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On December 22nd, 2023, the Official Gazette of the European Union published Regulation (UE) 2023/2437, amending the Rules of Procedure of the Boards of Appeal of the European Union Intellectual Property Office (EUIPO). This Regulation entered into force on March 1st, 2024.

One month after its entry into force, we hereby analyze the main amendments introduced by the new Regulation, highlighting its implications for the parties and their representatives.

These modifications aim to improve procedural efficiency, transparency and accessibility within the European Union Intellectual Property (IP) framework.

We summarize below the main changes, which refer to extensions of time, suspension of proceedings, alternative dispute resolution at the appeal stage and quality control of decisions.

1. Extensions of time

Some of the most significant amendments refer to extensions of time in the appeal procedure, whose granting had been stricter and subject to the counterpart's approval in proceedings between parties.

After the implemented amendment, extensions are made more flexible, eliminating the requirement of hearing the other party for the granting of extensions of time (which in practice resulted in the automatic grant of a one-month extension while this procedure was being conducted). Under the new procedure, the request for term extensions must be submitted in a reasoned written report within the original time limit. The decision on whether to grant it or not is left to the discretion of the Boards.

Joint applications in proceedings between parties will be granted up to a maximum of 6 months.

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2. Suspension of the proceeding

The granting of a suspension of proceedings, at the reasoned request of one of the parties, is made more flexible. A suspension being granted in the event of a joint request in cases between parties.

3. Dispute resolution: Mediation and Conciliation

Continuing with the clear enhancement of mediation and conciliation activities, Regulation (EU) 2023/2437 introduces a complete section clearly aimed at encouraging an alternative dispute resolution prior to the commencement of the examination of the appeal by the Boards of Appeal, establishing a procedure for the parties to initiate mediation and conciliation proceedings.

Following a written request for conciliation by one of the parties, the Registry will notify the other party, granting a period of one month (extendable) for the other party to confirm whether it agrees to conciliation. The Regulation also refers to the possibility for the parties to request mediation after the filing of the appeal. The possibility of proposing the submission to conciliation or mediation to the parties, is introduced for the mediator himself, after the last procedural

verification following the end of the written phase in accordance to Article 24(3). The Regulation even refers to the possibility for the mediator, in direct communication with the parties before making the formal proposal, to explore their disposition to enter into the conciliation and mediation procedure, constantly ensuring the duty of confidentiality of the communications and documents exchanged during the mediation or conciliation.

It is established that the mediation or conciliation agreements approved by the EUIPO, shall have the same effectiveness as a final decision of the Boards of Appeal.

In short, the amendments introduced by the new Regulation seek to encourage the use of mediation and conciliation as effective tools to resolve disputes in a fast, economic and friendly manner.

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Amendments to the Rules of Procedure of the EUIPO's Boards of Appeal

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Maintaining the quality and integrity of the decisions issued by the Boards of Appeal is critical to instill confidence in the IP framework. Regulation (EU) 2023/2437 strengthens quality assurance mechanisms, including strict review processes in order to ensure proper filtering of errors in decisions and an opportune recording and notification of the corrections.

Regulation (UE) 2023/2437 has significant implications for both the right holders and their representatives within the IP ecosystem. The simplified proceedings, improved transparency and the access to the alternative dispute resolutions procedures provided by the Regulation, enable the right

holders to protect and assert their IP rights with greater confidence and efficiency. Similarly, the representatives benefit from clearer guidelines and procedures, enabling them to navigate appeals proceedings more effectively and provide informed guidance to their clients.

Overall, the amendments introduced by Regulation (EU) 2023/2437 reflect a significant step in strengthening the appeals procedure, facilitating inter partes agreements and eventually improving the protection of IP rights. It also promotes, at the same time, a more accessible and transparent system.

In conclusion, Regulation (EU) 2023/2437 represents a comprehensive effort to improve the procedural framework regulating the resolution of European Union Trademarks and Community Designs disputes within the European Union. By focusing on simplifying proceedings, improving transparency, promoting accessibility and inter-party agreements, as well as quality assurance, this Regulation seeks to strengthen the efficiency and effectiveness of the appeals procedure within the EUIPO.

Thus, the European Union reaffirms its commitment to encourage innovation, creativity and competitiveness through a solid and dynamic protection of IP rights.