



**TRIBUNAL DE JUSTICIA DE
LA COMUNIDAD ANDINA**



**ASOCIACIÓN
INTERAMERICANA DE LA
PROPIEDAD INTELECTUAL**



**INTERNATIONAL
TRADEMARK ASSOCIATION**

**MOOT COURT
ON INTELLECTUAL PROPERTY LAW 2022
REGULATIONS (SECOND EDITION)**

June 2022



**MOOT COURT
ON INTELLECTUAL PROPERTY LAW 2022 REGULATIONS (SECOND
EDITION)**

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Introduction

The Court of Justice of the Andean Community - TJCA, the Interamerican Association of Intellectual Property - ASIFI, and the International Trademark Association - INTA, convinced of the need to encourage the study and research of intellectual property law, as well as to promote the development of practical skills for the analysis and application of intellectual property rules, have agreed to develop a Moot Court aimed at law students or professionals recently graduated from such career.

The purpose of the *Moot Court on Intellectual Property* (second edition) is to promote a competition between teams of law students in which the written and verbal skills of the contestants are analyzed on the occasion of a debate on a fictitious case, playing the role of plaintiff or defendant before the Court of Justice of the Andean Community. For this purpose, the knowledge, professional capacities and practical skills essential for the solution of legal problems, based on the study, analysis and academic debate of the substantive and adjective rules of Community law and intellectual property law, as well as through the use of the procedural mechanisms of the Dispute Settlement System in intellectual property matters, will be assessed.

Definition of terms

Competencies of the Court of Justice of the Andean Community

In accordance with Chapter III of its Treaty of Creation, the Court of Justice of the Andean Community (hereinafter, TJCA), has the following competencies:



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1. Nullity action
 2. Non-compliance action
 3. Preliminary interpretation
 4. Recourse for omission or inactivity
 5. Arbitration function
 6. Labor Jurisdiction

Andean Community

The Andean Community is a subregional and supranational international organization created through the Andean Subregional Integration Agreement, known as the Cartagena Agreement, which was signed on May 26, 1969. It currently has four Member Countries: Bolivia, Colombia, Ecuador and Peru, and an institutional structure that is articulated through the organs and institutions that make up the Andean Integration System (SAI), among which is the jurisdictional body of the process: the Court of Justice of the Andean Community.

Andean Community Law

Andean Community Law is constituted by an autonomous, binding legal system, which has its own system of typical sources, described in Article 1 of the Treaty of Creation of the Andean Court of Justice, and atypical sources, recognized through jurisprudence ¹. The rules that make up the aforementioned legal system are of immediate application, have direct effect and prevail over the national rules of the Member Countries..

¹ See Preliminary interpretation number 67-IP-2014 of June 18, 2014, published in the Official Gazette of the Cartagena Agreement No. 2362 of July 10, 2014, available at: <http://www.comunidadandina.org/DocOficialesFiles/Gacetitas/GACE2362.pdf>; and the judgment issued in Nullity Action number 05-AN-2017 of March 9, 2017, published in the Official Gazette of the Cartagena Agreement No. 3012 of May 2, 2017, available at: <http://www.comunidadandina.org/DocOficialesFiles/Gacetitas/GACE3012.pdf>.



Court of Justice of the Andean Community

The Andean Court of Justice (TJCA) is the supranational, community and permanent jurisdictional body of the Andean Community, established to declare Andean law and ensure its uniform application and interpretation in the Member Countries. By virtue of this, it settles disputes that may arise between the Member Countries of the Andean Community, between them and the Community bodies and between them and natural and juridical persons. The TJCA exercises the powers provided for in Articles 17 to 40 of the Treaty of its creation, and in accordance with the provisions of Articles 101 to 139 of its Statute.

Admitted teams

Teams will be considered admitted if, after receiving their registration request, they have received from the organizers a communication that proves their correct registration in the *Moot Court*.

Qualified teams

Qualified teams are those that, after completing the written phase, have received a communication from the organizers authorizing them to present themselves at the oral phase of the *Moot Court*.

Schedule

Es el calendario de trabajo que determina las fechas límite definidas por los Organizadores para el desarrollo de cada una de las fases del presente *MOOT COURT* virtual (hereinafter referred to as **MOOT COURT**).

CHAPTER ONE

General Dispositions

Article 1. Nature of the MOOT COURT

The *MOOT COURT* is an academic activity jointly organized by the Judicial Tribunal of the Andean Community, the Interamerican Association of Intellectual Property - ASIFI and the International Trademark Association (hereinafter, **the Organizers**), which has been structured as a fictitious and simulated competition between teams of students and recent law graduates representing different universities.



The *MOOT COURT* is an educational project designed for the analysis and application of Intellectual Property regulations, in accordance with the processes that can be brought before the TJCA, as well as within the scope of the strategy of professional capacity building in intellectual property promoted by ASIFI and INTA.

Article 2.- Objective

The purpose of the *MOOT COURT* is to promote the study and specialized research of students and recent graduates of the Intellectual Property Law program, through the development of knowledge, professional capacities and practical skills essential for the solution of legal problems, based on the study, analysis and academic debate of the substantive and procedural rules of intellectual property law, as well as through the use of the procedural mechanisms of the Andean Dispute Settlement System.

Article 3.- Organizers

The Organizers of the *MOOT COURT* mentioned in Article 1 of these Regulations shall be responsible for the proper conduct of the *MOOT COURT*, as well as for ensuring compliance with these Regulations.

Article 4.- Rules and interpretation

The interpretation of the Rules or any procedure related to the *MOOT COURT* shall be made solely at the discretion of the Organizers. Likewise, the Organizers shall have the power to make modifications to these Rules (including the schedule), if necessary.

Modifications to these Rules will be published on the TJCA website.

Article 5.- Communications

All communications, as well as queries, requests for clarification, doubts, or requests for interpretation of the Regulations, among others, should be sent to the e-mail address inscripciones@tribunalandino.org.

Responses to inquiries, requests or orders will be communicated by the same means. And those of general interest will be published on the TJCA website.



It is the responsibility of all teams to review the postings made on the *MOOT COURT* website.

Article 6.- Language

The *MOOT COURT* will be conducted in Spanish in all its stages.

CHAPTER TWO

About Registration

Article 7.- Formal registration requirements

Registration for the *MOOT COURT* will be free of charge.

Teams interested in participating may register online from 00h00 (GMT-5) on xx xxxx, 2022, until 23h59 (GMT-5) on xx xxxx, 2022, at the email address that will be announced on the TJCA website from xx xxxx, 2022.

To be considered duly registered, teams must fill out an online form and upload the following information in PDF format:

- Full details of all team members (minimum 2, maximum 4 participants per team).
- Copy of the identity document of each team member (document to be uploaded in PDF).
- A simple copy of proof of each participant's status as an enrolled student, issued by the Law School of the respective university; proof of graduation and non-degree with a term of no more than one (1) year (document to be uploaded in PDF). For the purposes of this Moot Court, those participants who have completed their law studies and have not fulfilled all the requirements of the respective university to be considered as graduates will also be considered as graduates. In this case, the participants must present a certificate from the corresponding Law School certifying that the studies were completed within a period of no more than one (1) year (document to be uploaded in PDF).

The above documents must be uploaded in a single file.

Questions related to the registration process may be sent to the e-mail address indicated in the call document.



The Organizers reserve the right to verify the truthfulness and accuracy of the registration information and may request the presentation of documents proving the conditions described above.

The Organizers will determine the total number of admitted teams, taking into account the fulfillment of requirements, as well as the number of registered teams and the order of registration. In case of withdrawal of a team already admitted, the Organizers may fill the vacancy with the next registered team.

Article 8.- Registration form

Interested teams must complete all the information required in the online registration form, expressly indicating the name and e-mail address of a contact person, who will be identified as the representative of the respective team.

Submission of an incomplete form or documentation will result in the rejection of the registration.

Article 9.- Formation of the Teams

The *MOOT COURT* is aimed at undergraduate students or recent graduates of Law Degrees from the Universities of the countries of the American continent, who are interested in issues related to Community Law and Intellectual Property.

Those who are authorized to practice law in any jurisdiction may not participate as members of the teams, regardless of the academic degree they have obtained at the University or the grade, phase or cycle to which they belong, in the career in which they are regular students..

Article 10.- Orientator

The teams may be assisted by an orientator who may be, among others, a university professor, a professional lawyer, an expert in the subject matter of the *MOOT COURT*, etc., who will have the exclusive task of guiding the team during the competition. Under no circumstances will the orientator replace the work of the members of the participating teams, neither in the preparation of the written submissions nor in the oral phase. Failure to comply with this provision will result in the disqualification of the team.



Article 11.- Prohibitions

Persons who have employment or other ties with the Organizers, or who have participated in the organization of the *MOOT COURT*, may not register as participants. The Organizers or those who have participated in the development of the *MOOT COURT* may not disclose any non-public information to the participants or to the law schools to which they belong.

Article 12.- Participation of team members

Each team member must actively participate in the entire *MOOT COURT*, as well as in the preparation of the written submissions. In the oral phases, the teams will be represented by 2 members, chosen by each team.

Article 13.- Obligations inherent to registration

Registration in the *MOOT COURT* constitutes the acceptance and compliance by the participants of all the rules set forth in these Regulations, as well as the decisions adopted by the Organizers.

The applicants, by the act of registration, give prior, informed, express and unequivocal authorization to the Organizers to use their personal data, including their image and testimony, for the sole purpose of disseminating and promoting the *MOOT COURT*.

CHAPTER THREE

The case

Article 14.- MOOT COURT Thematic

The *MOOT COURT* will deal with issues related to Intellectual Property and Community Law, in which two parties are involved: the plaintiff and the defendant. The evaluation of the participating teams will be carried out by a jury composed of specialists in both fields.

Article 15.- The case



The *MOOT COURT* case is annexed to these Rules and Regulations and is a fictitious case with equally fictitious facts and parts.

If deemed appropriate, the Organizers may include modifications to the case, which will be duly published and duly notified to the representative of each admitted team. Participants are responsible for being attentive to the communications sent and published on the TJCA website.

Article 16.- Facts of the case

The facts of the dispute are exclusively described in the case. Accordingly, the events described therein shall be analyzed in accordance with the applicable law.

Likewise, only clarifications related to the facts of the case shall be considered, which shall be published and considered as an integral part of the case.

No facts other than those provided in the case by the Organizers may be added. However, true, notorious or duly accredited scientific facts may be used as arguments, for which purpose the source must be stated or the corresponding documents must be attached.

Article 17.- Applicable regulations

In the development of the *MOOT COURT*, all international rules on intellectual property law will be applicable, including those that make up the Andean Community legal system, particularly for procedural issues, as well as others that the participants deem relevant. Participants must prepare their claims and responses in accordance with such rules and the applicable legal principles of Intellectual Property Law.

Article 18.- Clarifications or consultations

Requests for clarification, doubts, concerns or questions that may arise regarding the case may be sent within the period established in the Schedule. In no case will requests sent outside the established period be answered. Likewise, they should be limited to questions that are pertinent and relevant to the *MOOT COURT* and the case.



Such requests should be sent, indicating the corresponding grounds, to the following e-mail address: inscripciones@tribunalandino.org. Otherwise they will not be considered.

Article 19.- Identification of participating teams

The Organizers will assign a number to each admitted team, which must be used for any communication related to the development of the *MOOT COURT* in all its stages, in order to preserve anonymity.

The claim and response must not include any reference to the identity of the members of the admitted team or to the university to which they belong.

CHAPTER FOUR

Written Stage

Article 20.- Participation in the preparation and drafting of written documents

All team members may participate in the preparation and writing of the papers.

The papers submitted will be used for the Jury's decision on the classification of the teams participating in the Oral Stage.

The papers must have the structure and content of a procedural piece and are not monographic works, degree works, speeches or academic speeches; however, the rules on Copyright must be respected, which includes the correct use of bibliographic, normative and jurisprudential quotations.

Article 21.- Content, requirements and formalities of the statement of claim.

Once the case has been analyzed, the participating teams must choose one of the actions foreseen in the Treaty of Creation of the TJCA, and prepare the plaintiff's briefs, complying with the general and specific requirements foreseen in the Statute of the TJCA.

Participating teams will send only the statement of claim, which must be submitted by 11:59 p.m. on the date established in the Schedule, to the following e-mail address: inscripciones@tribunalandino.org.



Admitted teams that do not submit the written request by the date specified in the Schedule will be automatically disqualified and will not be allowed to participate in the following stages of the *MOOT COURT*.

The written claims must be sent in PDF format and must not contain any indications that would allow the identification of the participating team or its members.

The written claims must indicate only the number provided by the Organizers at the time of admission, in accordance with the dispositions of Article 19 of these Rules.

Article 22.- Assignment of the statement of claim

The statement of claim will be scored and only those teams receiving the top 16 scores will continue in the competition. Teams that qualify to the next round will receive a statement of claim to be answered.

The Organizers will distribute and assign to each of the participating teams a statement of claim from another participating team, in order to prepare the corresponding statement of claim, which must contain the allegations and arguments by which the Jury should rule in favor of the defendant.

Article 23.- Content, requirements and formalities of the statement of defense

After having received the assigned statement of claim, the participating teams will send only the statement of defense, which must be submitted by 11:59 p.m. on the date established in the Schedule, to the following e-mail address: **inscripciones@tribunalandino.org**.



Qualified teams that do not submit a written response by the date specified in the Schedule will be automatically disqualified and will not be allowed to participate in the following phases of the *MOOT COURT*.

The written answers must be sent in PDF format and must not contain any clues that could identify the members of the participating team or the university to which they belong.

The written answers must indicate only the number provided by the Organizers, at the time of admission, in accordance with Article 19 of these Rules and Regulations

Article 24.- Citations and references

Bibliographic, normative and jurisprudential references must be presented in APA format and citations must be made in the text of the claim and defense briefs (hereinafter, the briefs).

In the event that the Organizers find that a brief does not comply with due respect for copyright, the team will be automatically disqualified.

Article 25.- Format of the pleadings and defense



Submissions must follow the following minimum formatting requirements:

- **Maximum number of pages:** 30 (cover page, table of contents, references and annexes are excluded from this maximum number).

- **Sheet size:** A4

- **Line spacing:** 1.5 (one and a half line spacing)

- **Font:** Times New Roman

- **Font size:** 12 (twelve) point.

- **Margins:**

o Top 3 cm

o Bottom 3 cm

o Right: 3 cm

o Left: 3 cm

- Paragraphs should be numbered, and references should be made using the paragraph number.

- Submissions should use the number assigned by the Organizers.

Article 26.- Manner of sending the documents

The corresponding documents shall be sent in PDF format in a single file, including attachments, to the following e-mail address: **inscripciones@tribunalandino.org**. on the date established in the Schedule.



The subject line of the e-mail must clearly identify whether the claim or defense is being submitted, as well as the number assigned to the team by the Organizers.

Teams submitting the brief after the deadline will not be eligible to participate in the following phases of the *MOOT COURT*.

Article 27.- Qualification of written submissions

The written statements of claim and defense will be evaluated and graded with scores between zero (0) and one hundred (100) points in order to obtain an average. The team with the best average will be considered the winner of the written phase, which will be communicated at the end of the oral phase of the competition..

The evaluation shall be carried out in accordance with the criteria described in the following Article.

Article 28.- Criteria for the evaluation of written submissions

The Jury shall take into account the following criteria when scoring the submission:

- **Knowledge.** The understanding, analysis, interpretation and due application of the institutions and categories of Intellectual Property Law in the Andean Community, as well as the relevant Jurisprudence will be analyzed (45%).
- **Legal argumentation skills.** The ability of the participating teams to present clear, concrete, original and well-founded legal arguments with respect to the legal problem raised in the case and in the respective claims and defense briefs will be analyzed (45%).
- Writing and handling of bibliographic, normative and jurisprudential sources (10%).

Arguments on true, well-known or duly accredited scientific facts must have their due reference, which must also be verifiable, in such a way that each team can access the source and review the veracity of the scientific, well-known or duly accredited fact. Sources for which access requires payment will not be considered. Any information used must be available free of charge.



Article 29.- Enforcement of copyright regulations

The fictitious case has been prepared by the Organizers, who shall be the only ones authorized to grant prior written authorization for third parties to reproduce it in whole or in part, by any means. In any case, its reproduction is forbidden.

The members of the registered teams grant the Organizers a non-exclusive license of copyright on their writings, which may be reproduced in whole or in part.

The authors of the submitted documents acknowledge and give their consent to the Organizers of the MOOT COURT for the use of the writings for divulgation, academic or other purposes related to the activities of the *MOOT COURT*.

The juries will take into account the requirements of the preceding articles when evaluating the submissions, and points will be deducted in the qualification according to the non-compliance or non-compliances that are verified.

Likewise, in the event that the texts are reproduced, the sources must be cited. If non-compliance with this rule is proven, it will be considered a serious offense, and the writing will not be considered for any award.

CHAPTER FIVE Oral Stage

Article 30.- Dispositions of the oral stage

The Jury will evaluate the written submissions and will draw up a table of elimination rounds for oral hearings to be held by telematic means, in which the representatives of the classified teams will participate.

At this stage, the Organizers will draw lots for the roles of plaintiff and defendant among the qualified teams, in each of the elimination rounds and even in the final round.

The specific instructions on the use of the videoconference platform, as well as the schedules for testing connectivity and for participating in the oral hearings, will be communicated in due time by the Organizers to the contact representatives of each qualified team.

Article 31.- Jury



The jury will be made up of lawyers, experts in Intellectual Property Law and Community Law, who will be in charge of evaluating the performance of the participating teams in each of the virtual oral hearings. In each hearing the jury will be composed of three members.

During the hearings, the jury may ask any questions it deems pertinent regarding the case or the arguments presented by the teams, which may be asked during or at the end of the hearing.

The jury will have a chairperson, who will conduct the hearing, and may call the attention of the participating teams to inappropriate conduct, either during or after the oral hearing. Such calls to attention may be taken into account for scoring purposes.

Article 32.- Participation in the hearings

During the oral hearings, each qualified team shall be represented by two members. Before the beginning of each elimination round, the qualified team shall communicate to the Organizers the names of the two persons who will participate in its representation.

The representatives must act at all times in defense of their assigned party, actively participate in the debate and remain with the camera on for the duration of the virtual session.

The representatives participating in the oral hearing must connect to the platform and to the virtual session that corresponds to them, according to the round table published by the Organizers, ten (10) minutes before the start time of the respective session.

Once the oral hearing has begun, participants are prohibited from communicating with other members of their team and/or counselors, who may be present at the oral hearing only as spectators, as well as members of other teams who so request.

During the development of the oral hearings, the teams may make use of support elements, such as PowerPoint, Canva or other similar presentations. However, it will be the responsibility of the participants to ensure the proper functioning of these tools.

Article 33.- Participation time

Each qualified team shall have twenty (20) minutes to present its arguments. The



team representing the plaintiff shall speak first, followed by the team defending the defendant.

After the initial presentations mentioned in the preceding paragraph, the team representing the plaintiff shall have ten (10) minutes to make a reply; and, likewise, the other team shall have the same period of time to make a rejoinder.

The jury may extend the time granted to each team for a maximum of five (5) minutes. The jury shall ensure that each party has the same amount of time to make their oral presentations.

In case of technical problems, not attributable to the Organizers, and provided that the problem can be solved without affecting the opposing party, the Jury may grant a reasonable amount of time to solve the problem, which shall not be computed within the presentation time established in this article.

In any case, the jury will have full powers to decide what is best for the proper development of the oral phase of the *MOOT COURT*.

Article 34.- Elimination rounds

Prior to the elimination rounds, the Organizers shall inform each team of the date and time of the hearings, the number of teams they will face, as well as the position of the party - plaintiff or defendant - which they will represent and must defend.

During the elimination rounds, each team will compete at least once against another team, which may vary depending on the number of qualified teams.

Article 35.- Qualification of the elimination rounds and evaluation criteria.

The score assigned by the jury to each team will be between zero (0) and one hundred (100) points.

The following will be considered: i) degree of knowledge of the subject matter; ii) soundness of the arguments; iii) capacity to defend the party assigned to them; iv) solvency when answering the questions posed by the jury; v) knowledge of the case; and vi) oral skills they possess, among others.



Article 36.- Final rounds

Once the scores assigned to the teams in the elimination rounds are known, the Organizers will publish the list of the teams that will qualify for the semi-final and final rounds, as well as the position (plaintiff or defendant) they will assume in each hearing.

The teams with the highest scores will qualify for the next round.

Article 37.- Qualification in the final rounds

The jury of the final rounds shall be in charge of evaluating the oral presentation of each team and shall determine the winning team in each semifinal round, as well as in the final, by means of a reserved debate of all its members. For this purpose, they shall take into account, among others, the evaluation criteria described in Article 35 of these Rules of Procedure.

CHAPTER SIX

Infractions

Article 38.- Infractions

The Organizers shall have the authority to disqualify teams that commit the following infractions:

- Engage in plagiarism in the writing of their papers.
- Maintain communication between the participants who make the oral presentation and the other members of their team and/or counselors during the oral hearing.
- Failure to provide false information at the time of registration.
- Using inappropriate language during the oral hearings, either against the opposing team or the jury.
- Impersonating the identity of members who participate as speakers in the hearings..

Notwithstanding the foregoing, the Organizers may sanction any conduct that goes against or is detrimental to the normal development of the competition, and establish the corresponding sanction.



CHAPTER SEVEN Prizes

Article 39.- Prizes

First place prizes will consist of:

- - Free registration fees for each member of the winning team for the INTA Annual Meeting in 2023, which will be available until 2025.

- Gratuities for each of the members of the winning team to attend the courses of their interest offered within the ASIPI Academy program during the year 2023. Eligible courses will be those that are informed in a timely manner by ASIPI.

- Authorization for each of the members of the winning team, for a period of one year (twelve months), to integrate one of ASIPI's working committees, which will be selected by ASIPI.

Commemorative plaque for each of the members of the winning team.

The second place prize will consist of:

- Gratuities for each of the second place team members to attend two (2) courses of their interest to be offered within the ASIPI Academy program during the year 2023. Eligible courses will be those that are informed in a timely manner by ASIPI.

- Delivery, for each of the members of the second place team, of a commemorative plaque.

- Delivery to the team of a compendium of TJCA publications.

The prize for the winner of the written phase will consist of:

- A commemorative plaque for each of the team members who participated in its elaboration.

- A certificate accrediting him/her as the winner of the written phase.

The prize for the best speaker will consist of:

- Presentation of a commemorative plaque.


