



AAA Mediation.org™

FN-10563 MN-10563 LN-10563, Esq.

Seattle, Washington



Current Employer-Title

Simburg Law Offices, PLLC
dba Simburg Dispute Resolution,
Sole Member and Manager
SimburgDr.com

Profession

Arbitrator, Mediator, Attorney

Work History

Simburg Dispute Resolution (2021-present); Partner, Simburg Ketter Sheppard & Purdy LLP, (1984-2021); Private Practice (1976-1984); Adjunct Professor, University of Puget Sound School of Law (now Seattle University) (1972-1974); Associate, Perkins Coie (1972-1976).

Experience

Engaged in business litigation and counseling since 1972.

25% of practice involves international transactions and disputes, including trade, investment, joint ventures, and technology transfer.

50% of practice involves intellectual property, including licensing agreements, computer software, Internet, arts, books, music, and entertainment.

25% of practice includes other business law issues such as distribution, franchises, partnerships, and real estate.

Copyright work primarily involves software licensing and distribution; web content and usage; publishing agreements for print, video games; music and film (projects, licenses, disputes); and fair use issues. Trademark work has focused on disputes over infringement, confusion, dilution, unauthorized web tags or links, domain names, and Cyber-squatting (first case in Washington), in a variety of industries, goods and services (including technology, biotech, computer, medical, entertainment, aircraft leasing, banking, wineries and restaurant); advertising, importing and licenses both U.S. and foreign, other Lanham Act claims. Significant cases as well involving Right of Publicity or trade secrets.

Significant matters include a music rights dispute (valued at \$75 million), real property rights dispute, (\$10 million), computer system installations and licenses (several million dollars), biotech license, product development contract.

Mediator Experience

Mediations have included disputes over trademarks, copyrights, license agreements, domain names,

computer installations, co-owner possible embezzlement, commercial leases, tribal commercial dispute with nontribal entity, contract disputes.

Ombudsman in eminent domain property rights and valuation disputes over airport expansion.
Facilitator in partnership and business formations, expulsions, dissolutions.

**Representative Issues
Handled as a Mediator**

Disparate property valuations, timing of vacating property, entitlement to government benefits and amounts, fair distribution and valuation of assets in businesses, rights of departing co-owners, how to share profits, whether IP infringement exists, how to create co-existence rights, payment amounts, renegotiation of license rights and terms, computer system installations that do not meet expectations of purchaser, compliance/performance/breach of contract/lease/license obligations.

**Mediator Style & Process
Preferences**

My approach to mediation is to spend almost as much time in advance of the mediation date as on the day of the mediation session. I work with counsel in advance to narrow the issues, explore obstacles and develop avenues for potential settlement. This includes my own questionnaire to ferret out personal and cultural contexts, and other factors that can influence settlement. I believe in full engagement of the parties. If a matter does not resolve by the end of the mediation session, I am persistent afterward by contacting counsel periodically to see whether there is a potential avenue for resolution.

Technology Proficiency

Zoom pro licensed. Conduct most remote arbitrations on Zoom. Also familiar with Teams, WebEx, Loop-Up. Very comfortable with online dispute resolution. Also do hybrid and in-person hearings.

Education

Columbia University School of Law (JD-1972);
Columbia University School of International & Public Affairs (MIA-1972);
University of California-Berkeley (BA, Political Economy, Citation in Macroeconomics-1968).

Professional Licenses

Admitted to Bar: Washington; U.S. District Courts: Western & Eastern Districts of Washington; U.S. Court of Appeals 9th Circuit; District of Colorado.

Professional Associations

Fellow, Chartered Institute of Arbitrators;
American Bar Association (Dispute Resolution Section; Business Law Section (DR Committee), International Section (IP Rights Committee);
Washington State Bar Association (ADR, IP, Business and International Practice Sections), Chair - ADR Section 2020-2022;
King County Bar Association (ADR, IP and International Sections), Lawyer Referral Service Dispute Resolution Panel;
British Columbia International Commercial Arbitration Centre and Canadian International Internet Dispute Resolution Centre;
Canada-America Society;
French-American Chamber of Commerce;
Federal Bar Association, W.D. WA;
FINRA Panel for Securities Disputes;
U.S.D.C., W.D. WA Rule 39.1 Mediation Panel, and Bankruptcy Mediation Panel.

**Recent Publications &
Speaking Engagements**

CLE presentations on ADR and IP; panel presentations on trademark disputes, rights of publicity and issues of license enforcement, arbitration and mediation generally.

Recent Presentations:

ABA Business Law Section Dispute Resolution Committee, "Tips for a More Secure Environment for Online Dispute Resolution," Co-Panelist, 2020;
King County Bar ADR Section "When 'Sorry' Isn't Enough: Apology in Conflict Resolution.", 2020;
International Business Law Consortium, "Domain Name Disputes.", 2019;
King County Law Library Seminars, "Introduction to Mediation.", 2018;
King County Business Law Section, "ADR and Business Disputes.", 2018;
Washington State Bar IP Institute, "Protecting IP Value in ADR.", 2018;
Northwest Dispute Resolution Conf., "Use of Apology in Dispute Resolution.", 2018;
Northwest Dispute Resolution Conf., "Interim Measures in Arbitration.", 2018;
King County IP Section, "IP Disputes: Litigate, Arbitrate or Mediate.", 2018;
"Managing Discovery in Arbitration," 2015;
"International Licensing Disputes", 2013;

"Fundamentals of IP Licensing", 2012.

Earlier presentations include:

"Selecting Appropriate Dispute Resolution"

"Arbitration and Mediation in IP Licensing"

"Dealing with Delay; Ethical Obligations of Counsel"

"International Trademark and Licensing Disputes"

"Making Cross-Border Arbitration Effective"

"Common Concerns, Issues and Solution in IP ADR"

"Psychology of Mediation and the Advocates Role"

"ADR for the Business Sector"

"ADR for International Transactions"

"ADR Alternatives to Patent Litigation"

Publications:

Editor, International Intellectual Property Year in Review (ABA, INTERNATIONAL LAWYER), 2002-2014;

WASHINGTON STATE CIVIL PROCEDURE DESKBOOK, Section on Proof of Foreign Law (1992 edition, 1997, 2001, 2014 supplements)

Earlier publications on "Visual Art and Legal Rights," "Plan for Arbitration"

Locations Where Parties Will Not be Charged for Travel Expenses Within one hour car travel from Seattle, Washington.

Mediation Rate \$600 Per Hour

Languages English

Citizenship United States of America

Locale Seattle, WA

The AAA's Rules provide the AAA with the authority to administer a mediation including, mediator appointment, general oversight and billing. Accordingly, mediations that proceed without AAA administration are not considered AAA mediations, even when the parties select an mediator who is on the AAA's Roster.

The information contained in this resume has been supplied solely by the individual mediator and may, or may not, be a complete recitation of their experience. The AAA assumes no responsibility for the content, completeness, accuracy, or reliability of the information contained in a mediator's resume. If you have any questions about a mediator's experience or background, you are encouraged to contact your case manager.

Mediators on the AAA Roster are not employees or agents of the AAA.