

# Poland joins forces with WIPO to mediate trademark oppositions

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The Patent Office of Poland (PPO) and the World Intellectual Property Organisation Arbitration and Mediations Centre (WIPO) collaborate to raise awareness of Alternative Dispute Resolution (ADR) substitutes to court litigation to resolve IP and technology disputes in Poland. As a result, PPO and WIPO have established a common dispute resolution procedure to facilitate mediation in disputes regarding objections to trade mark applications pending before the PPO, which was concluded in the Memorandum of Understanding from 15<sup>th</sup> April 2018.

Trademark mediation proceedings offer several advantages for the resolution of intellectual property disputes. Specifically mediation is an attractive option for parties that place a premium on the preservation or enhancement of their relationship, seek to maintain control over the dispute settlement process, value confidentiality or want to reach a speedy settlement without damage to their reputations. ADR can enhance the parties control over the dispute resolution process.

## **Trademark mediation services provided by WIPO in proceedings before the PPO**

If a third party objects to a trademark application filed with the PPO, the PPO informs the parties about the possibility of amicable settlement of the dispute. During this period the parties intending to reach an amicable settlement, request mediation to the WIPO Arbitration and Mediation Centre.

Mediation begins when a written request for mediation in the proceedings before the PPO is submitted. The application must be completed and signed by the applicant and the opponent.

The process is slightly different depending on whether the parties have already agreed on mediation or whether this is to be proposed by one party, and it is set out in detail in the published guidelines on the issue.

### **List of WIPO / PPO Mediators**

The effectiveness of the mediation depends to a significant extent on the knowledge and competence of the mediator. Therefore WIPO maintains an open register of mediators. Mediators from Poland, who possess an extensive expertise in the field of IP law, including areas such as trademarks, patents and copyrights, are among the list. The parties of disputes pending before the PPO may appoint a mediator from the list of mediators of WIPO/PPO or also nominate people outside the proposed list.

The parties are obliged to inform the PPO about the outcome of the mediation procedure before the deadline, set out in the Act for settlement of dispute, expires. In the event of an amicable settlement, the parties may submit a request to terminate the objection complaint procedure. When a settlement has been reached during a 2-month period (or an adequate 6-month period), the parties shall be entitled to a 50% refund of the objection fee, adjudicated by the PPO. If the parties fail to resolve the dispute within 6 months, but want to continue mediation, objection proceedings pending at the PPO must be suspended at the joint request of both parties.

WIPO places particular emphasis on minimizing the time and costs of the proceedings it administers. The administrative fee, mediator fee and other costs related to mediation are shared equally between the parties and generally low.

Poland is one of the first countries on the EU market which offers this kind of mediation options for disputes. The ADR mediation option is particularly beneficial for IP related disputes between parties from different jurisdictions. If well managed, ADR can save time and money. In addition, its consensual nature often results in a less adversarial process, allowing the parties to begin, continue, or improve business relationships. It appears that mediation may increase the number of trademarks in Poland, in particular coexistence of similar trademarks. Joint

WIPO/PPO efforts reflect that Poland is an important IP forum and leads the CEE regions as to IP related disputes.

To date, however, no cases have become known where parties have actually opted for this new type of mediation. Will you be the first?

### **Useful links**

[www.wipo.int/amc/](http://www.wipo.int/amc/)

[https://www.PPO.pl/PPO/\\_gAllery/87/45/87451/Alternative\\_Dispute\\_Resolution\\_\(ADR\)\\_Options\\_for\\_Intellectual\\_Property\\_and\\_Technology\\_Disputes.pdf](https://www.PPO.pl/PPO/_gAllery/87/45/87451/Alternative_Dispute_Resolution_(ADR)_Options_for_Intellectual_Property_and_Technology_Disputes.pdf)