

The Training of the Judiciary: a Key to Success for the Unified Patent Court

*Conference on the training of UPC
Judges
Budapest, 13-14 March 2014*

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The Unitary Patent/ the UPC: A Crucial Step for the Construction of the European Intellectual Property System

“(...) The creation of a European court specialized in patent matters will be a tremendous boost for the completion of the European patent system”

Benoît Batistelli, President of the European Patent Office

“We will put an end to the unacceptable situation where obtaining a patent in Europe costs ten times more than in the US. This shows how European action can complement national action to boost competitiveness”.

José Manuel Durão Barroso, President of the European Commission

“The new system shall help European companies attract investment into their innovative activities by dramatically shortening and simplifying the procedure of obtaining patent protection”.

Dr. Zoltán Cséfalvay, Minister of State for National Economy of Hungary

Anyhow, some important challenges remain, among which is certainly training of the judiciary

“Many of the concerns with the UPC still remain, in particular (...) the training and quality of UPC judges”

UK House of Commons, European Scrutiny Committee.

“The crucial point for success or failure of the whole court system is the quality, efficiency and cost of the proceedings before the new court.”

Jochen Pagenberg, Bardehle Pagenberg

“In a new international judiciary comprising a diversity of local and regional divisions, persistence of national legal traditions in the interpretation and application of substantive and procedural law should be minimized.”

Reto M. Hilty and al., Max Planck Institute for Innovation and Competition, Munich

- The qualification and experience of the UPC judges are **key to the success** of the UPC, and probably to the success of the entire patent reform
- When the pre-selection process concludes, there will be only some months to set up a common **judicial culture**, guarantee excellent **patent knowledge** and even a **shared terminology**.
 - These activities, and their posterior consolidation, will give **identity and credibility** to the Court
- State Members of the UPC, related institutions, future members of the Court, are writing an **crucial passage** of **European history**

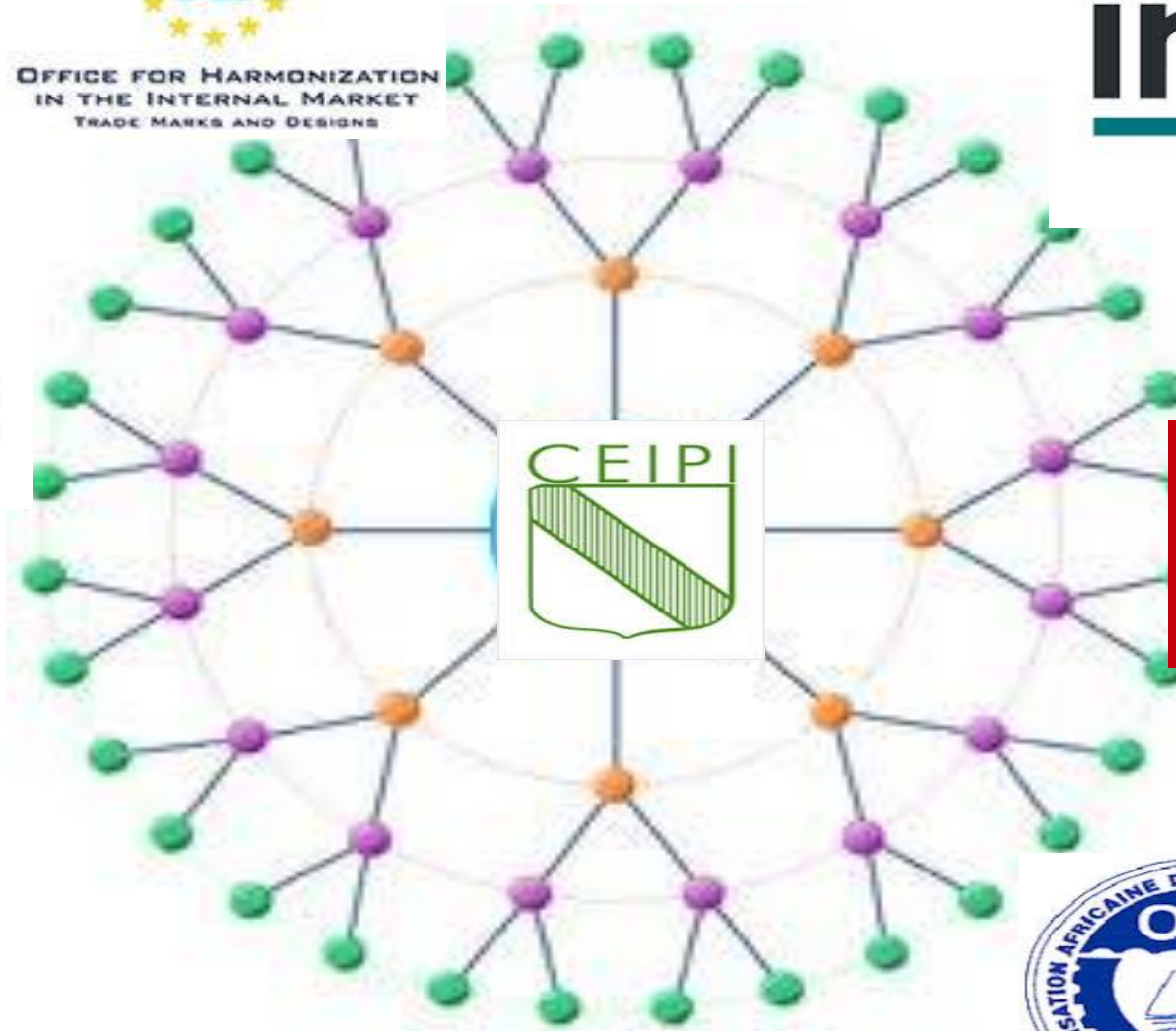
International and European Centre of Excellence in IP Training and Research





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ORGANIZATION



Centre for International Intellectual Property Studies (CEIPI)
University of Strasbourg

Since 1963, CEIPI has been engaged in the construction of European IP via training

41.653

- Professionals trained since the creation of CEIPI

35.845

- Professionals trained in European Patent law (basic training courses and preparation for the European Qualifying Examination)

400

- Experts from 25 countries lecture at CEIPI

40

- Cities where CEIPI imparts training in a regular basis, in 20 countries

CEIPI and European Patent Law

Training programmes

- Diploma on Patent Litigation in Europe (CEIPI-EPI)
- European Qualifying Examination preparation (in cooperation with EPO), delocalized Basic courses in European Patent law (in cooperation with EPI)
- Diploma on IP, specialization in Patent law
- 6 Masters of Law with intensive patent courses (such as IP management)

Conferences

- Towards an European Patent Court, April 16 – 17, 2010
- Constructing European IP law, February 25-26 2011
- What Patent Law for the European Union? April 26 – 27, 2012

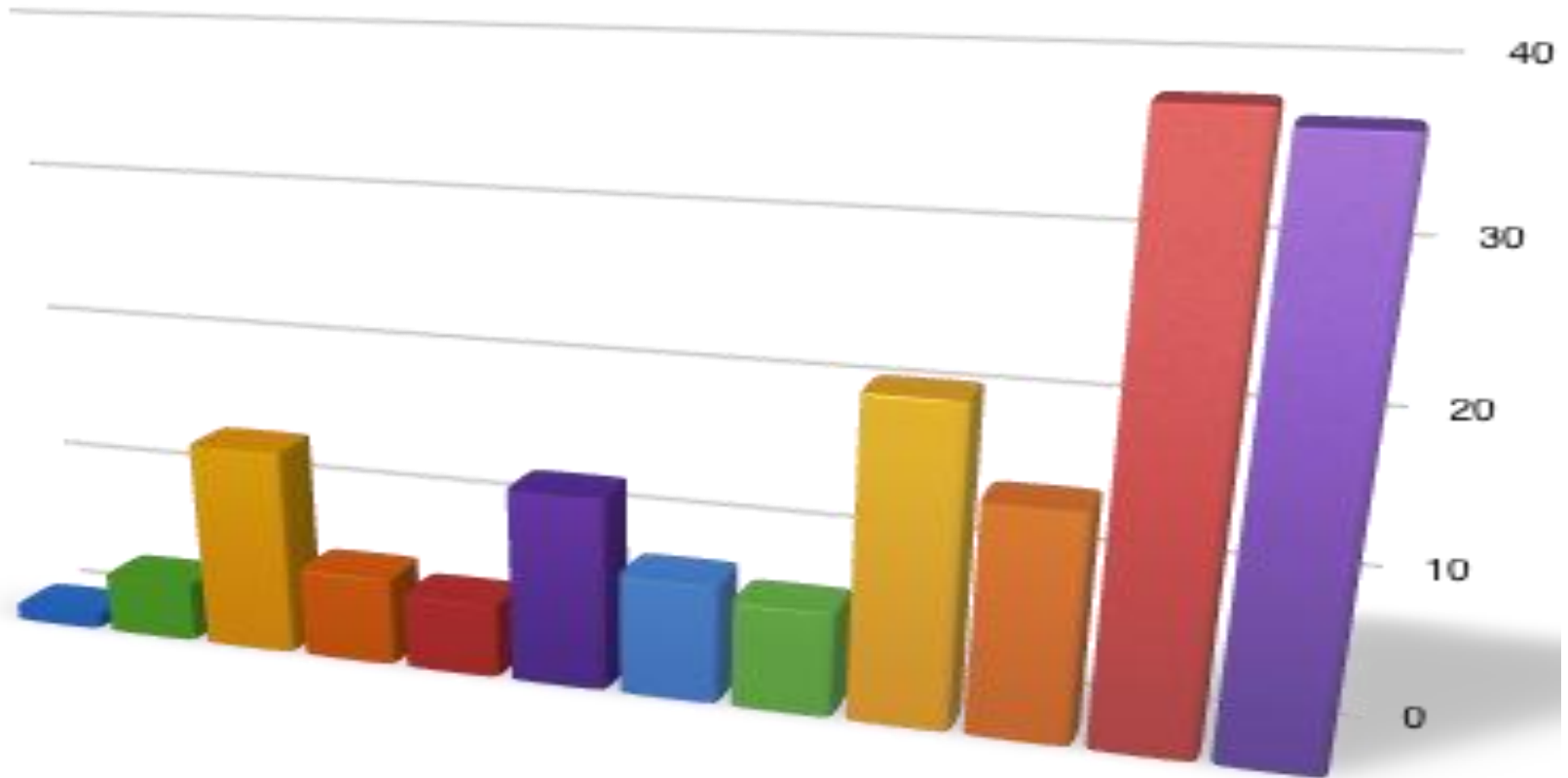
Stakeholders

- IP attorneys, scholars, companies, and officials of national, European and international organizations

CEIPI and the Judiciary

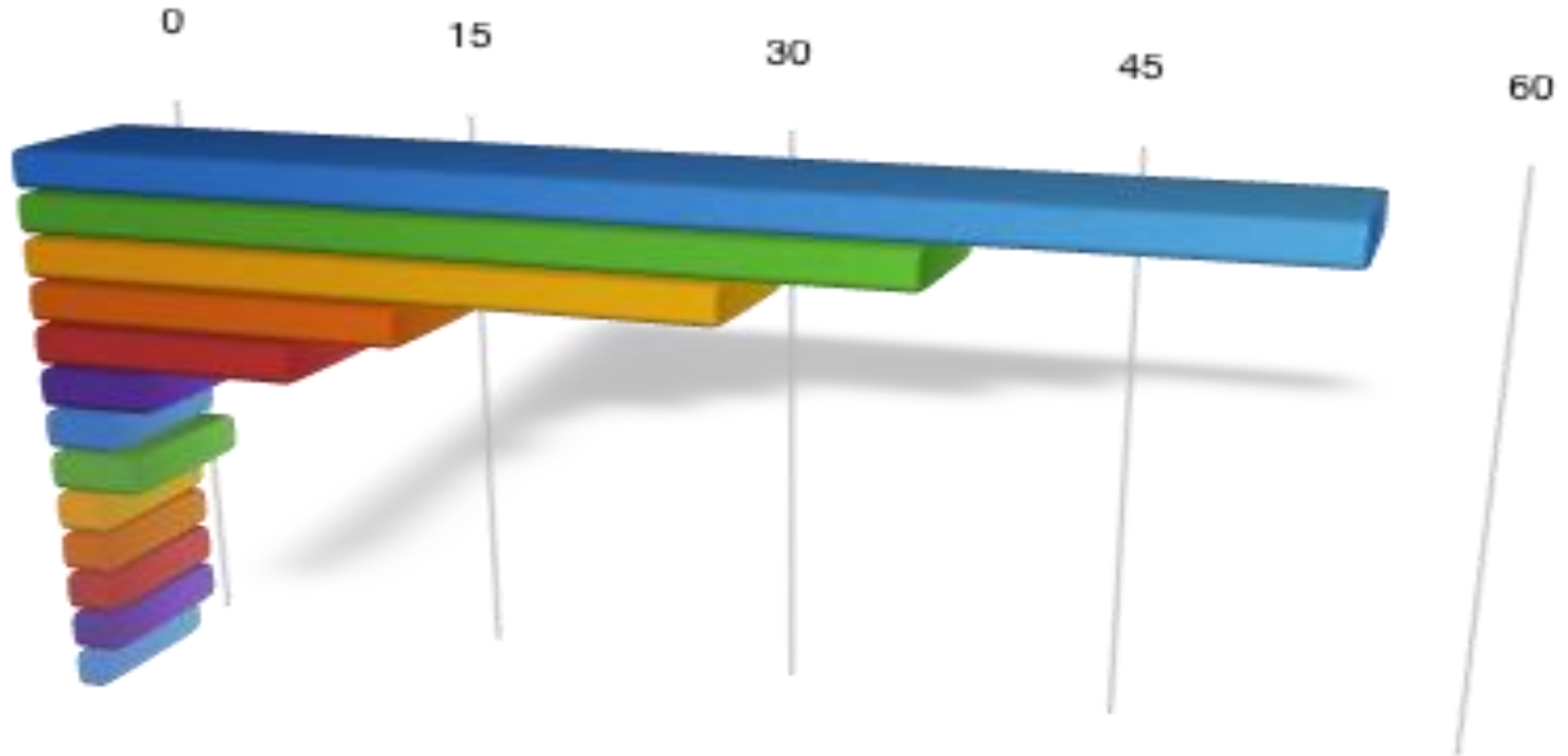
- CEIPI currently trains public servants working at patent offices, ministries of trade, industry, culture...
 - Judges have been identified as key actors to work with
- CEIPI has concluded a MOU with WIPO to organize seminars and training activities with judges
- CEIPI professors have experience in training judges with international organizations
- CEIPI has concluded a survey on IP capacity-building for the judiciary (for a study in preparation)

Number of conducted activities by year



■ 2002 ■ 2003 ■ 2004 ■ 2005 ■ 2006 ■ 2007 ■ 2008 ■ 2009
■ 2010 ■ 2011 ■ 2012 ■ 2013

Number of Activities by type



- | | | |
|---|---|---|
| ■ Seminar | ■ Training Programme | ■ Workshop |
| ■ Colloquium | ■ Conference | ■ Study visit |
| ■ Symposium | ■ Seminar-workshop | ■ Focus Group |
| ■ Forum | ■ Internship | ■ Meeting |
| ■ Online course | | |

CEIPI Survey on training-related activities for the Judiciary

- There is a growing interest and demand for judicial IP training
 - A total of 175 activities were identified worldwide in about a decade, half of them in the last two years
- EPO, OHIM, WIPO and USPTO are the most active and representative institutions organizing trainings
- Training activities are heterogeneous and not permanent:
 - One-time basis, generally for two or three days.
 - Useful programs, which are not always systematic or harmonized



How can CEIPI contribute to the Unified Patent Court project?

Unified Patent Court Trainings

- Patent litigation expertise needs to be enhanced and guaranteed through selection and training
 - Ensure a strong basis in the preparatory phase
 - Offer comprehensive and continuous training once UPC is fully operational
- Focus on
 - Technical aspects of patent law
 - Civil procedure
 - Linguistic skills
- Activities
 - Personalized curricula for each judge, according to experience
 - Courses, conferences, seminars, workshops, mock trials and symposia
 - Cooperating with international organizations and other training partners

Minimum Content of UPC Trainings

Legally Qualified Judges

- Patent litigation
 - Substantive patent law
 - Procedural patent law
- Training on the UPC
 - Institution
 - Rules of procedure
 - Jurisprudence
- Patent jurisprudence/ case law
 - EPO Board of Appeal
 - CJUE
 - National decisions

Technically Qualified Judges

- Procedural patent law
 - Civil procedural law
 - Due process and fair trial
- European patent jurisprudence
- Training on the UPC
 - Institutions (including EU law)
 - Rules of procedure
- Methodological aspects
 - Legal logic
 - Drafting of sentences

Anyhow, probably not sufficient... Additional UPC Training needs on



Competition law and patent law



Fundamental rights and IP law



IP enforcement



International IP law (including
private international law)



Comparative patent law

Thank you!



Welcome to our new facilities in Strasbourg (2015)