



WIPO CENTER Rules of Procedure

WORLD INTELLECTUAL PROPERTY ORGANISATION

ARBITRATION AND MEDIATION CENTER

RULES OF PROCEDURE

I) GENERAL PROVISIONS ON THE CONFERENCE

Article 1: Scope

1. The provisions of Rules of Procedure shall be applicable throughout the sessions of Justinianus Moot Courts 2019 Conference unless otherwise is stated by the Secretariat.
2. Rules of Procedure will be explained to all members of the Tribunal at the beginning of the first session by the defined members of the Secretariat.
3. The members of the Tribunal shall not digress from the rules specified by the Secretariat. The articles in this document and the governing rules of World Intellectual Property Organisation Arbitration and Mediation Center shall be solely applicable. In any case of contradiction between these two documents, Rules of Procedure shall hold precedence.
4. The Secretariat and the Head Arbitrator of the Tribunal are exclusively commissioned to interpret the rules expediently with the purpose and essence of the Rules of Procedure.

Article 2: Language

1. English shall be the official and sole working language of Justinianus Moot Courts 2019.

Article 3: Dress Code

1. The official dress code is formal business attire and is mandatory during the Conference.

Article 4: Credentials

1. All credentials of participants have been accepted upon registration.

2. Actions relating to the modification of rights, privileges, or credentials of any member may not be initiated without the written consent of the Secretary-General.
3. Any representative whose admission raises an objection by another member will provisionally be seated with the same rights as other representatives, pending a decision from the Secretary-General.

Article 5: The Secretary General

1. The Secretary General shall act in full capacity throughout Justinianus Moot Courts 2019.
2. The directives and decisions of the Secretary General shall be final.
3. The decisions of the Secretary General shall not be appealed.
4. The Secretary General may address the Tribunal in anytime. In the absence of the Secretary General, designated Under Secretary General of the Tribunal will be the representative and shall perform full duties of the Secretary General.

Article 6: The Secretariat

1. The Secretariat shall collectively consist of the Secretary General, the Deputy Secretary General, Under Secretary Generals and Academic Assistants.
2. The Secretariat shall be responsible for following the Rules of Procedure.
3. The Secretary General or a member of the Secretariat may deliver written and oral statements to the Tribunal at any time.

Article 7: Courtesy

1. All participants shall show diplomatic Courtesy at all times.

Article 8: Electronic Devices

1. Head Arbitrator may allow Counsels and Arbitrators to use electronic devices during sessions. However Head Arbitrator may also prohibit the usage of such electronic devices at any time.
2. Electronic devices should solely be used towards the benefit of the Tribunal Proceeding.

Article 9: Message Papers

1. The communication between Arbitrators and Head Arbitrator shall be executed through the Message Papers prepared by Justinianus Moot Tribunals 2019 with the aid of the Administrative Staff.
2. Note passing between the Parties and Arbitrators, excluding the Head Arbitrator, is strictly forbidden. There shall be no direct communication between the Claimant and the Respondent.

Article 10: Quorum

1. The quorum shall be met when simple majority of the Arbitrators (including Head Arbitrator) and at least one of the Counsels of each Party are present in each session.
2. The quorum shall be determined at the beginning of each session through a roll-call by the Vice Head Arbitrator.
3. Members who arrive to the sessions late, shall pass a message paper to the Board in order to be eligible to participate in the proceedings.

II) COMPOSITION OF THE TRIBUNAL**Article 11: Composition of the Tribunal**

1. The Tribunal is composed of Head Arbitrator, Vice-Head Arbitrator, Rapporteur, two Counsels for each party to the case and Arbitrators of the Tribunal.

Article 12: Board

1. Tribunal will have one Head Arbitrator and one Vice-Head Arbitrator as the moderator of debates and representative of the Secretariat in general and one Rapporteur as the Board. Board will ensure the implementation of Rules of Procedure.
2. Head Arbitrator and Vice-Head Arbitrator shall vote along with and as equal to other Arbitrators of the Tribunal in both substantive and procedural voting procedures.

Article 13: Rapporteur

1. Rapporteur will be responsible for taking notes of Tribunal proceedings, arguments of the both parties, substantive deliberations of Arbitrators, testimonies of Witnesses, and procedural decisions taken by the Board.
2. When needed, these notes will be used in deliberations and judgment writing. Rapporteur is not an arbitrator. Rapporteur is not eligible to vote or participate in the deliberations or vote in procedural matters.
3. Rapporteur shall record the oaths of Arbitrators, Counsels and Witnesses before the commencement of the Arbitration, the opening statements and testimonies respectively.

- The oath for Arbitrators shall go as follows:

“I, Arbitrator, solemnly declare that I will perform my duties and exercise my powers as an arbitrator of the World Intellectual Property Organisation Arbitration and Mediation Center honorably, faithfully, impartially and consciously, and that I will respect the confidentiality of the deliberations”.

- The oath for Counsels and Witnesses shall go as follows:

“I,, solemnly declare upon my conscious and honour that I will speak the truth, the whole truth and nothing but the truth”.

Article 14: Arbitrators

1. Each arbitrator shall make the solemn undertaking in Article 13/3 before the commencement of the proceedings. Should any arbitrator refuse the undertaking, they will not be able to participate in the proceedings.
2. Arbitrators are responsible for determining the applicable law and reaching a judgment. The final judgment of the Tribunal will be written by Arbitrators and announced by the Head Arbitrator. Each arbitrator shall have one vote in substantive and procedural votes.
3. Arbitrators, with respect to the solemn undertaking, are expected to be impartial during the proceedings. Should any arbitrator fail to do so; official warning from the Board and the Secretariat will be in order respectively.

4. Arbitrators may question Counsels or Witnesses in the designated phases of the Arbitration.

Article 15: Counsels

1. Each counsel shall take the oath under Article 13/3. Should any counsel refuse to do so, they will not be able to participate in the proceedings.
2. Counsels shall submit their memorial or counter-memorial to the Secretariat prior to oral proceedings. The Secretariat and the Board shall ensure that Arbitrators are well aware of the content of the memorials.
3. Counsels are expected to abide by the Rules of Procedure. The official warning procedure for Arbitrators recognized in Article 14/3 shall apply to the Counsels as well.
4. Counsels will be required to submit their stipulations to the Tribunal, after opening statements.
5. Counsels do not have the right to vote in procedural or substantive processes. They may raise motions to alter speakers' time or Appeal the Board's decision in designated phases. They may raise points of order, parliamentary inquiry, personal privilege and information. They are the primary addressees of Section E of Rules of Procedure.
6. Counsels shall make all of their statements standing in front of the Tribunal, during opening speeches, presentation of evidence and witness testimonies and while answering questions from directed by Arbitrators.

III) ORAL PROCEEDINGS OF THE TRIBUNAL

Article 16: Opening Statements

1. After the solemn undertaking of Arbitrators and oaths of Counsels the Tribunal shall proceed with the opening statements of Parties. Claimant shall be the first to make an opening statement followed by Respondent. The opening speech shall briefly summarize the arguments of each party mentioned in the written proceedings and what they will pursue during oral proceedings. The time allocated for opening statements will be determined by the Head Arbitrator equally for each party, before the commencement of speeches. Immediately after its announcement, counsels may raise

a motion to alter the speakers' time once. Should the Board accept the motion, the speakers' time will be altered for both Parties.

2. Opening speeches cannot be divided into two per each Claimant/Respondent Counsel. One Claimant/Respondent Counsel shall deliver the speech.

Article 17: Presentation of Evidence

1. Bilateral or multilateral agreements, reports, resolutions of international organizations, news articles, visuals, audio files or anything in essence that can help Counsels to present their cases, shall be presented before the Tribunal as evidence. Each evidence material shall be submitted to the Tribunal before its presentation to be formally recognized and presented.
2. The Board shall ensure that both Parties use the same amount of time during their presentations of evidence. Parties may divide this phase in two, for each Counsel to have their turn.
3. The opposing party may raise an objection of immaterial pursuant to Article 37, irrelevant of Article 39 and prejudicial of Article 42 or the Board may decide likewise. This decision must be announced to the Tribunal and is subject to Appeal by one of Counsels. Appeals will be elaborated in accordance with Rules of Procedure.
4. If a piece of evidence is deemed unacceptable, it can never be referred in the Arbitration.

Article 18: Questioning of the Counsels by Arbitrators

1. After the presentation of evidence, Arbitrators, the Head Arbitrator and the Vice-Head Arbitrator may ask questions to the Counsels. The phase will be monitored by the Board. Arbitrators, the Head Arbitrator and the Vice-Head Arbitrator may also ask questions between each evidence. The Board may rule out any question or answer. The decision of the Board cannot be appealed. The Arbitrators may ask one question at a time, yet the number of questions per arbitrator will not be limited.
2. The Board may allow follow-up questions if the request is raised by the Arbitrator whose question has just been answered. The Board shall have absolute discretion on this matter. There shall not be a certain time limitation for this phase; yet the Board, in accordance with the flow of the discussions shall have the discretion to terminate questioning of Counsels. The decision shall not be appealed.

3. One counsel shall answer one question; intervention of another counsel shall never be permitted. The Board will give a limited amount of time to Counsels of a Party to discuss the answer of the question between each other. It is up to Parties' discretion to determine who will answer the question.

Article 19: Testimony of Witnesses

1. Witnesses shall be called upon by Parties to the Tribunal with their identification and relevance to the case confirmed by the Board. Witnesses shall be called upon by Claimant and Respondent respectively.
2. Following the oaths of Witnesses, the Tribunal proceeds with examination of witnesses which is composed of two parts: direct examination and cross examination.
3. During direct examination, Parties shall question their own witnesses without leading questions. To indicate that the direct examination is finished; Counsels shall say "your witness" directing the opposing party.
4. Head Arbitrator shall then give the floor to opposing party for cross examination. The content of questions shall be limited with the answers given or statements made during direct examination. Any other question may be subject to objection on competence grounds or ruled out by the Board. Leading questions shall be in order during cross examination. To indicate that cross examination is finished; Counsels shall say "no further questions" directing to the Head Arbitrator.
5. The floor shall then be open for questions of Arbitrators to Witnesses. Parties may also introduce other evidence material while examining a witness for the purpose of showing the item to the witness and asking about it.
6. Parties may divide the phase upon their discretion between themselves. Following the cross examination, Arbitrators may ask questions to Witnesses under the Board's moderation. However, the content of the questions shall not be limited with the answers given or statements made during direct examination. Also questions must not damage Witnesses' identity.
7. There shall not be a certain time limitation for this phase; yet the Board, in accordance with the flow of the discussions, shall have the discretion to terminate it or warn Parties or Arbitrators to conclude the questioning. The decision shall not be appealed.
8. Upon the motion of one Arbitrator, with a simple majority, the witness may be recalled to the Tribunal to be questioned by the Arbitrators only. The content of the

questioning shall be limited to the answers given in the previous testimony and only for clarification. The motion shall be raised through a message paper unless the Tribunal is in a recess or deliberation.

Article 20: Rebuttal

1. Evidences presented, questions posed by the Arbitrators and witness testimonies shall constitute the content of rebuttal.
2. Presentation of new evidence is strictly prohibited.
3. Time allocation shall be decided by Head Arbitrator, treating each party equally. Counsel team of each party may prefer to divide the phase into two, for each counsel to take the floor. During and following the rebuttal, Arbitrators shall have the opportunity to question Parties.

Article 21: Closing Statements

1. Counsels shall make closing statements at the end of the presentation of their respective cases. During the closing statements, Parties shall briefly summarize what they have proven during the presentation of the case. Each statement should include a suggestion to the Arbitrators for the final award, in accordance with their memorials. Respondent will be the last to make their closing statement.
2. Time allocation for opening statements shall apply to closing statements as well. Time allocated for closing statements cannot be divided between Counsels. One counsel from each party shall make their closing statement by himself/herself.

IV) RULES GOVERNING THE DELIBERATION OF THE ARBITRATORS

Article 22: Arbitrators' Deliberations

1. Arbitrators' deliberations are the periods embedded in between phases of the Arbitration and Arbitrators discuss the merits of the case in private.
2. Head Arbitrator shall dismiss Counsels and Press from the Tribunal Room prior to the commencement of deliberations.

3. The deliberations shall follow the Rules of Procedure of JMC 2019 in rules governing debate and points. Arbitrators shall not be required to stand up during deliberations.
4. Arbitrators' Deliberations will be held simultaneously. The length of deliberations shall be determined by the Head Arbitrator. Arbitrators may raise a motion to alter deliberation time.

Article 23: Yields

1. An arbitrator can yield his/her granted right to speak to another arbitrator in one of two ways:
 - **Yield to another arbitrator/Head Arbitrator:** Arbitrator's remaining time will be offered to another arbitrator.
If the second arbitrator accepts the yield, the Head Arbitrator shall recognize the second arbitrator for the remaining time. The second arbitrator speaking may only yield back to the Board.
 - **Yield to Points of Information:** Questioner will be selected by the Head Arbitrator and limited to one question each. Follow-up questions will be allowed only at the discretion of the Head Arbitrator.
Only Speaker's answer shall be deducted from the Speaker's remaining time.

Article 24: Unmoderated Caucus

1. A motion for unmoderated caucus can be entertained any time when the floor is open.
2. The topic of unmoderated caucus should be briefly specified when proposing the motion. In any case, duration of unmoderated caucus cannot exceed twenty minutes.
3. The motion for an unmoderated caucus requires simple majority of Arbitrators to pass.
4. The Board may prematurely end an unmoderated caucus if they feel that unmoderated caucus has ceased to be productive. This decision is not subject to appeal.
5. An unmoderated caucus may be extended twice with a shorter time frame. The Board may overrule a motion to extend an unmoderated caucus and their

decision is not subject to appeal. This Motion shall be put a vote immediately after its proposal and its adoption requires a simple majority of the Arbitrators.

Article 25: Moderated Caucus

1. A motion for moderated caucus can be entertained any time when the floor is open. The floor could be opened by the Head Arbitrator pursuant to their discretion.
2. The topic and total duration of moderated caucus and the time per each Speaker should be specified when proposing a motion. In any case, duration of moderated caucus cannot exceed twenty minutes.
3. The motion for a moderated caucus requires simple majority of Arbitrators to pass.
4. The Board may prematurely end a moderated caucus if they feel that the caucus has ceased to be productive and none of Arbitrators would like to speak. This decision is not subject to appeal.
5. A moderated caucus may be extended twice with a shorter timeframe. The Board may overrule a motion to extend the moderated caucus and their decision is not subject to appeal. This Motion shall be put a vote immediately after its proposal and its adoption requires a simple majority of the Arbitrators.
6. The Board may alter the total duration and the time per each Speaker and the topic of moderated caucus without any possibility to appeal. The Board may rule any motion for moderated caucus out of order and this decision cannot be appealed.

Article 26: Points of Order

1. Members of the Tribunal may raise a point of order if there is an improper implementation of the parliamentary rules by the Board or any other member of the Tribunal. The Board shall immediately take into consideration the Point pursuant to the Rules of Procedure.
2. A point of order which is dilatory or improper may be ruled out of order. This decision cannot be appealed. Members of the Tribunal raising a point of order, may not speak on substance of the matter under discussion.
3. A point of order may only interrupt a speech in exceptional circumstances where there is a serious violation of the Rules of Procedure.

Article 27: Points of Personal Privilege

1. Members of the Tribunal may request the Head Arbitrator to correct discomforts provided that such a discomfort prevents their ability to participate in the proceedings.
2. Point of personal privilege may not interrupt the speaker unless it is raised due to inaudibility. But this point cannot be used against the good faith rule.

Article 28: Points of Parliamentary Inquiry

1. Members of the Tribunal may raise a point of parliamentary inquiry, if a member has a question regarding the parliamentary procedure. The Head Arbitrator will answer it according to the Rules of Procedure.
2. A point of parliamentary inquiry may not interrupt a speech.
3. Questions regarding issues other than parliamentary procedure should not be asked by raising a point of parliamentary inquiry, rather a message paper should be sent to the Head Arbitrator.

Article 29: Point of Information

1. A point of information may be raised to the Board, at any time during the Deliberations, to raise a substantial question regarding the case. A point of information can never interrupt a speaker.

Article 30: Closure of the Deliberations

1. A motion for the closure of the deliberations shall be raised by the Arbitrators. The Motion shall pass with the simple majority of the Arbitrators.
2. When the Deliberations are closed, Head Arbitrator, Vice-Head Arbitrator and Arbitrators shall move onto the announcement of the award.

Article 31: Points and Motions

1. In case where multiple Points and Motions are proposed at the same time, the proposed Points and Motions shall be ranked pursuant to the provisions stipulated in this Section and then will be entertained accordingly by the Board.
2. Points shall have precedence over Motions at all times.
The precedence shall go as follows:

- Point of Personal Privilege
- Point of Order
- Point of Parliamentary Inquiry
- Point of Information
- Motion for Suspension/Adjournment of the Deliberations/Tribunal
- Motion for the Closure of the Deliberations
- Motion for an Extension of the Previous Caucus
- Motion for an Unmoderated Caucus
- Motion for a Moderated Caucus

When more than one motion for unmoderated or moderated caucus proposed, the longer shall be put into the vote first.

V) OBJECTIONS

Article 32: General Provisions

1. If any of the situations listed in this section emerges in a party's actions or statements, as a general rule, the opposing Party, shall have the right to raise an objection stating its ground as listed below.
2. The outcome of the objections shall always be determined by the Board and unless otherwise is provided below, the decision of the Board shall be final and not subject to appeal.
3. The Board shall announce the outcome of the objection as either granted or overruled. If an objection is granted, the subject of the objection shall immediately be abandoned and removed from Tribunal records. The Board, upon their own discretion, may consult to the Arbitrators for granting or overruling an objection.
4. Objections may interrupt the Speaker.

Article 33: Ambiguous

1. During direct or cross examination, Parties shall ask precise questions. If the questions are vague or confusing preventing the witness to give a proper answer, objections shall be in order.

Article 34: Argumentative

1. If Parties give statements during direct or cross examination instead of asking a question; objection shall be in order.

Article 35: Badgering

1. During examination of witnesses, Parties must refrain from distressing the witness.

Article 36: Compound Question

1. Parties may ask one question at a time. Should any Party combine multiple questions, objection shall be in order.

Article 37: Hearsay

1. Parties may only ask for Witnesses' personal observations and experience. Should the question concern any information the witness has received from another source, objection shall be in order.

Article 38: Immaterial

1. An objection of immaterial may be raised if a Party presents any piece before the Tribunal that aims to prove some fact which lacks any logical connection with the consequential facts or whose authenticity is not proven.
2. The decision of the Board upon this objection is open for Appeal by the opposing Party.

Article 39: Incompetent

1. Where a speaker is requested to make a statement or assessment outside the scopes of their technical knowledge or solely during indirect examination, outside the content of the direct examination, competence objection may be raised by the opposing Party.

Article 40: Irrelevant

1. All asseverations of Parties shall be relevant to the case at hand.

Article 41: Leading Question

1. Leading question occurs when the only possible answer given to the particular question asked by an advocate to the witness is either yes or no. Leading questions shall be prohibited only during direct examination.

Article 41: Nothing Pending

1. Should a witness make a statement which does not answer the question asked during direct or cross examination; the Party not questioning the witness may make an objection.

Article 42: Prejudicial

1. Should an assertion harm the personal integrity of a Tribunal member, an objection may be raised by the Tribunal member whose integrity has been harmed.

Article 43: Speculation

1. Speculation occurs when a witness is asked to predict the possible outcome of a situation, theorizing about them without their certain knowledge.

VI) AWARD**Article 44: Award**

1. After the Closing Statements of the Parties the Arbitrators are obligated to reach a final decision on the merits of the case.
2. The award shall include the following elements:
 - a. **Introduction**
A brief summary of the case subject and the reason of the application
 - b. **Facts**
Key facts of the case in a chronological order
 - c. **Legal Instruments**
The applicable law that should be applied to the case
 - d. **Evidences**
The pieces of evidences presented by each Party which were found admissible.

e. **Witness Testimonies**

The Witness Testimonies of each Party which were regarded

f. **Merits**

The interpretation and application of the rules to the findings

g. **Sanctions**

The final decision of the arbitrators, briefly asserting the outcome of the legal reasoning.