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RULES ON MEDIATION OF CASES IN THE BUREAU OF LEGAL AFFAIRS

IPO ORDER NO. 134, S. 2004, December 22, 2004

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WHEREAS, it is the policy of the State to enhance the enforcement of intellectual property rights (IPR) in the country and to protect and secure the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people;

WHEREAS, under Section 5.1(f) of Republic Act No. 8293, also known as the Intellectual Property Code of the Philippines, the Intellectual Property Office (IPO) is mandated to administratively adjudicate contested proceedings affecting intellectual property rights;

WHEREAS, under Section 10 of Republic Act No. 8293, the Bureau of Legal Affairs (BLA) of the IPO shall hear and decide opposition to the application for registration of marks; cancellation of trademarks; subject to the provisions of Section 64, cancellation of patents, utility models and industrial designs; and petition for compulsory licensing of patents, and exercise original jurisdiction in administrative complaints for violations of laws involving intellectual property rights;

WHEREAS, the adjudication of cases will be facilitated and complemented by the adoption of alternative modes of dispute resolution such as mediation;

NOW, therefore, the rules on mediation of cases in the BLA are hereby promulgated, as follows:

SECTION 1. Coverage - These rules cover inter partes (IPC) and Intellectual Property Rights Violations (IPV) cases in the BLA. All cases filed before the effectivity of these rules shall proceed in accordance with the applicable rules and regulations governing IPC and IPV cases without prejudice to the interest of the parties to submit to mediation proceedings.

SECTION 2. Submission of the Case to Mediation - The Notice of Pre-Trial sent to the parties shall be accompanied by an Invitation to mediate signed by the BLA Director. The parties shall manifest that they agree to submit the case to mediation within fifteen (15) days from receipt of the Notice.

For cases filed before the effectivity of these rules, which are past the pre-trial stage, or for cases governed by summary procedures which have not yet been submitted for decision, except those where a party has been declared in default, the parties may manifest in writing that they are submitting the case for mediation.

SECTION 3. Mediation Conference; Venue and Appearances By Parties - Upon agreement by the parties to mediate, the Hearing Officer shall immediately issue an order setting the date of the Mediation Conference,

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which shall not be later than ten (10) days from the date of the order, and requiring the parties to submit to the Director in writing the name of the mediator of their choice at least three (3) days before the Mediation Conference.

The IPO shall be the venue of the Mediation Conference. The BLA Director, however, may authorize the use of other venue upon written request of either party if such is necessary to expedite the mediation process, and the other party agrees. All costs incurred therein, including transportation, accommodation and per diem, shall be borne equally by both parties.

The parties themselves must be present during the Mediation Conference. However, a representative may appear provided he/she is fully authorized in writing by way of a Special Power of Attorney to enter into a Compromise Agreement on behalf of a party. In case of juridical persons, the representative must present a Board Resolution or a Secretary's Certificate designating him/her for this purpose and authorizing him/her in full to enter into a Compromise Agreement.

The mediator in the exercise of discretion may hold sub-conferences and/or meetings after the Mediation Conference, if necessary.

SECTION 4. Mediator - The Mediator may be mutually chosen by the parties from the list of accredited IPO mediators as posted in the IPO website. If the names identified by the parties are not the same person, the mediator shall be selected through a raffle. Mediators from the BLA are disqualified from cases pending at the Bureau.

The Mediator shall not be bound by strict adherence to technicalities but shall give every opportunity to the parties to present their respective positions with the objective of reaching an agreement or settlement.

SECTION 5. Compromise Agreement; Effect - The Compromise Agreement shall be submitted to the Mediator not later than 60 days from the date of the Mediation Conference. Within two (2) days from receipt, the Mediator shall issue an order submitting the Compromise Agreement to the BLA Director for approval. An approved Compromise Agreement shall have the effect of a decision or judgment and shall be enforced accordingly.

The BLA Director shall disapprove, or require the parties to amend the Compromise Agreement if the terms therein are contrary to law and regulations, morals, public policy and/or interest. The amended Compromise Agreement must be submitted to the Director within five (5) days from receipt of the order for such purpose, copy furnished the mediator.

The approval of the Compromise Agreement or the declaration of failure of mediation shall terminate the mediation proceedings; Provided, that in no case shall the entire proceedings exceed ninety (90) days from the date of the Mediation Conference.

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SECTION 6. Failure of Mediation - The failure of the parties to reach an agreement within sixty (60) days from the date of the Mediation Conference, or the disapproval, or non-submission or disapproval of an amended Compromise Agreement as required by the BLA Director, shall be deemed failure of mediation. In all cases, the Mediator shall issue an order declaring in writing failure of mediation, copy furnished the parties and the BLA Director. Upon receipt of the Order, the BLA Director shall immediately issue an order for the continuance of the proceedings in the BLA.

No motion for reconsideration or appeal from the declaration of failure of mediation, and the order for the continuance of the proceedings in the BLA, shall be allowed.

SECTION 7. Complementary Application - These rules shall apply as complementary rules governing the IPC and IPV cases in the BLA.

SECTION 8. Separability - If any provision in these rules or application of such provision to any circumstance is held invalid, the remainder of these rules shall not be affected thereby.

SECTION 9. Furnishing of Certified Copies - Ms. Ma. Teresa Caliwan, BLA Acting Records Officer is hereby directed to immediately file three (3) certified copies of these rules with the University of the Philippines Law Center, and one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines, and the National Library.

SECTION 10. Effectivity - This Office Order shall take effect fifteen (15) days after publication in a newspaper of general circulation and in the IPO website.

Adopted: 22 Dec. 2004

Recommending Approval:

(SGD.) ESTRELLITA BELTRAN ABELARDO
Director, Bureau of Legal Affairs

Approved:

(SGD.) EMMA C. FRANCISCO
Director General

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