







WORKSHOP ON ALTERNATIVE DISPUTE RESOLUTION Successful mediation examples

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CASE 1 – SLIDES 3-7

CASE 2 – SLIDES 8-11

CASE 3 – SLIDES 12-16



- Conflict between two EU SMEs in the glass manufacturing sector
- Company A filed EUTMs (fig. and word) at EUIPO
- Opposed company B on basis of company name
- Overlapping element descriptive



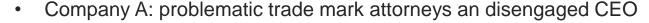


- Both companies had various national registrations in EU, CH, UK, RUS, CN
- IPO proceedings in DE and HU
- Companies A and B wanted worldwide solution





- Company A represented by three trade mark attorneys and two in-house lawyers. CEO only
 - partially present + interpreter
- Company B represented by external counsel and CEO
- 'You started it!' syndrome







- Company B: frustrated CEO
- Separate the people from the problem putting the CEOs together (WATNA)

Getting to Yes Separate the People from the Problem



- Point by point negotiation: trade mark proceedings, use of company name, packaging, trade fairs, long phase out and new mark
- Coexistence agreement: (communication channels, applicable law and jurisdiction, penalty clause)



- Two-person Spanish company applied for an EUTM covering environmental audit
- Opposed by a large multinational energy company providing energy services (including environmental audit for the provision of energy)
- Opposition based on a number of earlier rights at international, EU and national level.
- EUTM applicant filed cancellation actions against all the earlier rights.



- Infringement proceedings commenced against EUTM applicant in Spain and in a number of other countries where the company had national registrations.
- Series of cross-actions all over EU and beyond both in IPOs and courts
- Significant legal fees incurred



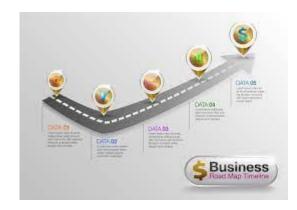


- Failed negotiations
- Final attempt to settle
- Important imbalance in legal representation (David v Goliath)
- Red lines and authority
- Emotional stress





- Kamikaze mode
- Defensive marks and purchase option
- Drop hands
- Lump sum (amount)
- Heads of agreement + timeline





Brussels niche bar registers Benelux mark and applies for EUTM for bar services.





- Mark alludes to famous GI
- Bar owner advertises heavily, takes personal loans and explores franchising possibilities in USA and Francophone Africa
- Bar owner sees himself as helping promote GI
- GI collective maintains zero tolerance policy



- Infringement proceedings in BE
- Cancellation proceedings BNX
- Opposition proceedings at EUIPO
- Managing unrealistic expectations
- Helpful lawyer (bar owner)
- Litigious outside counsel (GI)





- Divided in-house legal team (generational differences)
- Individual coaching
- Site visit



- Discovering other financial and employment law problems
- Appealing to reason
- Lump sum payment for rebranding











EU Georgia project, funded by the European Union and implemented by the European Union Intellectual Property Office (EUIPO)