
Kluwer Mediation Blog

Mediation offers the opportunity to generate new business to the parties

Andrea Maia (Mediar360 – Dispute Resolution) · Tuesday, September 25th, 2012

The relationship between growth and the combination of knowledge and human capital is no surprise. The economic environment is fast changing and technology driven. The global economy is already what the economists call a knowledge economy, where value increasingly comes from innovation and intellectual property management.

No country, region or organization can ignore the challenges and opportunities inherent to the knowledge economy. Growth is increasingly a function of education, innovation and exploitation of intellectual property.

In this scenario, World Intellectual Property Organization (WIPO), is the United Nations agency dedicated to the use of intellectual property as a means of stimulating innovation and creativity for the economic, social and cultural development of all countries, through a balanced and effective international intellectual property system.

In Brazil, there is an ongoing dialog on the subject, involving, amongst other variables, changes needed in the regulatory framework; infra-structure improvements; incentives to investment; and access to education. These are necessary conditions to the creation of an economy that both incentivizes innovation; and is conducive to the innovation's economic exploitation.

The news are that WIPO and the Brazilian National Institute of Intellectual Property (INPI), have recently signed a Cooperation Agreement whose goal is to launch INPI's mediation chamber aiming at addressing the commercial disputes that arise naturally in the knowledge economy. The chamber will start to work at the beginning of 2013 and process trademark related disputes. Such initiative addresses the inherent businesses and economic challenges in the Intellectual Property area:

1. Cross-border solutions, as the IP use is increasingly internationalized;
2. IP Expertise, as handling IP disputes requires the understanding of the technical and specialized nature of IP;
3. Time-efficient procedures demanded by ever shorter product and life cycles;
4. Private procedures to guarantee confidentiality and protect the value of the IP;
5. Preserving relationships despite the disputes that may arise, as IP is by nature based on collaboration;

It is estimated that, in Brazil, out of the 170.000 registrations of new trademarks for this year, between 10% and 12% of these requests generate some kind of dispute every year. INPI's approach to this challenge is heavily focussed in the idea that cooperation is the key for timely, informal and cost efficient dispute resolution in IP. In order to do so, INPI's and WIPO strategy is to invest in mediation through training of specialized mediators; the establishment of mediation processes and rules; and the interaction between the chamber and the stakeholders.

To this end, Mediation addresses the content of IP disputes and prevents the parties from wasting precious resources, time and energy on the procedure.

Mediation offers the opportunity to face this challenge by working strategically through consensus building that might sometimes even generate new business to the parties as the solutions are limited by the parties' creativity.


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The graphic features a black background with white text and a circular icon. The icon depicts a group of stylized human figures, with one figure in the center being magnified by a magnifying glass. The background is accented with horizontal lines in blue and green.

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Business, Commercial Mediation, Growth of the Field (Challenges, New Sectors, etc.), Mediation Institutions and Rules, Particular Sectors (e.g. Construction, Banking, etc.), Technology

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