

The Executive Director

**DECISION No EX-25-09 of the
Executive Director of the Office of
14/07/2025 on the administration of
mediation processes ('Rules on
Mediation')**

The Executive Director of the European Union Intellectual Property Office (the 'Office'),

Having regard to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (EUTMR) and in particular [Article 157\(4\)\(a\) and \(o\)](#), [Articles 47\(4\)](#), [64\(4\)](#), [151\(3\)](#), [Article 170](#) and [Article 178\(1\)](#) thereof,

Having regard to Regulation (EU) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation (EC) No 6/2002 on Community designs and repealing Commission Regulation (EC) No 2246/2002 (EUDR) and in particular [Article 100](#) and [Article 53\(5\)](#) thereof,

Having regard to Regulation (EU) 2023/2411 of the European Parliament and of the Council of 18 October 2023 on the protection of geographical indications for craft and industrial products, and in particular [Articles 25\(4\)](#) and [33\(5\)](#) thereof,

Having regard to Decision No ADM-25-21 of the Executive Director of the Office on the establishment and operation of the Mediation Centre (the 'Decision on the Mediation Centre'),

Having regard to the [European Code of Conduct for Mediators](#),

Whereas:

- (1) Mediation services are available for voluntary use by any natural or legal person seeking a friendly settlement of disputes by mutual agreement.
- (2) Rules must be established for the administration of mediation processes handled by the Mediation Centre in the context of *inter partes* proceedings before the Office relating to EU trade marks ('EUTMs'), EU designs ('EUDs') and geographical indications for craft and industrial products ('CIGIs'). To promote efficiency and a prompt resolution of disputes, mediation should be conducted in a timely and diligent manner.

HAS ADOPTED THE FOLLOWING DECISION:

SECTION 1 GENERAL PROVISIONS

Article 1 **Scope of application**

These Rules shall apply to the mediation process relating to any proceedings pending before the Office, and any other parallel disputes and/or other contentious issues involving the same parties, which such parties have agreed to submit to mediation under the auspices of the Mediation Centre.

Article 2 **Definitions**

For the purposes of this decision the following definitions will apply:

- (1) 'Mediation' is a structured process through which two or more parties involved in a dispute attempt, on a voluntary basis, to reach an agreement to settle their dispute with the assistance of a mediator, under strict rules on confidentiality.
- (2) 'Mediation Centre' is the centre referred to in Article 170 EUTMR and established by the Decision on the Mediation Centre.
- (3) 'Mediator' refers to a member of the Office staff, who is accredited as such by an internationally recognised mediator accreditation provider, duly appointed by a decision of the Executive Director and listed as a mediator of the Office according to Article 2(5) of the Decision on the Mediation Centre.
- (4) 'Parties' refers to the parties to *inter partes* first and second instance proceedings pending before the Office or other parallel national disputes involving EUTMs, EUDs and/or CIGIs.
- (5) 'Participants' are the persons attending the mediation, including the parties and/or their statutory representatives, their professional representatives, as well as any other person the parties wish to invite to the mediation sessions, such as persons representing affiliated entities, subsidiaries or licensees.
- (6) 'Mediation request' refers to the parties' request to mediate. The mediation request consists of a duly completed form made available by the Mediation Centre and submitted by the parties via the User Area. A single mediation request signed by all parties or separate mediation requests signed by each party will constitute a joint mediation request for the purpose of Article 170(3) EUTMR.
- (7) 'Scope of mediation' refers to the disputes relating to any proceedings before the Office, and any other parallel or related disputes and/or other contentious issues involving the same parties, that they wish to settle and to include at any time into the mediation.
- (8) 'Language of the mediation' means the language of the proceedings pending before the Office, unless the participants jointly agree on a different language in the preparation phase.
- (9) 'Platform' means the dedicated platform securing the confidentiality of information exchanged by and with the Mediation Centre or the mediator.

- (10) 'Relevant instance' refers to the decision-making instance of the Office, including the Boards of Appeal, dealing with *inter partes* proceedings in relation to EU trade marks, EU designs, EU geographical indications for craft and industrial products.
- (11) 'Settlement agreement' is the agreement in which the parties set forth the terms for resolving their dispute.
- (12) 'Heads of agreement' is a document outlining the main points of agreement, regarding the scope and detail of the termination of the dispute, which will be formalised in a settlement agreement.
- (13) 'Expert determination' means a process in which an expert, selected by the parties, offers an opinion on a specific legal, commercial and/or technical issue which impedes the progress of the mediation.

Article 3

Means of communication

- (1) The parties must submit their mediation request through the User Area, as identified in Decision No EX-23-13 of the Executive Director of the Office of 15 December 2023 on communication by electronic means.
- (2) The Mediation Centre and the mediator will communicate with the parties via the User Area, the Platform, or, where appropriate, via e-mail.

Article 4

Time limits

The relevant instance, the Mediation Centre or the mediator shall set time limits for initiating or organising a mediation, which the parties undertake to comply with.

Article 5

Nature of the mediation process

- (1) Participation in mediation is voluntary and each of the parties may terminate it at their own discretion. By agreeing to mediate, the parties shall make their best efforts to achieve settlement and engage in mediation in good faith.
- (2) The discussions during mediation are not binding between the parties.

Article 6

Confidentiality

- (1) Following Article 170(10) EUTMR, any discussions and negotiations conducted during mediation must remain confidential for all participants involved in the mediation, except:
 - a) when disclosure of confidential information is compelled by law;
 - b) when disclosure of the content of the settlement agreement is necessary to implement or enforce it.

- (2) All participants will be required to sign a confidentiality undertaking.
- (3) The mediator must not disclose any information received by one party in a private session to the other party without the originating party's express consent.
- (4) No recording or transcription of any of kind must be made of any mediation meetings.
- (5) The mediator may take notes during the mediation for the sole purpose of facilitating the process. The notes will remain confidential and will be destroyed upon the conclusion of the mediation.
- (6) Documents, items and information submitted after the commencement of the mediation will be kept separately from, and will not be part of, the file of any other proceedings before the Office. Accordingly, none of the aforementioned documents or items shall be subject to inspection pursuant to Article 114 EUTMR or Article 74 EUDR. Such documents, items and information will be deleted upon the conclusion of the mediation.
- (7) Where documents, evidence and information submitted after the commencement of the mediation were already submitted in the context of proceedings before the Office, it is the parties' responsibility to ensure that they require confidential treatment for these submissions following Article 114(4) EUTMR or Article 74 EUDR.
- (8) Confidentiality extends to the mediation request, the correspondence from the Mediation Centre or the mediator, including the details of the closure of mediation and settlement agreements, other than the Office's proposal to mediate under Article 10 of these Rules on Mediation.
- (9) Neither the mediator nor any of the other individuals involved in the administration of the mediation process will act as witnesses, experts, arbitrators or consultants in any related proceedings.

Article 7 **Representation**

- (1) Rules on representation provided for in Articles 119 and 120 EUTMR, and in Articles 66 and 74 of Commission Delegated Regulation (EU) 2018/625 of 5 March 2018, apply to any procedural step vis-à-vis the Office in particular to request mediation, to request an extension of the suspension of pending proceedings, and to implement a settlement agreement involving proceedings pending before the Office.
- (2) As long as there is no procedural interaction with the Office with respect of proceedings pending before it, the parties are free to decide on their representation for the mediation itself, making sure that their corporate or legal representatives have authority to settle. Representatives may be asked by the mediator or by the other parties to provide evidence of such authority.

SECTION 2 THE MEDIATOR

Article 8 **Role**

- (1) The role of the mediator is to assist the parties in reaching a voluntary and mutually satisfactory settlement.
- (2) The mediator has no authority to settle the case and will abstain from giving legal advice.
- (3) The mediator can suggest possible solutions for the parties to explore where this is appropriate and agreed by the parties.

Article 9 **Impartiality and conflicts of interests**

- (1) The mediator will commit to the principles set out in these Rules on Mediation and shall strictly follow the impartiality requirements enshrined in Articles 170(12) and (13) EUTMR.
- (2) Mediators will not take part in any mediation concerning a case in which they have:
 - a) had any prior involvement in the proceedings referred to in the mediation;
 - b) any personal interest in the proceedings;
 - c) previously been a representative of one of the parties; or
 - d) identified any other circumstances that may reasonably call into question their neutrality and impartiality
- (3) In compliance with Article 170(13) EUTMR, prior to accepting an appointment, the mediator will make the necessary enquiries to determine whether they may have any actual or potential conflict of interest. They may accept the appointment as mediator only if, following their enquiries, they determine that no such conflict exists.
- (4) During the course of the mediation, the mediator will declare any actual or potential conflicts of interest that they have become aware of by any means. Following such a declaration, the mediator will cease to act as the mediator unless the parties agree to them continuing in that role.
- (5) The mediator of the case in which an expert determination has been agreed between the parties cannot act as the expert.
- (6) The mediator will not take part in the decision-making process of the relevant instances of the Office for which proceedings have been resumed following the conclusion of a mediation process in which he/she has participated as a mediator.

SECTION 3 PRE-MEDIATION PHASE

Article 10

Mediation proposal by the Office

- (1) The relevant instances of the Office or the Mediation Centre may propose mediation to the parties to attempt to resolve their dispute.
- (2) The parties should reply within two weeks following the proposal by submitting a mediation request. A longer period may be set where appropriate.
- (3) The Office's proposal to mediate shall not affect any ongoing procedural time limits set by the relevant instances.
- (4) Following the expiry of the time limit for submitting a mediation request, the parties will be informed of the outcome of the proposal for mediation.

Article 11

Mediation request

- (1) A party wishing to initiate mediation, either of its own motion or following a proposal by the Office, must submit a mediation request via the User Area, using the standard form provided by the Office.
- (2) A mediation request may be submitted at the parties' initiative at any time following the filing of any *inter partes* proceedings before the Office.
- (3) Where the Office receives a mediation request submitted by one of the parties, the relevant instance or the Mediation Centre will acknowledge receipt of the request and notify the other party in writing, together with an invitation to accept or decline the request within two weeks. A longer period may be set where appropriate.
- (4) Following the expiry of the time limit for submitting a reply to the mediation request, the parties will be informed of the outcome of the invitation to mediate.
- (5) Where both parties have submitted corresponding mediation requests, the Mediation Centre will take note of their agreement to mediate and will invite them to appoint a mediator in accordance with Article 13.

Article 12

Suspension

- (1) *Inter partes* proceedings pending before the Office, for which a joint mediation request has been submitted by the parties in accordance with Article 11, will be suspended *ex officio* by the relevant instance.
- (2) Any ongoing *inter partes* proceedings before the Office, between the same parties, that are not jointly included in the initial scope of the mediation request can be included at any stage of the mediation by mutual consent of the parties and will be suspended *ex officio* by the relevant instance.

- (3) The proceedings will be resumed at the expiry of a period of six months, unless
 - a. the mediation is concluded at an earlier date; or
 - b. the mediator considers that more time is needed to successfully conclude the mediation.
- (4) The parties will be responsible for submitting a request for the suspension of any other parallel proceedings within the scope of mediation, involving the same parties and pending before national or regional Intellectual Property Offices, courts or other authorities.
- (5) Following the conclusion of the mediation, in accordance with Article 16, the parties will be informed of the discontinuance or the resumption of the relevant proceedings pending before the Office by the relevant instance.

SECTION 4 MEDIATION STAGES

Article 13

Preparation phase and appointment of the mediator

- (1) The Mediation Centre will check that the mediation request contains the necessary information.
- (2) The Mediation Centre will invite the parties to supplement their mediation request within a specified time limit with:
 - a) the appointment of the mediator proposed by the Mediation Centre, or another mediator jointly agreed by the parties, subject to his/her availability, language of the mediation and, if relevant, his/her fields of expertise;
 - b) information regarding the names and positions of the participants;
 - c) any information missing in the mediation request.
- (3) In accordance with Article 170(6) EUTMR, where the parties do not jointly appoint a mediator within 20 days of the invitation to do so by the Mediation Centre, the mediation process shall be deemed to be discontinued. The Mediation Centre shall inform the relevant instance accordingly for the resumption of the suspended proceedings.

Article 14

Commencement of the mediation

- (1) The mediation starts with the communication to the parties that a mediator has been appointed following common agreement.
- (2) The mediator and the parties will confirm their agreement to mediate in accordance with Article 170(7), and agree on the detailed arrangements for the mediation, including its scope, the identification of the parties' corporate or legal representatives and the scheduling of the meetings.

Article 15
Conduct of the mediation

- (1) The mediation is facilitated by the mediator. By accepting the appointment, the mediator undertakes to conduct the mediation in an expeditious manner.
- (2) The mediator shall conduct the mediation in a manner that allows for its completion within a period not exceeding three months from the date of appointment. This period may be exceptionally extended by the mediator if justified by the complexity of the dispute and/or if the parties, despite making genuine efforts, need additional time to finalise the details of the settlement agreement.
- (3) The mediator shall remind all participants about confidentiality, as set out in Article 6.
- (4) Following a proposal of the mediator, the parties may agree to obtain an expert determination.

Article 16
Conclusion of the mediation

- (1) The mediation will be concluded:
 - a) where the parties reach an agreement to settle all or part of the dispute under the conditions set out in a settlement agreement, or in a heads of agreement, or where the parties have taken actions to terminate the proceedings pending before the Office;
 - b) where the mediator decides that the mediation is unlikely to lead to an amicable settlement of the dispute;
 - c) by a written declaration from any party to opt-out of the mediation.
- (2) Upon conclusion of the mediation:
 - a) the mediator will inform the Mediation Centre of the conclusion of the mediation and if a settlement has been reached.
 - b) the Mediation Centre will inform the relevant instance of the Office that the mediation has concluded. When the mediation is concluded in accordance with paragraph 1, point (b) and (c), the relevant instance will resume the proceedings in question without delay. When the mediation is concluded in accordance with paragraph 1, point (a), the proceedings in question will be terminated upon receipt of the parties' requests or declarations implementing a settlement agreement.
 - c) the parties shall submit to the relevant instance of the Office any requests or declarations required for the purpose of implementing a settlement agreement before expiry of the suspension.
 - d) the parties shall inform the relevant instance about any agreements that may have been reached on the costs of the proceedings pending before the Office.

- e) where applicable, the parties shall inform any national or regional intellectual property offices, courts or other authorities about the conclusion of the mediation.
- (3) The Office and the mediator appointed to a case will not be held liable for the outcome of the mediation, the implementation of the settlement agreement or its legality and enforceability.

Article 17
Settlement agreement

The settlement agreement must be made in writing, dated, and duly signed by, or on behalf of, the parties.

Article 18
Attestations and repository

- (1) Upon the joint request of the parties, the Mediation Centre will provide a written attestation of the existence of a mediation between the parties as well as the list of related proceedings affected thereby.
- (2) Upon the request of any of the parties, the Mediation Centre will provide a written attestation that the specific settlement agreement has been signed following a mediation process administered by the Mediation Centre.
- (3) If requested by the parties in mediation, the Mediation Centre will act as a repository for signed settlement agreements.

SECTION 5
CHARGES AND COSTS

Article 19
Charges

- (1) The mediation process will not entail administrative charges when taking place at the premises of the Office in Alicante or online.
- (2) The administrative charges to be paid when the mediation process takes place at the premises of the Office in Brussels will be EUR 1 200. Each party shall pay half of the administrative charge due to the Office via a current account or bank transfer. The request to mediate at the premises of the Office in Brussels will only be deemed to have been submitted after the full payment of this charge has been received by the Office. The charge may not be refunded to the party or parties if they cancel their participation three weeks or less before the scheduled meeting.
- (3) Regardless of the outcome of the mediation process, upon its conclusion, any administrative fees and charges incurred will not be refunded.

Article 20
Costs

- (1) Each party will bear its own costs in relation to mediation, such as travelling costs and the fees of their legal representatives, unless otherwise agreed in the settlement agreement. In no case will the Office be made liable for any costs incurred by the parties in the mediation process.

SECTION 6
FINAL PROVISIONS

Article 21
Repeal

- (1) Decision No EX-23-09 of the Executive Director of the Office of 21 November 2023 on the administration of mediation processes ('Rules on Mediation') is hereby repealed.

Article 22
Entry into force

- (1) This Decision will enter into force on 14 July 2025 and be published in the Official Journal of the Office.
- (2) This decision applies to all requests and subsequent mediation processes submitted after its entry into force.

Done at Alicante, 14 July 2025.



João Negrão
Executive Director