

The 15th draft (31 May 2013) Rules of Procedure

6 September 2013 • UP UPC Special introductory session
AIPPI Forum/Exco meeting • Helsinki

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The Rules of Procedure

EU Commision's Expert group Judges, Lawyers and Business representatives



Christian Vang, Michael Lech, Orjan Grønås, Robert Van Puzem, Eureka Marques da Rosa, Alvin Pedard, Kevin Mahoney, Pierre Véron, Anne Hestur, Demetra Kalli
 Edd Meege, Tim Fran, Margit Wahlström, Klaus Grömmel, Robin Jessi, David Rosenberg, Simone Savaris
 (Absentees: Stefan Tóth, Jochen Pagenberg)

Expert Meeting Judges, Lawyers and Business Representatives on Unified Patent Court in Europe
 3 February 2012, Brussels, European Commission, rue de Spa, 2, room Cassia de Dijon

2007 - 2012

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EU Commision's Expert group Judges, Lawyers and Business representatives

1. **First draft** dated 29 May 2009 discussed in expert meetings on 5 June and 19 June 2009
2. **Second draft** (Part 1, Chapter 1) dated 9 July 2009, Working paper from the Commission Services, Council working document 11813/09 discussed in Council Working Party on Intellectual Property (Patents) on 22 July 2009
3. **Third draft** dated 25 September 2009 discussed in expert meeting on 2 October 2009
4. **Fourth draft** dated 16 October 2009 discussed at the 5th European Patent Judges' Forum on 30 and 31 October 2009
5. **Fifth draft** dated 27 January 2012 discussed in expert meeting on 3 February 2012

Drafting Committee Judges & Lawyers



Drafting Committee Judges & Lawyers



Drafting Committee Judges & Lawyers

6. **Sixth** draft dated 22 February 2012 discussed by the Drafting Committee on 25/26 February 2012
7. **Seventh** draft dated 20 March 2012 discussed by the Drafting Committee on 24/25 March 2012
8. **Eighth** draft dated 30 March 2012 For technical consultation
9. **Ninth** draft dated 24 May 2012
10. **Tenth** draft dated 16 October 2012
11. **Eleventh** draft dated 07 November 2012 Discussed by Drafting Committee on 09 and 10 November 2012
12. **Twelfth** draft dated 29 November
13. **Thirteenth** draft dated 14 January 2013 Renumbered version
14. **Fourteenth** draft dated 31 January 2013 For further informal comment prior to the public consultation
15. **Fifteenth** draft dated 31st May 2013 For public consultation

The agreement is binding



Summary Rules of procedure (382 Nos, 277 rules)

- Part 1 Procedures before the court of first instance
- Part 2 Evidence
- Part 3 Provisional measures
- Part 4 Procedures before the court of appeal
- Part 5 General provisions
- Part 6 Fees and legal aid

The Rules of Procedure

Preamble ROP

Target duration: one year

*“proceedings shall be conducted in a way which will normally allow the final oral hearing on the issues of infringement and validity at first instance to take place within **one year** whilst recognising that complex actions may require more time and procedural steps and simple actions less time and less procedural steps”*

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Rule 8 ROP

Stages of the proceedings

“(a) the written procedure;

(b) the interim procedure, which may include an interim conference with the parties;

(c) the oral procedure, which shall include an oral hearing of the parties where necessary;

(d) the procedure for the award of damages;

(e) the procedure for a cost order.”

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The Rules of Procedure

Rule 8 ROP
Stages of the proceedings

Decision on the merits R 118

Decision on damages R 118

Written procedure Interim procedure Oral procedure Damages Costs

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The Rules of Procedure

Front loading system
not drips and drabs system

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Interim conference with the JR

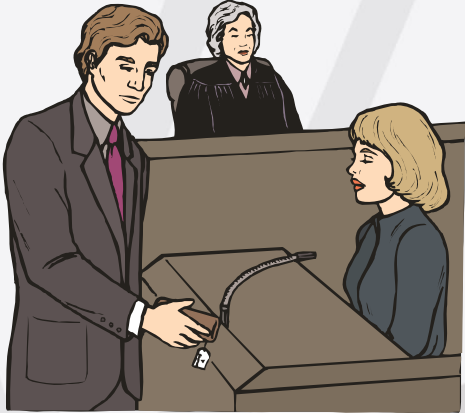


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Hearing of a witness in person exceptional



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Oral hearing

"Rule 114 – Duration of the oral hearing

1. *Without prejudice to the principle of proportionality, the presiding judge shall endeavour to complete the oral hearing within **one day**. The presiding judge may set time limits for parties' oral submissions in advance of the oral hearing, in accordance with the Practice Directions.*
2. *Oral testimony at the oral hearing shall be limited to issues identified by the judge-rapporteur or the presiding judge as having to be decided by oral evidence.*
3. *The presiding judge may, after consulting the panel, limit a party's oral submissions if the panel is sufficiently informed."*

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Preparatory Committee Consultation

www.unified-patent-court.org/consultations



The screenshot shows the website header with navigation links: HOME, Q&A'S, COMMITTEE, NEWS, CONSULTATIONS (highlighted), MEETINGS. Below the header is a green heading: "Public consultation on the Rules of procedure for the Unified Patent Court". It includes a publication date: "© Published: Tuesday, 25 June 2013 09:00" and a "Print" icon. The main text states: "When signing the Agreement on a Unified Patent Court, the Signatory States considered it of utmost importance that the Preparatory Committee would as one of its first activities complete a draft of Rules of Procedure on the basis of input of expert judges, lawyers and industry representatives. This draft should be the basis of broad consultation with".

As from 25 June 2013 until 1 October 2013 the draft Rules of Procedure shall be open to written comments from stakeholders or other interested parties. Respondents are requested to send them to secretariat@unified-patent-court.org.

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Next steps

- Evaluation and comments by Drafting Committee of the contributions received
- Public hearing on the draft rules of procedure in early 2014.
- Advice of the European Commission on the compatibility of the Rules of Procedure with European Union law
- Adoption of the Rules of Procedure by the UPC's Administrative Committee once it has been established

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Thank you

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