

**EXAMINATION THE EFFICACY OF ALTERNATIVE DISPUTE RESOLUTION IN
INTELLECTUAL PROPERTY DISPUTES SETTLEMENT: FOCUSED ON
ARBITRATION IN COPYRIGHT DISPUTES**

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DECLARATION

I, CHRISTINE NANZIRI, declare that the information in this Dissertation is true to the best of my knowledge and has never been presented for any academic award in any institution or university. All sources used in this research study have been rightfully acknowledged.

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APPROVAL

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Date: May 21, 2025

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ABSTRACT

This study examines the role of arbitration in resolving copyright disputes in Uganda, emphasizing the effectiveness of Alternative Dispute Resolution (ADR) mechanisms in facilitating timely access to justice and alleviating case backlog. The research analyzes the legal and institutional framework governing arbitration and copyright protection in Uganda, exploring the interplay of international conventions, regional instruments, and domestic legislation. The findings underscore the benefits of arbitration in copyright disputes, including expedited resolution, reduced costs, and confidentiality, while also proposing practical approaches for dispute resolution through arbitration. The study concludes that arbitration serves as an effective means of resolving copyright disputes in Uganda, presenting a viable alternative to traditional litigation. It recommends increasing awareness and education about arbitration, strengthening institutions, and training more arbitrators with expertise in copyright issues. By embracing arbitration and other ADR mechanisms, stakeholders can effectively navigate the complexities of intellectual property disputes, thereby fostering innovation, creativity, and collaboration within Uganda's creative industries.

TABLE OF CONTENTS

DECLARATION.....	ii
APPROVAL.....	iii
ACKNOWLEDGEMENT.....	iv
ABSTRACT	v
CHAPTER ONE.....	1
1.0 Introduction.....	1
1.1 Background.....	1
1.2 Problem Statement.....	3
1.3 OBJECTIVES OF THE STUDY	4
1.3.1 General Objectives.....	4
1.3.2 Specific objectives	5
1.3.3 Research questions.....	5
1.4 SIGNIFICANCE OF THE STUDY	5
1.5 JUSTIFICATION OF THE STUDY	6
1.6 LITERATURE REVIEW	7
1.7 METHODOLOGY	11
1.8 EXPECTED CHALLENGES.....	11
1.9 ETHICAL CONSIDERATION.....	12
CHAPTER TWO.....	13
2.0 NON-LEGAL ASPECTS OF ALTERNATIVE DISPUTE RESOLUTION	13
CHAPTER THREE	18
3.1 INTERNATIONAL PERSPECTIVE.....	18
3.2 REGIONAL PERSPECTIVE	21
3.3 DOMESTIC PERSPECTIVE	23
CHAPTER FOUR	26
4.0 Summary of Findings, Conclusions, and Recommendations	26
BIBLIOGRAPHY.....	30

CHAPTER ONE

1.0 Introduction

This study focuses on the role of Alternative Dispute Resolution in ensuring timely access to justice, reducing case backlog and quicker means of attaining relief as compared to the tedious litigation process. The research explores the effectiveness of Alternative Dispute Resolution in dispute resolution and how it can be incorporated into intellectual property disputes especially copyright disputes. An examination of how rights in copyrights are attained, the laws relating to copyrights, likely copyright disputes, how they arise, the remedies available to the parties, procedure through which such remedies are attained. The research extensively examines the efficacy, viability and effectiveness of Alternative Dispute Resolution especially through Arbitration, how arbitration can be incorporated in Copyright disputes and any other general copyright infringements to which other Alternative dispute Settlement modes such as mediation, reconciliation can be applied.

1.1 Background

Intellectual property rights under copyright are protected under the copyright and neighboring rights Act Cap 222. The law seeks to protect creative works including literary, scientific and artistic intellectual works and their neighboring rights. An author is one who owns copyright and is entitled to copyright protection provided that the work is eligible for copyright protection whether registered or not. The rights that accrue to a copyright holder are economic and moral rights. These economic rights are

assignable¹, licensable, and transferable embodied in written contracts. In these contracts the inclusion of arbitration clauses or separate arrangements to that effect gives life to arbitration of copyright disputes. Copyright disputes may arise from scope of assigned rights, validity of the assignment, performance of the assignee. These issues can lead to legal action, potentially resulting in costly litigation and complicating future licensing deals. The Act provides for civil remedies² to be granted upon application in the commercial court for an injunction. The process of granting an injunction in formal court is a tedious one, considering how courts are prone to case backlog which is disadvantageous to the expiring duration of copyright protection. Protection under copyright has a maximum duration of fifty years³ Considering this limit, there is a need for empowerment of arbitration tribunals to grant such remedies in a timely manner curbing any effect on the period of copyright protection.

The 1994 Justice Platt's Report on Judicial Reform recommended augmenting the use of Alternative Dispute Resolution alongside litigation, shortly after, a major statement was made in the new 1995 constitution under Article 126 (2) (b)⁴ to the effect that justice shall not be delayed. In 1996 the creation of a Commercial Division⁵ Within the High Court devoted to hearing and determining commercial disputes with current jurisdiction (as established under Legal Notice No.4 of 1996 and Instruction Circular No.1 of 1996) among the disputes entertained by this court are intellectual property disputes. These developments were later followed by the enactment of the Arbitration

¹ Copyright and Neighboring Rights Act Cap 222, Section 13

² Ibid, Section 44

³ Copyrights and Neighboring Rights Act Cap 222, Section 12

⁴ The Constitution of the Republic of Uganda, 1995

⁵ <https://judiciary.go.ug/data/smenu/17/Commercial%20Court%20Division.html>

and Conciliation Act Cap 5 which commenced on 19 May 2000 to legalize the Arbitration as a mode of legal dispute settlement.

1.2 Problem Statement.

Disputes over intellectual property that stem from consensual relationships, such as the voluntary assignment and transfer of economic rights in copyright, are ill-fitted for resolution through litigation. Such an adversarial approach can irreparably harm the relationships between the parties involved, as it typically results in a win-or-lose outcome. Given the significant stakes at play, including the potential erosion of valuable partnerships, the consequences of litigation can be devastating. In Uganda, the challenges of litigating copyright disputes are magnified by a limited body of jurisprudence in this area. While litigation is often viewed as a standard method for resolving disputes, it involves a protracted process—ranging from filing complaints and pretrial motions to the trial itself and post-trial procedures—that can span several years. Additionally, the reality of case backlogs can further delay resolution. With copyright protections having a finite lifespan, every day spent entangled in the court system means a further erosion of exclusive rights. This underscores the urgent need for alternative dispute resolution methods that preserve relationships and protect rights without the drawn-out complications of litigation.

Furthermore, there is a significant lack of guiding court decisions on copyright, which leads to unpredictable outcomes in new cases. Judges, while knowledgeable, often find themselves without sufficient precedents to reference, resulting in longer deliberations

and arguments. Despite their expertise, judges must seek insights from specialists on specific disputed matters. This reliance on external experts complicates the process and can lead to extended analyses and, in some cases, appeals. In Uganda, identified as a least developed country, copyright litigation poses a serious threat to the growth of creative industries. Resource constraints, weak enforcement, and a limited body of case law in copyright undermine the potential for development in this sector, which is unacceptable and needs urgent attention. This study aims to introduce a framework for arbitration to resolve copyright disputes in Uganda, utilizing alternative dispute resolution methods to effectively and efficiently handle conflicts related to intellectual property rights.

1.3 OBJECTIVES OF THE STUDY

1.3.1 General Objectives

This research aims to examine the efficacy of alternative dispute resolution (ADR) methods, with a specific focus on arbitration, in settling intellectual property disputes. The primary objective is to assess how effectively ADR can secure quicker redress in cases involving copyright disputes, particularly those related to assignment, licensing, and the transfer of rights in copyright. By analyzing these specific areas, the research seeks to highlight the advantages and potential limitations of arbitration as an effective means of resolving disputes while maintaining relationships between the involved parties.

1.3.2 Specific objectives

- a) To examine the legal and institutional framework governing Arbitration and Copyright protection in Uganda.
- b) To analyze the effectiveness of Arbitration in resolving copyright disputes.
- c) To examine hindrances to the application of Arbitration in copyright disputes.
- d) To propose suitable recommendations for enhancing Arbitration in copyright enforcement.

1.3.3 Research questions

- a) What is the legal and institutional framework governing Arbitration and Copyright protection in Uganda?
- b) How effective is Arbitration in resolving copyright disputes?
- c) What are the hindrances to the application of Arbitration in copyright disputes?
- d) What are the recommendations for enhancing Arbitration in copyright enforcement?

1.4 SIGNIFICANCE OF THE STUDY

This study aids in filling gaps in the legal dispute areas where alternative dispute resolution modes are least considered applicable, and raises awareness of the need for judicial restructuring in cases involving copyright disputes adjudication instead of

having matters referred to courts but to arbitration tribunals constituted of copyright experts.

The study is effective towards the training of experts as arbitrators to equip them with the necessary skills to allow for arbitration to be used alongside their expertise so as to expedite copyright dispute settlement using Arbitration. To further help explain the nature of arbitrable copyright disputes.

This refers to the relevance of study in terms of academic contributions and practical use that might be made of the findings. It should reflect on knowledge creation, technological or socio-economic value to the community.

1.5 JUSTIFICATION OF THE STUDY

In recent years, there has been a steady growth in the levels of innovation in Uganda motivated by the copyright protection guaranteed by the laws. Such developments make the sector prone to disputes over the arrangements which copyright owners enter into for example assignment, licensing and transfers. Litigating such disputes would seemingly not be the best mode of solving such disputes putting into consideration the need to promote and maintain business relations, such cannot be guaranteed by litigation but rather through Alternative Dispute Resolution especially Arbitration.

1.6 LITERATURE REVIEW

Various writers have contributed to the literature surrounding alternative dispute resolution (ADR) as a method for settling copyright disputes. Scholars have provided diverse perspectives on why arbitration should be considered and how it can be effectively utilized in this context. In this section, there will be a reflection on the accuracy and reliability of these writings, as well as an identification of gaps that may exist in the current discourse. This analysis will focus on areas that require further exploration to enhance the understanding and effectiveness of arbitration in addressing copyright disputes, ultimately aiming to provide more robust solutions to the challenges faced in these situations.

ANITA STORK⁶ on the case study on the use of arbitration in copyright disputes, specifically focusing on the IBM v. Fujitsu case⁷ The arbitration concluded in 1987 after 26 months, marked a significant shift in resolving software copyright disputes, traditionally dominated by litigation. Settlement was reached allowing for Fujitsu access to IBM's programming materials and guaranteeing IBM substantial payments, estimated at \$60 million annually, without admitting guilt. Key motivations for arbitration included the uncertain enforceability of copyright claims and the desire to avoid litigation in potentially hostile foreign courts, the case further highlighted arbitration's advantages; faster resolution, lower costs and confidentiality while underscoring the complexities of copyright law in software. The case study is helpful

⁶ Anita Stork, 'THE USE OF ARBITRATION IN COPYRIGHT DISPUTES: IBM V. FUJITSU' *High Technology Law Journal*, vol. 3, no. 2, 1988, pp. 241–65. *JSTOR*, <http://www.jstor.org/stable/24122290>. [Accessed 21 Apr. 2025]

⁷ *Fujitsu Services Ltd v IBM United Kingdom Ltd* [2014] EWHC 752 (TCC) (21 March 2014)

considering the fact that the case is a practical example of application of arbitration in copyright disputes, discusses the advantages of arbitration and how it can be conducted.

ANNE ST. MARTIN AND J. DEREK MASON⁸ In their journal article they build a case for arbitration of intellectual property disputes. They note that there must be an agreement to arbitrate in contracts and such agreements should not be post dispute, they talk about the framework for establishing the agreements to arbitrate, determination of the validity of arbitral agreements, they further discuss many potential benefits associated with arbitration that may prove advantageous for both sides of a dispute including the assurance of a level of predictability with respect to the investment and liability associated with patent license agreements, thereby providing the respective companies a better estimation of the risk factors associated therewith more so entering into such an agreement with the knowledge that a dispute arising therefrom will be settled in accordance with a set of rules pre-selected by both parties which serves to help ensure the stability of the business relationship However, their research covers Patent disputes and does not talk about copyright disputes.

ANTHONY CONRAD KAKOOZA⁹, in an article about arbitration, conciliation and mediation in Uganda examines Alternative Dispute Resolution (ADR) mechanisms in

⁸ Anne St. Martin and J. Derek Mason, 'Arbitration: A Quick And Effective Means For Patent Dispute Resolution' *NCJL & Tech.* 12 (2010): 301 https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ncj12§ion=13 [Accessed 22 April 2025]

⁹ Anthony Conrad Kakooza, 'ARBITRATION, CONCILIATION AND MEDIATION IN UGANDA: A focus on the practical aspects' (June 18, 2010) *Uganda Living Law Journal*, Vol. 7 No. 2 December 2009 pp. 268-294. ISSN

Uganda, focusing on arbitration, conciliation, and mediation. The article highlights the advantages of ADR; speedy, cost-effectiveness, and preservation of business relationships as opposed to traditional litigation. The article further discusses the Ugandan legal framework, including the Arbitration and Conciliation Act (Cap. 5 which follows the UNCITRAL Model laws on Arbitration) and the Civil Procedure Rules (SI 71-1) supports ADR practices, mandating court referrals to arbitration when agreements exist. The establishment of the Centre for Arbitration and Dispute Resolution (CADER) as an institution, which aims to enhance ADR's effectiveness, though it faced funding challenges. Ultimately, the article advocates for a shift towards ADR as a viable justice administration method in Uganda, emphasizing party autonomy and procedural fairness. The article includes various case studies which have justified arbitration of disputes and how Uganda is gradually shifting towards embracing ADR as a valuable tool in the pursuit of justice. In relation to this research, the article generally talks about the modes of ADR mechanisms in Uganda, however, this research purposely looks at the application of arbitration in copyright disputes.

DR. CHRISTABELL JOSEPH¹⁰ in an article, "Alternate Dispute Resolution and Copyright Litigation," explores the inadequacies of traditional litigation in resolving cross-border copyright disputes, particularly in the context of the internet. The paper argues that the jurisdictional challenges and high costs associated with litigation make Alternative

1729-4672. Published by the Uganda Law Reform Commission <https://ssrn.com/abstract=1715664> [Accessed 21 Apr. 2025]

¹⁰ Dr. Christabell Joseph, 'Alternate Dispute Resolution and Copyright Litigation' *DME Journal of Law* 4.01 (2023): 27-35 <https://www.dmejournals.com/index.php/DMEJL/article/view/282> [Accessed on 21 April 2025]

Dispute Resolution (ADR) mechanisms, such as arbitration and mediation, more suitable for these cases. ADR allows parties from different jurisdictions to select applicable rules and seats for arbitration, promoting win-win solutions. The article recommends establishing specific arbitration rules for copyright disputes and enhancing awareness of ADR facilities, alongside calls for an international convention to clarify legal principles governing cross-border copyright conflicts. The paper further argues that ADR mechanisms do not need to abide by the domestic laws of one country only a matter of consensual resolution mechanism aimed at a mutually satisfactory outcome through negotiation and compromise.

ANTHONY CIOLLI¹¹ in the article, "Lowering the Stakes: Toward a Model of Effective Copyright Dispute Resolution," critiques the inefficiencies of the current copyright litigation system, highlighting its high costs and delays, particularly for poorer defendants facing wealthy plaintiffs. He argues for the establishment of a **federal small claims court** to provide a fair, inexpensive, and expedited resolution for copyright disputes, addressing the inequities exacerbated by existing litigation practices. Ciolli examines alternatives like Digital Rights Management and court-sponsored mediation, finding them inadequate. He emphasizes that a federal small claims court could mitigate the financial burdens on less affluent parties, ultimately fostering a more equitable copyright enforcement landscape. In relation to this research, he advocates for the use of Mediation as a means of dispute resolution.

¹¹ Anthony Ciolli, 'Lowering the Stakes: Toward a Model of Effective Copyright Dispute Resolution' 110 W. Va. L. Rev. (2008) <https://researchrepository.wvu.edu/wvlr/vol110/iss3/5> [Accessed on 22 April 2025]

1.7 METHODOLOGY

Qualitative Approach

In conducting this research, a qualitative approach will be adopted. This study will primarily be desk-based, relying on existing sources of information to gather insights and data. By examining relevant literature, case studies, and legal documents related to intellectual property disputes arising from consensual relations, the research aims to provide a comprehensive understanding of the dynamics involved in these conflicts. This method allows for a more nuanced exploration of the complexities that arise in such situations, particularly regarding the impact on relationships and the limitations of traditional litigation as a means of resolving disputes.

Geographical area

The Geographical area shall be Uganda focused on Kampala capital city.

1.8 EXPECTED CHALLENGES

One anticipated challenge in this research is the limited access to Alternative Dispute Resolution (ADR) case precedents, particularly in the context of arbitration related to copyright disputes. These cases are often resolved on an individual basis, making it difficult to reference established precedents. To navigate this challenge, the research will focus on the enforcement of arbitral awards, utilizing available data from court rulings to provide context and insight into how these decisions are interpreted and upheld.

1.9 ETHICAL CONSIDERATION

To uphold academic integrity, all efforts are made to avoid plagiarism. Any works reviewed is properly cited, and sources are acknowledged through clear paragraphing, summarizing, and appropriate footnoting. Adhering to these ethical standards is crucial for maintaining credibility and respect within the research community.

CHAPTER TWO

2.0 NON-LEGAL ASPECTS OF ALTERNATIVE DISPUTE RESOLUTION

INTRODUCTION

This chapter examines the non-legal aspects of the study, providing an overview of the topic outside of a legal context. It explores traditional methods of dispute resolution that were used before formal litigation was introduced, specifically focusing on how these methods have been applied to resolve copyright disputes and how alternative dispute resolution is worked alongside litigation. The emphasis is on the possibility of resolving copyright disputes without resorting to court.

It would be a misconception to believe that disputes only arose after colonialists arrived in Uganda and Africa at large, upon their arrival they introduced litigation as a means of dispute resolution. It is worth noting that indigenous communities had their own ways of resolving disputes, which were organized communally as compared to the “Western individualistic” approach.

In traditional societies¹², there is a strong emphasis on reconciliation and reintegrating the conflicting parties back into their communities. The aim of traditional dispute

¹² David Mcquoid-Mason, ‘Could traditional dispute resolution mechanisms be the solution to reducing the volume of litigation in post-colonial developing countries - particularly in Africa?’ Oñati Socio-Legal Series Volume 11, Issue 2 (2021), 589-604: “TOO MUCH LITIGATION?”: FACTS, REASONS, CONSEQUENCES, AND SOLUTIONS <https://opo.ijsj.net/index.php/osls/article/download/1174/1317/0> [Accessed on May 1, 2025]

resolution processes is not only to mend the relationships between individuals but also to restore the connections of those individuals with their communities. Traditional dispute resolution mechanisms are led by community leaders, they provide a culturally sensitive approach to resolving conflicts. Recognized by legal frameworks, these systems offer an accessible alternative to formal courts, leveraging local customs and values to promote reconciliation and understanding.

Customary disputes settlement and Mediation¹³ are recognized in The Land Act of Uganda, recognizing traditional mediators in land disputes, combining customary dispute settlement mechanisms with modern mediation strategies. This approach promotes cultural relevance, reconciliation, and accessibility. By formalizing traditional mediators' roles¹⁴The Act fosters more effective and sustainable dispute resolution outcomes.

Mediation (or conciliation) is formally defined in Article 1 of the 2002 UNCITRAL Model Law on International Commercial Conciliation as, “a process ... whereby parties request a third person or persons ... to assist them in their attempt to reach an amicable settlement of their dispute arising out of or relating to a contractual or other legal relationship.”¹⁵ Mediation is a constructive approach to conflict resolution that mends relationships, brings forth mutual concerns, and explores different perspectives,

¹³ Land Act Cap 236, Section 85

¹⁴ Section 86 of the Act

¹⁵ Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 17 (A/57/17), annex I

fostering learning and growth. It is a voluntary, party-centered and structured negotiation process where a neutral third party assists the parties in amicably resolving their dispute by using specialized communication and negotiation. The end result is a consent agreement which can be enforced as a consent judgment. Mediation enables parties to find mutually beneficial solutions, improving relationships and outcomes by facilitating open communication and understanding, allowing them to resume or begin negotiations.¹⁶ Effective mediation skills enable people to navigate complex discussions, address underlying conflicts, and foster collaborative decision-making, ultimately strengthening working relationships.

In Uganda, His Excellency Yoweri Kaguta Museveni the president advocated for Alternative Dispute Resolution¹⁷ to strengthen the justice system, while delivering a speech during the swearing of 21 newly acting judges on 4th March, 2025 he proposed the renaming of Alternative Dispute Resolution to “Original Dispute Resolution” arguing that traditional systems of conflict resolution have long existed in African Culture and should be embraced alongside the formal process

¹⁶ Eric M. Runesson and Marie-Laurence Guy, ‘Mediating Corporate Governance Conflicts and Disputes’ <https://documents1.worldbank.org/curated/en/969191468314989975/pdf/418270NWP0Focu1ion0321443B01PUBLIC1.pdf> Accessed on 13 May 2025

¹⁷ Michael Odeng, ‘Museveni advocates for ADR to strength justice system’ https://www.newvision.co.ug/category/news/museveni-advocates-for-adr-to-strengthen-just-NV_206212 [Accessed on May 1, 2025]

The Chief Justice of Uganda, **Hon. Justice Alfonse Owiny-Dollo** also echoes the need to embrace Alternative Dispute Resolution¹⁸ if the country's justice delivery is to realize the desired judicial transformation and also make efforts to curb case backlog.

There has been an implementation of these propositions in The "Alternative Justice System (AJS) Strategy for the Judiciary of Uganda," developed in June 2023, emphasizing integrating traditional and informal justice mechanisms within the formal judicial framework to enhance access to justice. The strategy identifies four key pillars: pre-litigation, dispute, active dispute, and AJS in criminal matters, promoting community-based resolution methods. Notably, less than 5% of disputes are resolved in courts, highlighting the need for alternative pathways. This strategy aligns with Uganda's constitutional mandate and National Development Plan III, aiming for a more inclusive justice delivery system.

The Moses Ssali (alias Bebe Cool) vs. Alex Muhangi¹⁹ a copyright dispute, intended to be resolved out of court, illustrates extra-legal dimensions of intellectual property conflicts in Uganda's popular culture. The dispute, over alleged unauthorized sharing of Bebe Cool's performances by Muhangi on YouTube, has received wide media coverage, influencing public perception and chances for a negotiated solution. Past collaboration among artists underscores social capital significance, where the court process would destroy their business, career, and friendship. Both Bebe Cool and Muhangi need to

¹⁸ Ibid

¹⁹ URN, 'Bebe Cool ordered to settle copyright dispute out of court' <https://observer.ug/news/bebe-cool-ordered-to-settle-copyright-dispute-out-of-court/#:-:text=The%20dispute%20centres%20on%20allegations,users%20to%20external%20hard%20copies>.

maintain their reputation and economic interests, thereby focusing on keeping their relationship intact rather than taking the altercation to a court process.

Copyright laws generally provide not only the right to exclude others from using the copyright work, but also the right to authorize others to make such uses, such as through **licensing**. Once the parties have agreed on license terms, it has been the usual practice to reduce the agreement to a written instrument.²⁰ It is always advisable to enter into a written agreement, so the chance of a dispute over the license terms (or, indeed, over the license's very existence) is minimized. A written agreement clarifies license terms, minimizes disputes, and provides evidence of the agreement's existence. This helps protect both parties' interests and ensures a smooth collaboration. Key elements to include are scope, duration, territory, and compensation.

In conclusion, this chapter underscores the vital role of non-legal approaches to dispute resolution in Uganda, emphasizing the significance of traditional methods that foster communal reconciliation and restorative justice. The support for Alternative Dispute Resolution (ADR) from both the President and Chief Justice highlights its relevance in the cultural context. The case study of the Bebe Cool and Alex Muhangi copyright dispute serves as a poignant example of how preserving relationships and reputations is essential, particularly in the entertainment sector. By embracing both traditional systems and ADR, Uganda's justice system can effectively address conflicts while promoting social harmony and understanding within communities.

²⁰ WIPO Guide on the Licensing of Copyright and Related Rights, <https://tind.wipo.int/record/28719?v=pdf>

CHAPTER THREE

3.0 Analysis of the *International, Regional & Domestic perspectives of the study*

This chapter firmly establishes the intricate framework that governs copyright protection and arbitration in Uganda. It critically analyzes the interplay of international conventions, regional instruments, and domestic legislation that collectively shape the country's intellectual property landscape. As an active participant in key international treaties and a member of influential regional organizations, Uganda is unequivocally committed to creating a unified and cooperative legal environment. This commitment provides a solid foundation for copyright protection and effective dispute resolution through arbitration.

3.1 INTERNATIONAL PERSPECTIVE

BERNE CONVENTION

Berne Convention a primary international Treaty administered by World Intellectual Property Organization (WIPO)²¹, Uganda stands proudly among the 181 contracting states committed to the convention that protects the works and rights of authors. This important framework establishes minimum standards for copyright worldwide, effectively standardizing copyright laws across nations. The Convention does not explicitly address mechanisms for resolving disputes. While it sets minimum

²¹<https://www.wipo.int/treaties/en/ip/berne/#:~:text=The%20Berne%20Convention%2C%20adopted%20in,whom%2C%20and%20on%20what%20terms> Accessed on May 4, 2025

requirements for copyright protection, it lacks specific guidance on alternative dispute resolution (ADR) for copyright disputes.

Similarly, the WIPO Copyright Treaty (WCT) serves as a separate international instrument that complements the Berne Convention, particularly concerning digital copyright issues. However, the WCT also does not specifically address ADR. Both treaties emphasize copyright protection standards rather than mechanisms for resolving disputes.

WIPO ARBITRATION AND MEDIATION CENTER

In the realm of international intellectual property disputes, Alternative Dispute Resolution (ADR) has become a vital mechanism for resolving conflicts. The **WIPO Arbitration and Mediation Center**²² serves as a neutral, international, and non-profit provider dedicated to intellectual property matters. With two decades of experience, the Center delivers time-efficient and cost-effective ADR options, encompassing mediation, arbitration, and expert determination. These services are particularly well-suited for disputes in the technology and entertainment sectors. The Center has successfully managed a significant volume of cases, with 40% relating to patents and 33% focused on information and communication technology, underscoring its expertise in navigating complex IP disputes. The Center offers consensual mechanisms as

²² Ignacio De Castro, Heike Wollgast, 'WIPO Arbitration and Mediation Center: New 2014 WIPO Rules; WIPO FRAND Arbitration', (2014), 32, ASA Bulletin, Issue 2, pp. 286-296, <https://kluwerlawonline.com/journalarticle/ASA+Bulletin/32.2/ASAB2014027> Accessed on May, 4 2025

an **alternative to court litigation**²³, including mediation and arbitration, to enable parties to resolve their domestic or international commercial disputes relating to **IP, innovation, or technology** more efficiently. The WIPO Center focuses on **managing the time and cost** of its proceedings.

The WIPO Center also collaborates with Member States' IP and Copyright Offices, as well as Collective Management Organization (CMOs), to promote ADR to prevent and resolve copyright disputes. This includes raising awareness of ADR, supporting the implementation of ADR services as indicated by national or regional legislation, assisting with ADR case administration (including co-administration, training of mediator and arbitrators and online case administration tools)

The center has its own governing rules that govern the arbitration procedures, The WIPO Arbitration Rules²⁴, effective July 1, 2021, outline the procedures for arbitration under the World Intellectual Property Organization. Key provisions include the scope of application (Article 2), commencement of arbitration (Articles 6-10), and the appointment and challenge of arbitrators (Articles 14-32). The rules emphasize confidentiality (Articles 75-78) and detail the fees structure, including a fixed fee of \$20,000 for claims up to \$2.5 million and a maximum fee of \$60,000 for claims over \$10

²³ <https://www.wipo.int/amc/en/center/adr-assistance.html#:~:text=What%20can%20the%20WIPO%20Center,opposed%20to%20going%20to%20court.>

Accessed on May 4, 2025

²⁴ WIPO Arbitration Rules, Schedule of Fees and Cost.

million (Articles 69-73). Emergency relief proceedings incur an administration fee of \$2,500 and an initial deposit of \$10,000. The document aims to ensure efficient, fair, and confidential resolution of disputes.

Uganda's commitment to the Berne Convention and WIPO Copyright Treaty demonstrates its dedication to standardizing copyright laws, protecting authors' rights, and addressing digital challenges, thereby fostering a conducive environment for innovation and artistic expression and supporting the country's creative industries.

In conclusion, the Berne Convention and WIPO's framework provide a robust foundation for global copyright protection, while the WIPO Arbitration and Mediation Center through its rules offers a vital alternative to litigation, delivering efficient and cost-effective dispute resolution services tailored to the complexities of intellectual property. By leveraging ADR mechanisms, stakeholders can effectively navigate the intricacies of IP disputes, fostering innovation, creativity, and cooperation worldwide.

3.2 REGIONAL PERSPECTIVE

AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

The **African Regional Intellectual Property Organization**²⁵ (ARIPO) is an inter-governmental organization that fosters cooperation among its member states in intellectual property matters. By pooling resources and expertise, ARIPO aims to drive

²⁵ <https://www.aripo.org/> Accessed on May 4, 2025

technological advancement and promote economic, social, scientific, and industrial development in the region, ultimately enhancing the intellectual property landscape and contributing to the growth and prosperity of its member states. Uganda is a member of the ARIPO²⁶

ARIPO's objectives²⁷ The Lusaka Agreement includes promoting the development of copyright related rights in its members to contribute to economic, social and cultural development. Since 2002, ARIPO has worked to support growth and effectiveness in copyright administration, management, and enforcement through legislation and strategic initiatives. In member states, Copyright Offices supervise and license Collective Management Organizations, which play a crucial role in managing copyright and related rights, ultimately fostering a robust intellectual property framework in the region. The ARIPO Copyright Model Law provides a framework for copyright protection in member states. Upon analysis, it appears that the Model Law doesn't explicitly address Alternative Dispute Resolution (ADR) mechanisms for copyright disputes.

The African Regional Intellectual Property Organization (ARIPO) collaborates with the WIPO Arbitration and Mediation Center²⁸ (WIPO AMC). ARIPO encourages its member states to adopt Alternative Dispute Resolution (ADR) services and works with WIPO to

²⁶ <http://aripo.org/member-states-view/220#:~:text=Uganda%20-%20The%20African%20Regional%20Intellectual,Uganda> Accessed on May 4, 2025

²⁷ <https://newaripo.online/ip-services/copyright-and-related-rights> Accessed on May 4, 2025

²⁸ <https://www.aripo.org/news/Inaugural+Alternative+Dispute+Resolution+Seminar-1678198277#:~:text=The%20Director%20General%2C%20therefore%2C%20encouraged,%E2%80%93%20Associate%20Legal%20Officer%2C%20WIPO> Accessed on May 4, 2025

provide training for their officials. This collaboration aims to promote ADR for intellectual property and technology-related disputes within the African region.

3.3 DOMESTIC PERSPECTIVE

Uganda generally holds a positive view of arbitration for resolving copyright disputes, reflecting its wider approach to alternative dispute resolution (ADR) as a more efficient and cost-effective way to handle legal matters. The country's legal framework, particularly the Arbitration and Conciliation Act which supports the use of arbitration for both domestic and international copyright disputes.

Analysis of Copyright and neighboring rights protection; in Uganda, copyright is regulated by the **Copyright and Neighbouring Rights Act**, Cap 222 Laws of Uganda enacted as at 31st December, 2023. The Act provides for protection of literary, scientific and artistic intellectual works, computer programs, electronic data banks and their neighboring rights. The Act entitles authors to copyright protection²⁹ It also goes ahead to enlist works eligible for copyright protection like literary, scientific and artistic.³⁰ Ideas are not protected³¹, an expression of these ideas warrants copyright protection. Copyright gives the owner of works both economic and moral rights³². Moral rights allow authors and creators to take certain actions to preserve and protect their link with their work. Economic rights allow right owners to derive financial reward from

²⁹ Copyright and Neighbouring Rights Act Cap 222, s 3

³⁰ Section 4 of the Act

³¹ Section 5 of the Act

³² Sections 8 and 9 respectively of the Act

the use of their works by others by assignment, licensing or transferring.³³ The Assignment or transfer must be in writing, signed by the owner or an agent and by the person being assigned or transferred. It is at this point when the party can invoke and give life to Arbitration as a dispute settlement for copyright disputes. Where conflicts involving a registered collecting society³⁴ may arise among members or individuals interacting with the society and its officers. To facilitate fair and efficient resolution, as specified in the Copyright and Neighbouring Rights Act, these matters will be referred to an arbitrator or a panel of arbitrators under the Arbitration and Conciliation Act.

Under the **Arbitration and Conciliation Act**³⁵ An agreement to Arbitrate may take the form of a clause in a contract or a separate agreement. The Act incorporates the provisions in the 1985 United Nations Commission on International Trade (UNCITRAL) Model Law on International Commercial Arbitration as well as the UNCITRAL Arbitration Rules 1976 and the UNCITRAL Conciliation Rules 1976 making it very significant for resolving intellectual property disputes.

The Arbitration and Conciliation Amendment Act provides for dissolution of the Center for Arbitration and Dispute Resolution (CADER) as a result of the ***Government Policy for Rationalisation of Government Agencies and Public Expenditure adopted by the Cabinet on 22nd February, 2021 and contained in Cabinet Minute No. 43(CT 2021).***

³³ Section 13 of the Act

³⁴ Section 78 of the Act

³⁵ Arbitration and Conciliation Act Cap 5, s 3

CADER was a Statutory Institutional alternative dispute resolution provider, its functions were mainstreamed into the Ministry responsible for justice and therefore re-established as a department in the ministry.

Uganda's legal framework supports arbitration as an efficient and cost-effective means of resolving copyright disputes. The Arbitration and Conciliation Act, aligned with international standards, provides a robust foundation for arbitration. The Copyright and Neighbouring Rights Act protects literary, scientific, and artistic works, and disputes arising from copyright assignments or licenses can be effectively resolved through arbitration. Despite institutional changes, Uganda remains committed to alternative dispute resolution, ensuring a favorable environment for creators and rights holders to protect their intellectual property.

CHAPTER FOUR

4.0 Summary of Findings, Conclusions, and Recommendations

This chapter analyses the key discoveries, inferences, and proposed actions derived from the study on the efficacy of arbitration in resolving copyright disputes in Uganda, providing a comprehensive overview of the research outcomes and their implications for the country's intellectual property landscape.

4.1 Summary of Findings

This study examines the effectiveness of Alternative Dispute Resolution (ADR), particularly arbitration, in resolving copyright disputes in Uganda. The research reveals a strong framework for copyright protection and arbitration, which includes international conventions, regional instruments, Organizations and domestic legislation. Key findings highlight the importance of standardizing copyright laws, protecting authors' rights, and addressing the challenges associated with litigating copyright cases.

Additionally, the study underscores the advantages of arbitration in copyright disputes, such as faster resolution, lower costs, and confidentiality. It indicates a significant potential for using arbitration in copyright disputes, thanks to streamlined legislation along with international conventions that support this approach. This method is

preferable to traditional litigation, which often hinders the maintenance and growth of relationships.

The study also suggests practical ways to resolve disputes through arbitration, primarily by incorporating arbitration clauses in assignment contracts or drafting separate agreements to facilitate arbitration for copyright disputes.

Furthermore, it highlights the willingness of international organizations and stake holders to adopt arbitration. There is a shared desire to elevate arbitration as a means of resolving disputes, not only in copyright but across various fields.

The advantages of arbitration are clearly presented in the study, including the expedited resolution of disputes, which is crucial given the limited duration of copyright protection. This approach helps prevent delays associated with lengthy litigation and supports the maintenance of contractual relationships built on mutual consent among the parties involved.

4.2 Conclusions

The study concludes that arbitration is an effective means of resolving copyright disputes in Uganda, offering a viable alternative to traditional litigation. The country's commitment to international treaties, regional cooperation, and domestic legislation provides a solid foundation for copyright protection and dispute resolution. The WIPO Arbitration and Mediation Center and the Centre for Arbitration and Dispute Resolution (CADER) play crucial roles in promoting ADR mechanisms. By embracing arbitration and

other ADR methods, stakeholders can navigate the complexities of IP disputes, fostering innovation, creativity, and cooperation.

Ultimately, Uganda stands at the forefront of copyright protection and dispute resolution, empowered by a robust framework that intertwines international standards like the Berne Convention and the WIPO Copyright Treaty, regional cooperation through ARIPO, and strong domestic legislation demonstrated by the Copyright and Neighbouring Rights Act. The WIPO Arbitration and Mediation Center emerges as a beacon of hope, offering an efficient and cost-effective alternative to traditional litigation – perfectly suited for the sophisticated landscape of intellectual property. By embracing Alternative Dispute Resolution mechanisms, stakeholders can adeptly navigate the complexities of IP disputes, ultimately fostering a thriving environment for innovation and creativity. Uganda's commitment to these values, not only enhances the resolution of intellectual property conflicts but also acts as a catalyst for economic, social, and cultural development across the region. The future of Uganda's creative landscape is bright, promising a collaborative spirit that champions both progress and protection.

4.3 Recommendations

Based on the findings and conclusions, this study firmly recommends the following actions:

Enhanced Awareness and Education of arbitration. It is essential to significantly increase awareness of Alternative Dispute Resolution (ADR) mechanisms, especially arbitration, among stakeholders in the creative industries. Training more arbitrators, especially experts in the field of copyright who are well acquainted with the nature of copyright disputes.

Arbitration of copyright disputes should be presided over by Copyright experts. Having arbitrators with copyright expertise can ensure that technical aspects of copyright law are properly understood and applied, resulting in more informed and effective dispute resolution. This expertise can be particularly valuable in complex copyright cases involving intricate legal and technical issues.

Institutional Strengthening: In order to ensure CADER's effectiveness under the Ministry, it's essential to maintain its autonomy in decision-making, provide adequate resources and funding, and ensure transparent and accountable operations. This will foster stakeholder trust and confidence, enabling CADER to perform its roles with integrity and promote effective copyright administration and enforcement. Regular reviews and strengthening of its mandate will further enhance its functionality.

By decisively implementing these recommendations, Uganda will advance its copyright protection and dispute resolution framework, thereby promoting innovation, creativity, and economic growth with confidence.

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