

Settlement Solution by ADR on Dispute in Intellectual Property Right

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First, the purpose of this research is to review the Online Dispute Resolution (ODR) regulations in Korea to resolve disputes which can arise in international e-commerce in the near future. Second, this research tries to look for alternative solutions to dispute resolutions according to these regulations. Third, this research pursues to enhance the effectiveness of business deals by providing efficient and satisfactory dispute resolution methods for e-commerce business. Furthermore, this study evaluates the definition of global e-commerce by comparing Online Dispute Resolution (ODR) with Alternative Dispute Resolution (ADR). Through analyzing the domestic ODR system and ADR system, this research could boost the employment of settlements in small-sized disputes through easy and convenient consumer access to both ODR and ADR procedures. The enhancement of the competitiveness of Korean companies in the global market is estimated to take place as a result. This research is estimated to provide benefits to our businesses both domestically and internationally by using ODR regulations and ADR methods. Moreover, this research is anticipated to verify usefulness in terms of consumer protection by advancing consumers' access to dispute solution authorities locally and abroad.

Key Words : Settlement, Alternative Dispute Resolution, Online Dispute Resolution, Mediation, Arbitration

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I . Introduction

Arbitration is one of substitute way to legal lawful suit including reconciliation, mediation and intercession as a alternative dispute resolution.

The effectiveness in mediation is realized when concerned parties both agree, however, in terms of arbitration case, dispute is solved when arbitration verdict is conducted by arbitrator who is specialist in the related field.

Additionally, arbitration is expected haste dispute settlement with low cost as well as the professionalism.

The disputes of intellectual property right appear various types based on variety of intellectual property rights and it is required a special professionalism and technology according to each intellectual properties.

At present, dispute of intellectual property can be solved by authority arbitration such as Korean Commercial Arbitration Board.

The number of dispute arbitration case in intellectual property right is after maritime business, construction and international trade business cases.

According to monopoly regulations and fair trade law, the Fair Trade Commission provides dispute settlement method with sufficient experiences and technology through mediation and intercession.

However, they do not supply arbitration system. In order to adopt and manage to arbitration in the Fair Trade Commission, it needs independent operation hierarchy, working manpower, a specialized arbitration board, arbitration rules & codes, budgets and lawful basis.

From 2010, Korean Commercial Arbitration Board advance their business activity not only international transaction area and construction field which are traditional arbitration adopting fields but also IT area such as software, entertainment contract field and environment field.

This research evaluates needs and its necessity of supplier and its user in intellectual property right.

This research deals with 5 major items.

First, it evaluates and materialize necessity for copyright arbitration system adoption. In order to do this, kinds of copyright dispute and its characters are classified into

dispute between author and author and dispute between author and user to evaluate specific case study, of which draws a conclusion for necessity of copyright arbitration system.

Second, it evaluates intellectual property right status both domestically and internationally. In domestic case, it evaluates status of reconciliation and arbitration in Korea Copyright Committee, Korea Arbitration Board and the Press Arbitration Commission.

In foreign case, research is conducted status of copyright arbitration system focus on USA, China, WIPO, Japan and Germany, etc.,

Additionally, the possibility is also evaluated for conducting copyright arbitration of small amount with many persons through online method after inspects status of UNCITRAL who is looking for regulations about Online Dispute Resolution(ODR) procedure¹⁾ in the international electronic commerce field.

Third, it also evaluates arbitration system for creative object right as well as its operation direction and how to proceed it.

It examines independence of arbitration authority for creative object right and arbitration board who arbitrates enrolled case including administrative bureau's organization who support arbitration board work and deals with various administrative affairs and efficient management operational method. Additionally, in case professionalism is required, it researches professional committee's organization and its function.

Furthermore, in order to secure arbitration professional pool in the creative object right field, it surveys criterion and qualification to select arbitrator among professionals such as professional lawyer, professor, practical worker, association, etc together with the way to search for arbitrator and the way to educational method for arbitrator.

Fourth, It submits arbitration rules of creative object right and its procedure. Additionally, it provides practically required various document form and its costs.

In order to do this, it surveys rules for arbitration law, law of creative object right, domestic and international arbitration regulations, arbitration scope of creative object right and its enlargement method.²⁾

Especially, regarding to arbitration procedure, regulations such as arbitration application,

1) Bail, Shishir, "From Nyaya Panchayat to Gram Nyayalayas: The Indian State and Rural Justice", *Socio-Legal Review*, Vol.11, No.1, 2015, pp12-13

2) Cohn, Bernard, "Anthropological Notes on Disputes and Law in India", *American Anthropologist*, Vol.67, No.6, 1965, pp.23-25

its period, cost, arbitration agreement, notification, selection of arbitrator, evaluation, procedure of examination, arbitration decision, its effectiveness are needed.

Letter of arbitration application, acceptance letter for selecting arbitrator, etc various document forms and its arbitration cost's criteria are also submitted.

Furthermore, for the small amount arbitration, simple type procedure such as speedy procedure and online arbitration are introduced.

Finally, various vitalization methods about arbitration of creative object right are presented.

It surveys education and public relations which is important role for arbitration vitalization of creative object right as well as utilization plan for standard contract sheet.

Additionally, appraisalment of intercession and arbitration and its inter-relationship method of enrollment system.

II. Dispute of intellectual property right and arbitration hierarch

The dispute between author and user is appeared when user takes advantage of a creative work without permission or contract right from author or over its contract authorization.

In most cases of disputes between author and user, it is a little bit easy to judge violation of intellectual property right and it is character that dispute scale is a small amount compared to that of author's dispute.

In case dispute arise from license contract that multi-user are concerned parties, if arbitration is forced as a settlement method instead of law suit, the matter of consumer protection is emerged. There is strong trend that the consumer dispute is also settled through arbitration in the major countries such as USA, Germany, England and Switzerland. But, as utilization of consumer arbitration is increased, the consumer protection is also brought forward.

In Korean arbitration law, there is not a certain article for consumer's protection.

In human treaty code 6 of an article of 1998 United Nations, if there is not expressive intention from concerned parties after dispute arise, ADR(Alternative Dispute Resolution) recommends that it can not restrict consumer's right which makes law suit

against court. Additionally, as requests for every property rights are considered objects for arbitration in Germany, consumer's dispute is also regarded as its object. However, per consumer's arbitration, their own written signatures of concerned parties are requested on the arbitration agreement in order to guarantee consumer's protection.³⁾

Per arbitration law in England, written document with their own signatures is required for consumer's arbitration agreement and in case requested amount is below 5,000 pounds, consumer's arbitration agreement is considered unfair business. The reason is if concerned parties choose arbitration which dispute is complete finally by single-trial, consumers are recognized by themselves to give up court's right relief which has 'appeal procedures'.

On the contrary to European society, USA does not impose this kind of restrictions by law and they actively use inevitable arbitration paragraphs.

However, there are voices of concern about inevitable arbitration paragraphs.

There are reasons for failures which arbitration can not be applied to based on consumer's protection law.

In this points, according to article 14 in Korean provision regulation, prohibit article for unreasonably making disadvantage lawsuit against client is regarded invalidity. Arbitration agreement which attracts dispute settlement through arbitration procedures contains contents that give up to make lawsuit to the court, of which is typical type which does not make lawsuits.

On the other hand, there is viewpoint that it is valid because arbitration code⁴⁾ in provisions is basis of arbitration's necessity, it is more appropriate to estimate invalidity according to provision 14 in Korean provision regulation as the arbitration clauses make dispute settlement by arbitration procedure.

Especially, when we come into consideration that arbitration clauses are inadequate disadvantage against clients, the thing that arbitration clauses are invalidity means not the arbitration clauses which are used between a certain business operator and another business operator but the arbitration provision which are used between business operator and consumer.

Come to think of it, in case there are inevitable arbitration provision are existed in

3) Article 10301, paragraph 5, Civil Procedure Code in Germany

4) Capulong, Eduardo, "Mediation and the Neocolonial Legal Order: Access to Justice and Self-determination in the Philippines", Alexander Blewett III School of Laws, Vol.27, No.3, 2012, pp.27-28

the provisions in copyright license which multiple clients use, consumers are inclined not to read provisions and additionally, it is very rare case to understand lawful effects of arbitration provision correctly.

Eventually, per arbitration provision based on court code, user are easily deprived of right which can be protected by court. In order to solve this problem, we can consider restriction that timing for arbitration agreement is after dispute erupted, of which is viewpoint of current Korean provision law.

However, practically, business operators mostly express dispute settlement procedure in their business contract provisions. If arbitration is available only if post dispute settlement procedure, it can hamper arbitration invigoration.

In order to overcome this problem, european major countries like Germany, etc adopt user's their own signatures or this same level agreement procedures in the arbitration provision or to give users explicitly explanations about meanings and contents of arbitration provision.

This kind of methods are recommendable to protect users during multiple business transactions of creative objects as well as dedication of arbitration vitalization.

Regarding to agreement procedure in arbitration provision and imposing information-provide responsibility, Legislative resolution⁵⁾ are requested by the courtesy of improvement of arbitration laws or related laws.

III. Status in claims and arbitration in Korea

<Table 1> claims & arbitration

(unit: number of case, 100mil.won, %)

period,number of case,amount		2018		2017		+, -, ratio	
		number of case	amount	number of case	amount	number of case	amount
Total	domestic	10,731	15,456	12,142	15,260	+11.6	1.3
	international	1,008	3,469	905	8,007	11.4	+56.7
	sub-total	11,739	18,925	13,047	23,267	+10.0	+18.7

5) Chung, Yongkyun, "Combining Arbitration with Mediation: Two Cultures of China and Malaysia", Journal of Arbitration Studies, Vol.26, No.3, 2016, pp.38-39

period,number of case,amount		2018		2017		+, -, ratio	
		number of case	amount	number of case	amount	number of case	amount
arbitration	domestic	331	5,923	307	4,532	7.8	30.7
	international	62	1,432	78	4,663	+20.5	+69.3
	sub-total	393	7,355	385	9,195	2.1	+20.0
reconciliation	domestic	881	148	1,002	142	+12.1	4.2
	international	80	62	99	389	+19.2	+84.0
	sub-total	961	210	1,101	531	+12.7	+60.4

Source : Korean Commercial arbitration board 2018

Regarding to domestic arbitration case, the number of cases and amount both are increased compared to that of previous year, each 7.8% and 30.7%. On the contrary, per the international arbitration case, the number of cases and amount both are decreased compared to that of previous year 20.5% and 69.3% respectively.

Per the reconciliation case⁶⁾, the number of case and amount both are decreased compared to that of previous year each 12.7% and 60.4%.

When we evaluate not only arbitration but also reconciliation, the number of international cases are overwhelmingly larger than that of domestic

<Table 2> The number of arbitration applying case for recent 5 years

(unit: number of case, 100mil. won)

	2014	2015	2016	2017	2018
number of case	382	413	381	385	393
amount	6,561	8,328	18,749	9,195	7,355

Source: Korean Commercial arbitration board 2018

When we analyze case amount, we can find out the amounts are decreasing starting from 2016.

6) Chung, Yongkyun, "An Eclectic View on the Relative Role of Rule of Law and Alternative Dispute Resolution in Legal Development Assistance: The Case of the ASEAN Region", International Trade, Politics and Development, Vol.2, No.1, 2018, pp.56-57

<Table 3> Classification for arbitration applying each fields

(unit: number of case, %)

classification	2018			2017			+, -, Ratio
	domestic	international	total	domestic	international	total	
general businee contract	37	1	38	48	0	48	+20.8
construction	119	4	123	116	10	126	+2.4
international trade	20	41	61	16	44	60	1.7
ocean affair	8	4	12	7	3	10	20.0
M&A joint investment	7	2	9	6	6	12	+25
Finance	4	4	8	2	3	5	60.0
intellectual property right	6	2	8	6	5	11	+27.3
entertainment	26	1	27	19	2	21	28.6
labor	3	1	4	4	0	4	0.0
real estate	16	1	17	19	1	20	+15.0
tele-communi cation	63	0	63	39	2	41	53.7
other	22	1	23	25	2	27	+14.8
total	331	62	393	307	78	385	2.1

Source: Korean Commercial arbitration board 2018

As construction(31.3%), tele-communication(16.0%), international trade(15.5%), etc are dominating high ratio, especially, fields for finance(60.0% increased), tele-communication (53.7% increased) and entertainment(28.6% increased) record high increase trend.⁷⁾

When we see <Table3>, arbitration ratios are significantly increasing for whole industries.

7) Chung, Yongkyun and Ha, Hong-Youl, "Arbitrator Acceptability in International Commercial Arbitration: The Trading Firm Perspective", International Journal of Conflict Management, Vol.27, No.3, 2016, pp.15-19

<Table 4> classification for each causes

(unit: number of case, %)

	2018			2017			increase/ decrease ratio
	domestic	international	total	domestic	international	total	
payment	173	33	206	161	46	206	0.0
understanding of contract condition	27	4	31	26	3	28	10.7
shipment delay & non-delivery	61	12	73	78	23	101	+27.7
inferior quality	37	9	46	28	5	33	39.4
other	33	4	37	15	2	17	117.6
total	331	62	393	307	78	385	2.1

Source: Korean Commercial arbitration board 2018

Payment(206 cases) is 52.4%, delayed-shipment & non-delivery(73 cases) is 18.6% and inferior quality(46 cases) is 11.7%, of which consist major causes in the arbitration cases.

<Table 5> classification for each procedures

(unit: number of cases, %)

		2018		2017		increase/decrease ratio	
		domestic	international	domestic	international	domestic	international
speedy procedure ⁸⁾		163	33	144	37	13.2	+10.8
general procedure	1 person arbitrator ⁹⁾	81	15	74	25	9.5	+40.0
	3 person arbitrator ¹⁰⁾	87	14	89	16	+2.2	+12.5
total		331	62	307	78	7.8	+20.5

Source: Korean Commercial arbitration board 2018

8) Basically, 1 person arbitrator means applying amount is under 100 million won(domestic arbitration) and under 500 million won(international arbitration)

9) between over 100 million won ~ under 500 million won(domestic arbitration), over 500 million won(international arbitration).

10) Among over 500 million won(domestic arbitration) and over 500 million won(international arbitration), concerned party's agreement or arbitration board office's decision

Among total applying cases, ratio of speedy procedure cases are increased compared to that of previous year.(47.0% in 2017 -> 49.9% in 2018).

According to <Table 5>, international procedure is much more increasing compared to that of domestic procedure.

<Table 6> verdict accomplishment for each types

(unit: number of case, 100 million won, %)

	2018		2017		increase/decrease ratio	
	number of case	amount	number of case	amount	number of case	amount
general verdict	241	12,763	183	10,890	31.7	17.2
amicable verdict	43	220	48	130	+10.4	69.2
withdrawal	53	227	61	348	+13.1	+34.8
non-performance of procedure	25	726	19	269	31.6	169.9
total	362	13,936	311	11,637	16.4	19.8

Source: Korean Commercial arbitration board 2018

The number of verdict is 362 cases which is 16.4% increase compared to previous year(311 cases).

Among verdict cases¹¹⁾ in 2018, arbitration verdicts(general case and amicable case) are 78.5% of total receipt cases.

In 2018, both number of cases and amounts are increasing compared to 2017.

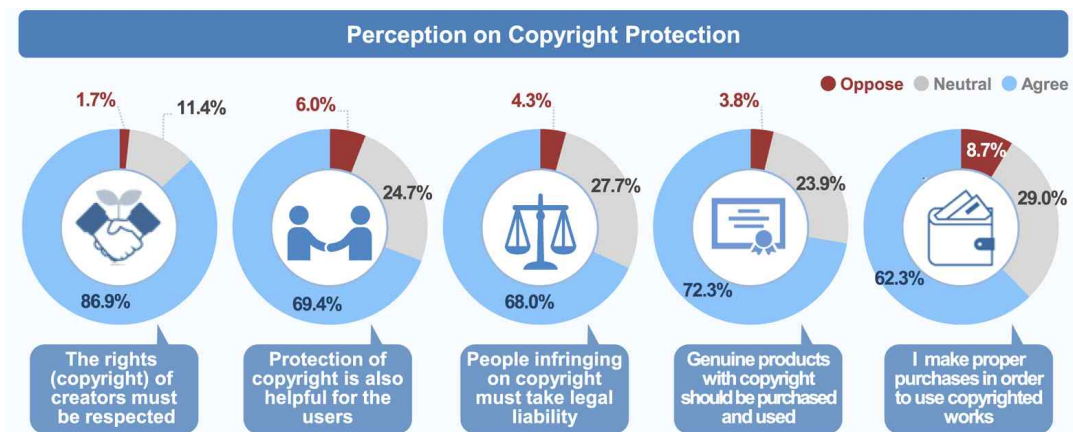
IV. Counter-measure for copyright protection

At present, Korea Arbitration Board is unique to provide official authority arbitration. The number of arbitration that applied to Korea Arbitration Board are mostly consisting of maritime business affairs, international trade and construction field. However, copyright field is rare cases. Based on the Ministry of Culture, Sports and Tourism's policies, "From the facts of the copyright trade balance, along with the content industry

11) Clad, James, "Grave Judgement", Far Eastern Economic Review, Vol.12, 1990, pp.28-29

export statistics, it is a statistical index that can objectively estimate the influence of the Korean Wave, and this surplus changeover of copyright trade balance is all the more meaningful,” and “in light of the study results from the Export-Import Bank that states a 100 USD increase in export of cultural products implies an increase of entire consumer goods export by 412 USD, it is estimated to create an environment that enables the production of quality Korean Wave copyrighted works such as <The Descendants of the Sun> so that the increasing surplus trend of the copyright trade balance can continue its momentum.

In addition, it will not spare any efforts in government support for the expansion of markets for Korean Wave products and overseas protection of copyrights through active trade negotiations.”¹²⁾



Source : Korea copyright protect agency

“Private Consultative Group” in which a total of 24 organizations participated in, such as groups and organizations related to content industry for TV, films, music, comics (webtoons), etc., was established to more effectively and actively respond to overseas copyright infringement on our content and to support the local activation of legal distribution.¹³⁾

With the participation by more than 50 people such as representatives of the

12) Press release by the Korea Federation of Copyright Organizations' Copyright Protection Center

13) Moog, Robert, “Indian Litigiousness and the Litigation Explosion: Challenging the Legend”, Asian Survey, Vol.33, No.12, 1993, pp.38-39

participating organizations and officials from the assistant administrating institution, the Korea Copyright Commission, the ceremony will be a place to discuss the future direction of overseas copyright protection activities in the private sector and private collaboration plans as well as sharing the latest issues of the copyright industry.

In countries with advanced copyright practices such as the U.S. and Japan, private authorities such as MPA (U.S.), BSA (U.S.), and CODA (Japan) have not only already been establishing and implementing survey and information sharing on overseas copyright infringements, but also actively responding to such infringements by collaborating with the public sector, connecting with relevant authoritative organizations, etc.

The “Private Consultative Group” that is being formed will shed light on the consumption and infringement status of Korean content for major countries and share information among authorities in order to jointly respond to overseas copyright infringement.

Furthermore, through active collaboration with relevant organizations in the U.S., Japan, etc., the Private Consultative Group is expected to become the backbone of overseas copyright protection.

In particular, due to the results of immediate blocking of illegal distribution of TV content, such as the reduction of deletion times (11 days → 2~3 hours) for Korean content that is being illegally distributed online in China through private Korea-China collaboration last year, as well as plans to expand the private Korea-China collaboration in other fields such as music

and webtoon starting this year, these activities are expected to be more systematic and apply to a wider range of content.

It also plans to raise local conformity of overseas copyright protection policies based on the facts gathered in the industry through the “Private Consultative Group” and establish a close collaborative relationships such as supporting connection with overseas copyright offices(Korea Copyright Commission) in order to support sustainable growth of the content industry as well as creating cultural prosperity and creative economy as a result.

It releases “The activities of the ‘Private Consultative Group on Overseas Copyright Protection’ will greatly contribute to creating a virtuous cycle where the international recognition of Korean content at fair value will lead to more active content production,” and “the government will also spare no efforts to support all the hard

work in the private sector.”¹⁴⁾ special judicial police on copyright jointly conducted the search and confiscation of illegal reproduction sales stores in Seoul/Busan/Incheon/Bucheon with the Korea Customs Service, Copyright Protection Center, etc., and confiscated a total of 14,474 articles and indicted without detaining 6 distributors.

In particular, this enforcement was conducted on targeted large-scale distributors of illegal reproductions while operating Internet websites and offline stores at the same time, and it was jointly implemented with the Korea Customs Service’s special judicial police in order to block the import channel of illegal reproductions.

According to Ministry of Culture, Sports and Tourism’s policies, “Recently, there has been a rapid expansion of distribution, especially with illegally reproduced famous character products such as 〈Pororo〉, 〈Ironman〉, 〈Heroes〉, and 〈Ninjago〉. Because there many cases of illegal reproductions being imported from overseas, we will continue to closely collaborate with the Korea Customs Service to not only track down the distributors of illegal reproductions, but also the importers so that they can be judged by the law.”

This content was uploaded on a bulletin by an illegal website operator as a notification to the members.

Although there was a limit on the government enforcement concerning websites that shared massive amounts of illegal copyrighted works with servers located overseas (hereinafter “illegal overseas websites”), the operator of an illegal overseas website that shared large quantities of literary works was recently arrested by the special judicial police for copyright after a persistent investigation over a 4 month period.

Special judicial police on copyright arrested the operator of an illegal overseas website that infringed on copyrights at the home of the violator on August 25th and shut down the website. The violator had illegally posted and enabled the members to download large quantities of domestic novels/comics, translated Japanese novels, etc., via the violator’s website.

The website that was closed down had a server in the U.S., and with the start of its operation in August of last year, it posted 15,514 articles of literary works such as novels and comics that the violator had personally scanned or the members who uploaded the works, having confirmed a total of 9.91 million downloads.

14) Press release by the Ministry of Culture, Sports and Tourism

In particular, unlike the general illegal overseas websites that created profit from advertisements by inducing access from the general public through giving free access to literary works, the illegal overseas website that was exposed was found to have gained a total of 140 million KRW in unfair profit by operating the website based on a membership system,¹⁵⁾ where the members posted the PIN number of gift certificates on the exchange bulletin board and the operator gave points needed for the download accordingly, which the operator then used to exchange the certificates into money through an organization that managed gift certificates.

In addition, the personal information of the 4 people who participated in the operation of websites other than the operators, who were recently arrested along and 2 business owners that illegally scanned the books with the request from the operator have already been secured, and the in-depth investigation to shed light on the level of their participation and charges is underway. The Ministry of Culture, Sports and Tourism's policies emphasized that "having the servers overseas is a method of evading enforcement by the investigative agencies, and most of the website operators are Korean nationals. As we gather more investigative leads on illegal overseas websites, we will continue our in-depth investigations that may lead to the arrest of the operators and their prosecution of the law so that we can gradually establish a proper order in the distribution of copyrighted works."

The Ministry of Culture, Sports and Tourism, hereinafter "the Ministry of Culture, Sports and Tourism") and the Korea Copyright Commission (Chairman: currently vacant) are jointly holding the "4th Public Writing Treasure Hunt Contest" related to the design of handwritten font for the purpose of creating a font program.

The font program (True Type Font (TTF)) that is widely used for schools, offices, and design work can be easily downloaded for free at portal sites, etc.

However, as we can see from the recent law suit filed against an elementary school by a font producing company, such free font programs cannot be used permanently or are limited to personal use in many cases, and use by schools and companies is causing many disputes in relation to the violation of the 「Copyright Act」.¹⁶⁾ This

15) Hofstede, Geert, Hofstede, J. Gert, and Michael Minkov 2010. *Cultures and Organizations: Software of the Mind*, 3ed, 2010, pp.56-58

16) Mayer, C. Adrian, "The Dominant Caste in a Region of Central India", *Southwestern Journal of Anthropology*, Vol.14, 1958, pp.23-28

Public Writing Treasure Hunt aims to ensure that font files can be used by the public without any worry of copyright issues by producing and providing a font program free of charge based on the excellent design picked from the public handwriting contest such as calligraphy.

Any Korean citizen can participate in the contest by writing the “Preface of Hunminjeongeum” that was written by King Sejong on a A4 paper, converting the document into a JPG or PDF file, and submitting the file at www.findbomul.kr. The handwriting that is selected as the best work based on the evaluation by font and calligraphy experts will be made into a font program and distributed (during the first half of 2018), and the winner will also receive a small monetary gift. It releases “a font program that is unique and yet highly legible created through the contest is expected to become a tremendous driving force toward creative activities,” and “in celebration of the coming Hangul Proclamation Day, we hope the fonts from the contest can become a creative resource and an element movement toward globalization that can widely spread the excellence and creativity of our shining cultural heritage, Hangul, and contribute to our proud culture.

V. ODR & ADR arbitration

1. Speedy procedure in ODR

The merit of ADR system is expeditiousness.

The speedy procedure is adopted when there is separate agreement between concerned parties. In Korea Commercial Arbitration Board, when there is domestic case which applying amount is below 100 million won, speedy procedure is adopted even though separate agreement is not existed. However, this kind of system has problem to operate system. Details about speedy procedure is as follows:

In terms of select arbitrator, in case there is no separate agreement between concerned parties, 1 arbitrator is selected based on arbitrator name list. It is advisable to select arbitrator who has sufficient knowledges and technologies as well as who has experiences to handle ADR technique¹⁷⁾ freely.

17) Galanter, Marc and Jayanth K. Krishnan, “Bread for the Poor: Access to Justice and the Rights of

Per trial procedure, arbitration board decide trial date and place and notify it to concerned parties before 3 days trial starts through verbal notification, person-to-person contact, phone, letter or e-mail.

It is principle to conclude trial only 1 time. However, in case arbitration board admits there is a certain reasonable reason, trial can be re-open. The respondent can provide counter-application before trial ends. Hasty solution is given for the arbitration case as arbitration judgement is done within 10 days after final trial date.

Any other provisions that hasty procedure does not express provisions are abide by arbitration rules.

Online Dispute Resolution(ODR) means all the phase or parts of phase about various dispute settlement procedure are conducted by online basis through computer. Even Online Dispute Resolution are used a vast area of dispute settlement, usually, it is used at ADR such as reconciliation or arbitration.

The applied area are disputes of electronic commerce(B2C or C2C), international commercial dispute, intellectual property right, private information and domain.

ODR strengthens effectiveness that ADR has merits such as low price, speediness, convenience, accessibility and familiarity.

The ODR service that domestically provided are electronic transaction dispute mediation by E-Commerce Mediation Committee, Online administrative judge by Anti-Corruption and Civil Rights Commission and electronic lawsuit by Supreme Court.

The domestic ODR is used at electronic lawsuit or mediation. However, in foreign country, ODR¹⁸⁾ is used not only mediation but also arbitration which is nice implications for our country.

In terms of adopt for copyright arbitration, to consider adopting ODR is not only give person to get wide choice about ADR but also to give maximization about convenience, hastiness and low cost effect in the long-term viewpoint.

Domestically, ODR is used mainly at mediation. The reason is domestic arbitration is conducted only by Korea Commercial Arbitration Board.

In major developed countries, the efforts that connect arbitration and ODR is more effective for binding power procedure like arbitration in order to enhance ODR's

the Needy in India", *Hastings Law Journal*, Vol.55, No.4, 2004, pp.18-19

18) Kidder, Robert, "Formal Litigation and Professional Insecurity: Legal Entrepreneurship in South India", *Law and Society Review*, Vol.9, No.11, 1974-1975, pp.32-33

effectiveness¹⁹⁾ because the final solutions in dispute are binding power and execution.

Furthermore, the approval and execution in arbitration judgement are recognized at New York treaty. The method that secures execution's effectiveness express way that the property which is dispute object should be deposited into the third party(escrow entity) before dispute procedure starts.

2. ADR and Arbitration

It is recommendable that various dispute solutions are given to dispute concerned parties to make choice.

The typical example is "Med-Arb" procedure which is tied arbitration and mediation. It means that the third party has role of mediator at first and in case mediation is not achieved, the same neutral third party has role of arbitrator for balance arguing issues.

In order for this, the concerned parties has agreement about Med-Arb in the contract sheet. This system's merit is as neutral one person is well understanding mentioned case through mediation case, there are no need for additional secure evidence, investigation and explanations even if arbitration procedure is conducted continuously as well as save dispute costs. However, this kind of merits work for demerits when arbitrator is lack of professionalism or credibility.

As dispute concerned parties depend on one neutral person, sincerity and professionalism are very important whether this procedure's success or failure.

In this case, a little modified Med-Arb procedure²⁰⁾ is conducted based on concerned parties' agreement. Namely, Mediation and arbitration can be conducted each different neutral person, we call it 'Med-then-Arb'.

On the other hand, the concerned parties decide to conduct mediation procedure and arbitration procedure each different neutral person at first. Afterwards, during mediation procedure, if mediator gives credibility to both parties, the balance dispute issues are conducted by arbitration. We call it "Med-Arb 2".

Additionally, arbitration verdict is done in advance by a neutral person and the

19) Patil, Deepa, "A Critical Analysis on Lok-Adalat in India", Research Front, Vol.3, No.2, 2015, pp.56-59

20) Gupta, Surie Javidan and Chokor, "Southern Asia Cluster Where the Old Meets the New?" Journal of World Business, 37(1), 2002, pp.37-39

verdict is sealed in the envelope and neutral person forward mediation. We call it “Arb-Med” procedure. In case mediation is succeeded after arbitration, the envelope may be discarded and if mediation is failed, open up envelope to give arbitration verdict.²¹⁾

In other hand, dispute concerned parties may request mediation during arbitration procedure by consent. In this case, separating from arbitrator and they select mediator to conduct mediation procedure.

we call it “Shadow-Mediation”.

VI. Conclusion

Hasty and vast emerging telecommunication and computer related technology brought us the large expansion of e-commerce which is the new type of business transaction and even more nowadays it is common in the world business market. Considering internet related business spread out worldwide, the dispute is incurred in variety areas. To resolve the dispute of e-commerce, government has been released several laws for protecting legal transaction, information exposure, and internet security, etc. However, internet related technology keeps changing with a speed and various dispute topics are appearing at many different types. Upon that environments, law and rules could not be followed to meet the technology change. E-commerce provides us not only the products but also services by taking advantage of the Internet network and the electronic apparatus.

In this point, many different types of electronic commerce dispute are handled and settled by amicable form of ADR or ODR as the crucial method for one of important satisfactory dispute settlement type in the domestic and international business transaction market including Electronic Commerce. Conclusively, we can realize that the commercial arbitration is the most efficient method and the best means to settle domestic and international disputes in not only traditional business market but also electronic commercial market.

The results of this research indicate how to make settlement for the disputes amicably and the method of dispute settlement. Thus, the arbitration’s role including ODR and ADR is proposed and emphasized. In order to solve the mentioned dispute

21) Dube, S. C., Indian Village, Ithaca, New York, Cornell University Press, 1955, pp.58-59

in advance, it is strongly proposed to amend regulations on time according to technology changes, and reiterates that the dispute come to end eventually into arbitration settlement with ODR and ADR methods which will avoid unnecessary time and costs for both concerned parties such as enterprises and consumers.

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