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*The Center for Alternative Dispute Resolution Newsletter
State of Hawaii, Judiciary*



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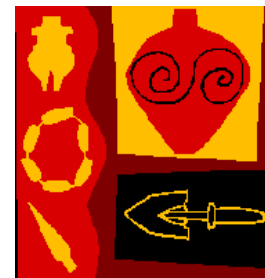
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ADR and the Repatriation of Cultural Property



Ownership disputes over art and cultural property may go beyond legal issues and extend to moral, ethical, religious, or spiritual concerns. The [World Intellectual Property Organization](http://www.wipo.int) (WIPO), an agency of the United Nations, includes the [WIPO ADR Services for Art and Cultural Heritage](http://www.wipo.int/cap/adr/). The unit offers a voluntary, flexible, confidential forum in which parties receive assistance to develop solutions without litigation. Parties choose a mediator, arbitrator, or expert in art and cultural heritage, to assist them in resolving the dispute. Beyond financial compensation, resolutions may include co-ownership and long term loans of cultural property. The WIPO provides procedural guidance to arts and cultural heritage organizations for drafting ADR clauses in art and cultural heritage related contracts and submission agreements, offers support in the establishment of ADR frameworks, helps bring disputing parties to ADR, and provides training and workshops. The WIPO also collaborates with concerned stakeholders and entities, including the [International Council of Museums](http://www.icom-international.org/) (ICOM).

The ICOM assists museums in resolving complex matters by use of a specific ADR process. In 2006, ICOM initiated its art and cultural heritage project noting ADR's distinct advantages; overcome the statute of limitations, attention to claims of misuse of cultural expressions, and identification of the issues and interests at stake. The [ICOM's Art and Cultural Heritage Mediation](http://www.icom-international.org/) procedure is a voluntary, confidential process. Parties work with a neutral facilitator to reach an agreement in a cost-effective, expedient manner. The ICOM emphasizes that there are no losers in mediation given that an outcome cannot be forced on the parties as in arbitration. Instead, they reach a mutually satisfactory agreement in which the interests of both parties are safeguarded.