Mediation: The Power of negotiation, reaching consensus

TIPS IN PREPARING AND PARTICIPATING IN SUCCESSFUL MEDIATION

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WHY MEDIATE?

• Trademark disputes can be complex
• Trademark disputes are often business related, subject to business solutions
• Certainty often better than uncertainty
• Legal costs of trademark infringement cases can be high
• Mediators are not acting as judge or jury, but as facilitators
• Mediation well suited to creative, “out of the box” thinking
• Mediation can incorporate business solutions
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TIPS FOR SUCCESSFUL MEDIATION

• Consider mediation style that best meets your case’s needs (facilitative, evaluative, transformative)
• Decide whether subject matter expertise necessary
• Determine your interests and those of the other side
• Understand the dispute – BATNA and WATNA
• Do not overstate your case
• Use creativity in developing ways to explain your case
• Engage in interest-based negotiations