

# Technology and the Management of High- Volume Caseloads

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# Three perspectives on disputes

- You can create them
- You can resolve them
- You can prevent them

# Technology and dispute creation

- Very little effort required
  - Email and spam
  - Internet and viruses
  - Peer to peer and copyright violations
  - Ecommerce and identity theft
  - Domain names and trademark infringement
  - Social networks and cyberbullying
  - Disputes as a consequence of increasing transactions, relationships, complexity, innovation and change
  - Edward Tenner, “Why Things Bite Back”

# Resolving disputes with technology (online and offline)

- Technology can provide two things
  - Convenience and efficiency, e. g. video and online communication
  - Intelligence and effectiveness, e.g. software and information processing
- Possibly replace third party in simple disputes – single issue, single transaction – no ongoing relationship, money, etc.
- Work with third party in more complex disputes

# Reducing backlogs by reducing caseloads

## ▶ Many ways to do this

- Create barriers to entering the system
  - Courts
    - “Vanishing Trial” – civil trial rate in the federal courts dropped from 11.5% in 1962 to 1.8% in 2002
- Make disputes less likely
  - eBay
    - Feedback system – Reputations through crowdsourcing
    - Perhaps most impressive and innovative action of eBay
- Meet needs of users
  - ICANN and domain name disputes
    - What if Google preceded domain names?
  - OGIS
    - An information “wizard”

# Avoiding and preventing disputes

- ▶ General questions and issues
  - Who is using your system and why?
  - Do they have informational needs that aren't being met?
  - Can you interact with parties when less they are less angry and frustrated
    - problems before they turn into grievances
    - grievances before they turn into complaints
    - complaints before they turn into disputes
  - Save resources for the difficult cases
  - Challenges
    - Different solutions for different disputes
    - Dispute analysis and inventory needed
    - Institutional issues
      - What are incentives?
      - Is efficiency rewarded?

# More specifically

- ▶ Reach potential parties as early as possible
  - Less anger and frustration
  - Anticipate needs and expectations of users
    - Using information
      - Reduce ambiguities and confusion
      - Inform in new ways
        - FAQs are convenient but not necessarily an improvement in clarity or substance
        - More visual methods
        - More interactive methods

# OGIS example

- ▶ Expectations for a new agency
  - How many cases?
    - Approximately 600,000 requests each year
    - 8,000 – 9,000 appeals each year
    - Approximately 300 court decisions each year
  - What kinds of disputants?
  - What kind of ODR system?

# Nature of OGIS cases

Category	Number
Denial	106
Delay	84
Ombuds issue	79
Privacy Act	65
Information	59
Fees	25
Agency practices	13
Misc.	1
Total	431

# How complaint filed

Medium	Number
U.S. Mail	198
Email	192
Phone	36
Fax	14

<http://www.ombuds.org/foia>