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European Communities Trade Mark Association

32nd ANNUAL CONFERENCE

THE JURY IS STILL OUT

BUCHAREST, 19-22 June 2013





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Mediation: The Power of negotiation, reaching consensus

*TIPS IN PREPARING AND PARTICIPATING IN SUCCESSFUL
MEDIATION*

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WHY MEDIATE?

- Trademark disputes can be complex
- Trademark disputes are often business related, subject to business solutions
- Certainty often better than uncertainty
- Legal costs of trademark infringement cases can be high
- Mediators are not acting as judge or jury, but as facilitators
- Mediation well suited to creative, “out of the box” thinking
- Mediation can incorporate business solutions

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TIPS FOR SUCCESSFUL MEDIATION

- Consider mediation style that best meets your case's needs (facilitative, evaluative, transformative)
- Decide whether subject matter expertise necessary
- Determine your interests and those of the other side
- Understand the dispute – BATNA and WATNA
- Do not over state your case
- Use creativity in developing ways to explain your case
- Engage in interest-based negotiations

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