

Kluwer Patent Blog

Patent judges of Barcelona prepare for the 2017 Mobile World Congress

Miquel Montaña (Clifford Chance) · Monday, January 9th, 2017

The Mobile World Congress (“MWC”) is one of the largest trade events taking place in Barcelona. Due to its importance, all relevant institutions, including regional and local governments, do their very best each year to help make the event as successful as possible. These efforts have resulted in, for example, the construction of a new subway line which connects the city to the airport.

In 2015, the three Patent Court Judges in Barcelona made their own small contribution to the value that a city can add to this type of event, by drafting a Protocol aimed at introducing a “fast-track” procedure to deal with applications for preliminary injunctions filed before or during the Congress. In this Protocol, which has just been renewed for the 2017 MWC, due to take place in late February, the Judges have agreed the following measures:

- 1. To give preferential and priority treatment to urgent interim injunctions (whether hearing the defendant or not) the object of which is technology patents and industrial designs and the presentation of which is envisaged at the said Mobile World Congress, as well as the infringement of trademarks and intellectual property rights as acts of unfair competition and unlawful advertising in respect of products and materials subject to being exhibited or displayed at the same.*
- 2. We shall commit to handing down a decision on the interim injunction request inaudita parte within a period of two days from its submission at Court; and within a maximum period of ten days for handing down a decision on interim injunctions where a hearing is set, from their submission at Court, providing a writ of prevention (escrito preventivo) has been filed.*
- 3. Within the framework of a possible dispute regarding matters of industrial or intellectual property with another company, and in view of the reasonable concern of being the object of an interim injunction request inaudita parte, admitting the submission of writs of prevention to the Barcelona Commercial Courts, in order to avoid to the extent possible granting interim injunctions without hearing the defendant, which will firstly allow the latter to explain its allegations and, secondly, its availability to appear before the Court immediately to decide on any interim injunction request inaudita parte.*
- 4. In order to assess the urgency referred to in art. 733 of the Spanish Civil Procedure Act in the adoption of interim injunctions inaudita parte, unless this might compromise the successful outcome of the interim injunction, the prior behaviour of the claimant and the speed with which it has reacted on becoming aware of the possible infringement will be determining factors. In this sense, it will be important for it to have filed the request for urgent interim injunctions with such notice that this does not in good faith reasonably prevent the defendant from being heard, when*

the holder of the right allegedly infringed has had prior knowledge of the possible infringement and could have submitted its request in due time.

All in all, hopefully these small measures will together help to make the MWC and other trade fairs more attractive for companies.

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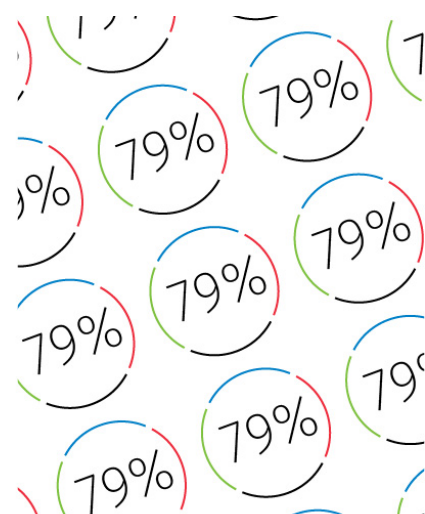
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