

## BOOK REVIEW

### ENHANCED DISPUTE RESOLUTION THROUGH THE USE OF INFORMATION TECHNOLOGY

*Arno R Lodder and John Zeleznikow*

Cambridge: CUP, 2010, 208 pp, £65, ISBN 978-0-521-51542-9 (hbk)

Arno R Lodder and John Zeleznikow's *Enhanced Dispute Resolution Through the Use of Information Technology* begins with the optimistic, if not wishful, statement that "alternative dispute resolution has now supplanted litigation as the principal method of dispute resolution". The authors then continue to present the state of the art as well as suggest best practices, together with their own complete model for the online environment, regarding the use of information technology in dispute resolution. Their book is an addition to a long line of research on information technology to support dispute resolution that began as early as in 1976.

A clarification on terminology is necessary in order to follow the authors' analysis. *Dispute Resolution* is to be understood as comprising four fundamental processes: negotiation, mediation, arbitration and litigation. The latter pertaining to processes in a court of law, *Alternative Dispute Resolution* is to be understood as covering any and all processes other than court recourse (consequently, negotiation, mediation and arbitration, but also, in the case of the USA, bargaining about charges and pleas). The use of information technology for the purposes of *Enhanced Dispute Resolution* refers to all four of the above processes. Information technology may support litigation and the courts; it may also assist the disputing parties' negotiation, mediation or arbitration procedures. The authors do not focus on only one of the above parameters, but rather "discuss the use of information technology to support dispute resolution in general, as well as all its forms".

In their introduction, apart from setting their scope of work, the authors briefly present the basics on dispute resolution, namely on negotiation, mediation, arbitration and litigation, as well as, elaborate upon the merits of using information technology to support dispute resolution.

The authors stress that in order to build the appropriate information technology tools "it is essential to master the process of dispute resolution". To this end, their Chapter 2 is mostly legal, focusing on the norms for the use of technology in dispute resolution. The regulations in effect are therefore analysed: the EU Recommendations on online arbitration and mediation and the ABA best practices for service providers.

In Chapter 3 the theoretical analysis is continued: now reference is made to real-world dispute resolution processes. The authors' attention is drawn to the principles and theory of negotiation, the application of game theory and bargaining, as well as to the notions and various distinctions of negotiation and risk management. The second part of this chapter is devoted to the development of negotiation decision support systems – still at theoretical and principle-setting level, through the examination of the relevant domains.

Chapter 4 is about the technologies that support dispute resolution. The authors distinguish between the offline and the online environment; while in the offline world “basically, IT helps in streamlining the process”, Online Dispute Resolution “by nature needs IT to resolve the conflict”. Having their roots in the field of artificial intelligence and the law, the authors’ interest was stimulated by the case of Online Dispute Resolution, and they therefore elaborate upon the basic technology behind it in this chapter.

Advanced cases on the use of intelligent technologies for dispute resolution are discussed in Chapters 5 and 6. It is mostly in Chapter 5, the longest in the book, that the technical analysis is found, as the authors analyse a multitude of models, both in operation and prototypes, for the support of dispute resolution processes. The analysis provides both factual data and a step-by-step presentation of the algorithm supporting these models.

In Chapter 6 the authors elaborate upon their own three-step model for Online Dispute Resolution, an expansion of their relevant 2005 paper.

This reviewer, although a newcomer in the field of technology-enhanced dispute resolution, is an active practitioner in perhaps one of the most problematic jurisdictions in the EU and also (hopefully) fairly acquainted with what (commercial) software can and cannot do today. I therefore opened up this book with interest, a touch of disbelief, and many (obvious, I think) questions: Do the authors claim that information technology can replace litigation? Or, for the same purposes, any other contemporary alternative dispute resolution method, such as mediation or arbitration? What do they mean by the “use of information technology”? A mere beefed-up case management system or the use of artificial intelligence systems in (or, in the place of) the court?

Admittedly, I had to wait until the last page of the book for my basic question to be clearly addressed – apparently, a deliberate choice by the authors: Can technology-enhanced dispute resolution replace litigation? The authors adopt a cautious and realistic approach: they outline the benefits of using technology in dispute resolution, regardless whether in or out of court, and stress upon the exponential growth of such support systems around the world, but rather leave “the other possible scenario” unnamed and characterise it as “spectacular”. Therefore, it is support by technology and not decision-making by technology that is elaborated by the authors in this book.

Reassured by the finding that courts and lawyers are not to be replaced by computers any time soon, I had to re-read the non-technical chapters of the book, in order to place it upon its, hopefully, proper basis. By then, two clarifications in Chapter 1 struck me as particularly relevant: first, that the authors attempt to “clarify the confusions held by many computer scientists, who argue that IT can only be used to make decisions; they thus develop automated negotiation systems. We argue that IT is most appropriately used to advise humans how to improve their negotiation performance”, supposedly leaving the decision-making either upon themselves or upon a third party. Second, that “this book is unique in that it proposes solutions for using IT to provide negotiation support, rather than merely indicating the need for Online Dispute Resolution (ODR)”, meaning that this book is not about the laws required for technology-enhanced dispute resolution to operate but rather about the organisational mechanism (including the algorithm) behind it in order for it to, meaningfully, exist.

Having established the above, answers to all my other questions quickly fell into place.

The authors fulfil both readers' expectations and their stated purposes. Their book may be used as an introduction in the field of technology-enhanced dispute resolution, because it provides a firm theoretical background with extensive references and bibliography and is rich in paradigms and projects both operational or still in academic labs. It may also be used for reference purposes as to the state of the art in the relevant technologies, due to its extensive listing and analysis even at algorithm construction level. The authors contribute to research in the field, by bringing forward their own three-step model for Online Dispute Resolution. The book is written in a simple and possibly reader-friendly way, avoiding the use of too much specialised jargon (the appended glossary is a useful addition), despite of the fact that its subject-matter requires an in-depth knowledge of both legal and information technology systems. Therefore, apart from required reading to researchers in the field, it is addressed to legal and IT professionals alike, as well as to students or even the general audience.

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