

- RESULTS REPORT “IP FAST ACTION PROTOCOL MWC 2018” -

**PROTOCOL OF GUARD SERVICE AND FAST ACTION OF THE
COMMERCIAL COURTS OF BARCELONA FOR THE *MOBILE WORLD*
CONGRESS 2018**

1º.- On December 13th, 2017, the Board of Judges of the Commercial Courts of Barcelona, 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 26th to March 1st, 2018.

2º.- These measures included:

- a) Priority and preferential processing of urgent 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 Congress.
- b) Resolve any *ex parte* preliminary injunction petition in a 48 hours period and to resolve an interim injunction in a 10-day period in the event of a hearing, as long as a *protective letter* has been filed.
- c) Resolve the admission of a request for *protective letters* on the same day of their presentation (in 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).

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

- a) **22 *protective letters*** related to patents were submitted. All of them were resolved the same day that were presented. 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.
- b) **3 "verification of facts procedures"** about patents matters were submitted against 4 companies. They were processed and resolved in 48 hours. The measures were upheld.
- c) **7 *ex parte* preliminary injunction petitions** were submitted:

→ They were processed and solved in 48 hours, all of them were in an estimative sense

→ In 2 of the preliminary measures a substitution bail were established. In one of the measures the defendant deposited the bail, for which reason they were lifted and left without effect immediately. In the other, no bail was deposited, so its effects were upheld throughout along of the Congress.

→ In another of the preliminary injunction *ex parte*, the parties reached an agreement, so the proceeding was filed, and the measures were lifted and left without effect immediately and the mobiles intervened were immediately returned that same day to the company.

→ 1 preliminary injunction with hearing the defendant, was submitted, with the main process claim, which was resolved before the start of the Congress, in an estimatory sense but fixing a substitute bail. The defendant deposited the bail, so the measures were left without effect immediately. The main process continues.

d) No opposition to any *ex parte* preliminary injunctions was submitted.

e) A total of **35 cases** were admitted and resolved within the framework of the Protocol.

4º.- The notification and execution of 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.- As a novelty, this year, by the Courts along with the GSMA and FIRA, an informative and explanatory sheet, in colloquial 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/attorneys/solicitor specializing in these matters prepared by the Bar Association of Barcelona has been provided to these companies, merely as a guide and as an option; trying thus to guarantee

the immediate access to a lawyer/solicitor and, therefore, making effective the rights of representation and defense.

6°.- 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.

c) Statistically, the number of companies and/or exhibitors involved or affected by the preliminary measures and by the *protective letters* has been approximately 1.17% of the participants in the Congress (27 companies).

7°.- This year 2018 is the fourth year of application of the Protocol, having observed **an increase of 40% of the matters presented** in relation to those admitted in the previous year.

In relation to the results of the year 2017:

- the number of *protective letters* presented and admitted has doubled: 24 compared to 12 last year.
- the number of verification of facts procedure tripled: 3 compared to 1 last year.
- the level of preliminary injunctions *ex parte* is maintained, have been 7, the same as last year.
- For the first time, one preliminary injunction are presented with hearing: 1 compared to none of last year.
- Substitution bail that are effective to lift the measures are doubled: 2 cases compared to 1 last year.
- One case is filed by agreement between the parties, compared to none of the previous 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.- Our forecast is that in the next year 2019 the number of cases presented will be maintained and increased, both in *protective letters* and in preliminary injunction *ex parte*.

10º.- Finally, the Board of Judges of the Commercial Courts of Barcelona, agreed to creation a ***Commission for the Evaluation and Monitoring of the Protocol***, in order to analyze and improve its application in a framework of dialogue and collaboration with all parties involved. That Commission must be integrated, as a minimum: by the Chief Judge of the Commercial Courts of Barcelona; 1 Judge of each of the specialized Sections (patents, trade marks, industrial designs, copyrights, unfair competition); 1 Lawyer of the Administration of Justice; 1 member of the Police forces; 1 GSMA member and 1 FIRA member.

On March 2nd, 2018, Barcelona

The Board of Judges of the Commercial Courts of Barcelona