

The Code of Ethics for Mediators in Intellectual Property Disputes under the auspices of the South African Institute of Intellectual Property Law

This Code of Ethics is applicable to every person whose name appears on the list of accredited mediators for the South African Institute of Intellectual Property Law from the time that his or her name appears thereon. The consent of any person to his or her name appearing on that list shall be taken as an undertaking by that person to abide by such Code of Ethics.

This Code of Conduct may be added to or otherwise amended in any way by resolution of the South African Institute of Intellectual Property Law and, as amended and after due notice of the amendment has been given to all those persons on the list of accredited mediators for that Institute, shall become binding upon those persons in its amended form.

- 1. A person applying or invited to have his or her name placed on the list of accredited mediators for the South African Institute of Intellectual Property Law is deemed to have undertaken to ensure that he or she remains in good standing with that Institute and to observe the policy and procedures of the Institute and its Mediation Rules (the “Mediation Rules”).**
- 2. A mediator shall not attempt to ingratiate himself or herself in any way with any member or office bearer of the Institute or its staff with the intention of securing or attempting to secure for himself or herself an appointment as mediator in any dispute or in any other way to attempt to seek or secure an advantage for himself or herself over other mediators or other members of the Institute.**
- 3. A mediator shall, at all times, act honestly, impartially and independently and shall observe the highest standards of integrity.**
- 4. A mediator shall ensure that all parties are treated equally and fairly.**
- 5. A mediator shall conduct himself or herself at all times towards the parties in dispute with courtesy and shall avoid any appearance of frivolity, familiarity, bias, lack of interest or slackness and shall, to the best of his or her ability, conduct himself or herself in a professional manner.**
- 6. The mediator shall endeavour to assist the parties to settle the dispute by agreement and, unless agreed otherwise, the mediator shall not adjudicate the dispute, recommend a solution to the dispute, advise a party on the merits of the dispute or negotiate a settlement of the dispute on behalf of a party.**
- 7. The mediator shall promote the settlement of the issues in dispute between the parties in any manner that the mediator believes to be appropriate, but shall have no authority to impose a settlement on the parties**
- 8. A mediator, whether chosen by the parties or appointed by the Institute, shall, before accepting an appointment, disclose to the parties and to the Institute any**

circumstances which could give rise to a justifiable doubt as to his or her impartiality or independence. After disclosure, the mediator shall decline to mediate unless all parties choose to retain the mediator.

9. If at any stage during the mediation, new circumstances arise that might give rise to a justifiable doubt as to the mediator's impartiality or independence, the mediator shall immediately and fully disclose the circumstances to the parties and to the Institute. After disclosure, the mediator shall decline to mediate unless all parties choose to retain the mediator.
10. A mediator must ensure that he or she keeps up to date with developments in the field of mediation in particular and alternative dispute resolution in general and shall take all reasonable steps to attend the ongoing skills training courses in those fields offered by the Institute and seminars arranged under the aegis of the Institute.
11. A mediator shall not accept a request to act as mediator between parties in dispute if he or she is not confident that he or she is qualified and competent to act as mediator in that dispute.
12. A mediator, in accepting appointment as mediator, is deemed to have undertaken to make available sufficient time for the mediation to be conducted and completed expeditiously in terms of the Mediation Rules, as amended from time to time.
13. For the duration of the mediation, a mediator shall avoid any meaningful social or other contact with the parties in dispute, or any of them, and shall, insofar as the representative of the parties in dispute may be professional colleagues, not engage in any meaningful discussion with them about the matter.
14. A mediator shall not offer professional legal or other advice to any party in dispute.
15. Unless the parties agree otherwise, a mediator shall maintain the confidentiality of the mediation, any settlement agreement arising from the mediation and, to the extent that they may describe information not in the public domain, any documentary or other information disclosed during the mediation, except as otherwise required by law.
16. The mediator shall agree his or her fee with the parties to the dispute in terms of the Mediation Rules and after consultation with and with the agreement of the Institute.
17. A mediator shall not permit the conduct of the mediation to become more costly than reasonably necessary, and shall, to the best of his or her ability, avoid non-functional or unnecessary delays.
18. Where appropriate, a mediator should be prepared to travel to a place outside of the usual area where he or she is in professional practice, whether for the purpose of conducting the mediation or inspecting any locality or thing.
19. A mediator shall not under any circumstances delegate or share his or her responsibility with any other person without the express written consent, in advance, of the parties in dispute