



WORKSHOP:

**SETTLEMENT OF INTELLECTUAL PROPERTY DISPUTES
THROUGH ARBITRATION AND MEDIATION**

December 12 and 13, 2011

Manila, Philippines

Organized by:

Intellectual Property Office (IPO) of the Philippines

and

World Intellectual Property Organization (WIPO) Arbitration and Mediation Center

Monday, December 12, 2011

09.00-09.30 **Registration**

09.30-09.45 **Opening**

- Andrew Ong, Deputy Director General, IPO of the Philippines, Manila
- Erik Wilbers, Director, WIPO Arbitration and Mediation Center, Geneva

09.45-10.45 **I. IP Disputes before the IPO of the Philippines**

Session Leaders: Lope Manuel, Gwen B. Crecia de Vera, Salvador P. Panga Jr., IPO of the Philippines, Manila

1. Description of procedures and types of disputes before the IPO of the Philippines
2. Choosing arbitration and mediation during the procedures
3. Effects of settlement for procedures before the IPO of the Philippines

10.45-11.00 *Coffee Break*

11.00-11.45 **II. ADR for Intellectual Property Disputes - the WIPO Arbitration and Mediation Center**

Session Leader: Erik Wilbers

1. Basic principles of Mediation and WIPO Mediation Rules
2. Basic principles of Arbitration and WIPO Arbitration Rules
3. Role of the WIPO Arbitration and Mediation Center
4. Using ADR to avoid and resolve IP disputes
5. Pros and Cons of ADR in IP Disputes
6. Trends in IP based ADR

11.45-12.15 **III. Examples of trademark and other IP disputes**

Session Leaders: David Perkins, Partner, Arnold & Porter (UK) LLP, London, Erik Wilbers

1. The long and winding road, *Apple v. Apple*
2. Examples of WIPO Mediations

12.15-13.30 *Lunch*

13.30-14.00 **IV. Submitting to WIPO Mediation**

Session Leader: Erik Wilbers

14.00-14.30 **V. Parties Preparation for the Mediation**

Session Leader: Peter Moody, Partner, BrookStreet des Roches LLP, Oxford

1. The lawyers' role
 - (i) Preparing the client for the mediation procedure
 - (ii) Risk analysis
 - (iii) Getting the other party to agree to mediation
 - (iv) Preparing the case
 - Identifying BATNA, WATNA
 - Identifying mediation goals
 - (v) Identifying required qualifications of the mediator
2. The parties' role
 - (i) Considering ADR options
 - (ii) Instructing the lawyer on the case
 - (iii) Identifying mediation goals

14.30-15.00 **VI. Commencement of the Mediation**

Session Leader: Peter Moody

1. Submitting the Mediation Request
2. Selection and appointment of the mediator
 - Negotiating a suitable candidate
 - The WIPO Arbitration and Mediation Center's role
3. Preparing the mediation process with the mediator

15.00-15.30 **VII. Preparatory Organization**

Session Leaders: Peter Moody, David Perkins

1. Agreeing on the ground rules of the mediation: the Mediation Agreement
2. Initial (telephone) conference
3. Preparing the client for the mediation meeting
 - (i) Determining party representation - decision making power / authority

(ii) Preparing the party statement

4. Exchange of documents

15.30-15.45 *Coffee Break*

15.45-16.15 **VIII. The Role of the Different Actors at the Mediation Meeting**

Session Leaders: Peter Moody, David Perkins

1. The mediator's role and techniques

(i) The mediator's role

- Facilitative

- Evaluative

- Combined

- Ethical Standards

(ii) The mediator's techniques

- Active listening

- Reframing

- Balancing party power inequalities

- Managing emotions

2. The lawyers' role

(i) Dividing participation with client

(ii) Disclosing information

3. The parties' role

(i) Party statements

(ii) Participation in negotiation

(iii) Sharing business interests

(iv) Cooperation in good faith

16.15-17.45 *Role Play in Case Scenario and Discussion Sessions VII and VIII*

Tuesday, December 13, 2011

09.30-10.30

IX. The Mediation Meeting

Session Leaders: Peter Moody, David Perkins

1. Opening the mediation

2. Evaluating alternatives to settlement through mediation

3. Party statements

4. Identifying the issues in dispute

5. Exploring the parties' interests
6. The mediator's techniques
 - (i) Active listening
 - (ii) Reframing
7. Caucus meetings

10.30-10.45	<i>Coffee Break</i>
10.45-12.15	<i>Role Play in Case Scenario and Discussion Session IX. 1-7</i>
12.15-13.30	<i>Lunch</i>
13.30-14.00	<ol style="list-style-type: none">8. Exploring solutions, settlement, conclusion<ol style="list-style-type: none">(i) Exploring possible alternative solutions(ii) Breaking deadlock(iii) Settlement<ul style="list-style-type: none">- Terms of Agreement- Settlement Agreement- Enforceability(iv) Conclusion
14.00-15.30	<i>Role Play in Case Scenario and Discussion Session IX. 8</i>
15.30	Closing

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