



100 years
1911
2011

WIPO Fast-Track Intellectual Property Dispute Resolution Procedure for Palexpo Trade Fairs

Dr. THOMAS LEGLER,
FCI Arb, Attorney-at-Law,
PESTALOZZI, Geneva

pestalozzilaw.com

Pestalozzi Rechtsanwälte AG
Löwenstrasse 1
CH-8001 Zürich
T +41 44 217 91 11
F +41 44 217 92 17

Pestalozzi Avocats SA
Cours de Rive 13
CH-1204 Genève
T +41 22 999 96 00
F +41 22 999 96 01

GENEVA INTERNATIONAL MOTOR SHOW

PESTALOZZI



ATTORNEYS AT LAW



Objective of the Fast Track Procedure

- Offer IP rights protection mechanism to exhibitors/ non-exhibitors that is
 - Time and cost-efficient (decision within 24 hours)
 - Confidential
 - Quality result
- Developed in close collaboration with Palexpo and legal experts
- Used for the first time at the International Motor Show in March 2015



The Experts

- WIPO Center maintains a special list of experts for appointment under this procedure
 - Experts specialized in IP under Swiss law
 - Located in Geneva
 - All confirm their availability before the beginning of the fair ('stand-by')
 - Training session at the WIPO Center with all experts prior to the fair, in January 2015



The Experts



Scope of Application

- Disputes occurring during and at the premises of the trade fair
- Subject matter:
 - Copyright
 - Trademarks
 - Design rights
 - Unfair competition
 - All under Swiss law
- Not included: patent disputes
- Decisions: binding and enforceable with immediate effect during and at the premises of the trade fair



Procedure

- Commencement: Filing of a Request with the organizer (Palexpo secretariat) and the WIPO Center
 - Model Forms to facilitate procedure
 - Facts and legal arguments, documentary evidence (e.g. photos taken at stand)
- Language of the Proceedings: English or French
- Appointment of Expert Panel
 - Rotational basis
 - Confirmation of impartiality and independence



Procedure

- Inspection of stand by the Expert Panel
- Answer to the Request by Respondent within three business hours (otherwise: default decision)
- Settlement: possible at any time
- Decision by the Expert Panel within 24 hours of the receipt of the Request
 - Reasoned and in writing
 - Any decision that the Expert Panel considers necessary to preserve the rights of the parties during and at the premises of the trade fair, e.g. removal of disputed items, closure of stand



Procedure

- Fees and Costs
 - Expert Panel's fee CHF 2,000, administrative fees 1,500 CHF
 - Amount of CHF 3,500 to be paid by Claimant when filing the Request
 - Cease and desist declaration (within one hour): Respondent pays CHF 1,000
 - Expert Panel may apportion costs between parties in light of the circumstances of the case and the outcome
- Follow-up options: WIPO Expedited Arbitration within 30 days / court options



First Case(s)

- One case filed
 - An exhibitor filed a Request with the WIPO Center alleging trademark infringement and unfair competition against another exhibitor.
 - Appointment of Expert Panel
 - Site visit; party exchanges
 - Decision: disputed item to be removed from stand; party complied
 - Positive feedback from users
- In a second trademark dispute that occurred during the fair the parties settled before the case was filed (preventive effect)



IP Issues: Trademarks

- Issues concerning trademarks (wordmark, combined mark, tri-dimensional mark)



Volkswagen



- Question whether a specific trademark is well-known (TF, sic! 2007, 635 c. 4.1; «Bugatti»):





IP Issues: Design, Copyright

- Design protection: for identical parts or parts which convey a similar general impression (DFT 129 III 545, 133 III 189)
- Copyright protection? Ex. wing door of the Mercedes-Benz 300SL (1954 – 1957)





IP Issues: Unfair Competition



- DFT 116 II 471: Volvo car wing
unfair competition if the user is misled as regards the manufacturer or the copied product or in case of parasitic use of the fame of a competitor's product

Upcoming Trade Fairs

- International Motor Show March 2016
- Index April 2017



Further information

- WIPO Center general information
<http://www.wipo.int/amc/en/>

- WIPO ADR for Trade Fairs
 - General information
<http://www.wipo.int/amc/en/center/specific-sectors/tradefairs/>
 - Palexpo Fast Track Procedure Model Forms:
<http://www.wipo.int/amc/en/center/specific-sectors/tradefairs/palexpo/>
 - Palexpo Fast Track Procedure Rules:
<http://www.wipo.int/amc/en/center/specific-sectors/tradefairs/rules/index.html>

- Contact
arbiter.mail@wipo.int