

Online Dispute Resolution as Legal Disruption: What Effect Could It Have on the South African Dispute Resolution Landscape?

R Cupido*

Online ISSN
1727-3781

P·E·R

Pioneer in peer-reviewed,
open access online law publications

Author

Robin Cupido

Affiliation

University of Cape Town,
South Africa

Email

robin.cupido@uct.ac.za

Date Submitted

4 March 2024

Date Revised

1 October 2024

Date Accepted

1 October 2024

Date Published

10 December 2024

Editor

Mr M Laubscher

Journal Editor

Prof W Erlank

How to cite this contribution

Cupido R "Online Dispute Resolution as Legal Disruption: What Effect Could It Have on the South African Dispute Resolution Landscape?" *PER / PELJ* 2024(27) - DOI <http://dx.doi.org/10.17159/1727-3781/2024/v27i0a16938>

Copyright



DOI

<http://dx.doi.org/10.17159/1727-3781/2024/v27i0a16938>

Abstract

Across the world, the legal profession has typically been slow to adapt to technological changes. The South African legal profession is no exception to this, despite the fact that technology has the potential to facilitate and innovate many aspects of the practice of law. One such aspect is the field of dispute resolution, where it has been established that technology can be used to reimagine how disputes are resolved, looking outside of the traditional litigation model. Used in this way, technology becomes a disruptive innovation, changing the traditional dispute resolution practices carried out in the legal world.

The aim of this work is to provide an explanation of what a disruptive innovation is and to discuss whether technology can be such an innovation in the South African dispute resolution landscape. This discussion will comprise a general examination of the legislative framework and current uses of technology in South African law. In the context of dispute resolution, it is suggested that online dispute resolution (ODR) embodies a disruptive innovation. An exploration of ODR follows, with the goal of determining whether it is a sustainable alternative to traditional litigation and whether it is feasible to include this innovation in South African law.

Keywords

Legal disruption; technology; innovation; online dispute resolution.

.....

1 Introduction

The legal profession is noted for being deeply rooted in tradition, with norms, practices and rules having developed over centuries and being firmly entrenched within individual legal systems. Whether based on civil law systems, common law systems or a mixed legal system, the law and practitioners of the law have historically been slow to evolve in keeping with broader societal changes.¹ This could be due to the desire for legal certainty and the reluctance to have a legal system that is constantly changing, which is an understandable concern.² However, maintaining a steadfast adherence to the status quo would leave the legal profession in a static position, leading to a legal system that is increasingly out of touch with the everyday lives and experiences of modern humanity.

Technology is one aspect of modern humanity that has increasingly outpaced the legal framework designed to support it. The unprecedented technological boom over the past thirty years has changed many aspects of human interaction, including the way in which people receive and process information,³ the way in which knowledge is created and disseminated,⁴ the way in which people conduct commercial transactions⁵ and the way in which people communicate.⁶ Humans have become increasingly reliant on information and communications technology (ICT) and technology has rapidly become an integral part of modern life.

As noted above, this integration of technology into the human experience has not been accompanied by the parallel evolution of law. This is especially evident in the South African legal landscape, where institutions, practices and practitioners are lagging behind in terms of the incorporation of such technology into the practice of law. Although there has been legislative

* Robin Cupido. BA LLB LLM PhD. Senior Lecturer, Faculty of Law, University of Cape Town, South Africa. E-mail: robin.cupido@uct.ac.za. ORCID: <https://orcid.org/0000-0002-9098-8408>.

¹ Sourdin, Li and Burke 2019 *Macquarie Law Journal* 30; Singh 2013 *TSAR* 380.

² For a comprehensive discussion of the way in which our understanding of legal certainty has shifted, see Fenwick, Siems and Wrška *Shifting Meaning of Legal Certainty*.

³ This has largely been through the rise of social media like Facebook, Instagram, TikTok and other similar platforms.

⁴ Beckers and Harder 2016 *Digital Journalism* 910-920; McGregor and Molyneux 2020 *Journalism* 597-613.

⁵ E-commerce has now become an everyday occurrence, with billions of people using sites like Amazon, eBay or online versions of real-world stores.

⁶ Communication has been revolutionised with apps like Whatsapp, Facebook Messenger and Skype, all of which allow parties to communicate via text, voice or video.

regulation of certain aspects of ICT,⁷ there seems to be a widespread reluctance to recognise the role that technological innovation could play in how law is practised, conceptualised and taught today.⁸ This reluctance is problematic,⁹ as technological innovation is already beginning to affect various aspects of the legal profession,¹⁰ leading to a disruption of the legal landscape.¹¹ In the last decade, the legal fraternity (an exclusionary term in itself) has begun to investigate the possible effects of this disruption, or indeed of so-called "disruptive innovation" in the broader sense, and it is thus a concept that warrants further exploration.

2 Disruptive innovation

The term "disruptive innovation" was coined by Christensen¹² in the 1990s and refers to those

innovations that make products and services more accessible and affordable, thereby making them available to a larger population.¹³

These innovations have been identified across disciplines in the past thirty years, most notably business, health sciences and engineering. In addition to providing a definition of disruptive innovation, the Christensen Institute has identified three pillars of a successful disruptive innovation, namely enabling technology, an innovative business model and a coherent value network.¹⁴ The first pillar, enabling technology, refers to an invention or technological innovation that makes an existing product more affordable and accessible to a wider range of people. This links to the second pillar, an innovative business model, which is a business model designed to target new consumers or less profitable consumers who previously did not buy the

⁷ See for example the *Electronic Communications and Transactions Act 25 of 2002* (hereafter the *ECTA*); *Electronic Communications Act 36 of 2005*; *Protection of Personal Information Act 4 of 2013*; *Cybercrimes Act 19 of 2020*.

⁸ Van Eck "Disruptive Force of Smart Contracts" 21-45; Sheppard 2015 *Michigan State Law Review* 1797.

⁹ Many scholars who write about law and technology are pushing against this reluctance, with Melamed saying that "it is clear that the legal profession needs to play a bit of catch-up by asking ourselves how can we best utilize all available communication capacities to elevate and expand the delivery of valuable legal information, advice, and services". Melamed 2015 *Or L Rev* 924.

¹⁰ "The pace of change in the legal profession as a result of technology is accelerating ... the legal profession seems poised for dramatic change, in not just the way lawyers practice their craft, but also who (or what) is doing the hardest and most creative work in the industry." Brescia *et al* 2015 *Alb L Rev* 388-389.

¹¹ "Yet, the gradual introduction of new digital technologies in the field of law is likely to alter balances of power and professional practices, and even the organizational structure of the field." Caserta and Madsen 2019 *Laws* 2.

¹² Christensen *Innovator's Dilemma* xii.

¹³ Christensen Institute 2024 <https://www.christenseninstitute.org/disruptive-innovations/>.

¹⁴ Christensen Institute 2024 <https://www.christenseninstitute.org/disruptive-innovations/>.

product or could not afford to be a bigger part of the consumer base. The third pillar, a coherent value network, refers to all of those stakeholders (including producers and consumers) who are better off when the disruptive technology prospers.

From this brief overview of disruptive innovation, it is evident that the roots of the disruption theory are found in business, as the concept is framed in and explained using traditional business terminology.¹⁵ However, the idea of disruptive innovation has also found application in legal scholarship. Susskind¹⁶ has discussed the potential effect of technology in the justice sector at length, and holds the view that it can be disruptive if it has the effect of challenging or fundamentally changing how a firm or sector of the legal field functions.¹⁷

3 Disruptive innovation in the legal profession

According to Susskind, technology plays a central role in the transformation of the legal profession as there are a number of systems that are "systematizing and sometimes changing the way that lawyers work".¹⁸ In support of this statement he refers to various categories of online legal systems and processes including automated document production systems,¹⁹ e-filing systems,²⁰ online legal resources²¹ and online case rooms, where law firms and their clients can store and interact with documents relating to ongoing disputes.²² The commonality in these systems is that they are all methods by which the provision of legal services

¹⁵ Christensen 2006 *Journal of Product Innovation Management* 39-55.

¹⁶ Susskind *Tomorrow's Lawyers* 39.

¹⁷ Susskind *Tomorrow's Lawyers* 39.

¹⁸ Susskind and Susskind *Future of the Professions* 68.

¹⁹ A good example of such a system can be found at Legal Suite 2024 <https://www.legal-suite.com>. This document generation tool is aimed at automating the production of contracts.

²⁰ One of the most popular e-filing systems is CaseLines, a cloud-based app which allows for the digitisation of various judicial functions including the compiling of documentary evidence, the review and storage of documents, and case file organisation. This system has been adopted by courts around the world, including those in Canada (Superior Court of Justice 2024 <https://www.ontariocourts.ca/scj/caselines/cl-guide/>) and the United States (New Hampshire Judicial Branch 2024 <https://www.courts.nh.gov/our-courts/superior-court/caselines>). CaseLines has also been implemented in South Africa and will be discussed in more detail at para 3.2 below.

²¹ These include sites like Lexisnexis and Westlaw International, where legal resources (including articles, case law and legislation) are stored and may be used by researchers.

²² Susskind and Susskind *Future of the Professions* 68.

have become streamlined²³ as opposed to a totally novel way of resolving legal issues. This would seem to support the idea that

the central disruption that appears to be taking place in the legal profession is not technology itself, but what technology provides ... a means for those providing legal services to streamline the delivery of those services in a fashion that is far less expensive than the manner in which such services have been provided to date.²⁴

3.1 Factors facilitating technological disruption

Guihot²⁵ identifies additional factors that have allowed technology to become a disruptive tool in the legal field. He cites overpriced legal services, an oversupply of legal practitioners, the availability of alternative models of legal services and the democratisation of legal knowledge as factors that have disrupted the traditional practice of law, leading to "the disruption of the BigLaw services model".²⁶ Although this identification of factors was made in the context of the United States of America, it is submitted that these factors also play a role in the South African context. Legal fees in South Africa are high and in some instances prohibitive, meaning that poorer South Africans are often barred from seeking and obtaining legal recourse for their grievances.²⁷ This has led to the need to find alternative sources of legal advice or dispute resolution provided by actors outside of the traditional lawyer and law firm structure.²⁸ This need is one of the main drivers of disruption in the South African legal sector, and provides fertile ground for technology to take root, facilitating and in some instances automating legal proceedings.

Barnett and Treleaven²⁹ have also identified this disruption in the legal sector, positing that technology is affecting both the way in which attorneys and advocates work and the way in which disputes are resolved. They assert that LawTech/LegalTech³⁰ is increasingly being used in both legal

²³ "...the new technology is merely the tool that is enabling new solutions. It is the means by which the disruptive forces can have their way." Guihot 2019 *North Carolina Journal of Law and Technology* 411.

²⁴ Brescia 2016 *SC L Rev* 203.

²⁵ Guihot 2019 *North Carolina Journal of Law and Technology* 412.

²⁶ Guihot 2019 *North Carolina Journal of Law and Technology* 416.

²⁷ "...the legal fees charged by both attorneys and advocates are much too high for the majority of South Africans, and in any case, the vast majority of law firms are situated in the larger towns and cities, with few if any lawyers in small towns or rural areas. Thus the cost and distance required to physically access lawyers makes pursuing litigation an overwhelmingly impractical option." Dugard and Drage 2013 <https://documents1.worldbank.org/curated/en/598681468307740801/pdf/793390NWPJ0D0T00PUBLIC00Box0377373B.pdf/> 2. Also see Manyathi-Jele 2013 *De Rebus* 8-10; Holness 2020 *PELJ* 10.

²⁸ McQuoid-Mason 2013 *Oñati Socio-Legal Series* 563.

²⁹ Barnett and Treleaven 2017 *Computer Journal* 399.

³⁰ "LawTech refers to the use of technology and software to provide legal services where advice is given both before the transaction commences and after disputes

offices and in the courts, leading to the steady acceptance of technology as a means of facilitating traditional functions like case management and information storage. They further note that parties seeking recourse are increasingly looking to alternative dispute resolution (ADR) and online dispute resolution (ODR), as these methods of dispute resolution are often cheaper and faster, and can easily incorporate technology to facilitate or even automate proceedings.³¹

3.2 Technological disruption in South African law

These trends towards the increased use of technology in the practice of the law have also been seen in South Africa. The role that LawTech can play in various aspects of the legal profession is increasingly becoming recognised, with different initiatives finding success in the market. For example, LexisNexis has created LexisNexis Workflow Solutions,³² which develops software, online products and data solutions aimed at facilitating the legal processes involved in the property industry. This project uses technology to streamline the work of conveyancers and is thus a disruption of the sort envisioned by Guihot and Brescia,³³ where technology is used to support lawyers in carrying out their functions as opposed to replacing those lawyers entirely.

Other initiatives created to promote the study and development of law and technology in South Africa include the South African Legal Technology (SALT) Network³⁴ and the iNTAKA Centre for Law and Technology.³⁵ The SALT Network was created in 2021 and is aimed at providing a platform for law and technology practitioners and enthusiasts to connect to, fostering their interest in law, technology and innovation. The iNTAKA Centre for Law and Technology is a teaching, research and learning hub dedicated to the study of law and technology and is housed at the University of Cape Town. These organisations are but two examples that represent a willingness by South African legal practitioners to adopt technology in the practice and study of law, and thus to contribute to the creation of a legal environment that is receptive to the disruption that technology brings.

break out. This refers to the application of technology and software to help law firms with practice management, documents, storage, billing, accounting and electronic discovery. It also includes connecting people with lawyers more efficiently through online marketplaces and lawyer-matching websites." Barnett and Treleaven 2017 *Computer Journal* 399.

³¹ Barnett and Treleaven 2017 *Computer Journal* 400.

³² LexisNexis 2024 <https://www.lexisnexis.co.za/workflow-solutions>.

³³ Susskind and Susskind *Future of the Professions* 68; Guihot 2019 *North Carolina Journal of Law and Technology* 411.

³⁴ SALT Network 2024 <https://www.saltnetwork.co.za/>.

³⁵ iNTAKA Centre for Law and Technology 2024 <https://www.intaka.capetown/>.

Another key area in South African law that is being affected by technology is the court system and the administration of justice. In *CMC Woodworking Machinery (Pty) Ltd v Pieter Odendaal Kitchens*³⁶ the court acknowledged the need to use ICT in the ongoing development of the law,³⁷ making a landmark decision that allowed for the service of a document via social media. Although authors caution that

the judicial imperative of clarity and certainty has meant slow, hesitant progress in the information communication and technology environments³⁸

the judgment in *CMC Woodworking Machinery* represents the South African court's willingness to adapt to and adopt technological support in carrying out various functions of the court.³⁹ This willingness was confirmed in *MK v Transnet Ltd t/a Portnet*,⁴⁰ where the court allowed witness testimony to take place via video call because the witness in question was in a different country and was medically unable to travel. In this instance access to justice was the overriding consideration, with Mbatha J stating that technology can be effective in safeguarding this constitutional right⁴¹ if used with the proper safeguards.⁴²

Although there are many who support the use of technology as a facilitator of access to justice in keeping with the approach in *MK v Transnet*,⁴³ it must be cautioned that access to justice cannot be the only right that is considered when deciding how to incorporate technology into dispute resolution processes. Using video conferencing or electronic record-keeping and case management would lead to instances where parties' private information is shared and retained, giving rise to questions around the privacy of live communications and the privacy of the data that is stored. The right to privacy⁴⁴ is entrenched in the *Constitution*, and so must be taken

³⁶ *CMC Woodworking Machinery v Pieter Odendaal Kitchens* 2012 5 SA 604 (KZD) (hereafter *CMC Woodworking Machinery*).

³⁷ "Changes in the technology of communication have increased exponentially and it is therefore not unreasonable to expect the law to recognise such changes and accommodate it." *CMC Woodworking Machinery* para 2.

³⁸ Bellengere and Swales 2016 *Stell LR* 454.

³⁹ Singh 2013 *TSAR* 383.

⁴⁰ *MK v Transnet Ltd t/a Portnet* 2018 4 All SA 251 (KZD) (hereafter *MK v Transnet*).

⁴¹ The right of access to justice is provided in s 34 of the *Constitution of the Republic of South Africa, 1996* (hereafter the *Constitution*), which states that "Everyone has a right to have any dispute that can be resolved by the application of the law decided in a fair public hearing before a court or where appropriate another independent and impartial tribunal or forum".

⁴² *MK v Transnet* para 25.

⁴³ *MK v Transnet* para 25.

⁴⁴ The right to privacy is enshrined in s14 of the *Constitution* as follows:
"Everyone has the right to privacy, which includes the right not to have:
(a) their person or home searched;
(b) their property searched;
(c) their possessions seized;

into consideration by courts when using technology to facilitate dispute resolution proceedings.⁴⁵ Parties' rights to have access to justice must thus be balanced against their privacy rights as contained in the *Constitution* and given content by legislation. This right to privacy includes the right to have one's personal information protected, a right that is given effect by the *Protection of Personal Information Act*.⁴⁶

Another aspect of court management that has been affected by technology is administration, with electronic records and case management being touted as a remedy for the ineffective court administration and case backlogs experienced by South African courts.⁴⁷ In recognition of the potential benefits of using technology to streamline the functioning of the courts, the South African judiciary used a program known as CaseLines to create Court Online. The Court Online system is an ongoing project by the Office of the Chief Justice, and is a cloud-based platform that allows for e-filing, digital case management and evidence management.⁴⁸ In a practice directive issued by Judge President Mlambo in 2020,⁴⁹ provision was made for the Court Online system to be implemented in the Gauteng province.⁵⁰ Despite some hiccups in the initial rollout of Court Online,⁵¹ this system was praised by the court in 2021,⁵² and it is still being used effectively in the handing down and administration of judgments. Mabeka has recommended that the Court Online system be rolled out to courts across South Africa,⁵³ and doing so would arguably do much to make the various administrative functions of the court more efficient.

The Covid-19 pandemic played a big role in forcing governments and judiciaries to find ways in which justice could be served while observing the social distancing required to prevent the spread of the disease. In South Africa the lockdown regulations aimed at enforcing social distancing severely limited the operation of physical courts.⁵⁴ This closure naturally posed a hurdle to parties seeking to resolve disputes, as traditional litigation

(d) the privacy of their communications infringed."

⁴⁵ Mabeka 2021 *PELJ* 11.

⁴⁶ *Protection of Personal Information Act* 4 of 2013.

⁴⁷ Ngoepe and Makhubela 2015 *Records Management Journal* 289.

⁴⁸ South African Judiciary 2024 <https://www.judiciary.org.za/index.php/court-online/about-court-online>.

⁴⁹ Judge President's Practice Directive 1 of 2020.

⁵⁰ Dutton 2021 <https://alt-network.com/wp-content/uploads/2022/10/Judicial-ReponsesCovid19Africa.pdf> 17.

⁵¹ AllAfrica 2020 <https://allafrica.com/stories/202010150901.html>; The South African 2020 <https://www.thesouthafrican.com/news/gauteng-high-court-security-breach-14-october/>.

⁵² *Chongqin Gingxing Industries SA (Pty) Limited v Ye* 2021 3 SA 189 (GJ) para 1.

⁵³ Mabeka 2021 *PELJ* 10.

⁵⁴ For a full explanation of the various legislative measures implemented to govern the National Lockdown in response to the outbreak of Covid-19 in 2020, see Lubaale 2022 *AJCJ* 13-15.

is typically the main route used to access justice. Technology allowed for the courts to conduct their proceedings virtually. Still using the traditional courtroom set-up and procedure, virtual courts allow the participants to access the courtroom space using video conferencing or similar electronic media.⁵⁵ This allows parties to access the court proceedings from wherever they are, eliminating the monetary and time costs of travelling to a physical court space. It also allows vulnerable parties the freedom to testify and participate in a trial without fear of being in a room with someone who has injured or otherwise threatened them. These positive effects of virtual courts serve as an example of how disruptive innovation can be beneficial in the legal space as it increases access to justice for those who could have been excluded.⁵⁶ This is an example of positive legal disruption, as it broadens the types of legal services available to the public and provides an access point for those who perhaps otherwise would not be able to afford to use these services.⁵⁷

In addition to the various uses that technology has found in the court system, it has been used to provide alternative opportunities for parties to resolve their disputes outside of litigation. Although ADR has typically been the preferred alternative to litigation, ODR is another dispute resolution option, using technology to create dispute resolution mechanisms online. There is no universal definition of ODR,⁵⁸ with various authors and regulatory bodies focussing on different aspects of the multifaceted dispute resolution system in their own definitions. Ebner and Zeleznikow⁵⁹ envision ODR as an umbrella term, explaining it in the following way:

ODR is far more than a range of new communication platforms. In fact, when discussing ODR one might be discussing any of the following: The online communication platform used for exchanging messages and offers in an ODR process; A wide range of individual processes from the ADR spectrum that can be conducted online (e.g., online negotiation, online mediation); An ODR system - an environment in which parties to specific types of disputes are led through a particular process or set of processes on their way to a resolution, or; ODR technology/software, aiming far beyond the 'communications platforms' discussed above.⁶⁰

Incorporating technology to both facilitate and, more recently, automate dispute resolution processes is a vital part of ODR,⁶¹ and thus it must be

⁵⁵ Knoetze 2014 *De Rebus* 28-32; Witting 2018 <https://leidenlawblog.nl/articles/leveraging-technology-to-enhance-access-to-justice-for-children-in-africa>.

⁵⁶ Brescia *et al* 2015 *Alb L Rev* 553.

⁵⁷ Caserta and Madsen 2019 *Laws* 13.

⁵⁸ Lederer 2018 <https://arbitrationblog.kluwerarbitration.com/2018/01/11/new-found-emphasis-institutional-arbitration-india/>.

⁵⁹ Ebner and Zeleznikow 2015 *Hamline University's School of Law's Journal of Public Law and Policy* 146-147.

⁶⁰ Ebner and Zeleznikow 2015 *Hamline University's School of Law's Journal of Public Law and Policy* 146-147.

⁶¹ Wing *et al* 2021 *Negotiation Journal* 50-51.

explored when discussing the disruption of the dispute resolution space. This development in dispute resolution has garnered both approval and criticism, inspiring strong sentiments from its supporters and detractors. The wide variety of ODR services available has affected how dispute resolution is thought about and conducted, an effect which is worthy of further investigation.

4 How ODR has disrupted traditional dispute resolution

4.1 Overview of ODR

ODR was not initially developed for the specific purpose of challenging or replacing an existing legal process. Instead, it began as a response to a growing number of disputes that originated in the online space and the subsequent need for a mechanism by which to resolve these disputes.⁶² Initially, ODR projects were used only to resolve conflicts that arose from online interactions or were directly related to cyberspace.⁶³ These early endeavours were closely linked to traditional ADR measures such as negotiation, mediation and arbitration. In the beginning stages of ODR the internet was thus merely used to facilitate these traditional ADR processes in the guise of online negotiation, online mediation and online arbitration, and there was very little disruption to the existing dispute resolution framework.⁶⁴

Despite this limited start, ODR soon evolved to use technology for more than just online communication, and slowly the ways in which disputes could be resolved in cyberspace began to change. Instead of using technology only to facilitate traditional ADR methods, ODR has grown into its own unique method of dispute resolution. Where ADR prioritises face-to-face human communication to promote values such as neutrality and confidentiality, ODR processes take place online and are increasingly reliant on the capabilities of machines to facilitate the dispute resolution process.⁶⁵ As early as in 1998 it was predicted that "in an ideal world, the dispute resolution model of Cyberspace may become so attractive that real world disputants might be moved to take their disputes online for resolution".⁶⁶ This prediction seems to have come to pass, as ODR has now expanded to the resolution of both online and offline disputes, growing to include fully automated procedures in its scope of dispute resolution processes. ODR has developed from a relatively limited dispute resolution process whereby ICT is used to provide a facsimile of traditional ADR measures to a dispute resolution process which is in large part conducted through or by online

⁶² Katsh 2007 *IRLCT* 97.

⁶³ Katsh 2007 *IRLCT* 97.

⁶⁴ Katsh and Rule 2016 *SC L Rev* 329-330.

⁶⁵ Katsh and Rule 2016 *SC L Rev* 329-330.

⁶⁶ Bordone 1998 *Harvard Negotiation Law Review* 175.

systems. Katsh and Rifkin describe ODR as a process in which the technology has become a fourth party to the dispute, working to support the third party facilitating the dispute resolution.⁶⁷

This changing role of ODR is also seen in how it has found application since its inception. Initially, ODR was only used to resolve disputes that arose online between internet users who would probably never have any in-person interaction.⁶⁸ The narrow field of application soon grew, perhaps as a natural consequence of the rapid development of technology, which facilitated more types of online interaction. As technology and ODR systems have evolved to become more sophisticated it has been used to resolve ever more complex types of disputes. ODR has been used in a variety of fields. It has been used to resolve commercial disputes involving e-commerce or other consumer matters,⁶⁹ and also in more personal matters such as divorce⁷⁰ and landlord-tenant disputes.⁷¹ ODR platforms are also increasingly being used by governments to allow their citizens to resolve any administrative disputes that they may have, for example, appeals against traffic penalties⁷² and disputes about tax filing.⁷³

However, it must be questioned whether this growth of ODR truly qualifies as a legal disruption or whether it is merely a different way of providing traditional dispute resolution circumstances in the online space or including a technological element. To determine this, it would be instructive to go back to the definition of a disruptive innovation and to assess ODR in the light thereof.

4.2 ODR as a disruptive innovation

A disruptive innovation or disruptive technology is one that effectively creates a new market and value network in an existing field (in our case, law) and eventually goes on to disrupt that market and value network.⁷⁴ This is done by introducing innovations that improve an existing product or

⁶⁷ Katsh and Rifkin *Online Dispute Resolution* 64-65.

⁶⁸ Rule 2020 *Annual Review of Law and Social Science* 281.

⁶⁹ See Consumidor date unknown <https://consumidor.gov.br/pages/principal/>, a Brazilian ODR platform aimed at resolving consumer disputes.

⁷⁰ See Uitelkaar date unknown <https://uitelkaar.nl/>, an initiative of the Dutch Legal Aid Board.

⁷¹ This is an initiative by the British Columbia Ministry of Justice, Canada and is available online at Civil Resolution Tribunal date unknown <https://civilresolutionbc.ca/>.

⁷² This has been implemented by the Traffic Penalty Tribunal of England and Wales and is available online at Traffic Penalty Tribunal date unknown <https://www.trafficpenaltytribunal.gov.uk/>.

⁷³ The Kenyan Revenue Authority has developed an ODR mechanism to resolve tax disputes. Kenya News Agency 2020 <https://www.kenyanews.go.ke/kra-unveils-online-dispute-resolution-mechanism/>.

⁷⁴ Christensen *Innovator's Dilemma* xii.

service in ways that are unexpected and perhaps unforeseen by the existing field.⁷⁵ Sowers⁷⁶ applies this theory to the context of law, positing the existence of "law-disruptive technology". He proposes that law-disruptive technology has three distinct features. First, it must involve either a new or improved technology. Second, the technology must have the potential to make a significant impact on the economy or society. Third, law-disruptive technology will not fit into the existing legal framework, at least initially.⁷⁷ It has been argued by some that ODR is such a disruptive innovation in the field of law,⁷⁸ a submission which will be tested here. To determine whether ODR constitutes a law-disruptive technology, it will be evaluated in the light of the characteristics identified by Sowers.

4.2.1 *Law-disruptive technology involves a new technology or innovation*

Although the internet is not a new technology and the online aspect of ODR is no longer novel, technological development is ongoing and continues to have an impact on ODR and dispute resolution in general. These new technological developments include mobile technology and apps, artificial intelligence (AI), smart contracts and blockchain technology. Each of these developments has affected dispute resolution in a novel way and has changed how lawyers and legal scholars approach dispute resolution.

The use of mobile technology in ODR has been recognised as a way to "democratise" dispute resolution and allow those individuals without access to computers to access dispute resolution services using their mobile devices.⁷⁹ This has been the case, especially in developing countries, where rates of internet access have increased due to the prevalence of mobile devices.⁸⁰ Using mobile technology to increase access to dispute resolution services was thus a significant disruption, granting such access to those who had previously been excluded due to time constraints and high costs.

AI is another technological development that has serious implications for the field of dispute resolution. Much like ODR, there are varying definitions for AI, each of which touches on a different aspect. As such, Martinez argues that

⁷⁵ Christensen 2021 https://www.interaction-design.org/literature/book/the-encyclopedia-of-human-computer-interaction-2nd-ed_

⁷⁶ Sowers 2019 *LCP* 196.

⁷⁷ Christensen 2021 https://www.interaction-design.org/literature/book/the-encyclopedia-of-human-computer-interaction-2nd-ed_

⁷⁸ Barton 2018 *Law Practice* 32; Barendrecht and Honeyman 2013 *Dispute Resolution Magazine* 17; Hongdao *et al* 2019 *Sustainability* 10-15.

⁷⁹ Leigh and Fowlie 2014 *Laws* 114; Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 5; Watanabe and Rule 2022 *International Journal on Online Dispute Resolution* 32.

⁸⁰ Hattotuwa "Mobiles and ODR" 104-105; Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 5.

there is no general legal definition for what constitutes AI outside of a specific application, such as in the context of autonomous automobiles or electronic agents trading in the markets.⁸¹

Perhaps it is because the meaning of AI is so context-dependent that Surden⁸² suggests that the focus should be on the types of problems that AI is being used to address, describing it as using technology to automate tasks or augment processes that would normally require the application of human intelligence. In the context of dispute resolution, AI is thus typically used to automate basic or repetitive tasks like information gathering, to make knowledge-based processes more efficient or to facilitate the use of ODR processes by creating intelligent user interfaces.⁸³ At present this seems to be the extent of AI usage in ODR, but it is clear that AI will go on to play a larger part in the dispute resolution process.

As AI grows in sophistication and capabilities, it must also be questioned what effect this will have on procedural values and norms, most notably transparency and fairness. In the South African context this is an important question in the light of the constitutional right to access to justice⁸⁴ and the requirement that any dispute resolution body outside of traditional litigation must be impartial and independent. If more sophisticated AI models are to be used to function as a third-party neutral in dispute resolution, then the impact on impartiality must be investigated. When human beings serve as third-party facilitators, for example in mediation or negotiation, it is accepted that they can never truly be neutral as they carry their own biases resulting from their lived experiences. In the same way, AI has implicit biases and cannot truly be called neutral. This is due to its being created by humans, who naturally bring a specific set of values to their work when conceiving of the base algorithms of the AI tools. These biases are not necessarily intentionally included and may just be by-products of the worldview of the programmers. However, intentional or not, the biases coded into AI algorithms can still have adverse consequences on a particular group, thus impacting on the fairness of the ODR process and outcome.

Smart contracts and blockchain technology⁸⁵ have also been novel additions to ODR. A smart contract is a programme that "self-executes" by

⁸¹ Martinez 2019 *Nevada Law Journal* 1016.

⁸² Surden 2019 *Ga St U L Rev* 1307.

⁸³ Kathuria *et al* 2023 *International Conference on Disruptive Technologies* 630; McPeak 2019 *University of Toledo Law Review* 461.

⁸⁴ Section 34 of the *Constitution*.

⁸⁵ Ast and Deffains provide the following definition of the blockchain: "Blockchain is a particular type of distributed ledger technology ('DLT'), a way of recording and sharing data across multiple data stores where each has the exact same data records and are collectively maintained and controlled by a distributed network of computer servers called nodes. Instead of having a trusted validator (i.e., a central bank), the system relies on a decentralized network of anonymous validators to

doing what it is programmed to do once a certain set of conditions are met. Agreements that are built into a smart contract can thus be enforced without an outside authority doing so.⁸⁶ In such an instance, if there is a dispute the outcome is predetermined in a sense, as there is a finite number of outcomes that can be encoded into the smart contract. These types of contracts rely on the blockchain to function, and are thus removed from any centralised system. They are also a form of ODR that provides certainty, as there are set outcomes. Smart contracts and, by implication, blockchain technology have had a large impact on the enforceability of ODR outcomes and are thus excellent examples of new technology having positive disruptive force.

4.2.2 *Law-disruptive technology has the potential to impact on society*

Disruptive innovation typically targets people who are not existing consumers or who are at the bottom rung of an existing consumer base, impacting on society by bringing previously inaccessible services to the broader public. Hongdao *et al* have identified a similar characteristic in legal disruption, saying that

initially, technology-based legal services served the low end of the market since they were unable to afford sophisticated legal offerings. These services were novel, cheaper, simpler, easily accessible, and more convenient to use for relatively simple legal actions, albeit with avenues for improvement when more complex services were requested.⁸⁷

ODR constitutes such a disruption, providing an appealing alternative option to those who are prevented from accessing traditional legal services due to their often-prohibitive cost. Individuals wishing to use the litigation system must often pay for the services of a legal representative and must typically attend a physical courtroom which brings its own challenges. Having to attend court in a specific jurisdiction can involve travel and can require people to take extended periods of time off, costing them time and money. It is well established that many countries have a backlog of cases to be heard by their courts, meaning that the litigation process is often drawn out.⁸⁸ The cumulative effect of the factors listed above means that those individuals who lack the funds for a protracted dispute resolution process are often not able to access appropriate redress options and are thus excluded from effective dispute resolution. ODR thus provides a viable alternative for people with disputes who do not currently make use of lawyers or the traditional litigation system.

maintain and update copies of the ledger." Ast and Deffains 2021 *Stanford Journal of Blockchain Law and Policy* 4.

⁸⁶ McPeak 2019 *University of Toledo Law Review* 461.

⁸⁷ Hongdao *et al* 2019 *Sustainability* 2.

⁸⁸ Albornoz and Martín 2012 *U Miami Inter-Am L Rev* 43; Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 28.

Disruptive innovations also impact on society by making resources previously reserved for a select few more accessible, typically being more accessible and affordable than the existing systems. ODR achieves this due to the dispute resolution being carried out either partly or wholly online, which serves to reduce the cost of proceedings overall. This is because it removes or lessens the need for disputants to travel, removes the need to pay legal representatives and lowers the costs of conducting a trial in court. It is thus both financially beneficial and time-saving, making it more convenient for disputants to use. This aspect alone makes it an attractive option to people who cannot access traditional litigation or other dispute resolution services.⁸⁹

4.2.3 *Law-disruptive technology does not fit into the existing legal framework*

A seemingly negative characteristic of disruptive innovation is that existing service providers are inclined to disregard it and do not anticipate how it will affect their markets. Since ODR's inception it has been treated with some scepticism and seeming distrust,⁹⁰ and it is often dismissed because of the potential drawbacks. Amongst these drawbacks are concerns about the confidentiality of information, the accessibility of online platforms and other technology and (in the very beginning) the limited scope of application of ODR.⁹¹ These concerns have arisen because ODR does not fit neatly into the existing legal framework, having been referred to as a *sui generis* method of dispute resolution.⁹²

Despite these potential problems arising in the implementation of ODR, it should not simply be dismissed as a passing fad. The fact remains that technology continues to advance at an unprecedented rate, and ODR systems and processes are becoming increasingly sophisticated. This would naturally lead to their being used in different ways and to resolve issues of growing complexity, allowing ODR to fit into a newer and more expansive understanding of dispute resolution as a field.

4.2.4 *Is ODR a law-disruptive technology?*

If we accept that

true disruption in the legal industry seems to center around the efficient, technology-enabled delivery of legal services at a fraction of the cost of traditional legal services⁹³

⁸⁹ Schiavetta "Online Dispute Resolution" 1-2.

⁹⁰ For a good example of this kind of critique, see Condlin 2017 *Cardozo Journal of Dispute Resolution* 717-758.

⁹¹ Goodman 2003 *Duke Law and Technology Review* 1.

⁹² Peters 2021 *CES Derecho* 8.

⁹³ Brescia 2016 *SC L Rev* 203.

then it would stand to reason that ODR is one such method of legal disruption,⁹⁴ given its aim of providing a cheaper and more efficient method of dispute resolution to a wider audience than those who can afford to spend the time and money required on traditional litigation. The development of new technologies like AI and blockchain have also allowed for ODR to grow in ways unforeseen at its inception and to provide methods to be used in various types of disputes. As such, the disruptive impact of ODR on the traditional understanding of dispute resolution must not be underestimated. Closer attention must be paid to how this disruption has taken place, and specific examples of ODR will be examined to determine how it is being used to shift the accepted concept of dispute resolution.

5 Impact of ODR on our understanding of dispute resolution

How, then, has ODR impacted on the current dispute resolution landscape? From the time it originated in the 1990s, ODR has been slow to find traction, despite initial enthusiasm from some dispute resolution scholars.⁹⁵ Different reasons have been provided for this reluctance, the most common suggestion being that electronic communication is not a substitute for face-to-face interaction, and it was opined that such face-to-face interaction was necessary to foster the type of relationship between parties that successful dispute resolution requires.⁹⁶ This fear was a valid one in the 1990s, as electronic communication was largely text-based and did not allow for parties to be able to see and hear each other easily during ODR proceedings. It was acknowledged that such limited online communication was insufficient for parties to foster the empathy needed to resolve conflicts.⁹⁷ Litigation was still seen as the primary way in which conflicts should be resolved, and that norm has been slow to change.

However, technology and societal attitudes towards online life have developed far beyond what was imagined in the 1990s. Litigation has become more costly in terms of both time and money, and many more individuals are participating in online interactions, meaning that they are more familiar with the online environment. The typical internet user has changed⁹⁸ and the expectations of service provision has changed. People

⁹⁴ This view of ODR is shared by Susskind, who has identified ODR as being one of ten disruptive legal technologies that will change the face of legal services as we currently know them. Susskind *End of Lawyers?* 217.

⁹⁵ Cona 1995 *Buff L Rev* 975; Friedman 1997 *Hastings Comm & Ent LJ* 695; Katsh 1996 *Conn L Rev* 953.

⁹⁶ Eisen 1998 *BYU L Rev* 1305.

⁹⁷ Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 1.

⁹⁸ The concepts of digital natives and digital immigrants can help us to understand the changing nature of internet users. See generally Dingli and Seychell *New Digital Natives*.

now want to have access to remedies in a way that is convenient, cheap and quick,⁹⁹ in keeping with our culture of instant access to information and results. ODR has grown and developed in response to this need as technology has improved, and can thus find application in a variety of cases not anticipated at its inception. Today ODR is being used in both the private and the public spheres, resolving diverse conflicts. It is being used to resolve consumer complaints,¹⁰⁰ family law disputes,¹⁰¹ tax law matters¹⁰² and insurance claims,¹⁰³ with different jurisdictions choosing to use it in different ways. ODR is finding use in private and public institutions,¹⁰⁴ being recognised by companies, governments and international organisations.

As it continues to spread, various approaches have been taken to the regulation of ODR across the world. Internationally ODR has been adopted and promoted by governmental bodies and supranational organisations, some of which have published regulations or guiding principles to facilitate the uptake of ODR in various regions. In South Africa ODR is being adopted in specific fields which are regulated by national legislation, for example consumer law and e-commerce. The international adoption of ODR and the South African uptake of ODR will briefly be discussed in this section to promote an understanding of how the approach to ODR depends largely on the context in which it is being used.

5.1 International adoption of ODR

Perhaps the most well-recognised example of a governmental initiative to implement and regulate ODR can be seen in the introduction of the *Directive on Alternative Dispute Resolution*¹⁰⁵ and *Regulation on Online Dispute Resolution*¹⁰⁶ by the European Union (EU). These instruments serve to legitimise and regulate the use of ODR platforms in the EU,¹⁰⁷ creating a regional ODR platform that disputants from all member states can access.¹⁰⁸ There have been some hurdles in the implementation of the ODR Regulation, Despite this, the instrument has been cited by authors as an

⁹⁹ Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 2.

¹⁰⁰ Albornoz and Martín 2012 *U Miami Inter-Am L Rev* 41.

¹⁰¹ Braeutigam 2006 *Appalachian Journal of Law* 280.

¹⁰² Kenya News Agency 2020 <https://www.kenyanews.go.ke/kra-unveils-online-dispute-resolution-mechanism/>.

¹⁰³ Braeutigam 2006 *Appalachian Journal of Law* 280.

¹⁰⁴ Ramasastry 2004 *Wash L Rev* 162.

¹⁰⁵ *Council Directive (EC) 2013/11 on Alternative Dispute Resolution for Consumer Disputes* [2013] OJ L165/63.

¹⁰⁶ *Council Regulation (EC) 524/2013 on Online Dispute Resolution for Consumer Disputes* [2013] OJ L165/1

¹⁰⁷ De La Rosa and Cebola 2019 *Euro Rev Priv L* 1252.

¹⁰⁸ Paragraph 18 of the Preamble of *Council Regulation (EC) 524/2013 on Online Dispute Resolution for Consumer Disputes* [2013] OJ L165/1.

important development in the growth of ODR internationally.¹⁰⁹ Although the EU ODR platform is limited in scope, being used only to resolve those disputes that arise from e-commerce transactions that occur across internal EU borders,¹¹⁰ the principles in the Regulation are indicative of the underlying values that govern ODR in the broader sense. Values such as accessibility, transparency and accountability emerge as grounding principles for ODR,¹¹¹ and these values can be implemented in ODR processes across different types of disputes and different contexts.

The recognition of underlying guiding principles for ODR can also be seen in the Technical Notes on Online Dispute Resolution developed by the United Nations Commission on International Trade Law (UNCITRAL).¹¹² The Technical Notes expressly list the values that should be integral to any ODR system, identifying them as fairness, transparency, due process and accountability.¹¹³ These values overlap with those identified in the EU Regulation on ODR, indicating that they are essential components of any successful ODR system. Having a baseline understanding of guiding principles would assist in the creation of ODR systems that safeguard the rights of disputants, making it a dispute resolution system that can be used to ensure that more people have access to justice.

These developments are indicative of a shifting attitude towards ODR in the legal world and show that it is slowly being accepted as a viable method of dispute resolution that allows us to resolve disputes in a novel and interesting way.

5.2 ODR adoption in South Africa

This technology-driven approach to dispute resolution has also found traction in South African law, where ODR has been implemented in terms of legislation and by private start-up companies.

Section 70 of the Consumer Protection Act 68 of 2008 (*CPA*) states that consumers may refer their business-to-consumer disputes to various alternative dispute resolution providers.¹¹⁴ The *CPA* identifies ombuds as

¹⁰⁹ Cortés 2011 *IJLIT* 20; Morek 2006 *University of Toledo Law Review* 167; Schultz 2004 *North Carolina Journal of Law and Technology* 74.

¹¹⁰ Bakhranova 2022 *European Journal of Innovation in Nonformal Education* 299.

¹¹¹ "Irrespective of whether ODR is implemented at the international or domestic level, there are universal principles that must be adhered to. These standards encapsulate the inherent principles of dispute resolution: justice, fairness and neutrality." Ballesteros 2021 *International Journal on Online Dispute Resolution* 87.

¹¹² *UNCITRAL Technical Notes on Online Dispute Resolution* (2018) (hereafter *UNCITRAL Technical Notes*).

¹¹³ Section II Note 7 of the *UNCITRAL Technical Notes*.

¹¹⁴ Section 70 of the *Consumer Protection Act* 68 of 2008 (hereinafter the *CPA*).

one of these alternative providers,¹¹⁵ and the Consumer Goods and Services Ombud (CSGO)¹¹⁶ is arguably the biggest ombud dealing with consumer disputes in South Africa. One of the services provided is online mediation, where the CSGO allows disputants to lodge their complaints online and then assigns the parties an online mediator to facilitate the dispute resolution. The use of online mediation in this context provides a cheaper and faster method to resolve consumer disputes, and is thus well suited to resolving small-value claims.

Section 69 of the *Electronic Communications and Transactions Act* establishes a dispute resolution mechanism specifically to govern domain name disputes arising from the use of the dot ZA (.za) domain name.¹¹⁷ This mechanism is one of the oldest ODR programmes operational in South Africa, having been established in 2006.¹¹⁸ To resolve a domain name dispute, a party can file a dispute with a designated service provider, either the Arbitration Foundation of South Africa (AFSA),¹¹⁹ the .za Domain Name Authority (ZADNA)¹²⁰ or the South African Institute of Intellectual Property Law (SAIIPL).¹²¹ These service providers use ICT to conduct the dispute resolution proceedings, resolving disputes originating online through technological means.

Apart from legislation-driven ODR programs, ODR has also been implemented by private companies that noted various gaps in the market. Since 2017 iedivorce.co.za has been a website that parties can access to facilitate their divorce proceedings through online means. With an attorney's assistance the disputing parties can complete most of their divorce paperwork and negotiate their settlements online. Although the parties will still have to go to court for the granting of a final divorce order to enforce the outcome, the main dispute resolution process happens entirely online. It must be noted that this method is not suitable for more complicated matters, but it provides an innovative approach to the resolution of simple divorce cases.

NuvaLaw is a lawtech¹²² company that operates in both South Africa and the United Kingdom, creating an online platform for law firms to use in the resolution of personal injury claims. On the platform facilitators can resolve disputes using online negotiation or online arbitration, enabling parties to

¹¹⁵ Sections 70(1)(a) and (b) of the *CPA* provide for consumers to consult an ombud for the resolution of consumer disputes.

¹¹⁶ Online Ombudsman is available at CSGO date unknown <http://www.cgso.org.za/>.

¹¹⁷ Section 69(2) of the *ECTA*; Hurter 2007 *SA Merc LJ* 165.

¹¹⁸ Regulations 15-36 in GN R1166 in GG 29405 of 22 November 2006.

¹¹⁹ AFSA date unknown <https://arbitration.co.za/>.

¹²⁰ ZADNA date unknown <https://zadna.org.za>.

¹²¹ SAIPL date unknown:[://saiipl.co.za/domain-names/](https://saiipl.co.za/domain-names/).

¹²² Barnett and Treleaven 2017 *Computer Journal* 399.

resolve issues of liability for personal injury and the quantum of damages to be paid.

6 An ongoing paradigm shift in dispute resolution

These examples of ODR usage in South Africa and initiatives to regulate ODR abroad are indicative of an ongoing paradigm shift in dispute resolution, using the advantages that technology provides to disrupt how dispute resolution is conceived of by legal practitioners, scholars¹²³ and the public. In the common understanding, disputes are resolved either through litigation or through ADR processes. In traditional litigation parties must typically work through legal representatives, contacting an attorney to assist them in resolving their disputes and having that attorney represent them in a court. The process is a protracted one that involves many steps, and may be out of reach to the average South African person, who may not be able to afford legal services or who may not know how to go about procuring them. The other way in which disputes can be resolved is through ADR, which allows for a less adversarial process but is also limited in terms of capacity and practitioners. The introduction of technology and ODR to the dispute resolution field has already begun to change this, allowing parties to access dispute resolution services in a way that may be more convenient to them, allowing them access to legal assistance without the expense of finance and time involved in taking matters to court.

Technology has undoubtedly caused the disruption of the legal field and dispute resolution, and such disruption will continue as technology becomes ever more sophisticated. AI, blockchain and virtual reality will bring about new ways of conceiving and facilitating human relationships, potentially giving rise to different types of disputes and necessitating different ways of creating access to justice for the average individual.

Since its inception ODR has grown into an established form of dispute resolution broad and flexible enough to accommodate the technological developments referred to throughout this paper. It is dynamic, allowing for dispute resolution processes to be adapted to different forms of ICT according to the environment that they are used in. Whether low-tech or high-tech, from a simpler mobile application to a more complicated smart contract, ODR can be used to provide a more cost- and time-effective dispute resolution mechanism.

¹²³ "With the technologic advances over recent decades and their remarkable acceleration, it is clear that the legal profession needs to play a bit of catch-up by asking ourselves how can we best utilize all available communication capacities to elevate and expand the delivery of valuable legal information, advice, and services. Dream big! The future is not what it once seemed." Melamed 2015 *Or L Rev* 924.

However, this is not to say that ODR does not pose other challenges, and amongst those commonly identified is the question of fundamental principles of procedure. A question that often arises is how principles such as fairness and transparency would be given effect to during the ODR process, whichever form it may take. Stylianou notes, with support from other ODR experts,¹²⁴ that

(p)erhaps the most consistent and convincing criticism of online dispute resolution stems from concerns of procedural and substantive fairness.¹²⁵

This is an ongoing concern, as although the UNCITRAL Technical Notes provide that ODR processes must be fair,¹²⁶ no further guidelines are given as to how this fairness is to be achieved. A step in regulating this has been taken by Wing, who has argued for the use of universally applicable ethical principles to govern the ODR process on the basis that doing so will "enhance the quality, effectiveness and scope of dispute resolution processes that employ technology".¹²⁷

Any such guiding principles for ODR would also need to be flexible enough to include some consideration of the rate at which technology is growing and the impact that further development would have on the integrity of ODR processes.¹²⁸ For example, a concern about ODR in the context of blockchain and smart contracts is the anonymity of parties on these platforms, as everything happens automatically and parties cannot challenge the "neutrals" in the same way that they could challenge a neutral human facilitator.¹²⁹ This anonymity would have a negative effect on the transparency of the process, which would consequently affect fairness and due process. As such, any proposed ODR guidelines must allow for the possibility of dispute resolution without any human neutrals and leave room for a new understanding of fairness in the context of fully automated dispute resolution.

Despite these challenges and concerns, Schmitz has described ODR as providing

¹²⁴ Conclin 2017 *Cardozo Journal of Conflict Resolution* 756; Rabinovich-Einy and Katsh 2017 *Ohio St J on Disp Resol* 720.

¹²⁵ Stylianou 2008 *Syracuse J Int'l L & Com* 124.

¹²⁶ Section II Note 7 of the *UNCITRAL Technical Notes*.

¹²⁷ Wing 2016 *International Journal of Online Dispute Resolution* 13.

¹²⁸ The potential risks are pointed out by Schmitz, who states that "(w)hile the use of AI and algorithms can be useful to assist in making reasoned judgments, there is a risk that technology will replace human judgment and creativity that computers cannot replicate. In other words, algorithms and machine learning may perpetuate bias or eschew the 'human touch' often necessary in some dispute resolution processes". Schmitz 2020 <https://ssrn.com/abstract=3525757>.

¹²⁹ Kadioglu 2019 *ASBU Digital Law Review* 147.

an exciting frontier for access to justice that moves at the pace of technology, thus surpassing current imagination and allowing for innovation.¹³⁰

This description perfectly encapsulates the disruptive nature of ODR and frames it as a positive disruptive innovation, allowing us to adapt our traditional understanding of dispute resolution and create new ways to resolve conflicts of varying types.

Bibliography

Literature

Albornoz and Martín 2012 *U Miami Inter-Am L Rev*

Albornoz MM and Martín NG "Feasibility Analysis of Online Dispute Resolution in Developing Countries" 2012 *U Miami Inter-Am L Rev* 39-61

Ast and Deffains 2021 *Stanford Journal of Blockchain Law and Policy*

Ast F and Deffains B "When Online Dispute Resolution Meets Blockchain: The Birth of Decentralized Justice" 2021 *Stanford Journal of Blockchain Law and Policy* 1-21

Bakhramova 2022 *European Journal of Innovation in Nonformal Education*
Bakhramova M "Theoretical and Legal Regulation of ODR in the European Union Countries" 2022 *European Journal of Innovation in Nonformal Education* 299-304

Ballesteros 2021 *International Journal on Online Dispute Resolution*

Ballesteros T "International Perspectives on Online Dispute Resolution in the E-Commerce Landscape" 2021 *International Journal on Online Dispute Resolution* 85-101

Barendrecht and Honeyman 2013 *Dispute Resolution Magazine*

Barendrecht M and Honeyman C "Dispute Resolution: Existing Business Models and Looming Disruptions" 2013 *Dispute Resolution Magazine* 17-21

Barnett and Treleaven 2017 *Computer Journal*

Barnett J and Treleaven P "Algorithmic Dispute Resolution – The Automation of Professional Dispute Resolution Using AI and Blockchain Technologies" 2017 *The Computer Journal* 399-408

Barton 2018 *Law Practice*

Barton BH "Rebooting Justice: ODR is Disrupting the Judicial System" 2018 *Law Practice* 32-37

¹³⁰ Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y* 2.

Beckers and Harder 2016 *Digital Journalism*

Beckers K and Harder RA "Twitter Just Exploded" 2016 *Digital Journalism* 910-920

Bellengere and Swales 2016 *Stell LR*

Bellengere A and Swales L "Can Facebook Ever be a Substitute for the Real Thing? A Review of *CMC Woodworking Machinery v Pieter Odendaal Kitchens* 2012 5 SA 604 (KZD)" 2016 *Stell LR* 454-475

Bordone 1998 *Harvard Negotiation Law Review*

Bordone RC "Electronic Online Dispute Resolution: A Systems Approach – Potential, Problems, and a Proposal" 1998 *Harvard Negotiation Law Review* 175-212

Braeutigam 2006 *Appalachian Journal of Law*

Braeutigam AM "Fusses That Fit Online: Online Mediation in Non-Commercial Contexts" 2006 *Appalachian Journal of Law* 275-302

Brescia 2016 *SC L Rev*

Brescia RH "What We Know and Need to Know About Disruptive Innovation" 2016 *SC L Rev* 203-222

Brescia *et al* 2015 *Alb L Rev*

Brescia RH *et al* "Embracing Disruption: How Technological Change in the Delivery of Legal Services Can Improve Access to Justice" 2015 *Alb L Rev* 553-622

Caserta and Madsen 2019 *Laws*

Caserta S and Madsen MR "The Legal Profession in the Era of Digital Capitalism: Disruption or New Dawn" 2019 *Laws* 1-17

Christensen 2006 *Journal of Product Innovation Management*

Christensen CM "The Ongoing Process of Building a Theory of Disruption" 2006 *Journal of Product Innovation Management* 39-55

Christensen *Innovator's Dilemma*

Christensen CM *The Innovator's Dilemma: When New Technologies Cause Great Firms to Fail* (Harvard Business School Press Boston 1997)

Cona 1995 *Buff L Rev*

Cona FA "Application of Online Systems in Alternative Dispute Resolution" 1995 *Buff L Rev* 975-1000

Condlin 2017 *Cardozo Journal of Dispute Resolution*

Condlin RJ "Online Dispute Resolution: Stinky, Repugnant, or Drab" 2017 *Cardozo Journal of Dispute Resolution* 717-758

Cortés 2011 *IJLIT*

Cortés P "Developing Online Dispute Resolution for Consumers in the EU: A Proposal for the Regulation of Accredited Providers" 2011 *IJLIT* 1-28

De La Rosa and Cebola 2019 *Euro Rev Priv L*

De La Rosa FE and Cebola CM "The Spanish and Portuguese Systems: Two Examples Calling for a Further Reform – Uncovering the Architecture Underlying the New Consumer ADR/ODR European Framework" 2019 *Euro Rev Priv L* 1251-1278

Dingli and Seychell *New Digital Natives*

Dingli A and Seychell D *The New Digital Natives: Cutting the Chord* (Springer-Verlag Berlin 2015)

Ebner and Zeleznikow 2015 *Hamline University's School of Law's Journal of Public Law and Policy*

Ebner N and Zeleznikow J "Fairness, Trust and Security in Online Dispute Resolution" 2015 *Hamline University's School of Law's Journal of Public Law and Policy* 143-160

Eisen 1998 *BYU L Rev*

Eisen JB "Are We Ready for Mediation in Cyberspace?" 1998 *BYU L Rev* 1305-1360

Fenwick, Siems and Wrzka *Shifting Meaning of Legal Certainty*

Fenwick M, Siems M and Wrzka S (eds) *The Shifting Meaning of Legal Certainty in Comparative and Transnational Law* (Hart Portland 2017)

Friedman 1997 *Hastings Comm & Ent LJ*

Friedman GH "Alternative Dispute Resolution and Emerging Online Technologies: Challenges and Opportunities" 1997 *Hastings Comm & Ent LJ* 695-718

Goodman 2003 *Duke Law and Technology Review*

Goodman JW "The Pros and Cons of Online Dispute Resolution: An Assessment of Cyber-Mediation" 2003 *Duke Law and Technology Review* 1-16

Guihot 2019 *North Carolina Journal of Law and Technology*

Guihot M "New Technology, the Death of the BigLaw Monopoly and the Evolution of the Computer Professional" 2019 *North Carolina Journal of Law and Technology* 405-469

Hattotuwa "Mobiles and ODR"

Hattotuwa S "Mobiles and ODR: Why We Should Care" in Abdel Wahab MS, Katsh E and Rainey D (eds) *Online Dispute Resolution: Theory and Practice: A Treatise on Technology and Dispute Resolution* (Eleven The Hague 2012) 95-106

Holness 2020 *PELJ*

Holness D "Improving Access to Justice Through Law Graduate Post-Study Community Service in South Africa" 2020 *PELJ* 1-25

Hongdao *et al* 2019 *Sustainability*

Hongdao Q *et al* "Legal Technologies in Action: The Future of the Legal Market in Light of Disruptive Innovations" 2019 *Sustainability* 1-19

Hurter 2007 *SA Merc LJ*

Hurter E "An Evaluation of Selected Aspects of the Alternative Dispute Resolution Regulations for the Resolution of Domain Name Disputes in the .za Domain Name Space" 2007 *SA Merc LJ* 165-185

Kadioglu 2019 *ASBU Digital Law Review*

Kadioglu C "Bricks and Clicks: Online Dispute Resolution Mechanisms and Implementation of Online Arbitration in Turkey for Cross-Border Business to Consumer E-Commerce Disputes" 2019 *ASBU Digital Law Review* 113-148

Kathuria *et al* 2023 *International Conference on Disruptive Technologies*

Kathuria A *et al* "Artificial Intelligence Enhancing its Role in Online Dispute Resolution" 2023 *International Conference on Disruptive Technologies* 629-632

Katsh 1996 *Conn L Rev*

Katsh E "Dispute Resolution in Cyberspace" 1996 *Conn L Rev* 953-980

Katsh 2007 *IRLCT*

Katsh E "Online Dispute Resolution: Some Implications for the Emergence of Law in Cyberspace" 2007 *IRLCT* 97-107

Katsh and Rifkin *Online Dispute Resolution*

Katsh E and Rifkin J *Online Dispute Resolution* (Jossey-Bass San Francisco 2001)

Katsh and Rule 2016 *SC L Rev*

Katsh E and Rule C "What We Know and Need to Know About Online Dispute Resolution" 2016 *SC L Rev* 329-344

Knoetze 2014 *De Rebus*

Knoetze I "Courtroom of the Future – Virtual Courts, e-Courtrooms, Videoconferencing and Online Dispute Resolution" 2014 *De Rebus* 28-32

Leigh and Fowlie 2014 *Laws*

Leigh D and Fowlie F "Online Dispute Resolution (ODR) Within Developing Nations: A Qualitative Evaluation of Transfer and Impact" 2014 *Laws* 106-116

Lubaale 2022 *AJCJ*

Lubaale EC "The Gendered Impact of COVID-19 Directives on Access to Criminal Justice in South Africa" 2022 *AJCJ* 1-26

Mabeka 2021 *PELJ*

Mabeka NQ "An Analysis of the Implementation of the CaseLines System in South African Courts in the Light of the Provisions of Section 27 of the *Electronic Communications and Transactions Act 25 of 2002: A Beautiful Dream to Come True in Civil Procedure*" 2021 *PELJ* 1-31

Manyathi-Jele 2013 *De Rebus*

Manyathi-Jele N "The Legal Practice Bill and Community Service" 2013 *De Rebus* 8-10

Martinez 2019 *Nevada Law Journal*

Martinez R "Artificial Intelligence: Distinguishing Between Types and Definitions" 2019 *Nevada Law Journal* 1015-1042

McGregor and Molyneux 2020 *Journalism*

McGregor SC and Molyneux L "Twitter's Influence on News Judgment: An Experiment Among Journalists" 2020 *Journalism* 597-613

McPeak 2019 *University of Toledo Law Review*

McPeak A "Disruptive Technology and the Ethical Lawyer" 2019 *University of Toledo Law Review* 457-476

McQuoid-Mason 2013 *Oñati Socio-Legal Series*

McQuoid-Mason D "Access to Justice in South Africa: Are There Enough Lawyers?" 2013 *Oñati Socio-Legal Series* 561-579

Melamed 2015 *Or L Rev*

Melamed JC "Computer Uses in Legal Practice – Yesterday, Today, and Tomorrow" 2015 *Or L Rev* 913-924

Morek 2006 *University of Toledo Law Review*

Morek R "The Regulatory Framework for Online Dispute Resolution: A Critical View" 2006 *University of Toledo Law Review* 163-192

Ngoepe and Makhubela 2015 *Records Management Journal*

Ngoepe M and Makhubela S "'Justice Delayed is Justice Denied' Records Management and the Travesty of Justice in South Africa" 2015 *Records Management Journal* 288-305

Peters 2021 *CES Derecho*

Peters S "The Evolution of Alternative Dispute Resolution and Online Dispute Resolution in the European Union" 2021 *CES Derecho* 3-17

- Rabinovich-Einy and Katsh 2017 *Ohio St J on Disp Resol*
Rabinovich-Einy O and Katsh E "A New Relationship Between Public and Private Dispute Resolution: Lessons from Online Dispute Resolution" 2017 *Ohio St J on Disp Resol* 695-728
- Ramasastri 2004 *Wash L Rev*
Ramasastri A "Government-to-Citizen Online Dispute Resolution: A Preliminary Inquiry" 2004 *Wash L Rev* 159-174
- Rule 2020 *Annual Review of Law and Social Science*
Rule C "Online Dispute Resolution and the Future of Justice" 2020 *Annual Review of Law and Social Science* 277-292
- Schiavetta "Online Dispute Resolution"
Schiavetta S "Online Dispute Resolution, e-Government and Overcoming the Digital Divide" Unpublished contribution delivered at the Queen's University of Belfast 20th BILETA Annual Conference (2005 Belfast)
- Schmitz 2018 *Notre Dame J L Ethics & Pub Pol'y*
Schmitz AJ "There's an App for That: Developing Online Dispute Resolution to Empower Economic Development" 2018 *Notre Dame J L Ethics & Pub Pol'y* 1-45
- Schultz 2004 *North Carolina Journal of Law and Technology*
Schultz T "Does Online Dispute Resolution Need Governmental Intervention? The Case for Architectures of Control and Trust" 2004 *North Carolina Journal of Law and Technology* 71-106
- Sheppard 2015 *Michigan State Law Review*
Sheppard B "Incomplete Innovation and the Premature Disruption of Legal Services" 2015 *Michigan State Law Review* 1797-1910
- Singh 2013 *TSAR*
Singh PP "Welcome to Facebook, Pieter Odendaal: You Have Been Served!" 2013 *TSAR* 380-389
- Sourdin, Li and Burke 2019 *Macquarie Law Journal*
Sourdin T, Bin L and Burke T "Just, Quick and Cheap: Civil Dispute Resolution and Technology" 2019 *Macquarie Law Journal* 17-38
- Sowers 2019 *LCP*
Sowers W "How Do You Solve a Problem Like Law-Disruptive Technology" 2019 *LCP* 193-214
- Stylianou 2008 *Syracuse J Int'l L & Com*
Stylianou P "Online Dispute Resolution: The Case for a Treaty Between the United States and the European Union in Resolving Cross-Border e-Commerce Disputes" 2008 *Syracuse J Int'l L & Com* 117-131

Surden 2019 *Ga St U L Rev*

Surden H "Artificial Intelligence and Law: An Overview" 2019 *Ga St U L Rev* 1305-1337

Susskind *End of Lawyers?*

Susskind R *The End of Lawyers? Rethinking the Nature of Legal Services* (Oxford University Press Oxford 2010)

Susskind *Tomorrow's Lawyers*

Susskind R *Tomorrow's Lawyers: An Introduction to Your Future* 4th ed (Oxford University Press Oxford 2023)

Susskind and Susskind *Future of the Professions*

Susskind R and Susskind D *The Future of the Professions: How Technology Will Transform the Work of Human Experts* 2nd ed (Oxford University Press Oxford 2022)

Van Eck "Disruptive Force of Smart Contracts"

Van Eck MM "The Disruptive Force of Smart Contracts" in Doorsamy W, Paul BS and Marwala T (eds) *The Disruptive Fourth Industrial Revolution* (Springer Cham 2020) 21-45

Watanabe and Rule 2022 *International Journal on Online Dispute Resolution*

Watanabe M and Rule C "ODR in the Metaverse" 2022 *International Journal on Online Dispute Resolution* 21-33

Wing 2016 *International Journal on Online Dispute Resolution*

Wing L "Ethical Principles for Online Dispute Resolution: A GPS Device for the Field" 2016 *International Journal of Online Dispute Resolution* 12-33

Wing *et al* 2021 *Negotiation Journal*

Wing L *et al* "Designing Ethical Online Dispute Resolution Systems: The Rise of the Fourth Party" 2021 *Negotiation Journal* 49-64

Case law

Chongqin Gingxing Industries SA (Pty) Limited v Ye 2021 3 SA 189 (GJ)

CMC Woodworking Machinery v Pieter Odendaal Kitchens 2012 5 SA 604 (KZD)

MK v Transnet Ltd t/a Portnet 2018 4 All SA 251 (KZD)

Legislation

Constitution of the Republic of South Africa, 1996

Consumer Protection Act 68 of 2008

Cybercrimes Act 19 of 2020

Electronic Communications Act 36 of 2005

Electronic Communications and Transactions Act 25 of 2002

Protection of Personal Information Act 4 of 2013

Government publications

GN R1166 in GG 29405 of 22 November 2006

Judge President's Practice Directive 1 of 2020

International instruments

Council Directive (EC) 2013/11 on Alternative Dispute Resolution for Consumer Disputes [2013] OJ L165/63

Council Regulation (EC) 524/2013 on Online Dispute Resolution for Consumer Disputes [2013] OJ L165/1

UNCITRAL Technical Notes on Online Dispute Resolution (2018)

Internet sources

AFSA date unknown <https://arbitration.co.za/>

Arbitration Foundation of South Africa date unknown *Welcome to AFSA* <https://arbitration.co.za/> accessed 18 September 2024

AllAfrica 2020 <https://allafrica.com/stories/202010150901.html>

AllAfrica 2020 *South Africa: Gauteng Court Paralysis Blamed on Security Breach* <https://allafrica.com/stories/202010150901.html> accessed 22 January 2024

CGSO date unknown <http://www.cgso.org.za/>

Consumer Goods and Services Ombud date unknown *Home* <http://www.cgso.org.za/> accessed 18 September 2024

Christensen 2021 <https://www.interaction-design.org/literature/book/the-encyclopedia-of-human-computer-interaction-2nd-ed>

Christensen CM 2021 *Disruptive Innovation* <https://www.interaction-design.org/literature/book/the-encyclopedia-of-human-computer-interaction-2nd-ed> accessed 21 January 2024

Christensen Institute 2024 <https://www.christenseninstitute.org/disruptive-innovations/>

Christensen Institute 2024 *Disruptive Innovation* <https://www.christenseninstitute.org/disruptive-innovations/> accessed 17 January 2024

Civil Resolution Tribunal date unknown <https://civilresolutionbc.ca/>

Civil Resolution Tribunal date unknown *Home* <https://civilresolutionbc.ca/> accessed 18 September 2024

Consumidor date unknown <https://consumidor.gov.br/pages/principal/>
Consumidor date unknown *Home* <https://consumidor.gov.br/pages/principal/> accessed 18 September 2024

Dugard and Drage 2013 <https://documents1.worldbank.org/curated/en/598681468307740801/pdf/793390NWPJ0D0T00PUBLIC00Box0377373B.pdf/>

Dugard J and Drage K 2013 *"To Whom Do the People Take Their Issues?" The Contribution of Community-Based Paralegals to Access to Justice in South Africa* <https://documents1.worldbank.org/curated/en/598681468307740801/pdf/793390NWPJ0D0T00PUBLIC00Box0377373B.pdf> accessed 18 September 2024

Dutton 2021 <https://alt-network.com/wp-content/uploads/2022/10/JudicialReponsesCovid19Africa.pdf>

Dutton C 2021 *The Judicial Responses to COVID-19 in Africa: Mapping and Analysing the Accessibility of Justice and the Use of Technology in Court Systems During the 2020 Global Pandemic* <https://alt-network.com/wp-content/uploads/2022/10/JudicialReponsesCovid19Africa.pdf> accessed 18 September 2024

iNTAKA Centre for Law and Technology 2024 <https://www.intaka.capetown/>
iNTAKA Centre for Law and Technology 2024 *LawTech Lab* <https://www.intaka.capetown/> accessed 4 February 2024

Kenya News Agency 2020 <https://www.kenyanews.go.ke/kra-unveils-online-dispute-resolution-mechanism/>

Kenya News Agency 2020 *KRA Unveils Online Dispute Resolution Mechanism* <https://www.kenyanews.go.ke/kra-unveils-online-dispute-resolution-mechanism/> accessed 5 February 2024

Lederer 2018 <https://arbitrationblog.kluwerarbitration.com/2018/01/11/new-found-emphasis-institutional-arbitration-india/>

Lederer N 2018 *The UNCITRAL Technical Notes on Online Dispute Resolution – Paper Tiger or Game Changer* <https://arbitrationblog.kluwerarbitration.com/2018/01/11/new-found-emphasis-institutional-arbitration-india/> accessed 6 February 2024

Legal Suite 2024 <https://www.legal-suite.com>

Legal Suite 2024 *Legal Software that Powers Progress* <https://www.legal-suite.com> accessed 13 February 2024

LexisNexis 2024 <https://www.lexisnexis.co.za/workflow-solutions>

LexisNexis 2024 *Workflow Solutions* <https://www.lexisnexis.co.za/workflow-solutions> accessed 13 January 2024

New Hampshire Judicial Branch 2024 <https://www.courts.nh.gov/our-courts/superior-court/caselines>

New Hampshire Judicial Branch 2024 *Introducing CaseLines for NH Superior Court* <https://www.courts.nh.gov/our-courts/superior-court/caselines> accessed 3 February 2024

SAIPL date unknown: saiipl.co.za/domain-names/

South African Institute of Intellectual Property Law date unknown *Domain Names* <https://saiipl.co.za/domain-names/> accessed 18 September 2024

SALT Network 2024 <https://www.saltnetwork.co.za/>

SALT Network 2024 *The South African Legal Technology Network* <https://www.saltnetwork.co.za/> accessed 11 February 2024

Schmitz 2020 <https://ssrn.com/abstract=3525757>

Schmitz AJ 2020 *Dangers of Digitizing Due Process* <https://ssrn.com/abstract=3525757> accessed 21 July 2024

South African Judiciary 2024 <https://www.judiciary.org.za/index.php/court-online/about-court-online>

South African Judiciary 2024 *About Court Online* <https://www.judiciary.org.za/index.php/court-online/about-court-online> accessed 5 February 2024

Superior Court of Justice 2024 <https://www.ontariocourts.ca/scj/caselines/cl-guide/>

Superior Court of Justice 2024 *CaseLines in the Superior Court of Justice: A Guide to Requirements* <https://www.ontariocourts.ca/scj/caselines/cl-guide/> accessed 21 January 2024

The South African 2020 <https://www.thesouthafrican.com/news/gauteng-high-court-security-breach-14-october/>

The South African 2020 *Gauteng High Court "Security Breach" Blamed for Maladministration* <https://www.thesouthafrican.com/news/gauteng-high-court-security-breach-14-october/> accessed 23 February 2024

Traffic Penalty Tribunal date unknown <https://www.trafficpenaltytribunal.gov.uk/>

Traffic Penalty Tribunal date unknown *Home* <https://www.trafficpenaltytribunal.gov.uk/> accessed 23 February 2024

Uitelkaar date unknown <https://uitelkaar.nl/>

Uitelkaar date unknown *Divorce on Good Terms* <https://uitelkaar.nl/> accessed 18 September 2024

Witting 2018 <https://leidenlawblog.nl/articles/leveraging-technology-to-enhance-access-to-justice-for-children-in-africa>

Witting S 2018 *Leveraging Technology to Enhance Access to Justice for Children in Africa* <https://leidenlawblog.nl/articles/leveraging-technology-to-enhance-access-to-justice-for-children-in-africa> accessed 6 February 2024

ZADNA date unknown <https://zadna.org.za>

.za Domain Name Authority date unknown *Home* <https://zadna.org.za> accessed 18 September 2024

List of Abbreviations

ADR	alternative dispute resolution
AFSA	Arbitration Foundation of South Africa
AI	artificial intelligence
AJCJ	Africa Journal of Crime and Justice
Alb L Rev	Albany Law Review
Buff L Rev	Buffalo Law Review
BYU L Rev	Brigham Young University Law Review
Conn L Rev	Connecticut Law Review
CPA	Consumer Protection Act 68 of 2008
CSGO	Consumer Goods and Services Ombud
ECTA	Electronic Communications and Transactions Act 25 of 2002
EU	European Union
Euro Rev Priv L	European Review of Private Law
Ga St U L Rev	Georgia State University Law Review
Hastings Comm & Ent LJ	Hastings Communication and Entertainment Law Journal
ICT	information and communications technology
IJLIT	International Journal of Law and Information Technology
IRLCT	International Review of Law, Computers and Technology
LCP	Law and Contemporary Problems
Notre Dame J L Ethics & Pub Pol'y	Notre Dame Journal of Law, Ethics and Public Policy
ODR	online dispute resolution
Ohio St J on Disp Resol	Ohio State Journal on Dispute Resolution
Or L Rev	Oregon Law Review
PELJ	Potchefstroom Electronic Law Journal

SAIPL	South African Institute of Intellectual Property Law
SALT	South African Legal Technology
SA Merc LJ	South African Mercantile Law Journal
SC L Rev	South Carolina Law Review
Stell LR	Stellenbosch Law Review
Syracuse J Int'l L & Com	Syracuse Journal of International Law and Commerce
TSAR	Tydskrif vir die Suid-Afrikaanse Reg
U Miami Inter-Am L Rev	University of Miami Inter-American Law Review
UNCITRAL	United Nations Commission on International Trade Law
Wash L Rev	Washington Law Review
ZADNA	.za Domain Name Authority