



Palexpo Trade Fairs – Fast-Track Intellectual Property Dispute Resolution Procedure

2021

Fast-Track Procedure

Index	Page
General Provisions	5
Abbreviated Expressions	
Article 1.....	5
Scope of Application of Rules	
Article 2.....	6
Article 3.....	6
Commencement of the Fast-Track Procedure	6
Filing a Request for a Fast-Track Procedure	
Article 4.....	6
Request	
Article 5.....	7
Answer to the Request and Protective Letter	
Article 6.....	7
Inspection of Respondent’s Stand	
Article 7.....	8
Provisional Removal of Items	
Article 8.....	8
Representation	
Article 9.....	9
Composition and Establishment of the Expert Panelist	9
List of Candidates	
Article 10.....	9
Appointment of the Expert Panelist	
Article 11.....	9
Impartiality and Independence	
Article 12.....	9
Acceptance	
Article 13.....	10
Replacement of Expert Panelist	
Article 14.....	10
Conduct of the Fast-Track Procedure	10
General Powers of the Expert Panelist	
Article 15.....	10
Language of Proceedings	
Article 16.....	11
Default	
Article 17.....	11

Fast-Track Procedure

Index	Page
Chairperson	
Article 18	11
Decisions	12
Decisions	
Article 19	12
Form and Notification of Decisions	
Article 20	12
Laws Applicable to the Substance of the Dispute	
Article 21	12
Time Period for Delivery of the Decision	
Article 22	12
Effect of Decision	
Article 23	13
Settlement	
Article 24	13
Fees and Costs	
Article 25	13
Arbitration	
Article 26	14
Miscellaneous	14
Confidentiality	
Article 27	14
Exclusion of Liability	
Article 28	15

GENERAL PROVISIONS

Abbreviated Expressions

Article 1

In these Rules:

“Fast-Track Procedure” means the fast-track intellectual property dispute resolution procedure available at the Palexpo fairground and/or any virtual exhibition platform of the trade fair;

“Claimant” means the party initiating the Fast-Track Procedure; the Claimant must be an Exhibitor or a Non-exhibitor in accordance with the Fast-Track Procedure;

“Respondent” means the Exhibitor against which the procedure is initiated, as named in the Request for a Fast-Track Procedure;

“Exhibitor” means an entity contracting with Palexpo or with the organizer and exhibiting items at a trade fair organized at the premises of Palexpo and/or any virtual exhibition platform of the trade fair;

“Non-exhibitor” means any third party who is not an Exhibitor;

“The organizer” means the organizer of trade fairs. The secretariat will be assumed by Palexpo, including the tasks defined in below articles, operating during the opening hours of trade fairs organized at the premises of Palexpo and/or any virtual exhibition platform of the trade fair;

“Submission Agreement” means an agreement by a Non-exhibitor to submit to a Fast-Track Procedure all or certain claims against a Respondent that have arisen or that may arise between them during a trade fair organized by an organizer at the premises of Palexpo and/or any virtual exhibition platform of the trade fair; the submission may be in the form of a declaration;

“Expert Panelist” means the sole panelist;

“Chairperson” means the person available to assist the Center in the administration of the Fast-Track Procedure;

“WIPO” means the World Intellectual Property Organization;

“Center” means the WIPO Arbitration and Mediation Center.

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

Scope of Application of Rules

Article 2

- (a) In accordance with the Conditions for Participation provided by an organizer at Palexpo, disputes between Exhibitors as well as Exhibitors and Non-Exhibitors occurring during and at the premises and/or any virtual exhibition platform of the trade fair shall be settled in accordance with these Rules, as in effect on the date of the commencement of the Fast-Track Procedure.
- (b) The scope of application of these Rules is limited to disputes relating to the alleged infringement of copyright, trademarks, design rights or breach of laws on unfair competition under Swiss law.
- (c) The scope of application of these Rules does not include disputes relating to the alleged infringement of patents.
- (d) Decisions rendered pursuant to Article 19 of these Rules shall be recognized as binding and enforceable with immediate effect during and at the premises and/or any virtual exhibition platform of the trade fair.

Article 3

These Rules shall govern the Fast-Track Procedure, except that, where any of these Rules is in conflict with a provision of Swiss law from which the parties cannot derogate, that provision shall prevail.

COMMENCEMENT OF THE FAST-TRACK PROCEDURE

Filing a Request for a Fast-Track Procedure

Article 4

The Claimant shall file the Request with the Center and with the organizer for transmission to the Expert Panelist. The Request shall be filed in writing at the earliest the day before the beginning of the trade fair and at the latest at the next to last day of the trade fair. The Request shall be filed by 12 noon. The Model Request shall be used for Requests.

Request

Article 5

The Request for a Fast-Track Procedure shall contain:

- (a) a demand that the dispute be referred to the Fast-Track Procedure under the Fast-Track Procedure Rules;
- (b) the names, addresses and telephone, e-mail or other communication references of the parties;
- (c) a statement of the facts and legal arguments supporting the claim, such as extracts from national or international registers proving the rights under Swiss law, and including a statement of the relief sought;
- (d) documentary evidence upon which the Claimant relies, such as photographs taken from the allegedly infringing items shown at the trade fair and/or any virtual exhibition platform of the trade fair by the Respondent; and
- (e) proof of payment of the fees mentioned in Article 25.

In case the Request is filed by a Non-exhibitor, the Request shall also contain the signed Model Submission Agreement.

Answer to the Request and Protective Letter

Article 6

- (a) Upon receipt of the Request, the Expert Panelist shall inform the Respondent at the inspection of Respondent's stand as provided for in Article 7, or by e-mail or other means of electronic communication, of the introduction of the Fast-Track Procedure against it.
- (b) The Respondent shall be presented the Claimant's Request and it shall be given the opportunity to provide an Answer to the Request including arguments in defense of any of the elements in the Request. For this purpose the Respondent shall use the Model Answer to the Request.
- (c) Any Exhibitor who has reason to believe that a Request will be filed against it may file with the Center and with the organizer a protective letter before a Request is filed. If the Respondent confirms during the inspection that the protective letter represents its Answer to the Request, the Claimant shall be served with the corresponding protective letter. If the Respondent indicates that it wishes to submit

Fast-Track Procedure

an Answer to the Request, the protective letter shall be returned to the Respondent and shall not be served to the Claimant.

- (d) The Answer to the Request shall contain:
 - i. the names, addresses and telephone, e-mail or other communication references of the Respondent;
 - ii. a statement of the facts and legal arguments supporting the Answer to the Request, such as extracts from national or international registers proving the rights under Swiss law and documentary evidence.
- (e) The Respondent shall provide the Expert Panelist in writing or orally with its Answer to the Request within three [3] business hours of the trade fair following receipt of the information about the Request.

Inspection of Respondent's Stand

Article 7

- (a) For the purposes of Article 6 lit. (a) and lit. (b), and in order to obtain additional information, the Expert Panelist may inspect the Respondent's stand and/or virtual booth and may order the Respondent, or the person present at the Respondents stand, to make available all items for inspection.
- (b) The Expert Panelist may collect evidence by, *inter alia*, taking photographs of the exhibition samples, and by collecting such samples.
- (c) The Expert Panelist may order the Claimant to be present during the inspection of the Respondent's stand and available for questions and clarifications.
- (d) A written record including the parties' statements may be prepared by the Expert Panelist and signed by the Claimant and the Respondent.

Provisional Removal of Items

Article 8

The Expert Panelist may decide whether, after the inspection, the Respondent shall remove the disputed items until it issues its final decision. If the Respondent refuses to remove such items, the Expert Panelist may request the organizer to obtain compulsory removal of the contested items.

Representation

Article 9

The parties may be represented by persons of their choice, irrespective of, in particular, nationality or professional qualification. The parties shall communicate the names, addresses and telephone, e-mail or other communication references of any representative to the Expert Panelist.

COMPOSITION AND ESTABLISHMENT OF THE EXPERT PANELIST

List of Candidates

Article 10

- (a) The Center shall invite candidates to act as Expert Panelist for disputes under these Rules. The Expert Panelist shall be a lawyer qualified under Swiss law with experience in intellectual property matters.
- (b) The Center shall maintain a list of candidates together with a statement of each candidate's qualifications and experience.
- (c) Before the commencement of a specific trade fair the candidates for the appointment shall communicate to the organizer and the Center their availability to conduct and complete the procedure within the periods of time referred to in these Rules.

Appointment of the Expert Panelist

Article 11

A candidate for appointment will be requested to act as Expert Panelist in accordance with a rotational system under which the next candidate on the list shall be appointed if the previous candidate on the list cannot act as Expert Panelist.

Impartiality and Independence

Article 12

- (a) The Expert Panelist shall be impartial and independent.
- (b) The prospective Expert Panelist shall, before accepting appointment in a specific case, disclose to the Center and the organizer any

Fast-Track Procedure

circumstances that might give rise to justifiable doubt as to its impartiality or independence, or confirm in writing that no such circumstances exist.

Acceptance

Article 13

The candidates shall communicate their acceptance to act as Expert Panelist in a specific case in writing to the Center and the organizer. For this purpose the candidates shall use the Model Statement of Acceptance and Declaration of Impartiality and Independence.

Replacement of Expert Panelist

Article 14

- (a) If the Expert Panelist discloses to the Center and the organizer, at any stage during the Fast-Track Procedure, circumstances that might give rise to justifiable doubt as to its impartiality or independence, the Expert Panelist shall immediately be released from appointment.
- (b) Whenever necessary, the next candidate on the list shall be appointed in accordance with Article 11 immediately after the release of the initial Expert Panelist.
- (c) Whenever another candidate is appointed, it shall, having regard to any observations of the parties, determine in its sole discretion whether all or parts of any prior part of the Fast-Track Procedure are to be repeated.

CONDUCT OF THE FAST-TRACK PROCEDURE

General Powers of the Expert Panelist

Article 15

- (a) Subject to Articles 3 and 13, the Expert Panelist may conduct the Fast-Track Procedure in such manner as it considers appropriate.
- (b) In all cases, the Expert Panelist shall ensure that the parties are treated with equality and that each party is given an adequate opportunity to present its case.
- (c) The Expert Panelist shall ensure that the Fast-Track Procedure takes place with due expedition.

- (d) The Expert Panelist may refuse admission of complex cases, in particular such involving complex technical matters, and refer the parties to the state courts.

Language of Proceedings

Article 16

Unless otherwise agreed by the parties, the language of the proceedings shall be English or French. Subject to the Expert Panelist's approval, parties may use both languages in the Fast-Track Procedure.

Default

Article 17

- (a) The Expert Panelist may proceed with the Fast-Track Procedure and make the decision if the Respondent, without showing good cause, fails to avail itself of the opportunity to present its case in accordance with Article 6.
- (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 Expert Panelist, the Expert Panelist may draw the inferences therefrom that it considers appropriate.

Chairperson

Article 18

- (a) The Center will appoint the Chairperson for a one-year period.
- (b) The Center and the Expert Panelist may consult with the Chairperson on specific issues raised by the Center or the Expert Panelist. The opinion of the Chairperson shall be subject to the Expert Panelist's power of assessment in the context of all the circumstances of the case. When contacted by the Center or the Expert Panelist, the Chairperson shall disclose to them and to the organizer any circumstances that may affect its impartiality or independence in a specific case.

DECISIONS

Decisions

Article 19

- (a) The Expert Panelist may make any decision that it considers urgently necessary to preserve the rights of the parties during and at the premises and/or any virtual exhibition platform of the trade fair.
- (b) The Expert Panelist may make its decisions subject to such conditions it considers appropriate. In particular, the Expert Panelist may order closure of a stand and/or virtual booth, removal of the disputed items from a stand and/or any virtual exhibition platform of the trade fair, stop of sales of the disputed items and performance of other legal obligations by a party during the trade fair.

Form and Notification of Decisions

Article 20

- (a) The Expert Panelist shall make a decision in writing and shall state the reasons on which it is based.
- (b) The decision shall be signed by the Expert Panelist.
- (c) The decision shall be notified by the Expert Panelist to the parties, the organizer and the Center in a number of originals sufficient to provide one for each party the organizer and the Center.

Laws Applicable to the Substance of the Dispute

Article 21

The Expert Panelist shall decide the substance of the dispute in accordance with Swiss law.

Time Period for Delivery of the Decision

Article 22

- (a) The Expert Panelist shall make the decision and notify it in the shortest time possible and, in any case, within 24 hours of the receipt of the Request.
- (b) At the request of the Expert Panelist or on its own initiative, the Center may, in exceptional circumstances, extend the time limit set out in lit. (a) of this Article.

Effect of Decision

Article 23

- (a) By agreeing to these Rules, the parties undertake to carry out the decision without delay.
- (b) If the Respondent refuses to comply with the Expert Panelist's decision or an executed cease and desist declaration, the Expert Panelist may request the organizer to enforce the decision immediately during the trade fair. The Expert Panelist may also recommend to the organizer not to admit the Respondent at future trade fairs.

Settlement

Article 24

- (a) The Expert Panelist may suggest that the parties explore settlement at such times as the Expert Panelist may deem appropriate.
- (b) If, before the decision is made, the parties agree on a settlement of the dispute, the Expert Panelist shall terminate the Fast-Track Procedure and, if requested jointly by the parties, record the settlement in the form of a consent decision. The Expert Panelist shall not be obliged to give reasons for such a decision.
- (c) The consent decision shall be made and notified in accordance with Article 20.

Fees and Costs

Article 25

- (a) The Request shall be subject to the payment to Palexpo of a fixed fee by the Claimant in the amount of CHF 5,000 in order to cover the costs of the Fast-Track Procedure including the Expert Panelist's fees (CHF 3,000), the Chairperson's fees (CHF 1,000), and the administrative fees of Palexpo (CHF 500) and the Center (CHF 500).
- (b) No action shall be taken by the Center, the organizer or the Expert Panelist until the CHF 5,000 fixed fee has been paid.
- (c) In case of a decision in favor of the Claimant, the Claimant shall be entitled to a refund of the fees from the Respondent.
- (d) In case of a decision in favor of the Respondent, the Claimant shall bear the costs of the procedure referred to in lit. (a) of this Article.

Fast-Track Procedure

- (e) A protective letter shall be subject to the payment to Palexpo of a fixed fee by the filing party in the amount of CHF 1,000 in order to cover the administrative fees of Palexpo (CHF 500) and the Center (CHF 500).
- (f) The Respondent, after being informed about the introduction of the Fast-Track Procedure against it pursuant to Article 6, may sign a cease and desist declaration, within one hour after this notification. For this purpose the Respondent shall use the Model Cease and Desist Declaration.
- (g) If the Respondent signs a cease and desist declaration pursuant to lit. (f) of this Article, it shall pay the amount of CHF 2,000 to the Claimant. The Claimant will also receive a refund of CHF 3,000 of the fee paid pursuant to lit. (a) of this Article. The remaining fees (CHF 2,000) will be shared between the Expert Panelist and the Chairperson, depending on the circumstances of the case.
- (h) The Expert Panelist may apportion the costs of the Fast-Track Procedure between the parties in light of all the circumstances of the case and the outcome of the procedure, and in particular in case of settlement of the dispute in accordance with Article 24.

Arbitration

Article 26

- (a) Each party may submit the Expert Panelist's decision to WIPO Expedited Arbitration within 30 days after the Expert Panelist's decision has been communicated to the parties.
- (b) The party which intends to commence a WIPO Expedited Arbitration shall send a written notification to the Center of its intention to file a Request for Arbitration against the other party. Upon receipt of this notification, the Center will request the parties to sign an Arbitration Agreement.

MISCELLANEOUS

Confidentiality

Article 27

The Expert Panelist, the organizer, the Chairperson, the Center and the parties shall maintain the confidentiality of information, submissions and evidence to the extent that they describe information that is not in the

public domain, except to the extent necessary in connection with the arbitration procedure.

Exclusion of Liability

Article 28

Except in respect of deliberate wrongdoing, the Expert Panelist, the organizer, the Chairperson and the Center shall not be liable to a party for any act or omission in connection with the Fast-Track Procedure.