

Results of Barcelona commercial courts' MWC 2018 protocol

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Introduction

The Mobile World Congress (MWC) took place in Barcelona from February 26 to March 1 2018 (for further details please see "[Courts adopt specific protocol for protecting IP rights during MWC 2018](#)").

Foreseeing potential conflicts between the participating companies, on December 13 2017 the Barcelona commercial courts panel of judges agreed, for the fourth consecutive year, to adopt a specific protocol of guard service and fast action which contains effective measures to protect technology patents, industrial designs, trademarks and copyright and defend against unfair competition and unlawful advertising acts in relation to products and materials which are displayed at the MWC.

On March 2 2018, after the MWC had concluded, the judges issued a report (signed by Judge Raúl Nicolás García Orejudo of Barcelona Commercial Court Number 7) regarding the protocol's application, results and implementation, as well as the proposals to be made in this regard.

Results

The results of applying the protocol were as follows:

- A total of 22 protective letters regarding patents were filed, all of which were processed and resolved before the MWC started. Two additional protective letters were filed and admitted before the EU Trademark Courts of Alicante.
- Three fact verification procedures were filed against four companies, all of which were processed and granted within 48 hours.
- Seven *ex parte* interim injunction petitions were filed against eight companies, all of which were processed and granted within 48 hours. In two of the injunctions, the courts granted the defendants the option of posting a bond in order to be released. This faculty was exercised in only one case. Another of the interim injunctions proceeding was shelved following an agreement between the parties.
- One interim injunction petition was filed with a hearing, which was resolved and granted before the MWC started. The defendant exercised the option granted by the court of posting a bond to be released from the interim injunction.

A total of 35 cases were admitted and resolved following the above protocol – an increase of 40% compared with 2017. These cases comprised:

- 24 protective letters, compared with 12 in 2017;
- three facts verification procedures, compared with one in 2017;
- seven *ex parte* interim injunctions petitions, compared with seven in 2017; and

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- one interim injunction petition with a hearing, compared with none in 2017.

The cases resolved under the protocol involved 27 companies – including Samsung, LG, Wiko, ZTE, Huawei – which equals 1.17% of MWC participants.

In each case, the commitment to resolve protective letters in 24 hours and *ex parte* interim injunctions in 48 hours was achieved.

Implementation

The notification and execution of the facts verification procedures and *ex parte* interim injunctions were coordinated by the judges and the court clerks at the stands of the companies concerned, with the assistance of the police's specialised technology unit and the event organisers. The aim was to ensure that the protocol was implemented as quickly, discreetly and smoothly as possible, so as not to disrupt the running of the MWC.

The judges highlighted the close and coordinated collaboration with the event organisers and, in particular, the police's specialised technology unit, which guaranteed the execution of the court decisions issued during the MWC.

As a new feature, the courts and event organisers provided the companies involved in the proceedings with an informal news briefing about the Spanish legal system. Similarly, as an optional guideline, the organisers provided said companies with a list of specialised IP lawyers and court agents who could represent them if needed and facilitate the immediate exercise of their defence rights.

Proposals

The judges foresee that there will be an increase in the number of protective letters and *ex parte* interim injunctions over the next year.

For that reason, and with the main purpose of enabling the resolution of conflicts between participating companies at the MWC, the judges highlighted the need to improve both:

- internal aspects of the protocol (ie, the distribution and execution of cases); and
- external aspects (ie, the execution and public communications of the decisions issued).

Further, the creation of a commission to evaluate and follow up on the MWC judicial protocol has been proposed to the Barcelona commercial courts panel of judges in order to analyse and improve its application based on dialogue and collaboration between all parties involved. The commission will comprise court representatives, event organisers and the police.

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