

# Trade Fairs and IP Enforcement

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# IP Disputes at Trade Fairs

- ⊙ An opportunity to learn about the latest developments in business and technology and learn about the newest IP in an industry
  - In 2012 (globally) a total of 260 million visitors and about 124 million square meters of total net exhibition space (UFI, the Global Association of the Exhibition Industry)
- ⊙ An opportunity to discover new potential infringements
- ⊙ An opportunity to confront pre-existing and longtime infringers
- ⊙ A demand for expeditious proceedings, swift enforcement
- ⊙ Possible far-reaching consequences of enforcement actions
- ⊙ Importance of information and legal assistance projects

# Enforcement of IP at Trade Fairs

- ◉ **Customs actions**
- ◉ **Criminal law enforcement**
- ◉ **Civil court action**
  - The “standby service” of the District Court in Braunschweig, Germany (Landgericht Braunschweig) (since 1967)
  - The Fast-Track Protocol of the Commercial Courts of Barcelona (since 2015)
- ◉ **Alternative dispute resolution mechanisms**
  - IP dispute resolution panel at Baselworld (since 1985)
  - WIPO Fast-Track Procedure at Palexpo Trade Fairs (since 2015)

# Trade Fairs in Nevada

- ◉ In 2011, the Las Vegas Convention Center was the third largest trade show venue in North America, based on indoor exhibition space
- ◉ At the end of 2016, the total space available for trade shows and conferences in Las Vegas was more than eleven million square feet
- ◉ A number of large international trade shows take place in Las Vegas
  - For example: *CES*, the *Global Gaming Expo (G2E)*, the vehicle aftermarket shows *SEMA* and *AAPEX*, the concrete and masonry show *World of Concrete*, and the beauty and cosmetics show *CosmoProf North America*

# Jurisdiction in Trade Fair-Related IP Cases

## ⊙ Specific Jurisdiction

- Nevada's long-arm statute: personal jurisdiction to the full extent of federal due process
- Purposeful direction or purposeful availment
- Claims arising out of or relating to the activities
- The exercise of jurisdiction must comport with fair play and substantial justice, i.e. it must be reasonable
- Example: An offer made by an exhibitor at a trade fair to sell a patent-infringing product in the United States

## ⊙ General Jurisdiction

- "Substantial" or "continuous and systematic" contacts with the forum State, such that the assertion of personal jurisdiction over the person is constitutionally fair even when the claims are unrelated to those contacts
- Repeated participation at trade fairs?

# Jurisdiction in Trade Fair-Related IP Cases

- ⦿ **C5 Medical Werks, LLC v. CeramTec GmbH, 937 F.3d 1319 (10th Cir. 2019)**
  - CeramTec’s “promot[ing] its brand and its unique pink color” at tradeshow in Colorado was insufficient to establish minimum contacts necessary for CeramTec to be subject to specific jurisdiction in Colorado
  - “CeramTec’s attendance at various tradeshow in Colorado, as opposed to some other state, was by chance. ... These ‘fortuitous’ contacts are not the ‘purposeful availment’ required for a finding of specific jurisdiction.”

Marketa Trimble, *Enforcement of Intellectual Property Rights at Trade Shows: A Review and Recommendations*, 34(2) Ohio St. J. on Disp. Resol. 277 (2019)

Marketa Trimble, *Temporary Restraining Orders to Enforce Intellectual Property Rights at Trade Shows: An Empirical Study*, 83(4) Brooklyn L. Rev. 1345 (2018)

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