

Dispute Resolution in the Video Games and Esports Sector

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WIPO | ADR

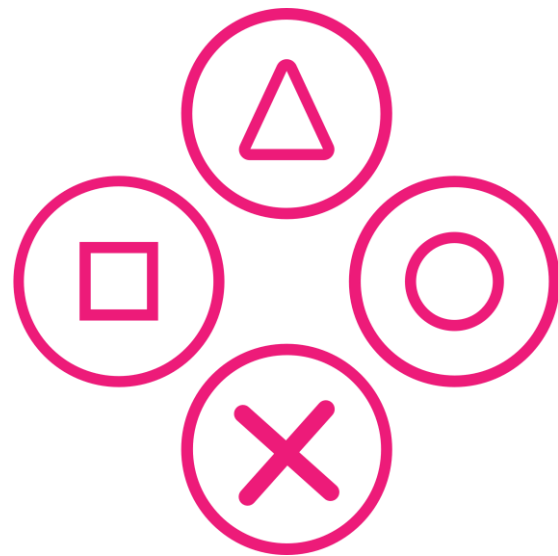


Alternative Dispute Resolution

| | | | | |
|---|--|---|--|---|
|  Mediation | |  Arbitration | |  Expert Determination |
| VOLUNTARY | | | | |



Why ADR?



Costs and Time



Internationalization of IP



Technical and specialized

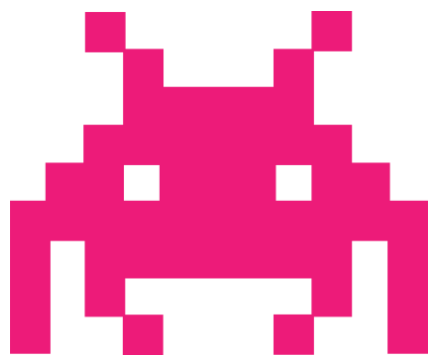


Short product and market cycles

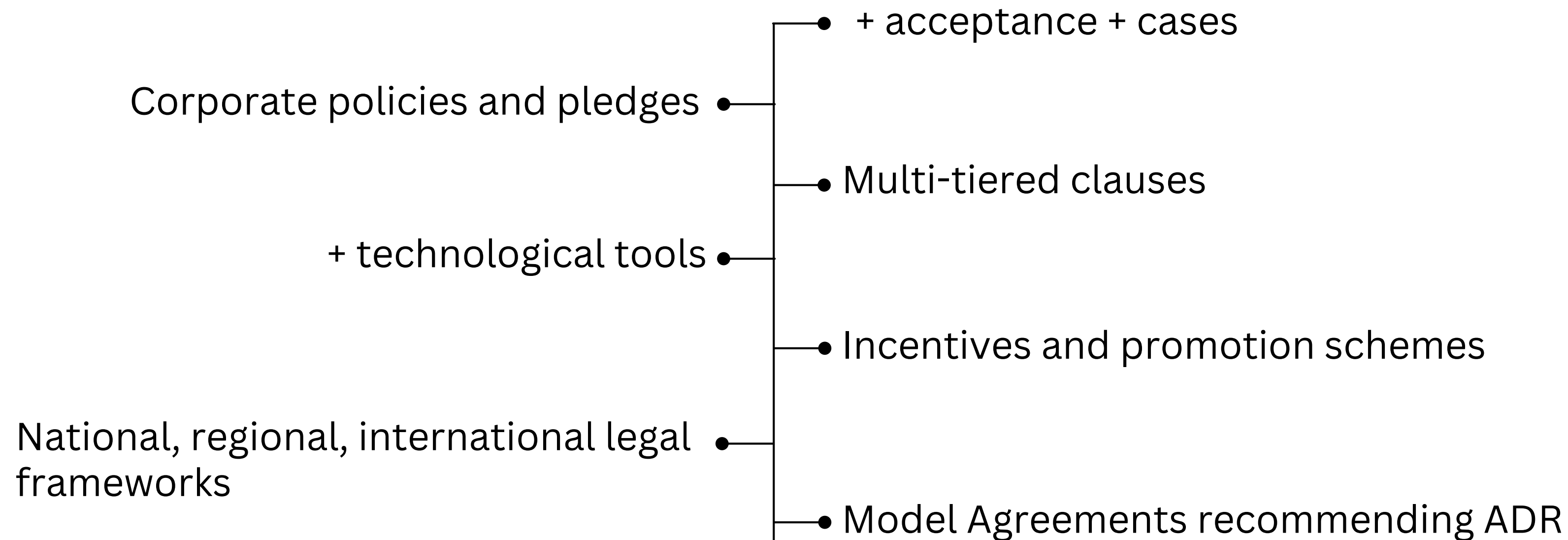


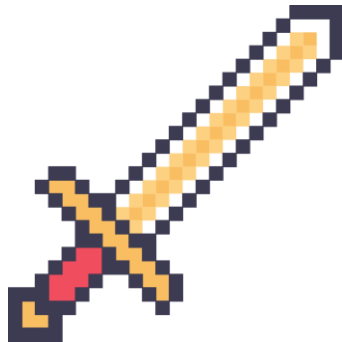
Confidential nature





Recent Developments





Court Litigation and ADR

Comparison

| Party agreement needed to initiate | Parties can select specialized neutral | Neutral is a decision maker | Confidential | Suited for international disputes | Parties can shape proceedings | Possibility of appeal | International enforcement of outcome |
|------------------------------------|--|-----------------------------|--------------|-----------------------------------|-------------------------------|-----------------------|--------------------------------------|
| ✗ | ✗ | ✓ | ✗ | ✗ | ✗ | ✓ | ✗ |
| ✓ | ✓ | ✓ | ✓ | ✓ | ✓ | ? | ✓ |
| ✓ | ✓ | ✗ | ✓ | ✓ | ✓ | ? | ? |

Features

Court litigation

Arbitration

Mediation





World Intellectual Property Organization (WIPO)

Promotes innovation and creativity through a balanced and effective international IP system

IP and Innovation Ecosystems Sector

- Provides IP services that encourage individuals and businesses to innovate and create
- Alternative Dispute Resolution (ADR) services to reduce the impact of disputes on innovation and creative processes



WIPO Arbitration and Mediation Center (WIPO AMC)





- IP- and innovation-related commercial disputes
- Global, neutral and specialized
- Users from across the world; increased use by innovators and SMEs
- Mediation, arbitration, expert determination and domain name disputes



WIPO ADR Rules

www.wipo.int/amc/en/rules/



| | |
|---|-------------------------------------|
|  | IP and technology specific elements |
|  | All commercial disputes |
|  | Flexibility |
|  | Domestic and international disputes |



Alternative Dispute Resolution Mechanisms for Business-to-Business Digital Copyright- and Content-Related Disputes

A report on the results of the WIPO-MCST survey

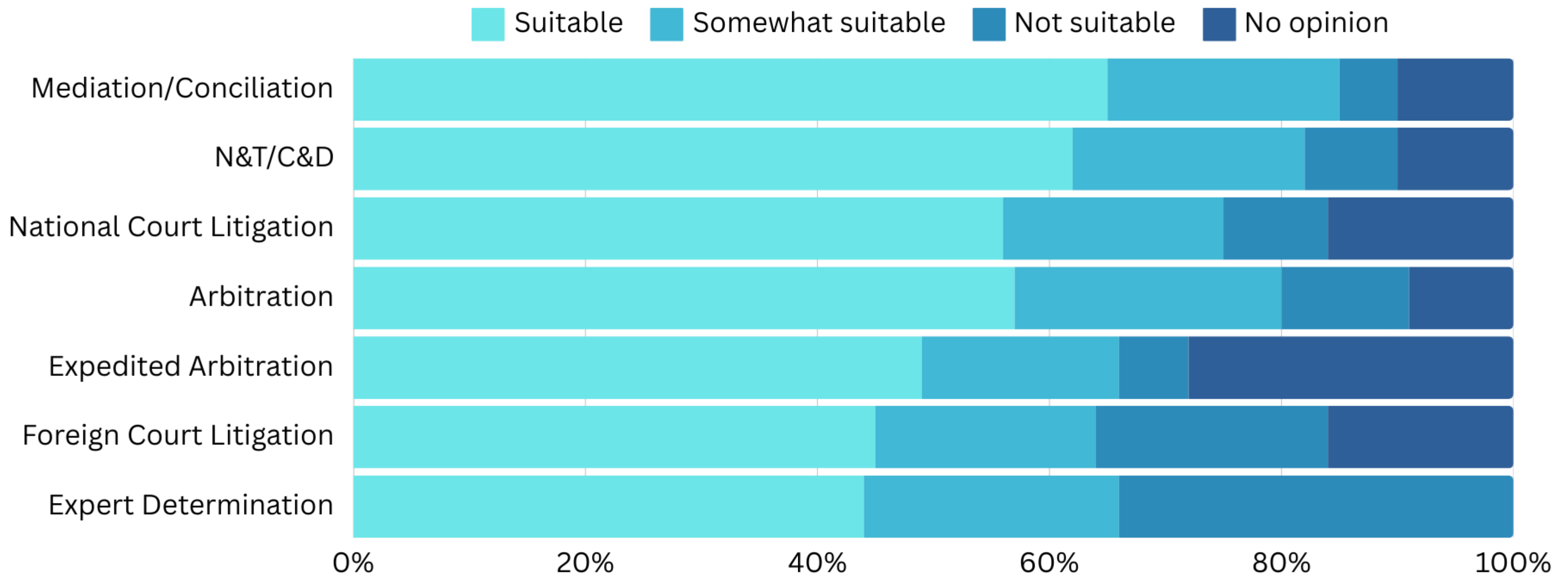
With the financial support of the Ministry of Culture, Sports and Tourism of the Republic of Korea (MCST)



More than 1,000 responses from stakeholders in 129 countries.

Current use of ADR for disputes related to digital copyright and digital content



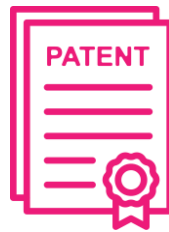


Common Types of IP Disputes



Copyright and Related Rights

Story and script
Characters
Music
Graphics
Software



Patents

Consoles and accessories
In-game mechanisms
New technologies, e.g., open-world game design



Industrial Designs

Appearance and design of in-game objects



Trademarks

Game title
Logo
Iconic symbols

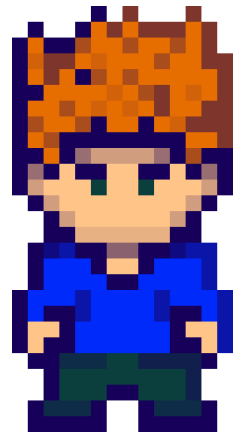


Trade Secrets

Confidential information protected from competition, e.g., special algorithms or programming methods



Potential Parties in Dispute



Publishers

Developers

Tournament
organizers

Media and streaming platforms

Professional and semi-
professional esports players

Teams

Team owners

Team managers

Coaches

Trainers

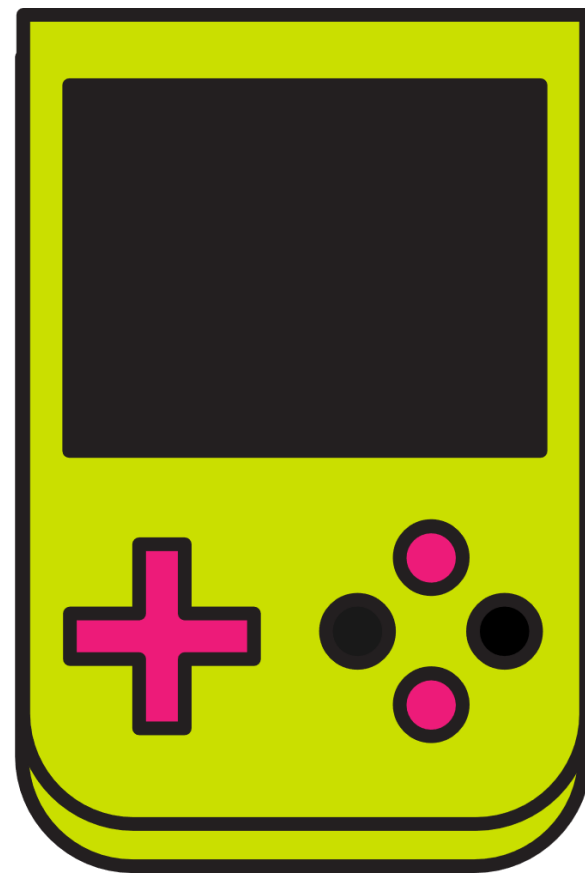
Other team representatives

Other esports
professionals

Fans and communities



WIPO ADR for Games and esports Disputes



WIPO Mediation, Arbitration,
Expert Determination



Tailored ADR Procedures
(Dispute Resolution Board)



WIPO List of Experts
specialized in Video Games
and esports



Recommended contract
clauses and submission
agreements



All types of disputes
(commercial and IP-related)



Mediation

Informal consensual process

Neutral intermediary

Settlement agreement has force of a contract

Leaves open court or arbitration options



Why Mediation?



Win-win solutions



Collaborative opportunities



Creative solutions



Preservation of business
relationships



Role of the Mediator



Promotes settlement

in any manner that they believe to be appropriate



Does not impose a settlement

Neither judge nor adjudicator



Proposes alternative solutions

Expert Determination,
Arbitration, etc.



Arbitration

Consensual procedure

One or more chosen arbitrators

Binding and final decision (award)

- based on parties' rights and obligations
- enforceable internationally

Normally forecloses court options

Expedited arbitration available



Why Arbitration?



Specialized arbitrators



Multi-jurisdictional dispute resolution
(one-stop-shop)



Final, binding and internationally
enforceable



Confidentiality



Role of the Arbitrator



Conduct arbitration in such manner as they consider appropriate



Respect **due process** and ensure each party is given a fair opportunity to present its case



Ensure that arbitral procedure takes place with **due expedition**



Organize preparatory conference and set **schedule of proceedings**



Order interim measures, including injunctions



Determine **admissibility and relevance of evidence**



Hold **hearings**



Render **final award**



May suggest parties to explore **settlement**



Expert Determination

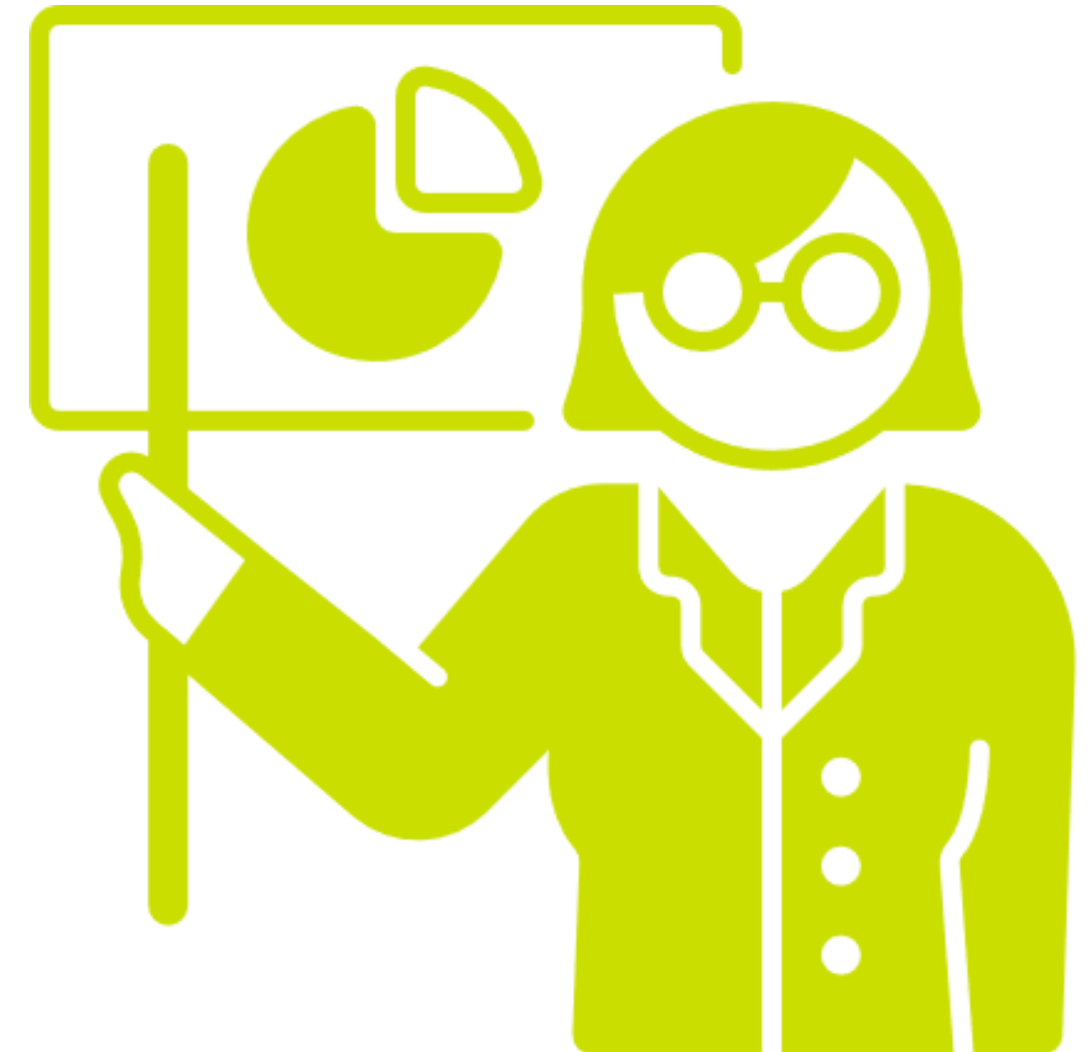
Consensual

Parties select expert(s) with relevant expertise

Neutral and flexible

Confidential

Binding, unless parties agree otherwise



Why Expert Determination?



Technical, scientific or business issues



Expedited



Cross-border



Binding or non-binding



A dispute between an Asian video game company and a European developer related to **copyright infringement**, **payment of royalties** and **blocking of the unauthorized streaming of esports competitions**

A dispute related to **copyright infringement over the scenario of a video game** between an Asian video game company and a North American multinational technology company

A dispute related to the **use of IT** in the context of the video game industry between a European video game development company and an Asian company



Case Studies (WIPO AMC)

A dispute between a European software development company and a European retail chain related to whether the requesting party should obtain a **trademark license** to use a logo inside a video game

A dispute between a video game and online entertainment company and an online gaming company. The requesting party accused the respondent of actively **advertising** and **making available the download of an unauthorized copy** of the requesting party's video game

A **copyright infringement** dispute between a North American company and an Asian company. Both parties were engaged in developing and publishing video games. Proceedings were pending before national courts and the parties agreed to refer their dispute to WIPO Mediation



Looking Ahead: IGET

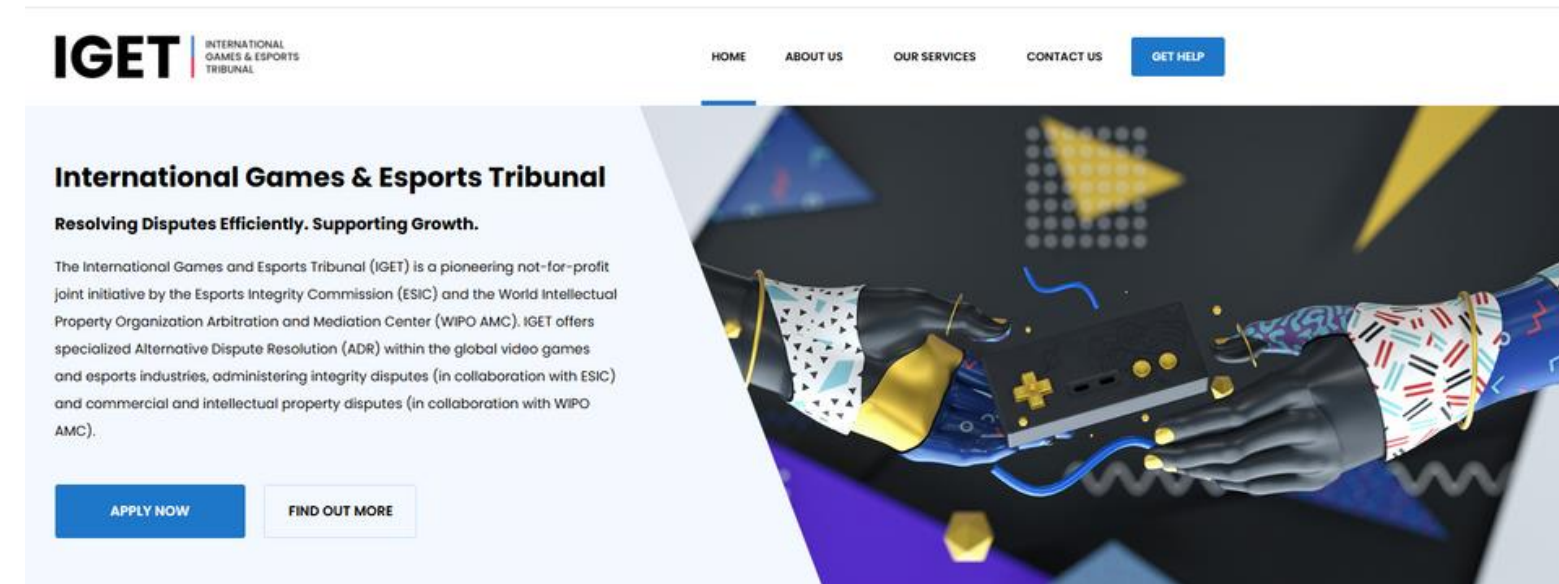


ESIC and WIPO Unveil IGET: A Landmark Dispute Resolution Body for the Global Video Games and Esports Industries

The Esports Integrity Commission (ESIC) and the World Intellectual Property Organization Arbitration and Mediation Center (WIPO AMC) are proud to announce the launch of the International Games and Esports Tribunal (IGET), a groundbreaking not-for-profit dispute resolution body designed to meet the unique needs of the global video games and esports industries.

IGET represents a pioneering effort to provide tailored, professional, and accessible Alternative Dispute Resolution (ADR) services for stakeholders in gaming and esports. Its innovative platform addresses the broad scope of disputes that arise in these fast-evolving sectors, ranging from anti-doping violations and player disciplinary matters to intellectual property (IP) conflicts and contractual disagreements.

The collaboration will focus on several key areas, including joint awareness-raising activities, identifying and training specialized neutral dispute resolution experts for video games and esports disputes, and more. Both organizations will share their knowledge and expertise in their respective fields to support and guide the collaboration with the aim of optimizing the efficiency and just resolution of esports and video games disputes.





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