

The Sedona Conference
Commentary on Patent Litigation Best Practices:
Mediation Chapter
(April 2017 Edition)

The Sedona Conference Commentary on Patent Litigation Best Practices: Mediation Chapter provides Principles and Best Practice recommendations for the effective use of mediation for resolving disputed issues in patent litigation, covering topics such as: the timing of making a decision to mediate; the process of selecting a mediator; the task of preparing for a mediation; the unique issues of confidentiality in patent mediations, and the conduct of the mediation session itself. The *Chapter* was published for public comment in April 2016, and then published in final / “post-public comment” form in April 2017.

The drafting team approached this task from the perspective of a litigant involved in a patent litigation matter where the parties are willing to participate in a mediation. As parties’ and counsel’s patent mediation experiences improve, it is anticipated that they will seek out mediation with greater frequency, which will lead to a greater number of patent infringement cases being settled earlier and more economically for the greater benefit of the parties and the judiciary.

The Principles that guided the development of many of the Best Practice recommendations of this *Chapter* focus on the use of mediation to efficiently resolve patent disputes in whole or in part, consistent with the overall goals of the patent system and the judicial process.

This *Chapter* presents three practical Principles of Patent Mediation:

- Principle 1** Mediation is designed to benefit the parties to a patent dispute by providing an opportunity for a mutually acceptable resolution of their claims in whole or in part.
- Principle 2** When used in connection with pending patent litigation, mediation should be administered to promote the just, speedy, and cost-effective resolution of the case.
- Principle 3** Consistent with the first two principles, mediation of patent cases should promote the overall goals of the patent system and the judicial process.

The full text of *The Sedona Conference Commentary on Patent Litigation Best Practices: Mediation Chapter*, April 2017 Edition, is available free for individual download from The Sedona Conference website at

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