

# Jurisdiction and Enforcement of E-Commerce Contracts

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## *Abstract*

The two legal questions that form the bedrock of every dispute are, which law applies and which court has the jurisdiction to hear the case. Even if these questions are resolved, a dispute outside Indian territory may not be subject to the same enforcement regime prevalent in India. Decisions of foreign courts are difficult to enforce rendering the entire process of dispute resolution ineffective. It is for these reasons that this article assumes relevance in light of the growing ecommerce business in India with foreign companies such as Amazon not only setting up operations in India but also directly entering into contracts with local vendors and customers.

Section 20 of the CPC grants jurisdiction to those courts within whose local limits the cause of action arises or where the defendants reside or carry on business. However, it is difficult to determine where the contract was concluded where the buyer and seller are in two different locations. To fill the lacuna in the law, the paper looks at provisions in competing legislations, namely the Consumer Protection Act and the IT Act, 2000. The article traces the legal developments in India throwing light on the various tests adopted by courts determine place of business and cause of action. The main argument of this article is that private dispute resolution offers a fitting solution since parties can decide the substantive law to be applied in case of disputes eliminating any ambiguity. The article concludes that methods such as arbitration although advantageous place the consumer on an unequal playing field and limit opportunities for mediation and negotiation.

## **Introduction**

Jurisdiction is the power of the court to hear and decide a case.<sup>1</sup> It is a legal term that determines which law is in effect at a given period of time and which court's

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1 NANDAN KAMATH, LAW RELATING TO COMPUTERS, INTERNET AND E-COMMERCE: *A GUIDE TO CYBER LAWS*, 20 (Universal Law Publishing Co. Pvt. Ltd, 4th edn., 2009).

decision will be binding. Jurisdiction may be either subject matter jurisdiction or personal jurisdiction. Jurisdiction grants the power of enforcement to courts. This paper pertains to the jurisdiction and enforcement issues of cross border e-commerce contracts.

The rapid growth in e-commerce has given birth to contracts that are modeled, specified, executed and developed by a software system. These e-contracts are similar to traditional contracts in that they are required to fulfill all the basic elements under Section 10 of the Indian Contract Act, 1872. However, information asymmetry throws up several legal challenges. The jurisdiction and enforcement of e-commerce contracts is one such challenge.

The legal position is unclear and ambiguous with no specific law laying down principles for courts to follow while ascertaining whether or not they can adjudicate and rule on a particular case. The existing civil law provisions along with the IT Act of 2000 clarify the position only to small extent. Even if jurisdiction is determined, the enforcement of foreign decrees in Indian courts continues to be a bone of contention.

There is a need for concrete principles that can be used to determine the jurisdiction of Indian courts and tribunals. The world over, courts have applied specific tests such as the minimum contacts test, the sliding scale test, the close connection test and the purposeful availment test. In India, apart from the cause of action test, courts have begun to apply the purposeful availment test. The concluding part of the paper contains recommendations to ensure greater clarity and uniformity in determining the jurisdiction of e-commerce contracts and explores avenues for alternative dispute resolution.

### **Issues and Concerns**

*“The questions raised by internet conduct are indeed more different and more difficult than the analogous questions raised by its real space counterpart, and we cannot resolve jurisdiction dilemmas by applying the traditional legal tools developed for similar problems in real space.”*<sup>2</sup> The use of the internet for the formation of contracts has given rise to complex jurisdictional and enforcement issues.<sup>3</sup> The questions raised are first, determining which law will apply to the contract and second, whether the Indian courts have jurisdiction to entertain an action based on the contract.<sup>4</sup>

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2 Goldsmith, *Against Cyber Anarchy*, 65 CHICAGO LAW REVIEW , 1239 (1998).

3 DR SACHIN RASTOGI, INSIGHTS INTO E-CONTRACTS IN INDIA, 122 ( 1stedn., 2014).

4 Tim Kevan And Paul Mcgrath E-Mail, *The Internet And The Law*, 183 (Universal Law Publishing Co. Ltd., 2007).

The decentralized nature of the internet results in the involvement of multiple parties from multiple jurisdictions.<sup>5</sup> It is often difficult to determine where the contract was formed.<sup>6</sup> The lack of uniformity in rules, laws and regulations due to the incorporation of international instruments adds to the complexity.<sup>7</sup> A dispute may arise between two parties who entered into a contract on the internet and who belong to different countries. An act that attracts an offence even under the IT Act cannot conclusively be subject to the jurisdiction of the Indian courts.<sup>8</sup> An offence in India may not be an offence abroad. Foreign courts are not bound by the IT Act or other provisions of Indian law. Enforcement of foreign decisions becomes extremely problematic<sup>9</sup> as was seen in the case of *Bachanan v. India Abroad Publications Incorporated*<sup>10</sup> where an Indian national got a favourable judgment in the UK but could not get it enforced in New York.

### **Existing Legal Provisions**

Most modern contracts include a provision as to jurisdiction of a particular court and application of a particular law in the event of a dispute between the parties. In such cases, the trend is to respect the choice of laws made by the parties.<sup>11</sup> The Hague convention permits parties to enter into agreements conferring jurisdiction.<sup>12</sup> In India, section 28 of the Indian Contract Act makes void only those agreements that absolutely restrict parties to a contract from enforcing their rights under ordinary tribunals. In effect, parties are free to determine their jurisdiction.<sup>13</sup>

However, in situations where no agreement to confer jurisdiction exists, the parties are governed by section 20 of the CPC. According to section 20, courts have jurisdiction where the defendants resides or carries on business or where the cause of action wholly or in part arises.<sup>14</sup> The problem lies in applying the CPC to e-contracts as it is often difficult to determine where and when an offer is accepted. For example, in e-mail transactions, acceptance may be complete either when the email is received or when the email is read. Where both parties have only an online presence, the place of

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5 *Supra* note 1, at 17.

6 *Supra* note 3, at 122.

7 L. Padmavathi, E-Contracts- Emerging Dimensions, 135 (1stedn., Amicus Books, The ICAFI University Press, 2008).

8 *Supra* note 3, at 123.

9 *Supra* note 1, at 45.

10 *Bachanan v. India Abroad Publications Inc.*, 154 Misc 2d 228 (April 13, 1992).

11 Article 3, Rome convention on the law applicable to Contractual obligations, 1980.

12 Article 4, Draft Hague Convention on Jurisdiction and Recognition of Foreign Judgement in Civil and Commercial Matters, 1971.

13 Sec 28, Indian Contract Act, 1872.

14 Sec 20, Code of Civil Procedure, 1908.

performance is difficult to ascertain. Performance may be at the location of the seller's server or the purchaser's computer.<sup>15</sup>

The lacuna in the IT Act is that it fuses the place of business and the place of formation of the contract. This limits the scope of application of the cause of action- place of business test as the place of business need not be the place where the contract has been concluded.<sup>16</sup> Further, Section 13 of the IT Act lays down that the place of business of the opposite party will decide the jurisdiction while section 11 of the Consumer Protection Act lays down that the consumer can approach a district court even if the opposite party has a branch office. These inconsistencies are likely to cause inconvenience to plaintiff's when the opposite party has its principal office outside India.<sup>17</sup>

With respect to enforcement, section 13 of the CPC provides for recognition and enforcement of foreign decisions in India except in certain circumstances such as when the decision is not by a competent court; is not granted on merits; is against international or Indian Law or Natural justice; is obtained by fraud or when it is founded on a breach of Indian law.<sup>18</sup> Similarly, decrees of Indian courts are enforceable in those countries which have been declared by notification under section 44A of the CPC, and with those countries which have entered into reciprocal agreements with the government of India in re the enforcement of their decrees in Indian courts. However, in the absence of a reciprocal agreement, the decree can be enforced only by a new action of enforcement in the respective foreign country's courts.

Therefore, while provisions exist, they are often incompatible and inapplicable to e-contract cases.

### **Methods used to determine Jurisdiction**

The following section throws light on the various methods used to determine jurisdiction.

The *stream of commerce test* is applied when a defendant not physically present may be held constitutionally subject to jurisdiction. In *Gray v. American Radiator & Standard Sanitary Corp*<sup>19</sup>, jurisdiction was asserted over a component parts manufacturer when

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15 SK VERMA AND RAMAN MITTAL, LEGAL DIMENSIONS OF CYBER SPACE, 277 (Indian Law Institute, 2004).

16 DR FAROOQ AHMAD, CYBER LAW IN INDIA: LAW ON INTERNET, 234 (Pioneer Books, 2005).

17 *Supra* note 3, at 141.

18 Sec 13, Code of Civil Procedure, 1908.

19 *Gray v. American Radiator & Standard Sanitary Corp.*, 22 III 2d 432 (1961) (Supreme Court of Illinois).

a customer was injured due to malfunctioning of a part. The manufacturer of the part would have no market if the completed part was not sold to the customer and therefore laws of the place where the sale of the final product was initiated were said to apply.<sup>20</sup>

According to the *close connection test*, the place that has closest connection with that transaction should have the jurisdiction to hear the case. This rule serves as a rule of attribution to determine the appropriate forum and laws which govern the dispute.<sup>21</sup> But this method has problems since an entity cannot sue in multiple jurisdictions on the ground that every jurisdiction has a connection with the transaction.<sup>22</sup> This test was applied in *Braintech v. Koustik*<sup>23</sup> where the defendant company's act had a real and substantial connection with the state of Texas as a result of which the BC Court of appeal enforced the decision of a court of alternate jurisdiction.

In the US, out of state defendants can be brought within the jurisdiction of the forum state only when they have *minimum contacts* with that state. This is called the minimum contacts principle.<sup>24</sup> Irrespective of physical presence within a forum, a plaintiff who has meaningful contacts, ties, or relations with the forum state is permitted to approach the courts in the forum state. This test was laid down in *Compuserve Inc. v. Patterson*.<sup>25</sup> Compuserve was based in Ohio while Patterson was based in Texas. However, the court held that by doing business in Ohio, Patterson was amenable to the Ohio jurisdiction. The shortcoming of this method is that there exists no objective standard of determining what constitutes minimum contact. It is unclear as to whether minimum contact depends on the number of people using the service or the number of times the website was accessed or the number of hits received or any other such standard.

Another method of determining jurisdiction evolves from the sliding scale theory. This theory, laid down in the landmark case of *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*<sup>26</sup> classifies websites into active websites, interactive websites and passive websites. Active

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20 Rodney D Ryder, Guide to Cyber Laws, 215( 3rdedn., Wadhwa Publishers, 2007).

21 *Supra* note 15, at 269, 270.

22 *Supra* note 15, at 272.

23 *Braintech v. Koustik*, No 236,171 D.L.R (4th) 46 (CA) (March 18, 1999)(Supreme Court of Canada).

24 *International Shoe v. Washington*, 326 U.S. 310 (1945)(Supreme Court of United States).

25 *Compuserve Inc. v. Patterson*, 89 F.3d 1257 (July 22, 1996)(United States Court of Appeal for the 6th circuit).

26 *Zippo Mfg. Co. v. Zippo Dot Com, Inc.*, (January 16, 1997) (W.D. Pa.).

websites are those that facilitate contractual relationships. In such cases, the personal jurisdiction of the forum is attracted if it is available for use by the forum state even though the website is operated outside India. Interactive websites are those that facilitate an exchange of information. In such cases, personal jurisdiction depends on the commercial nature of the exchange.<sup>27</sup> Passive websites cannot attract personal jurisdiction as they only make information available without initiating contractual or commercial relations.<sup>28</sup> The case of *Cybersell, Inc v. Cybersell, Inc*<sup>29</sup> [Herein after as “Cybersell”] involved a jurisdiction dispute over a passive website. The Plaintiffs were an Arizona corporation incorporated in 1994 and registered the trademark “Cybersell”. In May 1995, another company was registered in the same name in Florida. Plaintiff’s filed a complaint for infringement of trademark in Arizona but their jurisdiction was contested. They argued that since the internet has no borders, and a website is meant for use globally, no dispute exists over jurisdiction of the court in Arizona. The court applied the minimum contacts test to determine whether the court could exercise jurisdiction over a non-resident defendant and dismissed the suit on the failure to make out jurisdiction.

Interestingly, several international instruments make similar classifications. The UN Convention on the use of Electronic Communication in International Contracts, the Brussels Convention on Jurisdiction and Recognition of Enforcement of Judgements in Civil and Commercial Matters and the Rome convention also determine jurisdiction and applicable law for contracts on the basis of whether the consumer is “active” or “passive”.<sup>30</sup> The Brussels convention is noteworthy since it eliminates several jurisdictional challenges by harmonizing consumer contract law. It provides for automatic recognition and enforcement of the decision in any other member state. It also provides that the defendant shall be sued in the courts of the Member State where he is domiciled.<sup>31</sup> Similarly, the Rome convention and the Rome I Regulation provide that in the absence of a choice of law clause, the contract is governed by the law with which the contract is most closely connected.<sup>32</sup> These provisions significantly reduce ambiguities in judicial decisions.

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27 *Maritz, Inc. v Cyber Gold, Inc.*, 947 F. Supp. 1328 (1996)(E.D. Mo.).

28 *Supra* note 16, at 241, 242.

29 *Cybersell, Inc v. Cybersell, Inc*, 130 F.3d 414 (December 2, 1997) (US C.A 9th Cir).

30 Article 5, Rome convention on the Law applicable to Contractual Relations, 1991.

31 Article 5, the Brussels Convention on Jurisdiction and Recognition of Enforcement of Judgements in Civil and Commercial Matters, 1971.

32 Article 4(1), Rome convention on the Law applicable to Contractual Relations, 1991.

## Legal Developments in India

The question of “place of business” has been given judicial clarity in *PR Transport Agency v. Union of India*.<sup>33</sup> In this case, “PR transport Agency was awarded a tender by BCCL Jharkhand. The acceptance of PRTA’s bid was conveyed via email and was received in Chamauli, UP. The respondents argued that no cause of action arose in UP.” The respondent contended that since no cause of action arose in Uttar Pradesh, since the tender had taken place in Jharkhand. The court relied on section 13(3) of the IT Act<sup>34</sup> and held that when the mail was sent, it was intended to be sent to the address where the company was working. “The office of the company being located in Chamauli, the UP court had jurisdiction. Therefore, a partial cause of action was sufficient to grant the court jurisdiction.”

With respect to whether access to a website was sufficient to grant the respective tribunal jurisdiction, the initial position was that access was sufficient.<sup>35</sup> However in *India Independent News Service Pvt. Ltd. v India Broadcast Live Llc and Ors*<sup>36</sup> it was held that the defendant’s actions must have a “sufficient connection” with the forum state and that the exercise of jurisdiction must be reasonable. The facts of this case are that the Plaintiff’s ran a news channel called “India TV” which they launched in 2004. The plaintiff also became the owner of the domain name “INDIA TV”. Defendants one and two controlled a website by the name “indiatvlive.com”. Plaintiff initiated an action of passing off against the Defendants seeking an order of injunction from using the domain name www.indiatvlive.com. Defendant one filed a suit in the District Court of Arizona while the suit in India was pending. Plaintiffs filed an application seeking injunction from pursuing the case in the court of Arizona. The court held that it was not sufficient to establish the presence of a passive website in the forum state. Relying on the decision of *Cybersell*<sup>37</sup>, the court introduced the doctrine of purposive availment.

The *Banyan Tree*<sup>38</sup> case upheld the purposeful availment test and provided greater clarity into the application of the test. In this case, the defendants offered services through an interactive website accessible in India called “www.banyantree.com”. The website was accessible in all parts of India, including Delhi. According to the Plaintiff,

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33 *PR Transport Agency v. Union of India*, AIR 2006 All 23 (Allahabad High Court).

34 Section 13(3), Information Technology Act, 2000.

35 *Casio India Co. Ltd. v Ashita Tele Systems Pvt. Ltd.*, (2003) 106 DLT 554 (Delhi High Court).

36 *India Independent News Service Pvt. Ltd. v India Broadcast Live Llc and Ors*, (2007) 2 ILR Delhi 1231 (Delhi High Court).

37 *Cybersell, Inc v. Cybersell, Inc*, 130 F.3d 414 (December 2, 1997) (US C.A 9th Cir).

38 *Banyan Tree Holding Pvt. Ltd. v. Murali Krishna Reddy*, 2008 (38) PTC 288 (Delhi High Court).

the defendant's located in Hyderabad had a deceptively similar name for their services. They initiated a proceeding in the high court of Delhi on the grounds that the defendant's services were available in Delhi. The court held that in order to satisfy the court that it has the jurisdiction to entertain the suit, the plaintiff would have to show that the defendant purposefully availed itself of the jurisdiction of the court. The court laid down that purposeful availment is possible when it is shown that the defendant used the website with an intention of concluding a commercial transaction with the website user and that the plaintiff suffered injury or harm as a result of the defendant's specific targeting of the forum state. It was stated that in order to show that some part of the cause of action had arisen in the forum state, the plaintiff will have to show that the defendant's website was targeted specifically at viewers in the forum state for commercial transactions. This test has been applied in several other e-contract cases as well.<sup>39</sup>

Recently, the Delhi High court in *WWE v. M/S Reshma Collections*<sup>40</sup> [Herein after as "*WWE*"] acknowledged that the issue of territorial jurisdiction is a mixed question of law and fact. The facts of this case are that WWE was a company incorporated in Delaware, USA and the respondents were located in Mumbai. WWE was engaged in the business of licensing and sale of products in the category of branded consumer products and had a registered trademark in India and abroad. They alleged that the respondents were selling counterfeit products using their logo and filed a suit for injunction and infringement of trademark. The single judge interpreted the expression "carries on business" as provided in section 134(2) of the Trademarks Act and section 62(2) of the Copyrights Act relying on the Supreme Court decision in *Dhodha v. SK Maingi*<sup>41</sup>, which held that for the purpose of carrying on business, the presence of the person concerned was not necessary. The bench recognised the virtual presence of e-contracts and refined the applicability of the judgement to define the meaning of the term "carrying on business". Further, the bench read into the provisions of the Indian Contract Act 1872 and established that since the transaction took place instantaneously and the acceptance of the offer by WWE was communicated to the customer in Delhi, the contract was concluded in Delhi and the Delhi court had jurisdiction. The bench held that "When the shop in the physical sense is replaced by a virtual shop because of the advancement in technology, in our view, it cannot be said that the appellant/plaintiff would not carry on business in India". The result of

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39 *Amitabh Bagchi v. Ena Bagchi*, AIR 2005 Cal 11 (Calcutta High Court).

40 *WWE v. M/S Reshma Collections*, 2014 (58) PTC 52 (Delhi High Court).

41 *Dhodha v. SK Maingi*, 2006 (9) SCC 41 (Supreme Court of India).

the *WWE*<sup>42</sup> case is that the plaintiff can institute a case where sales are made by it. The plaintiff can choose the forum if it makes sales across India.

Another test that has developed in India is the Effect test. This test states that if the impact of a particular transaction is felt in India, the Indian courts will have jurisdiction. In *Himalayan Drug Company v. Sumit*<sup>43</sup>, the Delhi High Court exercised jurisdiction as the damage occurred in Delhi even though the defendants belonged to Italy. In this suit that proceeded for over 15 years, the appellant, who were running a herbal data base sued Sumit for infringement of trademark of “Liv-T”. The court granted an *ex-parte* order and damages to the appellant.

### **Jurisdictional Challenges in Arbitration of E-Commerce Disputes**

Arbitration is a private dispute resolution mechanism whereby parties agree to submit the dispute to one or more arbitrators to take a binding decision.<sup>44</sup> Arbitration is the preferred choice in Business to Business contracts due to its expediency, efficiency and ease in settlement. The recent trend has been to incorporate arbitration clauses in online contracts. These clauses decide the seat of the arbitration, the choice of law, the jurisdiction of the tribunal, the appointment of arbitrators, etc. They bring certainty to businesses by predicting their own advantage.

However, pre-deciding the applicable law, forum and jurisdiction of arbitrators often benefits one party at the cost of another. These clauses are easy to manipulate and are the result of extensive bargaining between parties that have unequal bargaining powers. While in traditional arbitration, the parties confer jurisdiction on the tribunal, arbitration of e-contracts limit consent of parties to confer jurisdiction since they are usually in the form of take it or leave it clauses that are entered into without meaningful negotiation or assent of the buyer. Therefore, the jurisdiction, although wider than the “place of business” or “defendant`s residence” as provided for in the CPC, is restricted in a different sense in the case e-contracts due to inability of parties to negotiate the terms of the agreement. This is particularly common in business to consumer e-contracts. Second, in business to business contracts, although the CPC does not permit limiting the jurisdiction of the parties to the contract, arbitration permits parties to exclude the jurisdiction of courts. Third, Foreign awards maybe difficult to enforce in India although part I of the Arbitration and Conciliation Act

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42 *WWE v. M/S Reshma Collections*, 2014 (58) PTC 52 (Delhi High Court).

43 *Himalayan Drug Company v. Sumit*, 2010 PTC 739 (Delhi High Court).

44 *What is arbitration?*, World Intellectual Property Organisation, available at : <http://www.wipo.int/amc/en/arbitration/what-is-arb.html>.

applies to foreign arbitration awards.<sup>45</sup> The case of *Bhatia International* exposed foreign arbitral awards to intervention by Indian courts.<sup>46</sup> Such interventions are frequent and deceive the very purposes arbitration seeks to serve.

## Conclusion

Jurisdiction is by far the most complex and problematic legal issue that concerns the internet today. The absence of strong precedent and specific laws to address the same has increased ambiguities. The grey area is widened due to inherent difficulties in determining the place of business, whether the contract was concluded at all or whether the mere fact of having a website will subject the owner to the laws of a given country. The challenge is in identifying whether there is “contact” with the forum when the defending party is located in another country. This paper throws light on different tests in an effort to formulate a conclusive test that could lend legal certainty in addressing these complex issues.

Article 6(2) of the UNCITRAL Model law on Electronic Commerce states that the place of business “is that which has the closest relationship to the relevant contract, having regard to the circumstances known to or contemplated by the parties at any time before or at the conclusion of the contract”.<sup>47</sup> The researcher argues that this be incorporated into the IT Act to ensure ease of determining jurisdiction when parties have no place of business or more than one place of business. Further, it is recommended that parties to a contract select the jurisdiction, applicable law and applicable forum at the time of drafting of the contract in the form forum selection clauses. This will ensure that no future disputes regarding the same arise. Where jurisdiction is to be limited in the case of websites, a notice regarding the same displayed on the webpage will ensure due diligence by those who access them. Further, considering that case law regarding jurisdiction of e-commerce contracts is limited to a large extent in the Indian legal environment, US and EU case laws in tandem with the principles of Indian jurisprudence must be relied upon.

But a more sustainable solution would be to develop an indigenous law that keeps in mind the various technological changes in the use of the internet. In this regard, Alternative dispute resolution ie., arbitration and mediation can prove helpful in solving a great number of e-commerce disputes. This was recognized by the drafting

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45 *Bhatia International v. Bulk Trading SA*, AIR 2002 SC 1432 (Supreme Court of India).

46 Richard Gubbins, *Enforcement of Foreign Arbitral Awards in India*, INDIA INC., (January 11, 2014) available at : <http://indiaincorporated.com/item/3504-enforcement-of-foreign-arbitral-awards-in-india.html>.

47 Article 6(2), UNCITRAL Model Law on Electronic Commerce, 1996.

committee of the OECD Convention in 1999 in the “Guidelines for Consumer Protection in the Context of Electronic Commerce”. Special emphasis was given to developing ADR systems for resolving cross border e-commerce disputes. Similarly, the European Union has also considered the viability of ADR through Article 17 of their ‘Directive on electronic commerce’. Apart from traditional arbitration and mediation, the West has seen the growth of ODR or On-line Dispute Resolution. The pertinent question is whether Alternative/ Online Dispute Resolution solves the choice of law problem. According to David Post, there exist two approaches.<sup>48</sup> The first “*involves an increasing degree of centralization of control, achieved by means of increasing international coordination among existing sovereigns, through multi-lateral treaties and/ or the creation of new international governing bodies along the lines of the World Trade Organization, the World Intellectual Property Organization, and the like*”. The second involves a decentralization of the law in the form of electronic federalism. “*In this model, individual network access providers, rather than territorially-based states, become the essential units of governance; users in effect delegate the task of rule-making to them - confer sovereignty on them - and choose among them according to their own individual views of the constituent elements of an ordered society. The “law of the Internet” thus emerges, not from the decision of some higher authority, but as the aggregate of the choices made by individual system operators.*” The second approach appears to be more effective since it provides the relevant law that encourages parties to choose online mediation to resolve their disputes and has seen success in the case of e-bay, an American e-commerce company.<sup>49</sup>

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48 D. Post, *Governing Cyberspace*, 43 WAYNE LAW REVIEW 155, (1997).

49 Pon Staff, *Using E-Mediation and Online Mediation Techniques for Conflict Resolution*, (February 20, 2017) available at : <https://www.pon.harvard.edu/daily/mediation/dispute-resolution-using-online-mediation/>.