

Data protection statement on the processing of personal data in mediation and other alternative dispute resolution (ADR) services provided by the Boards of Appeal

Protecting your privacy is of the utmost importance to the European Union Intellectual Property Office ('EUIPO' or 'us' or 'the controller'). The Office is committed to respecting and protecting your personal data and ensuring your rights as a data subject. All data of a personal nature, namely data that can identify you directly or indirectly will be handled fairly, lawfully and with due care.

This processing operation is subject to Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC.

The information in this communication is given pursuant to Articles 15 and 16 of Regulation (EU) 2018/1725.

1. What is the nature and purpose of the processing operation?

The processing operation is necessary to ensure that the Boards of Appeal (BoA) can offer efficient and effective mediation and other ADR services, such as conciliation, assisted negotiation and expert determination.

These services are provided by a pool of mediators/ADR case handlers appointed by BoA, with the administrative support of the BoA Alternative Dispute Resolution Service (ADRS).

The BoA provides these services to parties in proceedings before the Office, in order to resolve disputes in *inter partes* cases. All these procedures focus on the parties' interests, are flexible and based on confidentiality. All documents submitted within the actual mediation proceedings are only accessible to the mediator/ADR case handler and the respective parties. All mediation/ADR related correspondence (incoming and outgoing) is marked as confidential. Parties are asked to communicate with the mediators/ADR case handlers during the proceedings via an email address that has been specifically created for these purposes. In case of an appeal to the Court, mediation/ADR related documents (requests for mediation/ADR, mediation/ADR proposals by the Rapporteur, suspension letters sent due to mediation/ADR, etc.) are not included in the file which will be sent to the Court.

A list of possible mediators/ADR case handlers, together with their CVs, is published on the Office's website. At the end of the mediation/ADR proceedings, a link to a satisfaction survey (using Limesurvey or a similar web-based tool) is sent to the parties. In this regard, please consult the [Limesurvey privacy statement](#).

The purpose of the mediation/ADR services is to help parties involved in an IP dispute to reach a voluntary agreement that is mutually satisfactory.

For more detailed information on the BoA's mediation/ADR services see <https://euiipo.europa.eu/ohimportal/en/mediation>.

2. What personal data do we process?

The categories/types of personal data processed are as follows:

- (a) Personal data regarding mediators/ADR case handlers (in particular their CVs, published on the Office's website):
 - name, surname;
 - photo;
 - work contact details;
 - information on education and professional background.
- (b) Contact data and electronic communication initiating the mediation process (proposal of mediators, organisation of meeting, etc.) stored by the ADRS regarding the parties who have requested mediation or other ADR services and their employees and/or representatives, which may include:
 - names and addresses of contact persons, job positions, phone and fax numbers and email addresses.
- (c) Personal data contained in documents submitted within the mediation/ADR proceedings and stored by the mediator/ADR case handler in a separate file.
- (d) Satisfaction surveys: The parties send the survey to BoA through a web-based tool, such as Limesurvey, which does not in principle allow BoA to collect any personal data or establish the identity of the respondent. The surveys are stored by BoA without any information which could allow the identification of the respondents. In this regard, please consult the [Limesurvey privacy statement](#).

3. Who is responsible for processing the data?

The processing of the personal data is carried out under the responsibility of the President of the BoA in his or her function as mediation coordinator, acting as the delegated EUIPO data controller.

Personal data is processed by BoA staff, in particular the ADRS and mediators/ADR case handlers.

4. Who has access to your personal data and to whom is it disclosed?

Personal data is disclosed to the following recipients:

- (a) Personal data regarding mediators/ADR case handlers (in particular their CVs): This information is publicly available on the Office's website.
- (b) Contact data regarding the parties in the mediation/ADR: These are available to both the ADRS and the mediators/ADR case handlers in the course of the mediation/ADR proceedings.
- (c) Discussions and negotiations conducted within the framework of the mediation/ADR: These are confidential and only available to the persons involved in the mediation (the mediators/ADR case handlers, the ADRS providing administrative support, as well as the parties and their representatives).

Please note that discussions and negotiations may also be conducted via online meeting platforms (such as MS Teams or Zoom), in which case the participants will previously receive the corresponding data protection/privacy statement for these tools, explaining how the platforms in question process their data. In this regard, please consult the [Zoom privacy statement](#) or [MS Teams privacy statement](#).

5. How do we protect and safeguard your information?

We take appropriate technical and organisational measures to safeguard and protect your personal data from accidental or unlawful destruction, loss, alteration and unauthorised disclosure or access.

All electronic data are stored in secure IT applications according to the security standards of the Office as well as in specific electronic folders accessible only to the authorised recipients. Any documents exchanged during the mediation process are only accessible to the appointed mediators.

6. How can you access your personal information and, if necessary, correct it? How can you receive your data? How can you request that your personal data be erased, or restrict or object to its processing?

You have the right to access, rectify, erase and receive your personal data, as well as restrict its processing or object to the same, as provided in Articles 17 to 24 of Regulation (EU) 2018/1725.

If you would like to exercise any of these rights, please send a written query explicitly stating your request to the delegated data controller, the President of the BoA.

Your request will be answered without undue delay, and in any event within 1 month of receipt of the request. However, according to Article 14(3) of Regulation (EU) 2018/1725, this period may be extended by up to 2 months where necessary, taking into account the complexity and number of requests. The Office will inform you of any

such extension within 1 month of receipt of the request, together with the reasons for the delay.

7. What is the legal basis for processing your data?

Regarding the ADR services, personal data is processed in accordance with Article 5(1)(a) of the Regulation (EU) 2018/1725, which states that 'processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the Union institution or body'; the relevant tasks of EUIPO are foreseen in

- Article 151(3) of Regulation (EU) 2017/1001 (EUTMR), which states that 'The Office may provide voluntary mediation services for the purpose of assisting parties in reaching a friendly settlement';
- Article 170 in conjunction with Recital 35 of Regulation (EU) 2017/1001 (EUTMR), which provide for the establishment of a Mediation Centre by the Office for the purposes of Article 151(3) of the same Regulation;
- Article 31(5) of Commission Regulation (EC) No 2245/02 of 21 October 2002 (as amended by Commission Regulation (EC) No 876/2007 of 24 July 2007) implementing the Council Regulation (EC) No 6/2002 on Community designs (as amended by Council Regulation No 1891/2006 of 18 December 2006), which states that 'The Office may call upon the parties to make a friendly settlement';
- Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters.

Regarding the satisfaction surveys, personal data is processed in accordance with Article 5(1)(d) of Regulation (EU) 2018/1725, which states that 'the data subject has given consent to the processing of his or her personal data for one or more specific purposes'. You can withdraw your consent at any time by sending an email at: BoA-Cabinet-Secretariat@euipo.europa.eu.

8. How long can data be kept?

Personal data will be kept only for the time needed to achieve the purpose(s) for which it is processed.

- (a) Personal data regarding mediators/ADR case handlers are deleted from the website when the respective data subject is no longer part of the pool of appointed mediators/ADR case handlers.
- (b) Contact data and electronic communication initiating the mediation process (proposal of mediators, organisation of meeting, etc.) and the mediation/ADR agreement (an electronic version of which the mediator will send to the ADRS) are kept by the ADRS for an unlimited time in a specific electronic folder to which only ADRS relevant staff will have access. The mediation/ADR agreement is the document signed by the parties and/or their representatives and the mediator/ADR case handler which launches officially the mediation/ADR process. The mediation/ADR agreement need to be kept in case of future challenges as to the legal basis of the mediation/ADR process.

- (c) Documents submitted in mediation/ADR proceedings, along with any other materials obtained for the purpose of mediation/ADR, including the agreement on the outcome when applicable, will be deleted by the mediator/ADR case handler immediately after termination of the mediation/ADR process.
- (d) Satisfaction surveys are stored for as long as they are relevant to serve the purposes of illustrating findings of the surveys for a maximum of 5 years.

9. Contact information

Should you have any queries on the processing of your personal data, please address them to the data controller, the President of the BoA, at:

BoA-Cabinet-Secretariat@euipo.europa.eu.

You may also consult the EUIPO data protection officer (DPO) at:
DataProtectionOfficer@euipo.europa.eu.

Forms of recourse

Complaints, in cases where the conflict is not resolved by the data controller and/or DPO, can be addressed at any time to the European Data Protection Supervisor at:
edps@edps.europa.eu.