

Alicante 10 June 2020

Call for Expressions of Interest (CEI) to Provide Intellectual Property (IP) Pro Bono Services to Small and Medium Enterprises (SMEs) ⁽¹⁾

1. Background

In the context of the current COVID-19 crisis, EU institutions and bodies aim to support and kick-start the economy in line with European priorities and ensuring EU solidarity with SMEs. SMEs represent 99 % of all businesses in the EU.

The [EUIPO](#) seeks to draw up a list of IP law firms, lawyers, attorneys and specialists willing to offer pro bono IP services free of charge to SMEs in the Member States of the European Union (EU) ⁽²⁾ in the field of intellectual property rights (IPR).

For the purposes of this CEI, pro bono services consist of any of the activities specified in paragraph 4.

The definition of SME used in the context of this CEI is set out in the [Commission's SME definition - user guide 2015](#) based on Commission Recommendation 2003/361/EC.

Important note: all IP pro bono services are, in principle, included in this CEI. These must not be confused with the Effective Dispute Resolution (EDR) services offered by the EUIPO ⁽³⁾.

⁽¹⁾ This Call for expressions of interest is not meant to establish a list of vendors or preselected candidates as per Section 13, Annex I of Regulation (EU, Euratom) 2018/1046. The experts included in the pool will establish their working relationship directly with the SMEs who will benefit from their pro bono services free of charge. This CEI will however be governed by the same principles established in the abovementioned Regulation, that is, with transparency, equal treatment and proportionality.

⁽²⁾ Participation in this CEI is open on equal terms to all natural and legal persons falling within the scope of the Treaties. This includes all legal entities registered in the EU and all natural persons having their place of business or employment in the EU.

Applicants from Iceland, Norway and Liechtenstein enjoy full participation to the single market under the European Economic Area (EEA) Agreement and therefore have equal access to this CEI.

For British applicants: since 1 February 2020, the UK is no longer a Member State of the EU. However, in accordance with Articles 126 and 127(1) of the EU-UK Withdrawal Agreement, EU law continues to apply to and in the UK during a transition period which will end on 31 December 2020. This scheme extends thus to SMEs and representatives established in the UK during that transition period.

⁽³⁾ The IP Pro Bono services should not be confused with the Effective Dispute Resolution (EDR) service.

The EUIPO is offering a special COVID-19 non-legal service to enable SMEs to take an informed decision on which dispute resolution mechanisms to select for settling any disputes before the EUIPO.

This special non-legal service is called EDR and can be requested by an SME in the following EUIPO proceedings: opposition proceedings (after the cooling-off period for unrepresented SMEs); cancellation proceedings; invalidity proceedings; appeal proceedings. The EDR is outside the scope of the present IP Pro Bono initiative.

The function of the EDR service is to inform SMEs about the following settlement mechanisms available either at the EUIPO or elsewhere: mediation, conciliation, assisted negotiation, early neutral evaluation, and (non-binding) expert determination.

For any questions on EDR, send an email to BoA-ADRS@euipo.europa.eu

One of the possible outcomes of the EDR is that the SME is advised to revert to the IP Pro Bono service or to seek legal advice.

2. Purpose of this call for expressions of interest

To establish a pool of experts (IP pro bono providers) interested in providing the pro bono services specified in paragraph 4 to SMEs based in an EU Member State ⁽⁴⁾ in IP-related matters.

To be included in the pool, applicants will have to fulfil eligibility requirements (see paragraph 3) and fill in the participation form.

The pool of experts will be published on the EUIPO website in the form of a list. To be included in this published list, applicants will have to agree by accepting the corresponding option in the form. If not, the EUIPO will keep the names internally to be used in the matching process.

3. Eligibility requirements to enter the pool of pro bono providers

Applicants will have to fill in and submit the declaration of honour in the online form to confirm that they fulfil the following requirements:

- their place of business or employment is in a Member State of the EU ⁽⁵⁾, and;
- they are entitled to represent natural or legal persons in IP matters before the EUIPO, EPO, Benelux Office for Intellectual Property or before the central industrial property office of a Member State of the EU ⁽⁶⁾.

The EUIPO reserves the right to check the validity of the declarations by requesting documental evidence of the above requirements at any time.

Should an applicant fail to fill in the form or to fulfil any of the above requirements, it will not be included in the list.

Representatives enrolled in the lists under Article 120(1)(b) EUTMR or Article 78(4) CDR are considered to meet the abovementioned requirements and are therefore not required to submit the declaration of honour.

4. Type and quantity of the services

Each applicant should indicate the kind of IP support that they are allowed and willing to offer SMEs **under a pro bono scheme according to their applicable national law**:

- help understanding which IP rights are best for the client;

The IP Pro Bono services can nevertheless include the professional representation of SMEs in any of the abovementioned settlement mechanisms and can also include advising on possible settlement mechanisms during the cooling-off period (in opposition proceedings) and where the parties are represented.

⁽⁴⁾ Legal persons should be registered in a EU/EEA Member State.

⁽⁵⁾ Legal persons should be registered, natural persons should have their place of business or employment in an EU/EEA Member State.

⁽⁶⁾ It applies equally to any Member State of the EU/EEA.

- help preparing an IP rights application;
- representation in court litigation (national and/or European court);
- preparation of commercial/legal IP documentation (i.e. agreements such as licences, transfers of IP rights, etc.);
- strategy for monetisation of IP rights;
- business IP audits;
- IP customs matters and other IP enforcement actions;
- assistance in proceedings before an IP office ⁽⁷⁾;
- assistance to an SME whose IP rights are used by third parties without permission;
- assistance to an SME who is accused of using IP rights without permission;
- other IP matters .

They will also specify the characteristics and the conditions for the provision of such service.

5. How to apply

- 1) Interested applicants should fill out the forms, accept the terms of service and then submit them.
- 2) Upon receipt of the application, the EUIPO will check the eligibility requirements – relevant supporting documents may be requested.

If the eligibility requirements are not met, the applicant will be discarded.

- 3) Based on the preferences indicated in the form, the applicant will be included in the list.

If the IP professional has been mistakenly included in the list, or provided inaccurate information, the EUIPO reserves the right to remove their name from the list.

The EUIPO aims to publish the list of pro bono providers by July 2020. Applicants are therefore invited to submit their interest at their earliest convenience.

This is an ongoing procedure and will stay open for applications for an indefinite period. As soon as a deadline for the validity of this CEI has been set, it will be advertised with due notice.

The EUIPO will continuously update this list with new pro bono providers.

The pro bono providers included in the list will always have the right to modify or withdraw their name from the list upon request.

⁽⁷⁾ Please refer to the 'Important note' included in paragraph 1.

The EUIPO will check the incoming IP pro bono requests received from the SMEs on a regular basis and match SMEs with the list of all suitable IP pro bono providers based on the information provided in the forms. The SME can then decide whom to select/contact.

Upon the conclusion of the pro bono service, the EUIPO will ask both the SME and the pro bono provider to complete a survey. The EUIPO reserves the right to contact any SME or pro bono provider at any time to request feedback on service satisfaction.

6. Communication with the EUIPO

Any requests for additional information must be made in writing and sent to the following email address: supportbusiness@euipo.europa.eu.

Any update to the CEI will be exclusively notified on the EUIPO website. It is the applicant's responsibility to check it regularly.

7. Personal data

Personal data gathered for the purpose of the present procedure will be processed pursuant 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. Therefore, the Office will process personal data as indicated in the privacy statement published on the Office's website (<https://euipo.europa.eu/ohimportal/en/data-protection#>) and at the end of the forms. Any request regarding your personal data should be addressed to the Office's Data Protection Officer (DPO) at DataProtectionOfficer@euipo.europa.eu.

In cases where the conflict is not resolved by the Data Controller and/or the DPO, complaints may be addressed at any time to the European Data Protection Supervisor: edps@edps.europa.eu.