

Memorandum Circular No. 2019 006
Series of 2019

Subject: Rules of Procedure for IPOPHL Mediation Outside of Litigation

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 in resolving of disputes;

WHEREAS, under Office Order No. 154, Series of 2010 entitled Rules of Procedure for IPO Mediation Proceedings as amended by Memorandum Circular No. 008, Series of 2018, Revised Rules in Mediation, cases filed in the Intellectual Property Office of the Philippines (IPOPHL), shall undergo mandatory mediation following the success of the IPOPHL mediation program;

WHEREAS, IPOPHL desires to formally extend its mediation services outside of litigation mediation to resolve IP-related disputes and avoid protracted and costly litigation;

WHEREAS, IPOPHL has the resources, capability and expertise to offer mediation outside litigation service;

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 as amended, the Rules of Procedure for Mediation Outside Litigation are hereby promulgated as follows:

Section 1. Coverage.

These Rules shall apply to any dispute involving or related to issues on intellectual property (IP) matters.

Section 2. Initiation of Mediation Proceedings.

Parties in dispute may file a request for mediation with the IPOPHL Bureau of Legal Affairs - Alternative Dispute Resolution Service (BLA-ADRS). The request which must be signed by the parties, must contain the names, addresses, telephone numbers, email addresses and any other contact details of the parties and of any person(s) representing them in the proceedings, and a brief description of the dispute. The request for mediation shall be accompanied by the payment of the filing fee.

Section 3. Mediation fees.

1. Filing Fee. Each party shall pay a non-refundable filing fee of seven thousand five hundred pesos (Php 7,500) plus one percent (1%) legal research fund (LRF), as set in Memorandum Circular No. 17-002, Series of 2017, Revised Fee Structure of 2017. The mediation fee covers the mediator's compensation, administrative costs and other related expenses. The initial payment entitles the parties to have eight (8) sessions at a maximum of one (1) hour per session.
2. Extension Fee. Thereafter, each party shall pay an extension fee of one thousand pesos (Php 1,000) plus one percent (1%) LRF which will entitle them to two (2) one-hour sessions, as set in Memorandum Circular No. 008, Series of 2018, Revised Rules on Mediation.

Section 4. Commencement of Mediation

Upon the submission of the request and payment of the filing fee, the BLA-ADRS shall issue a Notice directing 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 Notice 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 5. The mediation proceedings

The Mediator and the parties shall promptly discuss the manner in which the mediation shall be conducted and shall use their best effort to conclude the mediation in the shortest time possible.

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, as maybe agreed upon, provided all related expenses, including transportation, food and accommodation, shall be borne by both parties or as they may agree upon.



Section 6. Termination

Mediation is terminated upon:

- a) the signing by the parties of a settlement agreement;
- b) the notification in writing made to the Mediator by any party that such party has decided no longer to pursue the mediation;
- c) the notification in writing by the Mediator to the parties that, in the Mediator's opinion, the mediation will not resolve the dispute between the parties.

The non-settlement of dispute shall in no way result in the parties being precluded or barred from bringing an action to IPOP HL or competent judicial or administrative body.

Section 7. Compliance and Enforcement of Mediated Settlement Agreement

The parties shall comply with the terms and obligations of the settlement agreement. Where there is a need to enforce the settlement agreement, a petition may be filed by any of the parties to the court in accordance with Section 17 of Republic Act No. 9285 or the Alternative Dispute Resolution Act of 2004

Section 8. Confidentiality

In the absence of any agreement of the parties to the contrary:

- a) The Proceedings, but not the fact that they are taking place, have taken place or will take place, are private and confidential;
- b) Any settlement agreement between the parties shall be kept confidential, except that a party shall have the right to disclose it to the extent that such disclosure is necessary for purposes of its implementation or enforcement.

Section 9. Separability Clause.

If any action or provision of these rules is 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 rules and the applicability thereof to other persons and circumstances shall not be affected thereby, and to this end the sections and provisions of these rules are declared to be severable.

Section 10. Effectivity. These Rules shall take effect on the 02 SEP 2019 day of _____ 2019.

Section 11. 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 _____ day of 19 JUL 2019, 2019, Taguig City.


JOSEPHINE R. SANTIAGO, LL.M.
Director General 