



# **WIPO Expert Determination Rules for Digital Copyright and Trademark Infringement (WIPO DCTI Rules) Schedule of Fees and Costs**

# WIPO DCTI Rules

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## Abbreviated Expressions

### **Article 1**

In these Rules:

“Answer to the Request” means the electronic form completed by the Responding Party to reply to a Request under these Rules;

“Center” means the WIPO Arbitration and Mediation Center;

“Copyright Infringement” means the unlawful use of copyright-protected materials on an Online Platform;

“Internal Complaint-Handling System” means a system that enables Users and/or Rightholders to lodge complaints against the Statement of Reasons relating to Copyright Infringement or Trademark Infringement in the Online Platform;

“Neutral” means the person appointed by the Center under Article 8 of these Rules, to conduct an impartial and informed evaluation of the matters referred to the Procedure under these Rules, and to issue a reasoned Resolution in accordance with Article 14;

“Online Platform” means a hosting service that, at the request of a User, stores and disseminates information to the public, unless that activity is a minor and purely ancillary feature of another service or a minor functionality of the principal service and, for objective and technical reasons, cannot be used without that other service;

“Parties” means the Requesting Party and the Responding Party and each is a “Party”;

“Portal” means the WIPO eADR online portal”;

“Procedure” means the Copyright and Trademark Infringement Procedure conducted under these Rules;

“Remedy” means the outcome sought by the Requesting Party. It can include the confirmation or reversal of the Statement of Reasons or the decision of the Internal Complaint-Handling System;

“Request” means the initiation of a Procedure, using the electronic form available in the Portal;

“Requesting Party” means a User and/or a Rightholder, as identified in the Statement of Reasons or the decision of the Internal Complaint-Handling System;

“Resolution” means the decision issued by the Neutral in accordance with Article 14 of these Rules on the matter referred to the Procedure;

“Responding Party” means an Online Platform;

“Rightholder” means a person or entity that owns or controls copyright or neighboring/related rights, or trademark rights over content;

“Rules” means the WIPO Rules for Digital Copyright and Trademark Infringement provided by the Center applicable to the Procedure;

“Statement of Reasons” means any decision taken by the Online Platform concerning a notice relating to Copyright Infringement or Trademark Infringement, imposing one of the following restrictions on the User:

- (a) any restrictions of the visibility of specific items of information provided by the User, including removal of content, disabling access to content, or demoting content;
- (b) suspension, termination, or other restriction of monetary payments;
- (c) suspension or termination of the provision of the service in whole or in part; and
- (d) suspension or termination of the User’s account;

“Trademark Infringement” means the unauthorized use, on an Online Platform, of a sign identical with or similar to a trademark registered with effect in the EU, for goods or services for which the trademark is registered;

“User” means any natural or legal person who uses an intermediary service, such as an Online Platform, in particular, for the purposes of seeking information or making it accessible;

“WIPO” means the World Intellectual Property Organization.

Words used in the singular include the plural and *vice versa*, as the context may require.

## Scope of Application of Rules

### Article 2

These Rules apply to a dispute between the Parties regarding a Statement of Reasons or a decision of the Internal Complaint-Handling System relating to Copyright Infringement or Trademark Infringement.

## Communication and Periods of Time

### Article 3

- (a) Unless the Parties have agreed otherwise, or the Center or the Neutral has determined otherwise, all communications required under these Rules shall be conducted through the Portal.
- (b) For the purpose of calculating a period of time under these Rules, such period shall begin to run on the day following the day when a communication is received in the Portal. If the last day of such period is a non-business day at the domicile of one of the Parties, the period is extended until the first business day which follows. Any reference in the Rules to a specific time refers to the time zone of Geneva, Switzerland.
- (c) A communication shall be deemed to have been received on the day it is delivered in accordance with paragraph (a) of this Article.
- (d) For the purpose of determining compliance with a time limit, a communication shall be deemed to have been sent, made, or transmitted if it is dispatched, in accordance with paragraph (a) of this Article, prior to or on the day of the expiration of the time limit.

## Language

### Article 4

- (a) The language of the Procedure shall be one of the official languages in the domicile of the Requesting Party or English, subject to the power of the Neutral to determine otherwise, having regard to any observations of the Parties and the circumstances of the Procedure.
- (b) The Neutral may order that any documents submitted in languages other than the language of the Procedure be accompanied by a translation in whole or in part into the language of the Procedure.

## Request

### Article 5

- (a) The Party that wishes to commence a Procedure shall submit a Request to the Center using the Request form in the Portal. The Center will then acknowledge receipt of the Request and forward it to the other Party.
- (b) The Request shall contain:
  - (i) the name, email address, and country of permanent residence or other communication references and any representative of the Requesting Party;
  - (ii) the name, the reference number and e-mail address used in previous communications between the Requesting Party and the Online Platform relating to the matter referred to the Procedure;
  - (iii) a brief description of the matter referred to the Procedure, including a specification of the alleged Copyright Infringement or Trademark Infringement and the Remedy requested;
  - (iv) a copy of the Notice filed by the Requesting Party to the Online Platform;
  - (v) a copy of the Statement of Reasons on the matter;
  - (vi) a copy of the decision of the Internal Complaint-Handling System on the matter;
  - (vii) a reference to the country of domicile of the Requesting Party and a submission to the jurisdiction of that country in case the Resolution is challenged; and
  - (viii) information on any legal or other dispute resolution proceedings commenced or terminated in connection with the matter referred to the Procedure.
- (c) The Request shall not exceed 3,000 words (excluding annexes).

## Date of Commencement

### Article 6

The date of commencement of the Procedure shall be the date on which the Center informs the Responding Party, via email, of the receipt by the Center of a Request that fulfills the requirements of Article 5 of the Rules.

## **Answer to the Request**

### **Article 7**

- (a) The Responding Party may submit, within twenty (20) calendar days after receiving the Request, an Answer to the Request.
- (b) The Answer to the Request shall:
  - (i) specify whether the Responding Party wishes to be contacted directly or through a representative and set out the email address and country of domicile which should be used;
  - (ii) reply to the particulars of the Request and refer to any relevant terms and conditions;
  - (iii) include information on any legal or other dispute resolution proceedings commenced or terminated in connection with the matter referred to the Procedure; and
  - (iv) be accompanied by any documents or other information which the Party responding to the Request deems relevant to the Resolution.
- (c) The Answer to the Request shall not exceed 3,000 words (excluding annexes).

## **Appointment of Neutral**

### **Article 8**

- (a) The Center shall usually proceed to appoint the Neutral within ten (10) calendar days after the submission of the Answer to the Request or the end of the period to submit the Answer to the Request, whichever comes first.
- (b) The Center's appointment of the Neutral shall have regard, without limitation, to:
  - (i) the country of domicile of the Requesting Party;
  - (ii) the matter on which the Resolution is sought;
  - (iii) the Neutral's relevant expertise;
  - (iv) the ability of the Neutral to complete the Procedure in due expedition;
  - (v) the language of the Procedure.
- (c) The Neutral shall, by accepting the appointment, be deemed to have undertaken to make available sufficient time to enable the Procedure to be completed with due expedition.

## **Impartiality and Independence**

### **Article 9**

- (a) The Neutral, in their personal capacity, shall be impartial and independent.
- (b) The prospective Neutral shall, before accepting appointment, confirm to the Parties and the Center that there are no circumstances that might give rise to justifiable doubt as to the Neutral's impartiality or independence.

- (c) Unless required by a court of law or authorized in writing by the Parties, the Neutral shall not act in any capacity whatsoever, otherwise than as a Neutral, in any pending or future proceedings, whether judicial, arbitral, or otherwise, relating to the matter referred to the Procedure.

## Replacement of Neutral

### Article 10

- (a) Whenever necessary, a substitute Neutral shall be appointed. The procedure provided for in Article 8 of the Rules that was applicable to the appointment of the Neutral shall apply *mutatis mutandis*.
- (b) Pending the replacement, the Procedure shall be suspended, unless otherwise agreed by the Parties.

## Conduct of the Procedure

### Article 11

- (a) Subject to these Rules, the Neutral shall conduct the Procedure as they consider appropriate.
- (b) The Neutral shall ensure that the Parties are treated with equality and that each Party is given an adequate opportunity to present information that it considers relevant to the Resolution.
- (c) Unless otherwise determined by the Neutral, in consultation with the Parties or provided by these Rules, no Party or anyone acting on its behalf shall have any ex parte communication with the Neutral.
- (d) The Neutral shall ensure that the Procedure takes place with due expedition. Each Party shall cooperate in good faith with the Neutral for this purpose.
- (e) The Neutral or the Center may terminate the proceedings if the Parties have provided information on any legal or other dispute resolution proceedings commenced or terminated in connection with the matter referred to the Procedure.
- (f) The Neutral shall report to the Center if they determine that any Party is operating in bad faith and shall provide any related documents, or other evidence, as to this determination.

## Default

### Article 12

- (a) The failure of the Responding Party to submit an Answer to the Request shall not prevent the Center and the Neutral from continuing with the Procedure.
- (b) If a Party, without showing good cause, fails to comply with any provision of, or requirement under, these Rules or any direction given by the Neutral, the Neutral may draw the inferences therefrom that they consider appropriate.

## Confidentiality

### Article 13

- (a) Each person involved in the Procedure, including, in particular, the Parties and their representatives and advisors, the Neutral and the Center, shall maintain the confidentiality of the Procedure and may not use or disclose to any outside

party the Resolution or any information concerning, or obtained exclusively in the course of the Procedure, including its existence, except to the extent that:

- (i) the Parties have agreed otherwise; or
  - (ii) the information is already in the public domain; or
  - (iii) disclosure is necessary in connection with legal proceedings relating to the Procedure; or
  - (iv) disclosure is otherwise required by law.
- (b) The Center may, however, include information concerning the Procedure in any aggregate statistical data that it publishes concerning its activities, provided that such information does not reveal the identity of the Parties or enable the particular circumstances of the dispute to be identified..

## The Resolution

### **Article 14**

- (a) The Neutral makes the Resolution on the basis of the information presented by the Parties and may also have regard to, without limitation, any other information which the Neutral considers to be relevant.
- (b) The Resolution shall:
- (i) be in writing;
  - (ii) include a brief description of the dispute relating to Copyright Infringement or Trademark Infringement;
  - (iii) render a non-binding recommendation to the Parties on the matter referred to the Neutral;
  - (iv) state the reasons on which it is based;
  - (v) indicate the date on which it is made;
  - (vi) be signed by the Neutral; and
  - (vii) be forwarded by the Neutral to the Center within thirty (30) calendar days of the Neutral's appointment. In the case of highly complex disputes, the Center may extend the thirty (30) calendar day period for an additional period that shall not exceed ninety (90) calendar days in total since the Date of Commencement.
- (c) The Resolution shall be communicated by the Center to the Parties.
- (d) The Resolution shall be effective as from the date it is communicated pursuant to paragraph (c) of this Article. The Neutral shall be deemed to have completed their functions as of the effective date of the Resolution.
- (e) The Resolution shall not deprive any Party of the right to seek relief in an action before a national court or other competent authority. The Resolution may only be used in such a setting pursuant to Article 13 (a) (iii) of these Rules.



## Settlement and Other Grounds for Termination

### Article 15

- (a) The Neutral may suggest that the parties explore settlement, including by commencing mediation, at any time during the proceedings.
- (b) If, before the Neutral is appointed, the Parties agree on a settlement of the matter referred to the Procedure, the Center shall terminate the Procedure.
- (c) If, before the Resolution is made, the Parties agree on a settlement of the matter referred to the Procedure, the Neutral shall terminate the Procedure.
- (d) If, before the Resolution is made, the continuation of the Procedure becomes unnecessary or impossible for any reason not mentioned in paragraphs (a), (b), or (c) of this Article, the Neutral shall terminate the Procedure.
- (e) If, before the Resolution is made, the Neutral determines that the subject matter of the Request falls outside the Scope of Application of the Rules as set out in Article 2, the Neutral shall terminate the Procedure.
- (f) A Party must promptly communicate to the Neutral and the Center if it initiates and serves legal proceedings in a court of competent jurisdiction concerning the subject matter of the Request in the period before a Resolution is given. On communication being given under this provision, the Neutral or the Center shall terminate the Procedure.

## Waiver

### Article 16

A Party, which knows that any provision of, or requirement under, these Rules, or any direction given by the Neutral, has not been complied with, and yet proceeds with the Procedure without promptly recording an objection to such non-compliance, shall be deemed to have waived its right to object.

## Fees and Costs

### Article 17

- (a) The Center and the Neutral are not required to take any action on or take into consideration any filing from a Party that has not paid in full the filing fee, or the administration fee and the Neutral's fee, in accordance with the Schedule of Fees and Costs of the Rules applicable on the date on which the Request is received by the Center.
- (b) If both Parties have paid in full the applicable filing fee, the administration fee and the Neutral's fee, and the Neutral:
  - (i) decides the dispute in favor of the Requesting Party, the Center will refund the filing fee to the Requesting Party.
  - (ii) decides the dispute in favor of the Responding Party and that the Requesting Party manifestly acted in bad faith, the Center will not refund the filing fee to the Requesting Party.
- (c) If the Parties settle before the appointment of the Neutral, the Center will refund:
  - (i) the filing fee to the Requesting Party; and

- (ii) 50% of the administration fee and 100% of the Neutral's fee to the Responding Party.
- (d) If the Center determines that the subject matter of the Request falls outside the Scope of Application of the Rules as set out in Article 2, the Center will retain the filing fee paid by the Requesting Party.

## **Exclusion of Liability**

### **Article 18**

Except in respect of deliberate wrongdoing, the Neutral, WIPO, and the Center shall not be liable to a Party for any act or omission in connection with the Procedure.

## **Waiver of Defamation**

### **Article 19**

The Parties and, by accepting appointment, the Neutral agree that any statements or comments, whether written or oral, made or used by them or their representatives in preparation for or in the course of the Procedure shall not be relied upon to found or maintain any action for defamation, libel, slander or any related complaint, and this Article may be pleaded as a bar to any such action.

## **Suspension of Running of Limitation Period under Statute of Limitations**

### **Article 20**

The Parties agree that, to the extent permitted by applicable law, the running of any limitation period under any statute of limitations or any equivalent law shall be suspended in relation to the matter that is the subject of the Procedure from the date of commencement of the Procedure until the date of the completion or termination of the Procedure.

## Schedule of Fees and Costs

### WIPO Expert Determination Rules for Digital Copyright and Trademark Infringement (WIPO DCTI Rules)

(All amounts are in Euros)

Requesting Party	Responding Party	
Filing Fee	Administration Fee	Neutral's Fees
€ 100	€ 300	€ 700