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**Resolve Disputes the Easy Way**

**By Andrew Taylor**

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Now we can do this the easy way or we can do it the hard way. No, I am not selling a new financial product and I do not hold your arm up your back, nor a gun in your ribs. My message is " Don't litigate – mediate!"

That is the message from Andrew Taylor, a full time commercial mediator who is dedicated to increasing the knowledge and understanding of mediation in business. He goes on, "Compared to litigation, mediation is faster, cheaper and more civilized. It avoids the risk of damaging publicity and it offers scope for imaginative solutions."

In fact, Andrew Taylor is so enthusiastic, he has even written a book about it!

Everyone knows what mediation is, yet few people are really confident about how much they know, how it works, and whether they can use it.

Mediation is a process in which a third person, "the mediator", helps the parties in dispute to find a mutually satisfactory outcome. You could say there is nothing exciting there. Mediation must have been used long before any court system was invented. Despite that, we tend to overlook mediation as a possibility for settling disputes between employer and employee, business and business.

These are characteristic advantages of mediation over litigation:

## Resolve Disputes the Easy Way

**Speed** – A dispute can be resolved by mediation in a matter of weeks rather than the years it might take in court. If the case is particularly urgent and the parties are prepared to pay for priority and premium time, there is no reason why a commercial case could not be concluded in a fortnight. The usual time scale for a small commercial case is around six weeks, and for a more complicated commercial case, around six months. The same case might take five years to go through the court system.

**Cost** – In most cases, the saving over comparable litigation costs is very large. Because litigation is expensive. It is obviously advantageous to settle a dispute before litigating.

The Civil Procedure Rules encourage solicitors to do this. How far you use your solicitors is up to you, but however you deal with it, a case over in weeks will cost a lot less than one that drifts on for years.

Of course the Court system takes no account of the value of your time as a litigant. If you are a senior manager involved for say 1,000 hours over a period of three years, your lost time may have been worth £50,000 – £100,000.

**Stress free** – Litigation is undoubtedly very stressful. Everyone finds a Court appearance stressful. It is not only the day in Court itself but the weeks of anticipation and worry beforehand. Mediation, by contrast, should be sufficiently formal to enable a constructive and satisfactory conclusion but, at the same time, sufficiently informal to promote a friendly environment where the parties can discuss their differences openly.

**Confidentiality** – only the parties and the mediator ever know what is happening, so mediation carries far less risk of damaging publicity. Your business can protect its reputation, its brand, and its technical secrets. On the other hand what is said in court is on public record.

The combination of confidentiality and speed in a mediation enables you to keep secret the very fact of a dispute. Once you have issued a writ (or had one issued against you) then your auditors, shareholders, and financial commentators will be on top of you for an explanation. Your accounts could be blighted for years. If you are a public company, your share price will be affected. In contrast, a mediation can be over in weeks. Only you even know you ever had a problem – and even you have half forgotten the detail

because it never interrupted your main purpose. The uncertainty represented by litigation simply does not exist.

Flexibility – Government lays down fixed court procedures.

Because mediation is informal, more imaginative solutions can be considered. You can consider a settlement that might involve all sorts of solutions other than payment or receipt of money.

It might be important to you or your dispute party to deal with timing, quality, future trading, certification – aspects where a court has no jurisdiction to help you.

So that is what it is all about!

For Andrew Taylor's free e-book "Mediation Wins the Gold", click on

<http://www.TheMediator.co.uk> Contact: Andrew Taylor on 44 (0)1246 563618 [andrew@TheMediator.co.uk](mailto:andrew@TheMediator.co.uk)

### **Domain Name Dispute - How Do You Do It?**

**By Rudolf Freidlander**

Have you heard the term "domain name dispute"? Or, are you familiar with the domain name dispute? If not yet, then it's not a big problem though. This article will provide you some facts about the domain name dispute for you to better comprehend what the nature of this thing is and why does it surface, so you better read on.

What is a domain name dispute?

This is a common query that needs to be answered. Well, the domain name dispute is said to surface over domain names that may have been formerly held or over domain names that may be the same to a trademark or service over which you have the authority. Aside from this, there are some domain name disputes studies which show that oftentimes the domain name dispute arise over domain names that were formerly held and were not properly renewed and paid for. But how come that such domain name disputes arise? One reason for that is perhaps due to incorrect e-mail addresses or let us say other mistakes and miscommunications. So once the domain name becomes accessible, another domain name consumer may legitimately own it regardless of whether you used to own it or not.

In terms of handling these domain name disputes, it is interesting to know that all of these disputes may be handled through the ICANN's Uniform Domain Name Dispute Resolution Policy or UDRP. All of those official registrars are absolutely bound by these policies. And speaking of the UDRP, it is commonly noted that this process sets forth all the regulations for handling the domain name disputes including the negotiation and court moves.

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Under the UDRP, all the registrars in the top-level domain names such as .com, .net, and .org are subject to follow the Uniform Domain Name Dispute Resolution Policy. Under this matter, some types of trademark-based domain name disputes should be resolved by agreement, court move, or arbitration prior to the registrars' suspension and transfer of the domain names. Besides, the domain name disputes are also alleged to surface from abusive domain name registrations that may be addressed by accelerated administrative procedures that the owner of trademark rights performs through filling a complaint with an accepted domain name dispute resolution service contributor.

The dispute service providers, as organizations permitted by the ICANN, thus holds the responsibility to arbitrate the disputes. And in case of a domain name during a dispute, it is important to know that the domain names cannot be cancelled, suspended or even transferred during a domain name dispute.

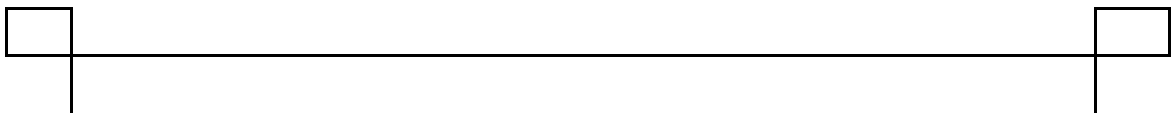
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