

ONLINE DISPUTE RESOLUTION SYSTEMS: Exploring E-Commerce and E-Securities

Jagruti Chauhan, Faculty of Law, University of Windsor

One of the most rapidly growing activities in today's society is the use of the Internet in everyday life. Technology has created a Brave New World called "cyberspace". There are various types of activities ranging from simple to complex that go on in cyberspace, from keeping in touch with distant friends and family to international business transactions. Along with this new technology comes the inevitability of disputes among the participating parties. This new environment requires some mechanism(s) for dealing with online disputes in cyberspace. A solution that is gaining prevalence in the online environment is the use of various types of Online Dispute Resolution Systems (ODRSs). The use of ODRSs in cyberspace combats some of the more common hurdles that present themselves when dealing with conflicts over the Internet, such as issues surrounding jurisdiction, liability and privacy.

Firstly, this paper will look at current theoretical developments in online dispute resolution (ODR). Secondly, the relationship between ODR and e-commerce will be evaluated; three fictional scenarios will be illustrated and various types of ODRSs will be applied. Moreover, each scenario will include discussions of the advantages and disadvantages of ODR. Finally, in an effort to further expand the application of ODR to various on-line disputes, the use of ODR for online securities transactions will be evaluated. Here, a common ODRS will be applied to an already adjudicated dispute in an attempt to examine and compare whether ODR would be a better alternative to online disputes arising in the area of securities. This paper will argue that while there may be some disadvantages to ODR, the use of an ODRS is the best available solution for resolving disputes in cyberspace.

THEORY SURROUNDING ODR

Ethan Katsh and Janet Rifkin are emerging leaders in the area of ODR. Both have written numerous articles and have recently published a book called *Online Dispute Resolution: Resolving*

*conflicts in cyberspace.*¹ In *Online Dispute Resolution*, Katsh and Rifkin dedicate a chapter to “Understanding the ODR Process”. While conducting research for this paper, their discussion of “Understanding the ODR Process” was the only source that came close to any theoretical evaluation of online dispute resolution.

Katsh and Rifkin discuss what they believe must be the three fundamental features of any ODR system: convenience, trust and expertise.² According to the authors, “the relationship between the three factors of convenience, trust and expertise can be compared to the relationship between three sides of a triangle...the length of each side represents how high a level of the factor is present.”³ It is important to note that the three factors are not mutually exclusive; in other words, “if the level of one of the factors is changed, the level of some other factor may be affected.”⁴

The convenience element includes logistics and financial factors, which affect access to and participation in the process.⁵ The threshold level for convenience, according to Katsh and Rifkin, is the lowest common denominator; hence, the lowest level of sophistication by an anticipated user must be adhered to for the system to work.⁶ However, an individual without Internet access would not meet this or any other threshold for convenience, therefore rendering the ODRS ineffective for these individuals.

The element of trust generally deals with the amount of risk the user feels in using the system or site. To summarize, Katsh and Rifkin state that trust comes from information provided by the ODRS’s website and the reputation of the ODRS.⁷ Therefore, trust is “about whether what is being promised will be delivered and about whether or not what the site is saying about itself can be believed.”⁸

The expertise element “requires an interactive informational process, where the website receives information from a user, processes it in some way, provides some analysis and results to the

user, and perhaps then begins the process again.”⁹ Therefore, expertise is concerned with whether the site has the resources and skill to successfully resolve the problem.

Beyond their discussion about the process of ODR, Katsh and Rifkin also discuss another key theoretical concept known as the “fourth party”—the critical role of technology.¹⁰ A more traditional Alternative Dispute Resolution System (ADRS) is commonly known to have three sides: the two conflicting sides and a neutral party. Since ODR exists in cyberspace, the use of technology, which is the factor that connects one to cyberspace, becomes an inherent party to the process of dispute resolution and is thus the fourth party. According to *Online Dispute Resolution*, the third and the fourth parties interact with each other, which affects many other parts of the dispute resolution process.¹¹ The role of the fourth party varies in different contexts, as does the role of the third party. Katsh and Rifkin state that the fourth party can “in different circumstances, be more or less relied upon and be more or less influential, but the role, nature, and value of this fourth party needs to be understood and recognized.”¹² Overall, the presence of technology in ODR becomes an essential aspect of the entire process that must be theoretically recognized.

THE RELATIONSHIP BETWEEN ODR AND E-COMMERCE

Cyberspace contains an electronic marketplace that generates a wide range of transactions, such as business-to-consumer transactions, individual-to-individual transactions and business-to-business transactions, all of which can occur on a local and/or an international level. According to the *Canadian Internet Commerce Statistics*, Canadian e-commerce had a value of US \$5.5 billion dollars in 1999, and the number is expected to rise to US \$70 billion by 2003.¹³

ODRSs have become prevalent in the resolution of e-commerce disputes.¹⁴ In fact, The Asia Pacific Economic Cooperation¹⁵ (APEC), the European Commission¹⁶ (EC), and the Better Business Bureau¹⁷ (BBB) have all recognized and supported the development of ODRS programs to resolve

online disputes in consumer transactions around the world. In fact, all of the groups mentioned are “working to promote fairness and effectiveness by developing codes of conduct for online ADR.”¹⁸ In addition to governmental support, “various e-commerce providers describe ODR alternatively as part of an organization’s customer service strategy, a means to establish consumer trust in e-commerce, and as a product/service they could market.”¹⁹

In order to illustrate how ODRs work and to discuss the advantages and disadvantages of such systems, this paper will present three fictitious e-commerce dispute scenarios in which three different types of ODRs will be applied. Various disadvantages and advantages will be outlined throughout the application of the systems to the situations and a greater understanding of how ODRs operate will be gained.

In scenario one, Jane lives in Toronto and wants to buy a home in Vancouver. Jane decides to check out the real estate market online through local Vancouver newspaper websites and accesses the Internet at her local library. Jane sees a house that she likes and contacts the vendor, Kim, via e-mail. Jane is very interested in the house and is willing to purchase; however, both parties cannot agree on the price and as a result the transaction is put on hold. The only issue left to be settled is the price of the house. What solutions are available to Jane and Kim?

One solution that is available to both parties is the use of a “blind-bidding” model that is available over the Internet. Blind bidding systems “allow parties in a dispute to submit settlement offers to a computer and if the offers are within a certain range of each other the parties agree to settle and split the difference.”²⁰ A common electronic settlement negotiation system is Cybersettle.²¹ Cybersettle is a “completely automated on-line system designed to facilitate settlement of disputes for an amount of money.”²² On Cybersettle each party would enter three figures constituting offers in differing amounts. The amounts entered are automatically compared, and if any of the amounts are within three percent of each other the claim is settled for the median amount, after which the parties are

notified of the settlement.²³ If a settlement is not achieved, the parties' offers are not disclosed to one another and there is no fee for the use of the system. For this ODRS, the fee is tied to the dollar value of the settlement.²⁴

One of the largest benefits of this system is that there is no need for a third party to settle the dispute since the system is automated. According to Monique Conrod, the author of *Automated ADR*, "the system is completely impartial, and the decision-making essentially remains with the disputants, all of which adds up to a happier customer."²⁵ Therefore, for fact scenario one, both Jane and Kim can enter the amount that each wants and Cybersettle will automatically try to help them negotiate a price.

However, a potential downside to using an ODRS can be the lack of accessibility. ODRSs require parties to own a computer, sufficient software and hardware, and some sort of account for online communication.²⁶ Since Jane accessed the Internet at her local library, she is limited in her access to the Internet by library hours or time limits. The issue here is one of owning versus access; not owning a computer and only being able to access the Internet infrequently may cause a problem of convenience.²⁷ However, with the prevalent use of computers in today's society and the expanding availability of computers for public use, this argument appears to be weak. Therefore, if Jane is able to access the Internet through other sources such as a friend or at work, the accessibility problem will be diminished for her.

Fact scenario two is an on-line bidding situation. Joe lives in Italy and is selling computer software on eBay.²⁸ Mark, who lives in Canada, placed a bid to buy the software and won the bid at \$110US. However, when Mark tried to install the software, he could not find a viable registration number. Mark did not anticipate what he would do if something went wrong. What solutions are available to him?

Mark could try to take some type of legal action against Joe. However, knowing that Joe lives in Italy, there is the issue of jurisdiction and issues surrounding conflict of laws. In fact, one of the

biggest problems with disputes over the Internet is the application of jurisdiction. Veijo Heiskanen, the author of the article *Dispute Resolution in International Electronic Commerce*, states that “international consumer transactions entered via the Internet lack a natural geographical centre of gravity—there is no identifiable “place” where the contract was entered into—there is no factual ground that would allow the allocation of jurisdiction in an objective manner.”²⁹ Heiskanen goes on to state that “the complications relating to regulatory and judicial jurisdiction create a substantial risk of conflict of laws and uncertainty about the law applicable in international e-commerce.”³⁰

Using an ODRS in cyberspace entirely avoids the issue of jurisdiction, making this one of the biggest advantage of ODRSs. This is not to say that current general rules of the court could not be manipulated to address issues that arise in cyberspace; however, no court has established clear rules for finding personal jurisdiction in online transaction cases.³¹ In using an ODRS, parties voluntarily resolve their disputes on their own terms, thus formal legal principles are not necessary. According to the article *Shaping New Legal Frontiers: Dispute Resolution for the Internet*, “not only could ODRS resolve international disputes, it will also reduce the burden of both national and foreign court systems as well.”³² Therefore, if Mark and Joe went to an ODRS to resolve their dispute they would avoid the issue of jurisdiction altogether.

There have been attempts made by territorial jurisdictions to regulate the Internet; however they have had limited success “largely because it is impossible for them to control the information which comes across Cyberspace from other territorial states or nations.”³³ In fact, some have suggested that in the global environment, artificial jurisdictions will hinder the flow of information on a global basis.³⁴ This information lends further support to the proposition that ODRSs might be the solution for disputes that arise in international transactions over the Internet.

Luckily for Mark, eBay has a dispute-resolving partner called SquareTrade. eBay customers may take action to resolve their differences through this particular ODRS. SquareTrade has a two-stage

process: first, the parties try to directly resolve the dispute using SquareTrade’s “direct negotiation” software, so no third party is involved. Second, if this direct negotiation fails to resolve the dispute, then a SquareTrade mediator will be assigned to help settle the dispute.³⁵

Another advantage to ODRs is flexibility, namely convenience and asynchronous communication. It is more convenient for a party to sit at home and settle the matter rather than travelling great distances to resolve a dispute.³⁶ Another factor of convenience is that ODRs are available 24 hours, 7 days a week, because the system is online.³⁷ This allows disputes to be settled quickly as opposed to the more lengthy time in the average court case.³⁸

Asynchronous communication means that “participants can communicate in a meaningful way with each other without being connected to the internet at the same time.”³⁹ This allows parties more time to think out their responses and to respond at their convenience, making the process very flexible. If a mediator is involved in the process, then “he or she has an opportunity to re-frame a response, remove hostile language and phrase the posting in a way the other party will understand and respond to better.”⁴⁰ Since Mark and Joe live in different countries, using an ODR gives them the flexibility to handle the dispute according to their own lifestyles and time zone considerations.

However, a disadvantage of a system like SquareTrade and other types of ODRs is enforceability.⁴¹ If Mark and Joe come to an agreement, either party may become concerned with enforcing the agreement and become even more frustrated with the situation. Since there is no court system imposing a decision on the parties, and there is no entity overlooking the disputants to make sure that a resolution takes place, the onus is on the parties themselves. The authors of *Alternative Dispute Resolution: What the Business Lawyer Needs to Know*⁴² suggest that ODRs need to reassure Internet users that they will have the equivalent of their “day in court” in order to enforce resolutions. This could be something as simple as providing each party with the opportunity to tell his or her story to a neutral third party.

Other disadvantages to a system like SquareTrade are privacy and/or security. While ODR, like ADR, is a private process compared to litigation, the privacy in an ODRS is threatened by technology itself. For example, there is the issue of the physical records of the disputes and the parties printing the discussions they have and distributing them to others.⁴³ There is also the issue of “hackers and other uninvited snoopers gaining access to sensitive mediation and/or negotiation sessions that are conducted online.”⁴⁴

The third scenario is between two businesses. A Paris-based antique dealer, Monique, has a website and subscribes to services from a Toronto-based ODRS called NovaForum.⁴⁵ As a result of subscription, the antique dealer has a clause in her supply contracts noting that any disputes that arise are to be resolved using NovaForum. Monique attracts the attention of a New York-based antique store owned by Julie, and Monique begins shipping goods to the US. After some of the antiques arrived damaged, a dispute over the value of the antiques results. Because of the clause in the agreement, they are bound to take their dispute to NovaForum.

NovaForum offers a hybrid med-arb program, meaning that parties begin with mediation then automatically proceed to arbitration if necessary.⁴⁶ The mediators are mostly lawyers with generally ten years of experience practicing law, and two years of hands-on mediation/arbitration experience. The mediation takes place in a NovaForum Resolution Room, online, where all parties are present. The mediation process is completed in three business days, then moves on to arbitration, therefore “guaranteeing a resolution”.⁴⁷

The greatest advantage of an ODRS like NovaForum is procedural efficiency. Commercial disputes can get very complex, “involving numerous pesky procedural details that must all be agreed to prior to the commencement of actual meditation.”⁴⁸ This procedural efficiency results in the speedy resolution of the dispute; if the dispute went to litigation, the same procedural issue would take much

longer to resolve. Considering that both Monique and Julie are business-persons, having the dispute resolved as soon as possible would be in both their best interests.

Another advantage to handling Monique and Julie's dispute through this ODRS is cost-effectiveness. It would cost substantially less to resolve this dispute through NovaForum than if the parties attempted to resolve the dispute in either or both jurisdictions through the traditional court system.⁴⁹ Also, an ODRS is more cost effective than traditional ADR because "travel charges, hotel and meal expenses, and other related costs associated with assembling individuals from different cities at neutral mediation centres can quickly mount up"⁵⁰ and can be avoided by using ODR. Resolving the dispute through NovaForum will be easier on the pocketbooks of both Monique and Julie in contrast to any type of legal action or an ADR approach.

However, there is a disadvantage to a system like NovaForum and other types of ODRSs: the lack of the human factor. Face-to-face contact is a relevant factor in resolving disputes through mediation and arbitration.⁵¹ E-mails and other asynchronous communication "may not carry the same emotionally-charged tones, thereby hindering the mediation process. Furthermore, because parties can not see each other, they will not be able to read those same emotional messages through body language as they could if they were in the some room together."⁵² One solution to this problem is the use of video conferencing over the Internet, but this technology is still in its primary stages in relation to ODRSs.⁵³

APPLICATION OF ODRSs IN ELECTRONIC TRADE OF SECURITIES

While electronic trade of securities ("e-securities") is a rapidly growing sector of today's society, this is one area where ODRSs are relatively non-existent. This last section of the paper will discuss an existing adjudicated Ontario court decision related to e-securities. The paper will then

compare the result of the adjudicated decision with the application of an ODRS to the same issue in an attempt to evaluate whether using ODR in the world of e-securities is beneficial.

In *Robet v. Versus Brokerage Services Inc. (c.o.b. E*Trade Canada)*,⁵⁴ Versus was being charged with economic loss arising from negligent misstatements. The plaintiff was using the automated electronic trading service offered by Versus. Robet ordered the purchase of 3,000 shares of Vengold Inc. on 14 February 2000. The next day, due to a problem in the Versus system, Robet's account showed 12,000 shares purchased. Robet attempted to rectify the problem himself by selling the shares. Versus recognized the problem and made a correction to the accounts affected at a later time; however, Versus made no effort to notify Robet of the problem or to inform him of the corrections made. As result of the corrections made by Versus to Robet's account, there was a short sale of 9,000 shares. On 17 February 2000 Robet realized what had happened and recorded a loss of \$14,000 in his account. Robet refused to cover the short sale position and on 21 February 2000 Versus went into Robet's account and purchased the necessary shares to cover the shortfall, an action which amounted to a total loss of \$22,000 in Robet's account.

The Ontario Superior Court of Justice held that Versus was liable for Robet's economic loss on the grounds that Robet was the victim of negligent misrepresentation. However, the Court stated that the Plaintiff had a duty to mitigate his losses on 17 February 2000. Therefore, Robet was awarded \$14,220 minus the \$6,540 (the loss created by the failure to cover the short sale after the 17th), plus pre-judgement interest and costs.⁵⁵

Had the parties in *Robet* accessed an ODRS like NovaForum, the results would have differed. The first advantage to applying a system like NovaForum would be its cost-effectiveness. Both parties probably spent considerable amounts of money on lawyers and litigation costs in *Robet*, which could have been avoided by using an ODRS. Moreover, Robet lived in France and carried on business in British Columbia, so there were travel expenses attached to having the litigation in Ontario. Using an

ODRS would have avoided such costs entirely, since the dispute could have been resolved from the country that Robet was residing in at the time.

Another advantage to applying a system like NovaForum to disputes in e-securities is that parties still feel like they have had their “day in court”. Since NovaForum is a med-arb system, if mediation fails then a neutral party steps in to make the final decision for the disputants which can be contractually enforceable.⁵⁶ Parties who want a “day in court” are more likely to feel vindicated as well.

Also, the time from the beginning of the dispute to its resolution in court was over one year. If the parties had used NovaForum, the dispute would have been resolved within a couple of weeks. Having the dispute resolved earlier would have allowed the parties to go back to their ordinary course of business much sooner and would have avoided the drawn out process of litigation.

The biggest advantage to using a system like NovaForum in e-securities is that it also allows other issues to be resolved. In *Robet*, the court failed to address what Versus should do if such technical problems re-appeared. By using an ODRS, there could have been some concessions or promises made regarding the improvement of technological support on the part of Versus to customers like Robet.

A problem that may arise in trying to use an ODRS in e-securities is getting both parties to agree to use the system to begin with, since the ODR process is voluntary. Versus is a big corporation; it may have the resources and the desire to go to litigation. Trying to convince them to go to an ODRS may pose a problem. However, cost-effectiveness may mitigate the voluntary factor, since corporations are also concerned about the bottom line.

Another problem in trying to use an ODRS in e-securities disputes is the role of securities commission(s). Securities are highly regulated in our society; moreover, each province has its own commission. Some (or all) of the commissions may be opposed to the use of ODR because the process

is private, and they would not know or have control over what is going on “behind closed doors.” Intensive regulation of securities ensures that everything is plain, true, and disclosed. Even if the matter was related to a contractual issue between the parties, the securities commission(s) may reject the use of an ODRS due to the secrecy of the process and potential violations of securities law principles.

Based on the above analysis, while there may be some concerns about the role of securities commission(s) in ODR, the overall analysis indicates that ODRSs would be beneficial to e-securities disputes because they resolve disputes quickly, cheaply, and easily. There may be a need to create a different type of ODRS that addresses the interests and concerns that securities commission(s) may have with regard to the private nature of ODR.⁵⁷

CONCLUSION

In conclusion, six important points must be made. First, the use of the Internet in at all levels of everyday life is rapidly becoming a global reality. Second, with the new use of technology comes new problems that must be resolved – either with existing solutions or with creative, new solutions. Third, the judicial system does not adequately address the unique issues surrounding Internet transactions, such as jurisdiction. Fourth, e-commerce, both on an individual and commercial level, has turned to various ODRSs in order to resolve disputes in a tailored manner. Fifth, e-securities may also use ODRSs to resolve disputes that occur as a result of on-line transactions. And finally, the flexibility of ODR will enable the creation of an ODRS that specializes in dealing with on-line e-securities transactional problems. By expanding the application and reach of ODRSs to other areas of society, we are creating another tool for conflict resolution. ODRSs, as implemented in e-commerce, should be included in to the e-securities toolbox for resolving problems.

ENDNOTES:

-
- ¹ (San Francisco: Jossey-Bass, 2001)[hereinafter *Online Dispute Resolution*].
- ² *Ibid.* at 73.
- ³ *Ibid.* at 74.
- ⁴ *Ibid.* at 76.
- ⁵ *Ibid.* at 77.
- ⁶ *Ibid.* at 78.
- ⁷ *Ibid.* at 87.
- ⁸ *Ibid.* at 89.
- ⁹ *Ibid.*
- ¹⁰ *Ibid.* at 93.
- ¹¹ *Ibid.* at 94.
- ¹² *Ibid.*
- ¹³ Electronic Commerce in Canada Summary Sheet (26 August 1999) Task Force on Electronic Commerce online: Industry Canada <<http://www.e-com.ic.gc.ca/using/en/e-comstats.pdf>> (date accessed: 5 February 2002). Global e-commerce is expected to reach US \$3.2 trillion by 2003.
- ¹⁴ E-commerce refers to commercial transactions that occur online.
- ¹⁵ Asia Pacific Economic Cooperation (APEC), E-Commerce Steering Group. *Report and Proposal for Action following the APEC workshop on consumer protection held in Bangkok on 20 July 2000*. Online: Asia Pacific Economic Cooperation <<http://www.ita.doc.gov/td/industry/otea/ecommerce/apec/docs/documents.html>> (date accessed: 5 February 2002).
- ¹⁶ European Commission Recommendation 98/257/EC. *Principles Applicable To The Bodies Responsible For Out-Of-Court Settlement Of Consumer Dispute*. Online: European Union <http://europa.eu.int/comm/comsumers/policy/developments/acce_just/acce_just02_en.html> (date accessed: 6 February 2002).
- ¹⁷ Federal Trade Commission. Summary of June 2000 Public Workshop hosted by the U.S. Department of Commerce and the U.S. Federal Trade Commission, *Alternative Dispute Resolution for Consumer Transactions in a Borderless Online Marketplace*. online: Federal Trade Commission <<http://www.ftc.gov/bcp/altdisresolution/index.htm>> (date accessed: 5 February 2002).
- ¹⁸ *Supra* note 1 at 60.
- ¹⁹ D. DeStephen & J. Helie, "Online Dispute Resolution: Implications for the ADR Profession" (2000) online: Mediate <<http://www.mediate.com/articles/helie1.cfm>> (date accessed: 6 February 2002).
- ²⁰ *Supra* note 1 at 61.
- ²¹ Online: Cybersettle Inc. <<http://www.cybersettle.com>> (date accessed: 10 February 2002).
- ²² M.S. Donahey, "Current Development in Online Dispute Resolution" (1999) 16(4) *Journal of International Arbitration* 115 at 116.
- ²³ *Ibid.*
- ²⁴ *Supra* note 21.
- ²⁵ *Canadian Lawyer* (July 2001) 10 at 15.
- ²⁶ J.B. Eisen, "Are We Ready for Mediation in Cyberspace?" (1998) *BYU L. Rev.* 1304 at 1336.
- ²⁷ L.Q. Hang, "Online Dispute Resolution Systems: The Future of Cyberspace Law" (2001) 41 *Santa Clara L.R.* 837 at 859.
- ²⁸ Online: eBay <<http://www.ebay.com>> (date accessed: 4 February 2002), Ebay is an online auction house where Internet users may sell and purchase items.
- ²⁹ (1999) 16(4) *Journal of International Arbitration* 29 at 35.
- ³⁰ *Ibid.* at 36.
- ³¹ D.M. Cendali, "Personal Jurisdiction and the Internet" *PLI Patent, Copyrights, Trademarks & Literary Property Course Handbook Series No. 564*, (1999) 79 at 88-98.
- ³² A.E. Almaguer & R.W. Baggott, (1998) 13 *Ohio St. J. on Disp. Resol.* 711 at 714.
- ³³ R. Bordone, "Electronic Online Dispute Resolution: A Systems Approach—Potential Problems, and a Proposal" (1998) 3 *Harv. Negotiation L. Rev.* 175 at 182.
- ³⁴ *Supra* note 32 at 716.
- ³⁵ Online: SquareTrade <<http://www.squaretrade.com>> (date accessed: 10 February 2002).
- ³⁶ *Supra* note 27 at 854.
- ³⁷ R. Gordon, "The Electronic Personality and Digital Self" (2001) *February/April Dispute Resolution Journal* 8 at 11.
- ³⁸ *Supra* note 27 at 855.

-
- ³⁹ *Supra* note 37 at 11.
- ⁴⁰ *Supra* note 25 at 15.
- ⁴¹ *Supra* note 27 at 860.
- ⁴² C. Lepera & J. Costello, *PLI Litig. & Admin. Practice Course Handbook Series No. H-605*, (1999) 593.
- ⁴³ Katsh, E., "Dispute Resolution is Cyberspace" (1996) 28 *Conn. L. Rev.* 953 at 971.
- ⁴⁴ *Supra* note 37 at 12.
- ⁴⁵ By subscribing to services, a business, for an annual fee, may sign on as a member of NovaForum, which lowers the cost per mediation and also entitles the company to display the NovaForum seal on its website, in order to build trust with clients. Online: NovaForum <<http://www.novaforum.com>> (date accessed: 20 February 2002).
- ⁴⁶ *Ibid.*
- ⁴⁷ *Supra* note 25 at 12.
- ⁴⁸ *Ibid.*
- ⁴⁹ *Supra* note 27 at 855.
- ⁵⁰ *Supra* note 37 at 11.
- ⁵¹ *Supra* note 26 at 1312-13.
- ⁵² *Supra* note 27 at 859.
- ⁵³ *Ibid.*
- ⁵⁴ [2001] O.J. No. 1341 (Ont. Sup. Ct.), online: QL (OJ) [hereinafter *Robet*].
- ⁵⁵ *Ibid.* at para. 87.
- ⁵⁶ *Supra* note 45.
- ⁵⁷ One suggestion could be to document only the actual dispute and the result of the ODR process, and not the private communications of the parties. This would ensure that no legal principles of Securities Law were being violated.

BIBLIOGRAPHY

JURISPRUDENCE

*Robet v. Versus Brokerage Service Inc. (c.o.b. E*Trade Canada)* [2001] O.J. No. 1341 (Ont. Sup. Ct.), online: QL (OJ).

SECONDARY MATERIAL

Almaguer A.E. & Baggott R.W., (1998) 13 Ohio St. J. on Disp. Resol. 711.

Asia Pacific Economic Cooperation (APEC), E-Commerce Steering Group. *Report and Proposal for Action following the APEC workshop on consumer protection held in Bangkok on 20 July 2000*. Online: Asia Pacific Economic Cooperation <<http://www.ita.doc.gov/td/industry/otea/ecommerce/apec/docs/documents.html>>

Bordone R., “Electronic Online Dispute Resolution: A Systems Approach—Potential Problems, and a Proposal” (1998) 3 Harv. Negotiation L. Rev. 175.

Cendali D.M., “Personal Jurisdiction and the Internet” PLI Patent, Copyrights, Trademarks & Literary Property Course Handbook Series No. 564, (1999) 79.

Conrod, M., *Canadian Lawyer* (July 2001) 10.

DeStephen D. & Helie J., “Online Dispute Resolution: Implications for the ADR Profession” (2000) online: Mediate <<http://www.mediate.com/articles/helie1.cfm>>.

Donahey M.S., “Current Development in Online Dispute Resolution” (1999) 16(4) *Journal of International Arbitration* 115.

Eisen J.B., “Are We Ready for Mediation in Cyberspace?” (1998) *BYU L. Rev.* 1304 at 1336.

Electronic Commerce in Canada Summary Sheet (26 August 1999) Task Force on Electronic Commerce online: Industry Canada <<http://www.e-com.ic.gc.ca/using/en/e-comstats.pdf>>.

European Commission Recommendation 98/257/EC. *Principles Applicable To The Bodies Responsible For Out-Of-Court Settlement Of Consumer Dispute*. Online: European Union <http://europa.eu.int/comm/comsumers/policy/developments/acce_just/acce_just02_en.html>.

Federal Trade Commission. Summary of June 2000 Public Workshop hosted by the U.S. Department of Commerce and the U.S. Federal Trade Commission, *Alternative Dispute Resolution for Consumer Transactions in a Borderless Online Marketplace*. online: Federal Trade Commission < <http://www.ftc.gov/bcp/altdisresolution/index.htm> > .

Gordon R., "The Electronic Personality and Digital Self" (2001) February/April Dispute Resolution Journal 8.

Hang L.Q., "Online Dispute Resolution Systems: The Future of Cyberspace Law" (2001) 41 Santa Clara L.R. 837.

Heiskanen, V., Dispute Resolution in International Electronic Commerce (1999) 16(4) Journal of International Arbitration 29.

Katsh, E. & Rifkin J., "Online Dispute Resolution: Resolving conflicts in cyberspace" (San Francisco: Jossey-Bass, 2001).

Katsh, E., "Dispute Resolution in Cyberspace" (1996) 28 Conn. L. Rev. 953 at 971.

Lepera C. & Costello J., PLI Litig. & Admin. Practice Course Handbook Series No. H-605, (1999) 593.

WEBSITES

Cybersettle Inc. <<http://www.cybersettle.com>>

eBay <<http://www.ebay.com>>

NovaForum <<http://www.novaforum.com>>

SquareTrade <<http://www.squaretrade.com>>