

Japan International Dispute Resolution Center (JIDRC)

In May 2018, a new venue wherein arbitration hearings may be conducted opened in Osaka. The Japan International Dispute Resolution Center (JIDRC) is designed to serve as a site at which litigants may conduct arbitration or negotiations to resolve disputes, arrange licensing and other agreements, etc., for the purpose of avoiding expensive and time-consuming litigation proceedings. The JIDRC operates in conjunction with the Japan International Mediation Center (JIMC) which promotes private negotiations and settlements, along with the Japan Association of Arbitrators, Doshisha University and international mediation centers.

The main focus of the JIDRC is to allow parties to engage in institutional or ad hoc arbitrations based on mutually agreed upon rules and procedures. This is not limited to disputes between a foreign entity and a Japanese company or agency, but may be used by two domestic (Japanese) entities or two foreign entities who desire to conduct such negotiations in a neutral venue. There are plans to open a second JIDRC in Tokyo prior to the summer of 2020.

It is anticipated that the JIDRC will be useful for dispute resolution, especially in Standard Essential Patent (SEP) cases that will arise as technological advances continue, particularly, as we head into the 5G era. The center will also be useful for Small and Medium Sized Enterprises (SMEs) to conduct negotiations such as licensing in hope that expensive litigation, which is problematic for many SMEs, can be avoided or reduced.

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Use of the JIDRC facilities

1. An annual fee is required. The general annual fees are 50,000¥ (\$463*) for a Corporate membership¹ and 10,000¥ (\$93) for an Individual membership.

2. Room Rental Fees. At present the JIDRC-Osaka branch has three rooms which can be rented for the above proceedings. The rooms may be rented daily from 9:00am until 1:30pm (Morning session) or 1:30pm until 6pm (Afternoon session).

The cost per 4.5 hour session varies depending on which room** is used.

Main room	50,000¥ / session
Medium room	10,000¥ / session
Small room	5,000¥ / session

**At the time that this article was written, no information regarding how many persons each room can comfortably accommodate was available. The JIDRC website (Japanese and English) can be found at <http://www.idrc.jp>

¹Multiple memberships are recommended for corporations, and in this case, the room rental fees may be reduced by 60%.

Amendments made to the rules governing arbitration at the JIDRC were enacted January 1, 2019. We highlight some of these amendments below.

- 1) The pool of potential arbitrators was expanded to include persons who are not members of the Japan Commercial Arbitration Association (JCAA), and at the same time, a requirement that the arbitrator(s) must declare that they are clearly impartial and without extenuating conflicts prior to and during arbitration of a case was enacted.
- 2) The duration from the start of arbitration to the granting of an award or decision was extended from 6 to 9 months.
- 3) In expedited cases, the maximum amount in dispute is set to less than 50,000,000 yen (\$462,963) unless a higher amount is agreed to by both parties.
- 4) With regards to selection of the presiding arbitrator, an arbitrator appointed by one party may not have further ex parte communication with the appointing party, unless agreed to by both parties in the dispute.

In addition, a series of "Interactive Arbitration Rules" were enacted. These rules require the arbitrators to present an initial document to both parties describing the position of both parties in

the case and pertinent laws and issues which are critical to the dispute. Later, the arbitrators will present to the parties, a second document indicating the arguments and legal issues deemed to be useful in providing a preliminary analysis in order to facilitate the smooth progression of the arbitration.

Much latitude exists by which the arbitration rules may be changed, amended, eliminated, etc., upon mutual consent by both parties in the dispute.

Update:

The Foreign Lawyers Act has been amended so as to permit a greater range of services which may be performed by foreign lawyers particularly with respect to arbitration hearings and mediation proceedings conducted in Japan. The amendment eases restrictions which had limited foreign lawyers from being registered in Japan so as to increase their participation in international arbitration hearings and promotes cooperation between foreign and Japanese lawyers.

An international arbitration hearing is classified as one in which either party has their headquarters or main offices in any jurisdiction other than Japan (foreign parties which are non-Japanese entities but which have a physical presence in Japan would also qualify), or the laws being used to arbitrate the case are other than Japanese laws.