

# Litigation Mediation for Intellectual Property Disputes in Chinese Local Courts: Experiences and Contradictions

Zhi Wu \*

## Abstract

In China, the related policies, laws and bylaws strongly support and encourage judges to settle intellectual property disputes through litigation mediation. The litigation mediation for intellectual property disputes has been broadly exercised and practiced in local courts and features such characteristics as mediation throughout the whole litigation and mediation by multiple mediators. Nevertheless, the balance between judicial efficiency and the protection of rights, as well as the balance between a judge's decision and the parties' willingness must be carefully maintained. Considering the background of 'establishing a harmonious society', we have to be aware of the possibilities for abuse of litigation mediation when it is used in intellectual property disputes. Perfecting a multiple system of intellectual property dispute resolution and establishing a remedial mechanism for wrongful mediation orders are suggested in this article.

## I. Introduction

Currently, litigation mediation<sup>1</sup> is employed as one of the key components in Chinese civil procedure. It is described as 'an important instrument for exercising the judicial power, and an important part of the harmonious judiciary

---

\* Associate Professor, School of Law, Hunan Normal University, Changsha, Hunan, China.

<sup>1</sup> In China, the term 'litigation mediation', also known as court's mediation or judicial mediation, refers to the litigants agreeing to resolve their disputes by disposing their own rights voluntarily under the charge of judges. In this article, 'litigation mediation', 'court's mediation' and 'judicial mediation' are alternatively used with the same meaning.