

eipi

Institut der beim Europäischen Patentamt zugelassenen Vertreter
Institute of Professional Representatives before the European Patent Office
Institut des mandataires agréés près l'Office européen des brevets

Annual Report
2023



Report from the President

2023 – A memorable year for epi

The year 2023 was a memorable year for **epi** and the whole European patent system: it marked not only the **50th anniversary of the European Patent Convention**, which was signed on 3. October 1973 in Munich and formed also the basis for the existence of **epi**, but in June 2023, after decades of various ideas, initiatives and failed attempts, the **Unitary Patent and Unified Patent Court finally became reality**. The UP/UPC system creates for the first time a fully harmonized patent title that is valid in a bigger group of currently 17 participating countries, whereas the new truly international Court offers to litigants the option to enforce or revoke European Patents in one single proceedings for the whole territory of the participating member states. Although the new system is not the most economic and best option for all situations and interested parties, I am deeply convinced that it will help to make the European Patent system more attractive and therefore increase competitiveness of Europe. The **epi** has prepared their members for the new system by a whole series

of webinars, recordings and seminars, in order to ensure that each European Patent Attorney can provide the best advice to their clients and employers, taking into account all the options, the UP and UPC offers. The new system also brings a possible extension of the professional activities for **epi** members, since the UPC is the first Court, where European Patent Attorneys, with an additional qualification such as a European Patent Litigation Certificate, can fully represent clients in all proceedings. History will show how the new system will be used by all involved stakeholders, but the first months indicate that it appears to be a well-accepted and used system.

The year 2023 will in future also be remembered because of the decision to make the biggest change to the EQE since it came into existence in 1979. The **EQE reform** that has been decided by the Administrative Council after almost 3 years of intensive work, particularly of **epi** members and EPO personnel, brings the likely only truly pan-European professional exam to the next level by re-focusing to test the essential skills and knowledge that is needed for the core activities of a European Patent Attorney and laying the foundation for a fully digital examination. The decision is triggering now intensive work to implement the new EQE that will start to be phased-in from 2025 to 2027.



epi Presidium

Magdalena Augustyniak (PL), Secretary General · Tiem Reijns (NL), epi Vice-President
Zsolt Szentpéteri (HU), Treasurer · Ann De Clercq (BE), Deputy Secretary General
Peter R. Thomsen (CH) epi President Andreas Winter (DE), Deputy Treasurer
Katerina Hartvichova (CZ), epi Vice-President

2023 was also a year of election for epi. After a new epi Council had been elected, a **new epi Presidium** with me as President and a Board were elected at the Spring Council meeting in Malmö. Since then, we have started our journey and find out in targeted interviews with each epi Council delegation on which topics and aspects epi could assist our local membership in the contracting states. We will use the collected information in addition to build a longer-term vision for epi. Partially based on the work of previous epi presidiums, we could this year welcome **epi to become members of ANIPA and IP5 Industry**, which will help to increase epi's input and support on questions generally affecting the profession in Europe and contribute aside with BusinessEurope to practical initiatives of international harmonization of procedural patent law such as acceptance of color drawings in patent applications or simplified acceptance of e-signatures. Additionally, epi has in 2023 elected the Disciplinary Committee and most of its working Committees, after the first time following an internet voting procedure. New teams in those bodies bring in new ideas and initiatives that will help to better position our profession for the future and react on new challenges.

During 2023, we have also seen the **EU-Commission proposal for a patent package**, which contains three elements:

Report from the President

1. A European wide mechanism to facilitate compulsory licensing at occasions of crisis, 2. The introduction of a Unitary Supplementary Protection Certificate (SPC) system for pharmaceuticals and agrochemicals as well as a common granting and challenge procedure for SPCs being in force only in some EU/EEA countries, and 3. A proposal to increase transparency and facilitate dispute resolution in connection with Standard Essential Patents (SEPs). All three elements include new roles for the EUIPO in Alicante, which so far has very little exposure to patents. epi has commented each of those proposals and is overall critical about the perceived need to install an additional institution within the European Patent landscape that would be totally new to it. We will accompany these projects further on their way through the EU legislative process during 2024 and likely further years.

I am almost sure that we and our successors will look back in the future to the year 2023 as a year that brought remarkable changes to the Patent system and our profession.



Facts and figures 2023

693

New Professional Representatives

693 new Professional Representatives entered the list in 2023

14269

Professional Representatives

The list comprised 14269 representatives at the end of 2023

559

epi Students

559 epi Students were counted at the end of 2023

3

Council meetings

2 in person in Malmö and Ljubljana and 1 online meeting in two sessions

9

Presidiums meetings

4 in person, thereof 1 secret session
5 online, thereof 2 secret sessions

6

Board meetings

4 online,
2 hybrid in Skopje and Prague

Meetings with the EPO

1 OCC-EPO meeting
1 EPPC / Biotech – DG1 meeting
10 SACEPO / SACEPO Working Group meetings
1 meeting with the EPO President Mr Campinos
1 meeting with the Disciplinary Board

For further information please visit our website <https://patentepi.org/en>
epi papers are also available online <https://patentepi.org/en/epi-papers>
An overview of the 2022 activities can be found in **epi** Information
<https://patentepi.org/rl/epi-information>



Life of the Institute

EPO Finances Committee

The Committee is charged with looking to the finances of the European Patent Office, and in particular to anything affecting the levels of official fees charged to the applicant. While this normally involves arguing for fee reductions, or against excessive fee increases, 2023 found the Committee arguing against some fee reductions.

In the first half of the year, the EPO issued a “non-paper” for consultation. The non-paper concerned: support for microenterprises, natural persons, non-profit organisations, universities, and public research organisations (collectively called “qualifying entities” in the following); fee changes aimed at long term stability of the EPO’s finances; and simplification of fee structure.

The Committee was of the view that the support proposal (a reduction in all official fees for qualifying entities) was insufficiently targeted, not clearly costed, and lacked many of the safeguards that apply to claiming micro entity

status in US practice. As an example of perverse effects, a billionaire filing their first patent application would be entitled to reduced fees, whereas an SME with just 10 employees would pay full fees.

For long term stability, the non-paper included a proposal that there should be a steep increase in early years renewal fees. The Committee thought this untimely, as the effect of the UP on validation practice, and hence EPO income, could not yet be estimated.

However, the simplification proposals included some items **epi** had been asking for over many years (e.g. reducing the fee for recordal of assignments to zero).

The Committee opinion was presented to the EPO; as was the suggestion that deferring a portion of fees rather than reducing the fees would provide welcome support without incurring the same level of financial risk. It was also noted that if uptake for fee reduction was high, this might in time require increasing the fees of other applicants. ▶



EPO Finances Committee

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◀ A formal proposal for fee changes was then made by the EPO, making some amendments in the light of feedback.

At the Committee's request, **epi** Council approved the following motion at its November meeting,:

“Support for economically weak applicants to obtain European patents is a useful thing, and a range of support is available from governmental sources. The EPO is not a government, but some support is provided through fee reductions in specific circumstances. However, if support is to be provided by the EPO, by fee reduction or otherwise, **epi** considers that it should be support that:

- Efficiently reaches deserving applicants
- Is not liable to distort applicant behaviour with a view to gathering that support; and
- Does not significantly increase costs for other applicants.”

At a meeting of the EPO Budget and Finance Committee (BFC), **epi** representatives repeated concerns and noted that a lot of the current support for qualifying entities did not appear to reach those qualifying entities, but rather subsidised national offices.

The proposal was passed by the BFC and the Administrative Council as CA/D 16/23.

In 2024 the Committee will monitor the effect of the changes and be vigilant as to any further fee-related matters that arise.



Life of the Institute

Online Communications Committee

OCC remained active in a number of collaborations with the EPO and other **epi** bodies; **epi** Board meetings; SACEPO working groups on Electronic Patent Process (eSACEPO) and Patent Documentation and Information (PDI); and liaison with WIPO and the new UPC IT team.

At the start of the year, OCC members worked hard with Litigation Committee experts around the launch of the **UPC** and its Case Management System. Many issues remain to be improved. With LitCom and other UPC observer bodies we continue in regular contact with the UPC Registrar and IT team.

The new **MyEPO** online services and **MyEPO Portfolio** are maturing rapidly. Welcome new features are being tested also this time in a large pilot group, and released to all users at regular intervals. Several OCC members, as well as paralegals from EPIPA are active in the pilot group, among a wide range of participants from private practice and industry.

The trusty **eOLF** remains available in parallel to **OLF 2.0** until further notice. However, many other 'legacy' services are being retired by the EPO in 2024. Our input focused on making sure users have robust alternatives and plenty of time to test them. This work will continue in 2024.

Already from the end of 2023, **EPO smart cards** are being phased out. The new two-factor authentication (**2FA**) system works well, with eOLF, OLF 2.0 and the new MyEPO services. Unfortunately, several national offices had not planned for the impact on their users who rely on EPO smart cards and eOLF for national procedures. An important period of grace was confirmed.

The new **Contingency Upload Service (CUS)** was tested, which will be the only fall-back to meet deadlines when fax and other services are discontinued. Council meeting C96 endorsed OCC's pleas for EPO to make CUS effective in the full range of 'emergency' situations that members dread with good reason.

We have a strong new committee elected for 2024-2027 and 2024 will be another busy year for OCC members.

Unified patent laws
for a globalized world



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Harmonisation Committee

The **epi** Harmonisation Committee (“HC”) attended Part I of the EPO Symposium on Substantive Patent Law Harmonisation (“SPLH”) at the EPO on 23rd March 2023.

On 4th April 2023, the attendees at the Symposium received a Questionnaire from the EPO, one Questionnaire to be completed on behalf of **epi** and submitted to the EPO by 10th May 2023.

epi Harmonisation Committee prepared a “draft answer” to the EPO Questionnaire which formed the basis of motions put to the **epi** Council.

Traditionally, **epi** has felt that any grace period should have a duration of **6 months** preceding the **priority date**. However, HC, having reflected on what had been said recently, especially but not exclusively at Part I of the EPO Symposium on SPLH held on 23rd March 2023, now felt that any grace period should have a duration of **12 months** preceding the **filing date**. This is subject to there being mandatory publication at 18 months from the earliest of the pre-filing disclosure (“PFD”), priority date and filing date.

The Motions passed by **epi** Council at its meeting on 2nd and 3rd May 2023 were:

*Council agrees that **epi** is opposed to any kind of grace period,*

Council could however consider a grace period as a safety net as part of a harmonised system, and

*Council agrees that Question 2 (reading “12 months are usually considered as an acceptable duration for a grace period. Do you agree?”) should be answered “**Yes if from the filing date**” and that Question 3 (reading “[where] should the grace period be calculated from”) should be answered “**The filing date only**”.*

I filed the **epi** Answer to the EPO Questionnaire on 5th May, 2023.

On 22nd May, 2023, the EPO held Part II of their Symposium and this was attended on behalf of **epi** by members of HC



Life of the Institute

Committee on Biotechnological Inventions

This report provides a concise overview of the activities carried out by the Biotechnology Committee of the European Patent Institute (**epi**).

The activities of the Committee on Biotechnological Inventions over the past year reflect the changes in patent standards to catch up with the fast-evolving realities of biotechnology. The committee plays a crucial role in addressing various issues related to biotechnology patents and promoting a balanced and effective patent system in the field of biotechnology.

The Biotechnology committee of the **epi** consist of a diverse group of experts in the field of Biotechnology. Following the last **epi**'s 2023 elections, this committee was renewed and very few changes were made. We have very loyal members and many associate members who are interested in our activities and very committed.

Committee Objectives:

The Biotechnology Committee primary objectives include:

1. Monitoring and analyzing developments in biotechnology patent law and regulations.

2. Providing guidance and recommendations on biotechnology patent applications and examination procedures.

3. Promoting awareness and understanding of biotechnology patent issues among **epi** members and the broader community.

4. Collaborating with relevant stakeholders to contribute to the development of biotechnology patent policies.

Activities and Achievements:

1. Legal Analysis and Opinion Sharing: The committee regularly conducts in-depth analysis of biotechnology patent laws and regulations, both at the national and international levels. It shares its findings and opinions through publications, position papers or podcasts ensuring that **epi** members are well-informed about the latest legal developments. In 2023, particular attention was given to new regulation proposed by the European commission regarding New Genomic Techniques (NGTs) plants. This will give rise to active policies actions and communications in 2024.

2. Best Practices and Guidelines: The committee has contributed in amending best practices and guidelines for the examination at the EPO and prosecution of biotechnology patent applications. These resources provide practical guidance to patent practitioners and examiners, ensuring a consistent and coherent approach to biotechnology patenting across different jurisdictions. ▶

Committee on Biotechnological Inventions

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◀ In 2023, the attention of the Committee has been focused on the biotech aspects of the new 2023 GLs. **epi** has the possibility to comment on the draft of the new Guidelines proposed by the EPO following the SACEPO WP GL meeting and **epi**/EPPC organised an in-person meeting to discuss those guidelines amendments. The committee mainly comments on ST.26 sequence listings, plant disclaimers and antibody patenting parts. Regarding sequence listing we specifically request to amend R. 30 EPC to be more lenient on sequence listings and also complain with the EPO Ombuds Office regarding the lack of reactivity from the EPO on sequence listings problems and questions raised by **epi**. As a consequence, on June 2023 the EPO sent responses to **epi**'s technical questions and those response have been made public accessible on the EPO's website. The EPO also changes its practice to implement further safeguards and steps in the transitional regime for divisional patent applications with sequence listings.

3. Stakeholder Engagement: The committee actively engages with stakeholders, including EPO and national patent offices, industry representatives, and academic experts, to foster dialogue and exchange of views on biotechnology patent issues. This collaboration helps to identify challenges and propose solutions for the effective protection and utilization of biotechnology inventions. The patent issues met with the new regulation proposed by the European commission regarding New Genomic Techniques (NGTs) is an example on how **epi** can engage dialogue with national and European stakeholders on that matter.

4. Educational Initiatives: The committee aims to organize educational events, such as seminars or Podcast event, to enhance understanding of biotechnology patent law among **epi** members and other interested parties. These events intend to contribute to provide a platform for knowledge sharing and networking, promoting professional development in the field of biotechnology patents. In 2023, nothing has been done on this point, but there are plans to develop this type of event in 2024, based on the latest regulatory developments.

Conclusion:

The Biotechnology Committee of the **epi** plays a significant role in shaping the biotechnology patent landscape in Europe. Through its activities, the committee contributes to the development of balanced and effective patent policies, ensuring the protection and promotion of innovation in the biotechnology sector. The committee's efforts in monitoring legal developments, providing guidance, engaging with stakeholders, and organizing educational initiatives are instrumental in fostering a robust biotechnology patent system.

Note: This report provides a concise summary of the activities of the Biotechnology Committee of the **epi**. Further details and specific achievements may be available in the committee's official reports and publications into the **epi** Information journal.



CODE OF CONDUCT

Life of the Institute

Professional Conduct Committee (PCC)

In 2023, the Professional Conduct Committee (PCC) was actively engaged in supporting **epi** members and **epi** bodies through a range of initiatives related to conduct provisions. This included a discussion of the Code of Conduct for UPC judges, initiating a thorough revision of the Code of Conduct for **epi** members, giving webinars on conduct issues, providing advice to **epi** members on their request and setting up an internal database of anonymised advice cases.

Code of Conduct for UPC judges

In early 2023, PCC, in collaboration with the Litigation Committee, intensely discussed a proposal for a Code of Conduct for UPC judges. A meeting was scheduled at short notice for supporting the **epi** delegates ahead of a decisive meeting of the UPC Administrative Committee. The focal point of the discussion revolved around whether the Code of Conduct imposes overly strict rules on part-time UPC judges to prevent conflicts of interest, or if the rules are appropriate, particularly at the onset of the new system, to give a clear signal of impartiality to the public.

Code of Conduct

After a long period of work by PCC, starting in 2015, a first major revision of the **epi** Code of Conduct (CoC) was concluded with adoption of a majority of the proposals in the **epi** Council's autumn meeting. Over the years, PCC prepared, discussed, presented and revised the proposals several times. The work was concluded in a joint discussion with the By-Laws Committee in the middle of 2023.

The revision encompasses:

- updating and improving the wording of the Code of Conduct, including a gender-neutral wording
- incorporating the duty of **epi** members to keep their professional knowledge up to date (Art. 1 CoC)
- aligning the wording regarding conflicts with the wording in the Regulation on Discipline (Art. 4 CoC)
- incorporating conduct provisions for internal **epi** elections, aiming at a spirit of fairness and transparency (new Art. 8 CoC).

The proposal presented to the Council also encompassed a new sub-article addressing keeping of files, but the Council saw difficulties in applying that provision in some specific cases and eventually rejected the proposal. Therefore, PCC will revisit this matter, along with other proposals aimed at further refining the Code of Conduct. ▶

Professional Conduct Committee (PCC)

Life of the Institute

◀ Webinars

PCC continued its collaboration with the Professional Education Committee (PEC) to provide training in the area of professional conduct. In January, a first webinar was directed to legal and practical aspects of establishing **Information Barriers** in law firms, aiming at preventing conflicts of interest and misuse of confidential information. In February, a second webinar explored the fundamental principles of **Keeping and Transferring of Files**, also with a view to national regulations of various EPC countries, including Germany, the UK, France, Netherlands, Sweden and Denmark. In September, a third webinar gave an overview over **Basics of the Disciplinary System**, i.e., procedures, competent bodies and possible sanctions for **epi** members not complying with conduct provisions. All webinars were free of charge and were very well attended by **epi** members and students. A recording of the webinars has been made accessible on www.epi-learning.org.

Providing advice to epi members

An essential function of PCC is supporting **epi** members by giving advice on the permissibility of an action or an omission of an enquiring **epi** member. The possibility of obtaining an opinion for **epi** members is laid down in Art. 7(c)¹ of the Code of Conduct. Throughout 2023, PCC received

¹ Due to the revision of the CoC, the article number changed from 7(d) to 7(c).

eight enquiries from **epi** members, which were discussed in designated PCC chambers. The enquiries related to a wide field of topics, including matters such as LinkedIn profiles of **epi** members, potentials for conflicts of interest, charging clients for specific actions, and exercising due diligence when representing clients.

Database of Advice

A few years ago, PCC started anonymising enquiries from **epi** members and the advice given by PCC in response, with the aim of establishing a searchable database of anonymised cases. This year, the project gained significant speed by entering 51 cases from 2016 to 2022 in a database and making the database accessible to all PCC members. The database will serve as a valuable resource, aiding in the discussion of new enquiries and facilitating the identification of potential inconsistencies in past advice. The possibility of expanding access to the database to a broader group is currently under discussion.



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Professional Education Committee (PEC)

2023 was the last year for the PEC committee in the previous composition. Starting from November 2023 (after C96 in Ljubljana), a new PEC Committee has been elected. Because of the work on the new eEQE format and the start of the UPC, 2023 has been another busy year for the PEC with activities related to both the EQE and continued professional education (CPE).

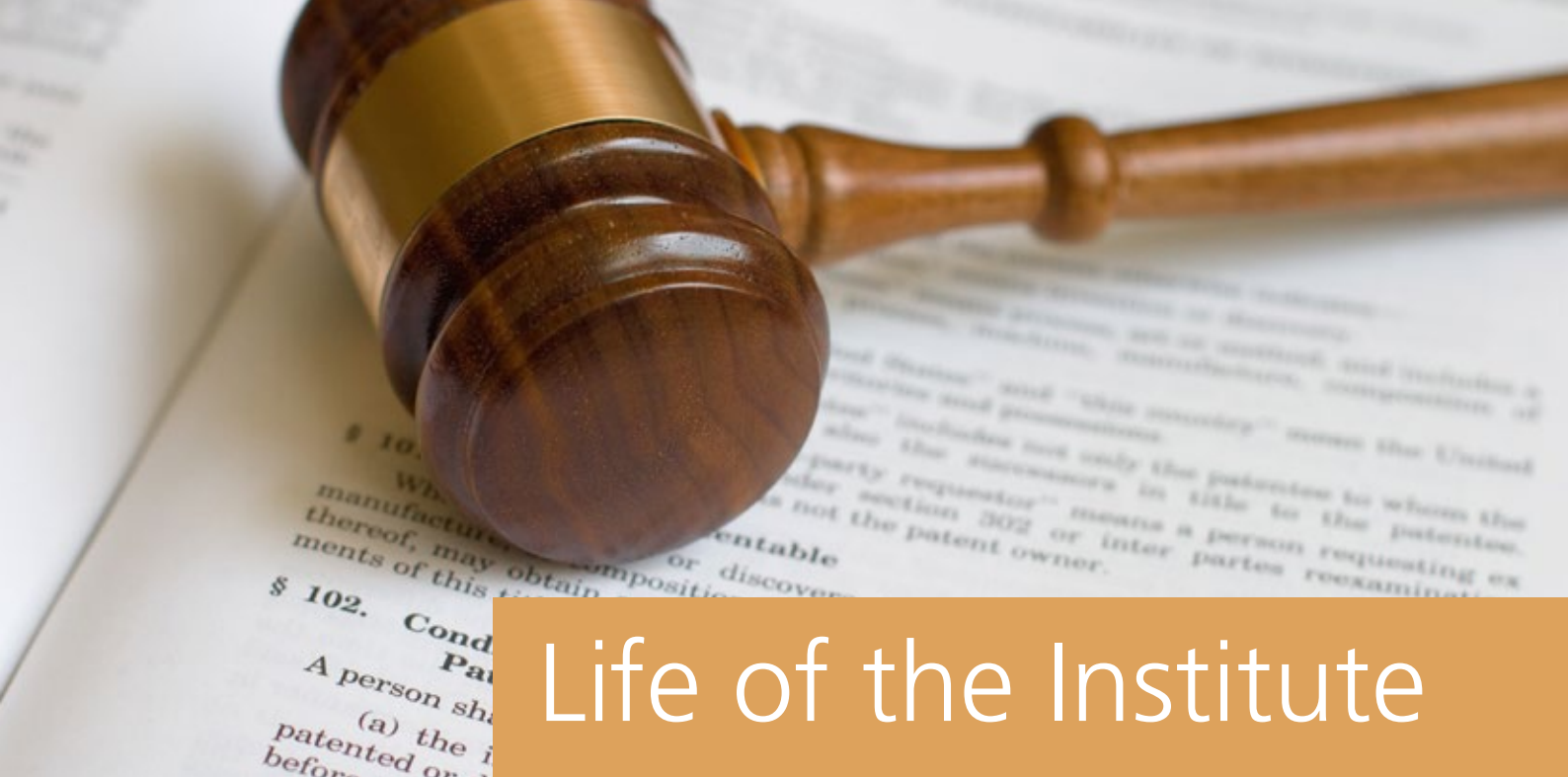
PEC members were deeply involved in discussions relating to the new REE/IPREE as members of a joint EPO/**epi** working group created for this task. Ultimately, this led to the acceptance of the new e-EQE format by Council and also by the Administrative Council of the EPO in December 2023. This work still continues and another set of PEC members are actively involved in what is commonly known as the 'second basket', in which e.g. the entry requirements (e.g. 80% STEM) to sit the EQE and ED&I issues etc. are being discussed prior to implementation at a later time.

PEC continued to offer online training sessions for Papers D, A, B and C, tutor consultations and tutorials for candidates preparing for the EQE in 2024; candidates were able to use the **epi** mock examinations on the Wiseflow system for their tutorials in addition to past examination papers from the Compendium. Candidates were encouraged to use Wiseflow wherever possible so that they could better familiarise themselves with

the system prior to the examinations. Some use was made of the **epi** Student Forum this year, mainly for Paper D questions.

Besides providing support for candidates sitting the EQE, PEC also intensively worked on its continuing education programme. The return to more in-person events which started in 2022 has continued in 2023. For example, a new in-person seminar in Munich on equivalence attracted a lot of interest and the seminars on the appeal process continued their tour around Europe. The **epi** presenter on this seminar, Cees Mulder, stepped down from presenting after more than 10 years, but the seminar series will continue in 2024. Training on the Unitary Patent (UP) and Unified Patent Court (UPC) was also provided by the UP/UPC working group which comprises members of PEC, LitCom and EPPC. Many European cities hosted a full-day seminar on UP/UPC to provide basic knowledge on these systems. In addition to the in-person events, the extensive on-line program continued and several of these webinars were free to attend for **epi** members. In addition, recordings and webinars on specific topics were produced. More details on the variety of trainings offered by **epi** can be found on [epi-learning](#).

PEC continued to take an interest in European Patent Administrator Certificate (EPAC), and a new subcommittee dealing with education for this exam has been formed. It is currently being investigated how the PEC can assist in preparing candidates for the exams, for example by providing training to supplement the course provided by the European Patent Office.



Life of the Institute

Litigation Committee (LitCom)

2023 saw the start of the Unitary Patent (UP) and the Unified Patent Court (UPC). Germany deposited its instrument of ratification of the Agreement on a Unified Patent Court on 17th February 2023, thus completing the conditions required to allow the UPC Agreement to come into force. Consequently, the sunrise period started on 1st March 2023 and the UPC started operation on 1st June 2023.

The LitCom has been extremely active monitoring and reporting on the activities associated with the commencement of the UPC as outlined below.

As a member of the user-organisation observer group within the UPC Administrative Committee (UPC AC), **epi** representatives comprising the President and/or representatives from the LitCom have attended all five meetings of the UPC AC and the official opening of the UPC in 2023. The LitCom coordinates the meetings of the **epi** internal support group (UPC AC Advisory Group comprising of representatives from the LitCom, the Presidium, OCC, and EPPC) in advance of the UPC AC to ensure that appropriate submissions are made to the UPC AC on behalf of the members of **epi**. Additionally, the LitCom coordinates meetings of the **epi** internal support group with the other user-organisation observer groups (BusinessEurope, EPLAW and EPLIT) as appropriate also in advance of the meetings of UPC AC meetings.

A significant amount of work was performed in 2023 in relation to the UPC IT system. The LitCom in co-ordination with the OCC held a number of meetings with the UPC CMS IT team and the Registrar, Mr. Alexander Ramsay, throughout 2023 to discuss and help resolve the many difficulties and challenges facing **epi** members as users of the UPC CMS System. Topics raised and discussed were gathered with the assistance of the OCC from members of the Litigation Committee, members of the OCC and through the **epi** Forum. This channel and means of sharing information has been acknowledged as being extremely useful and positive for both the UPC CMS IT Team, Registrar and members of **epi**. Quite a number of technical and legal issues have been clarified and amendments to the CMS have been made as a consequence of these meetings. The UPC CMS IT Team and Registrar have prioritised certain matters and acknowledged that many of the other issue(s) raised will be dealt with going forward. Towards the latter end of 2023 and in the future the other user-organisation observer groups (BusinessEurope, EPLAW and EPLIT) have been invited to join these meetings in order to provide commentary from their user communities as the cases being filed at the UPC continue to grow. ▶



Litigation Committee (LitCom)

Life of the Institute

◀ Additionally, the LitCom held two meetings in March (ViCo) and October (In-Person) 2023 respectively. The UPC Registrar, Mr. Alexander Ramsay, was the invited speaker at the March meeting, providing an update of preparations and developments at the Registry and on the CMS in advance of the UPC starting on 1st June 2023. Members of the Inter-Committee WG on UP/UPC educational activities led by the PEC were invited to join the LitCom meeting to hear Mr. Ramsay's presentation. At the October LitCom meeting, a number of reports on some of the initial decisions issued by various UPC local divisions were provided and discussed.

The UPC Rules of Procedure and Case Management System (CMS) sub-committee of the LitCom continued their work analysing the Rules of Procedure of the UPC which entered into force on 1 September 2022. This sub-committee also continues to monitor developments and decisions issued by the UPC. The sub-committee on "Representation and Privilege" also continued their work on the Code of Conduct and reported during the year on the UPC 'Code of Conduct for Representatives', which was adopted by the UPC AC on 8th Feb 2023. Going forward, it will be possible for a LitCom member to join the sessions of the WIPO Standing

Committee on Patent Law to directly follow-up on the international Client-Patent Attorney privilege discussions. A review of the status of virtual proceedings before national courts was updated by the "Virtual Proceedings" sub-committee. The work of the remaining sub-committees 'Enforcement and Jurisdiction' and 'Brexit Implications on Patent Litigation' also proceeded.

The LitCom also supports and assists the Inter-Committee Working Group led by the PEC on the planning and coordination of educational activities on the Unitary Patent and Unified Patent Court system. A number of more detailed 1-day seminars on the new system took place during the last quarter of 2023 across Europe with members of the LitCom delivering the UPC sections of the 1-day seminar. Discussions are ongoing regarding the further topics related to the UPC for the **epi** membership.

The election of the new LitCom Members was validated at the 96th Council Meeting on 11th November 2023. The Executive Committee of the LitCom wishes to thank all of the outgoing members of the LitCom for their contributions to the work of the LitCom and welcome all of LitCom members elected for the present term.



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IP Commercialization Committee (IPCC)

“Patent Package” of the EU Commission

Proposal for new Regulations of the European Parliament and of the Council on SEP, Compulsory licenses and SPC, 27th April 2023.

The EU Regulations comprise 3 topics: Standard Essential Patents (SEP), Compulsory Licensing and Supplementary Protection Certificates (SPC). IPCC dealt with the first two and prepared a comment forwarded by the **epi** president to the EU Commission in August 2023. In general, **epi** welcomes the Commission's thoughts and efforts to strengthen intangible assets including inventions and patents. However, the new Regulation should not burden European authorities without significant benefits for the economy.

The EU Regulations assign highly technical topics to EUIPO, an authority which is not familiar with such matter, neither are the rep-

resentatives before the EUIPO. IPCC drafted detailed statements for both drafts listing lots of technical shortcomings. Obviously, the Regulations had been put together too hurriedly and with too less insight into the economic and legal background.

IPCC spend a lot of time to assess the various provisions dealing with a Union Register for FRAND terms and conditions, the proposed new SEP database, non-binding out-of-court dispute resolution, aggregate royalty determination, procedures for essentiality checks of SEPs and evaluation cost.

The European Compulsory licensing for crisis management is meant to replace the existing national rules. We pointed to the exceptional and sensitive nature of compulsory licenses and the open question what happens after the end of a crisis. Further the role of a newly established Advisory Body is unclear and royalty provisions are not practicable.

This work was done in cooperation with LitCom. All in all, the EU Regulations need substantive revision which can hardly be done before the EU elections in June 2024.



Life of the Institute

Diversity and Inclusion Working Group

The Diversity and Inclusion Working Group was active on different topics in 2023, in particular:

- The WG worked with the EQE Secretariat to have D&I questions included for the first time in the survey sent to all EQE candidates. An overview of the responses was presented to **epi** Council.
- The WG published an article in **epi** Information 03/2023 entitled: “Prerequisites to sit the future e-EQE: Perspective from the **epi** Diversity and Inclusion Working Group”.
- Members of the WG gave a presentation on “Fostering the Diversity and Inclusion in our European Patent profession” at the event organized by **epi** on 13 October 2023 (“Half a century of EPC, 44 Years of EQE and opening a New Chapter”).
- The WG considered possible amendments to Rule 17 IPREE about reasonable adjustments for EQE candidates.

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