

Rules of Procedure of The ASIPI Tribunal

Approved by the ASIPI
Board of Directors
on November 25, 2018
in Rio de Janeiro, Brazil



Asociación Interamericana de la Propiedad Intelectual
Inter-American Association of Intellectual Property
Associação Interamericana da Propriedade Intelectual



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Procedure before the **ASIPI** Tribunal

Chapter I

Scope of Application. Jurisdiction

Article 1. The **ASIPI** Tribunal shall exercise the jurisdiction and shall have the powers set forth in Chapter V of the Bylaws of the Association. These Regulations shall be applicable by the Tribunal solely for the purposes of the investigation and resolution of the disciplinary causes related to the violation of the Bylaws of the Association, of the Rules of the Association, of the Code of Professional Ethics of the Association, those pertaining to threats to the good image of **ASIPI** and the breach of any mandatory provision of **ASIPI**, the handling of which is not assigned to any other **ASIPI** body under the provisions of these Regulations.

The rules of procedure established in these Regulations, subject to certain relevant exceptions, reference both the respondent and the defendant, and are therefore applicable to both.

Chapter II

General Principles

Article 2. The procedure followed before the **ASIPI** Tribunal will be conducted in accordance with the following general principles:

- i.** Objectivity
- ii.** Investigation and actions ex officio
- iii.** Material truth
- iv.** Due process and right to a defense (“audi alteram partem”)

- v. Contesting
- vi. Good faith and loyalty
- vii. Respect for honor and dignity, and presumption of innocence until proven guilty
- viii. Gradation and proportionality
- ix. Summary and abbreviated proceeding
- x. Statute of limitations
- xi. Reasoning of decisions

Chapter III Rights and Duties of the Parties

Article 3. An Associate subject to a disciplinary procedure before the **ASIPI** Tribunal shall have the following rights:

- i. The right to seek assistance – at their own expense – from a translator or interpreter, if they do not understand or do not speak any of the official languages of **ASIPI**;
- ii. To receive timely notice of the charges made.
- iii. To defend themselves in person or to be assisted – at their own expense – by an attorney of their choice, and to freely and privately communicate with their attorney;
- iv. To present, produce and seek evidence to clarify the material truth of the acts, events or omissions to which the procedure refers;
- v. To not be compelled to declare against themselves or to declare themselves guilty.

Article 4. An Associate subjected to a procedure before the **ASIPI** Tribunal is entitled to the respect of their honor and the recognition of their dignity, and shall be presumed innocent until found guilty by a final judgment issued by the **ASIPI** Tribunal.

Article 5. Notwithstanding the foregoing, an Associate subject to the disciplinary procedure before the **ASIPI** Tribunal must cooperate with the investigation, answering all questions and furnishing all relevant information.

Article 6. All procedures referenced in these Regulations shall be privileged and confidential, until the judgment by the **ASIPI** Tribunal is held final.

Once the judgment by the Tribunal is held final, it must be published or made known by the relevant means, at the discretion of the **ASIPI** Executive Committee, and notwithstanding the special rules on this matter included in these Regulations, so as to serve as an ethics and behavior guide for the members of the Association.

The failure by the parties to honor the confidentiality obligation established in this Article is a serious fault to the obligations to **ASIPI** and is therefore punishable by the Tribunal, in accordance with Article 30 of the **ASIPI** Bylaws.

Chapter IV **Make up of the Tribunal**

Article 7. The **ASIPI** Tribunal is a licensed body, permanently formed by a list of twelve (12) members of various nationalities, which shall be elected by the Board of Directors of the Association, from the names proposed for such purpose by the Executive Committee, in the manner established in Article 31 of Chapter V of the **ASIPI** Bylaws. This is notwithstanding the circumstantial appointment of the interim judges referenced by Article 31, paragraph two of the **ASIPI** Bylaws.

The effective term of appointment of the members of the Tribunal shall correspond to the effective term of the Executive Committee during which they were appointed, in accordance with Article 33 of Chapter V of the **ASIPI** Bylaws.

Article 8. The Tribunal shall have a Secretary appointed by the Board of Directors, elected from the names proposed for such purpose by the Executive Committee, in the manner indicated in the final paragraph of Article 31 of the **ASIPI** Bylaws. The office of Secretary shall remain effective for the same term as corresponding to the Tribunal for which the appointment was made and its functions shall be those assigned under these Regulations.

Article 9. In case of resignation or disqualification of any of the members of the Tribunal or its Secretary, the Board of Directors must immediately make the necessary complementary appointment or appointments, following the same

procedure established in these Regulations to do so, in order to complement or maintain the plural number of members forming part of the Tribunal.

Paragraph. In the event that any of the members of the Executive Committee or of the Board of Directors were party to an ongoing procedure, they shall be precluded from proposing candidates and/or voting upon the appointment of a new Judge or Secretary for the Tribunal, and shall be required to make such circumstance known by the remaining members of the Board of Directors or the Executive Committee, as applicable, or shall incur a punishable fault, as provided by Article 30 of the **ASIPI** Bylaws.

Chapter V Procedure

Paragraph I General

Article 10. Abbreviated Expressions.

For the purposes of these Regulations, the following definitions shall apply:

- **“Claim”**, the exercise of an action when the claimant wishes to take part in the procedure.
- **“Requirement”**, the act whereby the Executive Committee, acting on its own initiative, by request of an official body of the Association or by an Associate, informs the **ASIPI** Tribunal of a matter for it to be adjudicated.

Article 11. Notices and terms.

- a) Any notice or other communication that must be delivered under these Regulations shall be sent in writing to the address established by the parties, notwithstanding the special rules established pursuant to Article 24 of these Regulations.
- b) A decision, resolution or judgment shall be deemed notified the date on which the corresponding written communication has been delivered to the parties and in case of using electronic means (email or fax), the date on which either of them has been transmitted.
- c) To determine whether a deadline has been met, a communication shall be deemed to have been sent successfully if it has been transmitted in compliance with paragraphs a) and b) of this section.
- d) For the purposes of calculating the terms set forth in the Regulations, these shall be

taken from the day following that of the notice and the days shall be considered working days. All terms that are due on non-working days shall be extended to the following working day. For the purposes of these Regulations, only Saturdays, Sundays and official holidays in the country or city of the recipient of the notification will be considered non-working days.

Article 12. Statute of Limitations.

The action shall lapse two (2) years after the act, event or omission which is the basis of the action.

Paragraph II
Start of the procedure

Article 13. The cases under the jurisdiction of the **ASIPI** Tribunal will start by claim or requirement, as the case may be, and as defined in these Regulations.

Article 14. Any Associate or the Executive Committee (hereinafter also “the claimant”), may file a claim or requirement in relation to the behaviors established in Article 1 of these Regulations.

Article 15. The claim or requirement shall be submitted in writing and must at least always contain the following:

- i.** Identification and domicile of the claimant and its legal representatives, where applicable.
- ii.** Identification and domicile of the defendant.
- iii.** A clear, concise and precise account of the acts, events or omissions whereupon it is based; a statement of the norms and principles deemed breached and a precise indication, in the conclusion, of the specific requests submitted to the Tribunal.
- iv.** Enclose the background information or proofs serving as grounds for the claim or requirement, notwithstanding any others as may be added over the course of the procedure and without prejudice of the inquisitorial capacity of the Tribunal.
- v.** Indicate a street address, a fax number and/or an email address or other equivalent technological medium as the **ASIPI** Tribunal may determine for the

notices to the claimant, or other special address as may be stated thereby following the notification.

Notwithstanding the foregoing, all briefs must contain a header summarizing their content, the specific requests submitted for the consideration of the Tribunal, the accompanying documents, which must be submitted in due order, following the content and development of the respective brief.

Paragraph III **Development of the procedure**

Article 16. The claim or requirement shall be filed before the Secretary of **ASIPI**, who shall proceed as set forth in Article 32 of ASIPI Bylaws and in the following Article of these Regulations, for the forming of the corresponding Chamber and continuance of the procedure.

Paragraph One. In the event that the Secretary de **ASIPI** were to be ineligible for any of the reasons established in Article 18 of these Regulations, or in the event that the claim be filed against the Secretary; upon receipt of the initial brief, he/she must immediately distance himself/herself from the hearing of the matter, delivering the claim and its exhibits on the same date as received to the Chairman of the Tribunal, advising of the situation on hand. The same procedure must be applied by the Secretary of the Tribunal when it is referred the action to continue with the procedure, as provided by these Regulations.

Disregard for this obligation by the Secretary of **ASIPI** or the Secretary of the Tribunal is a punishable fault, as provided by Article 30 of the **ASIPI** Bylaws.

Paragraph Two. Should the Secretary of **ASIPI** or the Secretary of the Tribunal indicate the existence of grounds for ineligibility, regardless of what such grounds may be, once the Chairman of the Tribunal learns of the situation, the procedure established in Article 21 of these Regulations must be applied. In the event that the claim be brought against the Secretary of **ASIPI** or the Secretary of the Tribunal, the Chairman of the Tribunal must inform the Chairman of the Executive Committee of the event, who shall appoint an Interim Secretary for the cause, as indicated in Article 8 of these Regulations.

Article 17. The Tribunal shall hear and adjudicate in first instance the matters subjected for it to heard by a Chamber of three (3) of its members chosen by lot by the **ASIPI** Secretary, from among the Judges that do not have any ineligibility or patent bias to decide the matter. If necessary, interim judges may be designated pursuant to Article 31 of the **ASIPI** Bylaws. The **ASIPI** Secretary must proceed to form the Chamber that will try the case within three (3) days of receipt of the claim.

Article 18. Among others, the following are grounds for ineligibility, susceptible of causing bias among the members of the Chamber:

- i.** A Judge sharing the nationality of one of the parties.
- ii.** A Judge having a consanguinity relationship of up to the fourth degree, or affinity of up to the second degree, with one of the parties.
- iii.** The Judge having, directly or through their spouse, children, parents or siblings, an intimate friendship with any of the parties. Intimate friendship shall be understood as the relationship that by its proximity generates an emotional liaison between those involved, characteristic of that originating between family members.
- iv.** The Judge having, directly or through their spouse, children, parents or siblings, an animosity towards or outstanding grievances with any of the parties.
- v.** The Judge having been an opposing party, directly or through their spouse, children, parents or siblings, to any of the parties, within the year prior to their appointment.
- vi.** The Judge having proffered any thoughts or counsel outside of the process on the subject matter of the debate.

The ineligibilities established in this Article are limited in nature and must be assessed and resolved upon by the Court en banc, excluding from the decision any member affected by the alleged grounds.

Article 19. The Judges of the Tribunal will be notified of their appointment for the forming of the Chamber by the **ASIPI** Secretary within three (3) days of the drawing, and they must accept the position and promise to carry out their duties faithfully, or turn it down based on any of the grounds listed in the preceding Article, providing the evidence to support their doing so in the latter case, in writing by fax or email addressed to the **ASIPI** Secretary, within five (5) days of their appointment.

Article 20. When the grounds for the lack of acceptance of the appointment by the Judge were one of those established within items i), ii), vi) of Article 18 of these Regulations, the **ASIFI** Secretary, based on the evidence provided, shall within five (5) days determine whether the grounds claimed is applicable and, if so, shall advise the Judge of the decision and shall proceed with their immediate replacement. This decision cannot be appealed.

Paragraph. In the event that the Secretary, based on insufficient evidence, were to deny the grounds claimed, he/she shall notify the decision to the Judge and submit the action on the next day to the Tribunal Chamber en banc, which shall within a term of five (5) days of its receipt, review the decision to confirm or revoke it by a vote by the majority, excluding the Judge rejecting the appointment. Such decision shall not be subject to appeal.

Article 21. In the event that the grounds claimed by the Judge were any other than those indicated in the preceding Article, upon receipt by the **ASIFI** Secretary, it shall submit the action on the next day to the Tribunal Chamber en banc, which shall within a term of five (5) days of its receipt, based on the evidence provided, decide on the merits whether or not the rejection of the appointment is warranted by a vote by the majority, excluding the Judge turning down the appointment.

The decision reached shall not be subject to appeal and must be informed both to the Judge turning down the appointment and the Secretary of **ASIFI**, within the next three (3) days. Should the turning down of the appointment be accepted, the Secretary of **ASIFI** must appoint another Judge, following the same procedure established in these Regulations. Once the chamber of the Tribunal is set up, the Secretary of **ASIFI** shall remand the proceeding to the Secretary of the Tribunal, who shall thereafter continue with the procedure.

In any case, for all purposes of these Regulations, the interpretation of the grounds for ineligibility shall be restrictive, such as to not allow jeopardizing, for reasons other than a true bias, the operation of the **ASIFI** Tribunal or its Chambers.

Article 22. That a Judge not timely provide a final judgment, without just cause, regarding a case submitted to be heard by the Chamber of which he/she forms part, shall be a serious, punishable offense.

When a Judge becomes ineligible or does not timely provide his/her legal opinion, the relevant Chamber shall be set up as of such time their ineligibility or delay becomes effective, by another Judge appointed in the same way as the original judges, without the entire procedure previously performed losing its validity.

Article 23. After the Chamber has been formed, within a term of ten (10) days, it shall examine the terms of the claim or requirement, and based thereon shall decide by resolution:

- i.** The admissibility of the case;
- ii.** In the event that the inadmissibility be for failure to meet any of the formal requirements of the claim, as provided by Article 15 of these Regulations, the Chamber shall order the correcting of the defects indicated, under the admonishment that the presentation will be deemed not to have been made if the omissions or errors are not corrected within a term of five (5) days.
- iii.** The inadmissibility of the claim or requirement, indicating the grounds for the decision, when failing to meet the provisions of the preceding item or when the claim or requirement is patently inadmissible, unfounded or in cases where the **ASIPI** Tribunal clearly lacks jurisdiction.

Paragraph. Notwithstanding the provisions of Article 36 of these Regulations, in cases where any of the behaviors referenced in Article 1 of these Regulations is also a fault under the Code of Ethics or the Rules of an entity governing the practice of the profession in a respective country, or is the result of an infraction or event that is pursuable before any local authority, the process before **ASIPI** may solely be started or continued upon concluding the process before the respective authority, it being understood that the statute of limitations for bringing actions before **ASIPI** shall be suspended with the filing of the action before such authority.

The prevision set out in this Paragraph shall solely be enforceable when the parties to the proceeding sought to be conducted reside and develop their professional activity in the same country. In the event that the parties involved do not share nationality and/or reside in the same country, the procedure before **ASIPI** may be started without having to take action in the country where the subject of the procedure is a national.

Article 24. If the case is admitted, the Secretary of the Tribunal shall serve notice of the admission resolution to the claimant and shall notify both the opening resolution and the claim or requirement to the defendant, allowing them a term of twenty (20) days to personally or through counsel appear, mount a defense, offer challenging evidence, allege what may be convenient for his/her rights, present any counterclaims and establish a street address, fax number and email address or equivalent other technological medium as the **ASIPI** Tribunal may determine for any further notices that may be issued.

Paragraph One. The summons object of this Article will be notified to the Associate by electronic means to the electronic address shown on the website of the Association, with the members having the obligation to keep their data up to date, under penalty of the service being deemed properly made. The term will run as from the day following that on which the notification has been served by the Secretary of the Tribunal upon the terms indicated herein, which shall be evidenced on the record, by printing out the certificate of delivery issued by the transmittal medium.

Paragraph Two. Should the notification by electronic mediums be precluded for reasons other than the failure to update the information by the associate, the Secretary of the Tribunal must contact the defendant by any other official means, according to the data on file in the directory of the Association for the service to be effective. The Secretary of the Tribunal must provide express evidence on the record of all actions taken. In case of refusal or evasion of the service by the associate, the Secretary of the Tribunal shall issue the respective certificate, which shall be added to the record and the notification shall be deemed properly served and the defendant validly involved in the action.

Paragraph Three. In the event that a counterclaim be issued as part of the defense, before continuing with the procedure, the Chamber shall decide whether or not to admit such counterclaim, upon the terms of Article 23 above, proceeding to notify the counterclaim defendant of its admission, as provided by this Article. Once notice is served and the term of twenty (20) days has lapsed, the counterclaim defendant, pursuant to the provisions of Article 24 above, shall continue with the procedure jointly for the main claim and the counterclaim, as provided by the following Articles.

Article 25. Upon admittance of the cause and the notification having been served upon the parties as provided in the preceding Article, within the next five (5) days, any of them may by brief addressed to the Secretary of the Tribunal, recuse them or any of the members of the deciding chamber based on the grounds established in Article 18 of these Regulations, providing the evidence they wish to utilize to support their recusal.

Upon receipt of the brief by the Secretary of the Tribunal, within the next five (5) days, it shall be served upon the recused members who, within five (5) days, must issue a written reply, either accepting the recusal, in which case they shall be immediately relieved of their offices and new appointments will be made as established in Articles 16, 17 and 19 to 21 of these Regulations, or rejecting it, in which case the procedure must be submitted to the Tribunal en banc, which shall decide the matter within five (5) days by vote by the majority, excluding the recused member or members.

The Tribunal shall adopt the decision based on the arguments presented in their briefs by both the recusing party and by the recused Judge or Judges and the evidence provided by any of them.

Article 26. Upon declaring the recusal valid, the parties to the decision shall be notified within the next three (3) days, and the new member of members of the chamber or the Secretary of the Tribunal shall be appointed immediately, in accordance with the provisions of Articles 16, 17 and 19 to 21 of these Regulations, which shall thereafter assume the hearing of the case, without the procedure that has taken place so far being invalidated.

To exhaust the process of appointment of the new members of the Chamber as provided in this Article and the preceding Article, upon acceptance or decree of the recusal and notification of the decision to the parties, the Secretary of the Tribunal must, the next day, forward the file to the Secretary of **ASIPI** for it to appoint the new judges, in accordance with the procedure established in these Regulations.

Upon making the new appointments, the file shall be returned by the Secretary of **ASIPI** to the Secretary of the Tribunal, for the appointment of the judges made to be made known for the purposes of Article 25 of these Regulations.

Paragraph. In cases where a recusal takes place, the term of ten (10) days to answer the claim or requirement shall be taken from the notification of the resolution ultimately resolving thereupon.

Article 27. Upon receipt of the reply by the defendant or in case of their default, the Tribunal shall act as follows:

- i.** Should the nature of the case be settleable, in the exclusive opinion of the Tribunal and without this being susceptible of appeal, the Tribunal shall communicate with the claimant and the defendant within the next five (5) days to propose means of reconciliation and to bring them closer, establishing the relevant terms.
- ii.** Should the reconciliation efforts fail, the Tribunal, within a term of ten (10) days, shall define the purpose of the procedure based on the facts of the claim and the defense proposed, and shall decide whether evidence additional to that presented were necessary, which it shall decree and practice at that very act, further deciding on that requested by the parties and that are admissible, in accordance with the definition of the investigation. The practicing of the decreed evidence or the presentation thereof in the process must be made by the Chamber of the Tribunal or by the parties, as applicable, within a term of thirty (30) days (at most), extendible by the Tribunal ex officio or at the request of a party, and solely when there is a justified cause, which must be stated in the respective resolution.

Article 28. Notwithstanding the ex officio action by the Tribunal, the claimant is also entitled to seek action in the case. Any incident or matter accessory to the case brought before the Tribunal hearing a given issue, other than the ineligibility of the judges, shall be decided in the final judgment, unless the Tribunal, considering it essential to the proper prosecution of the case, were to resolve, at its sole discretion, to immediately decide it upon its arising.

Article 29. The claimant may desist from their claim or requirement at any stage of the procedure, notwithstanding the authority of the ASIPI Tribunal to continue with its prosecution ex officio. In such case, the claimant shall be required to provide the Tribunal with the evidentiary means mentioned in its claim and cooperate with the Tribunal in whatever is required thereby for the purposes of substantiating the procedure.

Article 30. The Tribunal must ensure that the procedure determine the material truth of the acts, events or omissions that the case revolves around, based on the evidence presented by the parties and that determined ex officio to be necessary. The Tribunal may dismiss any evidence that is patently inapplicable or irrelevant or prohibited by law. Hearings may be attended in person or virtually, in such manner, date and place (where applicable) as determined by the Tribunal.

Article 31. The procedure shall be conducted following the generally accepted rules of due process according to the nature of each case and the evidence shall be weighed by the Tribunal in good faith, with its Secretary acting as the certifying officer.

Article 32. Upon concluding the terms for investigation and the processing of evidence, the Tribunal shall give the parties to the procedure the final debriefing so that, within a term of fifteen (15) days, they may present their final pleadings.

Article 33. In any case, the final judgment must be issued and notified within a term of up to thirty (30) days of the end of the term for the presentation of final pleadings. Such term may be extended by the Tribunal, by founded Resolution, when warranted by the complexity of the matter.

Article 34. The judgment of the Tribunal shall be reasoned and must contain a finding on the purpose of the procedure and, in any case, on the following items:

- i.** Whether or not the facts, events or omissions charged to the defendant have been proven;
- ii.** Whether such facts, acts or omissions imply a breach of the Bylaws of the Association, of the Regulations of the Association, of the Code of Professional Ethics of the Association, a threat to the good image of ASIPI and/or the breach of any other mandatory rule of **ASIPI** the hearing of which is not assigned to another **ASIPI** body.
- iii.** Whether the defendant should be absolved or convicted;
- iv.** Should a conviction judgment be due, the penalty applicable and the term for its performance.

At the request of the claimant, qualified by the respective chamber or in its exclusive opinion, the individualization of third parties that have not

been party to the proceeding may be omitted and replaced by the use of generic terms.

Article 35. No procedure may exceed the term of six months as of the date of notification of the parties of the resolution by the ASIPI Tribunal that declared the claim inadmissible until the issue of the first instance judgment by the Tribunal, and the Tribunal may, by reasoned judgment, extend such term for another two (2) months. The lapsing of the terms previously established does not relieve the Tribunal of its obligation to issue a judgment, which must be done within the shortest term possible, notwithstanding the disciplinary measures applicable with respect to the Judge or Judges in breach, as provided by Article 30 of the Bylaws.

The disciplinary measures applicable with respect to the Judge or Judges in breach shall solely apply in case of negligence or bad faith on the part of the affected judges.

Paragraph. To compute the maximum term of six (6) months of duration of the procedure regulated by these Regulations, the term corresponding to the processing of the counterclaim referenced in Paragraph three of Article 24 of these regulations shall not be taken into consideration, nor shall the duration of the incident of recusal of judges established in Article 25, or the term of duration of the extensions referenced by Articles 27.2 and 35, provided the grounds of the latter are duly justified.

Paragraph IV **Suspension of the Procedure**

Article 36. At any stage of the process, when it is proven that among the parties themselves there is an action underway based on the same events or on the same or a related matter before the same authority, the Chamber hearing the matter shall order the suspension of the process until a decision is adopted on the merits in such procedure.

The decision by the external authority hearing the matter shall solely have binding effects within the action of the **ASIPI** Tribunal, in the event that it were favorable to the defendant and, therefore, when heard by this Chamber, the investigation must be closed.

The foregoing is unless, in the exclusive criterion of the **ASIPI** Tribunal, there are ethical issues subject to the claim or requirement that have not been addressed in the decision by the external instance, in which case the procedure shall continue and such matters shall be resolved upon, without the **ASIPI** Tribunal being allowed to decide on the matters that have already been resolved upon by the external authority.

Otherwise, i.e., when the decision by the external authority is unfavorable to the defendant, the Tribunal shall continue the procedure opened at the request of the claimant, adopting a decision on the merits, based on the evidence provided.

Chapter VI **Appeals and Penalties**

Article 37. A motion for Appeal may solely be brought against the resolution of the first instance Court ending the trial or precluding its continuation, and against final decisions. The Court of Appeals shall be made up of judges of the **ASIPI** Tribunal, in accordance with Article 32 of the Bylaws, to the exclusion of those called to settle the case at first instance, with such exception encompassing those found ineligible at that stage or during the process of formation of the first instance Tribunal.

Article 38. The appeal must be submitted in a brief filed before the Secretary of the Tribunal within fifteen (15) days of the notification of the relevant decision, stating the reasons for the disagreement. In the event of a recusal against any of the members of the Tribunal other than those for which it was claimed in first instance, it must be stated by the appellant within the same term for filing the appeal, establishing the grounds supporting it in accordance with Article 18 of these Regulations. To resolve the recusal, the procedure established in the paragraphs of Articles 25 and 26 of the Regulations shall be followed, as applicable, requiring its decision before beginning to process the appeal. In the event that the grounds for the recusal not be claimed within such term, the appellant cannot file for such recusal at a later time.

Article 39. Upon receipt and/or resolution of the appeal, as applicable, the Secretary of the Tribunal shall submit the brief of the appeal to the other party involved,

allowing them a term of fifteen (15) days to state their arguments in terms of what was indicated by the appellant, after which the Secretary of the Tribunal shall immediately submit the briefs filed to the Chairman of the Tribunal to start the relevant procedure. For the purposes of the following Article, the Secretary of the Tribunal, within the same term established herein, must inform the Chairman of the Tribunal of the name of the members that heard the case at first instance, and those that were declared ineligible both in the initial procedure and upon resolving the recusal filed at this second instance.

Article 40. Upon notification of the filing of the appeal referenced in the preceding Article, the Chairman of the Tribunal, within the next three (3) days, shall call the members of the Tribunal in writing, by email, to set up the appellate chamber, forwarding a copy of the appeal filed. The members of the Tribunal that heard the procedure at first instance and those found ineligible at any stage of the procedure shall be excluded from this call.

Upon receipt of the call, the members of the Tribunal shall have a term of five (5) days to claim grounds for ineligibility, which shall be subject to the grounds established in Articles 18, 19, 20 and 21 of these Regulations, and the procedure established therein shall be exhausted.

Article 41. In the event that, upon resolving the recusals and the impediments to which this part refers, the number of members of the Tribunal eligible to hear the motion for appeal does not reach the minimum of three (3) required under Article 32 of the ASIPI Bylaws, interim judges shall be appointed as provided by Article 31 of such Regulations.

The interim judges may declare themselves ineligible or be subject to recusal, for which the rules established in Articles 18, 19, 20, 25 and 26 of these Regulations shall apply as relevant. For such purposes, the Chairman, through the Secretary and within three (3) days following the appointment, shall make the name of the interim judges appointed to hear this procedure known to the appellant.

Article 42. Upon resolving the recusals and impediments and/or setting up the Appellate Chamber, the Chairman of the Tribunal shall appoint a rapporteur for the procedure, the election of which shall be made thereby by rotation and strictly in alphabetical order from the list of members forming part of the Ap-

pellate Tribunal and that are eligible to hear the appeal, including the interim judges. The Chairman of the Tribunal cannot by any means hold the office of rapporteur.

The rapporteur appointed shall decide whether to admit or turn down the appeal and submit the draft finding for the consideration of the Chamber. The rejection of the appeal may solely apply in the case that it were to refer to a decision that is not susceptible of appeal or in the event that it were not founded within the timeframe established by this Article. The rejection decision cannot be subject to appeal.

Article 43. Once the appeal is admitted, the rapporteur shall have a term of thirty (30) days to submit the draft finding, which shall be voted on by all members forming part of the appellate chamber, with the decision being adopted by a majority.

The second instance Tribunal must decide the appeal within a term of up to two (2) months from the date of admittance of the appeal and return the case to the relevant chamber for enforcement of the decision of the Appellate Tribunal.

Article 44. In case of a tie in the vote for any reason, the chair of the Appellate Chamber shall decide the vote, in accordance with Article 32 of the Bylaws.

Article 45. Once the judgment by the **ASIPI** Tribunal is final, it shall be recorded by the Secretary of the Tribunal in the registry of judgments and resolutions. Judgments imposing disciplinary penalties shall be communicated to the Executive Committee for it to adopt the measures necessary for the enforcement of the judgment. All these judgments shall be communicated to the rest of the Associates by the means determined by the Executive Committee.

Article 46. Unless there were other penalties or sanctions expressly established in the Bylaws, Code of Professional Ethics, Regulations and other special rules of ASIPI applicable to the issue being heard, the Tribunal may impose the following penalties, in accordance with the severity of the issue and the prior behavior of the party responsible:

- a) Private admonishment
- b) Public admonishment

- c) Suspension in the exercise of the rights of the guilty Associate for a term of between six (6) months and three (3) years.
- d) Expulsion of the Associate from **ASIPI**.

Paragraph. For the penalties established in items a), b) and c) of this Article, as an accessory penalty, the party penalized may also be removed from the office they hold within the Association.

Article 47. The Tribunal may in the judgment admonish the defendant or require them to make certain acts or omissions within a certain term, or sustain a penalty to be determined.

If within the relevant term, such act were not performed, or the omission does not take place, the Tribunal, in the procedure for enforcing the finding, shall communicate it to the Executive Committee for the purposes of enforcing the relevant penalty.

Article 48. Adscription to **ASIPI** is voluntary and implies the acceptance of the Bylaws of the Association, the Code of Professional Ethics, these Regulations and other **ASIPI** rules and resolutions. The Association, its bodies – pursuant to Article 8 of its Bylaws – and the members forming part thereof, shall not be responsible to any of the parties for any act or omission by the Judges in the exercise of their office and they shall solely be responsible to **ASIPI** and in accordance with the procedures and instances of the Association.

Article 49. In the event that during the development of the procedure referenced by these Regulations, any of the parties were to cease be a member of the Association, the Tribunal, at its discretion, may continue with the procedure started until its ultimate decision.

Should the final decision be against the defendant and they were to have exercised their right to withdraw from the Association during the procedure, it shall serve as a precedent to deny their re-admittance, in the event they seek to do so.

Article 50. The parties and, when accepting their appointment, the Judges, agree that the statements or comments, made or used in writing or verbally by them or their representatives during the process, shall not be cited to bring

or support any action for oral or written defamation or any other claim or complaint of any nature. This Article may be cited to object to any action of such nature.

Chapter VII **Internal Agreements**

Article 51. The **ASIPI** Tribunal, sitting en banc, and in all cases where, applying the procedure, regulatory gaps or voids are found as regards a specific situation arising, must issue internal agreements regarding the rules of procedure of the **ASIPI** Tribunal, which shall be subject to ratification by the Board of Directors to be effective.





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