

# A smarter and safer way to deal with disputes: Online Dispute Resolution

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**Abstract**—The advancement in technology has led to the evolution of smart phones, smart watches, smart appliances and now even smart cities. All these smart approaches have one thing in common –the growth of the IT sector; and with the emergence of IT sector there would be disputes regarding every question that the IT companies provide answers to. Every IT company would come up with its own unique idea of making the city smarter in a judicious way. The rising disputes in the process would be solved using the mechanism stated in this I brief

**Keywords**— Online Dispute Resolution, mediation methods, ADR, negotiation

## I. INTRODUCTION

This paper deals with the current state of settlement of disputes that happen between the organizations registered under WTO. Disputes can be resolved either online via mediation websites or offline. This paper analyzes the technology and methodology of the online mediation websites.

As the cyber world is evolving rapidly, the paper aims at presenting a better method to deal with the unfortunate disputes arising, using a mediation channel over the internet. The paper would assess the current state of the ODR system and would also provide a new solution to cope up with the existing lags in the system.

This method would benefit the busy society of today's era in using their time judiciously and would also provide a sense of security to the emerging start-ups.

## II. ONLINE DISPUTE RESOLUTION

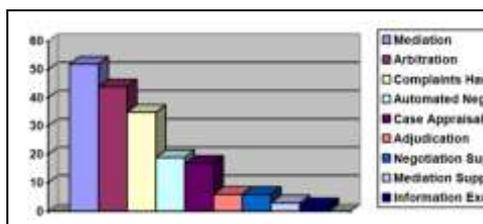


Figure 1: Types of resolution methods

There are various methods for providing an ODR service such as mediation, complaint handling,

arbitration, and many more as shown graphically in fig.1.

With advancement in the technology, numerous new techniques have been introduced for the online dispute resolution methods such as automated negotiation support, documents sharing between the parties, ensuring more security.

Amongst all, mediation and arbitration are the most prevalent forms.

However, the focus of the techniques was majorly on email which would mean a text based, slow and insecure connection.

In contrast, the most used security services launched since 2001 is a secure web site encrypted by Secure Socket Layers (SSL) technology where the disputing parties are given a password to access the area dedicated to their dispute type in the website.

ODR has been used to solve the disputes of many types that majorly include the “online “disputes because of the online activities and “offline” disputes arising because of neighborhood, family or employment issues.

The disputes can be categorized as shown in fig.2 below.

### a. Consumer disputes:

Provides services of ODR in a specified or bounded geographical area.

### b. Commercial, workplace and neighborhood disputes:

ODR is now used in these areas where face-to-face settlement can happen but for some reasons ODR is preferred. Some ODR services prefer providing analytical rather than communicational tools.

### c. Internet disputes :

Mainly deals with the domain name disputes amongst websites such as .com, .org ownership. There are five service providers approved under the Uniform Domain Name Dispute Resolution Policy (UDRP) Corporation for Assigned Names and Number (ICANN) in 1999.

### d. Peace and conflict:

ODR is used to spread peace by allowing the disputing parties to build a settlement offer

considering negotiations from both of the parties.

The Culture of Peace News Network (CPNN) works to promote the culture of peace through a global network of sites created by UNESCO.

e. Complex litigation:

Adopted by courts to provide a better access to court and streamline the litigation process.

There are also various traditional categories used to define the working of the different ODR services, such as:

*Fully-automated negotiation:*

Services that are entirely online for the process of negotiating monetary settlements. The settlement offers that these websites provide behaving as a neutral party, include signing up of the parties and initiate a claim with a deadline (generally 30 to 60 days).

The website would then notify both parties via e-mails and ask for the parties to accept the participation offer.

If both the parties accept the offer then the other party would also have to submit their demands for the settlement offer.

The software would automatically compare the demands of settlement and the terms that are offered and would later inform both the parties about the range of settlement that they are within.

Some websites such as Cybersettle [1] and SettlementOnline [2] allow some predefined rounds of bidding. Each round contains a settlement offer and an expiration date for the specified round.

The automated software sends an email to the other party notifying them about the settlement offer that has been made. The response and the original offers are cross-checked and if the results match the original offer made, it is accepted else the next round of bidding is initialized.

However, there are many websites such as ClickNsettle [3] that provide numerous number of rounds.

*Using a sophisticated software and a neutral party:*

SmartSettle [4], a website is the perfectly suited example for this category. Other than negotiation the parties can use a facilitator to guide them throughout the negotiation process or the parties are also allowed to have their own private facilitator either. A new facility was also introduced after 2014 that provided the process goes beyond negotiation. Parties can use a single facilitator to help them prepare and guide them through the negotiation process or each will have a private facilitator. The facilitator would be an attorney who had already undergone a 30-hr training.

*Traditional methods:*

The websites such as WebMediate [5] provide a variety of services to the parties such as emails, instant messaging, arbitration and many more. Web

Mediate claims to be the only provider to provide all ranges of services to their parties.

It basically provides a lower level of service initially to the participating sides and gradually increases the levels of services, if the settlement offered by the initial rounds seems to be unsatisfactory. Most of the cases in this website enter via a fully-automated negotiating software.

All of these proposed methods have some or the other disadvantages, moreover negotiating online itself comes with certain amount of cons for the parties. They are:

- a. Access to computer (hardware and software resources).
- b. Making accessible for the disabled people.
- c. Number of local dialects or languages offered by the services can be determined by fig 3.

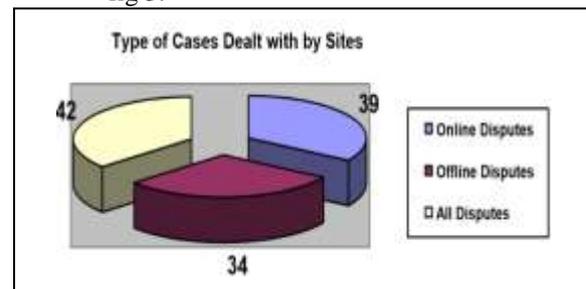


Figure 2: Types of cases

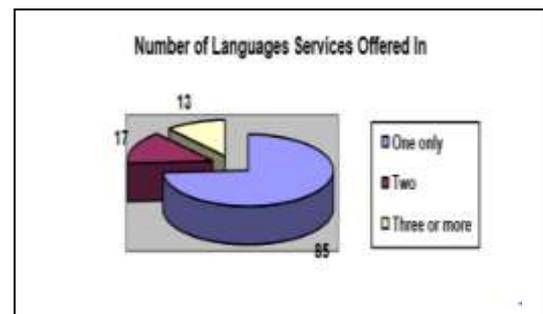


Figure 3: Languages offered

### III. PROPOSED WORK

All these cyber mediation methods have some or the other disadvantages which can be removed to some extent by understanding the demerits of each type. The best suitable examples of each type have been stated earlier and the examining of the same would be done and based on the results. I would propose a new category under cyber mediation methods improve the efficiency of the existing resolution method.

Further, there are tables to elaborate the best suited example of each type pre-defined. Table no.1 and Table no.2 show the example of a fully automated type that use the automated software to perform negotiations. Table no.3, explains the method which

uses a third-party or in other words a facilitator either provided by the company or arranged privately by the plaintiffs. Table no.4 explains the traditional method which can be well understood by the example of Webmediate.

Ultimately, the table no.5 shows the new suggested type that can be implemented to overcome the demerits of the already mentioned types to some extent.

Fully automated type:

TABLE 1: Settlement Online profile

Name of provider: <b>Smartsettle</b>	Location: <b>Canada</b>	Established on: <b>1999</b>
ADR Services <b>Negotiation support, facilitated negotiation</b>	Security measures <b>Secure site, privacy policy</b>	
Informative online demo provided. Process is beyond negotiation. Parties can have a private or a provided facilitator/attorney after 30hrs training.		

TABLE 2: ClicknSettle profile

Name of provider: <b>Clicknsettle</b>	Location: <b>U.S.A</b>	Established on: <b>1999</b>
ADR Services <b>Automated Negotiation, Mediation Arbitration</b>	Security measures	
Offers automated negotiation no more. Allows video conferencing after certain installations on the client side.		

Sophisticated and a neutral party:

TABLE 3: SmartSettle profile

Name of provider: <b>Settlement Online</b>	Location: <b>U.S.A</b>	Established on: <b>1999</b>
ADR Services <b>Automated Negotiation</b>	Security measures <b>SSL secure site</b>	
The website informs that they have formed a strategic alliance with Cybersettle and hence redirects to the Cybersettle site.		

Traditional methods:

TABLE 4: WebMediate profile

Name of provider: <b>WebMediate</b>	Location: <b>U.S.A</b>	Established on: <b>2000</b>
ADR Services <b>Automated Negotiation, Mediation, Arbitration</b>	Security measures <b>Confidentiality policy, secure “resolution forums”</b>	
The winner of LycosLabs, provides feedback on aggregate basis for e-commerce sites to identify the crux of customer conflicts.		

Proposed method:

The following proposed strategy would also have some principles such as:

- a. The number of bidding rounds are not decided statically rather would depend on the similarity of the settlement offers produced by the parties, if the settlement offer is nowhere near to the offers produced by the other party, the number of rounds involved would increase by a definite number.
- b. The ADR (Alternative Dispute Resolution) methods provided by this type cover almost all the major methods of settlement. Complaint Handling is generally used in the initial round of bidding and is necessary in order to maintain records and understand elusively the needs of both the plaintiffs. However, this method is ignored by many types described above but considered here.
- c. Deadline decided for each round would be not more than 15 days to reduce the load on the server, as there can be n number of rounds. The number of rounds are increased on the basis of the settlement offer’s comparison. If the settlement offers do not match at all, the parties would be informed and the complaint would be dropped ultimately.
- d. The security policy that would be used for the website/online method is decided by the privacy policy developed by the website and the parties can only initiate their negotiation method if they agree to the privacy policy of the website.
- e. The fee structure will be null for both the parties and e-commerce websites too. For an initial set of rounds, the negotiation would

be free. The initial rounds might contain emailing, filling the forms, notifying the other party of the case. If the settlement is nowhere near in the output of the initial rounds, the higher level of negotiations would be used, the automated software for instance. And these levels would be charged. The e-commerce websites are always free to join with no cost for admission.

- f. If possible, the facilitator of both parties would be meeting face-to-face or else would have a Skype call with each other to provide a better understanding.
- g. If however, no negotiation is possible or technically the settlement offers from both the parties do not match at all, an email would be sent to both notifying about the condition and requesting to either modify or drop the lawsuit.
- h. The new proposed method would only act as a consultancy. No changes or decisions on a higher effective level can be implemented by the consultancy.

IV. RESULT

The results can be well understood by the fact that with the introduction of a smart city there would be more IT companies emerging with ideas. More the ideas, more will be the disputes arising to claim the ownership of the idea, implementation of the idea, etc. Not every company or start-up technically would be able to deal with the consequences of law. Hence, to provide a consultancy and a solution too in some cases, the fourth type is suggested that handles all the demerits of the existing types. For a city to be efficiently smart, there must be smart ways to manage the negativity too.

The proposed method is clearly a consulting website type that would redirect to the best option available out of all the types already present like Cybersettle, etc.

ADR Services	Complaint Handling, Automated Negotiation, Mediation, Arbitration
Communication Method	Online filing, web page, threaded discussion
Security Measures	Privacy policy, Confidentiality policy
Types of disputes to deal	Consultancy for all types, redirected to the leading handlers for more assistance
Fee Structure	Free for the consumers (to complain) for initial rounds of bidding and e-commerce too (to join).
Languages	Languages supported by Google Translate

TABLE 5: Proposed method

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