

International Intellectual Property disputes: The Impact of National Culture on Preferences for Dispute Resolution Method

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This study explores the influence of national culture on preferences among dispute resolution methods used in business conflicts. We hypothesized how Hofstede's (1988, 2001) primary cultural dimensions, as well as cultural distance (Kogut and Singh, 1988), would likely influence disputants to prefer either litigation or negotiation for conflict resolution. We analyzed resolution method choices among cross-cultural disputants in intellectual property infringement cases and found that those from collectivistic cultures generally prefer negotiation to resolve disputes and cultural distance predisposed disputants toward litigation. Implications for theory and management are discussed.

INTRODUCTION

Intellectual property rights are an important part of international trade in today's increasingly global exchange system (Maskus, 1998). Each year violations of intellectual property rights create conflicts and legal disputes between businesses from various national origins. Between 1996 and 2001 alone, more than 40,000 disputes around intellectual property involving foreign and domestic firms were filed and closed in U.S. Federal courts. With the growing number of cross-cultural disputes, it becomes increasingly important to understand how the disputants' national culture may influence preferences about how best to resolve such disputes.

Although there is debate about whether culture matters in approaches to dispute resolution, previous literature shows variation in conflict resolution strategies across countries and nationalities. For example, culture has been shown to influence methods and strategies used to solve conflicts in international diplomatic relations and in cross-cultural management. Further, recent research identifies the need for more cultural approaches to commercial disputes (Meyer et al., 2004; Slate, 2004) and framing of conflicts (Kozan, 1997).

Two methods of dispute resolution anchor opposite poles of conflict resolution strategy: negotiation and litigation. These methods differ in risk, uncertainty, cost, and time involved; thus choice of method is highly consequential to both parties. To the extent that method of choice is based on underlying values about human interaction, disputants from the same culture share the same values and are more likely to choose the same dispute resolution method. By the same token, then, disputants from different cultures may be more prone to select differing resolution methods and thereby exacerbate the conflict.

The prospect of anticipating which dispute resolution method one party is more likely to prefer opens the door to better managing the process of conflict resolution and could serve to help the parties reach a more productive resolution. The questions of which dispute resolution method one party will prefer and whether that preference is based on their national culture thus become highly important. This paper empirically examines the various dimensions of national culture (Hofstede, 1988, 2001) and the distance between disputing parties' cultures as factors influencing the choice of resolution methods in intellectual property violation cases.

THEORETICAL DEVELOPMENT

Types of dispute resolution

The characteristics of dispute resolution methods are usually classified in terms of cost, time spent and level of control over the process and the outcome. These characteristics of the two poles of dispute resolution methods are summarized in table 1.

TABLE 1
CHARACTERISTICS OF DISPUTE RESOLUTION METHODS

	Negotiation	Arbitration	Litigation
Disputants control of the outcome	Higher ^d	Lower ^a	Lower ^a
Disputants control over the process	Higher ^d	Higher ^{ab}	Lower ^a
Cost involved	Lower ^d	Higher ^{ac}	Higher ^c
Time involved	Lower ^d	Higher ^{ac}	Higher ^c
^a Neil (2005) ^b Fellas (2004) ^c Posin (2004) ^d Lewicki et al. (1997)			

Litigation is considered the most stressful and time-consuming of the dispute resolution strategies, as it is burdened with the costs and flaws of legal institutions, including potential judge fallibility (Posin, 2004). Parties to litigation have less control over the dispute process as well as less predictable outcomes (Neil, 2005). Furthermore, since lawsuits may become public over the course of the litigation, there is an added liability in intellectual property disputes whereby other unexpected plaintiffs may enter the case, resulting in higher potential losses for defendants. Finally, litigation limits the ability of the parties to save face (Posin, 2004), especially as the case becomes public.

In contrast, negotiation is considered the least expensive and time consuming. Both parties to a negotiation have control over the process and can decide the amount of time and money they involve in the negotiation process. In addition, both parties participate in developing outcomes and potentially seeking integrative or win-win resolutions. The potential for value creation, compromise and mutual concessions make negotiation the less aggressive and the most participative of the dispute resolution methods. Thus litigation and negotiation differ significantly in both participation from the disputants and in the potential impact on the relationship between the parties. We turn next to discuss how these differences in methods may be valued differently across cultures.

Culture and dispute resolution methods

Culture, as defined by Hofstede and Bond (1988) is “the collective programming of the mind that distinguishes the members of one category of people from those of another”. Interestingly, culture still divides opinions, particularly in the negotiation literature. Three different perspectives are expressed regarding culture’s influence on dispute resolution: the skeptics, who think that culture is epiphenomenal (Zartman, 1993) and is solely a phenomenon appearing after another phenomenon; the proponents, for whom culture does matter (Hofstede, 1980, 2001; Hall, 1976; Fisher, 1980); and the contingency adopters who argue that the effect of culture is contextual in nature (Elgström, 1999).

Existing research on cross-cultural disputes has focused primarily on diplomatic rather than commercial conflicts and differences in resolution processes between countries. Despite existing calls for culturally-based understanding of approaches to commercial disputes (Meyer et al., 2004; Slate, 2004), the majority of existing research focuses on the business negotiation process (Lewicki et al., 1997; Graham, 1983, 1984, 1993; Adler, Graham & Schwartz, 1987; Adler, Brahm & Graham, 1992). Recently, Posin (2004) addressed cross-cultural issues in mediating international business disputes and Fellas (2004) discussed how various methods can facilitate international business dispute resolution. However, the influence of culture on the choice of dispute resolution method has been left unexplored.

Earlier work from Graham (1983, 1984, 1993), Adler, Graham & Schwartz (1987), and Adler, Brahm & Graham (1992) used a buyer/seller negotiation simulation to show that similar negotiation outcomes can be attained by business negotiators from various countries as long as they negotiate with people of their own country; whereas, inter-cultural negotiations typically lead to lower outcomes or performance (Lewicki et al., 1997). These studies argue that different ways to resolve a dispute may result in the same outcome, but that the disputant is better off selecting the dispute resolution strategy that best fits his or her culture.

Hofstede and Bond (1988) identified five primary dimensions of national culture. In the following sections, we discuss each dimension’s expected influence on a party’s choice of a dispute resolution method.

Power distance

Power distance is defined as the extent to which power inequalities are accepted by the members of a particular society, organization, or family (Hofstede, 1980, 2001; Hofstede & Bond, 1988). Greater power distance involves the acceptance by the majority of a culture that the power in their society is concentrated at the top. Thus, people in high power distance cultures consult more often with their managers or supervisors and wait for decisions before acting and therefore have a higher tolerance for slower processes.

Consequently, individuals from high power distance cultures are conditioned to accept the decisions of authority figures, including a judge or arbitrator in a litigation setting, more easily than those from low power distance cultures. Additionally, for high power distance cultures, managers establish formal rules that subordinates are supposed to follow (Hofstede, 2001) which reinforces the propensity to choose litigation because of its formality and enforceability.

In contrast, individuals from low power distance cultures are less willing to accept authority. Mulder (1977) posits that when the power distance from the subordinate to the more powerful person is small, the subordinate will have a strong propensity to try and reduce the distance. Thus, persons from low power distance cultures will want to redistribute power in a way that improves the legitimacy of their own power position. Negotiation gives parties the opportunity to redistribute some of the power to themselves. Further, low power distance cultures commonly have decentralized decision structures and lower concentration of authority (Hofstede, 1980, 2001), increasing individuals’ sense of agency. Thus,

Hypothesis 1: In cultures with higher levels of power distance, disputants are more likely to choose litigation as the dispute resolution strategy, while those from low distance cultures are more likely to choose negotiation.

Individualism/collectivism

Individualism/collectivism refers to the degree of gregariousness of individuals in the society (Hofstede, 2001) and the degree to which a person is distant from, or close to, the collectivity (Newman and Nollen, 1996). Organizations in collectivistic societies are built around groups with a strong emphasis being placed on teamwork and group achievement rather than autonomy and personal responsibility. In a collectivistic culture, organizations tend to encourage collective decision making and consider direct appraisal of individual performance a threat to team harmony. From a theoretical perspective, the influence of individualism/collectivism on choice of dispute resolution method is not clear. One could formulate theoretical arguments to support both individualism and collectivism influencing disputants toward negotiation. We therefore offer competing hypotheses below.

Building relationships is central to collectivistic cultures: for instance, in China, signing an agreement is only the beginning of a relationship (Phatak & Habib, 1996). Since negotiation is less competitive than litigation in nature and potentially more harmonious, it lends itself to the prioritization of relationships. Furthermore, people from the collectivistic cultures typically are more sensitive to the potential of losing “face” since this tends to not only affect their position in their in-group but also taint the entire in-group. The public nature of confrontation and exposure of misdeeds in litigation is therefore less fitting to the collectivistic orientation. Therefore,

Hypothesis 2a: In cultures with higher levels of collectivism, disputants are more likely to choose negotiation as the dispute resolution strategy.

In individualistic cultures people desire independence and responsibility for themselves. Among individualists, individual performance is frequently evaluated and rewarded. Likewise, individual initiative and challenges that encourage competition are emphasized in individualistic cultures. This emphasis is consistent with negotiation, which provides a venue for individual agency and enables more immediate reward for success. Together, time pressure, acceptance of individual responsibility and individual rewards encourage the use negotiation to resolve disputes. Thus,

Hypothesis 2b: In cultures with higher levels of individualism, disputants are more likely to choose negotiation as the dispute resolution strategy.

Masculinity/femininity

Masculinity/femininity refers to the relative importance of personal achievement over relationship building and the accomplishment of group goals (Hofstede, 2001). Organizations in masculine societies tend to emphasize merit-based personal rewards, material success, and assertiveness (Newman and Nollen, 1996). As a result, individuals from masculine cultures are typically independent, ambitious, aggressive, and assertive and as such, are more likely to make individual decisions in order to gain recognition. Furthermore, they will seek achievement, self-realization through independent decision making and prefer larger and faster rewards. Hofstede (2001) suggests that fighting and display of force are more typical in masculine cultures when dealing with international conflicts. In contrast, an organization in a feminine society is more likely to emphasize harmony and quality of life issues (Newman and Nollen, 1996). According to Hofstede (2001), in low masculinity cultures, career ambitions are secondary with the primary focus on humanizing the work through teams, joint problem solving, compromise, and negotiation. Since litigation facilitates assertiveness and demonstration of power, we posit that,

Hypothesis 3: In cultures with higher levels of masculinity, disputants are more likely to choose litigation as the dispute resolution strategy, those from more feminine cultures are more likely to choose negotiation.

Short-term/long-term orientation

Long term-short term orientation, also known as Confucianism, refers to an orientation towards the future with perseverance, prudence, and savings. Short-term oriented cultures refer to a past and present orientation with a respect for traditions, social context, and face saving (Hofstede, 2001). Prior studies suggest that short-term/long-term orientation influences the strategic decisions made in international partnership (Beldona et al., 1998). Thus, this dimension is expected to impact the choice of dispute resolution strategy.

Short-term orientation refers to the focus on immediate versus future results. Individuals in short-term oriented countries tend to focus on quick fixes and short term profits rather than long-term solutions and strategies requiring perseverance, such as market share growth (Newman and Nollen, 1996). Interestingly, the social norms associated with short term orientated cultures emphasize an expectation for immediate gratification of needs, and teach “short-term virtues.” They, therefore, focus on social consumption, bottom line performance, and nebulous problem solving. A disputant from a short-term oriented culture values fast results and engaging in unstructured problem solving; thus, they will attempt to avoid structured and time-consuming dispute resolution methods.

In contrast, long-term oriented cultures are willing to make the investments needed to build relationships and as such, adhere to long-term virtues like frugality and commitment, deferred gratification of needs, as well as a propensity for structured problem solving. If the disputant is from such a culture, he or she is expected to be willing to accept a delay in dispute resolution in exchange for a structured method of dispute resolution. Thus,

Hypothesis 4: In cultures with higher levels of short-term orientation, disputants are more likely to choose negotiation as the dispute resolution strategy, and those from long-term oriented cultures will more likely choose litigation.

Uncertainty avoidance

Uncertainty avoidance involves the extent to which people in a particular culture feel comfortable in uncertain and unstructured situations (Hofstede & Bond, 1988). Those from a culture with a high level of uncertainty avoidance prefer rules and well-defined processes as ways to reduce uncertainty (Hofstede, 2001). Further, high uncertainty avoidance individuals prefer to reduce personal risk and use group decision making as a way to do so (Hofstede, 2001).

The preferences above suggest a propensity for litigation. However, Hofstede (2001) also shows that citizens from uncertainty avoiding cultures are negative toward the legal system and think of the law as being usually against them. The World Value Survey gives support to the fact that a need for more legislation does not imply trust in the legal system; it found ‘confidence with the legal system’ to be negatively correlated with uncertainty avoidance.

In addition, Gibson and Caldeira (1996) studied European countries on perceptions of legal value. Two of the dimensions that were later found correlated with uncertainty avoidance were legal alienation, which is the perception that law is often against me, and the feeling that it is ok to break the law when it is perceived as unfair. (Hofstede, 2001). Thus, two social norms are in opposition for the choice of dispute resolution strategy: the need for a structured strategy and the negative perception of the legal system as unjust or corrupt. We therefore propose competing hypotheses here again:

Hypothesis 5a: In cultures with higher levels of uncertainty avoidance, disputants are more likely to choose litigation as the dispute resolution strategy.

Hypothesis 5b: In cultures with lower levels of uncertainty avoidance, disputants are more likely to choose litigation as the dispute resolution strategy.

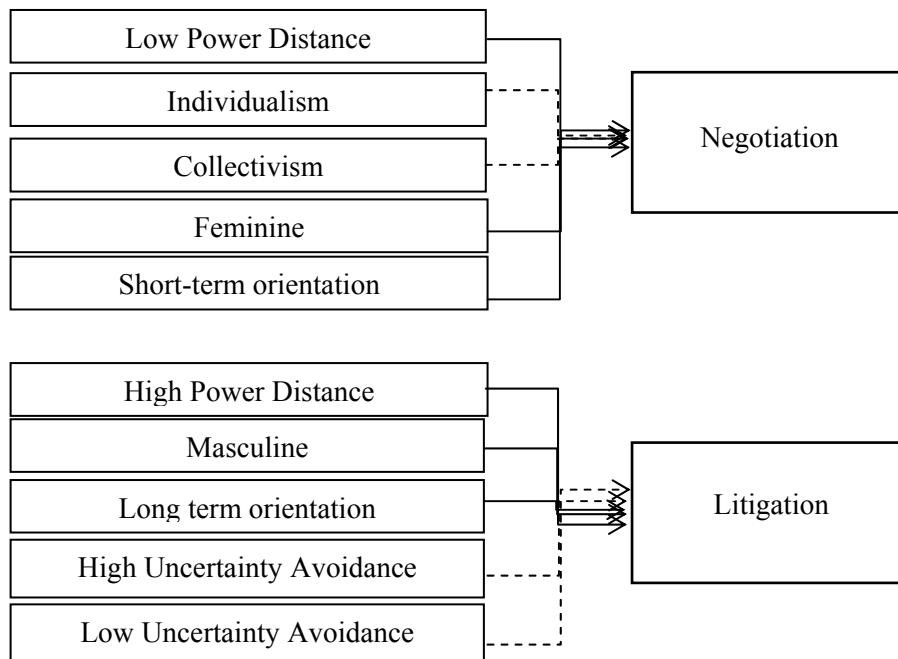
Cultural distance

Cultural distance is a composite of countries' differences relative to Hofstede's cultural dimensions and has been shown to influence decision making (Brouthers & Brouthers, 2001; Kogut & Singh, 1988; Mezias et al., 2002). Kogut and Singh (1988) first introduced cultural distance to predict the foreign market entry mode choice; however, some results appeared to be paradoxical. The paradox was explained by Brouthers & Brouthers (2001) as follows: high cultural distance leads to the choice of a cooperative entry mode like joint venture. When investment risk in the target market interacts with cultural distance, the choice changes toward internalized entry mode like wholly owned subsidiaries. We therefore hypothesize that the gap between cultures will increase the willingness of the disputants to opt for a more cooperative dispute resolution strategy:

Hypothesis 6: In disputes involving parties with high cultural distance, disputants are more likely to choose negotiation as the method of dispute resolution.

Our hypotheses are summarized in Figure 1.

Figure 1: Summary of Hypothesized Influence of Culture on Choice of Dispute Resolution



Dashed lines represent competing hypotheses.

METHOD

Data

Our archival data was procured from the Federal Court Cases Integrated Database. This dataset of U.S. Federal cases was compiled by the Inter-University Consortium for Political and Social Research, by way of the Federal Judicial Center. Official records from federal district courts were recorded by court clerks after cases closed (Administrative Office of the U.S. Courts, 1985). Our sample comes from the 40,000 intellectual property dispute resolutions cases that were closed between the years of 1996 and 2001. Of the 40,000 intellectual property dispute cases 874 cases were included in the study based on systematic random sampling (Trochim, 2001). Included firms were coded based on home country

(country of the headquarters), found through the Lexis-Nexus Academic Universe business search engine. Additional or confirmatory information was retrieved from Hoovers and Google business search engines. The coding of individual firms resulted in 650 dyadic cases. All of these cases used either negotiation or litigation as their method of conflict resolution. Cases involving American firms as both plaintiffs and defendants were eliminated from the sample for lack of cultural distance. After this elimination, the sample size came down to a total of 252 plaintiff-defendant dyads representing divergent cultures (Trochim, 2001). Finally, we eliminated repeat cases from existing dyads to reduce the possibility of auto-correlation. The final sample was comprised of 186 cases, 50% negotiation and 50% litigation.

Variables

Dependent variable

The dependent variable in the study is CONFLICT RESOLUTION STRATEGY, either litigation or negotiation. The dependent variable is dichotomized (1 equals negotiation; 0 equals litigation) and run in logistic regression models.

Independent variables

In order to predict the conflict resolution strategy choice we use Hofstede's five national culture dimensions: MASCULINITY, INDIVIDUALISM, POWER DISTANCE, UNCERTAINTY AVOIDANCE, and CONFUCIANISM (Hofstede 2001, 1980) and assigned his ratings, by country, for the values of each dimension for each country. Due to the dyadic nature of the cases, we analyze each of the dimensions for plaintiffs and defendants separately and together as well as the cultural distance between plaintiffs and defendants for each of the dimensions with the exception of CONFUCIANISM, for which cultural distance is not sufficiently represented in the sample.

CULTURAL DISTANCE was calculated according to Kogut and Singh's (1988) index modified to allow comparisons between countries other than the United States. The original Kogut and Singh index compares cultural dimensions of each country with the ones of the US. As we intend to compare any country with another country, the model used in this study is:

$$CD = \sum_{i=1}^4 \{(I_{ip} - I_{id})^2 / V_i\} / 4 \quad (1)$$

Where CD is the cultural distance between country of the plaintiff and the one of the defendant; I_{ip} and I_{id} indicate the score of Hofstede's dimension i for the country of the plaintiff and the country of the defendant, respectively. $(I_{ip} - I_{id})^2 / V_i$ is the squared difference between the country of the plaintiff and the one of the defendant for each dimension divided by the variance V_i for the respective dimension. In this model, we use the four dimensions originally found by Hofstede: uncertainty avoidance, individualism, masculinity, and power distance.

Control variables

Due to the nature of the dataset (and sample) used for this study, certain control variables normally utilized in international business research, such as firm size and overseas experience (e.g., Brouthers, O'Donnell & Hadjimarcou, 2005), could not be operationalized in this study. However, we did control for type of intellectual property violation. In the sample, three types of intellectual property violations are represented: copyright, patent, and trademark. Each of them was dichotomized as dummy variables; only PATENT and COPYRIGHT are used in the models to avoid the dummy variable trap.

RESULTS

Three independent variables violate the normality assumption: cultural distance between plaintiff and defendant's Power Distance, cultural distance between plaintiff and defendant's Individualism, and plaintiff's Power Distance. The outliers spotted in the dataset are part of the country specific cultural indices, thus we chose not to remove them and decided instead to transform the corresponding variables according to the recommendations of Tabachnik and Fidell (2001). Severe positive skewness for plaintiff's power distance was corrected using inverse transformation and substantial positive skewness for the two cultural distance measures was corrected using logarithmic transformation. The three transformed variables are used in the subsequent analysis. The assumption of homogeneity of variance is not violated, as the plot of the studentized deleted residual against the unstandardized predicted value resulted in two parallel lines (Tabachnick & Fidell, 2001).

Tables 2 and 3 report the variable means, standard deviations, and correlation coefficients between the dependent, independent, and control variables. In addition, the maximum Variance Inflation Factor (VIF) value found in the models is 5.391, which is smaller than the maximum limit of 10 specified by Kleinbaum et al. (1998). Thus, multicollinearity is not an issue in this study.

Table 4 presents the results of the logistic regression analyses, which tested the likelihood of choosing negotiation as a dispute resolution strategy.

Six different models were run with choice of resolution strategy as the dependent variable (negotiation = 1). Model A controls for the likelihood of choosing negotiation according to the type of intellectual property violation. The -2 log likelihood in this model has no statistical significance ($\beta_{\text{patent}} = -.023$; $\beta_{\text{copyright}} = -.067$, both n.s.) and thus fails to show any influence of the type of intellectual property violation on the choice of dispute resolution strategy.

The next column, Model B, shows both plaintiff and defendant cultural dimensions as predictors of choice of dispute resolution strategy. The model is significant (-2 log likelihood = 223.12; $p < .01$). In this model, both plaintiff and defendant individualism are negatively related to the likelihood of choosing negotiation as a dispute resolution strategy ($\beta_{\text{individualism}} = -0.03$; $p < .10$ and $\beta = -0.04$ $p < .05$, respectively). The Nagelkerke R^2 shows that the model is explaining 22.7 percent of the likelihood to choose negotiation and 72 percent correctly classified exceeds the proportional chance criterion of 50 percent. Thus, the likelihood of choosing negotiation decreases as individualism increases; said differently the likelihood of choosing negotiation increases as collectivism increases. This result provides support for Hypothesis 2a. Hypothesis 2b is not supported. All other dimensions of culture were not significant in Model B ($\beta_{\text{power distance}} = 8.63$ for plaintiffs and $-.04$ for defendants; $\beta_{\text{masculinity}} = .01$ for plaintiffs and $-.00$ for defendants; $\beta_{\text{uncertainty avoidance}} = -.01$ for plaintiffs and $.02$ for defendants; $\beta_{\text{confucianism}} = .01$ for plaintiffs and $.00$ for defendants; all n.s.). Thus, we did not find support for hypotheses 1 or 3 – 5. Only individualism/collectivism had direct influence over choice of resolution method.

Table 2. Pearson correlations coefficients for cultural dimensions of plaintiff and defendant

	Mean	S.D.	1	2	3	4	5	6	7
1. Litigation	0.50	0.501							
2. Negotiation	0.50	0.501	1.000 **						
3. Copyrights	0.12	0.330	-0.016	0.016					
4. Patent	0.65	0.480	0.000	0.000	-0.507 **				
5. Trademark	0.23	0.423	0.013	-0.013	-0.206 **	-0.739 **			
6. Plaintiff power distance	0.02	0.004	0.237 **	-0.237 **	0.024	-0.006	-0.012		
7. Plaintiff individualism	75.96	20.787	0.132	-0.132	0.109	0.018	-0.106	0.482 **	
8. Plaintiff masculinity	61.66	16.200	-0.083	0.083	0.042	-0.050	0.023	-0.141	0.064
9. Plaintiff uncertainty avoidance	54.97	16.016	-0.100	0.100	-0.037	0.024	0.002	-0.535 **	-0.676 **
10. Plaintiff confucianism	29.88	22.984	-0.200 **	0.200 **	0.013	-0.027	0.020	-0.469 **	-0.449 **
11. Defendant power distance	43.22	10.916	-0.062	0.062	-0.001	0.060	-0.067	-0.125	0.010
12. Defendant individualism	73.39	22.090	0.306 **	-0.306 **	0.013	-0.241 **	0.263 **	0.172 *	-0.165 *
13. Defendant masculinity	61.52	18.653	-0.050	0.050	-0.099	0.125	-0.065	-0.090	-0.153 *
14. Defendant uncertainty avoidance	59.30	19.754	-0.262 **	0.262 **	-0.095	0.242 **	-0.208	-0.165 *	0.114
15. Defendant confucianism	33.36	25.263	-0.164 *	0.164 *	0.037	0.139	-0.188	-0.210 **	-0.144 *

** Correlation significant at the 0.01 level (2 tailed)

* Correlation significant at the 0.05 level (2 tailed)

^a Correlation significant at the 0.10 level (2 tailed)

N= 186

Maximum VIF= 5.391

Table 2. Pearson correlations coefficients for cultural dimensions of plaintiff and defendant

	8	9	10	11	12	13	14
8. Plaintiff masculinity							
9. Plaintiff uncertainty avoidance	0.177 *						
10. Plaintiff confucianism	0.343 **	0.249 **					
11. Defendant power distance	0.026	0.049	0.113				
12. Defendant individualism	-0.034	0.005	-0.117	0.437 **			
13. Defendant masculinity	-0.131	0.152 *	0.015	0.161 *	-0.041		
14. Defendant uncertainty avoidance	-0.025	-0.006	0.102	0.603 **	-0.763 **	0.343 **	
15. Defendant confucianism	-0.033	0.161 *	0.155 *	0.420 **	-0.564 **	0.366 **	0.383 **

Table 3 Pearson bivariate correlations coefficients for distance in cultural dimensions

	Mean	S.D.	1	2	3	4	5	6	7	8	9
1. Litigation	0.50	0.50									
2. Negotiation	0.50	0.50	-1.000 **								
3. Copyrights	0.12	0.33	-0.016	0.016							
4. Patent	0.65	0.48	0.000	0.000	-0.507 **						
5. Trademark	0.23	0.42	0.013	-0.013	-0.206 **	-0.739 **					
6. Power distance	-0.88	0.78	-0.229 **	0.229 **	-0.134	0.125	-0.036				
7. Individualism	-0.33	0.94	-0.321 **	0.321 **	-0.046	0.123	-0.104	0.440 **			
8. Masculinity	2.08	3.00	-0.166 *	0.166 *	-0.074	0.146 *	-0.108	0.026	0.258 **		
9. Uncertainty avoidance	1.27	1.39	-0.179 *	0.179 *	-0.030	0.136	-0.131	0.600 **	0.529 **	0.070	
10. Cultural distance	1.37	1.22	-0.299 **	0.299 **	-0.060	0.190 **	-0.169 *	0.486 **	0.688 **	0.679 **	0.595 **

** Correlation significant at the 0.01 level (2 tailed)

* Correlation significant at the 0.05 level (2 tailed)

^a Correlation is significant at the 0.10 level (2 tailed)

N= 186

Maximum VIF= 1.811

Table 4.
Logistic regression for predictors of Dispute Resolution Method

	Model A			Model B			Model C		
	Control			Cultural Dimensions			Cultural Distance		
	B	Exp (B)	Wald	B	Exp (B)	Wald	B	Exp(B)	Wald
Constant	0.04	1.04	0.04	5.35 *	210.95	3.07	-0.68 *	0.51	5.28
Control Variables									
Patent	-0.02	0.98	0.02	0.21	1.24	1.11	0.12	1.13	0.43
Copyright	-0.07	0.94	0.07	-0.04	-0.97	0.02	-0.27	0.97	0.01
Covariates									
Plaintiff									
Power Distance				-8.63	0.00	0.05			
Individualism				-0.03 ^a	0.97	3.73			
Masculinity				0.01	1.01	1.00			
Uncertainty Avoidance				-0.01	0.99	0.49			
Confucianism				0.01	1.01	0.28			
Defendant									
Power Distance				-0.04	0.96	2.38			
Individualism				-0.04 *	0.97	3.91			
Masculinity				0.00	1.00	0.00			
Uncertainty Avoidance				0.02	1.02	1.05			
Confucianism				0.00	1.00	0.12			
Cultural Distance							0.54 **	1.72	16.20
	df	2		12			3		
-2 log likelihood	257.78			223.12 **			240.03 **		
Likelihood ratio χ^2	0.67			34.73			17.83		
Percent correct	26.60			72.00			66.90		
Nagerlkerke R ²	0.00			0.23			0.12		
Sommer's D	0.02			0.45			0.37		
N	186			186			186		

**p<.01; *p<.05; ^ap<.10

B=logistic regression parameter estimate; Exp(B) = odds ratio

Hypothesis 6 posited that high cultural distance will influence parties toward a choice of negotiation over litigation. Model C shows cultural distance as a predictor of chosen strategy and provides support for hypothesis 6. Aggregated cultural distance positively related to the likelihood of choosing negotiation (B = 0.54, p<.01). The model is significant with a -2 Log likelihood of 240.03 (p<.01), which shows better goodness of fit than any other models in the study. The Nagelkerke R² of .12 shows less explanation in the variance but the percent correctly predicted of 66.9 gives a better prediction than chance and supports our sixth hypothesis.

DISCUSSION

This study explored the extent to which culture may influence the choice of dispute resolution method used in legal cases involving parties from different cultures as shown in model 2. Previous research has shown that culture and cultural distance may influence strategic choices; this study attempts to make that influence more concrete by showing that cultural dimensions and cultural distance have a direct influence on the choice of dispute resolution method. Our empirical results tell somewhat of a different story, however. We found support for our second hypothesis regarding Collectivism influencing choice toward

negotiation (H2b), but we did not find any other direct effects of cultural dimensions on choice of dispute resolution strategy.

We found support for the role of cultural distance in influencing choices of resolution method (H6). Greater cultural distance across cultural dimensions between two disputing parties increased the likelihood they would choose negotiation as their method of dispute resolution, rather than litigation.

It would be interesting to explore other methods of dispute resolution and the role culture plays in selecting them. Interestingly, in our randomly selected sample of 252 international cases of intellectual property violations there were no cases of arbitration as a dispute resolution method. This was true despite the presence of US based disputants in the sample and prior arguments (e.g., Neil, 2005) that arbitration is a popular dispute resolution strategy in the U.S. Consequently, it is necessary to seek for more information on this subject, including research on disputes other than those on intellectual property violations.

Limitations and implications for future research.

One limitation of the current study concerns the construct of organizational culture, which differs from national culture (Hofstede, 1980; Mezias, 2002). In this study, organizational culture is not addressed, even though we tried to overcome this issue by coding the case in terms of the country of the company's headquarters. Also, the discretion given to the local managers can influence the degree to which the national and organizational culture of the headquarters may influence the choice of dispute resolution method used. Thus, we suggest that future research examines the influence of organizational culture, in addition to national culture. Also, we used country of company headquarters to code parties' cultural values, which was not always the value system most proximate to disputant. Future exploration of dissemination of home country values to foreign subsidiaries may also aid in advancing this line of inquiry.

In addition, psychic distance is not addressed in this study. Language is one of the factors included in psychic distance, and researchers may be able to determine if this construct should be considered as a moderator along with structural differences (Stottinger and Schlegelmich, 1998; O'Grady and Lane, 1996). Other structural considerations, such as the political relations between countries and the environment within nations, might provide insight to better understand the relationship between culture and business dispute resolution.

Finally, we did not directly assess the mechanism behind the choice of resolution method and rather inferred it. Future survey research of disputing firms may provide an opportunity for a richer understanding in this regard. The benefits of such a survey in addition to measuring the mechanism are threefold: first, we can avoid common method variance by cross-checking the cultural dimensions of the decision-makers in the cases; second, we can assess whether or not the attributes of the dispute resolution types are valued or perceived the same way across cultures; third, we can explore the perceptions and strategic intention of the defendant in intellectual property violation as well as the perception and strategic intentions of the plaintiffs in the choice of a resolution strategy. The exploration of these possible extensions will provide insightful information on the real goals of the organizations involved in a dispute. In reality, it is possible that the choice of dispute resolution method might be a means to an end, not the final goal per se. The stream of research on the influence of culture on strategic decision making could benefit from this contribution as it provides a behavioral response via individuals' expectations.

Conclusion

Strategic decision makers, negotiators, and parties implicated in business disputes will likely find insight with the knowledge of the expectations of the other party. The time and costs involved in various dispute resolution methods may be more easily appreciated and planned accordingly when taking both parties' culture into account. Further research on the influence of culture on more aspects of legal disputes might help researchers and practitioners to better understand the interactions between business entities from foreign countries and better assess the possible risks in a multicultural business environment.

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