

Understanding Dispute Resolution Options in Technology Agreements

John R. Lane
Managing Principal, Fish & Richardson, Houston, TX



Dispute Resolution Options

- Litigation
- Quasi-judicial proceedings
 - Administrative agencies
- Alternative dispute resolution (ADR)
 - Types of disputes: almost any type
 - Intellectual property
 - Employment
 - Supplier/customer
 - Many, many others



Alternative Dispute Resolution

- Two main types
 - Mediation – information, and possible resolution
 - Parties submit confidential statements and other information to a mediator
 - Parties meet for mediation session, but usually spend most of the session in separate rooms
 - Shuttle diplomacy by the mediator
 - Mediator may continue discussions with parties after the mediation session is completed to try to reach a settlement
 - Arbitration – resolution
 - Format is varied, but more akin to litigation – discovery, testifying fact and expert witnesses
 - Arbitrator makes binding findings

Alternative Dispute Resolution

- Many blended types of ADR that involve mediation as a first step, and then arbitration as a second step:
 - Combined mediation/arbitration
 - Baseball – both parties submit offers, mediator chooses one
 - Golf – mediator decides settlement terms, parties submit proposed settlement terms, and closest terms to mediator's terms are binding

Advantages of ADR

- **Confidential *****
- May be quicker than litigation
- May be cheaper than litigation
- More flexible rules
- May be last chance to avoid large litigation fees

Disadvantages of ADR

- Cost
 - Unlike a judge, must pay arbitrators/mediators
 - Parties usually pay $\frac{1}{2}$ each
 - May also have to pay separate administrative costs – travel, meals, venue, etc.
 - Can agree that losing party pay all fees/expenses
- Best suited to disputes where damages are an adequate remedy

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Understanding Dispute Resolution Options in Technology Agreements

First appeared as part of the conference materials for the
29th Annual Technology Law Conference session
"Understanding Dispute Resolution Options in Technology Agreements"