

Alternate Dispute Resolution and Copyright Litigation

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Abstract

With the internet's growing influence, numerous pirated copies of copyrighted works exist on different platforms. It is not possible to always approach the Courts because the person infringing the copyright might be a citizen in a country other than where the copyright owner resides. As a result, the person who infringed the copyright is out of the court's reach. Here comes in handy the ADR mechanism established in almost every nation. This paper primarily deals with the suitability of the ADR mechanism being more than usual litigation for violation of copyright and licensing agreements. The article first deals with the potential copyright disputes that might arise due to the overarching boundaries of the internet. Thereafter, the paper centers its focus on the problems that the parties to an infringement suit might face if courts are approached for copyright infringement such as lack of jurisdiction, expensive, time-consuming, and so on. As the article proceeds further, it delves into how the ADR mechanism has improved the resolution of copyright disputes. The ADR mechanism does not need to abide by all the domestic laws of one country. In cases where parties belong to different jurisdictions, the parties are free to choose any seat of arbitration and the applicable arbitration rules. It is ultimately the law of the seat of arbitration that governs the arbitration process. Moreover, the approach of the ADR mechanism is always to arrive at a win-win solution i.e., a solution where neither of the parties is at disadvantage. The ADR mechanism works solely with the intention to resolve disputes by arriving at a settlement where both parties are satisfied and neither of them becomes the loser. The article also deals with the difference in approach of arbitration, mediation, conciliation, and other ADR methods while resolving a dispute.

INTRODUCTION

The cross-border nature of the internet has facilitated the circulation of academic works, pieces of literature and art worldwide. With easy access to all copyrighted work, it became easy for cyber criminals to also circulate pirated copies of copyrighted works. However, it became difficult to prosecute such persons who infringed copyright by way of the internet.

It often happened that the copyright owner-initiated proceedings in the territorial jurisdiction of X nation-state and the infringer of the copyright resided in the territorial jurisdiction of Y nation-state. As a result, the courts in X nation-state cannot pass a sentence against the infringer of the copyright due to lack of jurisdiction.

The paper first talks about the concept of copyright and how copyright litigation has flourished in different nation-states including the US, the UK, and India. The paper also deals with the most common copyright disputes that arise and how often the cross-border nature of copyright disputes affects the prosecution.

Thereafter, the paper explains how the internet changed copyright litigation and why the current regime that focuses on litigation is not competent to deal with copyright disputes effectively.

As the paper proceeds further, it deals with the concept of ADR and distinguishes between the different types of ADR proceedings. The paper also delves into the question of why ADR was needed when courts already existed to resolve disputes.

ADR is well-suited to the needs of a cross-border copyright dispute and in the case of arbitration, another question that comes up for consideration is whether the parties to arbitration proceedings need to enter into an arbitration agreement before their cross-border copyright dispute can be resolved.

The efficiency of ADR procedures to deal with cross-border copyright disputes can be enhanced by laying down specific arbitration rules for cross-border copyright disputes, awareness seminars about the WIPO ADR facility for Digital Content and Copyright Disputes, etc. There also needs to be an international convention to decide whether Courts have to opt for the principle of *lex loci protectionis* or the principle of *lex loci delicti* to deal with cross-border copyright disputes.

COPYRIGHT LITIGATION

What is Copyright?

In simple language, copyright is a right of exclusive nature vested in a literary, dramatic, or artistic work that is an outcome of the intellect of its creator, producer, owner, etc. Any person who has created a work without duplication and by using his intellect automatically gets a right over such work and prevents any other person from using or replicating it.¹

¹ Rotstein, R. H. (1992). Beyond Mataphor: Copyright infringement and the fiction of the work. *Chi.-Kent L. Rev.*, 68, 725.

Copyright provides numerous rights, which can be classified into two broad categories, namely:

- Economic Rights, and
 - Moral Rights
- Economic Rights are those sets of rights that allow the copyright owner to seek financial benefit by allowing others to use his work. For instance, when a painting made by a famous artist is purchased by someone, the artist earns the financial benefit by allowing the other person to use the painting. Another example is where the copyright owner of a movie grants the license to cinema companies to broadcast the movie in cinema halls. Here, the copyright owner derived a financial benefit by granting the license to different cinema companies for broadcasting purposes. Economic rights in relation to copyrighted work can be exercised in a prohibitory manner as well. For instance, the copyright owner may prevent someone else from the reproduction, public performance, recording, broadcasting, translation, and adaptation of his work by initiating proceedings for copyright infringement. The copyright owner can enforce several civil remedies like damages, injunctions, etc.
- Moral rights are those sets of rights where the creator of the work preserves his non-economic interests vested in that work. It includes the right to claim authorship to one's work. For instance, when a scholar authors a paper and the same is forwarded to a journal for its publication, the scholar reserves the right to claim the authorship of that paper in most cases.

Similarly, when an artist sells his painting to someone, it does not mean that the other person can sell the painting claiming it to be a creation of his intellect without giving due credit to the artist. While selling the painting, the artist only exercises his economic rights. Therefore, in case of violation of the moral rights associated with that painting, the artist is well within the authority to bring an action against the same.

For the protection of copyright at the international level, nation-states have signed the following treaties:

- Beijing Treaty on Audiovisual Performances (2012)
- Berne Convention for the Protection of Literary and Artistic Works (1886)
- Brussels Convention Relating to the Distribution of Program-Carrying Signals Transmitted by Satellite (1974)
- Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (1971)
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (2013)
- Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1961)
- WIPO Copyright Treaty (WCT) (1996)
- WIPO Performances and Phonograms Treaty (WPPT) (1996)

Copyright Infringement

Copyright infringement refers to any act done by a person that is a violation of rights vested in a copyrighted work held by its owner. The following acts may qualify as copyright infringement:

- to sell, publish, adapt, translate, or perform copyrighted work without the consent of the copyright owner,
- to claim authorship to a work copyrighted in another person's name,
- failure to give due recognition to the copyright owner while citing his work, and so on.

However, provisions like licensing, fair use, public domain, and so on are exceptions to the use of copyrighted work by a person other than the copyright owner. In such cases, the use of copyrighted work does not amount to copyright infringement.

Indian Copyright Law on Infringement

Section 51 of the Copyright Act, 1957 states that the copyright in a work is deemed to be infringed when:

- A person, without obtaining a license from the copyright owner, or the Registrar of Copyrights,

or contravenes the conditions stipulated in the license so obtained or any such condition imposed by a competent authority, does anything that violates the exclusivity of the rights which are bestowed to the copyright owner, or

permits for profit the use of any place for the communication of the copyrighted work to the public which is an infringement unless he was not aware of and had no reasonable ground for believing that such communication would amount to infringement, or

- A person:
 - makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire any infringing copies of the work, or
 - distributes any infringing copies of the work either for the purpose of trade or to such an extent as to affect prejudicially the copyright owner, or
 - exhibits in public, any infringing copies of the work by way of trade.

US Copyright Law on cross-border infringement

Earlier, the Copyright Act of 1909 provided for the protection of copyrightable works (not copyrighted works) within the American jurisprudence. It is applicable to works created before January 1978. The 1909 Act was repealed by the Copyright Act of 1976. The 1976 Act is the current body of law that provides for federal copyright protection. The 1976 Act covers the works created on or after January 1, 1978.

The 1976 Act protects any and all "original works of authorship fixed in any tangible medium of expression, now known or later developed." All literary, pictorial, graphic, sculptural and sound recording works are granted protection under the federal statute.

A copyright owner in the US is guarded by several options of legal action against a person who violates his rights to the concerned work. Any form of violation of a § 106 right stands qualified as copyright infringement.² The remedial measures

2 Moloto, T. M., Master, O. F., & Laws, I. N. (2020). *LAW, and INTELLECTUAL PROPERTY LAW. The justicia-*



include the obtaining of an injunction against the infringer, damages, or a combination of both.

The US Copyright Law does not expressly deal with cross-border infringement disputes.

EU Copyright Law on cross-border infringement

The states of the European Union have not harmonized their copyright laws. Each state applies its respective national conflict-of-laws rules to deal with copyright infringement disputes.³ Germany, France, and Belgium have enacted their unique legislation to deal with conflicts of law that result from copyright infringement.

German law stands out because it contains only substantive regulations regarding copyrights and related rights.⁴ It does not contain any choice-of-law regulations.' Although German law in itself has choice-of-law regulations to govern other conflicts, no such regulations can be applied to issues related to intellectual property. The German law is impracticable because a broad interpretation of Article 5(2) of the Berne Convention creates major discrepancy between the *lex protectionis* and *lex loci delicti*.

France provides its authors with rights pertaining to the integrity and the acknowledgment of their works. The 1985 Amendment to the Copyright Act of 1957 (France) significantly provided for the protection of audiovisual works and computer software. It also brought criminal penalties for cases of copyright infringement. Presently, the IP Code of 1992 stands as the basis of French copyright law as a whole. The IP Code provides for the accompaniment of moral rights with economic and intellectual rights. Judges have inclined towards the use of the *lex loci delicti* while adjudicating choice-of-law issues applicable to cross-border copyright infringement.⁵

bility of cross-border copyright infringement in South African courts [Diss]. University of Johannesburg.

3 Axhamn, J. (2011). Cross-border extended collective licensing: A solution to online dissemination of Europe's c
Froblich, A. B., 'Copyright Infringement in the Internet Age - Primetime for Harmonized Conflict-of-laws Rules'

4 Froblich, A. B., 'Copyright Infringement in the Internet Age - Primetime for Harmonized Conflict-of-laws Rules', 24 BERKELEY TECH. L.J., 851, 853. (2009).

5 Fiordalisi, E. (2014). The tangled web: Cross-border

In 2004, Belgium brought in force legislation stating the *lex protectionis* approach as the method to adjudicate choice-of-law issues. However, the Belgian law has not figured out a way to apply *lex protectionis* legislation to the Internet copyright infringement cases.

Copyright Infringement on the Internet

The overarching and borderless nature of the Internet has widened the scope of international copyright law. In the contemporary world, netizens have access to copyrightable works available on the Internet from all places of the world. The qualities that make the Internet so different and a boon, also paved the way to foster the 'Internet copyright infringement epidemic'.

Once a drawing or an image is uploaded on the internet, it can be infringed in different nation-states simultaneously within just a couple of seconds.⁶ Moreover, the issue remains that the virtual and anonymous nature of the Internet has made it easy for the infringers to go about their business illegally with the needed impunity. Also, many netizens have a strong misconception that posting of copyrighted works on the Internet is admissible and there exists an implied license to do so, in the capacity of an internet user. Therefore, it is the need of the hour that copyright laws of different nation-states be harmonized and made more stringent to protect authors and publishers during the prosecution for online infringement.

Ineffectiveness of litigation to deal with cross-border copyright disputes

From the discussion above, it can easily be concluded that litigation may be the first choice for disputes of general nature but for cross-border copyright disputes, it is not. The following reasons explain why litigation is not an efficient resolution for cross-border copyright disputes:

- When the copyright owner and infringer reside in different nation-states, the inherent lack of jurisdiction will make the proceedings futile. If

conflicts of copyright law in the age of Internet sharing 12 *Loy. U. Chi. International Law Review*, 197.

6 Ibid.

the copyright owner initiates proceedings within the jurisdiction of his nation-state, the Courts will not be in a position to pass or enforce an order against the infringer due to him being a subject of another nation-state.⁷

On the other hand, if the copyright owner initiates proceedings in the nation-state where the infringer resides, he might not have the same rights. It is also a probable consequence that even if the outcome of such proceedings is in favor of the copyright owner, he would still have to approach the domestic courts of his nation-state to enforce the outcome.⁸

- When the copyright owner and the infringer reside in different nation-states, the rules of private international law come in handy. However, there is no clarity as to whether the principle of *lex loci protectionis* or the principle of *lex loci delicti* is to be followed in case of a cross-border copyright dispute.⁹ The same is evident from the fact that French judges have relied mostly on *lex loci delicti* whereas, in Belgium, *lex loci protectionis* legislation is no place without the means to enforce the same.

ALTERNATIVE DISPUTE RESOLUTION

ADR

ADR stands for Alternative Dispute Resolution. The full form of ADR itself suggests that it is about a dispute resolution mechanism that is an alternative to the mainstream dispute resolution mechanism known as Court. Therefore, ADR is an alternative to litigation in the literal sense. ADR involves mechanisms outside the Courts to resolve disputes such as arbitration, mediation, conciliation, negotiation, Lok Adalat, etc.

⁷ Geiger, C. Challenges for the enforcement of copyright in the online world: Time for a new approach *Research handbook on cross-border enforcement of intellectual property*. Edward Elgar Publishing. (2014).

⁸ Knapp, M. (2022). The scope of jurisdiction in cross-border intellectual property disputes: Tackling online copyright infringements. *Białostockie Studia Prawnicze*, 27(1), 159–171. <https://doi.org/10.15290/bsp.2022.27.01.10>

⁹ *Supra* 7.

The ADR mechanism is being acknowledged increasingly within the fields of commercial sectors and non-commercial law both at the international and national levels. The following are the objectives behind the introduction of ADR mechanisms:

- To aid and complement court reforms,
- To bypass ineffective courts,
- To achieve the satisfaction of parties with outcomes,
- To make justice accessible for disadvantaged groups,
- To prevent unnecessary delay in the resolution of disputes, and
- To minimize the cost of resolving disputes.¹⁰

ADR is a consensual resolution mechanism. It is aimed at arriving at a mutually satisfactory outcome. ADR mechanisms differ from each other but they are typically not confined to a predetermined procedural framework because they vote for practical solutions that require negotiation and compromise.¹¹

Also, ADR processes are less expensive than international arbitration or domestic courts because they are less legalized and do not need the establishment of liability. Apart from this, specialized legal counsel will also be unnecessary. In this sense, ADR is much more practical and accessible for use by civil society stakeholders in the contemporary world.

Need for ADR

Like every other developed legal system, India also built a reputation for wearisome winding procedures accompanied by an elaborate program of revisions, reviews, and appeals against the order passed by the court of the first instance. The rationale for such procedures is to ensure that the plaintiff gets satisfaction with the knowledge and intellect of the best legal minds but the price for this is the delay in obtaining justice.

Attempts have been made to simplify the procedure of appeals but the sheer number of pending cases overwhelmed the system. With this background being accompanied by the position of India being at a critical developmental phase, one needs to

¹⁰ Jabaly, P. (2010). IP litigation or ADR: Costing out the decision. *Journal of Intellectual Property Law and Practice*, 5(10), 730–735. <https://doi.org/10.1093/jiplp/jpq098>

¹¹ *Ibid*.

re-analyze the dispute resolution mechanisms of the past. It should be done to ensure the satisfaction of those contemplating investments in India that they will have the option of international dispute resolution procedures within India. In the absence of this, those seeking to invest in India scrutinize the legal risk and arrive at the conclusion that exit is subject to the outcome of laborious litigation. One may conclude that a legal system is slow in dealing with a risk to be considered while deciding to invest because it affects the investment in such a manner that the investor may not only give up control of the investment made but also seeks an exit from the difficult situations.

An example of a restriction imposed on the investor by the government while granting approval for investments within India is that the governing law of the contract regarding such investment will be Indian law. Unless Indian law is as efficient and effective as some of the legal systems of other nation-states, the investors would be reluctant to invest in India.¹²

The restriction placed on the choice of law is also a restriction placed on ADR techniques and the choice of forum for the ADR process. As a result, unless India provides an efficient and effective system of dispute resolution, it would be an arduous task to attract and retain investments.

It is always expected that the investor would prefer ADR mechanisms instead of litigation to resolve disputes in India because it is not certain if the Judiciary will effectively deal with complex investment disputes and also, whether the laws are comprehensive enough to deal with such disputes.

The advantages of a developed system of ADR mechanisms in India include:

- Choice of presiding officers/experts who are well-versed with international commercial and business transactions and who are not lost in the legal jargon. Additionally, the parties are assured that the chosen person(s) will possess the relevant expertise to resolve the dispute according to the satisfaction of the parties. In all circumstances, the parties are sure that the dispute will not be adjudicated by a person

who is absolutely ignorant of the relevant laws, business practices, and commercial aspects of the disputed transaction.

- The parties expect that the chosen person(s) will not comprehend the transaction better and easily but will also appraise the underlying expectations and motivations that made the parties enter into a transaction and act the way they did.
- Most transactions are based on timing. Once the timing is lost, the transaction loses its meaning and purpose. In such a situation, the remedy needs to be considered in the same tone. A remedy that might be acceptable at one point of time to the parties will be unacceptable at another. The experts who apply ADR are expected to comprehend these complex positions of the parties and provide guidance on the procedure to an effective solution accordingly. It is not expected that the judge, a generalist, would understand such considerations of the parties!¹³

ADR Mechanisms

ADR has primarily four mechanisms in almost all nation-states namely, arbitration, mediation, conciliation, and negotiation. However, certain nation-states have also devised ADR mechanisms specific to their territory such as Lok Adalat in India.

Arbitration

Arbitration is like a private adjudication where a non-government neutral party hears contentions by the parties and passes an award that is legally binding on such parties. The parties by way of arbitration agreements may declare their intention to arbitrate a class of disputes that may or may not arise in the future.

The nation-states with a rich history of international commercial arbitration play a useful cross-pollination role in collaboration with the Arbitration Rules. As the Arbitration Rules contain the best characteristics of civil law and common law, they introduce the parties to better ways of addressing legal matters in the issue along with techniques that can be utilized for the advancement of their own domestic systems.

¹³ Chaswal, S. (2010). An emerging trend-ADR mechanism in IPR conflicts Available at SSRN 3401259. SSRN Electronic Journal. <https://doi.org/10.2139/ssrn.3401259>

¹² Shinde, U. S. (2017). Critical analysis of ADR mechanism in India. *Dnyanamay Journal*, 3(1), 11.

Mediation

In mediation also, a neutral third-party aid both sides to arrive at an agreement that each side deems acceptable. It may be either evaluative where the mediator provides an assessment of the legal issues of a case, or facilitative where the mediator focuses on providing assistance to the parties in defining the issues. When mediation is successful i.e. an agreement is reached among the parties, then such agreement can be formalized into a binding contract.

A mediator, like a facilitator, primarily makes procedural suggestions as to how the parties can reach an agreement. Occasionally, a mediator may give advice regarding some substantive options to encourage the parties to expand the ambit of possible resolutions under consideration.

Negotiation

Negotiation is a mere dialogue intended for the resolution of disputes, to form an agreement upon courses of action, to bargain for collective or individual advantage, or to obtain such outcomes that can satisfy several interests. It is one of the primary methods of alternative dispute resolution.

Negotiation is useful in business, non-profit organizations, and government branches during legal proceedings and among nations. It is also useful in personal situations such as marriage, parenting, divorce and routine life. Those who work professionally in negotiation are known as negotiators. Professional negotiators are mostly specialized, such as hostage negotiators, union negotiators, peace negotiators, and leverage buyout negotiators. Sometimes they may choose to work under other titles such as legislators, diplomats, or brokers.

Conciliation

In conciliation, the third party has more of an interventionist approach toward establishing an agreement between the two parties and to suggest possible resolutions. It involves the building up of a positive relationship among the parties to the dispute.

It must be noted that a conciliator may or may not remain neutral to the interests of the parties. A third party or conciliator is often used by the parties to build such relationships. A conciliator may aid parties

by facilitation of communication, clarification of misperceptions, coping up with strong emotions, and building the trust necessary for cooperative problem-solving.

Suitability of ADR for cross-border copyright disputes

After a brief discussion over the inefficiency of litigation to deal with cross-border copyright disputes and the flexibility of ADR mechanisms, it can be concluded that ADR is better suited to deal with the resolution of a cross-border copyright dispute.

In a cross-border copyright dispute, the main problem faced by litigation is the lack of jurisdiction to either pass an order against the infringer or to enforce an order passed in another nation-state.¹⁴ ADR has a more flexible approach than litigation.

For example, in case of a cross-border copyright dispute such as a violation of any terms of the license granted by the copyright owner, the parties can agree to arbitrate their dispute. In such a scenario, the parties would be in a position to choose the seat of arbitration, the applicable arbitration rules, appoint their panel of arbitrators and so on.¹⁵ By resorting to arbitration, the parties would be able to save the cost they might have incurred if litigation opted. Along with this, the question of jurisdiction also got eliminated because, in arbitration, the parties have the discretion to choose the seat of arbitration. An arbitral award is as enforceable as a court order but it comes with fewer costs and inconvenience to the parties.

One more example can be taken from a situation where the copies of a copyrighted work are distributed without obtaining the license to do so. In such a case, the copies of such work became infringing copies. The copyright owner and infringer can enter into mediation to resolve their dispute. During mediation, a settlement or agreement may be arrived at that the infringer will no more distribute the infringing copies of such work and will give proportional profits to the copyright owner, obtained by the distribution/sale of infringing copies.

¹⁴ Trimble, M. (2016). Undetected conflict-of-laws problems in Corss-border online copyright infringement cases. *NCJL & Tech.*, 18, 119.

¹⁵ Ibid.

Another example can be taken from a situation where the infringer in his jurisdiction, claims authorship over the work of the copyright owner, who resides in another jurisdiction. Here, the copyright owner should get the profits earned by the infringer by wrongfully claiming authorship over the said work. The copyright owner and the infringer can enter into negotiation proceedings to decide on the amount of profits that the infringer would give to the copyright owner. However, to prevent any further wrongful claims by the infringer, it is advisable to go for arbitration.

RECOMMENDATIONS

From the dynamic nature of cross-border copyright disputes, the shortfalls of the litigation system, the flexibility of ADR procedures, and so on, it can be comprehended that there is a need to take such corrective steps as would enable a check on cross-border copyright disputes. Still, if a cross-border copyright dispute arises, the same shall be resolved effectively and efficiently.

The following steps might be effective in dealing with cross-border copyright disputes:

- Arbitration centres like SIAC, HKIAC, and so on should devise a specific set of rules for arbitration in matters of cross-border copyright disputes. Here, the need for a separate set of rules arises due to the fact that the copyright owner and the infringer did not know each other until the dispute arose and therefore, no arbitration agreement was entered into by the parties.
- WIPO in collaboration with Korea Copyright Commission already provides the facility of ADR procedures to deal with digital copyright and content disputes but there is not much awareness about the same. Seminars and workshops must be conducted in different parts of the world to highlight this advancement of the resolution mechanism provided by WIPO. The same can be conducted along the lines of the WIPO Seminar organized in 2015 on 'The Cross-Border Protection of Intellectual Property and its Relevance for the Protection of Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources'.

- An international convention must be brought with regard to the approach to be adopted by domestic courts for cross-border copyright disputes. Such a convention would eliminate the confusion as to whether the principle of *lex loci protectionis* or the principle of *lex loci delicti* is to be followed for a cross-border copyright dispute. A uniform approach should be agreed upon among the signatories of such convention and thereby, necessary additions will be made to the Private International Law to deal with cross-border IPR disputes.

Other Steps to combat cross-border copyright infringement

Both European Union and the US have taken steps to combat the cases of cross-border copyright infringement and in line with those steps, the following initiatives can be taken by other nation-states too:

- A Green Paper followed by a White Paper can be introduced by the governments in their respective territories to address the issue. Inspiration for the same can be taken from a directive issued by the European Council, called the Commission of European Communities Green Paper "Copyright and Related Rights in the Information Society". A look at the proposals obtained from the public would enable the legislators to enact such rules to combat internet infringement of copyrighted works to the satisfaction of their citizens.
- The Digital Millennium Copyright Act, 1998 (US) is also one such initiative and other nation-states can enact legislation within their territory along the same lines.

CONCLUSION

The formless and borderless Internet made access to copyrighted works easier than it ever was. Easy access to copyrighted works made such works fall prey to the whims of cybercriminals. In other words, cybercriminals got the opportunity to make, sell, distribute, let for hire, and so on the pirated copies or to say, the infringing copies of copyrighted works.

However, due to the copyright owner and infringer belonging to different nation-states, the handicapped jurisdiction of domestic courts made

it difficult for the copyright owner to seek justice. There was either no law for the enforcement of a decision regarding conflicts of law in case of a cross-border copyright dispute. If there existed one, then the Courts had no roadmap to decide whether the principle of *lex loci protectionis* or the principle of *lex loci delicti* will be applicable.

ADR, not subject to jurisdictional technicalities, had a more flexible approach. Awards are binding on parties to a dispute without incurring unnecessary costs and inconvenience to the parties. Moreover, there was less to no chance of appeal for an award because the parties submitted their dispute and agreed on the chosen mechanism, rules to apply to it, seats, etc. ADR provides more satisfaction to the parties compared to litigation.

Therefore, ADR mechanisms are better suited to deal with cross-border copyright disputes. However, there is an inadequacy of rules in terms of arbitration to cater to the special nature of cross-border copyright disputes. There needs to be more awareness about WIPO's step to provide ADR facility for digital content and copyright disputes.

Apart from this, the nation-states need to sign an international convention to follow a uniform approach of either *lex loci protectionis* or *lex loci delicti* to resolve cross-border copyright disputes.

The legislators can also take inspiration from the Green Paper introduced by European Council on the subject and the Digital Millennium Copyright Act, 1998 (US) to initiate legislative reforms.