

[IPO OFFICE ORDER NO. 154, October 05, 2010]

RULES OF PROCEDURE FOR IPO MEDIATION PROCEEDINGS

Pursuant to the directive under E.O. No. 523 for all departments, agencies, and government owned and controlled corporations under the executive branch to promote and encourage the use of Alternative Dispute Resolution ("ADR") as part of the practice in resolving disputes filed before them, and also to the authority of the Director General of the Intellectual Property Office of the Philippines under Section 7.1 of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines, the Rules of procedure for IPO Mediation Proceedings, are hereby promulgated:

Section 1. Coverage – the following cases shall be required to undergo Mediation:

- a. Administrative complaints for violation of Intellectual Property Right ("IPV") and/or Unfair Competition;
- b. Inter Partes cases ("IPC");
- c. Disputes involving technology transfer payments;
- d. Disputes relating to the terms of a license involving the author's rights to public performance or other communication of his work;
- e. Cases appealed to the Office of the Director General from decisions of the Bureau of Legal Affairs ("BLA") and the Documentation, Information and Technology Transfer Bureau ("DITTB"); and
- f. All other cases which maybe referred to mediation during the settlement period declared by the Director General.

Cases with pending application for Temporary Restraining Order/Preliminary Injunction, attachment or other ancillary remedies shall not be referred to mediation unless the parties, in joint written motion, pray that the case be made to undergo mediation.

In cases covered under par (e), the mediation shall be referred to a mediator other than the one who mediated the case in the BLA or DITTB unless otherwise requested by both parties.

In the event the parties, after an unsuccessful mediation, advise the IPO Mediation Office of their intention to submit their dispute to arbitration, the originating office shall dismiss the case upon proof that arbitration proceeding has commenced pursuant to the pertinent rules if and when arbitration is available.

Section 2. Mandatory mediation of cases – All cases enumerated under Section 1 shall be referred to mediation. The mediator shall be selected from the list of IPO accredited mediators.

Section 3. Commencement of mediation. Upon the effectivity of these Rules, cases filed before the BLA and DITTB as well as appeals made before the Office of the Director General shall be referred to the IPO Mediation Office immediately, Provided, that in Inter Partes and IPV cases, and in appeals to the Director General, the case shall be referred to mediation only after the filing of the answer or comment to the appeal.

Any case filed before the effectivity of these Rules, wherein no decision has been rendered, may be referred to the IPO Mediation Office during the settlement period

Once a case is referred to mediation, the adjudication proceedings therefore shall be suspended until the case is returned by the IPO mediation Office for resumption of proceedings in accordance with these Rules.

The Order referring a case to the IPO Mediation Office shall indicate the specific date and time when the parties shall proceed to the Mediation Office, with or without their respective counsels. It shall also direct parties to be present before the IPO Mediation Office in person or through a duly authorized representative with a Special Power of Attorney, or if the party is a partnership, association or corporation, to be represented by an authorized representative authorized by a Secretary's Certificate or Board Resolution, with the written authority of the representative specifically stating that he or she is fully empowered to offer, negotiate, accept, decide and enter into a compromise agreement. Further, the Order shall state that a party not present in person, or in the case of a corporation, partnership or association, its most senior officer, to be reachable by phone or any communication facility during each mediation session to receive any query or other communication from the mediator or the IPO Mediation Office. A copy of the Order shall be furnished the IPO Mediation Office.

Upon the appearance of the parties at the IPO Mediation Office, the Mediation Head or his duly authorized representative shall brief the parties on mediation as an alternative interest-based conflict resolution process and shall assist the parties in the selection and appointment of their mediator.

Before commencing the mediation process, parties will be required to sign an agreement to mediate on an agreed date to manifest their commitment and sincerity to prepare for and engage in a meaningful settlement process.

Section 4. Venue – The mediation proceedings shall be conducted within the IPO offices. Upon the request of both parties, the Mediation Head may authorize the mediation to be conducted at any other venue,