

11 November 2024

The National IP Mediation Programs and Initiatives of Singapore

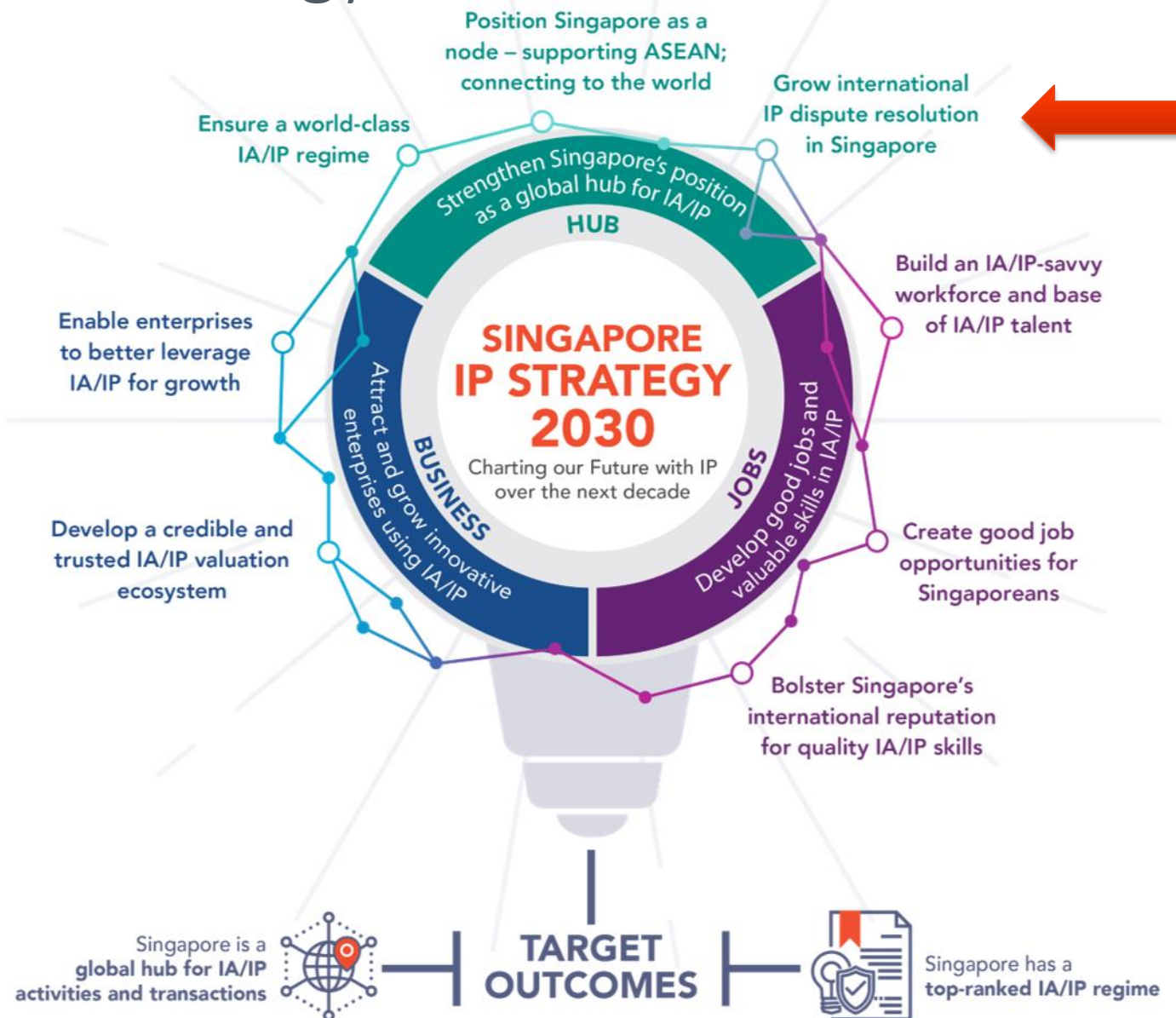
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Agenda

- Dispute resolution in Singapore
- Mediation in Singapore
- Mediation at the Supreme Court (IP)
- IP mediation at the Intellectual Property Office of Singapore (IPOS)
- IP mediation success at IPOS - Suravit Kongmebhol & Aftershokz, LLC [2019] SGIPOS MED 1

Dispute resolution in Singapore

Singapore IP Strategy 2030



IP Litigation

A judge or hearing officer decides the dispute for parties.



Geographical Indication

Action under section 4 of Geographical Indications Act 2014

Limitation of Scope of Rights

Objection to Amendment

Opposition to Registration

Qualification of Rights

Cancellation

Rectification

Court

IPOS

IPOS or Court



Trade Mark

Opposition

IPOS

Revocation

IPOS or Court

Invalidation

Infringement

Court



Patent

Revocation

IPOS or Court

Opposition

Entitlement

IPOS

Inventorship

Infringement

Court



Plant Variety

Objection to Denomination

IPOS

Cancellation

IPOS or Court

Invalidation

Infringement

Court



Copyright

Certain Licensing Issues

Copyright Tribunal

Infringement

Court



Design

Revocation

IPOS or Court

Infringement

Court



IC (Integrated Circuit)

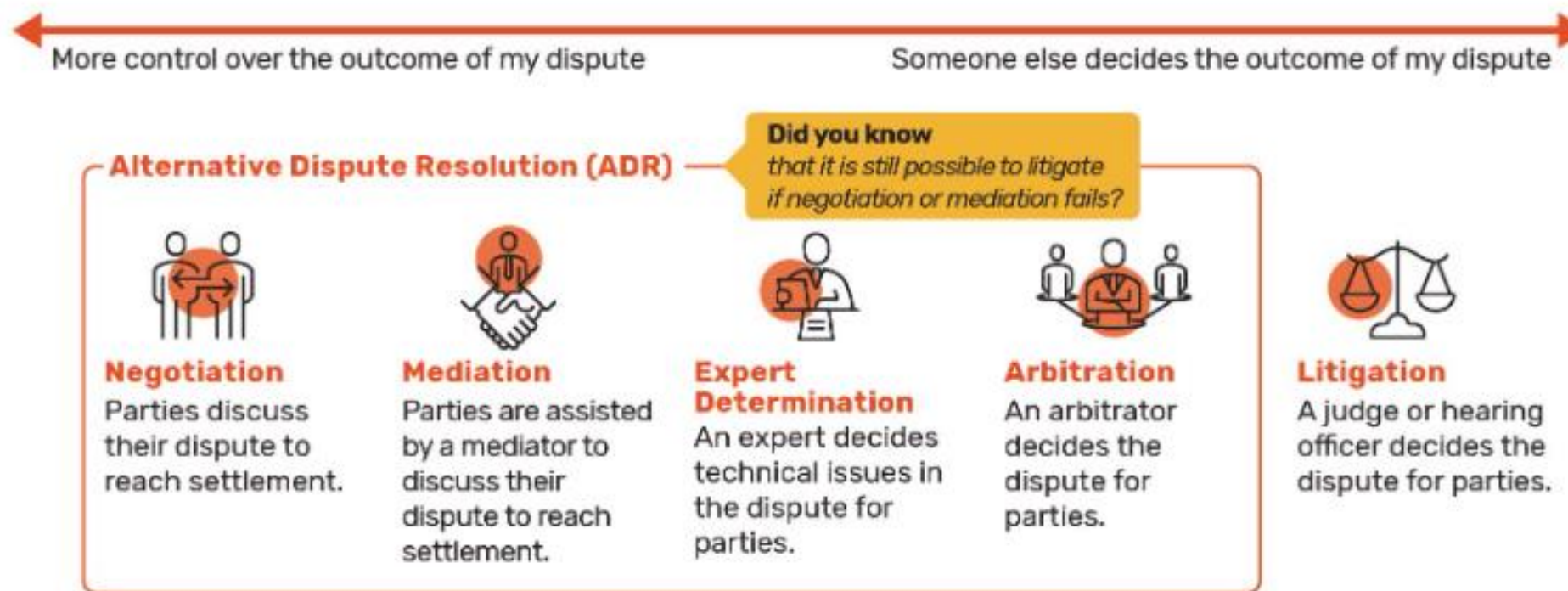
All Matters

Court

Source: <https://www.ipos.gov.sg/manage-ip/resolve-ip-disputes>

Dispute resolution

Choose Your IP Dispute Resolution Route



Source: <https://www.ipos.gov.sg/manage-ip/resolve-ip-disputes>

Mediation in Singapore

Mediation in Singapore



Legislative endorsement

- Mediation Act 2017
- Singapore Convention on Mediation and Singapore Convention on Mediation Act 2020



Comprehensive ADR hardware and software

- Service providers
- Standards body
- Open regime
- Thought leadership
- Facilities and infrastructure

Legislative endorsement

Mediation Act 2017

Ministry of Law, [Press Release](#), 1 November 2017

“This provides greater certainty and clarity for commercial parties who opt to conduct their mediation in Singapore.”

Key advantage (section 12(5))

- Allows mediated settlement agreements to be enforced as orders of court

Applicability (section 6)

- Mediation conducted wholly or partly in Singapore
- Agreement provides that Singapore law applies to the mediation

Requirements (among others, section 12)

- Mediation administered by [designated service provider](#) or conducted by [certified mediator](#)

Legislative endorsement

Singapore Convention on Mediation (SCM) and SCM Act 2020

Ministry of Law, [Press Release](#), 12 September 2020

“Businesses around the world will now have greater certainty in resolving cross-border disputes through mediation, as the Convention provides a more effective means for mediated outcomes to be enforced.”

- SCM entered into force on 12 September 2020
- Singapore is a party to the SCM and has enacted SCM Act 2020 to implement its obligations under the SCM
- An international mediated settlement agreement can be efficiently enforced or invoked in Singapore courts, once conditions and requirements under SCM Act 2020 are met

Comprehensive ADR hardware and software

Service providers for IP mediation

1. Singapore International Mediation Centre
2. Singapore Mediation Centre
3. World Intellectual Property Organization Arbitration and Mediation Center

*Designated service providers under Mediation Act 2017

Service providers

Singapore International Mediation Centre (SIMC)

- Since 2014
- Offers professional dispute resolution services tailored to the evolving needs of businesses
- Panel of highly experienced and effective local and international mediators with IP expertise
- Arb-Med-Arb Protocol between Singapore International Arbitration Centre (SIAC) and SIMC
- Litigation-Mediation-Litigation Protocol (LML Protocol) between Singapore International Commercial Court (SICC) and SIMC
- **Partnership with IPOS**
Mediation fee: S\$ 2,750 per party



Service providers

Singapore Mediation Centre (SMC)

- Since 1997
- Mediation for domestic commercial disputes
- Senior, Principal and Associate Mediators with specialisation in IP
- **Partnership with IPOS**
 - Filing fee: S\$ 272.50 per party
 - Mediation fee: S\$ 2,997.50 per party per day
- IP Mediation Certification programme in 2022

Singapore
Mediation
Centre



Service providers

World Intellectual Property Organization Arbitration and Mediation Center (WIPO Center)

- WIPO Center's Singapore office is its only office outside Geneva
- Established in May 2010 in Singapore
- Over 2,000 neutrals from the international community (including Singapore)
 - Specialist arbitrators, mediators and experts, knowledgeable in the relevant IP fields
- WIPO-IPOS Memorandum of Understanding (MOU) signed on 28 September 2011
 - 1st such collaboration between WIPO and a national IP Office



Service providers

WIPO Center

- **WIPO mediation for IPOS proceedings and copyright disputes in Singapore**

Not-for-profit fees apply

Administration fee	Mediator's fees	Total fees
S\$ 50 per party	S\$ 500 per party (4 hours); S\$ 200 per party per additional hour	S\$ 2,750 per party (average mediation involves 15 hours)

- **WIPO mediation for IP and tech disputes before Courts in Singapore**

Reduced fees apply to cases referred by courts in Singapore

Amount in dispute	Administration fee	Mediator's fees
Up to S\$ 250,000	S\$ 50 per party	S\$ 2,500 (10 hours of preparation and mediation)
Over S\$ 250,000		S\$ 300-600 per hour

Service providers

WIPO Center

WIPO-Singapore ASEAN Mediation Programme (AMP)

Administration fee: Waived

Funding: S\$ 8,000

- Pilot from 3 Jul 2023 to 31 Dec 2023, extended until 31 Dec 2024
- For any existing IP/technology dispute or negotiation (including before courts, IP authorities or arbitral institutions) involving a party who is an ASEAN national or entity
- Shadow mediator appointed by IPOS will observe the mediation



Source: <https://www.wipo.int/about-wipo/en/offices/singapore/docs/amp-information-sheet.pdf>

Standards body

Singapore International Mediation Institute (SIMI)



- Since 2014
- **SIMI Credentialling Scheme**
 - Professional standards scheme which recognises the experience of professional mediators
 - *Approved certification scheme under Mediation Act 2017
 - Cross-recognition
 - International Mediation Institute (IMI) - SIMI Certified Mediators (highest tier) can apply directly to become IMI Certified Mediators
 - Alliance of Organisations for Mediation Standards (AMS) - SIMI accredited mediators (Level 2 and above) may apply directly for an equivalent tier of accreditation with another member organisation in France, Hong Kong SAR, Malaysia and Portugal

Open regime

- Parties are free to engage mediators of any nationality in mediation in Singapore
- Foreign mediators are free to provide mediation services in Singapore
 - Work Pass exemption
 - Concessionary tax rate

Open regime

Work Pass exemption

Foreigners performing these activities	Previously	From 1 February 2008
<p>Providing arbitration or mediation services (including involvement as an arbitrator or a mediator) in relation to any case or matter which-</p> <ul style="list-style-type: none"> (i) does not relate, directly or indirectly, to any religious belief or to religion generally; (ii) does not relate, directly or indirectly, to any race or community or to race generally; and (iii) is not cause-related or directed towards a political end. 	Work Pass required	<ul style="list-style-type: none"> • Under Work Pass Exempt Activities • For up to 90 days in a calendar year • Only a Short-Term Visit Pass (issued on arrival in Singapore) and an e-notification to the Ministry of Manpower is needed

Open regime

Concessionary tax rate

- 1 April 2023 - 31 December 2027
- Concessionary withholding tax rate of 10% on gross income derived by non-resident mediators, or 24% on net income
- Applies to income derived for mediation services for
 - mediation that took place in Singapore, or
 - mediation was planned to take place in Singapore but the dispute was settled before the mediation

including services that were rendered pursuant to an agreement to mediate specifying Singapore as the venue for the mediation

- To qualify, mediator is a SIMI Certified Mediator and/or mediation is administered by SIMC

Thought leadership

Singapore International Dispute Resolution Academy (SIDRA)

- Platform for thought leadership in international dispute resolution theory, practice and policy
- Research centre at the Singapore Management University School of Law
- 3 research programs:
 - Appropriate Dispute Resolution (ADR) Empirical Research
 - International Mediation and the Singapore Convention on Mediation
 - Next Generation Dispute Resolution



Singapore International
Dispute Resolution Academy

Facilities and infrastructure



Maxwell Chambers

- The world's first integrated dispute resolution complex
- Houses ADR institutions (including SIAC, SIMC and WIPO Center), chambers, law firms and ancillary services
- State-of-the-art physical and e-hearing facilities



Source: <https://www.maxwellchambers.com/mediation>

Mediation at the Supreme Court (IP)

Rules of Court 2021 – duty to consider ADR

Duty to consider amicable resolution of disputes (Order 5, rule 1)

- 1.—(1) A party to any proceedings has the duty to consider amicable resolution of the party's dispute before the commencement and during the course of any action or appeal.
- (2) A party is to make an offer of amicable resolution before commencing the action unless the party has reasonable grounds not to do so.
- (3) An offer of amicable resolution in this Order means making an offer to settle the action or appeal or making an offer to resolve the dispute other than by litigation, whether in whole or in part.
- (4) A party to any proceedings must not reject an offer of amicable resolution unless the party has reasonable grounds to do so.

Terms of amicable resolution (Order 5, rule 2)

Rules of Court 2021 – duty to consider ADR

Pre-Case Conference Questionnaire to be submitted by parties before the first Registrar's Case Conference:

4. Settlement and ADR options

- a. Parties are to apply their mind to O 5 rr 1 and 2 and solicitors are to be in a position to update the Court at the first RCC, on:*
 - i. Whether amicable resolution has been attempted; and*
 - ii. If so, when and what form of amicable resolution was attempted.*

Adverse costs orders against successful party (Order 21, rule 4)

4. The Court may disallow or reduce a successful party's costs or order that party to pay costs, if –
- (c) that party has not discharged that party's duty to consider amicable resolution of the dispute or to make an offer of amicable resolution in accordance with Order 5

Rules of Court 2021 – Court may order ADR

Powers of Court (Order 5, rule 3)

- 3.—(1) The Court may order the parties to attempt to resolve the dispute by amicable resolution.
- (2) In deciding whether to exercise its power under paragraph (1), the Court must have regard to the Ideals and all other relevant circumstances, including whether any of the parties have refused to attempt to resolve the dispute by amicable resolution.
- (3) Without affecting the Court's power under paragraph (1), if a party informs the Court that the party does not wish to attempt to resolve the dispute by amicable resolution, the Court may order the party to submit a sealed document setting out the party's reasons for such refusal.
- (4) The sealed document will only be opened by the Court after the determination of the merits of the action or appeal and its contents may be referred to on any issue of costs.
- (5) The Court may suggest solutions for the amicable resolution of the dispute to the parties at any time as the Court thinks fit.

How to request mediation

- At any stage of proceedings
- Party that wishes to attend mediation files and serves ADR Offer
- If the other party is willing to attempt mediation, they file and serve a Response to ADR Offer
 - Court may give directions e.g. set timeline for mediation to complete, or adjourn pending court proceedings
 - Parties arrange for mediation with an organisation of their choice e.g. request for WIPO mediation and apply for funding under WIPO-Singapore AMP
- If the other party does not respond to the ADR Offer, they will be deemed to be unwilling to attempt mediation without providing any reasons
 - If the case proceeds to a trial, there may be costs consequences

Judicial support for mediation

Sundaresh Menon CJ, "International Mediation and the Role of the Courts",
Speech to the Indonesian Judiciary (7 November 2023)

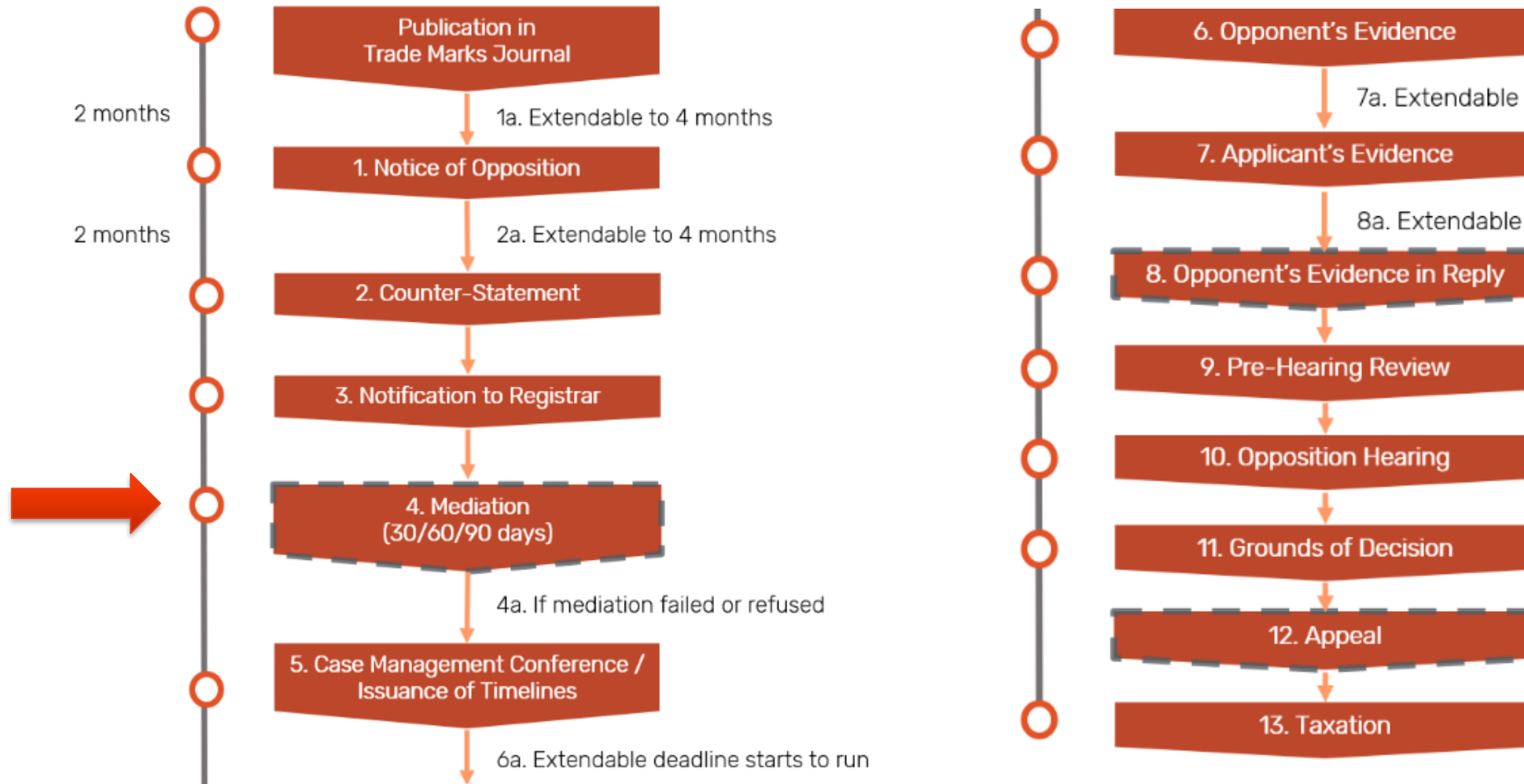
"...the courts have a critical role to play in supporting international commercial mediation. They can do so by developing the principles governing the practice of international commercial mediation under the Singapore Convention on Mediation, by working with mediation bodies to develop composite dispute resolution models, and by driving dialogue between providers of international commercial mediation and other dispute resolution bodies."

IP mediation at the Intellectual Property Office of Singapore (IPOS)

IP mediation at IPOS

- Mediation option for trade mark disputes at IPOS
- Revised Enhanced Mediation Promotion Scheme (REMPS)
- Young IP Mediator (YIPM) initiative
- IP elements in ADR modules at local universities

Mediation option for trade mark disputes at IPOs



<https://www.ipos.gov.sg/about-ip/trade-marks/managing-trade-marks/resolve-disputes/opposing-a-trade-mark-application-filed-in-singapore>

Mediation option for trade mark disputes at IPOS

- Parties can request for mediation **at any time** before we decide on the outcome of the case
- After the counter-statement is filed,
 - parties are given time to specifically consider dispute resolution options
 - each party files a Notification to Registrar
- If parties let us know of their intention to mediate, we will generally suspend the IPOS proceedings for mediation to take its course
 - 30, 60 or 90 days as elected by parties
 - Period may be extended upon further request and justification by parties

1.4 Notification to Registrar Details

I have

Communicated with the other party with regard to this Dispute

I am aware of the available **mediation option**, the potential benefits of settling this Dispute by mediation and the available funding under the **Revised Enhanced Mediation Promotion Scheme** by IPOS.

My preference concerning the conduct of this dispute is as follows:

I wish to submit this Dispute to mediation at this point in time.

My choice of service provider is

WIPO Arbitration and Mediation Center

A party that wishes to propose submitting a dispute to mediation at WIPO shall complete sections 1, 2, 3 and 4(a)/(b) of the **Request for WIPO Mediation** and send it to the WIPO Arbitration and Mediation Center Office in Singapore by email (arbiter.mail@wipo.int), as well as to the other party and IPOS. The WIPO Arbitration and Mediation Center may assist the parties in considering the request for mediation.

Parties that agree to submit a dispute to mediation at WIPO shall jointly complete one Request for WIPO Mediation and send it to the WIPO Arbitration and Mediation Center Office in Singapore by email (arbiter.mail@wipo.int), as well as to the other party and IPOS.

I wish to set aside the following period for mediation, as may be extended upon agreement:

90 days

The Registrar will generally suspend proceedings in most cases for mediation to take its course. If the period for mediation is extended, it is possible to request a further suspension, to be justified to the Registrar's satisfaction.

☒ I understand the conditions of the Revised Enhanced Mediation Promotion Scheme by IPOS and

intend to

apply for funding of my mediation costs.

Preferred conduct of dispute: Submit to mediation

Service provider: SIMC, SMC, WIPO Center or Others

Period set aside for mediation: 30, 60 or 90 days (extendible)

Intend to or may apply for funding



Mediation option for trade mark disputes at IPOS

- IPOS is not directly involved in the mediation
- Parties file a request with a mediation service provider (WIPO Center, SMC, SIMC) which will see parties through the mediation process
- Within 2 weeks after the end of the mediation, parties will inform IPOS of the mediation outcome
- If the dispute is not fully resolved, IPOS will resume conduct of the matter

Funding scheme by IPOS



Mediation Promotion Scheme (MPS)	Enhanced Mediation Promotion Scheme (EMPS)	Revised Enhanced Mediation Promotion Scheme (REMPS)
1 Apr 2016 - 31 Mar 2019	1 Apr 2019 - 31 Mar 2022	1 Apr 2023 - 31 Mar 2025
Up to S\$ 5,500	Up to S\$ 10,000; Up to S\$ 12,000 if foreign IP rights are involved	Up to S\$ 10,000; Up to S\$ 14,000 if foreign IP rights are involved; Up to S\$ 3,000 for sole party who applies for funding
<ul style="list-style-type: none"> ✓ Mediation service provider's fees ✓ Mediator's fees 	<ul style="list-style-type: none"> ✓ Mediation service provider's fees ✓ Mediator's fees ✓ Mediation-related lawyer/agent fees and disbursements (up to 50%) 	<ul style="list-style-type: none"> ✓ Mediation service provider's fees ✓ Mediator's fees ✓ Mediation-related lawyer/agent fees and disbursements (up to 80%)

Revised Enhanced Mediation Promotion Scheme (REMPS)



- ✓ Submit dispute before IPOS to mediation under your preferred mediation service provider
- ✓ Inform us that you intend to / may apply for funding under REMPS



- ✓ Mediate in Singapore
- ✓ Allow a “shadow” mediator appointed by IPOS to observe mediation

Regardless of mediation outcome

Expose young law graduates to IP mediation



- ✓ Agree to named publicity, excluding details of settlement terms
- ✓ Submit application for reimbursement with available information after mediation
- ✓ Submit outstanding information after IPOS dispute ends

Collection of 16 case studies at <https://go.gov.sg/ipmediationcases>

Mediation case studies

Mediation

Mediation Option for IPOS Proceedings

Overview

Mediation Providers

Choosing Mediation

What is Mediation?

Why Mediate?

Success of Mediation?

Mediation has a high success rate.

Read about mediation cases under the WIPO-Singapore ASEAN Mediation Programme, Revised Enhanced Mediation Promotion Scheme and Enhanced Mediation Promotion Scheme.

Citation	Matter
Lee Mei Lie t/a CY Education Centre & Fun with Abacus School Pte Ltd [2024] AMP MED 4	AMP Mediation Success
Restoran India Gate Sdn. Bhd. & KRBL LTD. [2024] SGIPOS MED 1	Mediation Success at IPOS

Intellectual Property Office of Singapore

Hearings & Mediation Department

Mediation Cases

AMP Mediation Success - Lee Mei Lie t/a CY Education Centre & Fun with Abacus School Pte Ltd [2024] AMP MED 4

Mediation Success at IPOS - Restoran India Gate Sdn. Bhd. & KRBL LTD. [2024] SGIPOS MED 1

AMP Mediation Success - Gromark Consumers Enterprise Pte Ltd & Universe Kingdom Pte Ltd [2024] AMP MED 3

<https://go.gov.sg/ipmediationcases>

2024

AMP Mediation Success - Captain K F&B Management Pte. Ltd & En Dining Bar Holdings Pte. Ltd. [2024] AMP MED 1

AMP Mediation Success - Fun Toast Pte. Ltd. & Fun Tea Pte. Ltd. [2024] AMP MED 2

AMP Mediation Success - Gromark Consumers Enterprise Pte Ltd & Universe Kingdom Pte Ltd [2024] AMP MED 3

Mediation Success at IPOS - Restoran India Gate Sdn. Bhd. & KRBL LTD. [2024] SGIPOS MED 1

AMP Mediation Success - Lee Mei Lie t/a CY Education Centre & Fun with Abacus School Pte Ltd [2024] AMP MED 4

Citation	Application Number	Mark / Patent / GI / Design	Image	Action	Decision
Google LLC v Green Radar (Singapore) Pte Ltd [2024] SGIPOS 1	TM No. 40202109944T	grMail	grMail grMail	Trade Mark Opposition (Unsuccessful)	Full Decision (446KB)

<https://www.ipos.gov.sg/manage-ip/resolve-ip-disputes/legal-decisions>



Young IP Mediator (YIPM) initiative

- Since 2020
- Grow interest and experience in IP mediation amongst fresh law graduates
- Where possible, opportunities to participate as shadow mediators / co-mediators to gain first-hand experience

IP elements in ADR modules at local universities

- Singapore Management University (SMU) modules on mediation
 - Give presentation
 - Incorporate IP element in roleplay
- National University of Singapore (NUS) module on mediation
 - Incorporate IP element in roleplay

IP mediation success at IPOS

Suravit Kongmebhol & Aftershokz, LLC [2019] SGIPOS MED 1

<https://go.gov.sg/ipmediationcases>



- One party from Thailand and the other from the US
- Both foreign parties flew to Singapore for the mediation
- Resolved disputes before IPOS and achieved **global resolution in 6 ASEAN jurisdictions (Singapore, Malaysia, Indonesia, Philippines, Thailand, Vietnam)**
- Singaporean IP lawyer completed mediation in 19.5 hours
- Parties received S\$ 12,000 under IPOS EMPS
 - Fully subsidised mediation service provider's fees and mediator's fees
 - Partially defrayed parties' mediation-related lawyer fees and disbursements

Suravit Kongmebhol & Aftershokz, LLC [2019] SGIPOS MED 1

<https://go.gov.sg/ipmediationcases>

Thai Party:

I am very glad that mediation in Singapore has helped us resolve the existing disputes and achieved a **win-win** outcome for all parties.

US Party:

The success of the mediation is **very significant** to us. Apart from settling existing disputes, the settlement ensured the **protection** of our company's brand image and the rapid development of our business in Southeast Asia.



INTELLECTUAL PROPERTY
OFFICE OF SINGAPORE

THANK YOU