

## MARCH 2009 Thailand: Alternative dispute resolution takes off

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What is the ideal way to resolve a dispute? For IP owners, the answers may vary, but words that often come up include: quick, non-disclosed, amicable and cost-effective.

Although a lawsuit can provide an effective and enforceable outcome, litigation usually requires a large investment of time and money. Going to trial may not, therefore, be the best option if others are available. Instead, mediation may be a viable alternative.

Traditionally, IP owners who were interested in pursuing a mediated settlement relied solely on the mediation procedures offered through the Central Intellectual Property and International Trade Court (IP and IT Court). Recently, however, the legal department of the Department of Intellectual Property (DIP) has been emphasising the availability and effectiveness of its mediation procedure, which provides a feasible remedy for dealing with IP disputes including infringement of trade marks, copyright, patents, and trade secrets.

The procedure of the DIP's mediation is very user-friendly. The entire process usually takes only two or three months and there is no official fee. When a party to an IP-related dispute requests mediation through the DIP, all of the issues involved in the case will be studied and reviewed by a team of mediation experts and specialists in disputed areas of IP. In more complicated cases, the IP owner may be asked to explain detailed background or technical issues to the officers. In general, the officer will contact the opposing party within one week of receiving the case. If the infringer agrees to negotiate, the officer will have a meeting with the infringer to discuss the possibility of settlement. Both sides will then be invited to a mediation session. If the parties are able to mutually agree upon a voluntary settlement, the officers will prepare a settlement agreement. After execution of the agreement, it will be binding upon both parties.

The success rate of the settlement through the DIP has been increasing each year, and the DIP is holding seminars in Bangkok and around the country to promote this process widely. In areas outside of Bangkok, a party may simply submit a request to a local office of the Department of Business Development, where they can usually seek business advice and file commercial-related registrations, and the case will be transferred to the DIP. Given the current economic climate, this quick and cost-effective approach is an option that should be considered by IP owners.



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