



REPUBLIC OF SERBIA

May 28th, 2020

**Ministry of Justice of
Republic of Serbia
no: 021-01-00096/2019-22**

**Intellectual Property
Office
990 no. 021-6286/2019 - 06**

**Commercial Court of
Appeal
ISu1/19 - 278**

**Belgrade Commercial
Court
SuI – 8 no. 30/2019**

**Belgrade Court of Appeal
SuI – 1 no. 80/19**

**Belgrade High Court
SuI – 1 no. 242/19**

The Commercial Court of Appeal, based in Belgrade, Nemanjina 9, represented by Jasminka Obućina, President of the Court,

The Commercial Court in Belgrade, based in Belgrade, Masarikova 2, represented by Jovan Jovanović, President of the Court,

The Court of Appeal in Belgrade, based in Belgrade, Nemanjina 9, represented by Duško Milenković, President of the Court,

The High Court in Belgrade, based in Belgrade, Savska 17a, represented by Aleksandar Stepanović, President of the Court,

The Ministry of Justice of Republic of Serbia, Nemanjina 22-26, represented by Radomir Ilić, Secretary of State, and

The Intellectual Property Office of Republic of Serbia, based in Belgrade, Kneginje Ljubice 5, represented by Vladimir Marić, Director,

(Hereinafter referred to as: the Signatories to the Agreement)

Recognizing the common interest to contribute to the wider application of mediation in the field of intellectual property by strengthening mutual cooperation, starting from:

- the importance of mutual cooperation in the field of mediation in intellectual property disputes and the necessity for its development in order to ensure better access to justice and more effective protection of the rights of the parties, as well as to unburden the courts;
- Concentration of jurisdiction at the Commercial Court of Appeal, Belgrade Commercial Court, Belgrade Court of Appeal, Belgrade High Court regarding the intellectual property disputes;
- the fact that the second-instance cases are extremely mediable, given that all the evidence has already been presented and the legal issues have already been established, also having in mind the legal uncertainty that may be of a longer duration, given that the first-instance decision can be modified, revoked or confirmed, thus the parties should be encouraged to consider the possibility of amicable settlement of dispute in the second instance as well;
- the interest of the parties in resolving their dispute out of court;
- the need to raise awareness of benefits of using mediation in resolving intellectual property disputes and need to keep the relevant parties informed about the possibility to use mediation;
- promoting the settlement of disputes through mediation between individuals, companies and lawyers,

Bearing in mind the Guidelines for enhancing the use of mediation in the Republic of Serbia of 28 June 2018, which emphasizes in particular that it is the duty of the court, within the meaning of the provisions of Article 9, paragraph 2 of the Law, to provide all necessary information in order to fully inform the parties of the possibility of using mediation, and encourages the court to actively cooperate with external partners on the basis of signed agreements,

Bearing in mind the Action Plan for Negotiation of the Chapter 23 which provides the Activity Number 1.3.6.29 that deals with the improvement of promotion of alternative dispute resolution mechanisms through the publication of relevant information on websites, the publication of information brochures, spreading information through the media, the creation of infographics or the organization of round tables and workshops,

Bearing in mind the Common Position of the European Union on the closure of Chapter 7, which emphasizes that, in addition to the alignment of national legislation with the *acquis communautaire* on copyright and related rights, patents and trademarks, sufficient administrative capacity should be provided for law enforcement by relevant administrative authorities, civil and criminal judiciary;

Bearing in mind the fact that the European Union, in the transitional measures contained in the Common Position on Justice and Fundamental Rights, emphasizes the need for further

consideration and promotion of the use of different alternative dispute resolution mechanisms to improve access to justice, which indicates that further development of negotiations and progress within the negotiation of the Chapter 23, and consequently other chapters, depends on the development of this area,

sign in Belgrade

THE AGREEMENT ON COOPERATION FOR ENHANCING OF THE USE OF MEDIATION IN INTELLECTUAL PROPERTY DISPUTES

Article 1

The Signatories to the Agreement agree that:

The Commercial Court in Belgrade acts in the first instance adjudicating in disputes on copyright and related rights and the protection and use of inventions, industrial designs, models, patterns, trademarks, geographical indications, integrated circuit topography i.e. topography of semiconductor products and plant breeders, arising between the domestic and foreign companies, enterprises, cooperatives and entrepreneurs and their associations (business entities), in disputes arising between business entities and other legal entities performing the activities of economic entities, as well as when one of the parties in the aforementioned disputes is a physical person, if the person is a party to substantive joinder; in disputes relating to the enforcement and security within the jurisdiction of commercial courts in disputes relating to the decisions of selected courts relating to this matter;

The High Court in Belgrade acts in the first instance adjudicating in disputes on copyright and related rights, and the protection and use of inventions, industrial designs, models, patterns, trademarks, geographical indications, integrated circuit topography i.e. topography of semiconductor products, and plant breeders, if this does not fall under the jurisdiction of another court;

The Commercial Court of Appeal decides on appeals against the decisions of Belgrade Commercial Court in accordance with the law;

The Court of Appeal in Belgrade decides on appeals against the decisions of Belgrade High Court in Belgrade in accordance with the law;

The Ministry of Justice performs public administration tasks which, inter alia, relate to the judicial professions, including licensing and maintaining a Register of mediators, as well as register of accredited training organizations; statistics and analytics of the work of judicial authorities and mediators; monitoring the implementation of the Law on Mediation in Dispute Resolution and the Guidelines for enhancing the use of mediation in the Republic of

Serbia; and creating the conditions for access and realization of projects from the scope of the ministry financed by EU pre-accession funds, donations and other forms of development assistance;

The Intellectual Property Office of the Republic of Serbia is established as a separate organization within the state administration system of the Republic of Serbia in whose jurisdiction are the tasks related to intellectual property rights.

Article 2

The Signatories to the Agreement agree to cooperate with each other to achieve the following objectives:

- improving conditions for development of mediation in intellectual property disputes;
- encouraging the implementation of mediation in intellectual property disputes;
- promoting and popularizing the application of mediation in intellectual property disputes.

Article 3

The Signatories to the Agreement shall achieve the objectives set out in Article 2 of the Agreement by:

- continuously informing parties, lawyers and other relevant parties about the possibilities and benefits of using the mediation in intellectual property disputes;
- organizing joint events such as conferences, seminars, consultations, professional programs, open days and info-sessions regarding mediation in intellectual property disputes;
- establishing continuous dialogue and mutual exchange of information regarding the possibility of resolving intellectual property disputes through mediation.

Article 4

The representatives of the Signatories to the agreement will appoint the persons authorized for implementation of the planned activities and concretization of the agreed cooperation.

Article 5

In order to successfully implement the agreed cooperation, acting judges will, within their legal powers, indicate to the parties the possibility of the settlement of the dispute through mediation at the Intellectual Property Office, as well as the possibility to obtain all relevant information from the mediators in the Intellectual Property Office.

The Intellectual Property Office shall, as appropriate, provide its facilities for mediation and for providing relevant information about the mediation.

Article 6

The Commercial Court in Belgrade, Commercial Court of Appeal, High Court in Belgrade and Belgrade Court of Appeal shall coordinate the formation and organization of information desks in the courts in accordance with technical capabilities.

At the information desks in the courts, interested parties will have at their disposal:

- written material created by the Intellectual Property Office on the benefits of mediation and procedure of mediation outside the court at the Intellectual Property Office,
- contact information of persons at the Intellectual Property Office who are in charge of providing relevant information regarding mediators with specific knowledge in the field of intellectual property,
- other forms of promotion of the mediation in the Intellectual Property Office will be subsequently agreed upon.

Article 7

The Ministry of Justice will support the implementation of the Agreement and improvement of the cooperation, and together with other signatories, will continuously undertake activities with the aim to inform the general public about the possibility and benefits of using mediation and monitor the implementation of the Agreement, in order to enhance of the use of mediation in the Republic of Serbia.

Article 8

The Agreement shall enter into force on the day of its signature by the authorized persons.

The Agreement is concluded for an indefinite period of time, with the possibility of amending it through written annexes, on the proposal of the Signatories to the Agreement.

Any dispute arising from or related to this Agreement shall be settled amicably.

Article 9

The Agreement is made in six (6) identical copies. Each Party shall receive one (1) original copy, all of which shall be equally valid and enforceable.

**Ministry of Justice
of Republic of
Serbia**

**Intellectual Property
Office of Republic of
Serbia**

**Commercial Court of
Appeal**

Radomir Ilić,
Secretary of State

Vladimir Marić,
Director

Jasminka Obućina,
President of the
Court

**Belgrade Commercial
Court**

**Belgrade Court of
Appeal**

Belgrade High Court

Jovan Jovanović,
President of the
Court

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Aleksandar Stepanović,
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