

LEAVE THE LAW OUTSIDE  
THE DOOR...

COMMERCIAL INTERESTS  
COME FIRST.

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ALICANTE - SPAIN - Office for Harmonization in the Internal Market

IP Mediation Conference - May 2014

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# Leave the law outside the door....

- ▣ In other words:
  - Lawyers must stay out of this process?
  - Law has nothing to do with mediation?
  - Law is unuseful?
  - « Legal organization » (court, judges, experts,...) have nothing to do with mediation?

Does it really mean this?

# Commercial interests come first.

- ▣ In other words:
  - Commercial interests must necessarily be taken into consideration in all circumstances?
  - Commercial interests are the sole interests to be taken into consideration?
  - Commercial interests are surely the best?
  - Commercial interests must guide any mediation process?

Does it really mean this?

# Law *versus* commercial interests?

Is a « law-based » conflict solution  
(systematically) contrary to an « interest-based »  
negotiating process?

# Law, as a support to commercial interests

- ▣ Law = unavoidable basis which must be obeyed to
  - Public order
  - Legal rules
  - Contracts



# Law in the shade, but just for a moment

- ▣ « Do not focus on law right now.... »
- ▣ Change your viewpoint for now
- ▣ Work on this! Take your file and handle it!
  - « what do you want »
  - « what do you (really) expect from this situation »
  - « what do you (really) expect from the other party »
  - « why are we here, now, where do we go? »
  - « let's speak about business first... »...

only business?

Only commercial interests?

# Commercial interests in light... with other interests that will be enlightened

- ▣ Mediation = an interest-based negotiating process
- ▣ Mediation ≠ just a negotiating process between 2 parties with just only commercial interests
- ▣ Commercial interests are indeed highly important
- ▣ Commercial interests are not the sole/unique interests which will be taken into consideration in mediation process

# Commercial interests are related to other unexpected interests

- ▣ Companies
- ▣ Individuals
- ▣ Markets
- ▣ Time
- ▣ Economy
- ▣ Business plans
- ▣ Environment
- ▣ Your life
- ▣ Feelings
- ▣ *etc.*



**So, in other words :**

Leave the law outside the door,  
now, for a certain time...

Commercial Interests come first –  
and other interests you do not  
even expect will arise out of this  
mediation process

**Leave the door open...**

**Thank you for your attention**