

Alternative Dispute Resolution Procedures for International Conflicts about Industrial Design

Authors : Moreno Liso Lourdes

Abstract : The industrial design protects the appearance of part or all of a product resulting from the features of, in particular, the lines, contours, colors, shape, texture or materials of the product itself or its ornamentation. The industrial property offers a different answer depending on the characteristics of the shape object of protection possible, including the trademark and industrial design. There are certain cases where the trademark right invalidate the exclusive right of the industrial design. This can occur in the following situations: 1st) collected as a sign design and trademarked; and 2nd) you want to trademark and protected as a form design (either registered or unregistered). You can either get a trade mark or design right in the same sign or form, provided it meets the legal definition of brand and design and meets the requirements imposed for the protection of each of them, even able to produce an overlap of protection. However, this double protection does not have many advantages. It is, therefore, necessary to choose the best form of legal protection according to the most adequate ratios. The diversity of rights that can use the creator of an industrial design to protect your job requires you to make a proper selection to prevent others, especially their competitors, taking advantage of the exclusivity that guarantees the law. It is necessary to choose between defending the interests of the parties through a judicial or extrajudicial procedure when the conflict arises. In this paper, we opted for the defense through mediation.

Keywords : industrial design, ADR, Law, EUIPO

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