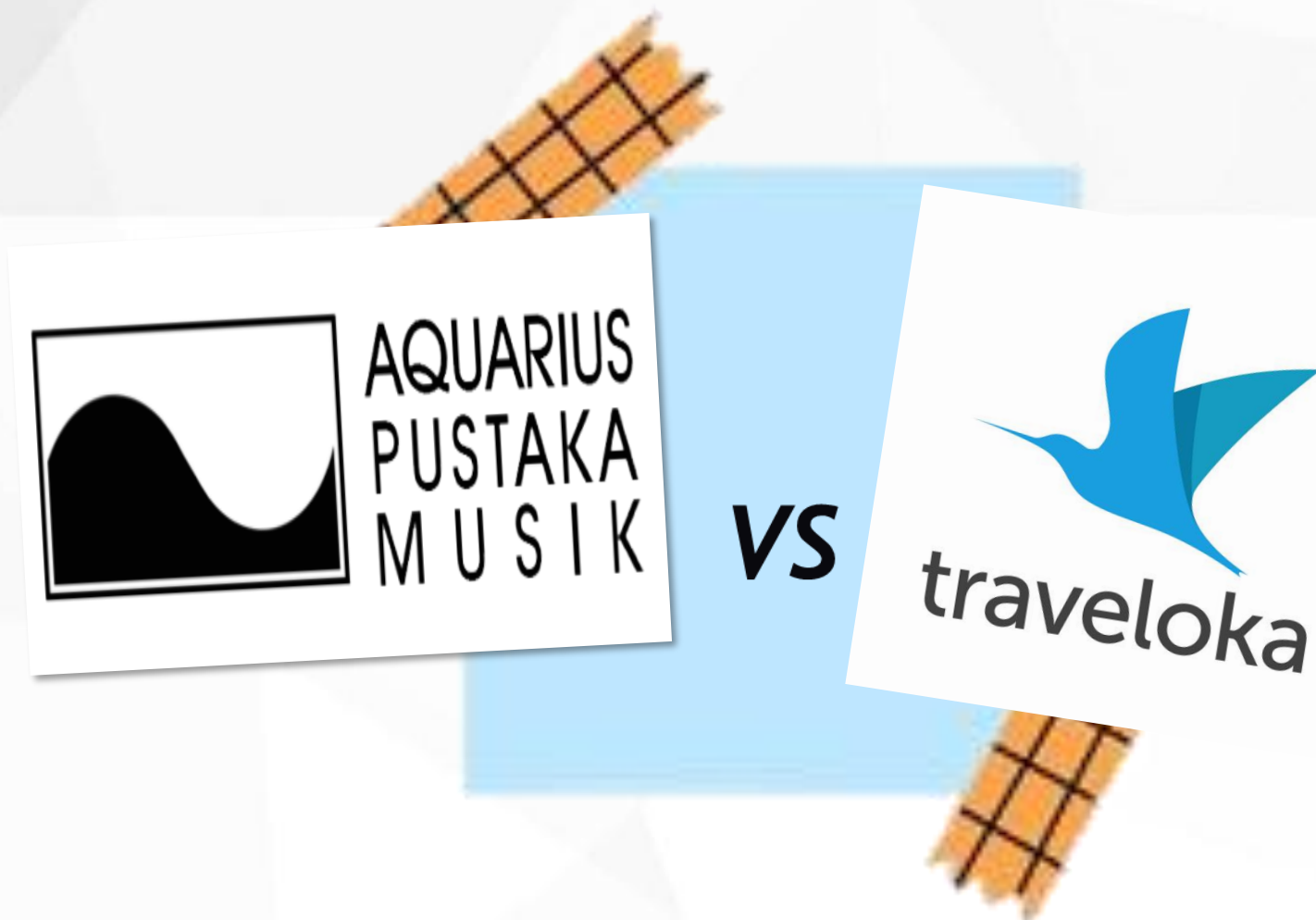
P & G used 11 songs under Aquarius Pustaka Music label for theme song of their advertisement

However, problems arose because P & G used the songs without any consent from Aquarius Pustaka Musik as the label.

Aquarius Pustaka Musik found this problem and felt P & G didn't ask for consent using the songs, and file a mediation application as infringement of copyright to DGIP.

So DGIP formed a Mediation Team to mediate this case. In the end they reconciled. P & G were willing to pay compensation and stopped using the 8 songs, but P & G was allowed to use another 3 famous songs to be the theme songs for their advertisement until the end of 2023.

COPY RIGHT CASE



Traveloka used 21 songs under Aquarius Pustaka Music label for theme song of their advertisement

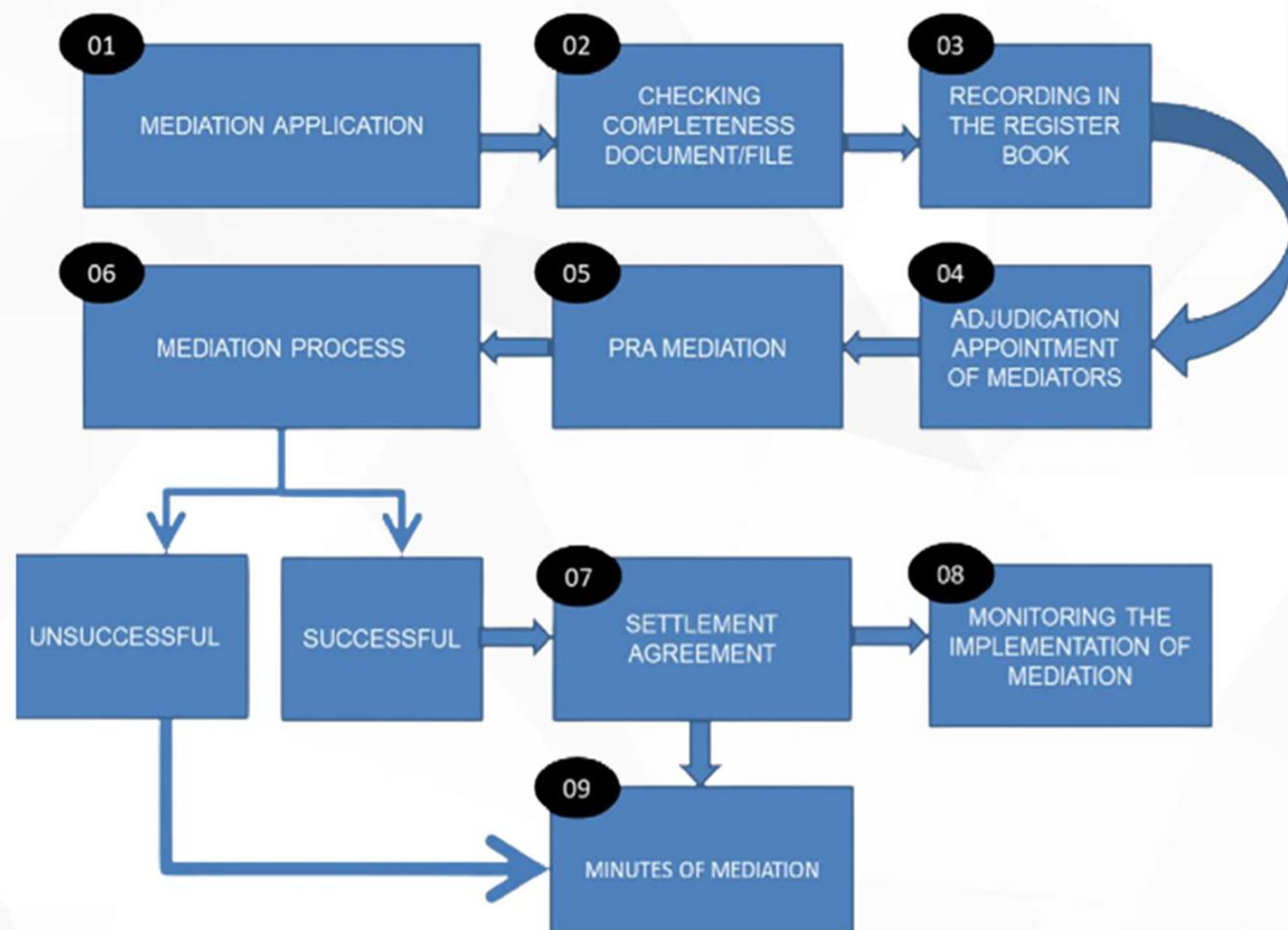
However, problems arose because Traveloka used the songs without any consent from Aquarius Pustaka Musik as the label.

Aquarius Pustaka Musik found this problem and felt Traveloka didn't ask for consent using the songs, and file a mediation application as infringement of copyright to DGIP.

So DGIP formed a Mediation Team to mediate this case. In the end they reconciled. Traveloka were willing to pay compensation and stopped using all the songs as their theme songs.

Best Practice on Mediation

Flow Chart Of Mediation Process



Pre-Mediation

- Mediator prepares and organizes a series of steps before the mediation begins.
- Mediator takes several strategic steps, including building confidence, contacting the parties involved, gathering and providing preliminary mediation information, focusing on the future, coordinating the disputing parties, being aware of cultural differences, determining objectives, identifying the parties, setting the time and place of the meeting, and creating a conducive situation for both parties.

Mediation

- The mediator facilitates discussions to find common ground and mutually beneficial solutions
- .If necessary, the mediator may hold separate meetings (caucuses) to explore each party's position in more depth.
- The mediator ensures that the discussion remains focused on problem-solving.

Mediation Implementation

If both parties reach an agreement, the mediator assists in drafting a written settlement. The agreement must be clear, concrete, and feasible for implementation. The parties review and sign the agreement. Both parties implement the agreement

01 INTRODUCTION MEDIATION



02 PRESENTATION OF THE INVOLVED PARTIES



03 ESTABLISHING MUTUAL UNDERSTANDING



04 DEFINING THE CORE ISSUE



IMPLEMENTATION MEDIATION ON DGIP



05 NEGOTIATION PROCESS



06 SEPARATE MEETINGS



07 DECISION-MAKING PHASE



08 DRAFTING THE AGREEMENT

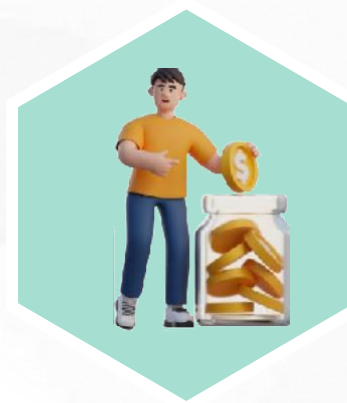


REASONS FOR CHOOSING MEDIATION



LOWER COST

Less costly than hiring a lawyer and going to court



SAVING TIME

The parties can save time because the settlement is easier and faster, the parties can adjust the time.



DELIBERATION IS PRIORITIZED

Decisions based on mutual interests because it adheres to the principle of win win solution



GUARANTEED CONFIDENTIALITY

Mediators will always try to maintain the confidentiality of the parties in both the implementation process up to the joint decision of the parties.

**Terimakasih
(Thank you
very much!)**

Presented by: Ruth Swarny