



■ Dispute Resolution in ICTs - WIPO Arbitration and Mediation Center

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WIPO Arbitration and Mediation Center

- Established 1994
- Disputes involving IP (including licenses) and ITC require a specialized ADR provider
 - WIPO panel members experienced in IP and ITC able to deliver informed results efficiently
 - Very competitive fee structure
 - Status as international agency enhances reliability
- Services include mediation, (expedited) arbitration, expert determination
 - Rules, contract clauses
 - Active Case Management
 - Specialized Neutrals
 - WIPO ECAF (online case management)
 - Procedural guidance, training programs

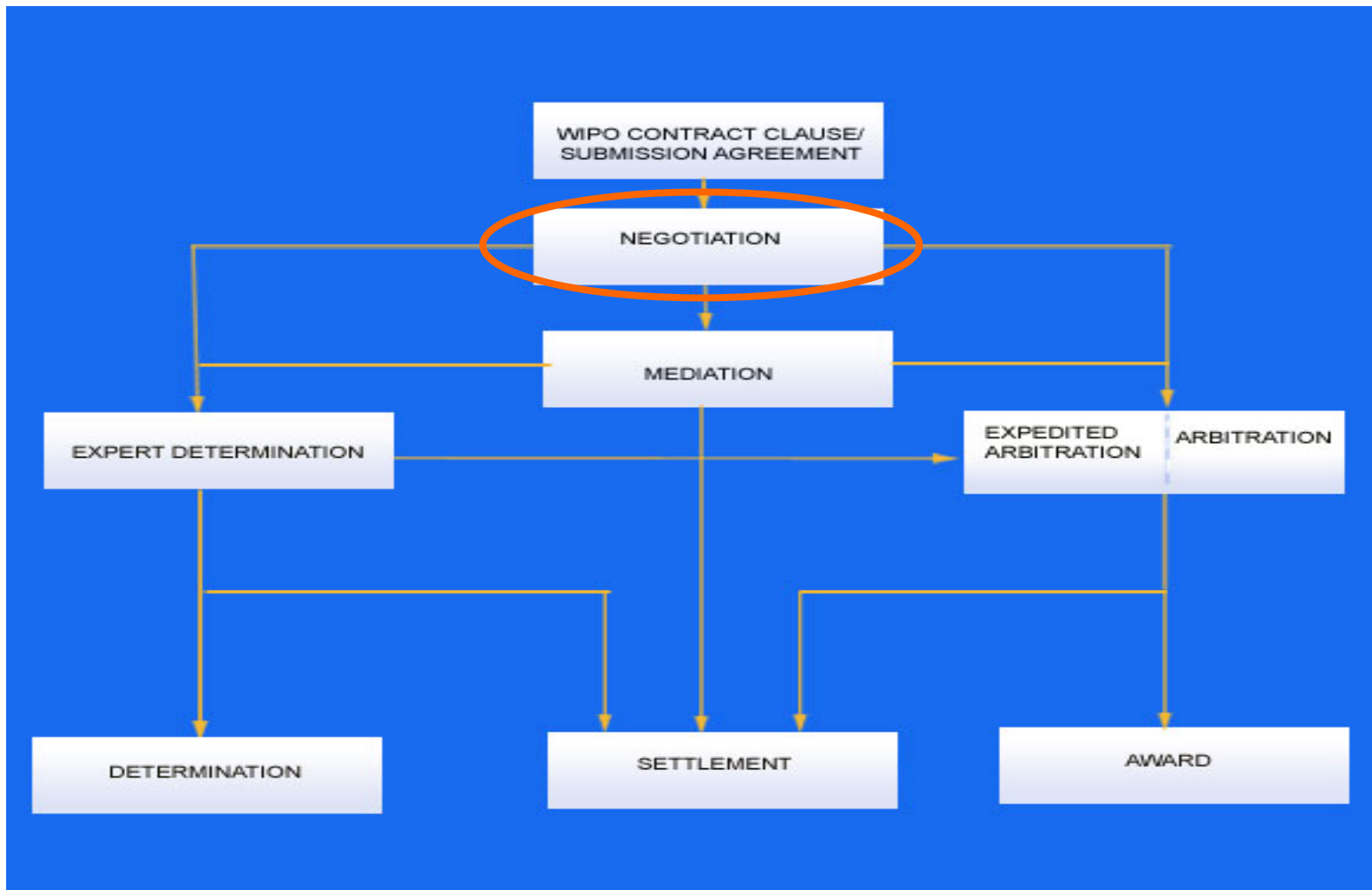
WIPO Arbitration and Mediation Center

- WIPO Cases:
 - Contractual: patent licenses, software/ITC, research and development agreements, patent pools, distribution agreements, joint ventures, copyright collecting societies, trademark coexistence agreements, settlement agreements
 - Infringement of all IP rights (37% patent)
 - Domestic disputes, not just international
- The WIPO Center also:
 - Administers Internet domain name disputes (35,000 since 1999)
 - Helps develop special ADR procedures for industry sectors

IT and ICT Experience

- Software Licenses
- Outsourcing
- Patent Infringement
- Patent Pools
- Standards
- Patent Licenses and Cross-licenses
- ICT-Web infrastructure, Network Operation
- Copyright: retransmission of audiovisual works by cable, satellite, ADSL and mobile networks (WIPO Expedited Arbitration Rules for AGICOA)
- Singapore Infocomm Technology Federation (SiTF)

Options



Mediation followed by Arbitration

■ Try mediation before arbitration, at least until

- lapse of time period
- termination

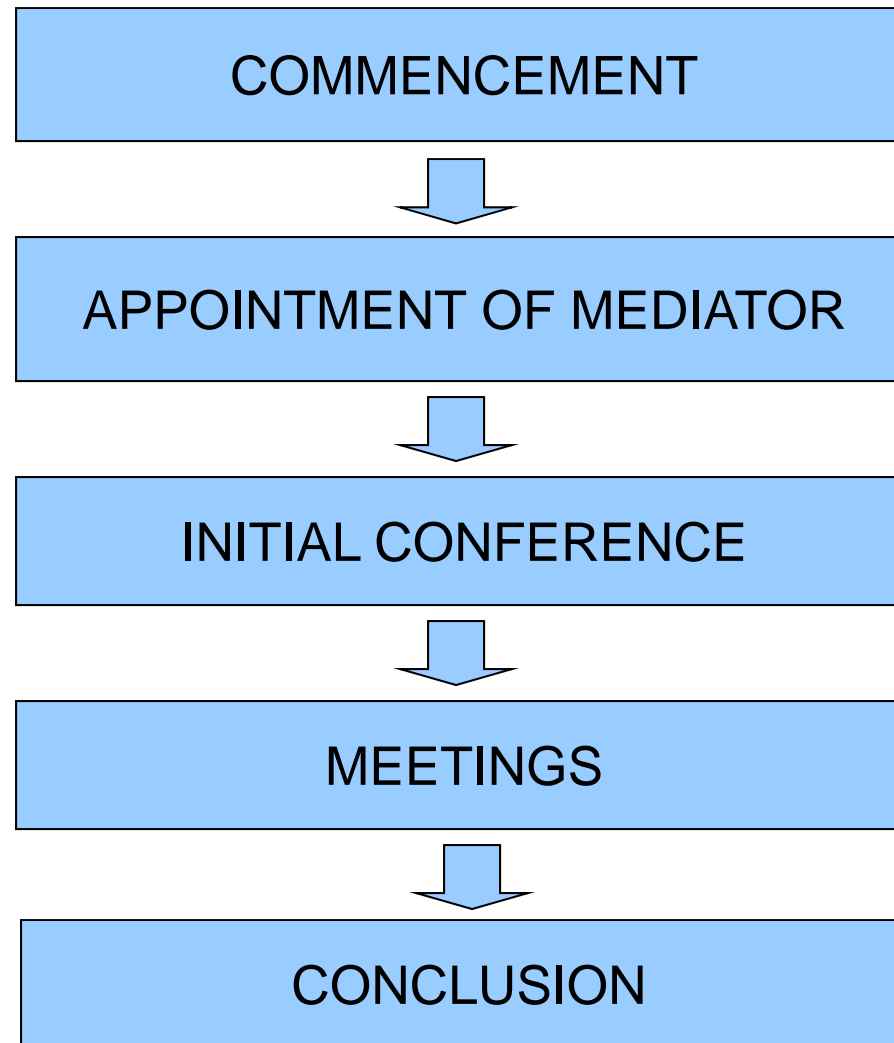
■ Combining the benefits

- arbitration well-prepared

"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 [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 [] law."

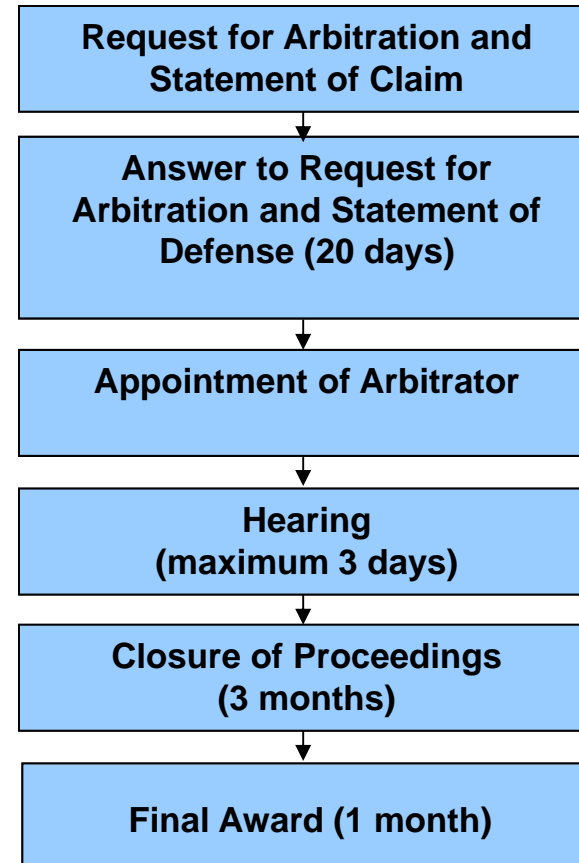
Mediation Process



WIPO ARBITRATION

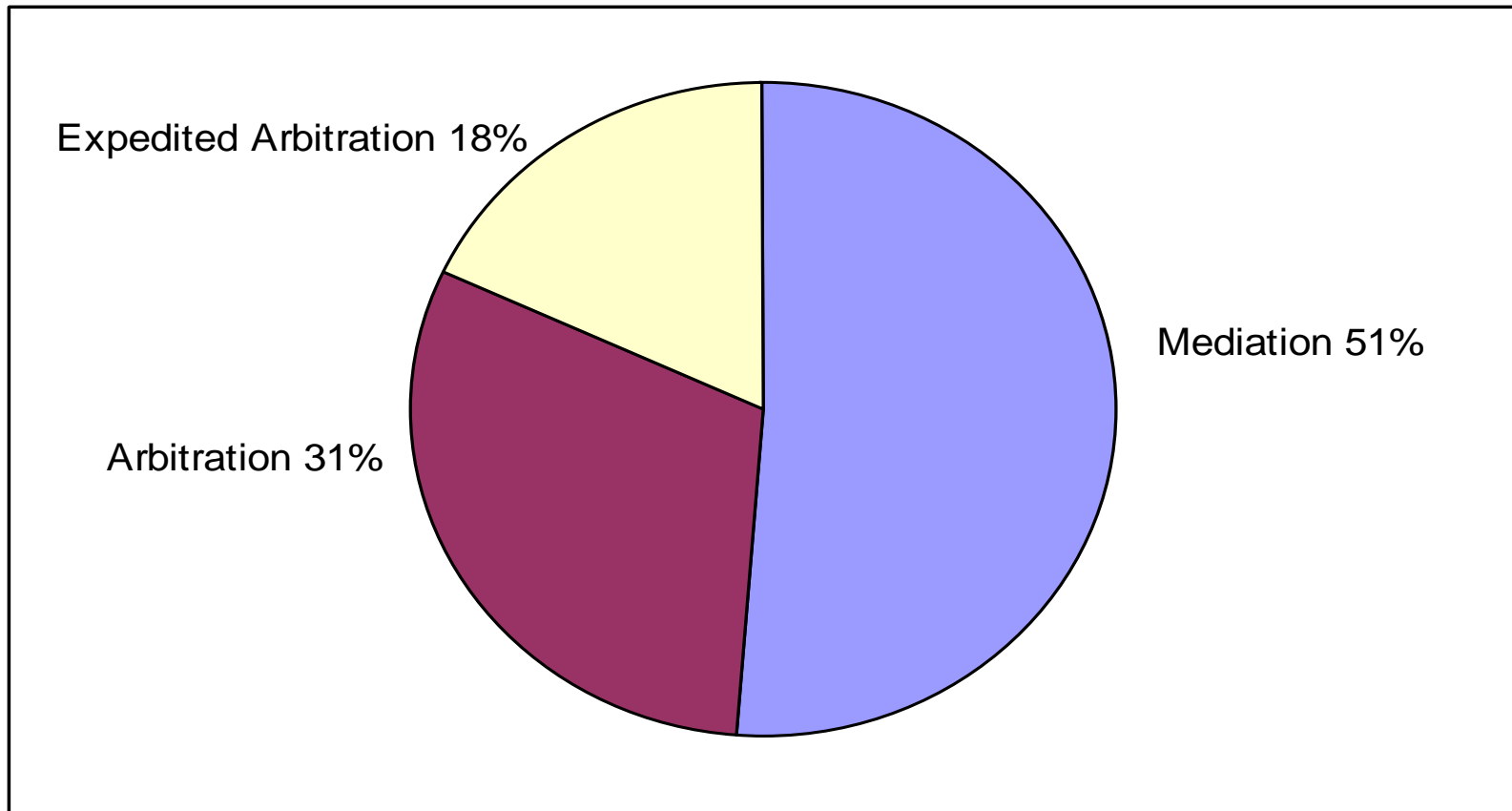


WIPO EXPEDITED ARBITRATION

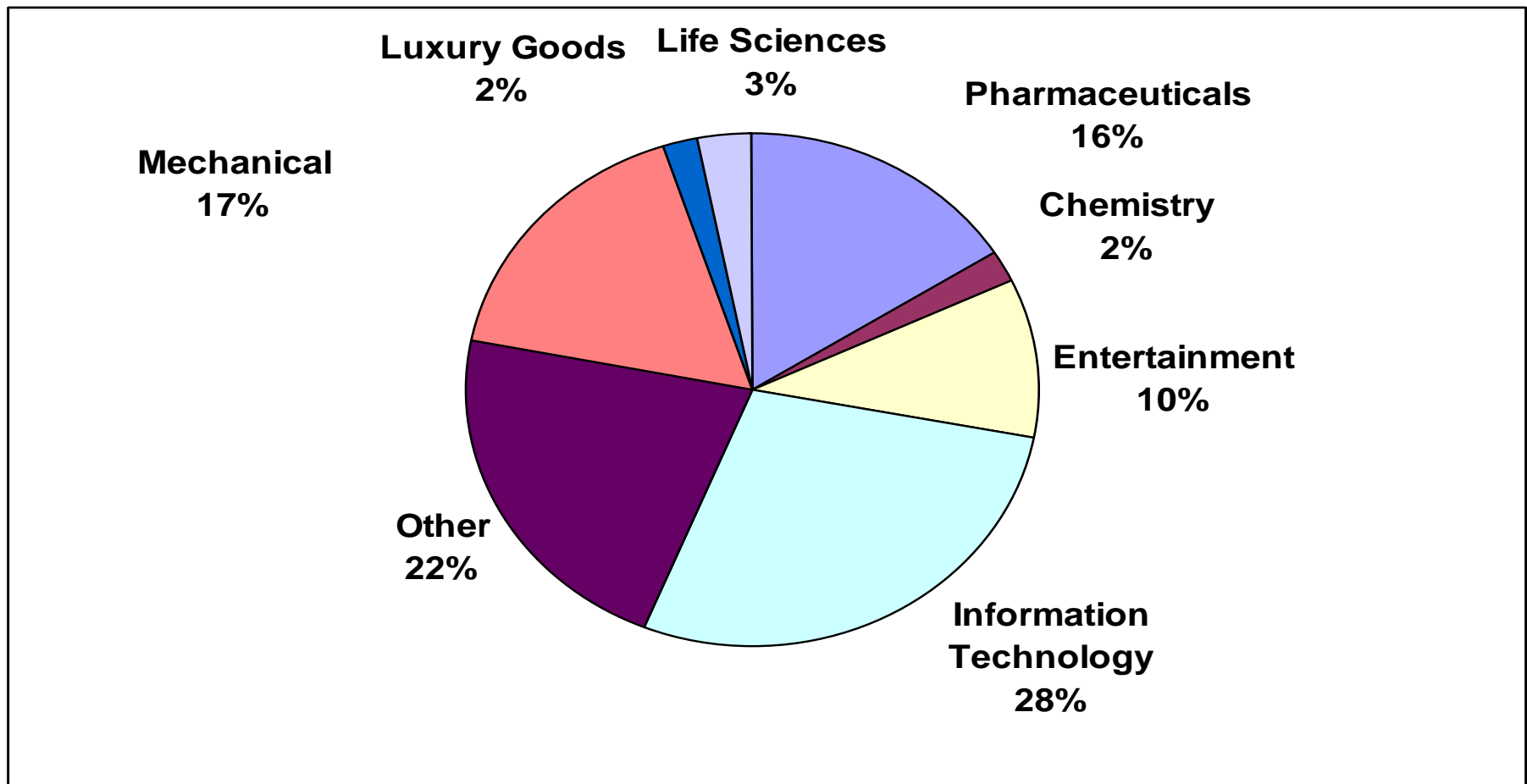


- One Exchange of Pleadings
- Shorter Time Limits
- Sole Arbitrator
- Shorter Hearings
- Fixed Fees

WIPO Caseload: Types of Procedure



WIPO Cases: Business Areas



WIPO Arbitration Rules

- Parties choice re. appointment arbitrator(s)
(Arts. 16-17)
- Confidentiality provisions (Arts. 73-76)
- Protection of trade secrets (Art. 52)
- Interim measures (Art. 46)
- Types of evidence common in IP disputes
- Option to use WIPO ECAF

WIPO ECAF: Case File

The screenshot shows a web browser window displaying the WIPO ECAF Case File interface. The browser's address bar shows the URL [http://www.wipo.int/eCAF/CaseFile/CaseFile.asp?CaseNo=2004A1](#). The page title is "2004A1 Licensing Ltd. v. AB Technics Inc.". The left sidebar contains navigation links: "ECAF Home", "Log Out", "Help", "Arbitration", and "Mediation". The main content area has a navigation bar with "Case Overview", "Contact Information", "Time Tracking", "Docket Listing", "Finance Overview", and "Message Board". The "Docket Listing" section is active, showing a list of documents. Below the list, there are links for "Search Docket" and "Submit New File".

2004A1 Licensing Ltd. v. AB Technics Inc.

Case Overview Contact Information Time Tracking Docket Listing Finance Overview Message Board

Docket Listing

Only documents to be recorded as part of the casefile should be submitted in the Docket.

[Search Docket](#) [Submit New File](#)

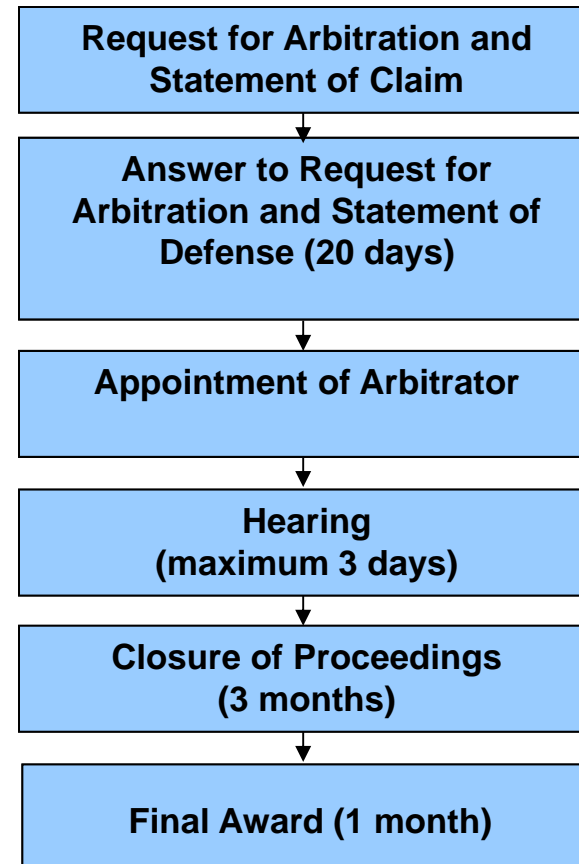
To sort, you may click on the column headers

<u>Item No</u>	<u>Submitted By</u>	<u>Date</u>	<u>Subject</u>
7	John Doe Claimant Representative	14/02/05 14:52:51	Claimant's Reply to Response
6	Sophie Cloakville Respondent Representative	23/11/04 17:10:02	Comments re: Confidentiality Advisor
5	John Doe Claimant Representative	22/11/04 14:52:24	Proposals re: Confidentiality Advisor
4	John Doe Claimant Representative	14/05/04 17:16:46	Mark Smith
3	Sophie Cloakville Respondent Representative	14/05/04 17:13:50	Answer to Request for Arbitration
2	Tom Jones Case Manager	14/05/04 17:09:56	Acknowledgment of Receipt of Request
1	John Doe Claimant Representative	14/05/04 16:59:10	Request for Arbitration

WIPO ARBITRATION



WIPO EXPEDITED ARBITRATION



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Neutral Expertise

- IP disputes tend to be technical/specialized
- Most courts are not specialized in IP (IBA 2005 Survey)
- In mediation and arbitration the parties control selection of neutral(s)
- WIPO List of Neutrals:
 - +1,500 candidates from 70 countries
 - Further candidates added in function of case particulars
 - Broad range of ADR, IP and technical backgrounds
 - Detailed professional profiles
 - Used for Center recommendations and appointments

WIPO Arbitration Clauses

■ Future disputes

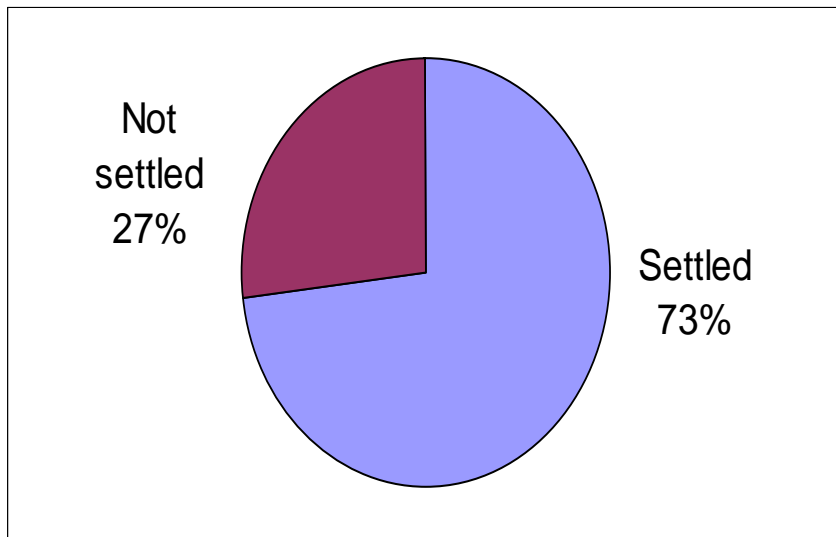
- Any dispute, controversy or claim arising under, out of or relating to this contract and any subsequent amendments of this contract, including, without limitation, its formation, validity, binding effect, interpretation, performance, breach or termination, as well as non-contractual claims, shall be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

WIPO Center Mediation and Arbitration Caseload

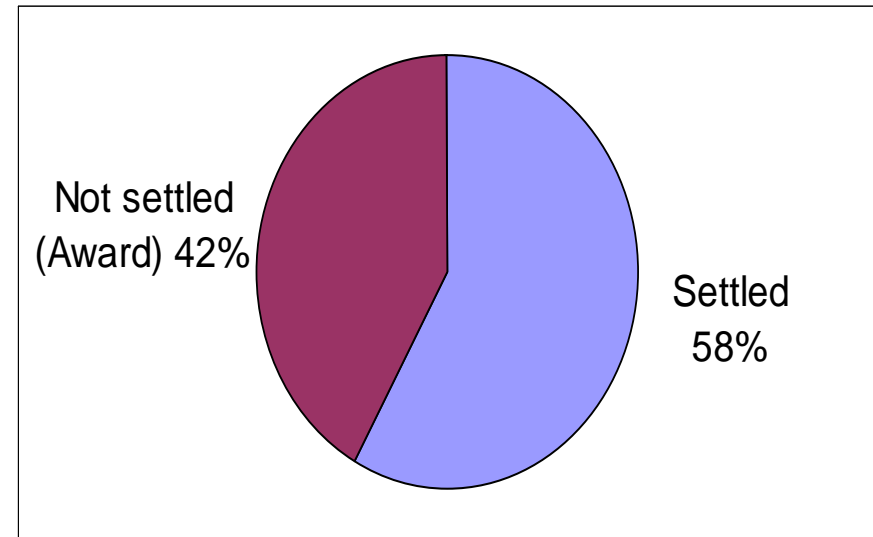
- +250 mediations and arbitrations
 - Contractual: Software/IT, patent licenses, patent pools, distribution agreements, R&D, joint ventures, settlement agreements, ...
 - Non-contractual: patent infringement
 - Cases referred by courts
 - Confidentiality of procedures
- Amounts in dispute: Euro 20,000 to US\$ 600 million
- Remedies: damages, infringement declarations, specific performance
- Locations: US, Europe, Asia

Settlement in WIPO Administered Cases

Mediation



Arbitration



Additional Information

- <http://www.wipo.int/amc/en/center/specific-sectors/ict/>
- arbiter.mail@wipo.int
- +41 22 338 8247
- +65 6225 2129
- WIPO Workshops <http://www.wipo.int/amc/en/events>
- Thank you