

## ES – FAST ACTION PROTOCOL ADOPTED FOR 2017 MOBILE WORLD CONGRESS (MWC)

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The Mobile World Congress (MWC) is the biggest gathering worldwide of the mobile communications industry, which, for some years now, is held on an annual basis in Barcelona, being one of the major fair events which the city hosts, if not the most important milestone in the city calendar every year.

This global exhibition provides for an environment where the cutting-edge technological advances and new launches within the industry are presented, including new devices, applications, software or functionalities. This, in turn, can easily give rise to intellectual property related conflicts between participating companies, not only in the patent arena, but also involving other kind of rights including –without limitation- copyrights or industrial designs.

Being well aware of the greater litigiousness that an event of this nature can bring about, and of the need to provide swift and urgent relief to right-holders (required by the temporary nature of the MWC itself) while safeguarding the proper defense rights of any potential infringers, including the right to be heard, two years ago the Judges seating in the Commercial Courts in Barcelona (which have the competence to deal with IP matters) approved and implemented a “fast-action” protocol to deal with urgent interim relief applications filed during and on the occasion of the MWC for the infringement of the participating companies’ IP rights.

This protocol was applied for the first time in the MWC held in February 2015 and was later renewed for it to be likewise executed during the 2016 congress. In view of the success achieved by this initiative, the Judges of the Barcelona Commercial Courts agreed on 25 November 2016 to apply the protocol, for the third consecutive year, on the occasion of the next edition of the MWC, which will be held in Barcelona from 27 February to 2 March 2017.

By virtue of this protocol the Barcelona Commercial Judges commit to implement the measures below:

- A. To grant preferential and priority status to requests for urgent interim measures (with or without a hearing) related to patents, technological innovations and industrial designs, the presentation of which is planned for said MWC; or related as well to trademark or copyright

infringements, acts of unfair competition and illegal advertising with regard to products and materials exhibited there.

- B. To resolve *ex parte* applications for interim measures within two days, and within a maximum period of 10 days in cases where a hearing shall be scheduled (*inter partes*), always provided that a protective letter has been submitted.
- C. To admit the filing of protective letters by participating companies which fear being subject of a potential *ex parte* request for interim relief related to intellectual property rights or copyrights, in order to avoid, as far as possible, the adoption of interim measures without a hearing, by allowing the defendant –by means of such protective letter- to present its arguments in written and to state its willingness to immediately appear in court to resolve any interim measure request without a hearing.
- D. To assess the urgency legally required to grant *ex parte* interim injunction in the light of the plaintiff's previous behavior and promptness upon having learned of the possible infringement, which will be a decisive element. In this regard, the request for urgent interim measures shall have been timely filed so that in good faith it does not prevent the hearing of the defendant, when the right-holder had prior knowledge of the alleged infringement and could have submitted his request with enough time.

The protocol for action above will be effective throughout the whole month of February 2017 and during the specific days when the MWC will take place (27 February – 2 March).

