

Alternative dispute resolution between actors and directors or how to avoid the crisis^{1, 2}

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Abstract

This paper aims at understanding the financial and time risks of a dispute on a film set and what are the best alternative resolution that could be implemented. Along this paper we will try to analyse and compare the alternatives. We will first define how this theme is linked to project, practice and program portfolio, then we will try to understand all the issues linked to the movie production industry through the main causes of disputes thanks to a Root cause analysis. Then, we used specific tools such as a non-compensatory model, a multi-attribute decision-making grid, a matrix analysis and, an additive weighting technique model. We used them to assess each scoring attributes, each alternative, and finally the best alternative dispute resolution.

Finally, prevention seems to be the best alternative dispute resolution. We will make a Pareto analysis to highlight the impact of disputes with Prevention and without it.

Key words: Conflict Resolution, Movies Failure, Alternative Dispute Resolution, Mediator, Contractual Disputes

Introduction

"A long dispute means that both parties are wrong." – Anonymous. This quote may mean that while two or more people are arguing in a conflict, they are wasting time, money, and energy that could have been used for something more useful. And at the end, everyone is losing. Movies or stages actors can play a lot of roles and emotions, they can pretend to be edgy, but that does not prevent them to face real dispute. Indeed, in this area, actors and directors might face many tensions and sources of conflict, last August, for instance, the well-known director Danny Boyle quitted the new Bond film few weeks before starting filming due to a dispute with the main

¹ Editor's note: Student papers are authored by graduate or undergraduate students based on coursework at accredited universities or training programs. This paper was prepared for the course "International Contract Management" facilitated by Dr Paul D. Giammalvo of PT Mitratata Citragraha, Jakarta, Indonesia as an Adjunct Professor under contract to SKEMA Business School for the program Master of Science in Project and Programme Management and Business Development. <http://www.skema.edu/programmes/masters-of-science>. For more information on this global program (Lille and Paris in France; Belo Horizonte in Brazil), contact Dr Paul Gardiner, Global Programme Director, at paul.gardiner@skema.edu.

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actor. How much, this kind of problem, could cost for the company? Concretely, dispute could be the causes of project failure in the movie world, it is a key point of concern in this industry where the rise in budgets has new records every year (+ 13.4% of budgets between 2015 and 2016 in France).³ As in the example given above, stakeholders in the film world may be under constant emotional pressure that can lead to arguments that will not find any compromise. That is why, these stakeholders should try to find more original ways to solve problems such as the Alternative Dispute Resolution. Any process of allowing conflicting parties to amicably seek and accept a solution to cease the conflict or any intervention by a third party that avoids the use of a procedure will be considered as alternative. “ADR is usually less formal, less expensive, and less time-consuming than a trial. ADR can also give people more opportunity to determine when and how their dispute will be resolved.”⁴ These alternative solutions could be arbitration, conciliation, mediation, negotiation, collaborative law, ... We think this kind of tool could reduce the risks and costs of disputes between actors and directors. Disputes are a main issue in this sector, and even if they are finally solved, the legal procedure, in front of a court could cause a project failure, high costs, an increase in the delays and a bad image for the production team regarding the public who could be affected.

As we know a project is a temporary process, moreover, project management can be defined as “the application of knowledge, skills, tools and techniques to project activities in order to meet or exceed stakeholder needs and expectations for the project”⁵. The realization of a movie is a deliverable of a unique product in a temporary project defined by contract. The relationship and the tasks that need to be done appear in this contract. It is a response to a need and deployed in a specific context in this industry.

To better understand how this topic of movie production is related to the definitions of project, portfolio, program and assets, the table below will go into more detail on each of these points.

	Definitions	Examples
Project	<p>“A project is an investment that requires a set of coordinated activities conducted over a finite period of time in order to deliver a unique objective:</p> <p>As an investment, each project requires a commitment of financial resources, non-financial resources, or both.</p>	<p>The movie realization, schedule over one year, is a clear and defined project. The unique objective is to create a popular and money-making movie.</p>

³ Editor’s note: Number of movies approved by the CNC. <https://www.afcinema.com/La-production-cinematographique-en-2016.html>

⁴ Quote from California Courts, © 2018 Judicial Council of California <http://www.courts.ca.gov/3074.htm>

⁵William R. Duncan (1996) - A guide to the project management body of knowledge <http://www2.fiit.stuba.sk/~bielik/courses/msi-slov/reporty/pmbok.pdf>

	<p>The finite period of time may be an imposed constraint or the result of planning.</p> <p>The unique objective requires completion of one or more deliverables. The deliverables may be defined in advance or discovered during the project.</p> <p>The characteristics of the deliverables may be defined in advance or discovered during the project.”⁶</p>	
Asset	<p>“An “asset” can be described as being “A tangible or intangible resource with economic value that an individual, corporation or country owns or controls with the expectation that it will provide future benefit.”⁷</p>	<p>To manage a movie realization, the team disposes of different resources such as the expertise from each member, an appropriate set of technical equipment such as cameras, storyboards, microphones, ... But also a budget, a clear objective, all the authorizations to shoot on public places, ...</p>
Portfolio of assets	<p>“Assets shown on their owner’s balance sheet are usually classified according to the ease with which they can be converted into cash.”</p> <p>According to the guild definition, It exists 5 different asset classes:</p> <p>Information Assets are normally controlled by functional groups such as IT or Engineering;</p> <p>Human Assets are controlled by HR;</p> <p>Physical Assets are controlled by either operations (“plant manager”) or other functional entities such as “heavy equipment shop”;</p> <p>Financial Assets are controlled by accounting or finance and lastly;</p> <p>Intangible Assets which are defined to be the difference between a company’s book value</p>	<p>A movie team is generally composed of several people involved in the project with different roles and capacities:</p> <p>The production director is responsible of all the financial part. He is going to manage the expenses, the salaries and all the extras. He is also in charge of the intangible assets.</p> <p>The physical assets are managed by the stage manager. He and his team are in charge of the equipment that must be at the good place at the good moment.</p> <p>All the human assets are generally managed by the assistant director during the shooting. But the production director stays in charge of the paperwork before and after the filming.⁹</p>

⁶ Adapted from a Linked In discussion initiated by William R.Duncan (1/13/2018). Retrieved from <https://www.linkedin.com/feed/update/urn:li:activity:6357416976318558208/>

⁷ Adapted from an Investopedia definition. (n.d.). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohXPEStWNlzYMEqFDAdjZn33DdYs6zC_4JjJk_D7gaaBIL-11Cbw

⁹ Les métiers du cinéma : sur le tournage. (April 11, 2017). Apprendre le cinéma. Retrieved from <http://apprendre-le-cinema.fr/les-metiers-du-cinema-sur-le-tournage/>

	<p>and market capitalization value is controlled by sales and marketing or public relations departments.”</p> <p>We can add that “It is the responsibility of these functional organizations to allocate what are often scarce or limited “organizational assets” to projects, understanding that not all projects have the same priority and in many cases, there are too many projects for the pool of existing resources to be able to manage effectively.”⁸</p>	
<p>Portfolio of projects</p>	<p>“A “portfolio of projects” is no different than any investment portfolio, the objective being to minimize the risk and maximize the return. Any organization, be it Owner or Contractor has a portfolio of assets (resources) available to dedicate to projects, with the objective being to develop the best “mix” of projects which will generate the most favorable return on those assets.”</p> <p>For most Owners, projects fall into 4 broad categories:</p> <ol style="list-style-type: none"> 1. Revenue Generating or “Top Line” Projects - Sales and Marketing Initiatives, New Plant Construction (Capital Investment) or Mergers/Acquisitions/IPO’s (New Market Penetration) 2. Cost Containment or “Bottom Line” Projects - Reorganizations, Outsourcing, Enterprise Software Solutions, 	<p>Large production companies, Pathé for example, have a considerable choice of projects, scenarios, fixed crews or film studios. The organization must take the best choices to invest and launch films and series that will be as successful as possible and therefore the most profitable.</p> <p>The best revenue generating source in this sector is the cinema. The box office movies sell a lot of tickets and earned a lot.</p> <p>A movie making company would have, has a bottom line, the addition of all its income such as cinema tickets, DVDs sold, television rights, ...</p> <p>A government mandated project, this is the case, for example, of the Venezuelan government, which commissioned a film recounting the life of Hugo Chavez, who died on March 2013, to be directed by Román Chalbaud.¹¹</p> <p>In another way, a government could censor parts of a film that it considers non-compliant</p>

⁸ Giammalvo, Paul D (2015) Course Materials. Contributed Under [Creative Commons License BY v 4.0](https://creativecommons.org/licenses/by/4.0/). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohPEStWNlZYMEqFDAdjZn33DdYs6zC_4JjJk_D7gaaBIL-11Cbw

¹¹ Le gouvernement vénézuélien veut aussi un film sur Hugo Chávez. (August 25, 2016). FIGARO. Retrieved from <http://www.lefigaro.fr/cinema/2016/08/25/03002-20160825ARTFIG00110-le-gouvernement-venezuelien-veut-aussi-un-film-sur-hugo-chvez.php>

	<p>Process Reengineering, Project/Program/Portfolio Management Offices</p> <p>3. Government Mandated Projects - SOX/BASIL II, Environmental Protection o Labor Law Compliance</p> <p>4. Community Service or “Good Will” Projects - designed to improve the image or credibility of the organization. ¹⁰</p>	<p>for the country. This was the case, for example, of an episode of the British animated series "Peppa Pig" showing a "friendly" spider and spreading a positive message considered non-compliant in Australia, knowing that some species of arachnids are deadly in that country. ¹²</p> <p>Some films share their profits with associations. This is the case, for example, of the French film "Demain", which is a pro bono documentary about the environment: agriculture, energy, housing, economy, education, democracy... They gave part of its income in a desire for sustainable and social development.¹³</p>
<p>Program¹⁴</p>	<p>According to the guild definition, there are 4 types of program, The Strategic program “Deliver assets and benefits that are directly linked to attaining the sponsoring organization’s future state.” It “Link to a specific business goal or strategic initiative.” The Operational Program “Deliver assets and benefits that are critical to the sponsoring organization’s day to day operations.” It is a “Relative interdependence of constituent projects.” The Multi-Project Program “Achieve synergies from projects with common traits such as shared resources, similar clients or product technology.” It is a “Relative interdependence of constituent projects.”</p>	<p>The strategic program is linked to a specific goal, for example finishing a multicultural movie that is made in different countries. All the teams have specifics scenes to shoot, and at the end, all these scenes combined will make the final movie. The Operational Program is related to all the day to day activities. For example, when Christopher Nolan needed 1500 extras actors for his movie Dunkirk, the costume manager, the head hairdresser and the head make-up artist were present with big teams in order to prepare every actor every morning. It was an important and essential operation for the realism and success of this movie. The Multi-Project Program is present when some big production companies are making multiple movies in the same franchise. For example, the 3 Lord of the Rings movies. They were made by the same author and shared a lot of resources such as the actors.</p>

¹⁰ GUILD OF PROJECT CONTROLS COMPENDIUM and REFERENCE (CaR) | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). (n.d.). Portfolios of Projects. Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohXPEStWNizYMEqFDAdjZn33DdYs6zC_4JjJk_D7gaaBIL-11Cbw

¹² Aux Etats-Unis, « Kirikou » interdit aux mineurs. (September 19, 2015). leparisien.fr. Retrieved from <http://www.leparisien.fr/espace-premium/culture-loisirs/aux-etats-unis-kirikou-interdit-aux-mineurs-19-09-2015-5105807.php>

¹³ Demain | Partout dans le monde des solutions existent. (n.d.). Demain. Retrieved from <https://www.demain-lefilm.com/>

¹⁴ Global Alliance for Project Performance Standards (2011) [Program Typology](http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohXPEStWNizYMEqFDAdjZn33DdYs6zC_4JjJk_D7gaaBIL-11Cbw). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohXPEStWNizYMEqFDAdjZn33DdYs6zC_4JjJk_D7gaaBIL-11Cbw

	And finally, the Mega-Project “Deliver a specific asset to the sponsoring organization.” It is “Significantly larger than the sponsoring organization’s typical projects.”	The Dunkirk’ municipality faced a large-scale project, it was a Mega-Project. To meet the needs of the shooting, it was necessary to bring technical assistance from other regions of northern France. Especially in boats, refectory, and transport installations.
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Figure 1: Project, Program, Portfolio an assets table¹⁵

To understand all the issues linked to this industry, we have to go through the main causes of disputes that are common. The main failure reasons come from people, the contract and the external environment.

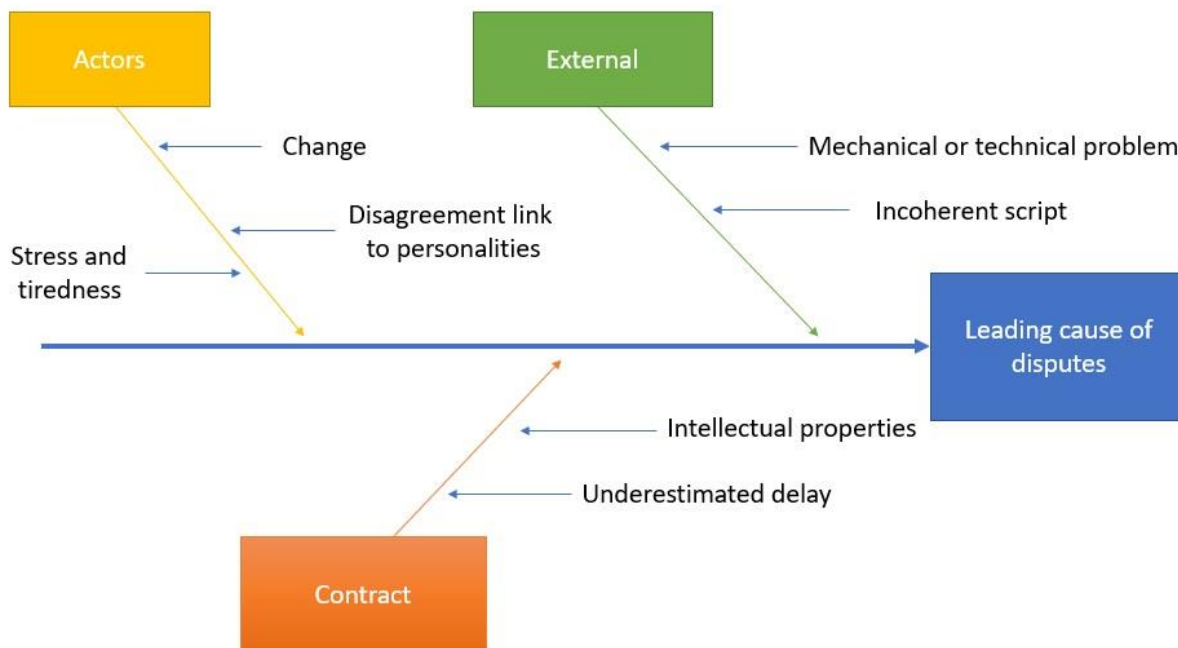


Figure 2: Fish bone diagram¹⁶

The purpose of this document is to show how ADR could be implemented in this sector and what it could bring to both parties that are engaged in conflict. There are different questions this paper will try to find the answer to:

- What is the potential and benefits of ADR in the movie sector?
- Is a mediator could be implemented in a dispute between an actor and a director?

¹⁵ By Author

¹⁶ By Author

At the end of our presentation, we may answer those questions that are crucial to understand how ADR should be implemented, and the consequences it might have in the field. Let's try to find a solution to the current main problem actor and directors are facing: dispute that are not well managed.

Methodology

Step 1:

Stanley Kubrick, Henry Fonda, Ryan Gosling, Peter Jackson, Marilyn Monroe or Dustin Hoffman, all these famous actors or directors already had serious dispute during a film shooting. And this phenomenon keeps on growing due to the arrogance and desire for control that is increasing on the part of the actors.¹⁷ Understanding the different dispute resolution is crucial in order to overcome these conflicts. This is why we are now going to see the feasible alternatives that can be established to avoid long, costly and unpopular disputes.

Step 2:

To have a dispute resolution, we have identified below feasible and alternative solutions. They can be implemented by actors and directors to avoid conflicts or to resolve it easily.

1. **Prevention:** This stage is based on finding a solution before the dispute arise and grow. For some, "prevention is the best form of conflict resolution and supports several "best practices" that help reduce problems in projects."¹⁸
2. **Negotiation:** The actor and the director would find an agreement by themselves. "A negotiation clause basically includes the agreement that if a cause for a dispute should arise between a contractor and a project owner, these parties will attempt to reach a just and satisfactory resolution between themselves before moving on to other means."¹⁹
3. **Adjudication:** It is a process where a third party is involved in order to resolve the dispute by giving a complementary decision. This party must be neutral, without any bias and must be out from the project. At the end, the adjudicator must give his decision. "Adjudication clauses typically also include the possibility of applying to a court to enforce the adjudicator's decision, if the dispute is not resolved by the decision itself. It

¹⁷ The 34 Biggest Actor vs. Director Fights in Hollywood. (n.d.). Ranker. Retrieved from <https://www.ranker.com/list/actor-director-fights/matthewcoleweiss>

¹⁸ Read "Reducing Construction Costs: Uses of Best Dispute Resolution Practices by Project Owners: Proceedings Report" at NAP.edu. (n.d.). National Academies Press: OpenBook. Retrieved from <https://www.nap.edu/read/11846/chapter/4>

¹⁹ Six Tips for Successfully Resolving Construction Disputes. (n.d.). Construction Executive | Welcome. Retrieved from <http://constructionexec.com/article/six-tips-for-successfully-resolving-construction-disputes>

is a cost-efficient method which helps operations proceed while the dispute is resolved.”

20

4. **Mediation:** Using mediation is a good opportunity to keep a good relationship while finding an agreement. “An impartial person called a “mediator” helps the parties try to reach a mutually acceptable resolution of the dispute.”²¹
“Mediation is not legally binding in any way, but can be an effective way out of a situation which could otherwise deteriorate. [...] the mediator will assist parties in finding the resolution.”²²
5. **Expert Determination:** It is used to resolve dispute that are more technical. At this moment a specialist’s opinion is required. Both parties could choose a private binding solution for example like hiring a judge. The private judge will generally render decisions which may be either advisory or determinative of the issue, depending upon the terms of the agreement between the parties.²³
6. **Litigation:** In this alternative, both parties agreed using judges in front of court. It is a legal way to solve the dispute. “In case the parties do not find any other way to resolve the issues that have come up. Litigation involves a trial and is legally binding and enforceable, though it can also be appealed. Litigation can be by far the most thorough, complex as well as slow and costly way of resolving a dispute. This is why parties will typically attempt a number of other resolution methods before opting for litigation.”²⁴

To compare these alternatives exposed above, we need to take a list of specific attributes. These attributes will permit us to rank all our options in order to select the best one. Here are the most relevant attributes regarding the cinema world.

1. **Complexity:** this refers to the complexity of the implemented solution. The less complex, the better it is.
2. **Cost:** Is the resolution costly? If it’s demand a huge amount of money, the parties will both lose.

²⁰ Six Tips for Successfully Resolving Construction Disputes. (n.d.). Construction Executive | Welcome. Retrieved from <http://constructionexec.com/article/six-tips-for-successfully-resolving-construction-disputes>

²¹ Planning Planet. (n.d.). Job Description for Planning Manager | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). Retrieved from <http://www.planningplanet.com/guild/gpccar/formal-disputes-resolution>

²² Six Tips for Successfully Resolving Construction Disputes. (n.d.). Construction Executive | Welcome. Retrieved from <http://constructionexec.com/article/six-tips-for-successfully-resolving-construction-disputes>

²³ Planning Planet. (n.d.). Job Description for Planning Manager | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). Retrieved from <http://www.planningplanet.com/guild/gpccar/formal-disputes-resolution>

²⁴ Six Tips for Successfully Resolving Construction Disputes. (n.d.). Construction Executive | Welcome. Retrieved from <http://constructionexec.com/article/six-tips-for-successfully-resolving-construction-disputes>

3. **Duration:** this is linked to the duration of the resolution. If a resolution has a very low duration, the stakeholders will be able to quickly start a new project or keep on working on the movie realization without unconscious bias linked to the dispute.
4. **Confidentiality:** this is linked to the media and the public relations. The resolution could be confidential though quiet diplomacy or noisy and public, thus affecting badly the image of stakeholders.
5. **Impact on the relationship:** how does the dispute impact the relation between the director and the actor? We will focus on the alternative that least destroys this relation. This is linked to respect, to the good compromise that can be found and to the opportunity for stakeholders to work again together on other projects.
6. **Flexibility:** “The dispute process is handled and resolved through an ADR agreement in which the parties choose the ADR method, agree on the degree of confidentiality in the process, outline the specific steps of the process, and establish time periods for each step.”²⁵
7. **Voluntariness:** does both parties agree on the choice for this ADR? It implies finding a solution for both parties.
8. **Outcome:** how is the situation between both parties after the implementation of the solution? Generally linked to the cost liability. One party may feel frustrated and unfair to the other over financial issues such as working time or compensation payments.
9. **Degree of control:** When both parties control the processes and results of the agreement, this reduces the confrontation between the parties.
10. **Enforceability:** This attribute is used to evaluate the final result of the solution. If a good decision is made, it will not need cumulative recourse.
11. **Freedom in third party choice:** “One of the most valued features of international arbitration is thus the parties’ ability to choose their tribunal, and thereby to ensure that their dispute is heard by a tribunal that they trust, that they consider to be independent, impartial and competent in the relevant subject-matter and that they know has the required availability.”²⁶
12. **Ability to Select Place and Language of the Arbitration:** If the parties are free to determine aspects of the proceedings such as the place of arbitration, or the language in which the proceedings will take place, then this attribute will be higher, related to the freedom of the parties.
13. **Limited Discovery:** “a certain degree of discovery is often permitted by arbitration tribunals. [...] The degree of discovery allowed in international arbitration will vary greatly from one case to the other, and will often depend on the legal background of the tribunal. [...] As with most procedural elements in international arbitration, the

²⁵ Agency for dispute resolution (n.d.). *WHAT ARE THE UNIQUE CHARACTERISTICS OF ADR PROCESSES?* Retrieved from <http://www.agencydr.com/faq/alternative-dispute-resolution-qa/what-are-the-unique-characteristics-of-adr-processes.html>

²⁶ Ch. 19 The Decision to Arbitrate. (n.d.). *Enforcing U.S. Judgments Abroad - Proskauer on International Litigation and Arbitration*. Retrieved from <https://www.proskauerguide.com/arbitration/19>

parties are free to agree to the scope of discovery they choose to allow in the arbitration.”²⁷

14. Potential Need for Court Intervention: “Because arbitral tribunals lack imperium, or coercive power, their procedural orders are necessarily less effective than those of courts and may have to be enforced through a separate court order. It is thus mostly recognized that a party can apply to a court for protective measures even when the tribunal is constituted.”²⁸

Step 3:

We are now going to compare all these attributes in order to see which ones are the most important to take into account, in order to avoid the bias of non-crucial attributes. We are going to use a non-compensatory model. First, the disjunctive reasoning method will permit seeing which attributes are the most, and the less important thanks to a grade, from 1 (the most important) to 0 (the less important).

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	Total Score
1	0	0	0	0	0	1	1	1	1	1	1	1	1	1	9
2	1	0	1	1	1	1	1	1	1	1	1	1	1	1	13
3	1	0	0	0	1	1	1	1	1	1	1	1	1	1	11
4	1	0	1	0	1	1	1	1	1	1	1	1	1	1	12
5	1	0	0	0	0	1	1	1	1	1	1	1	1	1	10
6	0	0	0	0	0	0	1	0	0	1	0	1	1	1	5
7	0	0	0	0	0	0	0	1	0	0	1	1	0	1	4
8	0	0	0	0	0	1	1	0	1	1	0	1	1	1	7
9	0	0	0	0	0	1	1	0	0	1	0	1	1	1	6
10	0	0	0	0	0	0	1	0	0	0	0	1	0	1	3
11	0	0	0	0	0	1	1	1	1	1	0	1	1	1	8
12	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
13	0	0	0	0	0	0	1	0	0	0	0	1	0	0	2
14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

Figure 3: Disjunction reasoning method²⁹

1-Complexity 2- Cost 3- Duration 4- Confidentiality 5- Impact on relationship 6- Flexibility 7- Voluntariness 8- Outcome 9- Degree of Control 10- Enforceability 11- Freedom in third party choice 12- Ability to Select Place and Language of the Arbitration 13- Limited Discovery 14- Potential Need for Court Intervention.

²⁷ Ch. 19 The Decision to Arbitrate. (n.d.). Enforcing U.S. Judgments Abroad - Proskauer on International Litigation and Arbitration. Retrieved from <https://www.proskauerguide.com/arbitration/19>

²⁸ Ch. 19 The Decision to Arbitrate. (n.d.). Enforcing U.S. Judgments Abroad - Proskauer on International Litigation and Arbitration. Retrieved from <https://www.proskauerguide.com/arbitration/19>

²⁹ By Author

Thanks to this assessment method, we can discover that the most important attributes is the **cost**, followed by **confidentiality**, **duration**, and the **impact on relationship**. On the other hand, we can see at the final places the potential need for court intervention, the ability to select place and language of the arbitration, the limited discovery and the enforceability. In other words, these attributes are the less important ones to take into account for the alternative ranking we are going to make.

Step 4:

We can now, move on to the multi-attribute decision-making model based on a qualitative analysis. We are going to use colors in order to clearly see the impact of each attribute. Green will reflect a good impact, orange a medium one and red a bad one.

	Prevention	Negotiation	Adjudication	Mediation	Expert determination	litigation
Cost	low	low	Medium	medium	High	High
Confidentiality	High	High	Medium	Medium	Medium	Low
Duration	Low	Medium	Low	Medium	Medium	High
Impact on relationship	low	low	Medium	Low	Medium	Medium
Complexity	low	Medium	low	Low	medium	High
Freedom in third party choice	high	high	medium	medium	low	low
Outcome	Good	good	good	medium	bad	medium
Degree of control	high	high	medium	High	medium	bad
Flexibility	medium	Medium	High	Medium	High	medium
Voluntariness	High	medium	medium	Medium	low	medium
enforceability	high	high	high	High	medium	low
limited discovery	high	high	medium	Low	low	low
ability to select place and language of the arbitration	high	high	high	Medium	medium	low
potential need for court intervention	Good	Good	medium	medium	Bad	bad

Figure 4: Multi attribute decision making table³⁰

³⁰ By Author

We can now transcribe these results and weight each attribute on the following table.

	Prevention	Negotiation	Adjudication	Mediation	Expert determination	litigation
Cost	1	1	0.75	0.5	0	0
Confidentiality	1	1	0.8	0.5	0.35	0
Duration	1	0.85	1	0.7	0.5	0
Impact on relationship	1	1	0.6	1	0.3	0.25
Complexity	1	0.75	1	1	0.5	0
Freedom in third party choice	1	1	0.45	0.25	0	0
Outcome	1	1	1	0.7	0	0.5
Degree of control	1	1	0.85	1	0.4	0
Flexibility	0.8	0.7	1	0.6	1	0.5
Voluntariness	1	0.8	0.5	0.3	0	0.15
enforceability	1	1	1	1	0.25	0
limited discovery	1	1	0.5	0	0	0
ability to select place and language of the arbitration	1	1	1	0.55	0.35	0
potential need for court intervention	1	1	0.6	0.4	0	0
Total	13.8	13.1	11.05	8.5	3.65	1.4

Figure 5: Multi attribute decision making ranking table³¹

Thanks to the weight analyze, we can now set up a minimum acceptable level each alternative should reach. We defined this minimum to 8. Therefore, we can eliminate the Expert determination and the litigation that are too costly and have a bad effect on the confidentiality and the impact on relationship.

³¹ By Author

Findings

Step 5:

We are now going to use an additive weighting technique³² in order to summarize the step 3 and 4 decision-making process. This technique will permit us ranking our alternatives by combining the weight of each criterion with the weight of each alternative. As the Expert determination and the litigation were under our minimum requirement, we are now focusing on the four last alternatives.

	Step 1	Step 2	Prevention		Negotiation		Adjudication		Mediation	
	Relative ranking	Normalized weight (A)	(B)	(A)*(B)	(C)	(A)*(C)	(D)	(A)*(D)	(E)	(E)*(A)
Cost	13	1,3	1	1,3	1	1,3	0,75	0,975	0,5	0,65
Confidentiality	12	1,2	1	1,2	1	1,2	0,8	0,96	0,5	0,6
Duration	11	1,1	1	1,1	0,85	0,935	1	1,1	0,7	0,77
Impact on relationship	10	1	1	1	1	1	0,6	0,6	1	1
Complexity	9	0,9	1	0,9	0,75	0,675	1	0,9	1	0,9
Freedom in third party choice	8	0,8	1	0,8	1	0,8	0,45	0,36	0,25	0,2
Outcome	7	0,7	1	0,7	1	0,7	1	0,7	0,7	0,49
Degree of control	6	0,6	1	0,6	1	0,6	0,85	0,51	1	0,6
Flexibility	5	0,5	0,8	0,4	0,7	0,35	1	0,5	0,6	0,3
Voluntariness	4	0,4	1	0,4	0,8	0,32	0,5	0,2	0,3	0,12
Enforceability	3	0,3	1	0,3	1	0,3	1	0,3	1	0,3
Limited discovery	2	0,2	1	0,2	1	0,2	0,5	0,1	0	0
Ability to select place and language of the arbitration	1	0,1	1	0,1	1	0,1	1	0,1	0,55	0,055
Potential need for court intervention	0	0	1	0	1	0	0,6	0	0,4	0
Total	91	9,1		9		8,48		7,305		5,985

Figure 6: Additive weighting technique model³³

Thanks to this method, we can confirm our choice from the step 4, Prevention remains the best alternatives, followed by Negotiation. Adjudication and Mediation are the two last ones.

Step 6:

We can now rank our alternatives with the results made in step 5.

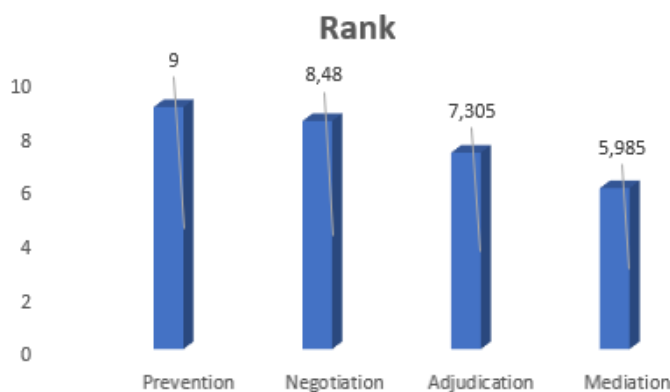


Figure 7: Alternatives rank graph³⁴

³² Sullivan, Wickes & Kroelling (2014) *Engineering Economics* 15th. Adaptation from planning planet. Retrieved from: <http://www.planningplanet.com/guild/gpccar/managing-change-the-owners-perspective>

³³ By the author

³⁴ By the author

Thanks to this ranking method and the whole process before, particularly the step 5, we have decided to keep these four alternatives. We can see that the best alternative is Prevention, closely followed by Negotiation. Then Adjudication is the third one and Mediation the last one with the lowest score.

If all these four alternatives reached quite a good score, it is mainly because they are less complex and costly, and these two criteria are really important for ADR. Moreover, they all have a small impact on the relationship and this is a main attribute in the cinema world because it impacts the future relationship, on the reputation, the standing from stakeholders but also from the public. Finally, they all permit a high degree of control, and this something very sought after by actors as well as directors.

If we compare with some figures, our best alternative, Prevention, is a better choice by 986% compared to the worst choice from the step 4: Litigation ($13.8/1.4 * 100$).

If we focus on our four last alternatives, Prevention is a better choice by 162% compared to Mediation ($13.8/8.5 * 100$).

Prevention is the best solution because it permits to avoid a real conflict. It is done upstream, before the dispute arise. The actor and director will not tear each other apart, degrade their image with team members and the public or waste time and money.³⁵

Step 7:

We now, know that Prevention is the best dispute resolution process, we can continue our study and make a Pareto analysis in order to show the effects, and the impact of Prevention in a resolution process. "A Pareto diagram is a simple bar chart that ranks related measures in decreasing order of occurrence."³⁶ "A Pareto analysis helps prioritize decisions so leaders know which ones will have the greatest influence on their overall goals and which ones will have the least amount of impact."³⁷

³⁵ Thomson/West. (2008). Alternative dispute resolution in a nutshell. Retrieved from

<https://fr.scribd.com/document/358824923/Advantages-and-Disadvantages-of-Negotiation>

³⁶ Quality Advisor. (n.d.). Pareto diagram (What is it? When is it used?) | Data analysis tools | Quality Advisor.

Retrieved from https://www.pqsystems.com/qualityadvisor/DataAnalysisTools/pareto_diagram.php

³⁷ Chad Brooks (2014, March). What Is a Pareto Analysis? Retrieved from

<https://www.businessnewsdaily.com/6154-pareto-analysis.html>

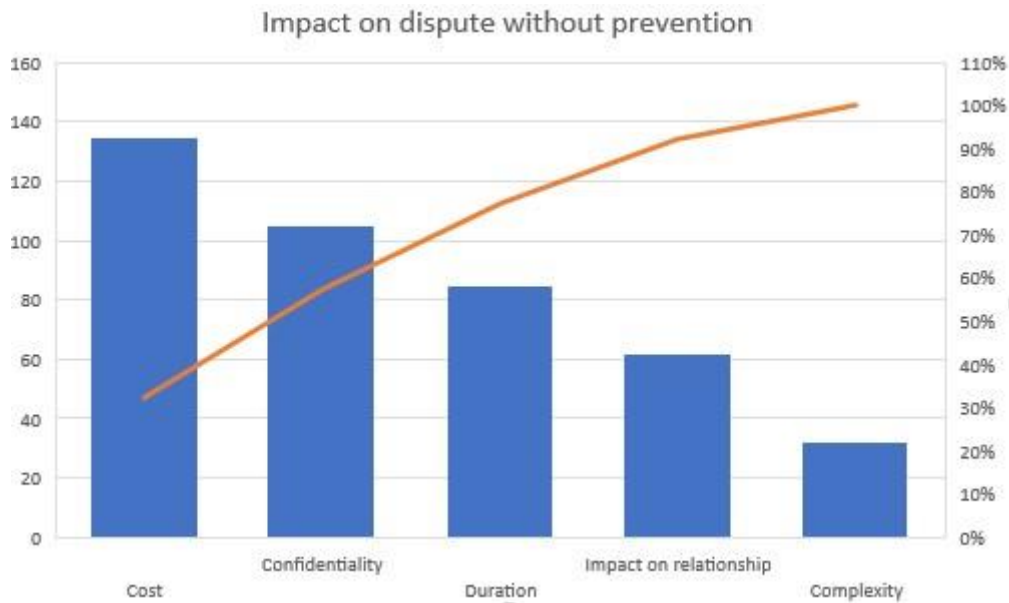


Figure 8: Pareto analysis of the Impact of disputes without Prevention³⁸

This first graph permits us to see that without Prevention, the cost, the confidentiality, and the duration are highly impacted by the disputes, such as the impact on relationship. The complexity is also impacted but less than the others.

Let now see how these criteria are impacted with Prevention.

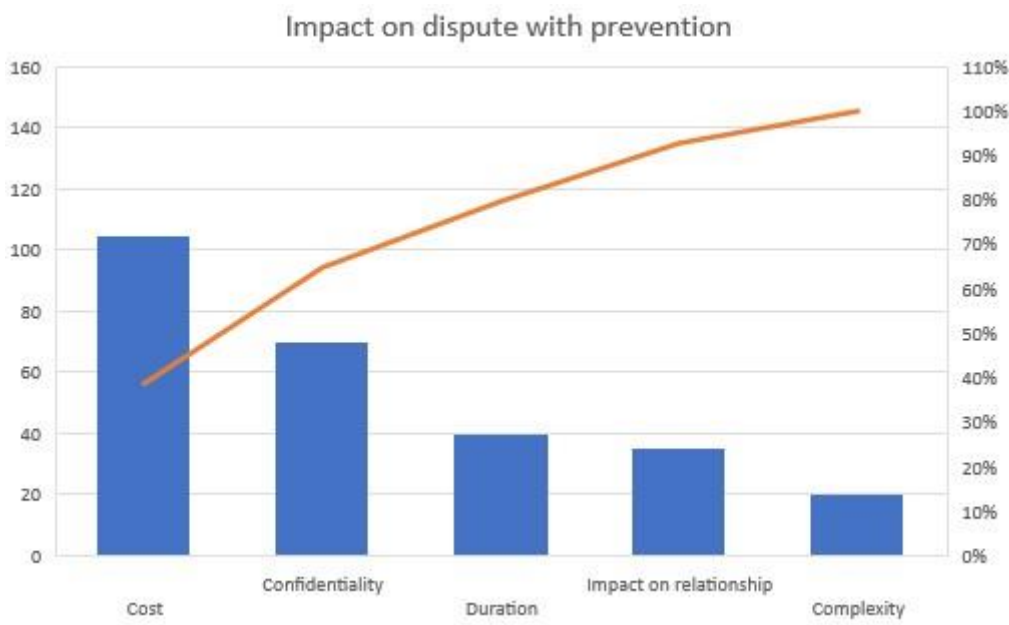


Figure 9: Pareto analysis of the Impact of disputes with Prevention³⁹

³⁸ By the author

³⁹ By the author

Here, we can notice that the use of Prevention permits to reduce the impact on cost, confidentiality, duration, impact on relationship and even on the complexity. Prevention enables the director and the actor to reduce the main disadvantages of dispute.

Conclusion

Our main objective on this paper, was to discover what are the best ways to resolve a dispute through the alternative dispute resolution for a director and an actor in the cinema world.

We first showed the different possible alternatives that both parties can use: Prevention, Negotiation, Adjudication, Mediation, Expert determination and Litigation. After presenting and defining each solution, we presented the fourteenth attributes and ranked them in order to help us evaluate the different solutions and prioritize the most interesting ones.

During the process we have eliminated the Expert determination and the Litigation because, as we saw earlier, they are too costly and have a strongly bad effect on the image of the public persons involved in the conflict, so the confidentiality is a really important point as well as the impact on relationship, and they both are deteriorated due to these complexes and publics alternatives.

In another way, the best alternatives are Prevention and Negotiation, because they permit to avoid a hard conflict and the solution is made in a gentler way. Indeed, both parties will work together and try to resolve the problem before it gets worse.

References

1. Art and Cultural Heritage Dispute Resolution (n.d.). Retrieved from http://www.wipo.int/wipo_magazine/en/2009/04/article_0007.html
2. The Use of Alternative Dispute Resolution in Art Related Disputes. Kluwer Arbitration Blog. (October 23, 2015). Retrieved from <http://arbitrationblog.kluwerarbitration.com/2015/10/23/the-use-of-alternative-dispute-resolution-in-art-related-disputes/>
3. Information Sheet: Alternative Dispute Resolution – Mediation. (n.d.). Arts Law. Retrieved from <https://www.artslaw.com.au/info-sheets/info-sheet/mediation-service/>
4. Alternative Dispute Resolution and Art-Law - A New Research Project of the Geneva Art-Law Centre. (n.d.). Journal of International Commercial Law and Technology. Retrieved from <http://www.jiclt.com/index.php/jiclt/article/view/124/122>
5. WIPO Alternative Dispute Resolution (ADR) for Art and Cultural Heritage. (n.d.). Retrieved from <http://www.wipo.int/amc/en/center/specific-sectors/art/>

6. La production cinématographique en 2016 – Afcinema. (May 02, 2017). Afcinema Association Française des directeurs de la photographie Cinématographique. Retrieved from <https://www.afcinema.com/La-production-cinematographique-en-2016.html>
7. ADR Types & Benefits. (n.d.). ADR Types & Benefits - alternative_dispute_resolution. Retrieved from <http://www.courts.ca.gov/3074.htm>
8. William R. Duncan. (1996). A guide to the project management body of knowledge. Retrieved from <http://www2.fiit.stuba.sk/~bielik/courses/msi-slov/reporty/pmbok.pdf>
9. Adapted from a Linked In discussion initiated by William R. Duncan (1/13/2018). Retrieved from <https://www.linkedin.com/feed/update/urn:li:activity:6357416976318558208/>
10. Adapted from an Investopedia definition. (n.d.). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohxpESTWNlZyMEqFDAdjZn33DdYs6zC_4JjK_D7gaaBIL-l1Cbw
11. Planning Planet. (n.d.). Job Description for Planning Manager | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). Retrieved from <http://www.planningplanet.com/guild/gpccar/introduction-to-managing-people>
12. Giammalvo, Paul D (2015) Course Materials. Contributed Under [Creative Commons License BY v 4.0](https://creativecommons.org/licenses/by/4.0/). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohxpESTWNlZyMEqFDAdjZn33DdYs6zC_4JjK_D7gaaBIL-l1Cbw
13. Les métiers du cinéma : sur le tournage. (April 11, 2017). Apprendre le cinéma. Retrieved from <http://apprendre-le-cinema.fr/les-metiers-du-cinema-sur-le-tournage/>
14. GUILD OF PROJECT CONTROLS COMPENDIUM and REFERENCE (CaR) | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). (n.d.). Portfolios of Projects. Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohxpESTWNlZyMEqFDAdjZn33DdYs6zC_4JjK_D7gaaBIL-l1Cbw
15. Global Alliance for Project Performance Standards. (2011). [Program Typology](https://www.gapgs.com/). Retrieved from http://www.planningplanet.com/guild/gpccar/introduction-to-managing-project-controls?fbclid=IwAR1wj7rohxpESTWNlZyMEqFDAdjZn33DdYs6zC_4JjK_D7gaaBIL-l1Cbw
16. The 34 Biggest Actor vs. Director Fights in Hollywood. (n.d.). Ranker. Retrieved from <https://www.ranker.com/list/actor-director-fights/matthewcoleweiss>
17. Read "Reducing Construction Costs: Uses of Best Dispute Resolution Practices by Project Owners: Proceedings Report" at NAP.edu. (n.d.). National Academies Press: OpenBook. Retrieved from <https://www.nap.edu/read/11846/chapter/4>
18. The Australian institute of mediators and arbitrators – Dispute review boards – (December-2015) Adaptation Planning planet –Formal dispute resolution. Retrieved from <http://www.planningplanet.com/guild/gpccar/formal-disputes-resolution>
19. Planning Planet. (n.d.). Job Description for Planning Manager | Project Controls - planning, scheduling, cost management and forensic analysis (Planning Planet). Retrieved from <http://www.planningplanet.com/guild/gpccar/formal-disputes-resolution>

20. Six Tips for Successfully Resolving Construction Disputes. (n.d.). Construction Executive | Welcome. Retrieved from <http://constructionexec.com/article/six-tips-for-successfully-resolving-construction-disputes>
21. Agency for dispute resolution (n.d.). *WHAT ARE THE UNIQUE CHARACTERISTICS OF ADR PROCESSES?* Retrieved from <http://www.agencydr.com/faq/alternative-dispute-resolution-ga/what-are-the-unique-characteristics-of-adr-processes.html>
22. Ch. 19 The Decision to Arbitrate. (n.d.). Enforcing U.S. Judgments Abroad - Proskauer on International Litigation and Arbitration. Retrieved from <https://www.proskauerguide.com/arbitration/19>
23. Le gouvernement vénézuélien veut aussi un film sur Hugo Chávez. (August 25, 2016). FIGARO. Retrieved from <http://www.lefigaro.fr/cinema/2016/08/25/03002-20160825ARTFIG00110-le-gouvernement-venezuelien-veut-aussi-un-film-sur-hugo-chvez.php>
24. Thomson/West. (2008). Alternative dispute resolution in a nutshell. Retrieved from <https://fr.scribd.com/document/358824923/Advantages-and-Disadvantages-of-Negotiation>
25. Quality Advisor. (n.d.). Pareto diagram (What is it? When is it used?) | Data analysis tools | Quality Advisor. Retrieved from https://www.pqsystems.com/qualityadvisor/DataAnalysisTools/pareto_diagram.php
26. Chad Brooks (2014, March). What Is a Pareto Analysis? Retrieved from <https://www.businessnewsdaily.com/6154-pareto-analysis.html>
27. Demain | Partout dans le monde des solutions existent. (n.d.). Demain. Retrieved from <https://www.demain-lefilm.com/>
28. Aux Etats-Unis, « Kirikou » interdit aux mineurs. (September 19, 2015). leparisien.fr. Retrieved from <http://www.leparisien.fr/espace-premium/culture-loisirs/aux-etats-unis-kirikou-interdit-aux-mineurs-19-09-2015-5105807.php>

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Passionate about cinema, he has had many professional experiences in this field, both in front of and behind the camera. Highly involved in acting, he is now an improvisation teacher in Lille and leads a group of 14 people. At the same time, he manages a group of young Scouts aged 14 to 17 years old where his project management skills are highly appreciated for a team that wants to go abroad in the summer of 2019. He also had the opportunity to manage an international solidarity project on August 2015 with the objective of building a classroom in a school near Dschang in Cameroon. He recently received the PRINCE2 and Agile certifications during his semester.

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