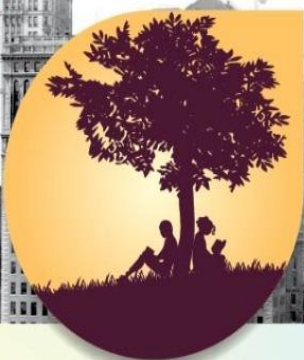


Journal of Conflict Management & Sustainable Development



Strengthening the Environmental Liability Regime in Kenya
for Sustainable Development

Kariuki Muigua

Electoral Dispute Resolution Mechanisms in Kenya

Prof. Tom Ojienda &
Lydia Adude

Critiquing the Place of Environmental Impact Assessment as a
tool for Enhancing Environmental Protection in Kenya

Peter Mwangi Muriithi

Achieving Environmental Security in Kenya

Kariuki Muigua

Securing the Right to Strike for Workers in Essential Services
in Kenya

Esther Nyachia

Online Dispute Resolution: The Future of E-Commerce in
Kenya

Bernard Nyaga

A Passive Observer or an Active Participant: Role of the
Judicial Officer in the Criminal Trial in Kenya

Viola Wakuthii

Online Dispute Resolution: The Future of E-Commerce in Kenya

By: **Bernard M. Nyaga***

Abstract

This paper finds that the E-commerce market has drastically developed with the advancement of technology. Our locally produced goods and services are now available online at any part of the world. Thus, technology and e-commerce are joined to the hip. Our Kenyan e-commerce market is a crucial contributor to the economy owing to its sizeable contribution to the Gross Domestic Product. Notably, both e-commerce and online dispute resolution are products of technology. It is not in doubt that almost every sector of the economy has embraced technology to enhance ease of doing business, effective resolution of e-commerce disputes, reach a global market audience for profitability, and promote free flow of products and services.

Introduction

Online Dispute Resolution (ODR) has significantly developed through interventions made by individual dispute resolvers to administer justice to claims arising in e-commerce.¹ It has piqued the interest of global enterprises and online consumers for being an out-of-court method which embraces the internet in dispute resolution.² There is no single or universally agreed definition of ODR. In broad terms, ODR means the emerging and

* *Bachelor of Laws (LLB) Candidate, University of Nairobi, a holder of certifications in domestic arbitration and commercial mediation from the Chartered Institute of Arbitrators, a recipient of Dr. Kariuki Muigua Annual ADR Essay Award 2021 and, the Partnerships and Projects Manager of the Young Arbiters Society UoN Chapter. Interests in ADR, Securities Regulation and Technology Law. Reachable via email bernarnyagah@gmail.com or phone (+254) 745 127 141*

¹ Alexandra Akinyi Ochieng & Bernard M. Nyaga, “Facilitating Access to Justice through Online Dispute Resolution in Kenya,” (2022) 10 (1) *Alternative Dispute Resolution* (ISBN 978-9966-046-14-7), the Chartered Institute of Arbitrators-Kenya Journal pg. 110-131

² Ethan Katsh, ‘Online Dispute Resolution: Some Implications for the Emergence of Law in Cyberspace’ (2006) 10 *Lex Electronica*

revolutionary dispute resolution mechanism which develops with the progress of technology.³

Online Dispute Resolution has morphed like the proverbial mustard seed to promote a dispute free e-commerce environment. It is a distinct method of Alternative Dispute Resolution (ADR) which involves the resolution of disputes as a result of online conduct⁴ and through the internet.⁵ However, it is faced with the disadvantage of concentration of internet in the urban areas, lack of awareness, inaccessibility in rural areas and the absence of an enabling legal regime.

I. The Intersection of Online Dispute Resolution and E-Commerce

Online resolution is also called Internet Dispute Resolution (IDR), or Electronic Dispute Resolution (EDR), or Electronic ADR (eADR) and Online ADR (oADR).⁶ We shall evaluate the intellectual divide caused by these emerging tactic of conflict management through technology. Our findings will demonstrate that the case for online dispute resolution outweighs the case against online dispute resolution. To demonstrate the usefulness of this debate, maximum legislative, financial and institutional resources should be directed towards its full realization in Kenya's e-commerce space.

In Kenya, Online Dispute Resolution lacks a statutory definition. Neither have the courts given an interpretation of ODR or contemplated its usefulness contrary to the Constitutional spirit of access to justice embodied in Article 48.⁷ For these reasons, an elaborate legislation akin to the

³ Feliksas Petrauskas and Eglė Kybartienė (2011), 'Online Dispute Resolution in Consumer Disputes' 18 *Jurisprudence* 921, 922

⁴ Graf-Peter G (2003), 'Online Dispute Resolution: Consumer Redress in Global Market place.' Vol 7 No.8 *German Law Journal* 647 at p. 651

⁵ Rafal M. (2005), 'Regulation of Online Dispute Resolution: Between Law and Technology.' Available at

[:http://www.odr.info/cyberweek/Regulation%20%of20ODR_Rafal%20Morek.doc](http://www.odr.info/cyberweek/Regulation%20%of20ODR_Rafal%20Morek.doc)
(Last visited on 5th June, 2021)

⁶ *Ibid* at 922

⁷ Constitution of Kenya (2010), Article 48

Arbitration Act should be enacted to give a clear and express definition,⁸ to provide for E-Commerce development as an objective of ODR and to establish a corresponding financially-enabled institution to streamline its operation in Kenya.

Electronic commerce is referred to as a ‘giant boundless market place’.⁹ Online businesses are able to reach their prospective clients at the click of a button. The Internet has provided immense marketing and communication opportunities for such businesses hence negating the barriers presented by language, culture, time and location.¹⁰

Online Dispute Resolution is primarily concerned with but not limited to low-value claims such as defective products, an overcharge, false advertisement and delays in delivery. At the comfort of your home, you can easily source or import products. The internet has become the world’s biggest frontier in commercial transactions such that parties can use the various legal remedies to enforce contractual rights.¹¹

Increased use of technology, especially in Nairobi, Mombasa, Kisumu and Nakuru Cities, has shown their corresponding ability to improve resolution of disputes. The disputes within the e-commerce space are directly compatible with Online Dispute Resolution as opposed to the traditional court systems. However, the biggest challenge is that Kenyan legislative structures have not engaged writers and researchers of law to study reform of ODR to basically address the locally prevailing conditions. An

⁸ See the Arbitration Act No.4 of 1995

⁹ Maxime Hanriot, “Online Dispute Resolution (ODR) As a solution to Cross-Border Disputes: The Enforcement of Outcomes,” (2015-2016) Vol 2,1 McGill Journal of Dispute Resolution

¹⁰ Alex Assenga Githara, “Embracing Technology – Powered Alternative Dispute Resolution (ADR) in a Post Pandemic Africa: A Catalyst for Change in the E-commerce, Trade and Justice sectors,” (2021) 9 (4) Alternative Dispute Resolution (ISBN 978-9966-046-14-7), the Chartered Institute of Arbitrators-Kenya Journal pg. 189

¹¹ Peel, E. and Treitel, G., (2015), “The Law of Contract,” 14th ed. London: Sweet & Maxwell/Thomson Reuters, para 1-1001

empowered ODR is the way to go through a supportive sector-specific law with substantive remedies to aggrieved customers.

II. The Case For Online Dispute Resolution

The Constitution of Kenya promotes the use of alternative forms of dispute resolution in Article 159 (2) (c).¹² It gives the ordinary *mwananchi* a wide array of choices ranging from reconciliation, mediation, arbitration and traditional dispute resolution mechanisms.¹³ Online Dispute Resolution is not any indifferent. Rather it is modelled on these forms and more diverse hence the use of online negotiation, online mediation, online conciliation, online mediation and online arbitration.¹⁴

The right to access the various forms of ADR including Online Dispute Resolution draws in the three arms of Government. First, the Constitution states that courts and tribunals are vested with judicial authority to dispense justice to Kenyans.¹⁵ The efforts by the judiciary to roll out party-initiated conflict management mechanisms through ADR and TDRMs, including the launch of Judiciary Social Transformation on Access to Justice, has nevertheless not led to the realization of the impetus of ODR.¹⁶

Online Dispute Resolution (ODR) is a form of alternative dispute resolution which utilizes the internet to bring about efficient resolution of disputes. Just as other types of ADR, it upholds the attributes of voluntariness, confidentiality and party autonomy.¹⁷ Some unique features of ODR include its efficiency of resolving disputes through the use of technology, it bypasses the limitations of the courts, not bounded by time or location restrictions, and

¹² Constitution of Kenya, Article 159 (2) (c)

¹³ *Ibid*

¹⁴ Ochieng, A. and Nyaga, B.M, *Supra* Note 1, at 117

¹⁵ The Constitution of Kenya, Article 159 (1)

¹⁶ Judiciary of Kenya, “Alternative Justice Systems Policy Framework,” (Judiciary 2020), vii

¹⁷ K. Muigua, “Making Mediation Work for All: Understanding the Mediation Process,” (kmco.co.ke) available at:

<http://kmco.co.ke/wp-content/uploads/2018/08/Making-Mediation-Work-for-all-Understanding-the-Mediation-Process-August-2018-1.pdf> Access date: 5th May

2021

its complementary nature to Traditional Dispute Resolution Mechanisms as shown below.¹⁸

ODR is primarily concerned with cyberspace or internet disputes. This is largely attributed to the advancement of technology and its penetration in Kenya through inter alia electronic commercial transactions. It utilizes Information Technology which is tailored to outweigh geographical challenges that may arise between the parties and facilitate expeditious resolution of disputes by saving time and related costs.¹⁹

a. Shock Absorber for COVID-19 Pandemic

ODR is the most resilient system of informal justice as it has not only navigated barriers presented by location and time indifference but also dodged the ripple effect that the pandemic had in the provision of justice through the conventional court system.²⁰

COVID-19 pandemic may have taken a toll on humanity by affecting the way we interact with one another due to lockdown measures, restriction of travel, emphasis on social distancing and reduced physical contact amongst people.²¹ Contrary to a misinformed popular belief, the pandemic came as a blessing in disguise. Instead, most Kenyan enterprises opted for a full or partial departure from the brick and mortar set up of doing business. The relaxation of COVID-19 containment measures is another big boost to the use of Alternative Dispute Resolution in Kenya. Entry of Kenyan business

¹⁸ Muigua K., "Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya 2010," p.6

¹⁹ Sara Parker, 'Online Dispute Resolution (ODR) and New Immigrants: A Scoping Review' (British Columbia Ministry of Labour, Citizens' Services and Open Government 2010) 7

²⁰ Bernard Nyaga, "Succession rows can overwhelm our courts," *The Standard*, 5 January 2021
<<https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.standardmedia.co.ke/amp/opinion/article/2001399146/succession-rows-can-overwhelm-ourcourts&ved=2ahUKEwismEi8PuAhWJUBUIHU52DRQQFjAAegQIAxAC&usg=AOvVaw16tN4jXd4oo7KvHI3z8K9Y>> Access date: 5th May 2022

²¹ Bernard, "Total Lockdown sure way out of Covid-19 threat" *The Standard*, 30 May 2020

into the online space has had its fair share of challenges owing to disputes which can be easily remedied by supportive legislation on Online Dispute Resolution and allocation of funds for maximum enhancement.

b. Informal resolution

Internet disputes are best resolved through Online Dispute Resolution as opposed to litigation or any other method of ADR.²² There is no involvement of courts. The Kenyan law has failed to interpret the enforcement of decisions obtained by ODR. This makes the process reliant or dependent on the judiciary to derive its authority.

Neither has it conducted awareness of it nor employed enough personnel to assist parties who prefer ODR to litigation. This should present job and employment opportunities to Kenyan accomplished dispute resolution practitioners. It will also benefit the person seeking their services in the promotion of access to Justice. The state must in the resources to ensure the meeting of such purposes.²³ Most jurisdictions lack regulation on cross-border electronic commerce (e-commerce) transactions. As a result, lack of regulation hinders the role of the courts in the litigation of online disputes with the effect of depriving a consumer efficient redress whenever such disputes arise.²⁴

c. Not bounded by limitations

ODR has not only proved effective in facilitating internet disputes but also offline conflicts. Further ODR is not limited to exclusively online processes. ODR platforms are accessible to a party even without internet connectivity through a computer or any other technological device.²⁵ Online Dispute Resolution is a distinct form of Alternative Dispute Resolution. Its

²² Naomi Creutzfeldt, "The Origins and Evolution of Consumer Dispute Resolution Systems in Europe" in Christopher Hodges & Adeline Stadler, eds, *Resolving Mass Disputes: ADR and Settlement of Mass Claims* (Cheltham: Edward Elgar, 2013) 223 at 235

²³ Constitution of Kenya, Article 20.5

²⁴ Pablo Cortès, 'Online Dispute Resolution for Consumers in the European Union' (New York: Routledge, 2010) at 10

²⁵ Sascha Ossowski (ed), 'Agreement Technologies, Law Governance and Technology Series,' vol 8 (Springer 2013)

technological approach to dispute resolution differs from the other methods of dispute resolution. Technology has demonstrated more potential in the resolution of disputes as opposed to traditional ADR due to its convenient nature.²⁶

d. Complementary nature to traditional informal justice systems

Despite being a distinct form of ADR, ODR is said to have emanated from Traditional Dispute Resolution Mechanisms (TDRMs).²⁷ ODR resolves disputes in the cyberspace through the various ADR methods.²⁸ Traditional Dispute Resolution mechanisms is one of those methods used in enhancing the effectiveness of ODR. It refers to the use of Information Technology to facilitate resolution of disputes through TDRMs in the cyberspace.²⁹

Advantages of Online Dispute Resolution

a. Reduces the burden of distance

This method of dispute resolution is particularly convenient to parties who are distant from one another unlike other methods of ADR. It saves on travelling costs and also reduces on the burden associated with travel to attend in-person meetings. Instead, parties communicate to each other through the internet in ODR regardless of one's location to facilitate the resolution of a dispute.³⁰ Technology shortens the distance making ODR

²⁶ Orna Rabinovich-Einy and Ethan Katsh, 'Digital Justice: Reshaping Boundaries in an Online Dispute Resolution Environment' (2014) 1 *International Journal of Online Dispute Resolution* 5

²⁷ Nwandem Osinachi Victor L. , 'Online Dispute Resolution: Scope and Matters arising' available at: SSRN-id2592926(1).pdf Access date: 8th June 2021

²⁸ Van den Heuvel E. 'Online Dispute Resolution as a Solution to Cross-border E-disputes: An Introduction to ODR' (2002) Available at <http://www.oecd.org/dataoecd/63/57/1878940.pdf> access date 8th June, 2021

²⁹ Arun R. 2007, 'The Legal Challenges Facing Online Dispute Resolution: An Overview' Available at http://www.galexia.com/public/research/articles/research_articles-art42.html Access date: 8th June, 2021

³⁰ Bernard M. Nyaga, (2021), "Crypto Rising Interest in Kenya: Arbitration Cutting the Mustard in Smart Contracts," in the YMG ADR Bulletin October 2021 Issue Vol No. 14 available at: www.ciarbkenya.org/ymg Access date: 5th May 2022

faster than a typical trial or any other method of ADR which may require the parties to travel to make a physical appearance.³¹

b. Affordable

Resolving disputes in the cyberspace through ODR is less costly and affordable. In ODR, for instance, one doesn't have to incur costs associated to hiring a legal practitioner.³² Travel and space hiring costs are also eliminated by ODR as the platform for dispute resolution is the internet.

c. Accessibility

ODR platforms provide a guarantee that they are accessible to the parties. Most ODR providers are available round the clock: twenty fours a day and seven days a week.³³ Thus, disputants in ODR are not tied down to delays associated with the resolution of the dispute.³⁴ Similarly, the parties are afforded a chance to select their neutral aid parties availed on an ODR website for the purposes of an online mediation or arbitration.

d. Speed

It is also enables the resolution of a dispute in a timely, speedy and expeditious manner. The process can be completed after a few days as opposed to litigation which may take months to decide on various cases.³⁵

³¹ Pappas B.A, (2008), 'Online Court: Online Dispute Resolution and The Future of Small Claims.' *UCLA Journal of Law and Technology* Volume 12, issue 2. p.6 Available at www.lawtechjournal.com Access date: 8th June, 2021

³² Hang L.Q., 2001, *Online Dispute Resolution Systems: The Future of Cyberspace Law*; *Santa Clara law Review*, vol. 41: No.31 Article 4, p.855. Available at <http://digitalcommons.law.scu.edu/lawreiv/wol41/iss3/4> Access date: 8th June, 2021

³³ Nwandem Osinachi Victor L., *Supra* note 19

³⁴ Hang L.Q. (2001), 'Online Dispute Resolution Systems: The Future of Cyberspace Law'; *Santa Clara law Review*, vol. 41: No.31 Article 4, p.354-355. Available at <http://digitalcommons.law.scu.edu/lawreiv/wol41/iss3/4> Access date: 8th June, 2021

³⁵ *Internet-ARBitration: "Benefits of Online Arbitration"*. Available on www.netarb.com/arbitration_articles/article.php Access date: 8th June, 2021

e. Maximizes Benefit

ODR is credited for encouraging International trade since the internet has bypassed the challenges of time zone restrictions, language barrier and tedious physical meetings in the traditional ADR.³⁶

III. The Case Against Online Dispute Resolution

As alluded to earlier, its benefits outweigh its shortcomings for the reasons occurrence require reform to give Online Dispute Resolution the much needed breathe. Its full operationalization is hindered by the lack of a robust legislative framework and insufficient funds. Activity during ODR processes are limited by coaching of witnesses hence of lack of credibility, inaccessibility of online technologies, associated expenses, compliance with the final outcome and unpredictability.³⁷

Despite ODR being convenient, flexible, accessible, expeditious and encouraging International trade, it lacks face-to-face contact.³⁸ ODR websites are said to be impersonal as they only provide for virtual settlement of disputes which prevents the use of non-verbal communication.³⁹ The use of technology eliminates the advantage of physical contact in ADR where ‘parties to vent their feelings in a more formal setting and are able to directly relate to the grievance sought and the loss suffered.’⁴⁰ The lack of face-to-face contact does not establish trust and confidence in the parties of the online dispute procedure.⁴¹

³⁶ Ibid

³⁷ Ibid

³⁸ Hang L.Q. (2001), *Supra* note, at pg. 857

³⁹ Joseph W Goodman, ‘The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites’ (2003) 2 *Duke Law & Technology Review* 1

⁴⁰ Katsh, E., (2000), ‘The new Frontier: Online ADR becoming a global priority,’ *Dispute Resolution Magazine*, p.8 available at www.umass.edu/cyber/katsh_aba.pdf Access date: 8th June, 2021

⁴¹ Hornle, J., 2002, ODR in Business to Consumer e-commerce Transactions. *Journal of information Law and Technology*, No.2. p.31 Available at <http://www2.warwick.ac.uk/fac/soc/law/elj/> Access date: 8th June, 2021

However, the use of video conferencing in ODR has been used to mitigate this shortcoming. It facilitates verbal and non-verbal communication and, ensures that parties are satisfied with the settlement offered. This however required online dispute resolution experts to adopt communication skills in a screen to screen interaction scenario.⁴²

ODR may be mired by ethical malpractices in technology such as hacking of ODR websites affecting the confidentiality of its processes.⁴³ ODR, being an ADR mechanism, must protect the confidentiality of its processes to encourage the parties to speak freely without being intimidated.⁴⁴ One way in which ODR can guarantee confidentiality to the parties is by using digital signatures to enhance trust and confidence in the authenticity its processes.⁴⁵ Data Protection Act.

Lack of security of the information provided by the parties has far-reaching effects to the confidentiality of an ODR process and consumer reluctance to the method. Another method is enacting laws prohibiting and criminalizing hacking such as the US Digital Millennium Copyright Act of 1998. Electronic file management can also be used as an alternative to emails in processing and storing documents pertaining to a case in a systematic order electronically.⁴⁶

IV. Structuring Online Dispute Resolution in E-Commerce

It is classified into Synchronous and Asynchronous modes of Online Dispute Resolution.⁴⁷ Synchronous ODR involves online communication through chat messaging, video or audio conferencing while Asynchronous ODR is the communication that may take place remotely through email or text.⁴⁸

⁴² Manevy I, 2001, Online dispute resolution: What future? P.8. Available at <http://ithoumyre.chez.com/uni/mem/17/odr01pdf>. Access date: 8th June, 2021

⁴³ Daniel Rainey, 'Third-Party Ethics in the Age of the Fourth Party' (2014) 1 International Journal of Online Dispute Resolution 37

⁴⁴ Katsh E., (1995) Dispute Resolution in Cyberspace, 28 CONN. L. REV. p. 971

⁴⁵ Nwandem Osinachi Victor L., Supra note 13 at Pg. 12

⁴⁶ Hornle J. (2002), Supra Note 25, pg. 4

⁴⁷ Richard M. Victorio, "Internet Dispute Resolution (IDR): Bringing ADR into the 21st Century," (2001) pg. 289

⁴⁸ Ibid, 289

Actually among the first cases of ODR in the United States was the online mediation procedures conducted via e-mail and a settlement reached.⁴⁹ By the end of the 20th Century, United States had established various systems of ODR including eBay, SquareTrade and CyberSettle.⁵⁰

As demonstrated, communication is an essential feature of Online Dispute Resolution. For a dispute to be resolved, parties must be willing. Secondly, they must sort out their issues through outright exchange of information about the present dispute to create a way forward. ODR plays many roles in the resolution of disputes in the cyberspace. It is mainly used in disputes arising from electronic commerce, offline cross-border transactions and domain names.⁵¹ Cross-border transactions however face jurisdictional challenges and low internet connectivity.⁵² ODR can also be extended to cover family disputes through online mediation.⁵³

Integration of Online Dispute Resolution in E-Commerce

Online Dispute Resolution is a form of alternative dispute resolution which is best suited for e-commerce and related claims. E-commerce, unlike brick & mortar business transactions is efficient, accessible, saves time, convenient and cost-saving.⁵⁴ The application of technology has enabled commercial transactions in the cyber space. And since disputes are inevitable

⁴⁹ Katsh E. & Rifkin J. (2001), “Online Dispute Resolution: Resolving Conflicts in the Cyberspace,” Hoboken: Wiley

⁵⁰ Lodder A. R. & Zeleznikow J. (2010), “Enhanced Dispute Resolution through use of Information technology

⁵¹ Feliksas Petrauskas and Eglė Kybartienė, ‘Online Dispute Resolution in Consumer Disputes’ (2011) 18 *Jurisprudence* 921, 922

⁵² Lee A Bygrave, ‘Online Dispute Resolution – What It Means for Consumers’, Domain Name Systems and Internet Governance (Baker & McKenzie Cyberspace Law and Policy Centre and the Continuing Legal Education programme of University of NSW 2002) 1

⁵³ Tania Sourdin and Chinthaka Liyanage, ‘The Promise and Reality of Online Dispute Resolution in Australia’ in Mohamed Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), *Online Dispute Resolution Theory and Practice* (Eleven International Publishing 2013) 494

⁵⁴ Kariuki, *Supra* note 2 at 2

in any commercial transaction, e-commerce may lead to e-disputes which are best resolved through Online Dispute Resolution.⁵⁵

It concerns itself with the resolution of low-value Business-to-Consumer (B2C) e-commerce disputes. The nature of B2C and C2C e-commerce disputes allows the use of ODR as they consist low value straightforward claims.⁵⁶ They may arise owing to the volume in which electronic commerce is conducted and geographical indifference between the supplier and the consumer.⁵⁷ In 2010, ODR through the use of technology in the eBay/Paypal procedure resolved over 60 million E-Commerce disputes without human intervention.⁵⁸

ODR developed as part of e-commerce.⁵⁹ It is the most convenient form of dispute resolution in E-commerce transactions. There are various E-commerce platforms through which an online business transaction may be conducted, they may include Business-to-Consumer (B2C), Business-to-Business (B2B), Consumer-to-Business (C2B), Consumer-to-Consumer (C2C) and Government-to-Citizen (G2C) e-commerce transactions.⁶⁰ On the one hand, B2C and B2B e-commerce models involve electronic commercial

⁵⁵Thompson D. 2014, "The Growth of Online Dispute Resolution of and the Use in British Columbia," available at: <https://www.cle.bc.ca/PracticePoints/Lit/14-GrowthODR.pdf> Accessed 22/05/2021

⁵⁶ Louis F Del Duca, Colin Rule and Brian Cressman, 'Lessons and Best Practices for Designers of Fast Track, Low Value, High Volume Global E-Commerce ODR Systems' (2015) 4 Penn State Journal of Law & International Affairs 242

⁵⁷ Julia Salasky, 'Jurisdiction, Sovereignty, and the Creation of a Global System for Online Dispute Resolution' (2015) 1 The Journal of Technology and International Arbitration 3 – 34

⁵⁸Nancy H Rogers et al, *Designing Systems and Processes for Managing Disputes* (New York: Aspen Publishers, 2013) at 24

⁵⁹ Kananke Chinthaka Liyanage, 'The Regulation of Online Dispute Resolution: Effectiveness of Online Consumer Protection Guidelines' (2012) 17 Deakin Law Review 251

⁶⁰Rania Nemat, 'Taking a Look at Different Types of E-Commerce' (2011) 1 World Applied Programming 100, 100 – 103; Parag Shiralkar, 'Digital Signature: Application Development Trends In E-Business' (2003) 4 Journal of Electronic Commerce Research 94

transactions where a business transfers a good or service to the consumer and E-Commerce transactions between two businesses respectively.

ODR is the most convenient form of dispute resolution in E-Commerce transactions provided that the disputing parties have access to internet and telecommunication. It is considered an online extension of the Alternative Dispute Resolution (ADR) mechanisms.⁶¹

Domain names

Online Dispute Resolution provides the platform in which cross-border domain name and Intellectual Property disputes are amicably settled and binding upon the parties.⁶² A complainant to the applicable provider is required to prove that his/her/its domain name is identical to a trademark that the respondent has asserted rights, that he/she has no rights in respect of the domain name and has been registered and is being used in bad faith.⁶³

In the ODR Case of *UEFA v Funzi Furniture*, the complainant had filed a claim against the respondent for registering the 'www.championsleague.com' domain name before an administrative panel of the World Intellectual Property Organization (WIPO) Arbitration and Mediation Centre.⁶⁴ It was held that the respondent had no rights or legitimate interest in the domain name.⁶⁵

There are various systems of Online Dispute Resolution which have been established to foster resolution of e-disputes that may arise due to allocation of domain names. The systems may include the Internet Corporation for

⁶¹ Kallel S, 'Online Arbitration', 25 *Journal of International Arbitration* (2008), 345

⁶² Aashit Shah, 'Using ADR to Resolve Online Disputes' (2004) 10 *Richmond Journal of Law and Technology* <https://jolt.richmond.edu/v1013/article25.pdf> accessed 17 November 2015

⁶³ The ICANN Uniform Dispute Resolution Policy, Rule 4

⁶⁴ *Union des Associations Europeennes de Football (UEFA) v Funzi Furniture* [2000] WIPO Arbitration and Mediation Center WIPO Domain Name Decision: D2000-0710.

⁶⁵ *Ibid*

Assigned names and Numbers Application (ICANN)⁶⁶ for the resolution of disputes arising from domain names through the ICANN Domain Name Dispute Resolution Policy (UDRP).⁶⁷

V. Legal Framework of Online Dispute Resolution in Kenya

This part of this paper evaluates the legal framework of ODR in Kenya while contrasting it with the United Kingdom and the United States. Kenya lacks a stable legal framework on Online Dispute Resolution (ODR).⁶⁸ The absence of a clear and definite legal framework has hindered the development and reduced the consumer confidence of B2C e-commerce in Kenya.⁶⁹ The regulation of ODR will not only facilitate the efficiency of E-Commerce⁷⁰ but also increasing consumer confidence⁷¹ in online commercial transactions.

Importance of Regulation of ODR

ODR is not expressly regulated by Regional and International instruments.⁷² It is largely regulated by soft law through guidelines and recommendations due to the lack of adequate provisions in hard law.⁷³ In 2010, the United

⁶⁶ Internet Corporation for Assigned Names and Numbers (ICANN) available online: <https://www.icann.org/>

⁶⁷ ICANN, Uniform Domain Name Dispute Resolution Policy (1999) available online at <https://www.icann.org/resources/pages/policy-2012-02-25-en>

⁶⁸ Sodiq O Omoola and Umar A. Oseni, 'Towards an Effective Legal Framework for Online Dispute Resolution in E-Commerce Transactions: Trends, Traditions, and Transitions' (2016) 24 International Islamic University of Malaysia Law Journal 274

⁶⁹ Fahimeh Abedi and John Zeleznikow, 'The Provision of Trustworthy Online Dispute Resolution for Business to Consumer Electronic Disputes', Proceedings of 7th Asia-Pacific Business Research Conference (2014)

⁷⁰ Felix Steffek and others, 'Guide for Regulating Dispute Resolution (GRDR): Principles and Comments' in Felix Steffek and others (eds), *Regulating Dispute Resolution – ADR and Access to Justice at the Crossroads* (Hart Publishing 2013) 18

⁷¹ Karolina Mania, 'Online Dispute Resolution: The Future of Justice' (2015) 1 International Comparative Jurisprudence 76, 85.

⁷² Lee A Bygrave, 'Online Dispute Resolution – What It Means for Consumers', Domain Name Systems and Internet Governance (Baker & McKenzie Cyberspace Law and Policy Centre and the Continuing Legal Education programme of University of NSW 2002) 1

⁷³ Ibid

Nations Commission on International Trade Law (UNCITRAL) established ‘Working Group III’ which developed rules for the regulation of Cross-border ODR disputes and in 2016 adopted the ‘Technical Notes on Online Dispute Resolution of the United Nations Commission on International Trade Law.’⁷⁴

The need for regulation is also supported by the advances made in technology and internet connectivity. Developed countries such as United Kingdom and the United States have developed systems that enable high quality internet connectivity as compared to developing countries such as Kenya.⁷⁵ The use of high speed internet networks in these countries has been accelerated by high disposable income hence increase in E-Commerce activities.⁷⁶ The level of internet use in Kenya has been progressive but remains relatively low. However, the rise of B2C E-Commerce disputes require a stable legal framework for ODR to operate.

Laws concerning the use of ODR in Kenya

1. The Constitution of Kenya, 2010

Disputes arising from B2C Commerce can be resolved either through litigation under the Civil Procedure Act and Civil Procedure Rules or the use of Alternative Dispute Resolution (ADR).⁷⁷ The Constitution of Kenya, under Article 159, states that courts in the exercise of judicial authority shall promote the alternative forms of dispute resolution including, Reconciliation, Mediation, Arbitration and Traditional Dispute Resolution mechanisms.⁷⁸ Though ODR is not expressly provided for as an alternative

⁷⁴ NCTDR, available at: <http://odr.info/uncitral-cross-border-odr/> accessed on 25th May, 2021

⁷⁵ Angela Kaguara and Maureen Wanjiru, ‘Digital Divide: The Glaring Reality’ (University of Nairobi 2009) 7,8

⁷⁶ Luis Enriquez and others, ‘Creating the Next Wave of Economic Growth with Inclusive Internet’ (World Economic Forum 2015)

⁷⁷ Feliksas Petrauskas and Eglė Kybartienė, ‘Online Dispute Resolution in Consumer Disputes’ (2011) 18 *Jurisprudence* 921, 922

⁷⁸ Article 159 (2) (c), Constitution of Kenya, 2010

form of dispute, it can be inferred as is considered an online extension of ADR Mechanisms.⁷⁹

2. The Consumer Protection Act

However, the use of Alternative Dispute Resolution in e-commerce disputes may be limited. Section 88 of the Consumer Act affects the operation of ODR and to a large extent, Alternative forms of dispute resolution. It states that, ‘Any term or acknowledgment in a consumer agreement or a related agreement that requires or has the effect of requiring that disputes arising out of the consumer agreement be submitted to arbitration is invalid insofar as it prevents a consumer from exercising a right to commence an action in the High Court given under this Act.’⁸⁰ This provision limits the operation of ADR in e-commerce disputes since it allows a consumer to abandon an arbitral clause and commence an action in the High Court.

3. Kenya Information and Communication Act

It entitles a consumer vide the Kenya Information and Communication (Dispute Resolution) Regulations to file a complaint against a telecommunications provider in a B2C E-Commerce with the Communications authority of Kenya.⁸¹

Regulation of ODR in the United Kingdom

The United Kingdom provides for the regulation of Online Dispute Resolution. It has express provisions on ODR that promote consumer protection, enhance the efficiency of e-commerce and improve consumer confidence.⁸²

UK has fully embraced the use of ODR through its court system an alternative to resolving disputes through the internet. Lord Justice Briggs, for instance, enumerated the need for the establishment and regulation of

⁷⁹ Supra note 14

⁸⁰ Section 88 (1) of the Consumer Protection Act, 2012

⁸¹ Kenya Information and Communication Act 2019

⁸² Jacob K Gakeri, ‘Placing Kenya on the Global Platform: An Evaluation of the Legal Framework on Arbitration and ADR’ (2011) 1 International Journal of Humanities and Social Science 227 accessed 28 September 2016

ODR in the UK Judiciary due to ‘the presence of efficiency, lowered costs and ease of access to public.’⁸³ He further propounded that it should be limited to monetary claims.⁸⁴

It has adopted the Alternative Dispute Resolution for Consumer Disputes (Amendment) Regulations 2015 of the European Union (EU). The regulation states that ODR is a simple, efficient, affordable and out of court resolution for disputes arising from online transactions.⁸⁵ The regulation on Consumer ODR also alludes to the fact that there is lack of mechanisms that facilitate resolution of such disputes to the ‘customer detriment, acts as a barrier, in particular, to cross-border online transactions, and creates an uneven playing field for traders, and thus hampers the overall development of online commerce.’

The Regulation on Consumer ODR provides for the establishment of an ODR Platform where B2C e-commerce disputes are solved by linking suppliers, consumers and ODR Practitioners.⁸⁶ According to article 5 of the regulation, the EU ODR Platform is a user-friendly website where one may lodge a dispute before an Alternative Dispute Resolution agency. Article 7 requires the UK to provide a contact point of the ODR Platform to assist with lodging of complaints.

Regulation of ODR in the United States

The legal framework of ODR in the United States (US) supports market regulation. In the US there are no express statutory provisions that regulate the operation of ODR in e-commerce disputes. However, it allows the use of arbitration in B2C disputes.⁸⁷ ODR systems in the US lack an elaborate

⁸³ Briggs, L. J. (2016). Civil Courts Structure Review: Final Report. Judiciary of England and Wales, 44

⁸⁴ Ibid

⁸⁵ Section 8 Regulation (EU) No 524/2013 of the Regulation on ODR.

European Parliament and of the Council of 21 May 2013 on online dispute resolution for consumer disputes and amending Regulation (EC) No 2006/2004 and Directive 2009/22/EC 2013 s 8.

⁸⁶ Regulation on Consumer ODR art. 1, 2

⁸⁷ The USA Federation Arbitration Act of the 1970

regulation as they developed without any specific provision of law and therefore should be left exclusively to the private sector.⁸⁸

VI. Implementing Online Dispute Resolution In Kenya

Online trade is gaining momentum in Kenya. Take, for instance, the case with garment industry in Kenya where most firms are adopting electronic systems which support B2B e-commerce.⁸⁹ On its part, the banking industry is integrating online systems in mobile banking for B2B e-commerce in Kenya such as M-KESHO by the Equity Bank of Kenya.⁹⁰ Disputes arising in the course of such e-commerce transactions necessitate the use of Online Dispute Resolution (ODR) as it is suited for internet based disputes.

There have been progressive efforts towards the implementation of ODR in Kenya. For example the Kenya Network Information Centre (KeNIC) Alternative Domain Name Dispute Resolution Policy which recognizes online mediation and online arbitration for the resolution of Domain name disputes.⁹¹

Similarly, there is an ongoing discussion, which has been influenced by the approaches taken in other countries as documented in Part III above, on whether to recognize ODR in the legal framework. Proponents of ODR argue that it should be adopted into the legal framework owing to its use in B2C E-commerce disputes in Kenya.⁹² On the flip side, there are suggestions to

⁸⁸ Esther van den Heuvel, 'Online Dispute Resolution as a Solution to Cross-Border E-Disputes' 21, 22

⁸⁹ Mary Njeri Kinyanjui and Dorothy McCormick, 'E-Commerce in the Garment Industry in Kenya: Usage, Obstacles and Policies' (London School of Economics and Political Science and Institute of Development Studies 2002) 24

⁹⁰ Jeremmy Odhiambo Okonjo, 'Convergence Between Mobile Telecommunications and Financial Services: Implications for Regulation of Mobile Telecommunications in Kenya' (LLM Thesis, University of Nairobi 2013) 19

⁹¹ Section 7 (3) & 40 (2) of the KeNIC Alternative Domain Name Dispute Resolution Policy

⁹² Wanja E Mugo, 'The Implementation of Online Dispute Resolution to Resolve E-Commerce Consumer Dispute in Kenya' (LLB Dissertation, University of Nairobi 2014)

amend the Arbitration Act to include online arbitration.⁹³ However, critics have contended that there is no need for its incorporation into the legal framework because ODR has not been fully appreciated in Kenya and, that an ODR regulation hampers innovation and growth of technology.⁹⁴

The following consists of other ways of implementing ODR in Kenya;

1. Since ODR is largely dependent on Internet Connectivity, measures should be set up to ensure widespread use of ODR by installing affordable and efficient internet connection in Kenyan households to maximize the potential of B2C E-commerce and the disputes that arise thereof.
2. Enacting a legislation on ODR to promote E-Commerce and establishing bodies which will promote adherence to the legislation.
3. Including ODR into the education curriculum of various courses related with IT, Commerce and Law in the higher learning institutions.
4. Creating awareness on ODR and its procedures in dispute resolution.
5. Establishing ODR Platforms by various state agencies such as the Kenya Revenue Authority for tax disputes and the private sector.
6. Providing adequate education to neutrals (online mediators and arbitrators) on the use of ODR websites to ensure the application of ADR mechanisms online.

Conclusion

Businesses, consumers and the government in e-commerce transactions ought to promote Online Dispute Resolution through the state and non-state agencies. Businesses should encourage Consumers to use ODR as its providers embark on creating awareness on the method of dispute resolution in e-commerce and other internet websites. A stable legal framework on

⁹³ Isolina Kawira Kinyua, 'Online Arbitration: The Scope for Its Development in Kenya' (LLM Thesis, University of Nairobi 2012) 113

⁹⁴ Joe Harpaz, 'How Regulation Stifles Technological Innovation' (Daily Reckoning, 6 May 2014) available at: <https://dailyregulation.com/how-regulation-stifles-innovation/> accessed 9th June, 2021

ODR will not only contribute to the development of e-commerce but also encourage consumer confidence in it.

References

Bibliography

Aashit Shah (2004), 'Using ADR to Resolve Online Disputes' 10 Richmond Journal of Law and Technology available at: <https://jolt.richmond.edu/vl013/article25.pdf> accessed 22 May, 2021

Alexandra Akinyi Ochieng & Bernard M. Nyaga, "*Facilitating Access to Justice through Online Dispute Resolution in Kenya*," (2022) 10 (1) Alternative Dispute Resolution (ISBN 978-9966-046-14-7), the Chartered Institute of Arbitrators-Kenya Journal pg. 110-131

Alex Assenga Githara, "Embracing Technology – Powered Alternative Dispute Resolution (ADR) in a Post Pandemic Africa: A Catalyst for Change in the E-commerce, Trade and Justice sectors," (2021) 9 (4) Alternative Dispute Resolution (ISBN 978-9966-046-14-7), the Chartered Institute of Arbitrators-Kenya Journal pg. 189

Angela Kaguara and Maureen Wanjiru, 'Digital Divide: The Glaring Reality' (University of Nairobi 2009) 7,8

Arbitration Act, No. 4 of 1995

Arun R. 2007, 'The Legal Challenges Facing Online Dispute Resolution: An Overview' Available at http://www.galexia.com/public/research/articles/research_articles-art42.html Access date: 8th June, 2021

Bernard M. Nyaga (2021), "*Crypto Rising Interest in Kenya: Arbitration Cutting the Mustard in Smart Contracts*," in the YMG ADR Bulletin October 2021 Issue Vol No. 14 available at: www.ciarbkenya.org/ymg

Bernard Nyaga, "Succession rows can overwhelm our courts," The Standard, 5 January 2021
<[https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.s](https://www.google.com/url?sa=t&source=web&rct=j&url=https://www.standardmedia.co.ke/amp/opinion/article/2001399146/succession-rows-can-)

overwhelm-our-

courts&ved=2ahUKEwissrmEi8PuAhWJUBUIHU52DRQQFjAAegQIAx
AC&usg=AOvVaw16tN4jXd4oo7KvHI3z8K9Y> Access date: 5th May
2022

Bernard Nyaga “Total Lockdown sure way out of Covid-19 threat” The
Standard, 30 May 2020

Briggs, L. J. (2016), ‘Civil Courts Structure Review: Final Report.’ Judiciary
of England and Wales, 44

Constitution of Kenya, 2010

Consumer Protection Act, 2012

Daniel Rainey, ‘Third-Party Ethics in the Age of the Fourth Party’ (2014) 1
International Journal of Online Dispute Resolution 37

Esther van den Heuvel, ‘Online Dispute Resolution as a Solution to Cross-
Border E-Disputes’ 21, 22

Ethan Katsh, ‘Online Dispute Resolution: Some Implications for the
Emergence of Law in Cyberspace’ (2006) 10 *Lex Electronica*

EU Regulation on ODR, 2013

Fahimeh Abedi and John Zeleznikow, ‘The Provision of Trustworthy Online
Dispute Resolution for Business to Consumer Electronic Disputes’,
Proceedings of 7th Asia-Pacific Business Research Conference (2014)

Feliksas Petrauskas and Eglė Kybartienė, ‘Online Dispute Resolution in
Consumer Disputes’ (2011) 18 *Jurisprudence* 921, 922

Felix Steffek and others, ‘Guide for Regulating Dispute Resolution (GRDR):
Principles and Comments’ in Felix Steffek and others (eds), *Regulating
Dispute Resolution – ADR and Access to Justice at the Crossroads* (Hart
Publishing 2013) 18

Graff-Peter G, 2003, 'Online Dispute Resolution: Consumer Redress in Global Market place.' Vol 7 No.8 German Law Journal 647 at p. 651

Hang L.Q. (2001), 'Online Dispute Resolution Systems: The Future of Cyberspace Law'; Santa Clara law Review, vol. 41: No.31 Article 4, p.354-355, 855, 857. Available at <http://digitalcommons.law.scu.edu/lawreview/vol41/iss3/4> Access date: 8th June, 2021

Hornle, J. (2002) 'ODR in Business to Consumer e-commerce Transactions.' Journal of information Law and Technology, No.2. p.31 Available at <http://www2.warwick.ac.uk/fac/soc/law/elj/> Access date: 8th June, 2021

ICANN Uniform Dispute Resolution Policy

ICANN (1999), Uniform Domain Name Dispute Resolution Policy available at: <https://www.icann.org/resources/pages/policy-2012-02-25-en> Access date: 4th June, 2021

Internet Corporation for Assigned Names and Numbers (ICANN) available at: <https://www.icann.org/>

Isolina Kawira Kinyua, 'Online Arbitration: The Scope for Its Development in Kenya' (LLM Thesis, University of Nairobi 2012) 113

Internet-ARBitration: "Benefits of Online Arbitration". Available on www.netarb.com/arbitration_articles/article.php Access date: 8th June, 2021

Jacob K Gakeri, 'Placing Kenya on the Global Platform: An Evaluation of the Legal Framework on Arbitration and ADR' (2011) 1 International Journal of Humanities and Social Science 227 accessed 28 September 2016
Jeremy Odhiambo Okonjo, 'Convergence Between Mobile Telecommunications and Financial Services: Implications for Regulation of Mobile Telecommunications in Kenya' (LLM Thesis, University of Nairobi 2013) 19

Joe Harpaz, 'How Regulation Stifles Technological Innovation' (Daily Reckoning, 6 May 2014) available at: <https://dailyregulation.com/how-regulation-stifles-innovation/> accessed 9th June, 2021

Joseph W Goodman, 'The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation Websites' (2003) 2 Duke Law & Technology Review 1

Judiciary of Kenya, "Alternative Justice Systems Policy Framework," (Judiciary 2020),

Julia Salasky, 'Jurisdiction, Sovereignty, and the Creation of a Global System for Online Dispute Resolution' (2015) 1 The Journal of Technology and International Arbitration 3 – 34

K. Muigua, "Making Mediation Work for All: Understanding the Mediation Process," (kmco.co.ke) available at:
<http://kmco.co.ke/wp-content/uploads/2018/08/Making-Mediation-Work-for-all-Understanding-the-Mediation-Process-August-2018-1.pdf> Access date: 5th May 2022

K. Muigua, "Traditional Dispute Resolution Mechanisms under Article 159 of the Constitution of Kenya 2010," p.6

Kalle S, 'Online Arbitration', 25 Journal of International Arbitration (2008), 345

Kananke Chinthaka Liyanage, 'The Regulation of Online Dispute Resolution: Effectiveness of Online Consumer Protection Guidelines' (2012) 17 Deakin Law Review 251

Karolina Mania, 'Online Dispute Resolution: The Future of Justice' (2015) 1 International Comparative Jurisprudence 76, 85.

Katsh, E., (2000), 'The new Frontier: Online ADR becoming a global priority,' Dispute Resolution Magazine, p.8 available at www.umass.edu/cyber/katsh_aba.pdf Access date: 8th June, 2021

KeNIC Alternative Domain Name Dispute Resolution Policy

Lee A Bygrave, 'Online Dispute Resolution – What It Means for Consumers', Domain Name Systems and Internet Governance (Baker & McKenzie Cyberspace Law and Policy Centre and the Continuing Legal Education programme of University of NSW 2002) 1

Louis F Del Duca, Colin Rule and Brian Cressman, 'Lessons and Best Practices for Designers of Fast Track, Low Value, High Volume Global E-Commerce ODR Systems' (2015) 4 Penn State Journal of Law & International Affairs 242

Luis Enriquez and others, 'Creating the Next Wave of Economic Growth with Inclusive Internet' (World Economic Forum 2015)

Manevy I, 2001, Online dispute resolution: What future? P.8. Available at <http://ithoumyre.chez.com/uni/mem/17/odr01pdf>. Access date: 8th June, 2021

Mary Njeri Kinyanjui and Dorothy McCormick, 'E-Commerce in the Garment Industry in Kenya: Usage, Obstacles and Policies' (London School of Economics and Political Science and Institute of Development Studies 2002) 24

Maxime Hanriot, "Online Dispute Resolution (ODR) As a solution to Cross-Border Disputes: The Enforcement of Outcomes," (2015-2016) Vol 2,1 McGill Journal of Dispute Resolution

Nancy H Rogers et al, 'Designing Systems and Processes for Managing Disputes' (New York: Aspen Publishers, 2013) at 24

Naomi Creutzfeldt, “The Origins and Evolution of Consumer Dispute Resolution Systems in Europe” in Christopher Hodges & Adeline Stadler, eds, *Resolving Mass Disputes: ADR and Settlement of Mass Claims* (Cheltham: Edward Elgar, 2013) 223 at 235

NCTDR, available at: <http://odr.info/uncitral-cross-border-odr/> accessed on 25th May, 2021

Nwandem Osinachi Victor L. , ‘Online Dispute Resolution: Scope and Matters arising’ available at: [https://www.ssrn-id2592926\(1\).pdf](https://www.ssrn-id2592926(1).pdf) Access date: 8th June 2021

Orna Rabinovich-Einy and Ethan Katsh, ‘Digital Justice: Reshaping Boundaries in an Online Dispute Resolution Environment’ (2014) 1 *International Journal of Online Dispute Resolution* 5

Pablo Cortès, ‘Online Dispute Resolution for Consumers in the European Union’ (New York: Routledge, 2010) at 10

Pappas B.A, (2008), ‘Online Court: Online Dispute Resolution and The Future of Small Claims.’ *UCLA Journal of Law and Technology* Volume 12, issue 2. p.6 Available at www.lawtechjournal.com Access date: 8th June, 2021

Peel, E. and Treitel, G., (2015), “The Law of Contract,” 14th ed. London: Sweet & Maxwell/Thomson Reuters, para 1-1001

Price Waterhouse Coopers (PWC) Report, *Disrupting Africa: Riding the Wave of the Digital Revolution* available at: <https://www.pwc.com/gx/en/issues/high-growth-markets/assets/disruptingafrica-riding-the-wave-of-thedigital-revolution.pdf> accessed on 22 May 2021

Rafal M. (2005), *Regulation of Online Dispute Resolution: Between Law and Technology.* Available at:

http://www.odr.info/cyberweek/Regulation%20of%20ODR_Rafal%20Morok.doc Access date: 5th June, 2021

Rania Nemat, 'Taking a Look at Different Types of E-Commerce' (2011) 1 World Applied Programming 100, 100 – 103; Parag Shiralkar, 'Digital Signature: Application Development Trends In E-Business' (2003) 4 Journal of Electronic Commerce Research 94

Sara Parker, 'Online Dispute Resolution (ODR) and New Immigrants: A Scoping Review' (British Columbia Ministry of Labour, Citizens' Services and Open Government 2010) 7

Sascha Ossowski (ed), 'Agreement Technologies, Law Governance and Technology Series,' vol 8 (Springer 2013)

Sodiq O Omoola and Umar A. Oseni, 'Towards an Effective Legal Framework for Online Dispute Resolution in E-Commerce Transactions: Trends, Traditions, and Transitions' (2016) 24 International Islamic University of Malaysia Law Journal 274

Tania Sourdin and Chinthaka Liyanage, 'The Promise and Reality of Online Dispute Resolution in Australia' in Mohamed Abdel Wahab, Ethan Katsh and Daniel Rainey (eds), *Online Dispute Resolution Theory and Practice* (Eleven International Publishing 2013) 494

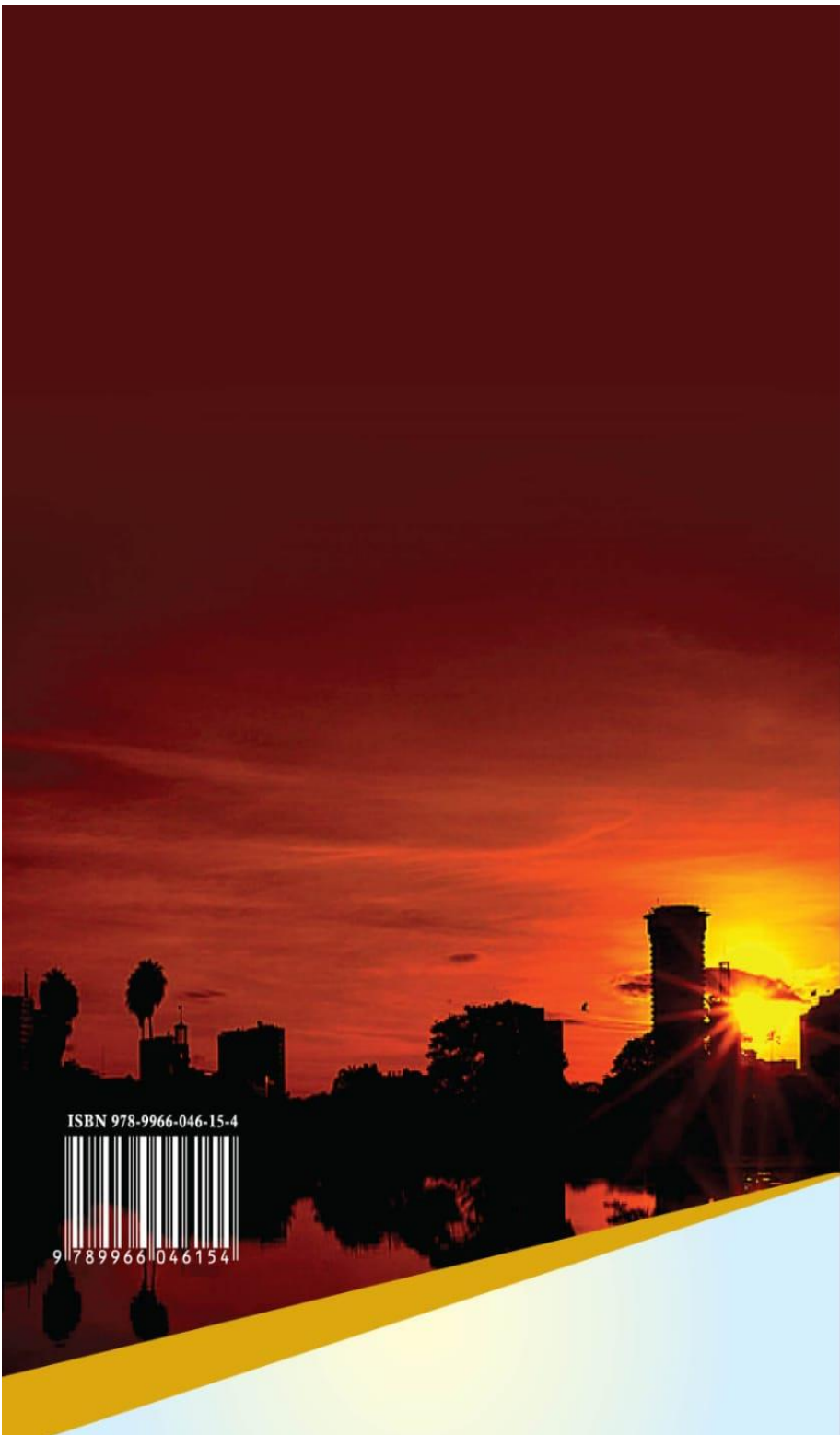
Thompson D. 2014, "The Growth of Online Dispute Resolution of and the Use in British Columbia," available at: <https://www.cle.bc.ca/PracticePoints/Lit/14-GrowthODR.pdf> Accessed 22/05/2021

Van den Heuvel E. 'Online Dispute Resolution as a Solution to Cross-border E-disputes: An Introduction to ODR' (2002) Available at <http://www.oecd.org/dataoecd/63/57/1878940.pdf> access date 8th June, 2021

Union des Associations Europeennes de Football (UEFA) v Funzi Furniture
[2000] WIPO Arbitration and Mediation Center WIPO Domain Name
Decision: D2000-0710.

USA Federation Arbitration Act of the 1970

Wanja E Mugo, 'The Implementation of Online Dispute Resolution to
Resolve E-Commerce Consumer Dispute in Kenya' (LLB Dissertation,
University of Nairobi 2014)



ISBN 978-9966-046-15-4



9 789966 046154