

IPOP HL Memorandum Circular No. 2020-048

**Subject: Amendment to the Rules of Procedure for IPOP HL
Mediation Outside of Litigation**

WHEREAS, Rep. Act No. 9285, also known as the Alternative Dispute Resolution Act of 2004, directed all government agencies to encourage and actively promote the use of Alternative Dispute Resolution ("ADR") as an efficient tool and procedure for resolving disputes or cases;

WHEREAS, the IPOP HL has an ADR program, particularly, mediation services that is effective in expediting the resolution of cases of disputes involving intellectual property;

WHEREAS, in order to maximize the benefits and advantage of mediation, the Intellectual Property Office of the Philippines ("IPOP HL") promulgated Memorandum Circular No. 2019-006 (Rules of Procedures for IPOP HL Mediation Outside Litigation), thus, giving parties the opportunity to avail of IPOP HL mediation services even without or prior to the filing of a case in the IPOP HL;

WHEREAS, Rep. Act No. 11032, also known as Ease of Doing Business and Efficient Government Service Delivery Act of 2018, encourages government agencies to the use of automation and information technology to enhance the delivery of service;

WHEREAS, allowing the parties to determine by themselves the venue of the mediation proceedings is consistent with the party autonomy principle in ADR;

WHEREAS, conducting mediation through online videoconference and similar Information Technology tools or platforms is consistent with the directive under Rep. Act No. 11032, and ensures the continuity and resiliency of IPOP HL-BLA mediation services in times of crisis like the State of Public Health Emergency brought by the Covid-19 virus, as contained in Presidential Proclamation No. 922, Series 2020;

WHEREAS, the proposed amendments to the IPOP HL Revised Rules of Mediation (Memorandum Circular No. 2019-006), are beneficial to the parties and to the Office in terms of minimizing the costs of conducting and participating in the mediation proceedings;

NOW, THEREFORE, and pursuant to the authority of the Director General under Section 7.1 of Rep. Act No. 8293, also known as the Intellectual Property Code of the Philippines as amended, the Rules of Procedures for IPOP HL Mediation Outside Litigation are hereby amended as follows:

Section 1. Section 2 is hereby amended as follows:

Section 2. Initiation of Mediation Proceedings.

Parties in dispute may file a request for mediation, **VIA EMAIL**, with the IPOP HL Bureau of Legal Affairs - Alternative Dispute Resolution Service (BLA-ADRS). The request, which must be signed by the parties, must contain the names, addresses, telephone numbers, email addresses and any other contact details of the parties and of any person(s) representing them in the proceedings, and a

the parties and of any person(s) representing them in the proceedings, and a brief description of the dispute. The request for mediation shall be accompanied by the payment of the filing fee, **WHICH THE PARTIES SHALL PAY IN ACCORDANCE WITH THE PRESCRIBED IPOPHL PAYMENT MODES OR FACILITIES. THE PARTIES SHALL EMAIL A SCANNED COPY OF THE RECEIPT TO THE BLA-ADRS AS PROOF PAYMENT.**

Section 2. Section 4 becomes Section 3 and is hereby amended as follows:

Section 34. Commencement of Mediation

~~Upon the submission of the request and payment of the filing fee, the BLA-ADRS shall issue a Notice directing the parties to appear before the ADRS for a pre-mediation conference on the date and time indicated therein. The parties themselves shall appear before the ADRS. Parties, including partnerships, associations or corporations, or any juridical persons, however, may be represented. The representative(s) shall submit to ADRS, a proof of written authority such as Special Power of Attorney, Secretary's Certificate or Board Resolution, stating that the representative(s) is/are fully empowered to offer, negotiate, accept, decide and enter into a compromise agreement.~~

~~The Notice shall also state that a party not present in person, or in the case of a corporation, partnership or association, its most senior officer, should make himself reachable by phone or any communication facility during each mediation session to receive any query or other communication from the mediator or the ADRS.~~

~~During the pre-mediation conference, the parties shall be briefed on the mediation process and shall be assisted in the selection and appointment of their mediator from the list of IPOPHL accredited mediators.~~

UPON THE SUBMISSION OF THE REQUEST AND PAYMENT OF THE FILING FEE, THE BLA-ADRS SHALL ISSUE A NOTICE OF ACCEPTANCE OF THE REQUEST FOR MEDIATION, AND SHALL FURNISH THE PARTIES COPY THEREOF VIA EMAIL. WITHIN THREE (3) DAYS FROM SENDING OF THE NOTICE OF ACCEPTANCE, THE BLA-ADRS SHALL COMMUNICATE WITH THE PARTIES THE HEAD OF THE ADRS OR HIS REPRESENTATIVE SHALL COMMUNICATE WITH THE PARTIES AND/OR REPRESENTATIVE(S) TO SET THE TIME AND DATE OF THE ONLINE PRE-MEDIATION CONFERENCE.

THE PARTIES SHALL PROVIDE BLA-ADRS WITH THE NAMES, ADDRESSES, TELEPHONE NUMBERS, EMAIL ADDRESSES AND ANY OTHER CONTACT DETAILS OF THE PERSON(S) WHO WILL ATTEND OR REPRESENT THE PARTIES IN THE PROCEEDINGS.

IF A PARTY IS REPRESENTED, THE REPRESENTATIVE(S) MUST HAVE PROOF OF WRITTEN AUTHORITY SUCH AS SPECIAL POWER OF

ATTORNEY, SECRETARY'S CERTIFICATE OR BOARD RESOLUTION, STATING THAT THE REPRESENTATIVE(S) IS/ARE FULLY EMPOWERED TO OFFER, NEGOTIATE, ACCEPT, DECIDE AND ENTER INTO A COMPROMISE AGREEMENT. THE PARTY CONCERNED SHALL SEND VIA EMAIL TO THE BLA-ADRS A SCANNED COPY OF THE ORIGINAL OF THE PROOF OF AUTHORITY PRIOR TO OR SHALL PRESENT THE SAME DURING THE PRE-MEDIATION CONFERENCE.

Section 3. A new Section 4 is hereby added as follows:

SECTION 4. PRE-MEDIATION CONFERENCE. THE PRE-MEDIATION CONFERENCE SHALL BE VIA ONLINE VIDEO CONFERENCE HOSTED OR MODERATED BY THE BLA-ADRS. During the pre-mediation conference, the parties shall be briefed on the mediation process, **INCLUDING THE OPTION TO USE THE WIPO OPTION FOR MEDIATION** and shall be assisted in the selection and appointment of their mediator from the list of IPOPHL accredited mediators.

Section 4. Section 5 is hereby amended as follows:

Section 5. The mediation proceedings

The Mediator and the parties shall promptly discuss the manner in which the mediation shall be conducted and shall use their best effort to conclude the mediation in the shortest time possible.

The mediation proceedings shall **NO LONGER** be conducted within the IPOPHL offices, **BUT THROUGH ONLINE/VIRTUAL VIDEO CONFERENCE, USING THE APPROPRIATE INFORMATION TECHNOLOGY OR PLATFORM CONDUCTIVE TO MEDIATION. THE PARTIES, HOWEVER, MAY OPT FOR FACE-TO-FACE PHYSICAL CONFERENCE OR MEETING AND SHALL BE FREE TO DETERMINE THE** ~~Upon the request of both parties, however, the mediation may be conducted at any other venue, as maybe agreed upon, provided all related expenses, including transportation, food and accommodation, shall be borne by both parties.~~

Section 5. Section 3 is transposed and becomes Section 6 and is hereby amended as follows:

Section ~~3~~**6.** Mediation fees.

1. Filing Fee. Each party shall pay a non-refundable filing fee of seven thousand five hundred pesos (Php 7,500) plus one percent (1 %) legal research fund (LRF), as set in Memorandum Circular No. 17-002, Series of 2017, Revised Fee Structure of 2017. The mediation fee covers the mediator's compensation, administrative costs and other related expenses. The initial payment entitles the parties to have eight (8) sessions at a maximum of one (1) hour per session.

2. Extension Fee. Thereafter, ~~each~~ **FOR SESSIONS THAT EXCEEDS EIGHT (8) SESSIONS, EACH** party shall pay an extension fee of one thousand pesos (Php 1,000) plus one percent (1%) LRF which will entitle them to two (2) one-hour sessions, ~~as set in Memorandum Circular No. 008, Series of 2018, Revised Rules on Mediation.~~

THE RATES OF THE FEES SHALL BE AUTOMATICALLY ADJUSTED IN CASE OF CHANGES UNDER THE IPOPHL FEE STRUCTURE.

Section 6. Repealing Clause. All Memorandum Circulars, Rules or Regulations, or parts thereof which are inconsistent with these amended Rules are hereby repealed.

Section 7. Separability Clause. If any action or provision of these amended Rules is declared unconstitutional or void by any court of competent jurisdiction, or the applicability thereof to any person or circumstances shall be held invalid, the constitutionality and validity of the remainder of amended Rules and the applicability thereof to other persons and circumstances shall not be affected thereby, and to this end the sections and provisions of these amended Rules.

Section 8. Effectivity. These Rules shall take effect thirty (30) days after publication in a newspaper of general circulation and posting in the IPOPHL website.

Section 9. Submission to the University of the Philippines Law Center. The Bureau of Legal Affairs is hereby directed to immediately file three (3) certified copies of these Rules with the National Administrative Registry at the University of the Philippines Law Center.

Done this day December 21, 2020, Taguig City.

ATTY. ROWEL S. BARBA
Director General

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