

Inés Molina and Domingo Aranda

Preparations for the *Mobile World Congress 2024* begin with the publication of the on-call service and rapid response protocol

In preparation for the *Mobile World Congress* to be held in Barcelona from 26 to 29 February 2024, the Panel of Judges of the Barcelona Commercial Courts and the Panel of Judges of the European Union Trade Mark Courts have once again presented the on-call service and rapid response protocol (the "**Protocol**").

The event is an ideal space for companies in the technology and telecommunications sector to present the latest technological advances and the future of the mobile communication industry to the public. Accordingly, it is essential to provide attendees with fast and effective tools for the protection of intellectual and industrial property rights that may be threatened, with the main objective of the Protocol being to expedite the procedure for granting injunctions against possible infringements. Furthermore, as a key development this year, the Protocol now provides for the immediate execution of precautionary measures and urgent proceedings when the infringing acts involve content generated through artificial intelligence systems.

The Protocol, which will be in force throughout the month of February 2024 and until the end of the event, includes the following undertakings by the Courts, which we consider essential for participating companies to be aware of:

- i) The processing, on a preferential and priority basis, of requests for **preliminary proceedings and fact-finding proceedings**, as well as **urgent precautionary measures** (with or without the defendant being heard) relating to technological innovations, patents and industrial designs to be presented at the *Mobile World Congress*, as well as those arising from infringements of trademarks, intellectual property rights, antitrust infringements, acts of unfair competition and unlawful advertising, concerning products that will be exhibited or presented during the Congress.
- ii) **The resolution, within a maximum period of 48 hours** of their filing with the Court, of requests for preliminary proceedings, fact-finding proceedings and precautionary measures without hearing the defendant. In those cases in which a hearing is scheduled for the resolution of the precautionary measures, the time limit to resolve the matter is extended to 10 days, provided that a protective letter has been filed beforehand.
- iii) **A decision within 24 hours to grant or refuse applications for protective letters**, in the event that there are reasonable prospects, within the framework of an industrial or intellectual property dispute with another company, that the application may be the subject of an application for precautionary measures without a hearing. This will allow the defendant to present its arguments and remain available to appear before the court in the event that the *ex parte* application for precautionary measures is finally granted.
- iv) The assessment of the urgency requirement for the adoption of the precautionary measures, taking into account the speed with which they were requested after becoming aware of the possible infringement. It is important to highlight the importance of filing the application in time to allow the defendant to be heard, in the event that the holder of the industrial or intellectual property right infringed had prior knowledge of the potential infringement and could have filed his application in sufficient time to guarantee such a hearing.
- v) The adoption of the necessary measures to **preserve the confidentiality** of all information that may potentially constitute a **trade secret**, pursuant to the provisions of Law 1/2019 of 20 February on Trade

Secrets and Directive (EU) 2016/943 of the European Parliament and of the Council of 8 June 2016 and under the special *Protocol for the Protection of Trade Secrets* approved by the Commercial Court of Barcelona for this purpose.

- vi) The main new development in comparison with the protocols prepared in previous years is the provision for the **immediate execution** of precautionary measures and urgent proceedings when they relate to acts derived from images, texts, videos, sounds, people's voices, or, in general, content, predictions, recommendations or decisions generated through **artificial intelligence systems or similar means**. In addition, as already provided for in the 2023 Protocol, this provision continues to apply to acts of presentation, exhibition, offer and sale in the **metaverse** or any other type of **virtual environment**.
- vii) A guarantee of cooperation between courts and the effectiveness of the decisions adopted. The Commercial Court of Barcelona will, within the scope of its jurisdiction, immediately execute the precautionary measures and preliminary proceedings ordered by the European Union Trade Mark Courts of Alicante.

This year's Protocol makes no reference to the possibility of requesting these measures against acts carried out online, or to the possibility of holding virtual hearings, which suggests the full recovery of the in-person model of the event.

CONTACTS



Eduardo Castillo
Partner, Intellectual Property
and Technology
ecastillo@perezllorca.com
T. +34 91 423 66 57



Álvaro de Castro
Counsel, Intellectual Property
and Technology
adecastro@perezllorca.com
T. +34 91 423 47 09



Rais Amils Arnal
Partner, Intellectual Property
and Technology
ramils@perezllorca.com
T. +34 932 69 79 07

www.perezllorca.com | Barcelona | Brussels | Lisbon | London | Madrid | New York | Singapore

The information contained in this Legal Briefing is of a general nature and does not constitute legal advice.

This document was prepared on 18 December 2023 and Pérez-Llorca does not assume any commitment to update or revise its contents.

AVAILABLE NOW | [New Pérez-Llorca App](#)

