

Online Collaboration Algorithms for Small Claims

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Abstract

This article was adapted from a presentation at the ODR Forum 2019 in Williamsburg.

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Professor Susskind in his address to the 2019 International ODR Forum in Williamsburg was bullish on the future role of the Internet in delivering justice online, although he added that he thought it still may well be five to ten years away. He also emphasized a point that many working in the field of applying computer-managed algorithms to dispute resolution are particularly aware of: 'Critics compare ODR with a perfect system of justice that doesn't exist.' He also added, 'With ODR, we'll see an increase in access to justice.'

Approaches to resolving disputes without accessing the legal system of lawyers and courts has long been criticized as being somehow risky and less just. Evidence to support this view is not strong, and Professor Susskind was convinced that ODR had the potential to increase access to justice for many who currently have neither the financial means nor the opportunity to seek legal recourse to resolve their dispute.

iCan Systems, with a small but dedicated team of researchers and technical staff, has worked for many years to develop algorithms within eNegotiation tools that provide meaningful benefits to disputants who seek fair and reasonable outcomes. The focus has been on developing new usable negotiation tools rather than transferring current paper practices from the desk to the computer.

While the company's major research work has been focused on the powerful Smartsettle Infinity application capable of handling multiparty, multi-issue disputes, a scaled-down version, Smartsettle ONE, has been developed to handle simple two-party disputes that can be reduced to a single numerical issue. A subset of the algorithms developed for Smartsettle Infinity have been retained in Smartsettle ONE.

The overall process and algorithms are designed to allow disputants to take control and reach a fair settlement out of court. It is ideal for small claims and has the potential to resolve any claim involving just two parties and a single numeri-

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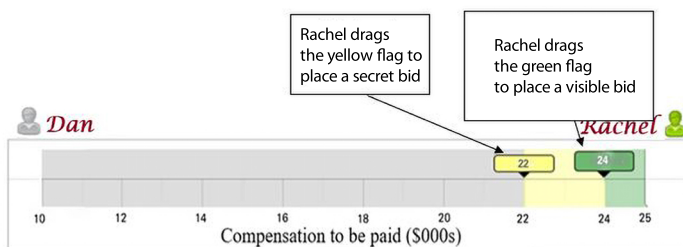
Ernest Thiessen & Peter Holt

cal issue. The disputants may choose to retain a facilitator to assist in the process, and while this may be beneficial it is not essential.

Through the use of simple graphical techniques and a process where bids are checked for agreements on conclusion of bidding sessions, a user can be confident as to their position and plan their future moves. The system is also asynchronous, meaning that disputants can respond to bids in their own time within a system that generates email ‘prompts’ alerting the user that they are next to bid. It may appear to some as equivalent to a system of simple blind bids, but it is much more than that.

Users are also provided with the opportunity to practice against an automated system that allows them to become comfortable with the process.

The following screenshot shows how Rachel starts a Visual Blind Bidding session with Dan. When Dan responds in a similar manner, the parties will reach a settlement when their secret bids overlap.



In order to further understand the process and algorithms supporting Smartsettle ONE please view our explanatory video, which can be found at <https://youtu.be/Z0VKkEKe2qE>.

It is unclear as to what mediators and litigants will eventually gravitate to in terms of online dispute resolution solutions. Undoubtedly, there will be more jurisdictions that will compel disputants to follow online pathways. Tools such as Smartsettle ONE may also be incorporated into such online processes to assist in disputes that otherwise would join the ever lengthening queues clogging court systems worldwide.

In the meantime, evidence of the use of tools such as Smartsettle ONE is beginning to appear, such as news from the UK earlier in 2019. Well-known mediator and dispute resolution expert Graham Ross reported that two parties had opted to use the UK online money claims court. Despite their efforts they had failed to settle the case, and a court hearing date had been fixed. The two litigants were introduced to Smartsettle ONE, and Ross reported that the case settled in less than an hour. He further claimed that this was a first for the UK. ('It so happens that this is the first case issued in the courts that has been settled in this way.') In this case, a knowledgeable mediator with experience of the online options available was able to match the litigants to the most appropriate online tool. This resulted in settlement that had otherwise been elusive.

As we approach 2020 the number of online dispute resolution options continues to grow. Political leaders and Departments of Justice across the world are looking to take advantage of new technology to solve the problem of expensive and greatly overloaded mediation, arbitration and court systems. The answers may lie not only in improving existing systems but also in the creation of systems outside the formal justice system where disputants can resolve their own disputes. Time will tell, but what is certain is that the legal world, however reluctantly, is beginning to change at a rate rarely seen before.