

IPOPHL MEMORANDUM CIRCULAR NO. 008
Series of 2018

SUBJECT: Revised Rules on Mediation

WHEREAS, Republic Act No. 9285, also known as the Alternative Dispute Resolution Act of 2004, directed all government agencies to encourage and actively promote the use of Alternative Dispute Resolution (“ADR”) as an efficient tool and procedure for resolving disputes or cases;

WHEREAS, the Intellectual Property Office of the Philippines (“IPOPHL”) enhanced its ADR Program, whereby cases filed in the IPOPHL are referred to mediation;

WHEREAS, under the current Rules and Regulations (Office Order No. 154, Series of 2010), while the referral of cases to mediation is mandatory, the actual mediation of cases is not;

WHEREAS, mediation so far has been effective and efficient in resolving IP cases filed in IPOPHL;

WHEREAS, there is a need to fully maximize the benefits of mediation, particularly, in expediting the resolution of IP cases;

NOW, THEREFORE, and pursuant to the authority of the Director General under Section 7.1 of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines, the Rules on Mediation are hereby revised as follows:

Section 1. Coverage. The following cases shall undergo mandatory mediation:

- a) Administrative complaints for violation of Intellectual Property Rights (“IPV”) and/or Unfair Competition;
- b) Inter Partes cases (“IPC”);
- c) Disputes involving technology transfer payments;
- d) Disputes relating to the terms of a license involving the author’s rights to public performance or other communication of his work; and

- e) Appeals to the Office of the Director General from the decisions of the Bureau of Copyright and Other Related Rights (“BCORR”), the Bureau of Legal Affairs (“BLA”), and the Documentation, Information and Technology Transfer Bureau (“DITTB”).

Intellectual Property Violation (IPV) cases with application for Temporary Restraining Order/Preliminary Injunction, or attachment, or other ancillary remedies, shall not be submitted to mediation unless the parties, through joint written motion, request that the case be mediated.

Section 2. Commencement of mediation proceedings. A case filed in any of the originating bureau or an appeal to the Director General shall be submitted to the BLA’s Alternative Dispute Resolution Services (ADRS) immediately after the filing of the answer or comment to the appeal. The proceeding in the originating bureau/office is suspended until the case is returned by the ADRS to the originating bureau/office.

The Order submitting the case to mediation shall direct the parties to appear before the ADRS for a pre-mediation conference on the date and time indicated therein. The parties themselves shall appear before the ADRS. Parties, including partnership, association or corporation, or any juridical person, however, may be represented. The representative(s) shall submit to ADRS proof of written authority such as Special Power of Attorney, Secretary’s Certificate or Board Resolution, stating that the representative(s) is/are fully empowered to offer, negotiate, accept, decide and enter into a compromise agreement. The Order shall also state that a party not present in person, or in the case of a corporation, partnership or association, its most senior officer, should make himself reachable by phone or any communication facility during each mediation session to receive any query or other communication from the mediator or the ADRS.

During the pre-mediation conference, the parties shall be briefed on mediation process and shall be assisted in the selection and appointment of their mediator from the list of IPOPHL accredited mediators.

Section 3. Venue. The mediation proceedings shall be conducted within the IPOPHL offices. Upon the request of both parties, however, the mediation may be conducted at any other venue, provided all related expenses, including



transportation, food and accommodation, shall be borne by both parties or as they may agree upon.

Section 4. Mediation Fees. Each party shall pay a non-refundable fee of Four Thousand (P 4,000.00) Pesos. The initial payment will entitle the parties to have four (4) sessions at a maximum of one (1) hour per session. Additional session may be held subject to payments of an extension fee of Two Thousand (P 2,000.00) Pesos each party. The extension fee will entitle the parties to two (2) one-hour sessions. The mediation fees cover the mediator's compensation, administrative costs and other related expenses. Both parties shall pay the mediation fees during the pre-mediation conference. On meritorious grounds, a party may be allowed to pay the mediation fees five (5) days after the pre-mediation conference or the issuance of the Statement of Account by the ADRS.

Section 5. Effect of the failure of parties to appear during the mediation and/or pay the appropriate mediation fees. The failure of the party who initiated the case, such as the opposer, petitioner or complainant, to appear for mediation for including the pre-mediation conference without, and/or to pay the fees shall be grounds for the dismissal of the case. On the other hand, if the respondent fails to appear and/or to pay the fees, he shall be declared as in default. For this purpose, a party shall be considered absent if the representative fails to show the appropriate and valid authorization.

Consistent with the objective of expeditious resolution of disputes, a party may be excused for non-appearance in any mediation meeting or session including the pre-mediation conference only once, and only if a valid cause or explanation is submitted through a motion together with the payment of fee therefor within five (5) days after the mediation meeting.

The ADRS shall immediately return the case to the originating bureau/office with the notice of failure of a party to appear during mediation and/or to pay the fees.

Section 6. Successful mediation. If the mediation is successful, the Alternative Dispute Resolution Services shall, within five (5) days from the parties' submission of their compromise agreement, refer the agreement to the head of the originating bureau/office. The latter shall, within three (3) days from



receipt of the draft decision based on Compromise Agreement, approve the same unless the terms or part thereof is contrary to law, public policy, morals or good customs, in which case the agreement shall be sent back to the parties, through the ADRS for revision or modification. Upon parties' revision or amendment of the agreement, the same shall be returned again to the originating office for approval.

An approved Compromise Agreement shall have the effect of a decision or judgement on the merits and shall be immediately executory and enforced accordingly in accordance with the pertinent rules of IOPHL and suppletorily, the Rules of Court.

Section 7. Non-Settlement of dispute. If within sixty (60) days from submission of the case to mediation the parties are unable to settle their dispute, the mediator shall declare the mediation as unsuccessful and forthwith terminate the proceedings by issuing a Notice of Non-Settlement of Dispute. The period of sixty (60) days, however, may be extended for another thirty (30) days upon joint written request of parties to the originating office with the concurrence of the Mediator. Should no agreement be reached within the additional period, the mediation proceedings shall likewise be terminated.

In meritorious instances, however, wherein the parties are already finalizing the terms and conditions of their settlement and/or completing legal and formal requirements in relation thereto, or any analogous circumstances, the parties may file a written request or motion with the originating bureau/office, together with the payment of applicable fees, for extension of time to finalize the agreement. The originating bureau/office shall evaluate the request or motion taking into account the extension of time sought and the possibility of successful settlement.

If mediation fails and/or is terminated, the ADRS shall advise the head of the originating bureau/office and furnish said office of a copy of the Notice of the Non-Settlement of Dispute. Unless the parties agree to submit their dispute to an arbitration proceeding, the originating bureau/office shall resume the adjudication proceedings. If they agree to refer to arbitration, the originating bureau/office shall dismiss the case.

Section 8. Confidentiality. All mediation conferences shall be conducted in private, and the proceedings thereto, including all incidents, shall be kept



strictly confidential. As such, any admission and statement made during mediation shall be inadmissible in a proceeding, unless otherwise specifically provided by law.

To safeguard the confidentiality of mediation proceedings, parties and their counsels as well as anyone present during the mediation shall not pass on any information obtained in the course of the negotiation and discussions in mediation to any other person, nor mention the same through other means and in any document or pleading, which may be ordered expunged from the records.

Anyone who violates the confidentiality rule will be subject to proper sanctions pursuant to the Alternative Dispute Resolution Act of 2004 and its Implementing rules, and may also be held liable for contempt.

Section 9. Applicability of the Revised Rules. These Revised Rules shall apply to cases filed with the originating bureau/office on or after becoming effective. These Revised Rules shall also apply to cases filed before effectivity but which have not yet been submitted to mediation.

Section 10. Repealing Clause. Office Order No. 154, s. 2010, and all other office Memoranda, Memorandum circulars, Rules or Regulations inconsistent with these Revised Rules are hereby repealed.

Section 11. Separability Clause. If any action or provision of these Administrative Guidelines shall be declared unconstitutional or void by any court of competent jurisdiction, or the applicability thereof to any person or circumstances shall be held invalid, the constitutionality and validity of the remainder of these Administrative Guidelines and the applicability thereof to other persons and circumstances shall not be affected thereby, and to this end the sections and provisions of these Administrative Guidelines are declared to be severable.

Section 12. Effectivity. These Rules shall take effect thirty (30) days after publication in a newspaper of general circulation and posting in the IPOPHL website.



Section 13. Submission to the University of the Philippines Law Center. The Bureau of Legal Affairs is hereby directed to immediately file three (3) certified copies of these Rules with the National Administrative Registry at the University of the Philippines Law Center.

Done this 26th day of July, 2018, Taguig City.


JOSEPHINE R. SANTIAGO, LL.M.
Director General 

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