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**Gesendet:** Donnerstag, 27. Juni 2019 09:39  
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-----Ursprüngliche Nachricht-----

Von: Karcher, Johannes  
 Gesendet: Donnerstag, 27. Juni 2019 09:22  
 An: GG ALIII; GG UALIIB; Poststelle BMJV  
 Cc: Pakuscher, Irene; Heimen, Michael; Koch, Julia  
 Betreff: WG: UPC committee nominations and Case Counting Methodology

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-----Ursprüngliche Nachricht-----

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Betreff: UPC committee nominations and Case Counting Methodology

A message from the UPC Preparatory Committee Chairman, Alexander Ramsay

Dear Committee members

I hope that you all are looking forward to a nice and well-deserved summer break. We are still waiting for the decision of the German federal constitutional court and are therefore unfortunately not yet in a position to say when we will be able to move into the next phase of the project – the phase of provisional application of parts of the UPC Agreement, the PAP.

I am, together with the Executive Group, and members of my interim team monitoring the situation and we are doing our best to keep the project in a state of readiness that will allow us to move swiftly once we have the possibility to do so. On this note I write to you on two aspects.

#### Nominations of delegates to the UPC Committees

I wrote to you back in early 2017 asking for your assistance to provide me with the names of the delegates that are going to represent your respective Contracting Member State in the Administrative Committee and the Budget Committee as well as the person you would like to nominate to be appointed to the Advisory Committee. The replies provided by delegations are reflected in the attached table.

The purpose of this exercise is to allow us to be prepared to move into provisional application as swiftly as possible.

Given the time that has elapsed I would kindly seek your assistance once again to make sure that your respective nominations, or proposals for appointment, of the members of the three Committees of the UPC are up to date. It is especially important for those Member States who will participate in the provisional application of the UPC Agreement to make sure that the list correctly reflects your Member States position.

For the Advisory Committee its members will be appointed by the Administrative Committee pursuant to Article 5(2) of the Statute of the UPC. However, pursuant to Article 5(1) of the Statute, each Contracting Member State shall propose one member. I would like to remind you that according to Article 14(2) of the UPC Agreement members of the Advisory Committee must be -serving, or former- patent judges or practitioners in patent litigation or patent law with the highest recognized competence. Furthermore, pursuant to Article 14(3) of the Agreement they need to be completely independent in the performance of their duties and not be bound by any instructions.

As soon as the provisional application begins the Advisory Committee will have to proceed with the preparation for the appointment of the judges of the UPC. As a first step the Advisory Committee will have to proceed with the

interviews for Legally and Technically Qualified Judges who have been pre-selected by the current Advisory Panel. On the basis of the interviews the Advisory Committee will then have to give opinions on the suitability of the candidates and put together a list and submit this list to the Administrative Committee for decision. The UPC Secretariat must be in a position to contact the proposed future members of the Advisory Committee informally - well ahead of the start of the provisional application - to check their availability for the inaugural meeting, the dates for the interviews, and further meetings at which the list of suitable candidates to be submitted to the Administrative Committee will be discussed and decided on. Furthermore, in order to compose the panels for the interviews in the most appropriate way, the UPC Secretariat will need to have, well in advance, information about the experience and language skills of the future members.

If you have not done so before, I kindly ask you to submit together with your proposals for members of the Advisory Committee a detailed CV of each proposed member specifying the experience with patent litigation or patent law, his or her current position and language skills, together with the contact details. This information will be made available to the members of the Administrative Committee, who will decide on their appointment, to all the members of the Advisory Committee after they have been appointed, and to the members of the Advisory Panel for the purposes of organizing and planning the future work of the Advisory Committee, in particular the organization of the interviews.

Please forward this information direct to the Secretariat (by return of this e-mail) by 19 July 2019.

#### Case Counting methodology

I would like to also remind you of the need to count the cases in each Contracting Member State for the three years preceding the Court opening. As you are aware, this is needed to fix each Contracting Member States final share of the budget of the Court. I am aware that we are still aiming at a moving target since we still do not know when the UPC Agreement will enter into force.

A number of colleagues have asked for the methodology which underpins this exercise - I therefore attach the document which was agreed at a Preparatory Committee in 2014 (PC/02/080714).







Kind regards

Alexander













**UNIFIED PATENT COURT – COMMITTEE NOMINATIONS - 2017**












	<u>Administrative Committee</u>	<u>Advisory Committee</u>	<u>Budget Committee</u>
 Austria	<p>Ms Mariana Karepova; President of the Austrian Patent Office Tel. +43 1 534 [REDACTED], <a href="mailto:Mariana.Karepova@[REDACTED]">Mariana.Karepova@[REDACTED]</a></p> <p>Deputy: legal Vice-president Ms Andrea Scheichl (Tel. +43 1 534 [REDACTED], <a href="mailto:andrea.scheichl@[REDACTED]">andrea.scheichl@[REDACTED]</a>)</p> <p>and technical Vice-President Mr Dietmar Trattner (Tel. +43 1 534 [REDACTED], <a href="mailto:dietmar.trattner@[REDACTED]">dietmar.trattner@[REDACTED]</a>)</p>	<p>Mr Reinhard Hinger, Presiding Judge of the Chamber ruling Patent and Trademarks at the High Court of Appeal, Vienna (Tel. +43 1 52152 [REDACTED], <a href="mailto:reinhard.hinger@[REDACTED]">reinhard.hinger@[REDACTED]</a>) address: Schmerlingplatz 11 A-1011 Vienna, Austria. CV available.</p>	<p>Mr Stefan Wilfing, Head of Finance Department Austrian Patent Office (Tel. +43 1 534 [REDACTED], <a href="mailto:stefan.wilfing@[REDACTED]">stefan.wilfing@[REDACTED]</a>)</p> <p>Austrian Patent Office, A-1200 Dresdnerstrasse 87 Vienna, Austria</p>
 Belgium		<p>Mr Pieter Callens</p> <p>CV available on request</p>	
 Bulgaria			
 Cyprus			
 Czech Republic			
 Denmark			

## UNIFIED PATENT COURT – COMMITTEE NOMINATIONS - 2017

 Estonia	Mr. Norman Aas, Secretary General of the Ministry of Justice ( <a href="mailto:norman.aas@">norman.aas@</a> )	Mrs. Ele Liiv Judge of Tallinn Circuit Court  Mr. Märt Enn Koppel patent attorney  CV available for both on request	Mr. Silver Salla, Head of Finance and Property Management Division of the Ministry of Justice ( <a href="mailto:silver.salla@">silver.salla@</a> )
 Finland	Mr. Kari Kiesiläinen, Head of the Department, Ministry of Justice  Deputy: Ms. Tuula Kivari, Head of Development, Ministry of Justice	Mr Kimmo Mikkola, President of the Market Court	Mr. Raimo Ahola, Head of Planning, Ministry of Justice  Deputy: Ms. Ari Pajuniemi, Senior Planning Officer, Ministry of Justice
 France	Mr Max Brunner  Substitute : Mr Bastien Beley	Mrs Sylvie Mandel	Mr. Bastien Beley  Substitute : Mr Max Brunner
 Germany		Prof. Dr. Joachim Bornkamm	
 Greece	Iannis Symplis	Charalambos Macheras	
 Hungary			
 Ireland	Deirdre Morgan	The Hon Fidelma Macken SC  CV available on request	Deirdre Morgan
 Italy			



UNIFIED PATENT COURT – COMMITTEE NOMINATIONS - 2017

 Latvia			
 Lithuania			
 Luxembourg	Luc Scholtes	Maitre Nicolas Decker <a href="mailto:nicolas.decker@">nicolas.decker@</a>	Loris Nicoletti, Attaché de Légation, Dir. de Finances, Ministère des Affaires <a href="mailto:loris.nicoletti@">loris.nicoletti@</a>
 Malta			
 Netherlands			
 Portugal			
 Romania			
 Slovakia			
 Slovenia	Katja Rejec Longar, Head of International cooperation and EU law department, Ministry of Justice	Vesna Pavlič Pivk, District court judge assigned to International cooperation and EU law department, Ministry of Justice	
 Sweden	Alexander Ramsay	Peter Strömberg	Thomas Dawidowski
 United Kingdom	Liz Coleman, Divisional Director, UK-IPO <a href="mailto:Liz.coleman@">Liz.coleman@</a>	Sir Robin Jacob	Ian Webber, Finance Operations, UK-IPO <a href="mailto:ian.webber@">ian.webber@</a>





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## Volume of patent litigation in the national courts

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This note describes the purposes for which the volume of patent litigation needs to be assessed and analyses the difficulties that arise. An approach is suggested aiming primarily at fulfilling the needs of the Preparatory Committee and the Contracting Member States in the preparatory phase; to have at its disposal 1) essential information about the volume of patent litigation and 2) as quickly as possible, the best possible estimates on the initial contributions from the Contracting Member States to the budget of the UPC.

In a second phase the exact calculations of the contracting states' contributions to the UPC budget needs to be carried out based on the factual volume of litigation during the three years preceding the entry into operation of the UPC. Since this to date would include the years 2013, 2014 and 2015 it is clear that this can only be done at a later stage. Since it is probable that the complete inquiry for all 3 years cannot be done prior to the entry into force of the Agreement, Member States contributions will need to be based on the available data for 2013 and 2014 with the possibility of some retroactive adjustments in the second budget year of the UPC due to the figures for 2015

This note contains proposals for the first phase only.

### I Background

#### The purpose of assessing the volume of patent litigation

In the preparatory work, figures on the volume of patent litigation in the national courts are needed for **two purposes**:

- *First purpose*

The Financial working group needs to estimate Contracting Member States' initial contributions under Article 37(3) UPCA; this Article refers to the Number of European patents having effect in the contracting state concerned on the date of entry into force of the UPCA and the number of European patents with respect to which actions for infringement or for revocation have been brought before national courts in the three years preceding the entry into force of the Agreement. The first parameter is simple to ascertain. The Preparatory Committee needs to develop a method of assessment of the second parameter. The Financial Working group needs to make the necessary budgetary preparations now. It should further be underlined that several Contracting Member States are depending on receiving the estimations of their initial contributions in order to complete their ratification processes. Therefore the method needs to secure that this can be done in a timely manner that minimizes delay.

### *Second purpose*

The HR & Training working group needs to decide how many judges must be (first) trained and (later) proposed for appointment in order to deal with the UPC's future caseload; the estimations of the UPC's future caseload can only be based on the current volume of patent litigation in national courts. This purpose does not derive from a provision in the Agreement, but is solely needed for providing the working group with the information needed to carry out its tasks.

For the first purpose, focus would be on assessing the number of **infringement and revocation actions** and the **number of European patents involved**. Infringement actions would include decisions on preliminary injunctions in summary infringement procedures<sup>1</sup>. For the revocation actions both isolated actions as well as actions intended to revoke the patent which are brought as counterclaims will be counted.

For the second purpose, data on **other litigation** which will fall within the competence of the UPC should ideally be collected in addition, such as actions for declarations of non-infringement, actions for damages, SPCs (but not actions relating to ownership or licencing which will remain with national courts). Therefore, these data should be broader than the first category but, as the assessment of these data has no direct legal or financial consequences for the Contracting States, there is more flexibility. What matters is that the Committee gets a good overall picture that enables the HR & Training working group to assess the number of judges needed in the various divisions of the Court.

### **Difficulties in collecting data**

This is not the first attempt to ascertain the volume of patent litigation in Europe. Previous surveys were done in 2007 (German Presidency inquiry) and in 2010 (European Commission inquiry). These past inquiries have shown that it is extremely difficult to obtain homogenous data from all Member States:

1. Expert knowledge is required to provide the precise information required. If not, there is a risk that wrong information will be provided.
2. Some countries have decentralised court systems in patent matters. Collecting consistent data from different sources is complicated.
3. Differences in the national court systems will make the results difficult to compare, in particular
  - o combined system v. bifurcation (how to differentiate counterclaims for revocation from direct revocation actions not linked to pending infringement actions?);
  - o relationship between action for preliminary injunction and main proceedings;

<sup>1</sup> In case the summary infringement procedure is continued in main proceedings, it shall be counted as one, to avoid double counting.



- In some countries one case can involve several patents. In other countries however the practice seems to be that, unless the patents are closely related, one case usually involves one patent.
  - As was indicated by some delegations in previous discussions in the Preparatory Committee it is difficult to provide reliable data at short notice.
4. (The span in the courts' caseload is extreme:
- around 700 infringement actions involving European patents are heard annually in Germany (first instance and appeal);
  - in 14 Member States, by contrast, national courts currently hear very few cases involving European patents, if any at all.

These difficulties are not easy to solve at short notice. As a consequence we should consider whether we can reasonably assume that a counting exercise can be successfully completed within a reasonable time frame. It is felt that there is a serious risk that despite huge efforts from many persons in the Contracting Member States no reliable and usable results can be obtained within the time frame needed for the demands in the preparatory work.

## **II Suggested approach**

The considerations laid out above lead to the following proposal for an approach for the first phase, aimed at getting indicative figures at short term. It would consist of two parts, based on the distinction between the two different purposes described above. The first part is meant to enable the Financial working group to produce an estimate on the financial contributions from Contracting Member States without delay. The second part will take some more time but will on the other hand provide detailed information on patent litigation behaviour.

### **First part (first purpose)**

Two surveys have been carried out among delegations, in 2007 and 2010 (German Presidency and DG Internal Market surveys). The results of both surveys are summarized in Annex 1. Even if none of these studies have been focused directly on the relevant criteria in the UPCA (the number of European patents with respect to which actions for infringement or for revocation have been brought before national courts) they give a reasonable comprehension of the volume of patent litigation and how the volumes of each individual Contracting Member States relate to the other Contracting Member States. It is therefore suggested that these studies can be considered in the preparatory phase for the purpose of estimating the contributions of the Contracting Member States.

### **Second part (second purpose)**

A detailed questionnaire (Annex 2) would ensure, as far as practicable, that delegations provide consistent data and estimations, and also that data relevant for the HR & Training working group are included.



Overall, the approach would be that delegations should be invited to provide as much relevant information as possible – but it is also acknowledged that huge differences exist between national courts both as regards judicial statistics (in general) and patent litigation procedures and activity (in particular), and that – each “patent case” being different – counting cases cannot be pure mathematics.

There is a serious possibility that the data that will be collected for the second purpose may be heterogeneous and difficult to analyse. It is therefore suggested to make use of expertise that is available with judges, lawyers (EPLAW) and academia who have in the past done research in this field (eg, Professors Harhoff, Helmers, van Zeebroek). These sources could be asked to help in particular the Human Resources & Training working group in analysing the data that will be gathered.

The suggested method has the benefit of gathering extensive information on patent litigation behaviour in the Contracting Member States that can be of long-term use to the Committee, the UPC and perhaps even the Contracting Member States.

### III Next steps

*Delegations are asked:*

- ⇒ whether they can support the approach described in this note;
- ⇒ whether they have any suggestions with regard to the questionnaire contained in Annex 2.

*Subsequently:*

- ⇒ A formula for estimating the provisional share of Contracting States' financial contributions shall be determined on the basis of the available data;
- ⇒ The survey contained in Annex 2 shall be conducted and analysed as described above.

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## Annex 1

**Volume of patent litigation  
before national courts of first instance**

**Results of inquiries 2007 and 2010**

Member State	Survey by German EU Presidency (2007) Years 2005, 2006	Survey by DG Markt (2010) Years 2007, 2008, 2009
<b>Austria</b>	(R) 21, (I) 17, (PrInj) 9 (2005) (R) 12, (I) 19, (PrInj) 9 (2006)	(R) 16 (2007), 18 (2008), 18 (2009) (I) 30 (2008), 37 (2009), 18 (2010)
<b>Belgium</b>	~ 30 per year	17 (2007), 23 (2008), 15 (2009)*
<b>Bulgaria</b>	< 5 per year	(I) 3 (2007), 4 (2008), 10 (2009)
<b>Cyprus</b>	n.a. (very few)	< 5 per year
<b>Czech Republic</b>	(R) 4, (I) 5 (2005)	(R) 5 (2008), 2 (2009) (I) ~ 8-10 per year
<b>Denmark</b>	10-15 per year	69 (2007), 33 (2008), 16 (2009)*
<b>Estonia</b>	1 per year	2-3 (2010)
<b>Finland</b>	~ 15-20 per year	9 (2007), 37 (2008), 30 (2009)
<b>France</b>	459 (2005), 487 (2006)	228 (2007), 219 (2008)*
<b>Germany</b>	(R) 220 per year (I) 600-700 per year	(R) 275 (2008), 227 (2009) (I) 1079 (2008), 1137 (2009)
<b>Greece</b>	n.a.	n.a.
<b>Hungary</b>	(R) < 10, (I) 15-20	(I) 23 (2007), 23 (2008), 24 (2009)
<b>Ireland</b>	~ 1-3 per year	5 (2008), 2 (2009)
<b>Italy</b>	n.a.	42 (2007), 38 (2008), 64 (2009)
<b>Latvia</b>	~ 1-2 per year	5 (2008-2009)
<b>Lithuania</b>	n.a. (very few)	4 (2007), 2 (2008), 4 (2009)
<b>Luxembourg</b>	n.a. (very few)	1 (2009)
<b>Malta</b>	n.a. (very few)	1 (2009)
<b>Netherlands</b>	30-35 per year* (PrInj) ~ 20 per year*	104 (2009)
<b>Poland</b>	(I) ~ 20 per year	(R) 37 (2007), 66 (2008), 38 (2009) (I) ~ 20-30 per year
<b>Portugal</b>	~ 20 per year	(I) 15 (2007), 16 (2008), 17 (2009) (PrInj) 16 (2007), 7 (2008), 6 (2009)
<b>Romania</b>	20 (2005), 13(2006)	(R) ~ 30 per year (I) 32 (2007), 16 (2008), 23 (2009)
<b>Slovak Republic</b>	(R) 5, (I) 5 per year	(R) 3 (2007), 9 (2008), 3 (2009) (I) 9 (2007-2008)
<b>Slovenia</b>	~ 3-6 per year	7 (2008), 4 (2009)
<b>Sweden</b>	~ 30-50 per year	38 (2007), 25 (2008), 17 (2009)
<b>United Kingdom</b>	138 (2004), 176 (2005, 85 (2006)*	63 (2007), 94 (2008), 165 (2009)*

Abbreviations: R = Revocation, I = Infringement, PrInj = Preliminary injunction

**Comments (\*)**

For **BE**, the data from 2007 to 2009 relate to the number of *decisions*, not to the number of cases *initiated*.

For **DK**, the data from 2007 to 2009 include 5 utility model cases.

For **FR**, the data for 2007 and 2008 include a very small number of cases relating to certificats d'obtentions végétales et topographies de produits semi-conducteurs.



In NL, the data from 2005 and 2006 relate to the number of *decisions*, not to the number of cases initiated.

For the UK, the data from 2004 to 2009 are the revised data provided in 2010 by the UK IPO; they include cases from the High Court, the Patents County Court, the Scottish and Northern Ireland Courts and the IPO Tribunal; only patent cases are included.

On the basis of the most recent data, it appears that the number of patent cases initiated before courts in first instance in the Member States is currently reaching the **2000 mark**. This figure includes

- litigation relating to European patents and to national patents and
- revocation actions in Member States – such as AT, CZ, DE, HU, SK – where such actions are heard by courts or authorities other than the courts hearing infringement actions.

### Number of cases relating to European patents

In the questionnaire to delegations in the Council's Working Party on Patents, DG Internal Market also inquired about the percentage of cases involving European patents and national patents. Not all courts make this distinction, and data are only available for the following Member States:

Table I.16: Estimation of the % of cases relating to European patents

AT	BE	DK	FI	FR	DE	HU	IE	LT	NL	PT
60%	70%	38%	20%	50%*	66%	30%	55%	40%	95%	25%
RO	SK	SI	SE							
10%	10%	20%	60%							

#### Comments (\*)

For FR: P. Véron: 40% (survey 2000-2008), French delegation: 50-60% (DG Markt inquiry 2010)

For BG: so far, no case relating to a European patent

For LV: 4 cases (period 2008-2010)

For RO: less than 5 cases per year

On the basis of the above data, it appears safe to assume that 65% of patent cases involve European patents. The remaining 35% involve national patents.

It follows that, of the 2000 patent cases initiated before first instance courts, 1300 cases involve European patents.



## Annex 2

### Inquiry on the volume of patent litigation in national courts of first instance

Delegations are invited to provide information on the volume of patent litigation in their national courts of first instance. The following explanations are intended to ensure that delegations provide comparable data, as far as possible. A draft template which may be used for the replies is attached.

#### 1. Information is requested on the number of patent infringement actions and patent revocation actions started each year in national courts of first instance in recent years (for example 2010 to 2013).

Please note that

- only cases involving European patents should be counted (not cases involving national patents);
- infringement actions include the decision made in summary procedures on preliminary injunctions;
- revocation actions include isolated revocation actions as well as actions intended to revoke the patent which are brought as counterclaims;
- neither cases involving other intellectual property rights (such as utility models, plant varieties, semi-conductors, trademarks, copyright) nor cases where focus is on unfair competition or licensing should be counted;
- it is the number of actions started which should be counted (not the number of final decisions).

#### 2. If possible, information on the number of other patent cases should be provided, for example

2.1 Actions for declarations of non-infringement of European patents

2.2 Actions for damages or compensation derived from the provisional protection conferred by a published European patent application

2.3 Actions relating to the use of the invention prior to the granting of the European patent or the right based on prior use of the invention (if any).

Please note that actions relating to ownership of a patent or licencing should not be counted. These actions will not fall within the competence of the Unified Patent Court but will remain with national courts.<sup>2</sup>

#### 4. If possible, information on the number of infringement and revocation actions concerning supplementary protection certificates<sup>3</sup> (SPC) should also be provided

Please note that only actions for infringement and revocation of SPC should be counted, not action relating to the grant or refusal of an application for SPC.

Please note that only actions relating to SPC based on European patents should be counted.

<sup>2</sup> See Article 33(2) UPC Agreement.

<sup>3</sup> See Regulations (EC) 469/2009 and 1610/296 concerning supplementary protection certificates for medicinal products and for plant protection products.

### 5. Information on how validity issues are dealt with in pending infringement proceedings

To take account of the different ways of contesting the validity of a patent during an infringement action, please note the following:

- In BE, DK, CY, EE, FI, FR, GR, IE, IT, LT, LV, LU, MT, NL, SE, SI and UK, a counterclaim for revocation is decided by the court hearing the infringement action.
- In AT, BU, CZ, DE, HU, PO, PL, RO and SK, the validity of a patent can only be challenged (during pending infringement proceedings) by bringing a separate (nullity) action before a distinct court or the national patent office).

If possible, the following information should be provided:

- for the first group of 17 countries: an estimation of the % of infringement cases where counterclaims for revocation are raised;
- for the second group of 9 countries: an estimation of the number of revocation actions linked to pending infringement proceedings, whether started at a separate court (eg the German Bundespatentgericht) or at another national authority (Administrative Court or Patent Office).

### 6. Additional information

In addition, the following information could be provided, if available:

- an estimation of how often measures to preserve evidence<sup>4</sup>, to inspect premises<sup>5</sup>, to seize or deliver up goods<sup>6</sup> are ordered in patent cases
- an estimation of the number of European patents involved in infringement and revocation cases (in countries where more than one European patent may be involved in one case);
- an estimation of the number of first instance decisions appealed to courts of second instance.

7. Generally, please note that, where precise figures are not available or cannot be retrieved, **estimations** should as far as possible be provided. The results of the 2 official inquiries carried out among delegations in 2007 and 2010 (German Presidency and DG Internal Market) are attached for information.

<sup>4</sup> French "saisie-contrefaçon", see Article 7 Directive 2004/48/EC and Article 60(1) UPC Agreement.

<sup>5</sup> See Article 60(3) UPC Agreement.

<sup>6</sup> See Article 62(3) UPC Agreement.

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Optional template for replies

Date \_\_\_\_\_

**Inquiry on the volume of patent litigation**  
**Courts of first instance**  
**Cases involving European patents and SPC**

Country \_\_\_\_\_

Years [2010] [2011] [2012] [2013]

<b>1.1 Number of <u>patent infringement actions</u> including the number of decisions on preliminary injunctions</b>	
<b>1.2 Number of <u>patent revocation actions</u> including the number of counter claims for revocation</b>	

<b>2. Number of <u>other patent cases</u> (if any)</b>	
2.1 Actions for declarations of non-infringement	
2.2 Actions for damages or compensation derived from the provisional protection conferred by a published European patent application	
2.3 Actions relating to the use of the invention prior to the granting of the patent or the right based on prior use of the invention.	

<b>3. Number of <u>actions for preliminary injunctions</u> - followed or not by main proceedings on the merits?</b>	

<b>4. Number of <u>infringement or revocation actions</u> concerning <u>SPC</u></b>	

<b>5. How are <u>validity issues</u> dealt with in pending infringement proceedings?</b>	
5.1 Estimation of the % of infringement cases where counterclaims for revocation are raised	



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<i>(countries where the same court hears both infringement and validity issues: BE, DK, CY, EE, FI, FR, GR, IE, IT, LT, LV, LU, MT, NL, SE, SI and UK)</i>	
5.2 Estimations of the number of revocation actions started before the competent court (or Patent Office) <u>but linked</u> to pending infringement proceedings <i>(countries where different courts hear infringement and validity issues (bifurcation): AT, BU, CZ, DE, HU, PO, PL, RO and SK)</i>	

<b>6. Additional information, where available</b>	
<b>6.1 Orders and measures</b>  Estimation of the number of patent cases where the court orders <ul style="list-style-type: none"> <li>- measure to preserve evidence</li> <li>- measure to inspect premises</li> <li>- measure to seize or deliver up goods</li> </ul>	
<b>6.2 Number of patents involved</b>  Estimation of the number of European patents involved in infringement and revocation cases (in countries where more than one European patent may be involved in one case)	
<b>6.3 Appeals</b>  Number of first instance decisions appealed to courts of second instance	

<b>Further comments of relevance for the inquiry</b>
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