

## Enhanced Mediation Promotion Scheme (EMPS)

### Frequently Asked Questions (FAQ)

#### **1. What is the EMPS?**

The **EMPS** is a funding scheme by the Intellectual Property Office of Singapore (IPOS) to cover part of parties' mediation costs. The funding covers (i) fees charged by the mediation service provider; (ii) mediator's fees; and (iii) up to 50% of mediation-related lawyer / agent fees (and mediation-related disbursements charged by the party's lawyer / agent).

The **EMPS** encourages parties in IPOS proceedings to choose mediation by funding the process, so that more can experience mediation as an attractive alternative to a hearing at IPOS, to resolve their disputes amicably. With an increase in uptake of mediation, and some publicity with the parties' consent, we hope to see a mindset change in businesses and individuals, in the way disputes are resolved in future.

#### **2. How much funding is available under the EMPS?**

The EMPS funds parties' mediation costs up to S\$10,000 per mediation case where the subject matter is limited to IP rights in Singapore. (This would be the primary starting point as the parties need to have a dispute before IPOS in the first place.)

The funding increases to S\$12,000 per mediation case if foreign IP rights are added to the subject-matter of mediation. (This happens when the parties have disputes in other countries and wish to resolve their disputes holistically in one mediation.)

Under the EMPS, S\$180,000 has been set aside to support parties who have their disputes mediated. This sum is available from 1 April 2019 for up to 3 years to be disbursed among an estimated 15 cases, until it is drawn down. Parties are therefore encouraged to submit to mediation as soon as possible, before the overall fund is drawn down.

#### **3. What are the conditions to funding under the EMPS?**

The following conditions must be satisfied in order to qualify for funding under the EMPS:

- (i) Parties have an existing dispute before IPOS which is the subject-matter of a mediation on or after 1 April 2019, in any event, no later than 31 March 2022 or until the available funding is drawn down, whichever is earlier.
- (ii) The mediation takes place in Singapore. This may include the use of video-conferencing to involve party representatives who are not able to be present in Singapore during the mediation, as long as the mediator is physically in Singapore during the mediation, and is a Singaporean or is based in Singapore.
- (iii) Parties allow a “shadow” mediator to sit in and observe the mediation; or have a co-mediator to assist in the mediation.
- (iv) Parties disclose their lawyer / agent fees incurred from the start to the end of the IPOS proceedings.
- (v) Parties give feedback on their mediation experience.
- (vi) Parties agree to named publicity, excluding details of the settlement terms (such as the quantum of the settlement). The purpose of the named publicity is to give concrete, relatable examples to other businesses and individuals and thus encourage them to consider mediation. The amount of detail in the publicity is not expected to disclose much more than the identity of the parties, the nature of their disputes, the countries spanned by their disputes, the duration of their disputes, the parties’ comments on the mediation process, any advice they have for others facing disputes etc.
- (vii) Parties co-pay at least 50% of their lawyer / agent fees relating to mediation (and mediation-related disbursements charged by the party’s lawyer / agent).

#### **4. Which mediation service provider can I use under the EMPS?**

You can use any mediation service provider that is an organization. These include the World Intellectual Property Organization Arbitration and Mediation Center, the Singapore International Mediation Centre and the Singapore Mediation Centre.

#### **5. Must the mediation be successful for funding to be disbursed?**

You can apply for funding under the EMPS as long as you have participated in the mediation, regardless of the outcome of mediation.

## 6. How do I obtain funding under the EMPS?

***Important:*** You and the other party must agree to waive confidentiality (to a limited extent) in order to meet condition (v) under 3. above.

### **Step 1**

- (i) If submitting to mediation right after the close of pleadings, each party indicates in the Notification to Registrar that it wishes to submit the dispute in the IPOS proceedings to mediation and intends to apply for funding.
- (ii) If submitting to mediation before the close of pleadings or after the Notification to Registrar has been filed earlier, each party informs the Registrar in writing that it wishes to submit the dispute in the IPOS proceedings to mediation and intends to apply for funding.
- (iii) If parties wish to submit to mediation but are undecided at that point in time whether or not to apply for funding under the EMPS, they are encouraged to first inform the Registrar in writing that they may apply for funding; and update the Registrar later when they have come to a decision.

### **Step 2**

Parties submit a request for mediation to the chosen mediation service provider, copying IPOS.

### **Step 3**

Before the mediation, the parties consent to and the mediation service provider arranges for minimally a “shadow” mediator to observe the mediation.

### **Step 4**

Parties participate in the mediation, with the mediator and minimally a “shadow” mediator.

### **Step 5**

Within 1 month from the date of the payment receipt from the mediation service provider or the party’s lawyer / agent, whichever is later, each party separately submits a completed [EMPS application form](#) to IPOS, with the supporting documents. Please

note that EMPS funding is limited by budget and applications will be considered chronologically according to the date of submission of the application form and not the date of the mediation.

### **Step 6**

Upon successful application, each party receives reimbursement of the mediation costs from IPOS, up to a combined total of S\$10,000 / S\$12,000 per mediation case. Each party will receive an equal share of up to S\$5,000 / S\$6,000 unless otherwise agreed by the parties involved.