

"IP FAST ACTION PROTOCOL"

PROTOCOL OF GUARD SERVICE AND FAST ACTION OF THE COMMERCIAL
COURTS OF BARCELONA FOR THE MOBILE WORLD CONGRESS 2018

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Asesor de la Asociación de Ingenieros Industriales de Catalunya

Barcelona, 26 de abril de



ORIGIN – REASONS OF BEING - CAUSES

- **HISTORICAL CONNECTION: BEGINNINGS OF INTERNATIONAL PROTECTION OF IP**
- **LEGAL SECURITY**
- **SOCIAL ENGAGEMENTS**
- **EXTERIOR IMAGE PROJECTION**
- **EXPLANATORY MEMORANDUM OF THE PROTOCOL**
- **SOME PHILOSOPHICAL THOUGHTS IN THE XXI CENTURY**

THE SCOPE OF THE IP APPLICATION

→ → Mobile World Congress (MWC), the world's most important event in the mobile communications industry

▶ TECHNOLOGY PATENTS AND MODEL OF UTILITY

▶ TRADE MARKS

▶ INDUSTRIAL DESIGNS

▶ COPYRIGHTS

▶ UNFAIR COMPETITION

▶ UNLAWFUL ADVERTISING ACTS

→ → → IN RELATION TO PRODUCTS AND MATERIALS WHICH ARE ON DISPLAY AT THE MWC

ENGAGEMENTS

1.- Priority and preferential processing of urgent preliminary injunctions (either ex parte or not), in relation to technological patents and industrial designs relating to products which are to be exhibited at this event, as well as acts of infringement of trademarks and copyrights, and unfair competition and unlawful advertising acts in relation to products and materials which are on display at the MWC.

Resolve any ex parte preliminary injunction petition in a 2-day period and to resolve an interim injunction in a 10-day period in the event of a hearing, as long as a protective letter has been filed.

Resolve the admission of a request for protective letters on the same day of their presentation (in the framework of possible conflict in issues of industrial or intellectual property with another company and in light of the reasonable fear of being subject to an application for an ex parte preliminary injunction)

4.- Parameter of assessment of the urgency precautionary measures:

In order to assess the urgency of such ex parte interim injunction petitions, the prior conduct of the claimant shall be a determining factor (in particular, whether they filed the injunction the moment they knew about the infringement and whether it has been filed in good faith).

the result of the application of these measures

→ four consecutive years since 2015

2015

2016

2017

2 *protective letters* related to patents were submitted. All of them were resolved before the start of the event.

1 "*verification of facts procedure*" referring to a patent matter was submitted against 2 companies. It was processed and resolved in 24 hours. The measure was upheld.

7 *ex parte interim injunction petitions* were submitted. All of them were processed and resolved in 24 hours. 4 were upheld and 3 dismissed.

1 *opposition to an ex parte interim injunctions* was submitted. It was processed and resolved in 24 hours. The opposition was upheld by setting a bail.

→→→→→ TOTAL: 21 CASES

2 protective letters related to patents were submitted. All of them were resolved the same day that were presented. Among the applicants and affected parties include technology multinationals such as SAMSUNG, XIAOMI, HUAWEI, LG, WIKO, ZTE, SISVEL, etc.

+ 2 protective letters about european union trade mark.

"verification of facts procedure" referring to a patent matter was submitted against companies. It was processed and resolved in 48 hours. The measures were upheld.

ex parte interim injunction petitions were submitted:

→ They were processed and solved in 48 hours, all of them were upheld.

→ In 2 of the preliminary measures a substitution bail were established. In one of the measures the defendant deposited the bail, for which reason they were lifted and without effect immediately. In the other, no bail was deposited, so its effects were upheld throughout along of the Congress.

→ In another of the preliminary injunction ex parte, the parties reached an agreement before the proceeding was filed, and the measures were lifted and left without effect immediately and the mobiles intervened were immediately returned that same day to the company.

8

preliminary injunction hearing the defendant, was submitted, with the main process, which was resolved before the start of the Congress, in an estimatory sense but settled substitute bail. The defendant deposited the bail, so the measures were left without effect immediately. The main process continues.

Opposition to an ex parte preliminary injunctions was submitted.

→→→→→TOTAL: 35 CASES →→→→→40 % more than the last year

Enforcement and execution of the measures

- ▶ In this way at the stands of the companies affected:
- ▶ Lawyers of the Administration of Justices attesting to these actions in situ;
- ▶ in close collaboration and with the presence of the legal counsels of the GSMA - organizer of the event - and Fira de Barcelona – owner of the facilities and services in that Congress -.
- ▶ with the assistance and support of the police force of Mossos d'Esquadra (its specialized unit in technology), to guarantee the effectiveness and enforceability of the measures adopted along the four days of the Congress
- ▶ with the coordination and direction of the judges, in situ, there, giving the orders

Others important things:

Novelty of this year 2018:

- the Courts have given to the companies affected by the measures an informative paper, in colloquial language, about the Spanish legal system.

- GSMA and FIRA have given to the companies affected a list of attorneys of the BAR ASSOCIATION OF BARCELONA specialised in these matters, as a guide and optional way to guarantee the immediate access to a lawyer or barrister.

Essential: Close and coordinated collaboration among GSMA FIRA POLICE AND JUDGES (COURT)

The creation of a *Commission for the Evaluation and Monitoring of the Protocol*, in order to analyze and improve its application in a framework of dialogue and collaboration with all parties involved.

Final: *activation clause* for others trade shows or congress (ALIMENTARIA, HOSTELCO, ETC.)

IMPACT IN THE MEDIA

► <http://www.ccma.cat/324/guerra-de-patents-al-mobile-world-congress/noticia/2841450/>



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viernes, 23 de febrero de 2018

Los juzgados mercantiles de Barcelona activan el protocolo de servicio de guardia y actuación rápida para el Mobile World Congress 2018

Es el cuarto año consecutivo que se activa este protocolo. Se pretende dar una respuesta rápida a los posibles conflictos que puedan surgir en relación a las marcas y patentes que afecten al Mobile World Congress

• Autor: Comunicación Poder Judicial

Los juzgados mercantiles de Barcelona activan, por cuarto año consecutivo, el protocolo de servicio de guardia y actuación rápida para la celebración, en la ciudad de Barcelona, del Mobile World Congress (MWC) los próximos días 26 de febrero a 1 de marzo.

Con este protocolo, que ha funcionado durante el mes de febrero pero que tiene la máxima actividad durante la celebración del congreso de telefonía del 26 de febrero al 1 de marzo, los juzgados mercantiles pretenden dar una rápida respuesta a los eventuales conflictos que pudieran existir entre las compañías participantes en el evento tecnológico (conflicto con la propiedad intelectual, industria, patentes y marcas...).



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Actuación de los juzgados mercantiles durante la primera jornada del *Mobile World Congress 2018*

- ❖ Hoy se han ejecutado tres medidas cautelares urgentes y tres diligencias de comprobación de hechos

Barcelona, 26 de febrero de 2018.-

Los juzgados mercantiles de Barcelona han realizado, durante la primera jornada del *Mobile World Congress (MWC)* varias ejecuciones de medidas, en aplicación del *Protocolo de servicio de guardia de los Juzgados Mercantiles de Barcelona para el Mobile World Congress 2018*.

Durante la mañana de hoy se ha procedido a la notificación y ejecución de **tres medidas cautelares urgentes *in audita parte***:

- * **una dictada por el Juzgado Mercantil nº 1 de Barcelona (Sección de Patentes)** frente a la compañía de nacionalidad china *SHENZHEN DOKE ELECTRONIC CO., LTD. ("DOKE")*.

- * **dos dictadas por el Juzgado Mercantil nº 5 de Barcelona (Sección de Patentes)** frente a las compañías también de nacionalidad china *SHENZHEN BOWAY ELECTRONICS CO., LTD ("BOWAY")* y *SHANGHAI NIUYU NETWORK TECHNOLOGY CO. LTD ("VERNEE")*.



Consejo General
del Poder Judicial



TRIBUNAL SUPERIOR DE JUSTICIA
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El TSJCat informa

Actuación de los juzgados mercantiles durante la jornada de hoy del *Mobile World Congress 2018*

- ❖ Hoy se han ejecutado dos medidas cautelares

Barcelona, 27 de febrero de 2018.-

Los juzgados mercantiles de Barcelona han realizado, durante la jornada de hoy del *Mobile World Congress 2018 (MWC 2018)*, varias ejecuciones de medidas cautelares en aplicación del *Protocolo de Servicio de guardia de los Juzgados Mercantiles de Barcelona para el Mobile World Congress 2018*.

Durante la mañana de hoy se ha procedido a la notificación y ejecución de **dos medidas cautelares urgentes in audita parte**, derivadas de las diligencias de comprobación de hechos practicadas ayer, y dictadas por el Juzgado Mercantil nº 5 de Barcelona (Sección de Patentes) frente a las compañías de nacionalidad china *SHENZHEN BOWAY ELECTRONICS CO., LTD ("BOWAY")* y *SHANGHAI NIUYU NETWORK TECHNOLOGY CO. LTD ("VERNEE")*.

El perito técnico analizó ayer los móviles incautados en las diligencias de comprobación de hechos y, en los dispositivos en los que se ha verificado la infracción de la patente ES 2.410.085 (ES '085), titularidad de la demandante FRACTUS S.A., se ha acordado en el día de hoy la extensión de las medidas cautelares a dichos nuevos modelos de móviles, presuntamente infractores.

NUEVAS TECNOLOGÍAS

Los juzgados mercantiles de Barcelona se preparan para el Mobile World Congress

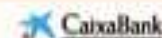
▪ Más artículos de opinión publicados en Expansión Jurídico



POR MONTIANO MONTEAGUDO/FRANCISCO JAVIER GARCÍA - URÍA MENÉNDEZ
Actualizado: 26/03/2018 12:20 horas

0 comentarios

ÚLTIMA HORA



13:52 Rajoy defiende su gestión en el Ejecutivo y la subida de las pensiones

13:37 El plazo para que el Gobierno denuncie a la CNMV por la opa de Atlantia sobre Abertis concluye el jueves

13:33 El PSOE denuncia que dos de cada tres personas que cobran menos de mil euros son mujeres

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Portada » Tribunales » Por cuarto año consecutivo, los Juzgados Mercantiles de Barcelona deciden sobre denuncias en el Mobile World Cong



Uno de los expositores del World Mobile Congress 2018, que tiene lugar en Barcelona entre el 26 de febrero y el 1 de marzo.

Por cuarto año consecutivo, los Juzgados Mercantiles de Barcelona deciden sobre denuncias en el Mobile World Congress en tiempo real

Economía/MWC.- Los juzgados mercantiles ejecutan tres medidas cautelares y tres diligencias de comprobación

Los juzgados mercantiles de Barcelona han realizado durante la primera jornada del Mobile World Congress (MWC) tres medidas cautelares urgentes y tres diligencias de comprobación de hechos, ha informado el Tribunal Superior de Justicia de Catalunya (TSJC) en un comunicado.



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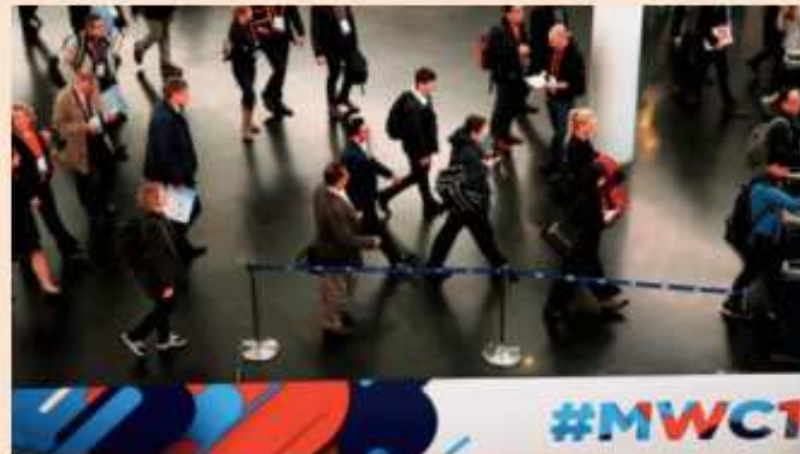
26/02/2018 20:47

L'HOSPITALET DE LLOBREGAT (BARCELONA), 26 (EUROPA PRESS)

Los juzgados mercantiles de Barcelona han realizado durante la primera jornada del Mobile World Congress (MWC) tres medidas cautelares urgentes y tres diligencias de comprobación de hechos, ha informado el Tribunal Superior de Justicia de Catalunya (TSJC) en un comunicado.

Durante la mañana han notificado y ejecutado tres medidas cautelares urgentes 'in audita parte': a la compañía de nacionalidad china Shenzen Doke Electronic por el Juzgado Mercantil 1, y a las compañías chinas

BALONCESTO Siga en directo el partido de ACB entre Real Madrid y San Pablo Burgos



Asistentes el primer día del Mobile World Congress. Efe

EMPRESAS

Guerra en el MWC por las patentes entre empresas chinas y españolas

Los Mossos han intervenido tras decisiones judiciales para poner coto a las infracciones cometidas por algunos fabricantes orientales.

27 febrero, 2018 - 20:37

Barcelona court issues fast-track injunction protocol for Mobile World Congress 2018

08
JAN 18

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The [Mobile World Congress](#), the world's largest gathering of companies in the mobile communications industry, is taking place in Barcelona this year from 26th February to 1st March. Businesses from around the world will be there, exhibiting current products and launching new ones. Over recent years, the Barcelona commercial court has developed a fast track procedure to deal with alleged IP infringements in the lead up to and at the event, which includes the possibility of successful plaintiffs obtaining a range of potential remedies – including preliminary injunctions, as well as the seizure of infringing products. Importantly, [as Spanish company Fractus proved last year](#), these measures work in practice.



Joff Willd

With the 2018 event fast approaching, the guidelines and rules for this year's fast-track service have now been published. You can see [the original Spanish version here](#); while below is an English translation. Thanks to long-term friend of IAM, [Josep Maria Pujals](#) of Oficina Ponti in Barcelona, for providing us with this information.

PROTOCOL OF GUARD SERVICE AND FAST ACTION OF THE COMMERCIAL COURTS OF BARCELONA FOR THE MOBILE WORLD CONGRESS

The Panel of Judges of the Commercial Courts of Barcelona, within the framework of the Statute of the Commercial Court of First Instance of Barcelona (approved through the agreement of 15 July 2014 by the Standing Committee of the General Council of the Judiciary), at its meeting on 13 December 2017,

News Barcelona court reveals 40% rise in fast track protocol activity during this year's Mobile World Congress

08
APR 18

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If you were to name Europe's patent litigation hotspots, places like Dusseldorf, Munich, Mannheim, London and The Hague would spring quickly to mind; perhaps followed by the likes of Paris and Milan. One thing is for sure, though: no Spanish city would make the list. But perhaps it should. Because for the period leading up to his year's [Mobile World Congress](#) – which was held in Barcelona from 26th February to 1st March – there is a good case for saying that the Catalonian capital's commercial court was among the busiest patent venues on the continent.



Joff Wild

According to data released by the court (original in Spanish [here](#), court-provided translation [here](#)), in the run up to, and during this year's event, it handled well over 30 cases, all submitted within the framework of [the fast track protocol for MWC](#) that the court established several years ago. More specifically:

- The court handled 22 proactive letter cases relating to patents, all of which were resolved on the same day that they were presented. Among the applicants and affected parties were companies such as Samsung, Xiaomi, Huawei, LG, Wiko, ZTE and Sisvel. There were also two submissions relating to

Impact at law firms

GA_P

Gómez-Acebo & Pombo

Alerta PI

Protocolo Mobile World Congress 2018

José Miguel Lissén Arbeloa

Socio del Área de IP-IT de GA_P

GRAU & ANGULO
ABOGADOS

**PROTOCOLO ESPECÍFICO PARA PROTEGER LOS DPI DURANTE EL
MWC 2018**

SPECIFIC PROTOCOL TO PROTECT IPR DURING MWC 2018

Entre los días 26 de febrero y 1 de marzo de 2018 se va a celebrar en Barcelona una nueva edición del Mobile World Congress (MWC), el evento más importante del mundo en la industria de la comunicación y telefonía móvil.

A new edition of the Mobile World Congress (MWC), the world's most important event in the mobile communications industry, will be held in **Barcelona from 26th February to 1st March, 2018.**



Los juzgados de Barcelona, “en guardia” para proteger la innovación durante el Mobile World Congress

POR CAROLINA PINA, CRISTINA MESA Y ENRIQUE GRANDE · 28 FEBRERO, 2018

Práctica profesional > Áreas de práctica

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- Defensa y aeroespacial
- Deportivo
- Derecho de la competencia
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- Derecho informático y outsourcing
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PROTOCOLO DE SERVICIO DE GUARDIA Y DE ACTUACIÓN RÁPIDA DE LOS JUZGADOS MERCANTILES DE BARCELONA PARA EL MOBILE WORLD CONGRESS 2018

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Protocolo de actuación rápida en infracciones relativas a la Propiedad Industrial e Intelectual durante el congreso mundial de móviles (MWC)

Como en años anteriores, la Junta de Jueces de los Juzgados Mercantiles de Barcelona han aprobado la puesta en marcha de un Protocolo de actuación rápida para el congreso mundial de móviles (Mobile Word Congress, MWC) que se celebrará en Barcelona entre el 26 de febrero y el 1 de marzo de 2018. Este protocolo permitirá acordar la concesión de medidas cautelares por actos de infracción de derechos de Propiedad Industrial e Intelectual (PI) que se produzcan a lo largo de todo el mes de febrero de 2018 así como en los días de celebración del congreso.



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NOTICIAS › Secciones

Protocolo de los Juzgados Mercantiles de Barcelona con motivo de la celebración del Mobile World Congress 2016

09/02/2016



Para información de todos los miembros de la Sección de Derecho de la Competencia, se adjunta el Protocolo de actuación aprobado por la Junta de Jueces de lo Mercantil de Barcelona el pasado 22 de enero ante la próxima celebración del Mobile World Congress y que también se extiende a otros congresos y ferias profesionales que se puedan organizar y celebrar durante todo el 2016.

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MWC, chinos, IP-Brexit, RGPD y algo más

por [Gilberto Macias](#) - 2 marzo, 2018 [👁 147](#) [💬 0](#)



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Enforcement of Intellectual Property at Trade Shows: A Comparative Perspective

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Marketa Trimble, *University of Nevada, Las Vegas -- William S. Boyd School of Law*

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Document Type
Lecture

Publication Date
10-18-2017

Abstract
 Professor Marketa Trimble presented these materials via webcast at a Roundtable on Protecting and Enforcing IP in the Trade Show Context hosted by the United States Patent and Trademark Office's Global Intellectual Property Academy in Alexandria, Virginia. Professor Trimble discussed various

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University of Nevada, Las Vegas, William S. Boyd School of Law

Temporary Restraining Orders to Enforce Intellectual Property Rights at Trade Shows: An Empirical Study

Brooklyn Law Review , Vol. 83, 2018

NLV William S. Boyd School of Law Legal Studies Research Paper

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3129176

Enforcement of Intellectual Property Rights at Trade Shows: A Review and Recommendations

Ohio State Journal on Dispute Resolution, Vol. 34, No. 1, Forthcoming

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3073755

Examples of Courts with Accommodation Practices

- **Landgericht Braunschweig, Patentstreitkammer**
 - Bereitschaftsdienst for Hannover (since 1967)
- **Landgericht München I (Munich)**
- **Commercial Courts of Barcelona**
 - Protocolo de Actuación Rápida (since 2015)
- **Protective letters (Schutzschriften)**
 - E.g., Germany, Switzerland, the Netherlands, Spain, France



Intellectual Property Rights Enforcement at Trade Shows

International Perspectives and Best Practices

William S. Boyd School of Law
University of Nevada, Las Vegas



Chief Judge Gloria M. Navarro [↗](#),
U.S. District Court for the District of Nevada

Panelists:

- **West Allen** [↗](#), Howard and Howard, Las Vegas, Nevada
- **Stephen Calogero**, IGT, Las Vegas, Nevada
- **Mark Cohen**, UC Berkeley, California (formerly USPTO)
- **Judge Anne-Kristin Fricke**, Landgericht München I, Munich, Germany
- **John Krieger** [↗](#), Dickinson Wright PLLC, Las Vegas, Nevada
- **Christoph Lanz**, MCH Group, [Baselworld](#) [↗](#), Basel, Switzerland
- **Michael McCue** [↗](#), Lewis Roca Rothgerber Christie LLP, Las Vegas, Nevada
- **Judge Florencio Molina Lopez**, Juzgado Mercantil nº 5, Barcelona, Spain
- **Kai Rüting** [↗](#), Vossius & Partner, Düsseldorf, Germany
- **Kimberly P. Stein** [↗](#), Holley Driggs Walch Fine Wray, Las Vegas, Nevada
- **Barbara Weizsaecker**, European Major Exhibition Centres Association ([AISBL](#) [↗](#))

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Conference on IP Enforcement at Trade Shows, UNLV, October 4, 2018 (Guest Blog Post)

April 19, 2018 · by Eric Goldman · in Patents, Trademark

by guest blogger [Marketa Trimble](#)

The practice of IP law fascinates IP law enthusiasts, and it can be stimulating for others as well. The practice has even been considered exciting enough for IP lawyers to be portrayed in a sophisticated beer [ad](#) and a feature [film](#). Recently, real IP lawyers appeared in an entertaining yet educational trademark-related [video](#) (although apparently IP lawyers were used only as [background](#) extras).

Experiences in large trade show venues in other countries could be instructive for U.S. trade shows. In my first [article](#) and the [Conference](#) will discuss experiences abroad; my second [article](#) on IP rights at trade shows discusses several examples. For instance, courts in some venues adopt special local rules and procedures to streamline the processing of requests for rapid relief at trade shows. The Division of Content Disputes of the District Court (Landgericht) in Braunschweig, Germany, has offered since 2011 a special standby service ([Bereitschaftsdienst](#)) for selected trade shows held in Hannover, including [Hannover-Messe](#) and [Hannover-Messe BIT](#). The Commercial Courts of Barcelona, which handle disputes arising at trade shows such as [Mobile World Congress](#), conduct proceedings in trade show-related disputes based on a special rapid resolution [protocol](#).

THANK YOU VERY MUCH

MUCHAS GRACIAS

MOLTES GRACIÈS

