

BARCELONA'S COURTS WARM UP FOR THE 2025 MOBILE WORLD CONGRESS

A new edition of the Mobile World Congress will take place in Barcelona from 3 to 6 March 2025. Barcelona's and Alicante's courts have recently published their fast-track protocol for handling MWC-related IP proceedings, which includes a report on the outcomes of 10 years of protocol application.

THE PROTOCOL FOR THE 2025 MWC

The Mobile World Congress (**MWC**) is the largest and most influential connectivity event in the world and one of the most significant trade fairs taking place in Barcelona.

Due to its importance, all the relevant institutions do their best each year to make the event as successful as possible, and that includes the courts. Thus, on 2 December 2024, Barcelona's commercial courts and the EU trademark and design courts in Alicante – for the 11th and 7th years in a row, respectively – reinstituted a protocol aimed at avoiding, to the extent possible, the adoption of interim injunctions based on industrial and intellectual property rights (IPRs) on an *ex parte* basis, while ensuring at the same time that effective measures are adopted to protect those IPRs. Similar to the previous edition, the current protocol covers AI-generated content and allows court orders to be enforced in any virtual or online platform.

As on previous occasions, the 2025 protocol includes the following measures:

- **Giving preferential and priority treatment** to urgent applications for interim injunctions (whether or not the defendant is heard), pre-trial examination applications (*diligencias preliminares*) and "saisie-style" applications (*diligencias de comprobación de hechos*) related to technology patents and industrial designs of products to be exhibited at the 2025 MWC, acts of trademark and copyright infringement, acts of unfair competition and unlawful advertising in relation to products and materials to be promoted or displayed at the event.
- Allowing those exhibitors who suspect that they could be subject to an *ex parte* application for interim injunctions based on IPRs to submit a **protective letter** (*escrito preventivo*), which will be admitted or rejected within 24 hours of being filed.
- **Deciding interim injunction applications** on an *ex parte* basis within 48 hours of their filing at court and, if a protective letter has been previously filed, scheduling a hearing and handing down a decision within 10 days of their submission at court.

Key issues

- Barcelona's and Alicante's courts reinstitute the fast-track protocol dealing with IP proceedings related to the 2025 MWC.
- The protocol covers patents, trademarks, designs, copyright, trade secrets and acts of unfair competition and unlawful advertising in relation to products and materials to be exhibited at the 2025 MWC.
- The 2025 protocol covers both on-site activities and those which will take place online or through any type of virtual platforms, as well as AI-generated content.
- Urgent applications for interim injunctions and "saisie-style" applications will have preferential treatment.
- The protocol allows the submission of protective letters to minimise the risk of interim injunctions being adopted *ex parte*.
- Prompt decisions by the courts: 24 hours to admit/reject protective letters; 48 hours to decide on "saisie-style" applications; 48 hours to decide on applications for interim injunction on an *ex parte* basis; and 10 days to hold a hearing and hand down a decision on applications for interim injunctions where a protective letter was previously submitted.

- Also **deciding on both "saisie-style" applications**, which entail a surprise inspection and the possible seizure of devices and/or materials exhibited at the stand, **and pre-trial examination applications** within 48 hours of their filing at court.
- Extending the application of interim injunctions, "*saisie*-style" and pre-trial examination orders to activities carried out **online** or through any type of **virtual platform**, and to any content generated by automated mechanisms, software, algorithms, and **artificial intelligence systems**.
- Ordering (*ex officio* or at the request of a party) any measures necessary to **protect trade secrets** in proceedings dealing with their violation or in any other type of proceedings in which trade secrets must be considered in order to resolve the case.
- Immediate enforcement by the Barcelona commercial courts of interim injunctions and/or urgent measures ordered by the EU trademark and design courts in Alicante within the scope of their specific competence, thereby guaranteeing prompt and effective decisions in relation to these specific IPRs.

OUR ADVICE: DO NOT LEAVE YOUR HOMEWORK TO THE LAST MINUTE

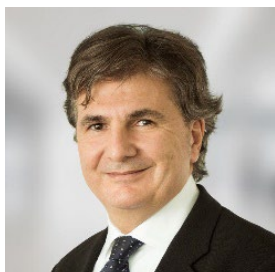
The granting of interim injunctions on an *ex parte* basis is fairly exceptional under Spanish law, only occurring when hearing the defendant could clearly jeopardise the applicant's position. This means that:

- **IPR holders must react quickly:** Barcelona's courts, in assessing the urgency of the case and granting interim injunctions on an *ex parte* basis, carefully consider whether an applicant has acted in good faith, which means reviewing the applicant's prior conduct and the speed with which it has reacted after becoming aware of the potential infringement. In our experience, the courts' view is that applications for urgent interim injunctions must be submitted early enough to not unreasonably prevent the defendant from being heard, if at all feasible. Thus, IPR holders should not wait to file applications until unreasonably shortly before the 2025 MWC in an attempt to create artificial urgency.
- **Protective letters make the granting of *ex parte* interim injunctions less likely:** in relation to defendants, Barcelona's courts appreciate protective letters since they allow them to, on the one hand, know the defendant's arguments before making any decision regarding an interim injunction application and, on the other hand, if necessary, quickly summons the defendant to an oral hearing.

Should you have any questions on this subject, please do not hesitate to contact us. We will be delighted to advise you on the best strategy to follow, regardless of whether you are an IPR holder wishing to protect your rights by filing an interim injection or a "*saisie*-style" or pre-trial examination application, or an exhibitor wary of receiving an unfortunate visit from the court committee and therefore considering the possibility of filing a protective letter to make your attendance at the MWC a great success.

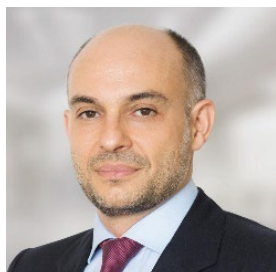
Our Barcelona office has a highly experienced team of lawyers ready to assist you – onsite if required.

CONTACTS



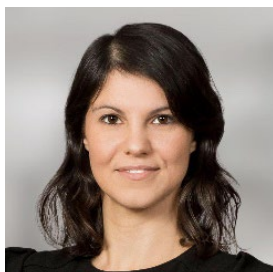
Miquel Montaña
Partner

T +34 93 344 2223
E miquel.montana
@cliffordchance.com



Josep Montefusco
Partner

T +34 93 344 2225
E josep.montefusco
@cliffordchance.com



Laura Cachón
Associate

T +34 649 145 156
E laura.cachon
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, Av. Diagonal 682, 08034
Barcelona, Spain

© Clifford Chance 2024

Clifford Chance, S.L.P.

Abu Dhabi • Amsterdam • Barcelona • Beijing •
Brussels • Bucharest • Casablanca • Delhi •
Dubai • Düsseldorf • Frankfurt • Hong Kong •
Houston • Istanbul • London • Luxembourg •
Madrid • Milan • Munich • Newcastle • New
York • Paris • Perth • Prague • Riyadh* • Rome
• São Paulo • Shanghai • Singapore • Sydney
• Tokyo • Warsaw • Washington, D.C.

*AS&H Clifford Chance, a joint venture
entered into by Clifford Chance LLP.

Clifford Chance has a best friends relationship
with Redcliffe Partners in Ukraine.