

INTELLECTUAL PROPERTY FAST ACTION PROTOCOL

MOBILE WORLD CONGRESS 2019

**COMMERCIAL COURT OF BARCELONA
EUROPEAN UNION TRADE MARK COURT OF ALICANTE**

The panel of Judges of the Commercial Court of Barcelona and the panel of Judges of the European Union Trade Mark Court of Alicante, at its joint meeting on 13 December 2018,

1. STATE:

That from **February 25 to 28, 2019** the Mobile World Congress (abbreviated by its acronym MWC: <http://www.mobileworldcongress.com/>) will be held in Barcelona. This is an annual congress around the field of communication and mobile telephony, and is the most important in its sector, as it is the venue for showcasing a great number of global developments and innovations in wireless and mobile communications (technology patents); new mobile applications and, in general, state-of-the-art software (intellectual property rights); new designs for mobile devices and other computer and communication media [tablets, laptops, wearables, etc. (industrial design)]; and ultimately, it is a place where leading companies in computing, electronics and telecommunications come together and compete with each other.

AND HEREBY AGREE:

That in the event of any conflict that may exist between the companies participating in this event, as holders of intellectual and industrial property rights, and which give rise to the application for preliminary injunctions, as has occurred on previous occasions, in order to avoid, to the extent possible, adopting *ex parte* interim measures; and at the same time to ensure the adoption of effective measures to protect those rights, the Commercial Court of Barcelona establish, for fifth time, and the E.U. Trade Mark Court of Alicante, for first time, during February 2019 and the days of the event, a Protocol of guard service and fast action in accordance with the following commitments:

a) *Priority and preferential processing of emergency preliminary injunctions (either ex parte or not) in relation to technological patents and industrial designs relating to products which are to be exhibited at this event, as well as acts of infringement of trademarks and copyrights, and unfair competition and unlawful advertising acts in relation to products and materials which are on display at the MWC.*

b) *Resolve and issue any ex parte preliminary injunction within 48 hours, once the complaint has been received by the court; and the case of a hearing of an interim injunction is resolved within a 10-day period, as long as a protective letter has been filed.*

c) *Within the framework of a possible conflict in issues of industrial or intellectual property with another company and in light of the reasonable fear of being subject to an application for an ex parte preliminary injunction, to resolve the admission of the requests for protective letters within 24 hours of their filing. The admission and immediate resolution of the protective letters is done in order to avoid, to the extent*

possible, the adoption of the *ex parte* preliminary injunctions, which will allow, firstly, the defendant to put forward their arguments and, secondly, their willingness to appear at the Court immediately to rule on any request for *ex parte* preliminary injunctions.

d) To assess the urgency referred to in article 733 of the Spanish Civil Procedure Act (LEC) in the adoption of *ex parte* preliminary injunctions, unless this would compromise the success of the interim measure, *the prior conduct of the claimant and the speed with which they have reacted to the knowledge of any infringement shall be a determining factor*. In this regard, it is important that the application for urgent preliminary injunctions be submitted sufficiently in advance in good faith so as not to reasonably prevent hearing the defendant, when the owner of the right allegedly infringed would have had prior knowledge of the possible infringement and could have submitted their application in sufficient time.

e) The Commercial Court of Barcelona will carry out the immediate enforcement of the preliminary injunctions and/or urgent measures that, within the scope of its specific competence, will issue the European Union Trade Mark Court of Alicante in matters of trademarks of the Union European and Community designs, thus guaranteeing the rapidity and effectiveness of the decisions taken. To this end, the relevant communication and cooperation channels between the two Courts will be established.

2. HEREBY AGREE:

- To communicate and report the foregoing commitments and, in particular, concerning the preventive and ongoing on-call service, during business days and the public hearing timetables, throughout **February 2019 and from February 25 to 28, 2019** on the occasion of the Mobile World Congress in Barcelona, to the Governing Chambers of the High Court of Justice of Catalonia and Valencia and its Hons. Presidents, for approval, if applicable, and for submission to the General Council of the Judiciary (CGPJ) for the same purposes.

- To communicate and report the foregoing commitments to the CGPJ for dissemination via the website and its Press Office, if applicable.

- To communicate and report the foregoing commitments to Bar Associations as well as to the public agencies, national and international, competent for these matters of intellectual property.