




## FICPI INFORMATION DOCUMENT

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CET INFORMATION DOCUMENT	
TITLE: <i>FICPI Meeting with the European Commission, DG Internal Market</i> DRAWN UP BY: <i>Commission d'Etude et de Travail (CET) Work &amp; Study Commission</i> Antonio Pizzoli, Chair CET Group 04 PURPOSE: For information and publication in the library section of FICPI's website	QR CODE: 

Brussels, 24 June 2013

### Meeting with the European Commission, DG Internal Market

#### FICPI

Bastiaan Koster

Coleen Morrison

Daniel Alge

Leo Jessen

Antonio Pizzoli

#### DG Internal Market

Kerstin Jorna (Director of the Intellectual Property Directorate)

Michael König (Deputy Head of Unit – Intellectual Property)

Jean-Luc Gal (Head of the Brussels bureau of the EPO)

1. Bastiaan Koster introduced the FICPI delegation and explained that the meetings with the European Commission DGs are important and that the outcome of the meetings are reported to the FICPI membership at large.
2. Ms. Jorna asked the FICPI delegation identify the most important issues to be discussed in view of time constraints.
3. Daniel Alge answered that the two most important issues at the moment are the right of representation before the European judicial bodies, in particular the CJEU and the Unified Patent Court, and the revision of the Community trademark system. He also added that everyone was surprised by the speed of the implementation of the unitary patent system; FICPI would like to actively participate in the discussions on the Rules of Procedure of the UPC, also in order to prevent possible attempts of discriminating against patent attorneys. FICPI members would also like to bring their knowledge and experience to help implement a sound system.
4. Ms Jorna explained that the Commission has only an observer role in the UPC but is politically committed to make the implementation process effective by 2014 or early 2015. The coordination of this process is very difficult since everything starts from zero. The Preparatory Committee has been divided into several sub-groups due to the difficulty of this task.
5. Mr. König added that the Select Committee and the Preparatory Committee are ready to receive input from all users. An open consultation on the draft Rules of Procedure will start in a few days and will last until the end of September 2013.
6. Daniel Alge remarked that FICPI members want patent attorneys to have the same rights as lawyers and are afraid that different privilege provisions in the Rules of Procedure could be used to weaken the rights of representation of patent attorneys. He also



- reminded that less than 1% of lawyers represent clients during opposition proceedings at the EPO and the vast majority of oppositions being handled by patent attorneys.
7. Ms.Jorna confirmed that the contribution of the IP practitioners is important and hoped that there will be a consolidated position of both lawyers and patent attorneys on the draft Rules of Procedure. At any rate, the Preparatory Committee is rather independent from the Commission.
  8. Leo Jessen added that the issue of having comprehensive privilege for patent attorneys is not only important for those representing clients before the UPC but also for patent attorneys outside Europe, so as to allow them to provide full and detailed advice to their clients.
  9. Ms. Jorna proposed a workshop to be held in September with all the possible users of the UPC, as it is important to have a sound patent system. On a specific question of Leo Jessen, she also explained that the service of documents is one of the most difficult aspect of the Rules of Procedure, since the procedures are now very different in the member states; an Australian expert has been entrusted with solving this specific problem.
  10. Leo Jessen said that different procedures could lead to forum shopping, so there should be clear and common rules.
  11. Daniel Alge observed that for the first time we are defining EU civil law proceedings, as it was done with the European patent law when the EPC was drafted.
  12. Ms. Jorna warned that anti-European and anti-patent groups are very sensitive to this matter, so care should be taken even with the wording which is used.
  13. Daniel Alge described then the proposal on the EU Trade Mark and Design Tribunal (Art. 257 TFEU), aimed to solve the problem of the stack (backlog)of cases at the CJEU.
  14. Ms. Jorna showed interest on this proposal and suggested that it should be explored immediately after the next elections. The Commissioner for Justice should be responsible on this matter. She also mentioned that the EU needs a fully integrated IP system and asked whether the users are interested on arbitration and mediation.
  15. Leo Jessen answered that arbitration is probably not going to fly while mediation received some attention, however the users are concerned about cost, so that in practice these procedures are used only when there is a contractual obligation.
  16. Ms .Jorna added that the Commission will start monitoring the economic effects of IP. On a specific question of Bastiaan Koster, she answered that there is an increase of collaborative searches, so that a new legislation is needed to harmonize the EU rules on trade secrets, including even the possibility of enforcing national rights in all EU member states. An impact assessment on trade secret is carried out at the moment.
  17. Coleen Morrison expressed concerns about the revision of the Community trademark system.
  18. Mr. König explained that a mini-hearing on this topic will be held at the end of July.
  19. Unfortunately not all agenda points could be discussed as Ms Jorna had to leave to attend another meeting. But as in the past the meeting with DG Internal Market was positive with the input of FICPI being appreciated.

Antonio Pizzoli

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