



Study:

# ODR and its applications in IP-related services in the EU

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# Introduction

We live in the age of big data - a huge amount of information about everything. However, there is relatively little data on disputes. There are statistics on how many cases were considered by the courts. But most of the disputes don't get to the courts. Thus, it becomes evident that it is necessary to reduce the difference between the expanding spectrum of disputes and the current conservative system by its methods to resolve and prevent them.

Large-scale online dispute resolution processes (ODR, online dispute resolution) emerged in the 1990s. The number of users grew rapidly, and the number of disputes also increased, as the ban on commercial activity on the Internet was lifted. Given the nature of these disputes, traditional methods of dispute resolution, - courts and their alternatives requiring physical presence, - are not a viable solution for the vast majority of online disputes. These are small amount disputes, in which the parties are physically apart from each other and which cannot be resolved in person. However, it turned out that the technology that has made traditional dispute resolution processes inaccessible can also serve as a basis for the development of new, innovative and accessible methods to redress. These processes are what we now call ODR. Over time, ODR service providers have developed new processes that provide new opportunities for conflict resolution. Such opportunities were offered online, relied on machine intelligence and created a digital footprint. These characteristics have made ODR much more accessible and efficient, and by getting rid of the constraints of human resources and meetings in person, enabled ODR processes to resolve an extremely large number of disputes. However, in addition to improving efficiency and empowering the transition to ODR, it has also opened an opportunity to enhance fairness and justice.

Over the past few years, the scope of ODR has expanded beyond e-commerce. ODR methods are also used in cyberspace conflicts such as hacking and identity theft, and in disputes over copyright and intellectual property. Domain names that didn't even exist before the advent of the Internet have generated over 50,000 disputes between domain holders and trademark owners, and these disputes are also settled out of court.

Consequently, we can assume that new information technologies can provide us with powerful tools for resolving and preventing conflicts. Investments in both traditional and alternative forms of dispute resolution should be a top social priority. Professor Richard Susskind, IT advisor to the Lord Chief Justice of England and Wales, said that the judicial system was undergoing transformations, and in 2039 there would be no need to agitate for online courts, just as there was no need now to agitate for online purchases. Online courts are the future of jurisprudence<sup>1</sup>.

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1 Richard Susskind. Online Courts and the Future of Justice. 4 page.

# What is ODR

## Correlation of ADR (alternative dispute resolution) with ODR (online dispute resolution)

ODR, online dispute resolution, is a set of methods that emerged with the advent of the Internet and received a new impetus for development, as e-commerce and online marketplaces emerged in the Internet. At the same time, ODR is closely interrelated with ADR methods, to wit - alternative methods of dispute resolution, which, in particular, include arbitration tribunal, arbitration, mediation and some other methods that allow non-judicial decision on a dispute to be applied.

The rapid growth of interest in ADR methods has been associated with the occurrence of millions of small disputes in the field of e-commerce, which were simply impossible to settle with conventional methods. The development of ODR platforms has largely solved this problem and also entered into a new stage when it comes to the broader application of these methods, when their use is discussed and when resolving offline disputes in a wide variety of industries. It is even thought that ODR methods can significantly force out, and in many areas completely replace, the usual methods of dispute resolution - both judicial and alternative.

For a long time, the term ODR referred to resolution of disputes arising on the Internet. But over time, the scope of such procedures has expanded, and now high-tech tools and systems are increasingly offered as a solution to common offline disputes. Growth in the field of ODR has been indicated by the development and implementation of ODR practices in new contexts such as work of state bodies, the European Union's regulatory infrastructure and work of international organizations. Over the years, ODR systems have come to be seen as part of the ADR industry, where they have found application for both offline and online disputes.

One can expect that the scope of ODR application will expand even further in the light of the following three trends: 1) human's perception of digital communications and online system as a medium is changing; 2) more powerful software is being developed; 3) disappointment at the performance of courts and ADR systems remains.

ODR and ADR topics are complementary and in no way contradict each other, since ODR methods not only operate in parallel with usual ADR methods, but also represent an evolutionary step in the development of these methods.

Professor Lela Love noted in her speech in the USA that ADR methods have come a long way and have become so popular that today it is no longer correct to call them alternative. Therefore, the abbreviation ADR more often stands for "Appropriate Dispute Resolution"<sup>2</sup>.

In his book "Online Courts and the Future of Justice", Richard Susskind noted that ADR (alternative dispute resolution) is a public response to the problems of civil courts, and moreover, it could be seen by citizens as a way of circumventing the restrictions of legal systems that they no longer trusted.

Consequently, it should be noted that ADR methods (arbitration tribunal, arbitration, mediation, etc.) appeared much earlier than ODR methods. However, these methods are not different and mutually exclusive, but, on the contrary, complement each other, since ODR includes ADR methods and is considered as newer and improved one.

## ODR characteristics. Main idea.

Expanding access to justice through ODR brings three major changes to dispute resolution. First, there is a shift from physical to virtual contact. Second, the shift from human intervention and decision making by a human mediator to software-supported processes. And third, a shift of emphasis from compliance with the confidentiality regime to the collection, use of data for the sake of preventing disputes.

The first change relates to the implementation of online services in ODR system without the need for the parties to meet in person or even communicate with each other in a synchronized manner. In the past, access to dispute resolution was invariably limited by the condition that the parties to the dispute had to meet at a specific physical location within the prescribed period of time. The ease with which a person can file a complaint online and the convenience of communicating via telephone or computer have dramatically reduced costs and hence barriers to discussing issues and resolving disputes. This is perhaps the most obvious way in which ODR affects access to justice.

At the heart of the new technologies are algorithms based on the results of digital processing of a huge number of disputes. As a result, it becomes possible to provide users with access to justice on such a scale that was previously unattainable.

It should be noted that digital technology can dramatically increase access to justice and the efficiency of dispute resolution. Algorithms have the potential to increase fairness in dispute resolution in several ways. For example, they are indispensable for maintaining strict consistency in a condition of limited choice, which contrasts with the informal, relaxing environment in which humans, i.e. “third parties” work to resolve disputes. Human mediators have a deep understanding of the structure of the process, the roles that the parties and their lawyers play in it, as well as whether it is necessary to hold separate meetings with each of the parties, what should be the extent of engagement of the participants to the procedure in the very context of the dispute, etc. However, this knowledge is becoming less popular with the institutionalization of mediation in courts.

Appropriate design and language choices in ODR can help reduce cognitive distortions among the contending parties and dispute resolvers, and it also increases the chances of achieving high quality resolution outcomes.

The third shift, associated with ODR, i.e. transition from processes that value confidentiality in resolving disputes to processes focused on collecting and using data, opens up new opportunities for the prevention of disputes.

Data collection helps to exercise quality control over software design and over human decision-making in ways that are not always available in the courts or not even always possible to be there. With this control, you can assess the impact of the procedural design of distinct elements of ODR system on the various types of participants in the dialogue. Thus, it can be noted that some processes are ineffective in administering justice to certain segments of the population, and there should be efforts to correct this deficiency. Data analysis can also provide the user with visual information that is perceived easier than text material.

The combination of data collection, communication and ODR software offers the potential for increased efficiency and justice. Whether this potential is realized will depend on the design of the software, the criteria for evaluating ODR processes and the nature of dispute prevention activities. This is due to the fact that these three changes that occur in connection with the introduction of new technologies in dispute resolution shift the core of dispute resolution from the very settlement process to the software design stage on the one hand and to data analysis and dispute prevention efforts on the other.

## ODR online courts as a consequence of the application of ODR methods

At present, online courts are a vivid example of the use of ODR methods. Recently, the topic of online courts is getting quite popular, whereas the main advocate of which has become Richard Susskind, professor and executor of the UK judicial reform. As part of this reform, an online court is to be established to improve access to justice by providing a less adversarial and more fact-finding trial procedure that are easier for the parties to navigate through.

Conceived in the Middle Ages and radically reformed in the 18th century, the judicial system seems otherworldly for a generation of people entering adulthood, communicating and working on the Internet. The global trend is clearly leaning towards the transformation of the judicial system, and online courts are an example of that transformational approach.

While establishing an online court Richard Susskind relies on outcome thinking. The main question here is not whether machines can replace humans in their places, but whether the results of the work of these humans can be obtained through other means by the usage of technology<sup>3</sup>.

Since the 12th century, courts have three components: judges, formal procedures and sitting in a special room. It's hard to imagine how it could be organised differently. However, many countries have already deployed the presence of television channels in the courts (China, Australia). In this case, there is a shift from hearings to communication exchange: from synchronous communication to asynchronous one. Indeed, ODR is part of ADR. The latter category includes many methods, but ADR has not delivered on its promise - hearings are still synchronous, albeit remote, unlike asynchronous ODR.

There is a distance between authority and law enforcement. Bridging this gap, determining the practical consequences of legal decisions are not an easy task for a lawyer. However, online courts and services can help overcome these barriers for persons without legal background through online tutorials.

Many experts in this field believe that reforming the judicial system in this manner is very similar to replacing a wheel on a moving car. So, Richard Susskind suggests starting everything from a digital sheet and using this four-level model to design online courts:

1. Legal health promotion
2. Dispute avoidance
3. Dispute containment
4. Dispute resolution

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<sup>3</sup> Richard Susskind. Online Courts and the Future of Justice. 12 page.

It is important to note that traditional courts operate at the lower 4th level and a little bit at the 3rd level. Virtual hearings do not change this position in the global architecture, they only add new technical means. ADR works at 3rd level, preventing the escalation of disputes into judicial proceedings. Online courts should cover two and a half levels: online judging at the level of dispute resolution (4), extended courts at the level of containment (3) and avoidance of disputes (2). In this case, the level of dispute resolution is a court ruling made by humans, but on a different technological platform, without physical presence, asynchronously. Dispute containment prevents the escalation of disputes into judicial proceedings. Dispute avoidance prevents disputes from arising through the legal assessment of cases by online services.

It is proposed to consider in a more detail manner each level in the context of the work of online courts.

### ***Level 1 (legal health promotion)***

Legal health promotion is one of the elements of access to justice. The law may not only require and prohibit, but also ensures rights, empowers persons, and this part is often overlooked. It is important to be aware of this aspect of the matter.

### ***Level 2 (dispute avoidance)***

If we analyse some of the problems more deeply, then the need for lawsuits will disappear. It is necessary that machines could move from a messy pile of papers to a well-defined legal case. Design thinking and the use of big data will help lawyers and non-lawyers in this matter. Online courts must provide legal aid services. Sometimes a problem arises: persons do not know that a certain situation has legal regulation or consequences. If a person is not a lawyer, he/she cannot always determine when to consult the law in due course. We need alerts to inform persons that their situation is falling under legal regulation or that the law has changed. These messages must be personalized. You need to build such triggers into any social system.

### ***Level 3 (dispute containment)***

High quality case preparation may well be done online. British statistics show that in 2018/2019, 92% of cases were settled by the ombudsmen at the pre-trial stage. Facilitation is being implemented at the UK Tribunals. Cybersettle system uses a double-blind bidding approach to determine the cost of the case for its parties and automatically settle it. In the future, one can imagine the emergence of complex systems using the principle of game theory and artificial intelligence. If the courts take on the facilitation work, they will have less work to do.

### ***Level 4 (dispute resolution)***

Online courts should not be considered as replacement of judges with artificial intelligence. First of all, now online courts are an asynchronous interaction of parties, judges, court lawyers. One can perceive two approaches for its implementation. The first is to create an online version of existing processes, focused on the means. The second uses the power of technology to achieve goals through new means. We must move away from adversarial litigation towards a problem-oriented approach with a deeper research attitude that becomes possible if we expand the timeline of proceedings<sup>4</sup>.

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4 Richard Susskind. Online Courts and the Future of Justice. 26 page.

*In conclusion, with respect to online courts, it should be said that these courts have the ability to ensure information transparency in a greater manner than traditional hearings. Creating online courts is a global effort to build a standard, adaptable, global platform for online justice.*

## Legal basis for ODR

### UNCITRAL

In 2010, UNCITRAL (United Nations Commission on International Trade Law) created its cross-border ODR working group. The aim of the WG is to prepare rules for a future global cross-border ODR in the event of disputes arising from e-commerce transactions. These rules will include ODR rules, as well as related documents such as guidelines for ODR suppliers and neutral persons, criteria for accrediting ODR suppliers and neutral persons, basic legal principles for deciding cases, and an enforcement protocol.

The work of UNCITRAL resulted in the preparation of Technical Notes on Online Dispute Resolution in 2017<sup>5</sup>, in an attempt to reconcile some of the discussions and at the same time not to produce any tangible substantive outcome. An overview of the Technical Notes on Online Dispute Resolution includes the following rules and principles. For example: “Along with the sharp increase of online cross-border transactions, there is a need for mechanisms aimed at resolving disputes arising from such transactions”, “ODR ought to be simple, fast and efficient, in order to be able to be used in a real world setting, including that it should not impose costs and delays that are disproportionate to the economic value at stake”.

### European Union Directive on ADR

In the framework of ODR, the development of a number of directives and regulations has been initiated in the EU. In 2013, ODR consumer rules were issued. The purpose of these rules is that by achieving a high level of consumer protection to promote the proper functioning of the internal market and, in particular, the digital dimension by creating the European ODR platform that promotes impartial, transparent, effective non-judicial online dispute resolution between consumers and sellers.

r, in France, instead of launching public ODR platform itself, they focused on the regulation and certification of private ODR market participants. This is the way France is guided by its Law on the Reform of the Justice System<sup>6</sup>, adopted on 23 March 2019 and supplemented by Decree<sup>7</sup> of 25 October 2019. French ODR legislation sets the parameters for commercial ODR platforms. These platforms, whether used for mediation or arbitration, must comply with legal obligations regarding the protection of personally identifiable data. Certification bodies should oversee and regularly report to the Ministry of Justice on the issuance, refusal and suspension of certificates and maintain a publicly available register of certified ODR platforms.

5 [http://www.uncitral.org/pdf/english/texts/odr/V1700382\\_English\\_Technical\\_Notes\\_on\\_ODR.pdf](http://www.uncitral.org/pdf/english/texts/odr/V1700382_English_Technical_Notes_on_ODR.pdf)

6 [https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=67461511805D3C45A7E68E1CC1CD736A.tplgfr35s\\_2?idDocument=JORFDOLE000036830320&type=general&typeLoi=proj&legislature=15](https://www.legifrance.gouv.fr/affichLoiPreparation.do;jsessionid=67461511805D3C45A7E68E1CC1CD736A.tplgfr35s_2?idDocument=JORFDOLE000036830320&type=general&typeLoi=proj&legislature=15)

7 <https://www.legifrance.gouv.fr/eli/decret/2019/10/25/JUSC1922391D/jo/texte>

## International Council for Online Dispute Resolution

The International Council for Online Dispute Resolution (ICODR) was established in 2017 as an international not-for-profit consortium that advocates and facilitates the development of international ODR standards. The council is not involved in ODR itself, but rather supports the adoption of open cross-border standards as part of a global effort to resolve disputes using information and communication technology. The International Council developed standards to help create ODR systems that are public, private, legal and secure. With these standards, the Council believes that its work can reduce the cost of ODRs internationally, stimulate greater innovation in this area, and help to “protect the right of consumers and citizens to free access to justice”.

In view of the foregoing, we can notice that the legal framework for ODR in the European Union encompasses a number of rules and regulations, namely UNCITRAL Technical Notes (2017), EU Directive on ADR (2013), a number of French legal acts (Law on the Reform of the Justice System and supplemented Decree), and the International Council for Online Dispute Resolution (ICODR) standards.

## HMCTS Reform Programme (UK)

It's worth noting the large-scale judicial reform that is currently taking place in the UK. HM Courts and Tribunals Service has launched £ 1 billion worth programme for judicial reform in the UK that includes more than five projects aimed at changing and improving the services of courts and tribunals. The goal of such a programme is to make legal services fair, proportionate and accessible to all.

The reform also includes an initiative to create an online court called HM Online Court (HMOC). This court is intended to resolve civil disputes with a claim value of up to £ 25,000 with ODR. The intended process should have three stages: online assessment, online help and online solution. The first stage covers diagnostics of the subject and essence of the dispute, as well as assistance to the parties so that they understand their problem and possible options for its solution. It is achieved by providing information and assistance to disputing parties on the court's website and by facilitating access to external resources. It is expected that a greater extent of awareness of the plaintiffs will allow to solve minor issues before they turn into a far-reaching legal dispute. If problems cannot be resolved at the first stage, the parties move on to the online help stage, where qualified assistants, using automated negotiation tools, help the disputing parties reach an early solution through friendly rather than adversarial processes. The third stage, i.e. online solution is also proposed to the disputing parties, who failed to resolve their dispute with the provided assistance. Such a decision rendered online should be as binding and enforceable as traditional court decisions. The third stage can take the form of an online written process, but can include a court hearing with sessions (via telephone or videoconference and, as a last resort, in person).

The objectives of this initiative are expected to be achieved by April 2020. However, HMCTS recently announced that it is seeking to extend the deadline. This means that the proposed deadline is expected to be later, in 2023.

To sum up, it should be noted that the judicial reform in the UK is by far the most ambitious and modernized transformation of the judicial system in the European Union, as well as among other countries of the world. Significant steps are being taken in the UK to update the judicial

system and to meet the requirements of the 21st century. We witness that many academics in this field and the judiciary tend to introduce continuous online dispute resolution. This solution has many advantages. Members of tribunals and courts can ask their questions online. Unlike an oral hearing, the parties and tribunal members do not need to be in the same place. Also, unlike video hearing, there is no need for their simultaneous participation. Many find this system very appealing to tribunal members, many of whom work part-time. The participant of a dispute may go out on weekends and evaluate the evidence uploaded to the case file. Each written comment on the case is saved as an electronic trace. It will be invaluable in the event of an appeal. The recording should also be made available to the press and the public.

Although the timeframe of this reform is to be changed, its emergence and content are of great importance for the development and modification of the judicial system of the 21st century. Many scientists, judges and ordinary citizens notice a huge number of advantages in online dispute resolution (ODR) and emergence of the idea of online courts. For many, online dispute resolution is something not feasible, but the UK shows that it is possible to the whole of Europe and the world.

## ODR services and platforms in EU

### KLEROS<sup>8</sup>

Kleros is a decentralized court system for dispute resolution. This service is founded by entrepreneurs Clement Lesaege and Federico Ast in France, who have good knowledge on crowdsourcing and blockchain technology.

An example of using this service - Bob works as a web designer, he develops the design of the website for Alice. Upon completion of the work, he invoices Alice for payment. But a problem does occur: Alice doesn't like the work. The website doesn't look the way she wanted, and she doesn't want to pay the bill. Bob is upset from all of this. And now no one is satisfied with anything. But it could have been quite different. If Bob and Alice had used Kleros, this dispute could have been resolved. Kleros is a blockchain-based dispute resolution method that allows you to quickly, safely and cost-effectively resolve almost any dispute. At the very beginning of the project, Alice's funds are blocked using a smart contract. If Alice is satisfied with the quality of the work, then Bob gets paid for it. In the event of a dispute, Kleros engages a jury to review the parties' evidence and settle the dispute. The jury analyses the evidence and examines the case from both angles. In this case, they support Alice and vote for her win in the dispute. Execution of their decision and receipt of the payment for arbitration occurs automatically; all this is carried out using blockchain technologies. The possibilities of this technology are endless: freelancing, crowdfunding, gaming, copyright, e-commerce, insurance, forecasting, escrow<sup>9</sup>.

This example is described on Kleros website as a complete understanding of how the service operates. As the example shows, Kleros operates on the basis of blockchain technology, through the involvement of an anonymous jury or jurors. Decisions adopted by Kleros jury are generally more accurate and less biased than those of centralized dispute resolution platforms, as they encourage anonymous arbitrators. And since Kleros is fully decentralized on the Ethereum

<sup>8</sup> <https://kleros.io/ru/>

<sup>9</sup> <https://www.cardrates.com/news/kleros-provides-blockchain-dispute-resolution-for-online-payments/>

blockchain, dispute resolution enforcement is also less difficult and costly. The structure of the jury is rather unusual, their work is characterized by the method of stimulation. Kleros incentive model is based on the concept of Schelling points formulated by Thomas Schelling, game theorist and Nobel Prize winner, who created paradigms for conflict resolution in the 1960s. Game theory motivates people to collaborate to defend their interests or get rewards. By combining a crowdsourced jury system and blockchain technology with game theory, Kleros offers a third-party solution to quickly and inexpensively resolve online disputes, using both factual evidence and human judgments motivated to rule in favour of that evidence. Kleros court is designed to resolve disputes between parties in an efficient and fair manner, and this starts with the appointment of anonymous jurors who are not members of the company and join the general court and then sub-courts on the basis of their skills and experience. The jury puts their PNK, Kleros token. Each PNK owned by a juror increases the chances of being taken to oath in on the next occasion. Since Kleros stores evidence in smart contracts, it instructs a jury to make decisions in no more than three days. And the results are applied automatically, which dramatically reduces cost and time for everyone involved.

In May 2019, Kleros created a dispute resolution tool<sup>10</sup> so that anyone can easily create a dispute without having to develop an arbitration agreement. It's necessary to just log into the app, fill out the form and submit your dispute to Kleros court. Then you can interact with it: provide evidence and participate in the crowdfunding appeal.

In the course of reviewing this platform, we can note that Kleros provides for online resolution in the field of IP (intellectual property) disputes. However, this service is not specifically specialized in resolving disputes of this field, it also affects a number of other fields (e-commerce, insurance, blockchain disputes, disputes with cryptocurrency, etc.).

The question arises in connection with the activities of this service, to wit – whether Kleros dispute resolution complies with the law and also whether the regular court recognizes such a decision of Kleros jury<sup>11</sup>. Currently, a common pattern among state regulators is to encourage the introduction of alternative and online dispute resolution (ADR, ODR) in commercial and consumer disputes: EU Directive on consumer ADR, Regulation on consumer ODR (Directive 2013/1/EU and Regulation 524/2013 of 21 May 2013) and UNCITRAL Technical Notes on Online Dispute Resolution (2017). The legal framework, discussed above, provides broad definitions for various ADR and ODR non-judicial methods such as mediation, negotiation, arbitration, etc., which are conducted using electronic means of communication.

Kleros is a blockchain-based platform that provides for arbitration using information and communications technology. This is clearly in line with the current legal terms for alternative and online dispute resolution. Kleros dispute resolution process is an arbitration scheme under international law. Namely, in the UNCITRAL Model Law on International Commercial Arbitration, it is accepted that “arbitration” means any arbitration, whether conducted by a permanent arbitral institution or not. Some might argue that, in its traditional sense, arbitration has little to do with the random selection of crowdsourced jurors, crypto economic incentives by Kleros, and the fact that the procedure is carried out in a fully automated manner using an automated blockchain protocol. However, these arguments do not exclude Kleros from the arbitration process. The specific details of Kleros may differ from the arbitration methods that have been tried earlier, but its general structure is still recognized as an alternative dispute resolution. This is absolutely obvious, since the UNCITRAL principles clearly preserve the full freedom of the parties to independently determine the rules of arbitration. Based on this, it is clear that Kleros is in compliance with the law.

10 <https://binary-arbitrable-proxy.netlify.com/>

11 <https://blog.kleros.io/is-kleros-legally-valid-as-arbitration/>

However, it is still not enough to conclude that Kleros is capable of working out a legal and internationally recognized solution. To this end, the dispute resolution procedure itself must comply with the substantive principles of international arbitration.

## FastArbitre

FastArbitre<sup>12</sup> is an online dispute resolution platform. This platform is created on the basis of the Digital Institute of Arbitration and Mediation (IDAM) in France. The service allows the parties to resolve a dispute through an intuitive interface and process. The application offers a two-step process<sup>13</sup>.

The first step is an amicable process that provides an opportunity to amicably settle a dispute with an opponent even before an arbitrator is appointed. During this process, assistance is provided in organizing the submission of documents, evidence that will be available to the opponent. After registering on the platform, a party to the case can immediately create a file of a specific dispute, modify and supplement it and also send this file to its opponent. It should be noted that this amicable phase is completely free, as no arbitrator has been appointed yet and no fees have been charged.

If the dispute was not resolved amicably, then you can proceed to the next settlement phase, namely, to make a decision to start arbitration. In this case, an arbitrator will be appointed who will make a decision and render an arbitral award on the dispute. If the parties had an arbitration clause regarding the FastArbitre service, then the dispute will be automatically accepted by the platform at the request of either party. Upon receipt of payment, the platform appoints an arbitrator to be in charge of organizing the exchange between the parties for the purpose of documenting the dispute. When the arbitrator is aware of all necessary aspects for making a decision, he/she finalizes the discussion and renders a preliminary decision, which can then be commented on by the parties. This arbitration award rendered by the platform can be enforced by a bailiff as an award made by the state court.

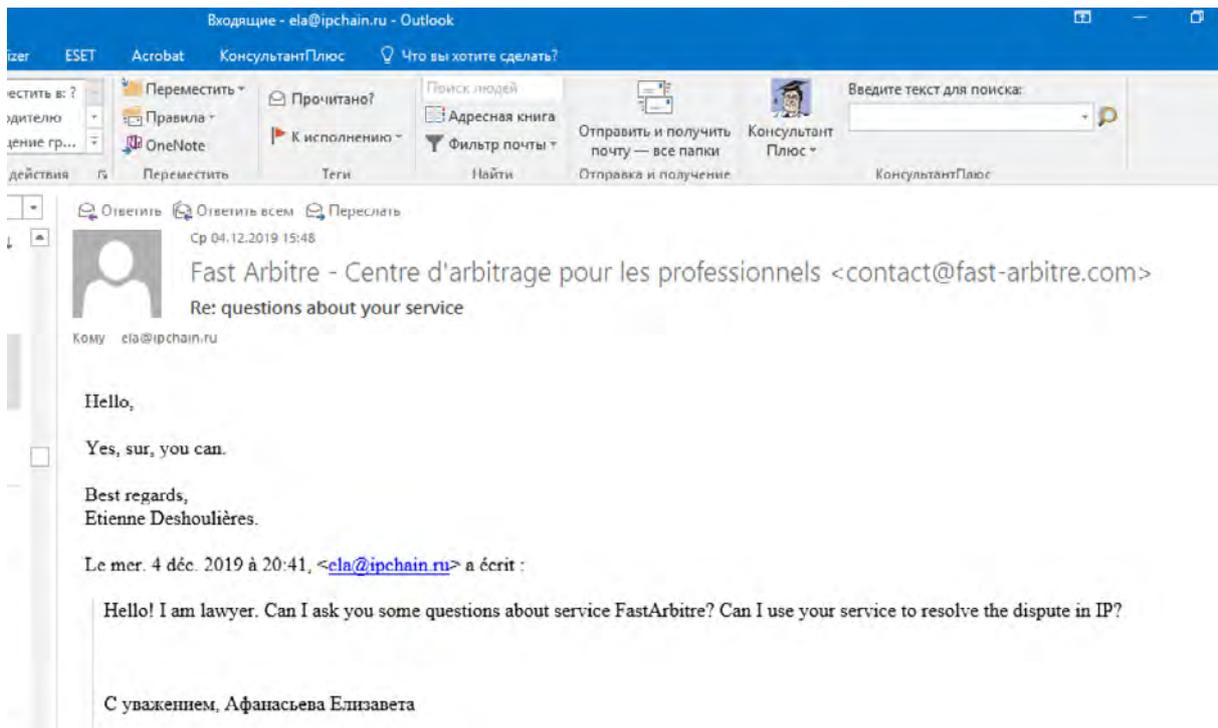
Here are the principles that characterize this platform: 1. Speed. The decision on a dispute rendered by this platform shall be made within two months from the commencement of the arbitration proceedings. 2. Simplicity. Using the platform is intuitive, without complicated procedures. Little time is allocated to waiting, no multiple hearings, no large files and no complicated procedures to be followed. 3. Cost-effectiveness. Costs are fixed relatively to the scope of the dispute, which corresponds to a special classification of disputes developed by the service. 4. Expertise. The arbitrators of the service are selected according to very strict ethical standards to ensure real expertise to resolve disputes presented on the platform. The Arbitration Rules and the proposed procedure provide a valid court ruling that can be enforced in 149 countries.

A positive response was given as a result of correspondence regarding the possibility of resolving a dispute in the field of intellectual property (see below).

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<sup>12</sup> <https://fast-arbitre.com/en/>

<sup>13</sup> <https://www.f6s.com/fastarbitre>



The scope of intellectual property disputes is included in the platform's classification of disputes. In view of the foregoing, we can note that this platform basically uses ODR method. While using this platform, the parties can resolve disputes related to intellectual property. However, the platform is specialized in dispute resolution in various fields, as it has developed its own classification of disputes. Accordingly, no clear focus has been identified in the regulation of disputes in the field of intellectual property.

## Internet Ombudsmann

Internet Ombudsmann<sup>14</sup> is an online service specialized in resolving Internet disputes and other digital issues. This service was established in Austria. The Internet Ombudsmann is a government-recognized arbitration board for disputes concerning online contracts under the Alternative Dispute Resolution Act. It also offers free arbitration and advice on other internet-related topics (copyright, data protection law, image rights, personal rights, etc.). This service is supported by the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection<sup>15</sup> and the Austrian Federal Chamber of Labour<sup>16</sup>.

The tasks of this service include:

**1. AStG Arbitration procedure.** In accordance with p. 4 of the Austrian Alternative Dispute Resolution Act, this service has the mandate as an arbitration committee to resolve disputes related to contracts on the Internet between contractors and suppliers who are residents of Austria. Internet Ombudsmann is not responsible for complaints subject to the jurisdiction of another arbitration board provided for in AStG, with the exception of "arbitration for consumer transactions".

14 <https://ombudsmann.at/schlichtung.php>

15 [www.sozialministerium.gv.at](http://www.sozialministerium.gv.at)

16 [www.arbeiterkammer.at](http://www.arbeiterkammer.at)

**2. Standard procedure.** In addition to AStG arbitration procedure, the service offers another arbitration procedure. This procedure is intended for cases that are not subject to the mandatory AStG arbitration procedure. Such cases include complaints from Austrian consumers about online stores abroad or complaints about data protection or copyright issues related to the use of the Internet. The standard procedure is used only if the complaint does not fall under AStG procedure. Thus, the applicant has no choice between arbitration (AStG) and standard procedure. In addition to dispute resolution work, Internet Ombudsmann provides advice on online shopping, data protection, privacy and online copyright.

As we can notice from the information provided on the website, as well as in the course of correspondence with representatives of this service, disputes are also regulated in the field of intellectual property, in particular in the field of copyright. In the «Frequently Asked Questions» section, we can see the most common cases of resorting for dispute resolution in the field of copyright. For example, cases were considered on such issues as “copyright infringement of photos on the Internet”, “types of content protected by copyright that can be published on the Internet”, “what actions to take if you receive a letter of copyright infringement”.

When considering this service, it can be concluded that the Internet Ombudsmann service operates on the basis of ODR method, as well as in accordance with the Austrian Alternative Dispute Resolution Act and is supported by the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection ([sozialministerium.gv.at](http://sozialministerium.gv.at)) and the Austrian Federal Chamber of Labour ([arbeiterkammer.at](http://arbeiterkammer.at)). In the dispute resolution process, disputes related to intellectual property are considered, in particular, in the field of the Internet, affecting copyright issues. It should be noted that this service is specialized in resolving disputes primarily related to the Internet, namely, contracts between suppliers and contractors of the Internet in Austria. Based on this information, we can conclude that no specific focus has been identified for resolving disputes in the field of intellectual property.

## Online arbitration court. Poland

The first Polish online arbitration court<sup>17</sup> was established in February 2019. Online arbitration court (OAC) provides alternative civil and commercial dispute resolution options for both Polish and international organizations. It was founded and is currently located in the city of Wrocław. The court is available 24 hours a day, 7 days a week. Cases stored in OAC are conducted exclusively online and may cover any dispute in which the provisions of Polish law provide for the possibility of concluding an amicable settlement. All documents and documents submitted by the parties required for the proceedings, including written evidence, are sent electronically. It should be noted that the decisions of the arbitral tribunals in OAC are equally binding as the decisions of the national court. The enforcement of OAC decisions abroad is guaranteed by Article III of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which has already been ratified by 159 countries, including Poland.

Mutual consent is required for the parties to resolve disputes through OAC. Thus, in order to simplify the entire process OAC has created three different model clauses that can be included in agreements (they can also be concluded through online communication means, such as e-mail exchange). But even if the parties were unable to include such an arbitration clause in their contracts, a separate agreement could be concluded to refer the dispute to OAC. In either case, to resolve a dispute through OAC, both parties must have an active account on OAC web system. The registration fee is 25 euros. The parties can appoint their own arbitrators, but OAC maintains its own list of experienced arbitrators, which will be appointed by the platform

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<sup>17</sup> <https://www.sadarbitrazowyonline.pl/en>

itself if the parties are unable to appoint someone. OAC creators have already made many bold statements about the effectiveness of online litigation. First, deadlines for filing applications are very strict, and the final decision of the arbitral tribunal should be proclaimed within three to five weeks from the date of filing the statement of claim. This seems particularly appealing in view of proceedings in the regular national court, which can last up to several years. In addition, OAC arbitration rules are designed to prevent any action by the parties leading to an “artificial” extension of the proceedings. Another advantage of online arbitration is the low cost of the proceedings, as there are no additional costs associated with travel, accommodation of arbitrators, witnesses, delivery, etc.

Based on the information about this court platform, we can conclude that OAC (online arbitration court) platform operates on the basis of ODR method, and is also capable of regulating disputes in the course of online dispute resolution, in particular, in the field of intellectual property. However, this court platform is not specialized in disputes related to intellectual property, but resolves a number of other disputes in various fields, which provide for the possibility of an amicable settlement.

## Ultima RATIO

Two months after the creation of OAC, another specialized online arbitration court named Ultima RATIO was created. This is an electronic arbitration court in Warsaw, which considers cases on the basis of books and records. Arbitrators are notaries and all proceedings are conducted electronically. Cases conclude with a final decision rendered in about three weeks period and, as with OAC, the proceedings are conducted without the physical involvement of the parties. In accordance with Polish law, a decision by the Ultima Ratio has the same legal force as a decision made by the general court.

Most recently, in March 2020, an agreement was signed with IUS.AI on the implementation of IT modules based on artificial intelligence. Targeted new functions can replace persons in 80 percent of legal processes and operations related to examination of the case and rendering of the court decisions. The first modules will start working in the middle of next year. Ultimately, the artificial intelligence will automatically prepare a ready-made draft decision along with the rationale, processing for this purpose the data and positions of the parties collected during the proceedings. The system will help the judge by providing him/her with information on the progress and results of similar cases, as well as provide him/her with parts of the rationale of other decisions that best explain a specific problem or legal issue. The algorithm will check if there have been changes in the Supreme Court rulings that could affect judicial practice<sup>18</sup>.

Based on the information provided, we can conclude that this platform is not specialized in resolving disputes involving intellectual property issues, but has the ability to regulate and resolve disputes of this type.

## E-court

E-court is the first online court in the Netherlands<sup>19</sup> The new e-Court platform brings together all stakeholders: plaintiffs, bailiffs, defendants, arbitrators and lawyers. Court proceedings between creditors and debtors are organized through the e-Court platform. Debtors are also contacted by email so that they can take a look at the case. They receive clear written

<sup>18</sup> <http://polishscience.pl/en/ultima-ratio-the-first-online-court-of-arbitration-in-poland-to-implement-artificial-intelligence/>

<sup>19</sup> <https://www.outsystems.com/case-studies/legal-sector-application>

information about the progress of the proceedings and can enter the e-Court and respond online. While using the e-Court platform, they have the opportunity to present their defence online and upload the supporting documents. After both parties have expressed their opinion, an arbitrator appointed by e-Court will render a decision<sup>20</sup>.

E-Court offers high quality justice at low cost. This applies to private case-law under Article 1020 et seq. of the Code of Civil Procedure (arbitration) or Article 7900 et seq. of the Dutch Civil Code (compulsory advice).

Based on the information provided, we can note that this online court provides services for resolving disputes in the field of intellectual property, but we cannot identify a full-fledged specialization for settlement of only disputes in this field.

## E-court / PeacrKeeper online

The interactive online e-Court<sup>21</sup> is an online platform operating in 45 countries, including the UK, where “trusted” professionals such as mediators, arbitrators, judges and consultants provide real-time “conflict resolution” services to private individuals, companies, organizations and governments of all levels in a prompt, proficient manner and at an affordable price. E-Court deals with civil cases common to small and medium enterprises and individuals in accordance with the common law and/or the UK civil law tradition. Intellectual property disputes are also subject to dispute resolution by this online court.

## Summary table

| Main characteristics   | Legal basis   | IP dispute resolution  |
|--|---|--|
| <b>Kleros, France</b>  |   |  |
| <ol style="list-style-type: none"> <li>1. Built on the basis of blockchain technologies (ODR method is applied).</li> <li>2. Has the ability to use smart contracts.</li> <li>3. Dispute resolution is carried out through the involvement of anonymous jurors.</li> <li>4. Method of stimulating the work of jury is used.</li> </ol> | <ol style="list-style-type: none"> <li>1. EU Directive on consumer ADR.</li> <li>2. Regulation on consumer ODR (Directive 2013/1/EU and Regulation 524/2013 of 21 May 2013).</li> <li>3. UNCITRAL Technical Notes on Online Dispute Resolution (2017).</li> </ol> | Provides online dispute resolution in the field of intellectual property. However, this service is not specifically specialized in resolving disputes in this field. It also affects a number of other fields (e-commerce, insurance, blockchain disputes, disputes with cryptocurrency, etc.).  |
| <b>FastArbitre, France</b>   |   |  |
| <ol style="list-style-type: none"> <li>1. ODR method is applied.</li> <li>2. Resolution of a dispute is carried out in two phases (optional):               <ol style="list-style-type: none"> <li>a. Amicable phase (free of charge).</li> <li>b. Arbitration proceedings.</li> </ol> </li> </ol>                                     | <ol style="list-style-type: none"> <li>1. EU Directive on consumer ADR.</li> <li>2. Regulation on consumer ODR (Directive 2013/1/EU and Regulation 524/2013 of 21 May 2013).</li> <li>3. UNCITRAL Technical Notes on Online Dispute Resolution (2017).</li> </ol> | The scope of intellectual property disputes is included in the platform's classification of disputes. This platform is specialized in dispute resolution in various fields, as it has developed its own classification of disputes. Accordingly, no clear focus has been identified in the regulation of disputes in the field of intellectual property. |

<sup>20</sup> <http://www.e-court.nl/>

<sup>21</sup> <https://www.e-court.law/contact.php>

| Main characteristics  | Legal basis  | IP dispute resolution  |
|---|--|--|
| <b>Internet Ombudsmann, Austria</b>   |  |  |
| <p>1. The main purpose of this service is that it has the mandate as an arbitration committee to resolve disputes related to contracts on the Internet between contractors and suppliers who are residents of Austria. In addition to AStG arbitration procedure, the service offers another arbitration procedure. This procedure is intended for cases that are not subject to the mandatory AStG arbitration procedure. Such cases include complaints from Austrian consumers about online stores abroad or complaints about data protection or copyright issues related to the use of the Internet.</p> <p>2. This service builds its work on ODR method.</p> | <p>Alternative Dispute Resolution Act (Austria).</p> <p>This service is supported by the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection and the Austrian Federal Chamber of Labour.</p>  | <p>Disputes are regulated in the field of intellectual property, in particular, in the field of copyright.</p> <p>This service is specialized in resolving disputes primarily related to the Internet, namely, contracts between suppliers and contractors of the Internet in Austria. Based on this information, we can conclude that no specific focus has been identified for resolving disputes in the field of intellectual property.</p> |
| <b>Online arbitration court. Poland</b>   |  |  |
| <p>1. This online court builds its work on ODR methods.</p> <p>2. OAC has created three different model clauses that can be included in agreements (they can also be concluded through online communication means, such as e-mail exchange). But even if the parties were unable to include such an arbitration clause in their contracts, a separate agreement could be concluded to refer the dispute to OAC.</p>   | <p>The enforcement of OAC decisions abroad is guaranteed by Article III of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which has already been ratified by 159 countries, including Poland.</p>  | <p>Cases stored in OAC are conducted exclusively online and may cover any dispute in which the provisions of Polish law provide for the possibility of concluding an amicable settlement.</p> <p>This court platform is not specialized in disputes related to intellectual property, but resolves a number of other disputes in various fields, which provide for the possibility of an amicable settlement.</p>                              |
| <b>Ultima Ratio, Poland</b>   |  |  |
| <p>1. This online court builds its work on ODR methods.</p> <p>2. Arbitrators are notaries and all proceedings are conducted electronically. Cases conclude with a final decision rendered in about three weeks period and, as with OAC, the proceedings are conducted without the physical involvement of the parties.</p>   | <p>The enforcement of OAC decisions abroad is guaranteed by Article III of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, which has already been ratified by 159 countries, including Poland.</p> <p>In accordance with Polish law, a decision by the Ultima Ratio has the same legal force as a decision made by the general court.</p> | <p>This platform is not specialized in resolving disputes involving intellectual property issues, but has the ability to regulate and resolve disputes of this type.</p>   |

| Main characteristics  | Legal basis   | IP dispute resolution   |
|---|---|---|
| <b>E- court, Netherlands</b>  |   |   |
| <p>1. This online court builds its work on ODR methods.</p> <p>2. Court proceedings between creditors and debtors are organized through the e-Court platform. Debtors are also contacted by email so that they can take a look at the case. They receive clear written information about the progress of the proceedings and can enter the e-Court and respond online. While using the e-Court platform, they have the opportunity to present their defence online and upload the supporting documents. After both parties have expressed their opinion, an arbitrator appointed by e-Court will render a decision.</p> | <p>E-Court offers high quality justice at low cost. This applies to private case-law under Article 1020 et seq. of the Code of Civil Procedure (arbitration) or Article 7900 et seq. of the Dutch Civil Code (compulsory advice).</p> | <p>Online court provides services for resolving disputes in the field of intellectual property, but we cannot identify a full-fledged specialization for settlement of only disputes in this field.</p> |
| <b>E- court/PearcKeeper online, UK</b>  |   |   |
| <p>1. This online court builds its work on ODR methods.</p> <p>2. E-court deals with civil cases common to small and medium enterprises and individuals, in accordance with the common law and/or the UK civil law tradition.</p>   | <p>Ensuring full compliance of the e-court and its subsidiaries with the EU General Data Protection Regulation (GDPR).</p>  | <p>Intellectual property disputes are also subject to dispute resolution by this online court.</p>  |

## Finding

As a result of the study, seven ODR services were identified in the European Union. Two in France, two in Poland, one in the Netherlands, one in Austria and one in the UK. Each of these services builds its work on ODR method and has also ability to resolve disputes in the field of intellectual property. However, fully specialized platforms for settlement of only such disputes (in the field of intellectual property) have not been identified.

We can note that there is a growing trend of establishing online courts in the European Union. These are E-court / PeacrKeeper online in the UK, online arbitration court in Poland and also E-court in the Netherlands. All of them are specialized in dispute resolution in various fields, providing wider access to justice through the use of modern technologies (blockchain, artificial intelligence).

When getting acquainted with these services, we see that work is underway to digitize the judicial system in the European Union. However, there are significantly fewer services that use ODR than in the United States and China. According to the European Commission, as of December 2019 the development and digitalization of the judicial system is lagging 10-12 years

behind the United States and China<sup>22</sup>. In general, we can conclude that the use of ODR is at an extremely low level in the courts and relates more to prospective rather than current tasks.

## ODR for smart contracts

In the last section, we got acquainted with the French Kleros service. This service operates on the basis of ODR method and it can also settle a dispute during the execution of a smart contract. The service is characterized by the presence of anonymous trial juries. We note that, in addition to resolving ordinary disputes, this platform operates on the basis of blockchain technologies and can resolve disputes arising from the content of concluded smart contract. The Kleros service is practically one of its kind within the European Union. However, in other countries (USA, China), platforms using dispute resolution under a smart contract are cutting-edge and future-worth.

Such services are gaining popularity in other countries. The characteristic features of these services are that the parties have a signed smart contract, which specifies one or the other similar service as an arbitration clause. As a rule, the parties launch their dispute with a mediation procedure. But if consensus is not possible, then the following dispute resolution procedure comes to the forefront, namely the resolution of the dispute with the help of neutral arbitrators. Each smart contract details the jury voting options, as well as the operational implications of voting for each option. The jury receives the evidence, examines it and makes a decision in accordance with the rules of the particular service in which the case is being considered. After reviewing the evidence, the jury undertakes to vote for one of the parties. Voting is done through a hash containing the vote and a special jury address to make each jury vote unique and prevent jury fraud.

The creation of technological infrastructures for resolving disputes related to smart contracts is also gaining popularity. The platform uses blockchains, dispute resolution and cryptocurrencies to offer a product that freezes the execution of an erroneous smart contract and allows dispute resolution. Such platforms can be used for a wide range of smart contracts, including intellectual property contracts, digitized asset contracts and consumer contracts.

Many platforms (Sagewise, Aragon, Mattereum) have their own smartphone app where, by pressing the button, the parties can activate the dispute resolution process.

Blockchain-based ODR projects (in the US and China), which have been developed in the past two years, recognize the need for blockchain-based dispute resolution mechanisms and the potential of the blockchain for unique service and resolution of disputes, such as fast and accurate decision-making, automatic enforcement of the principle of repayment of fees. Many of these decisions are grounded in game theory and rationality, and it remains to be seen how well they are transformed into dispute resolution field, which is characterized by many prejudices.

Indeed, questions arise about who exactly will motivate the parties to conclude smart contracts, as well as who are the intermediaries in the decentralized blockchain environment that could facilitate such steps.

Other questions relate to the nature of the provided dispute resolution services. Most of these ODR projects rely on jury voting and, in some cases, traditional arbitration. To what extent will such jurors and arbitrators be available? How will these conditions expand as the number of blockchain transactions grows?

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22 <http://spkurdyumov.ru/networks/iskusstvennyj-intellekt-sudebnaya-sistema-etika-i-pravo-glavy-iz-knigi/>

The extent of dispute resolution processes covered by the blockchain is limited, and only a few dispute resolution processes are based on mutual consent.

If we consider blockchain and smart contracts in the future, then these technologies will be the most advanced and reliable forms of online dispute resolution (ODR), as we are already noticing a rapid growth in the creation of such platforms in the US and China. The European Union is not opposed to the creation and development of such platforms, given the emergence and great progress of the work in Kleros service, as well as the launch of an enormous judicial reform to digitize the UK judicial system.

## Surveys

A recent survey of opinion concerning online dispute resolution (ODR) shows that hopes for launching such initiatives in the US, the UK and elsewhere face significant challenges, even if the majority of people support the idea in theory. A survey conducted by the US National Centre for State Courts, which involved 1,000 registered voters, yielded interesting data.

| % Handle online    | <50 | 50+ | Non-Coll | Coll | <\$30K | \$30-75K | \$75K+ |
|--------------------|-----|-----|----------|------|--------|----------|--------|
| Traffic ticket     | 74  | 59  | 61       | 74   | 56     | 69       | 74     |
| Consumer debt      | 58  | 45  | 47       | 57   | 41     | 51       | 61     |
| Small claims       | 53  | 38  | 42       | 50   | 39     | 47       | 51     |
| Verdict/Settlement | 44  | 30  | 31       | 45   | 28     | 34       | 48     |
| Landlord/Tenant    | 39  | 31  | 31       | 40   | 21     | 35       | 44     |
| Divorce proceeding | 21  | 17  | 16       | 23   | 10     | 21       | 22     |
| Child custody      | 8   | 5   | 6        | 8    | 1      | 8        | 9      |

*Table 1: Percentage of people who consider using ODR for various civil legal needs (<50 / 50+ refers to age; Non-Coll / Coll refers to college level (i.e., with higher education); financial figures refer to salary).*

So, people under the age of 50 are happy to resolve traffic disputes on the Internet. But, when it comes to legal disputes involving their family member or themselves, the total number drops sharply. For example, under the age of 50, only 21% were willing to participate in ODR process that handled divorce.

If classified by salary alone, those with the minimum salary were the least likely to use ODR for child custody (1%). This demonstrates a significant distrust towards the online process by people with a certain material wealth.

However, people who voted for ODR application were under 50, had higher education and earned more than \$ 75,000 (£ 56,500). Accordingly, we can expect that people who have higher education and grew up in the Internet age are more likely to feel happy participating in complex activities on the Internet, since ODR by its nature requires a high level of active participation from the participants. Yet even this group was not thrilled with resolving such issues as ODR lease disputes, and only 44% of those earning \$ 75,000 are likely to want to resolve the dispute online.

It should be noted that poorer, older and less educated persons are less interested in interacting with ODR. Although, one of the key ideas of ODR is to enable such persons to get access to justice.

The indicators of this survey show that at present people need to stand in front of a human (judge) and to be able to express their arguments directly to this person.

The second survey on how to work with courts has shown in a much broader sense that people who had already experience with the courts are more likely to advocate for alternative approaches, suggesting that perhaps they we're not satisfied with their initial experience and therefore would have tried something new.

| <b>% very/somewhat likely</b>                            | <b>Total</b> | <b>Court Experience</b> | <b>No Court Experience</b> |
|--|--------------|-------------------------|----------------------------|
| <b>Online dispute resolution</b>                         | <b>64</b>    | <b>66</b>               | <b>58</b>                  |
| <b>Attorney representing a portion of a case</b>         | <b>62</b>    | <b>63</b>               | <b>54</b>                  |
| <b>Self-help websites and web-based resources</b>        | <b>59</b>    | <b>60</b>               | <b>54</b>                  |
| <b>Licensed professionals for legal form preparation</b> | <b>57</b>    | <b>58</b>               | <b>51</b>                  |
| <b>Court staff helping with forms, no legal advice</b>   | <b>56</b>    | <b>61</b>               | <b>42</b>                  |
| <b>Phone/Online access to an attorney</b>                | <b>52</b>    | <b>54</b>               | <b>43</b>                  |

As shown above, on average 64% of people will «in general» use ODR, but this percentage should be considered in the context of the results shown in Table 1. That is, as soon as people are faced with specific questions, e.g. in what specific legal situations they will apply ODR, the utilization rate decreases rapidly.

However, people who had previously applied to court were more likely (66%) to choose ODR than those who had never applied to court (58%). Surprisingly, only 57% of respondents said they would like the court staff to help fill out legal forms, and only 59% on average said they need online legal resources. This means that even if these resources were online, more than a third of people would not want to use them. Why? Perhaps the answer is that providing information is not enough and people seek for a real human guidance, that is, someone to lead them through the process.

In view of above findings, we can conclude that heads of the US courts are gradually turning to ODR approach to modernize and streamline the interaction of individuals with civil courts and to resolve widespread cases that clog up their courtrooms.

# Courts applying ODR

List of courts applying ODR:

1. British Columbia Civil Resolution Tribunal (province, Canada)<sup>23</sup>
2. Clark County District Court Family Division (Las Vegas, Nevada, USA)<sup>24</sup>
3. Franklin County Small Claims Court (Columbus, Ohio, USA)<sup>25</sup>
4. Fulton County Small Claims Court (Atlanta, Georgia, USA)
5. Ohio State Court (state-wide)
6. Ottawa County Family Court (Grand Rapids, Michigan, USA)
7. Travis County Small Claims Court (Austin, Texas, USA)<sup>26</sup>
8. Utah County Small Claims Court (West Valley Justice Court, Carbon County Justice Court and Orem City Justice Court)
9. Tlaxcala Supreme Court (Mexico)
10. Faulkner and Van Buren County District Courts (Faulkner and Van Buren Counties, AR, USA)
11. Sherwood District Court (Sherwood, USA)
12. DeKalb County State Court – Traffic Division (DeKalb County, Georgia, USA)
13. Ford Heights village (Cook County, Illinois, USA)
14. Jefferson County District Court (Louisville, Kentucky, USA)
15. 15th District Court (Ann Arbor, Michigan, USA)
16. 74th District Court (Bay County, Michigan, USA)
17. 10th District Court (Calhoun County, Michigan, USA)
18. 65A District Court (Clinton County, Michigan, USA)
19. 41B District Court (Clinton Township, Michigan, USA)
20. 54B District Court (East Lansing, Michigan, USA)
21. 21st District Court (Garden City, Michigan, USA)
22. 20th District Court (Grand Haven, Michigan, USA)
23. 61st District Court (Grand Rapids, Michigan, USA)
24. 31st District Court (Hamtramck, Michigan, USA)
25. 32A District Court (Harper Woods, Michigan, USA)
26. 30th District Court (Highland Park, Michigan, USA)

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23 <https://civilresolutionbc.ca/>

24 <https://clarkcountyfmc.modria.com/>

25 <https://sc.courtinnovations.com/OHFCMC/home>

26 <https://www.utcourts.gov/smallclaimsodr/>

27. 55th District Court (Ingham County, Michigan, USA)
28. 22nd District Court (Inkster, Michigan, USA)
29. 12th District Court (Jackson County, Michigan, USA)
30. 4th District Court (Jackson, Michigan, USA)
31. 62B District Court (Kentwood, Michigan, USA)
32. City of Lansing – Treasure and Income Tax Office (Lansing, Michigan, USA)
33. 54A District Court (Lansing, Michigan, USA)
34. 16th District Court (Livonia, Michigan, USA)
35. 1st District Court (Monroe County, Michigan, USA)
36. 50th District Court (Pontiac, Michigan, USA)
37. 46th District Court (Southfield, Michigan, USA)
38. 23rd District Court (Taylor, Michigan, USA)
39. 14A District Court (Washtenaw County, Michigan, USA)
40. 29th District Court (Wayne, Michigan, USA)
41. 14B District Court (Ypsilanti Township, Michigan, USA)
42. Cleveland Municipal Court (Cleveland, Ohio, USA)
43. Franklin County Municipal Court (Franklin County, Ohio, USA)
44. Farmers Branch Municipal Court (Farmers Branch, Texas, USA)
45. Hartford and New Haven (Connecticut, USA)
46. Orange County Small Claims (California, USA)<sup>27</sup>
47. New Mexico Courts (USA)<sup>28</sup>
48. Yolo County District Courts (California, USA)<sup>29</sup>
49. Hangzhou Internet Court (China)<sup>30</sup>
50. Zhejiang Court ODR programme (China)<sup>31</sup>
51. Guangzhou Internet Court (China)
52. Michigan Supreme Court (USA)

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27 <https://odr.legal-aid.com/>

28 <https://adr.nmcourts.gov/ODR.aspx>

29 <https://www.businesswire.com/news/home/20190613005027/en/Yolo-County-California-Selects-Courts-Justice-Solutions>

30 <https://netcourt.yuncourt.com/portal/main/domain/index.htm?lang=En>

31 <https://www.yundr.gov.cn/>

# Conclusion

In view of the foregoing, we can conclude that ODR, online dispute resolution, is a set of methods that emerged with the advent of the Internet and received a new impetus for development, as e-commerce and online marketplaces on the Internet. At the same time, ODR is closely interrelated with ADR methods, to wit - alternative methods of dispute resolution, which, in particular, include arbitration tribunal, arbitration, mediation and some other methods that allow non-judicial decision on a dispute to be applied.

ODR and ADR topics are complementary and in no way contradict each other, since ODR methods not only operate in parallel with usual ADR methods, but also represent an evolutionary step in the development of these methods. ADR methods have come a long way and have become so popular that today it is no longer correct to call them alternative. Therefore, the abbreviation ADR more often stands for “Appropriate Dispute Resolution”. It should be noted that ADR methods (arbitration tribunal, arbitration, mediation, etc.) appeared much earlier than ODR methods. However, these methods are not different and mutually exclusive, but, on the contrary, complement each other, since ODR includes ADR methods and is considered as newer and improved one.

Expanding access to justice through ODR brings three major changes to dispute resolution. First, there is a shift from physical to virtual contact. Second, the shift from human intervention and decision making by a human mediator to software-supported processes. And third, a shift in emphasis from compliance with the confidentiality regime to the collection, use of data for the sake of preventing disputes. The combination of data collection, communication and ODR software offers the potential for increased efficiency and justice. Whether this potential is realized, will depend on the design of the software, the criteria for evaluating ODR processes, and the nature of dispute prevention activities. This is due to the fact that these three changes that occur in connection with the introduction of new technologies in dispute resolution shift the core of dispute resolution from the very settlement process to the software design stage on the one hand and to data analysis and dispute prevention efforts on the other.

Online courts are a vivid example of the use of ODR methods. Recently, the topic of online courts is getting quite popular, whereas the main advocate of which has become Richard Susskind, professor and executor of the UK judicial reform. These courts have the ability to ensure information transparency in a greater manner than traditional hearings. Creating online courts is a global effort to build a standard, adaptable, global platform for online justice.

The legal framework for ODR in the European Union encompasses a number of rules and regulations, namely UNCITRAL Technical Notes (2017), EU Directive on ADR (2013), a number of French legal acts (Law on the Reform of the Justice System and supplemented Decree), and the International Council for Online Dispute Resolution (ICODR) standards.

It's worth noting the large-scale judicial reform that is currently taking place in the UK. HM Courts and Tribunals Service has launched £ 1 billion worth programme for judicial reform in the UK that includes more than five projects aimed at changing and improving the services of courts and tribunals. The goal of such a programme is to make legal services fair, proportionate and accessible to all. The reform also includes an initiative to create an online court called HM Online Court (HMOC). This court is intended to resolve civil disputes with a claim value of up to £ 25,000 with ODR. The intended process should have three

stages: online assessment, online help and online solution. This judicial reform in the UK is by far the most ambitious and modernized transformation of the judicial system in the European Union, as well as among other countries of the world. Significant steps are being taken in the UK to update the judicial system and to meet the requirements of the 21st century. We witness that many academics in this field and the judiciary tend to introduce continuous online dispute resolution. This solution has many advantages. Members of tribunals and courts can ask their questions online. Unlike an oral hearing, the parties and tribunal members do not need to be in the same place. Also, unlike video hearing, there is no need for their simultaneous participation. Many find this system very appealing to tribunal members, many of whom work part-time. The participant of a dispute may go out on weekends and evaluate the evidence uploaded to the case file. Each written comment on the case is saved as an electronic trace. It will be invaluable in the event of an appeal. The recording should also be made available to the press and the public.

Although the timeframe of this reform is to be changed, its emergence and content are of great importance for the development and modification of the judicial system of the 21st century. Many scientists, judges and ordinary citizens notice a huge number of advantages in online dispute resolution (ODR) and emergence of the idea of online courts. For many, online dispute resolution is something not feasible, but the UK shows that it is possible to the whole of Europe and the world.

As a result of the study, seven ODR services were identified in the European Union. Two in France, two in Poland, one in the Netherlands, one in Austria and one in the UK. Each of these services builds its work on ODR method and also has the ability to resolve disputes in the field of intellectual property. However, fully specialized platforms for settlement of only such disputes (in the field of intellectual property) have not been identified.

When getting acquainted with these services, we see that work is underway to digitize the judicial system in the European Union. However, there are significantly fewer services that use ODR than in the United States and China. According to the European Commission, as of December 2019 the development and digitalization of the judicial system is lagging 10-12 years behind the United States and China. In general, we can conclude that the use of ODR is at an extremely low level in the courts and relates more to prospective rather than current tasks.

We can note that there is a growing trend of establishing online courts in the European Union. These are E-court / PeacrKeeper online in the UK, online arbitration court in Poland and also E-court in the Netherlands. All of them are specialized in dispute resolution in various fields, providing wider access to justice through the use of modern technologies (blockchain, artificial intelligence).

If we consider blockchain and smart contracts in the future, then these technologies will be the most advanced and reliable forms of online dispute resolution (ODR), as we are already noticing a rapid growth in the creation of such platforms in the US and China. The European Union is not opposed to the creation and development of such platforms, given the emergence and great progress of the work in Kleros service, as well as the launch of an enormous judicial reform to digitize the UK judicial system.

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