

**RESULTS REPORT
INTELLECTUAL PROPERTY FAST ACTION PROTOCOL
MOBILE WORLD CONGRESS 2019**

**COMMERCIAL COURT OF BARCELONA
EUROPEAN UNION TRADEMARK COURT OF ALICANTE**

1^o.- The panel of Judges of the Commercial Court of Barcelona and the panel of Judges of the European Union TradeMark Court of Alicante, at its joint meeting on 13 December 2018, agreed to adopt effective measures to protect and preserve intellectual and industrial property rights of participants and exhibitors at *Mobile World Congress* held in Barcelona on February 25th to 28th, 2019.

2^o.- These measures included:

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) 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 Trademark Court of Alicante in matters of trademarks of the Union European and Community designs.

3^o.- Finished the *Mobile World Congress* of this year, the results of the application of these measures has been the following:

a) *36 protective letters* related to patents were submitted. All of them were resolved the same day that that they were filed. Among the applicants and affected parties include technology multinationals such as SAMSUNG, XIAOMI, HUAWEI, LG, WIKO, ZTE, SISVEL, etc.

2 protective letters related to European Union trade mark also were resolved.

In total, **38 protective letters** were resolved.

b) **5 "verification of facts procedures"** about patents matters were submitted against 3 companies. They were processed and resolved in 48 hours: two of them were upheld and three of them were revoked.

c) **7 ex parte preliminary injunction petitions** were submitted:

→ They were processed and solved in 48 hours: three of them were upheld and two of them were revoked.

→ In 3 of the preliminary measures a substitution bank guarantee was established. In one of the measures, no guarantee was deposited, so its effects were upheld throughout of the Congress.

→ In 2 of the preliminary injunctions *ex parte*, the defendant filed an opposition. It was processed and resolved in 24 hours and the measures were revoked. The mobiles seized were immediatly returned the same day to the company affected.

→ In the Commercial Court of Barcelona, it was filed a preliminary injunction *ex parte* about trademark and it was rejected.

→ In the European Union Trademark Court of Alicante, it was filed a preliminary injunction *ex parte* about European Union trademark and it was denied

d) A total of **50 cases** were admitted and resolved within the framework of the Protocol.

4^o.- The notification and execution of the measures were carried out as follows:

- attesting the lawyers Administration Justices of these actions in court report issued *in situ*;
- In close collaboration and with the presence of the managers and advisers of the GSMA - organizer of the event - and of Fira de Barcelona - in whose facilities the Congress is celebrated -.
- With the assistance and support of the police forces, specialized division in technology, who have guaranteed the effectiveness and

enforceability of the measures adopted during the four days that the Congress lasted.

- With the intervention of the Judges, in the stands of the company involved, who coordinated and directed these actions.

5º.- This year, by the Courts along with the GSMA and FIRA, an informative and explanatory sheet, in plain language, on the Spanish legal system has been delivered to the affected companies. At the same time, on the part of GSMA and FIRA, a list of lawyers specializing in these matters prepared by the Bar Associations of Barcelona and Alicante has been provided to these companies, merely as a guide and as an option; trying thus to guarantee the immediate access to a lawyer and, therefore, making effective the rights of representation and defense.

6º.- Valuations of the result of the application of the commitments in relation to the measures adopted and executed and the companies affected.

a) In 48 hours, all the preliminary injunctions were resolved, respecting the fast resolution commitment. This term was reduced to 24 hours in the cases the admissions of the *protective letters*.

b) Notification and execution actions have been carried out under the coordination of the Judges, with their presence in person and that of the Lawyers of the Justice Administration and those responsible for GSMA and FIRA, assisted by Police forces, its specialized unit in technology. The purpose has been to ensure quick, discreet and least conflictive implementation of the measures, so as not to disrupt the development of the Congress.

7º.- This year 2019 is the fifth year of application of the Protocol, having observed **an increase of 42,8 % of the matters presented** in relation to those admitted in the previous year, included the datas of the European Union Trademark Court of Alicante.

In relation to the results of the year 2018:

- the number of *protective letters* presented and admitted has raised a 50% in comparasion with the last year.

- the number of verification of facts procedures has raised: 5, in comparison with 3 of the last year.

- the level of preliminary injunctions *ex parte* is maintained, have been 7, the same as last year.

- the level of preliminary injunctions with hearing is maintained: 1 the same as last year.

8.- We want to highlight this year's close and coordinated collaboration with the heads of GSMA and FIRA and, especially, the Police forces and its specialized technology unit, which have been guaranteed during the four days of the event the effectiveness and enforceability of judicial decisions adopted.

9º.- We want to highlight the incorporation and participation in the Protocol of the European Union Trademark Court of Alicante, which has allowed the extension of the protection to the exhibitors of the Congress in the matter of EU trademarks and community designs.

10º.- Our forecast is that in the next year 2020 the number of cases filed will be maintained and increased, especially in *protective letters*; as well as verification of facts procedures and preliminary injunctions both *ex parte* and with hearing.

Also, our forecast is an exponential increase in matters coming from the European Union Trademark Court of Alicante, having been this the first year of the participation in the same, with the increase of the diffusion and knowledge of this Protocol.

In Barcelona and Alicante, on March 4, 2019

Commercial Court of Barcelona
European Union Trademark Court of Alicante