

# **HUMAN RESOURCES AND TRAINING AT THE UPC**

**Olívér Várhelyi**

Coordinator of the Human Resources and  
Training Group

# Road to establishing the UPC

- Ratification period should be used to the full
- Appointments can only take place once the UPC is established
- „The Unified Patent Court should be devised to ensure expeditious and high quality decisions”
- „Judges shall ensure the highest standards of competence and shall have proven experience in the field of patent litigation”

# Road to establishing the UPC

- What can be done during the ratification period?
- Who will do that?
- How it will be done?
- How can we get the UPC up and running for its birthday?
- How to ensure quality judges?

# Road to establishing the UPC

- Role of the Preparatory Committee: „all practical arrangements for the proper functioning of the Unified Patent Court are already in place or are duly prepared before the entry into force”
- The Preparatory Committee is composed of representatives of the Contracting Member States
- The Preparatory Committee has adopted a Roadmap to set out all the tasks necessary for the coming into operation of the UPC

# Road to establishing the UPC

- Preparatory Committee has organised the different workstrands into sub-groups
- Training and Human Resources is one of them
- „The Preparatory Committee should in particular organise without delay training of future judges”, „prepare the election of judges and the recruitment of administrative staff”



# Tasks in Training and Human Resources

## **1. „Nomination of the first group of judges and the organisation of the initial pool of judges”**

- Eligibility criteria: UPC Article 15
  - „highest standards of competence and shall have proven experience in the field of patent litigation”
  - „Legally qualified judges shall possess the qualifications required for appointment to judicial offices in a Contracting Member State”
  - „Technically qualified judges shall have a university degree and proven expertise in a field of technology. They shall also have proven knowledge of civil law and procedure relevant in patent litigation.”

# Tasks in Training and Human Resources

## 2. Training

- What about those Member States where there is less patent litigation?
- „Experience with patent litigation which has to be proven for the appointment (...) may be acquired by training” [Article 2(3) of the Statute]
- The training framework should be created already at the preparatory phase
- For legally qualified judges: advanced courses in patent law and patent litigation, internships at patent courts in countries with high patent litigation, UPC Agreement + Rules of Procedure
- For technically qualified judges: patent law in particular to validity, basic concepts of civil procedure, UPC Agreement + Rules of Procedure
- Language training!

# Tasks in Training and Human Resources

## 3. Preparation for the nomination of judges

- Number of required judges?
- Early years: preferably part time judges only a limited number of full time judges (local divisions with high workload, Central Division, Court of Appeal)
- Will need sufficient number of part- time and full time judges before the entry into force
- Should create a reserve list of judges who could be appointed when/as case load increases
- Appointment: Administrative Committee (once UPC is in force)
- Preparatory Committee: prepares the nomination process
  - pre selection process started
  - provisional list of suitable candidates should be established by end 2013/early 2014
  - the candidates in need of training should start training program asap



# Pre-selection procedure

- Large interest shown: 1300 applications received!
- Legally qualified: 360 applicants out of which 124 eligible only to training
- Technically qualified: 616 applications out of which 24 eligible only subject to training
- Categories: Particularly Eligible, Eligible and Eligible with training
- Training for all candidates: UPC rules of procedure!

# Training during the pre-selection process

- The training needs of Legally Qualified Judges
  - Specific training relating to patent litigation (substantive patent law relating to the validity and infringements, injunctions, damage calculation)
  - Specific training of UPC Rules of Procedure
  - Language training (terminology, drafting)

# Training during the pre-selection process

- The training needs of Technically Qualified Judges
  - No need for training in patent law
  - Training in civil procedure (principles of procedural law and UPC Rules of Procedure)
  - Language training (candidates having a qualification as European Patent Attorney should normally have a good command of the EPO languages, however drafting skills need to be training)

# Training during the pre-selection process

- Modes of training
  - Training in patent law: classroom training, e-learning courses, mock trials, internships at specialized patent courts with high level of patent litigation.
  - All together candidates should follow courses in patent law for at least three to four weeks and internships of at least two to three weeks.
  - Training relating to the functioning of the UPC, including its Rules of Procedure: dedicated workshops, including mock trials
  - Language training: training of terminology, development of specialized courses, including e-learning on the basis of case material

# Training during the pre-selection process

- Organisation of training
  - financing the activities necessary for the setting up of the UPC are to be covered by participating Member States
  - patent litigation and language training for candidate judges estimated to 125 000 EUR
  - should be ensured from contributions-in-kind as much possible
  - priority should be given to those training possibilities which are offered without any financing need
  - priority should also be given to those training offers where contracting Member States offer their facilities and training programs



# Contributors to our work

## 1. **Advisory Panel**

- Design of training program
- Preparation of the nomination of the first group of judges
- Expert group „composed of experienced, active or former members of chambers of appeal or supreme courts or former lawyers with recognised competence in patent litigation”

## 2. **Member States with high patent litigation**


- Twinning possibilities for candidate judges at their patent courts

## 3. **European Patent Office**

- Cooperation with the Patent Academy

# Timeline

- Pre-selection procedure:
  - Started on 20 September 2013
  - Ended 15 November 2013
  - Adoption of the lists
- Opinion by the Advisory Panel on candidates
  - End February 2014
- Preparatory Committee to set up list of potential candidates
  - June 2014
- Training program
  - First half of 2014
  - September 2014



Thank you for your attention!

[oliver.varhelyi@mfa.gov.hu](mailto:oliver.varhelyi@mfa.gov.hu)