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UPC turns three: statistics, milestones, and trends



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June 15, 2026



Germany

VS.



Curaçao



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1

Matches Won

0

7

Goals

1

65%

Possession

35%

26

Shots on Goal

8

0/10

Fans

10/10

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Agenda

- I. Use of the UPC
- II. Speed and procedure
- III. Comparison of actors



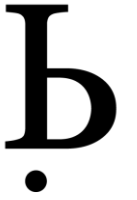
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A woman with light-colored hair and eyes is looking upwards and to the right. She is positioned in front of a white, geometric metal structure that creates a grid-like pattern over her face. The background is a clear blue sky with some light clouds. She is wearing a dark, possibly black, top.

I. Use of the UPC



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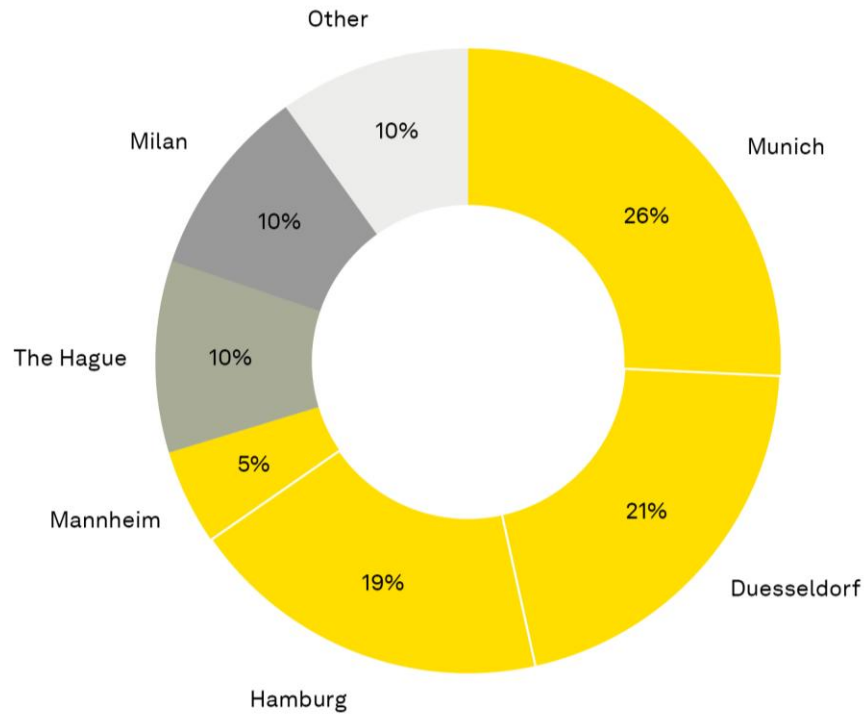
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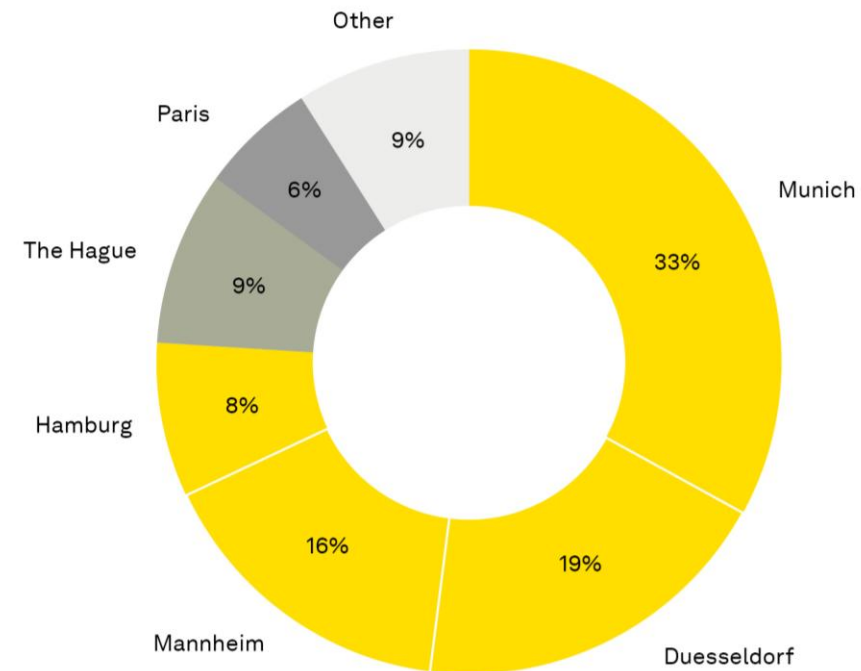
Case Distribution by Local Division



CFI PI Proceedings by Division



CFI Infringement Main Actions by Division



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Nationality of Parties in CFI proceedings



Disclaimer: All parties involved captured, not filtered by primary party.

Proceeding	Applicant / Claimant		Defendant	
	Entities	Nationality	Entities	Nationality
PI	54	1. US (44%) 2. DE (17%) 3. CH, FR, NL, UK (7% each)	119	1. DE (33%) 2. NL (13%) 3. CN (13%)
Infringement	102	1. US (25%) 2. DE (16%) 3. FR (9%)	248	1. DE (29%) 2. US (12%) 3. FR (10%)
Standalone Revocation	45	1. NL (22%) 2. FR (20%) 3. DE (18%)	30	1. US (57%) 2. AT, FI, NL, UK (7% each)

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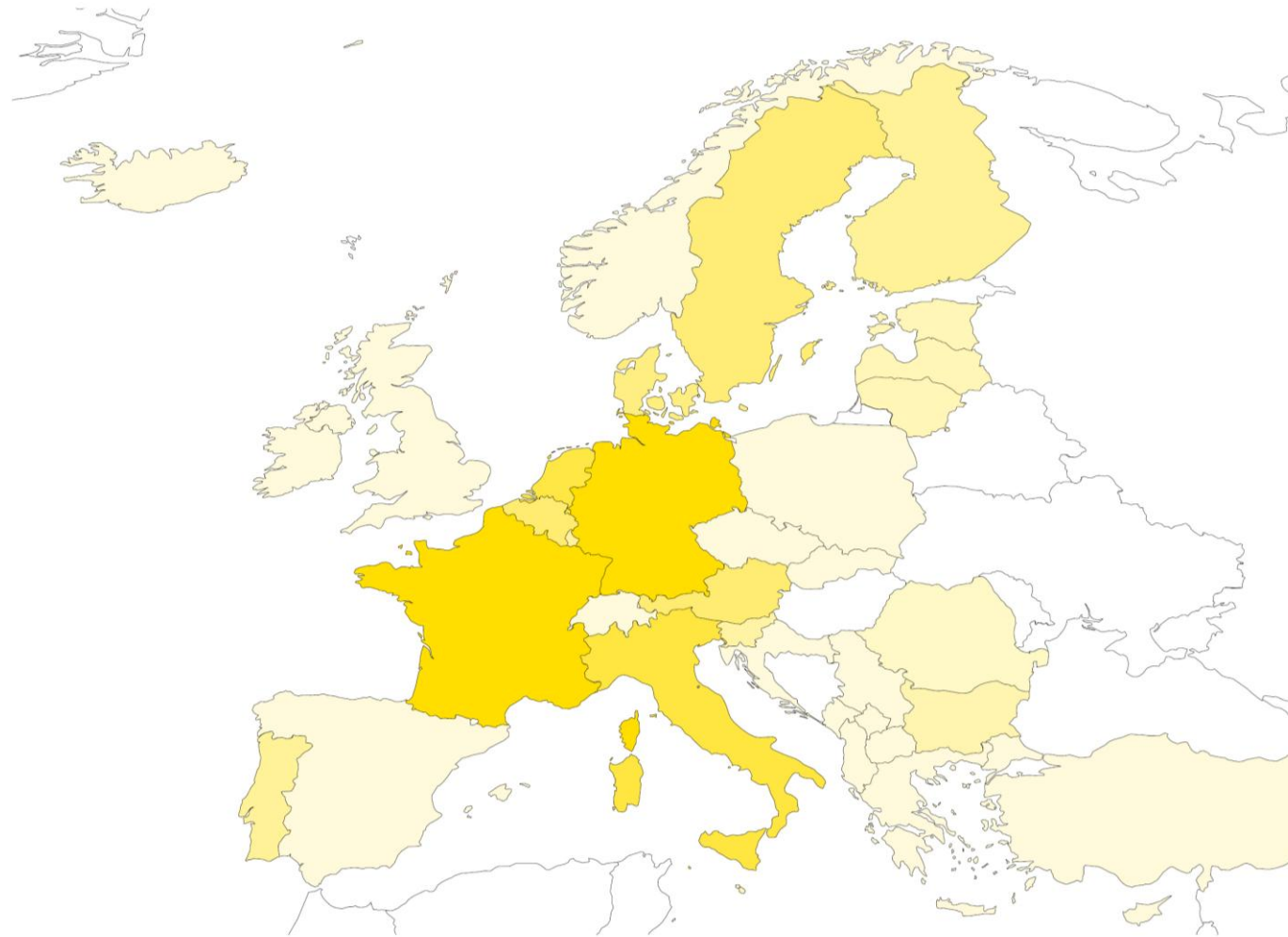
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Proportion of Contracting UPC Member States for which remedies are sought (infringement main actions)



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Country	% of Decisions
Germany	92%
France	89%
Italy	65%
Netherlands	63%
Belgium	46%
Austria	45%
Sweden	43%
Denmark	39%
Finland	30%
Portugal	30%
Luxembourg	27%
Slovenia	25%
Bulgaria	21%
Estonia	18%
Latvia	18%
Lithuania	18%
Malta	14%
Romania	12%
Other EU (avg.)	4%
Other EPC (avg.)	3%

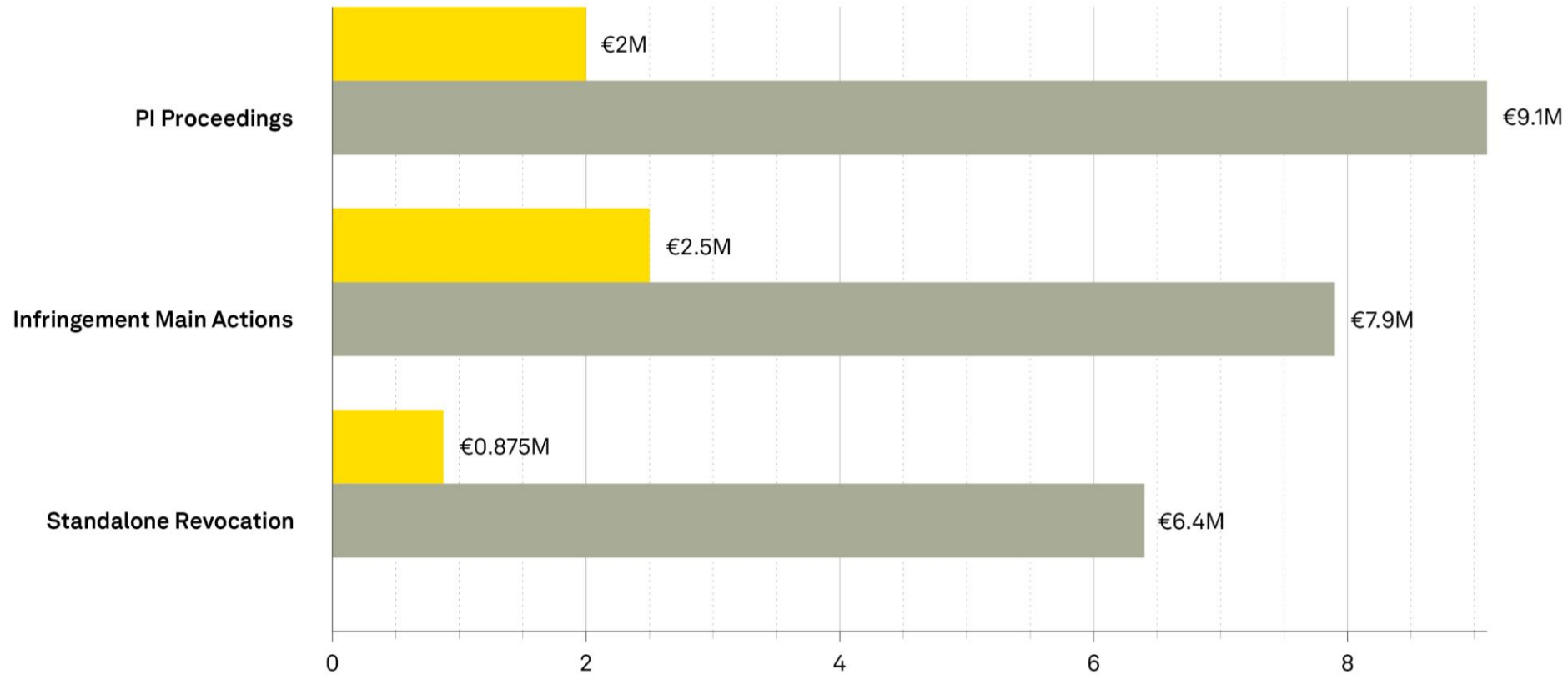
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Value in dispute in CFI proceedings



Median Average



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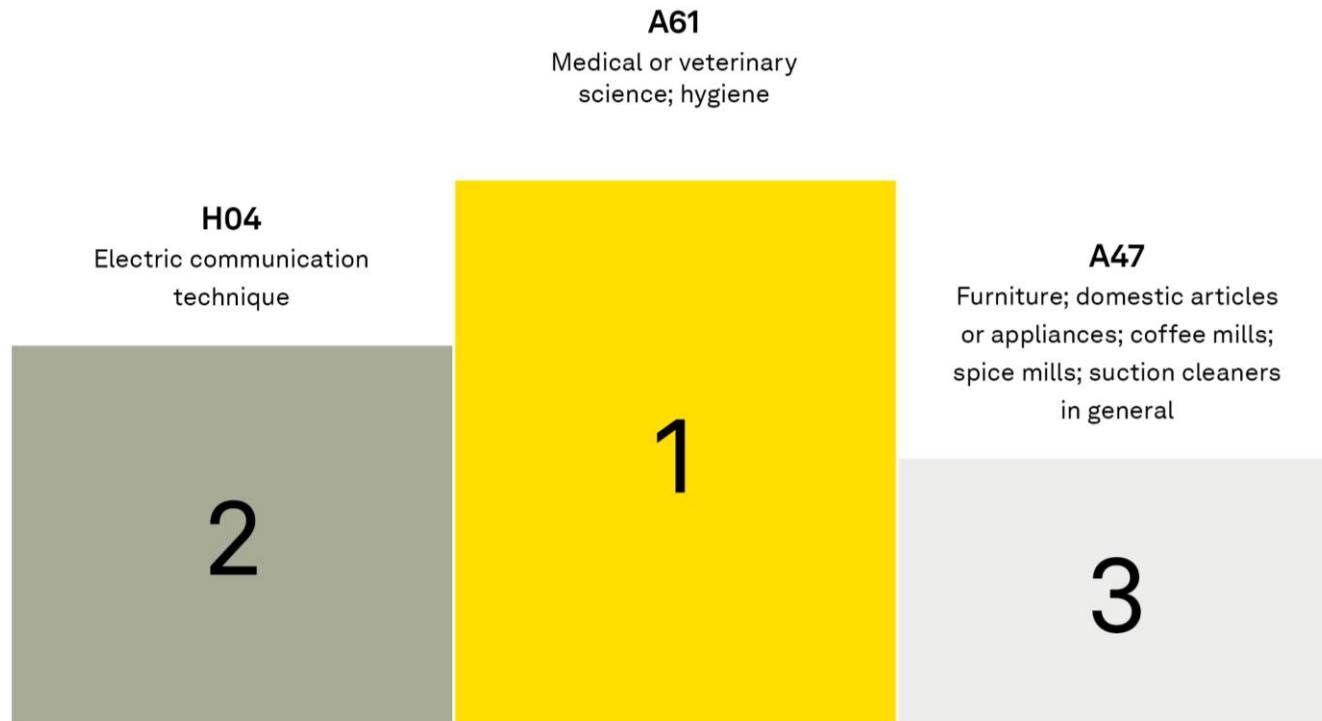
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CFI Top Technical Fields (overall) – IPC class (3 digits)



Case complexes between two parties based on multiple patents of the same class counted only once.



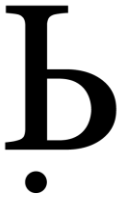
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A woman with dark hair and light-colored eyes is looking upwards and to the right. She is positioned in front of a white, geometric metal structure that creates a grid-like pattern over her face. The background is a clear blue sky with some light clouds. She is wearing a dark, possibly black, top.

II. Speed and procedure



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Evidence Preservation & Inspection: filing volume and distribution



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Published inspection cases (total: 28) Rules 192–198 RoP	Share	Cases	Inspection and evidence (total: 48) Rules 192–198 + 199 RoP	Share	Cases
1. Düsseldorf	32 %	9	1. Düsseldorf	31 %	15
2. Milan	29 %	8	2. The Hague	23 %	11
3. The Hague	11 %	3	3. Milan	19 %	9

Legal framework:

Order to preserve evidence (Saisie): Rules 192–198 RoP.

Order for inspection: Rule 199 RoP – a **distinct** measure (inspection of products, devices, methods, premises *in situ*); **not** a „Saisie“.

Both anchored in **Art. 60 UPCA** (order to preserve evidence and to inspect premises)

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Evidence Preservation and Inspection Proceedings



Filings (01.06.2023 – 31.05.2026): ca. 50 requests

Caveat: UPC intake figures only partially meaningful – categorisation (preservation vs. inspection vs. combined) varies, which is why a single application often requests both

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Evidence Preservation and Inspection Proceedings



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Outcomes (01.06.2023 - 31.05.2026):

Note: In our view, orders rejecting an application ex parte do not need to be served (Rule 197.2, para. 2 of the Rules of Procedure, by implication; see, however, Rule 276.1 of the Rules of Procedure; by contrast, under German law, service is clearly not required: Sections 936 and 922(3) of the Code of Civil Procedure) and therefore do not need to be published either. In this respect, no truly meaningful success rate can be determined (these could also be withdrawals), especially since the intake figures are not really reliable (see above).

Success rate	
Published orders	100 % (28 individual cases), i.e. measures ordered as requested – at least 2 orders lifted on inter partes review after enforcement
Ex parte	100 %
Enforcement security	
Ordered	50 %
Average	Ca. 30.000 €
Avg. duration overall	18 days
Avg. duration trade fair	1 day

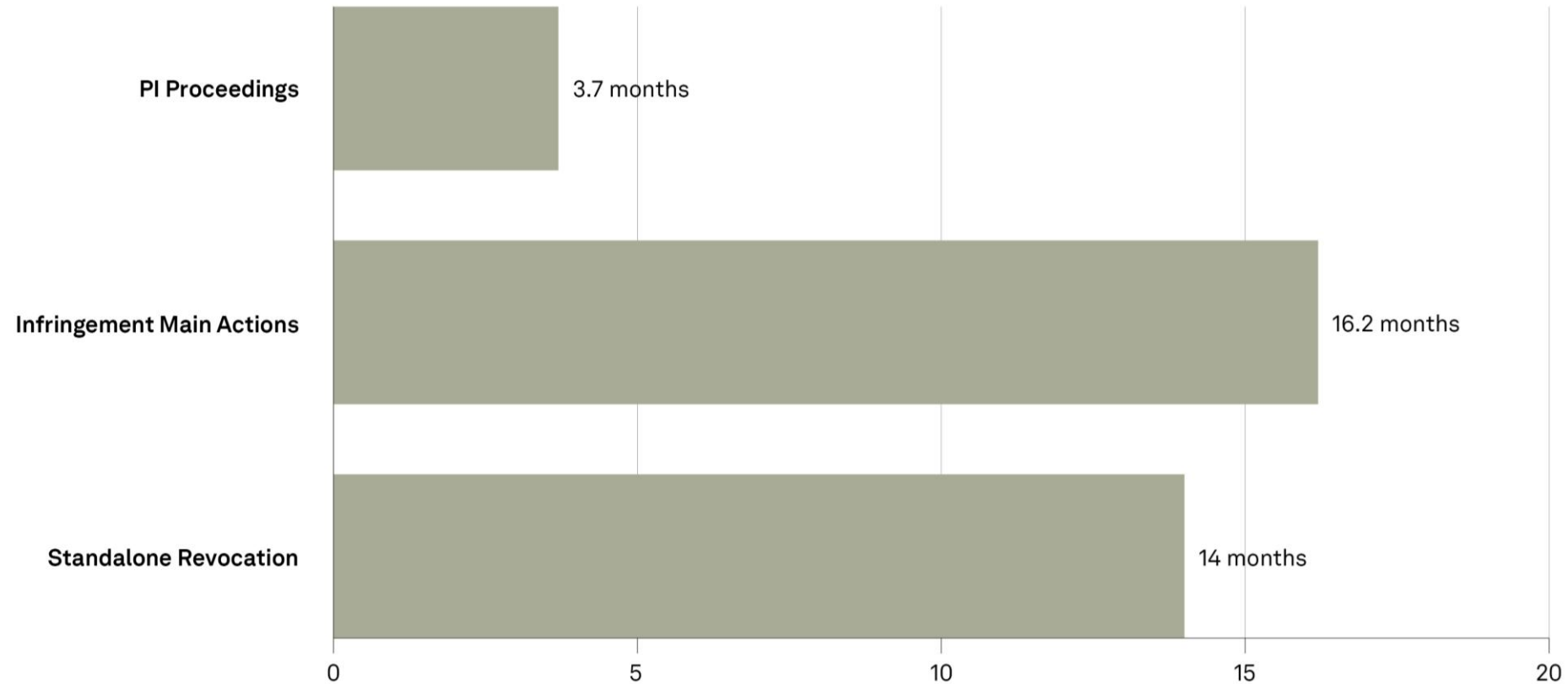
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Average Duration of CFI proceedings (from filing to order/decision)



Months = 30 days. Infringement includes revocation counterclaims and vice versa.



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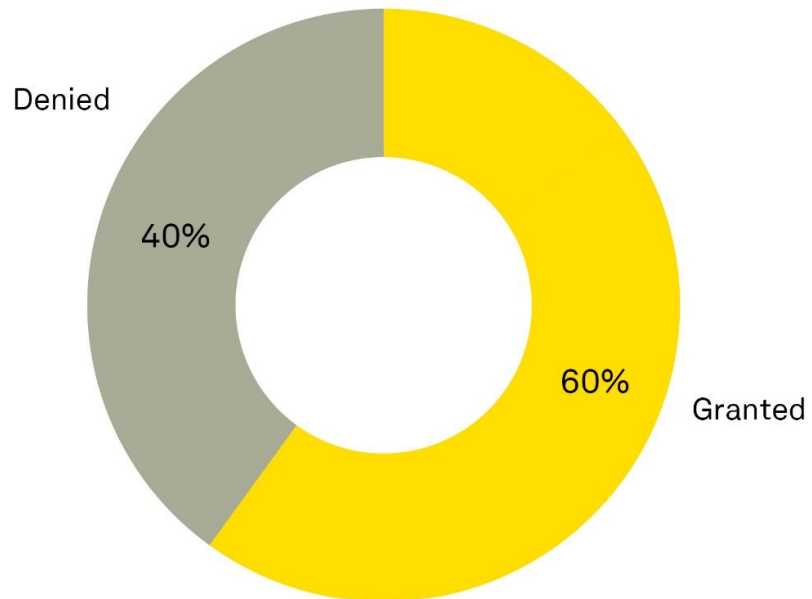
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Success rates: CFI Preliminary Injunction proceedings (42 decisions)

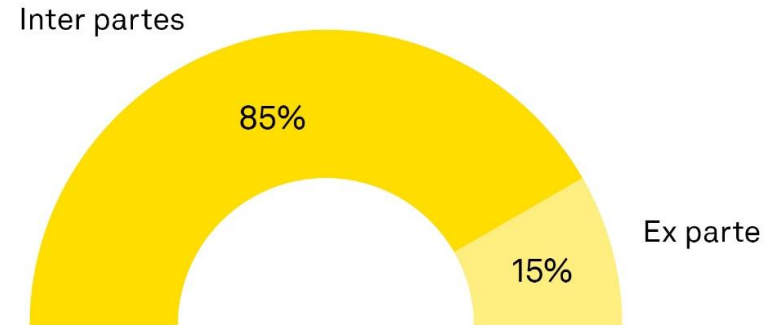


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Overall outcome



Granted PIs



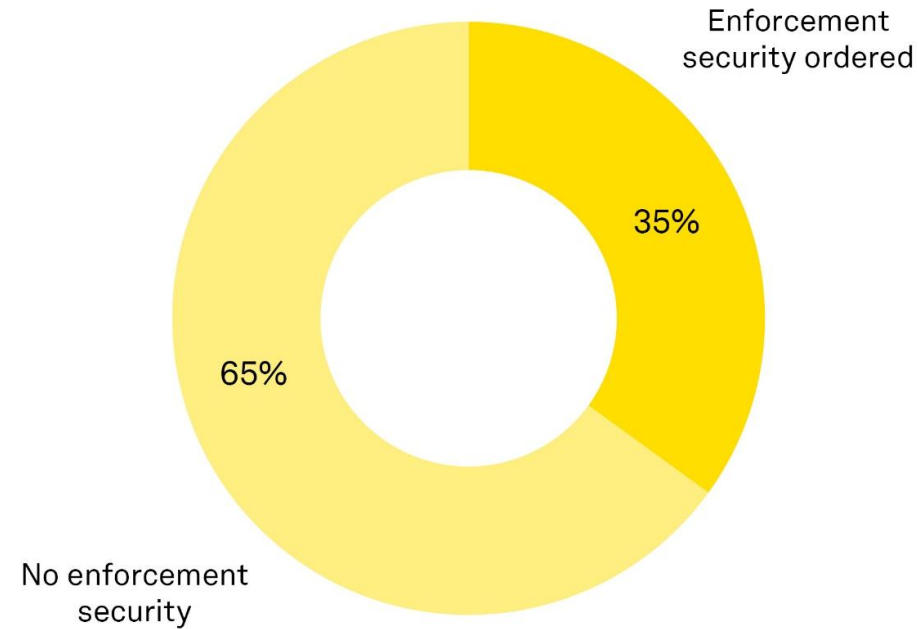
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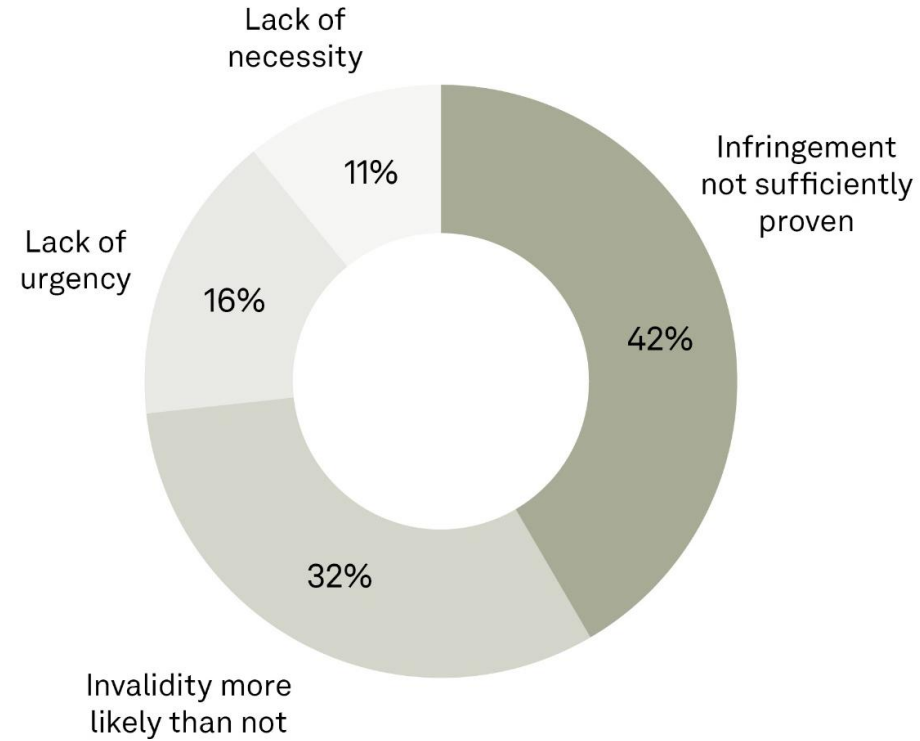
Success rates: CFI Preliminary Injunction proceedings (42 decisions)



Enforcement security ordered
(successful decisions)



Reasons for denial (unsuccessful decisions)



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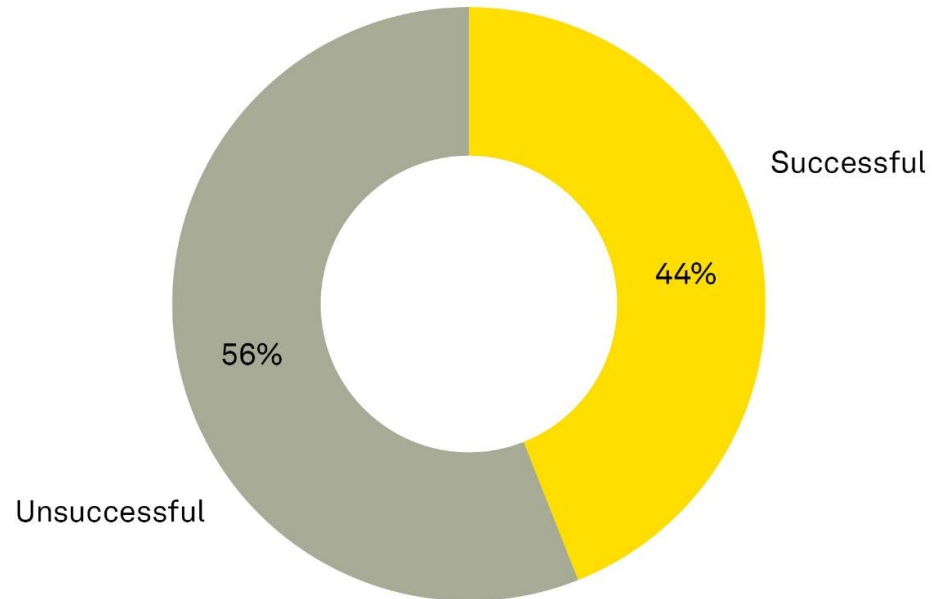
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Success rates: CFI Infringement Main Proceedings (84 decisions – 67 counterclaims)

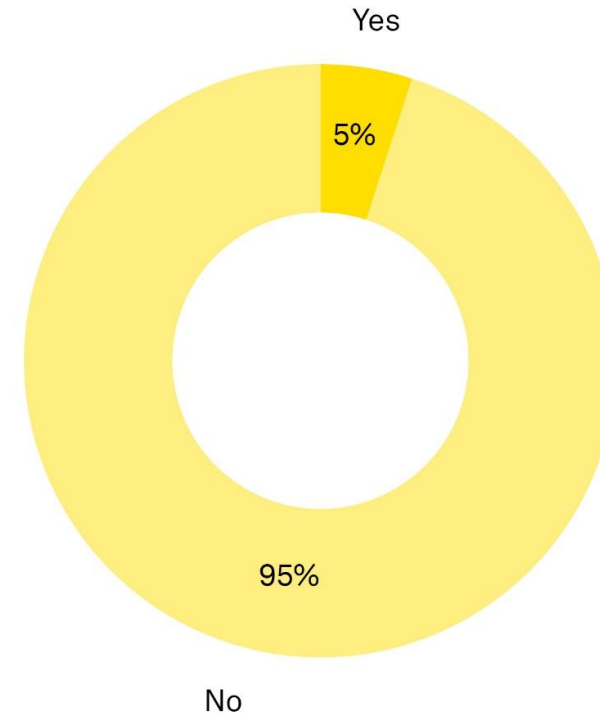


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Success rate (infringement)



Enforcement security ordered (in successful decisions)



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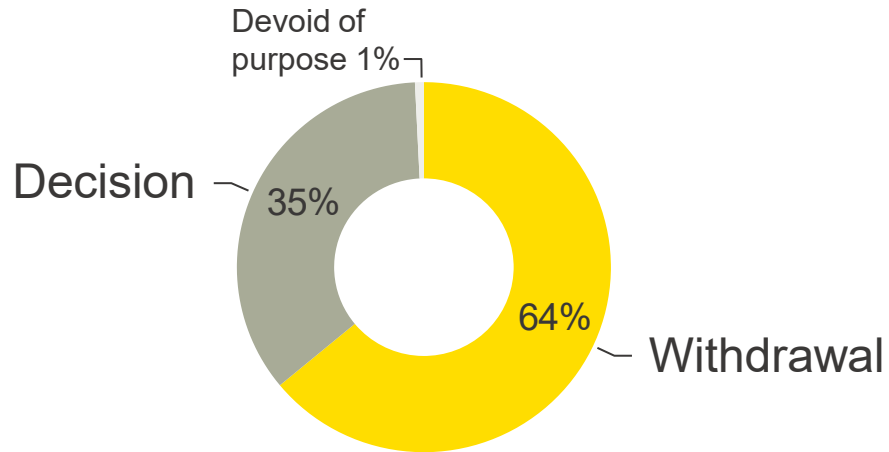
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Withdrawal Rates - Court of First Instance Infringement Actions

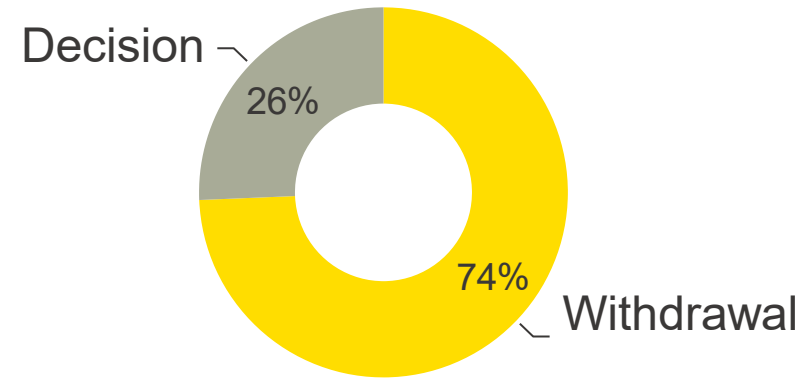


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All
(261 actions)



High Tech
(152 actions)



"Tech" sectors include electrical engineering (H) and physics (G)

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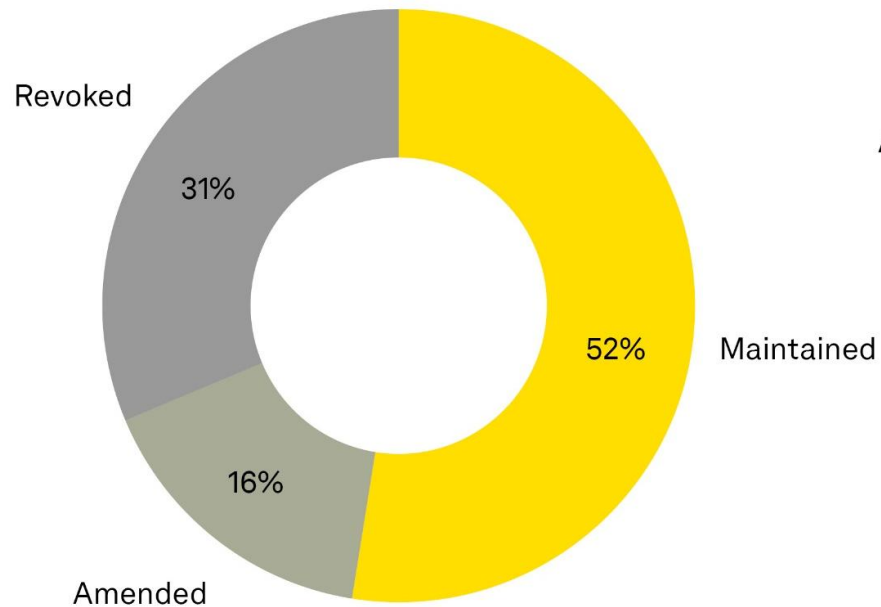
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Success rates: CFI infringement main proceedings (84 decisions – 67 counterclaims)

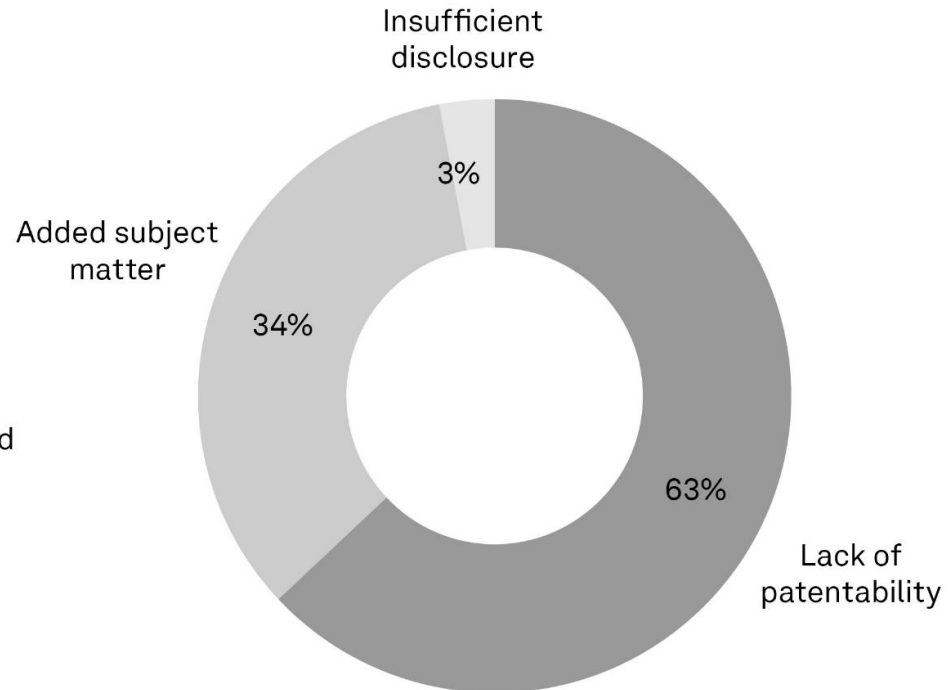


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Revocation rates (counterclaims)



Grounds for (partial) revocation (counterclaims)



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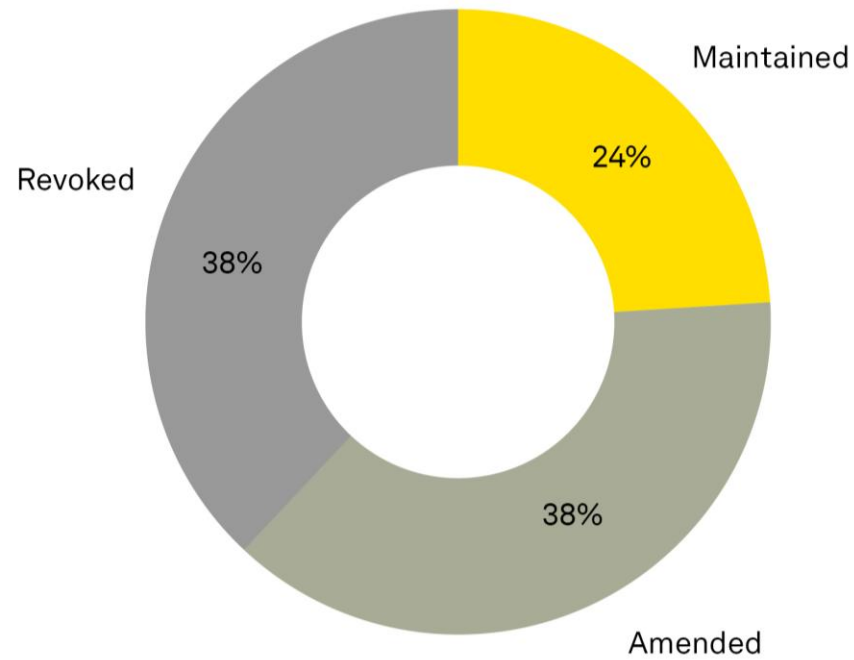
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Revocation rates: CFI Central Revocation Proceedings (29 decisions)

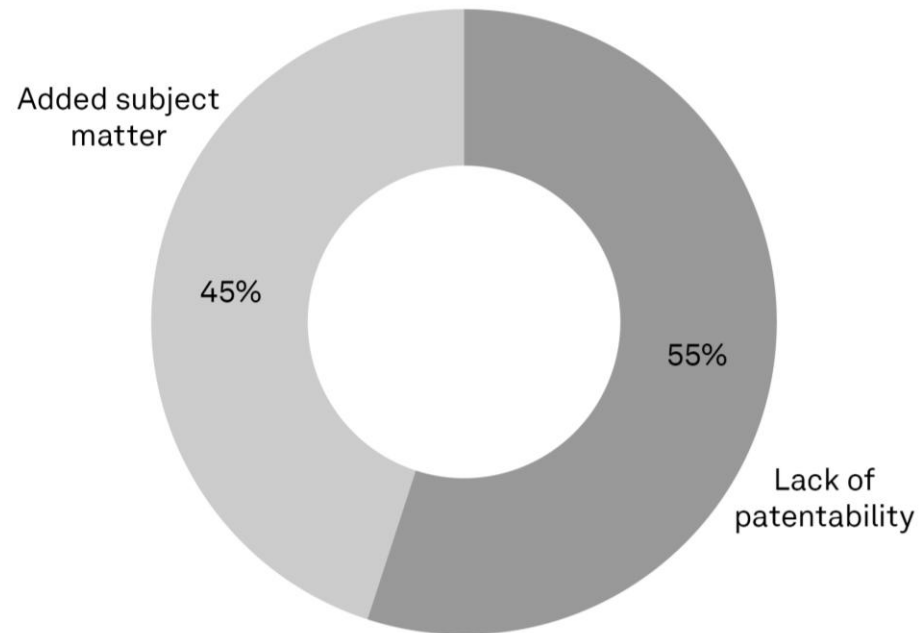


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Revocation rates



Grounds for (partial) revocation

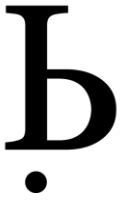


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A woman with long brown hair, wearing a black top, is looking upwards and to the right. She is positioned in front of a white, geometric metal structure that creates a grid-like pattern over her face. The background is a clear blue sky with some light clouds. The overall mood is contemplative and aspirational.

III. Comparison of actors



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Comparison of Local Divisions: Preliminary Injunction proceedings



Only divisions with >5 decisions shown.

	Absolute number of decisions	PI grant rate	Enforcement security ordered in X % of granted PIs	Average duration (days)
Local Division Duesseldorf	14	61%	28%	152
Local Division Hamburg	8	56%	0%	94
Local Division Munich	6	67%	17%	140
Local Division The Hague	6	67%	33%	107

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Comparison of Local Divisions: Infringement Main Proceedings



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	Absolute number of decisions	Counterclaims	Decision on counterclaim for revocation			Decision on infringement		Duration (months)
			Maintained	Amended	Revoked	Infringement found	Share of cases with granted relief subject to enforcement security	
LD Düsseldorf	20	17	71%	12%	18%	60%	0%	16
LD Munich	18	15	40%	13%	47%	39%	6%	17
LD Mannheim	11	9	56%	11%	33%	38%	6%	21
LD Paris	10	7	14%	14%	71%	30%	0%	14
LD The Hague	7	7	71%	14%	14%	29%	0%	16
LD Hamburg	6	6	50%	33%	17%	17%	0%	16

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Divergence?

- In 15% of CFI counterclaims there were parallel EPO opposition proceedings (total: 84 cases).
- In 41% of central revocation actions, there were parallel EPO opposition proceedings (total: 29 cases).
- There have been divergent decisions, but why?



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Validity UPC vs. EPO

Standalone Central Revocation Actions



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Patent	Sequence of decisions	Outcome UPC	Outcome EPO	Point of divergence	Identical facts (in case of divergence)	Notes
EP3504991	UPC-EPO	Maintained	Revoked	Added subject matter	No	UPC only assessed patentability
EP3456214	EPO-UPC	Revoked (CoA)	Amended	Inventive step	No	Different starting point in UPC proceedings
EP3504989	UPC-EPO	Amended	Revoked	Added subject matter	Yes	/
EP4074373	UPC-EPO	Amended	Maintained	Added subject matter	Yes	/
EP3626092	UPC-EPO	Maintained	Amended	Added subject matter	No	UPC only assessed patentability; EPO appeal pending
EP3613453	UPC-EPO	Amended	Revoked	Novelty	No	Novelty attack late filed in UPC proceedings
EP3756767	UPC-EPO	Amended	Revoked	Added subject matter	Yes	UPC appeal pending; EPO appeal possible
EP3414708	UPC-EPO	Amended	Revoked	Added subject matter	Yes	EPO appeal pending

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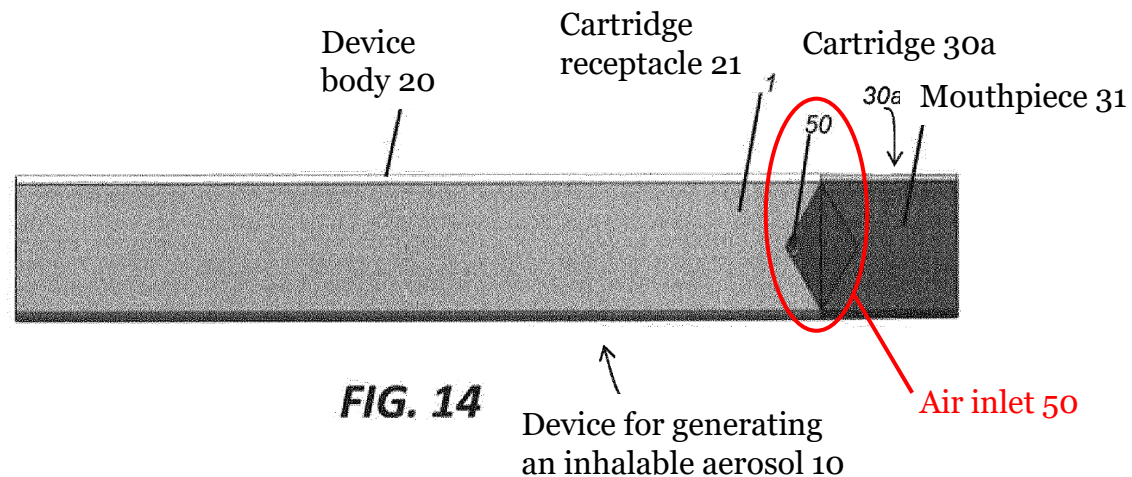
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Divergence on Added Subject-Matter: NJOY vs. Juul (EP 3 504 989 B1)



- UPC Central Division Paris (28 Feb 2025): maintained in amended form — EPO Board of Appeal (31 Mar 2025): revoked in its entirety.
- EPO and UPC **agreed**: the granted claim contains added subject-matter — an intermediate generalisation.
- Proposed amendment was the same:
 "a size of the channel air inlet (50) is defined by a configuration of the notch."
- EPO and UPC **disagreed** on whether that amendment cures the defect:
- **UPC CD Paris:** The notch is what defines/exposes the inlet → restores the missing link (reasons 9.12, 9.14). Description [00170] supports the notch defining the inlet size → direct & unambiguous disclosure (reasons 9.13)
- **EPO Board of Appeal:** „Defined by“ means the notch must determine the inlet’s essential size (reasons 3.2.2). However, description disclosed size „*may be varied by*“ the notch — which does not exclude that *other* parts also „define“ it. Amendment not directly and unambiguously disclosed (reasons 3.2.3)

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Divergence on Inventive Step (1): DexCom v Abbott (EP 3 435 866 B1)



Facts: same prior art (Berman, US 2015/205947) — EPO maintained the patent (2023); UPC LD Paris revoked it (2024)

The claim required an analyte monitoring system using **two distinct communication protocols**:

- 1.2.2 *transmit a first portion of the analyte measurement data indicative of analyte levels using a first communication protocol that is Bluetooth or Bluetooth Low Energy, BLE;*
- 1.2.3 *receive a data request command using a second communication protocol that is near field communication, NFC, or radio-frequency identification, RFID; and*

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The divergence is explained by a different reading of Berman, not by a difference in methodology:

- **EPO:** *"although paragraph [0064] refers to a list of communication protocols including Bluetooth, BLE, NFC and RFID, those protocols are presented as mere **alternative** protocols"* — the dual-protocol concept is not disclosed → broad distinguishing feature → broad problem → not obvious
- **UPC:** The same paragraphs disclose that *"both schemes [are] combined into a single system"* and that D1 discloses *"the use of two protocols for data transmission"* (UPC Sections 16.2, 16.5) → dual-protocol concept already in D1 → sole distinguishing feature: selection of NFC/RFID for the data response → problem reduced to *"choosing a protocol"* → obvious
- **On methodology:** The Paris Local Division had not even fully adopted the CoA's holistic framework (which was confirmed by CoA later).

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Divergence on Inventive Step (2): Sanofi vs. Stada et al. (EP 2 493 466)



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Facts: EPO Board of Appeal (T 0136/24, June 2025): patent maintained. Petition for review pending before the Enlarged Board of Appeal. UPC LD Munich (Dec. 2025): Patent fully revoked

The Patent: Use of cabazitaxel (a chemotherapy drug) to treat advanced prostate cancer after prior treatment with docetaxel (another chemotherapy drug).

What was the same:

Both courts assessed inventive step starting from the **same prior art** — the announced Phase III clinical trial (TROPIC), with **no results** yet published

Both courts **adopted the same legal principle:** a trial nearing completion is *not, per se*, a positive or negative indicator of success (*UPC p. 41, expressly citing EPO BoA para. 7.15.5*)

What was different:

BoA found patent proprietor's argument plausible that even a **hope** sufficed for trial approval, while the BoA's own conclusion (para. 7.16) was that **no reasonable expectation of success** existed (*BoA paras. 7.15.4–7.15.5, 7.33*)

The UPC, applying the **same per se principle**, concluded that the **cumulative observable facts** — 3 years ongoing, no interruption, no negative events published, trial about to end — meant the sponsor did not consider it disappointing → **reasonable expectation of success** (*UPC pp. 41–42*)

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Thank you!



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Patent Disputes Firm of the Year in Germany 2025 – Managing IP
Intellectual Property Team of the Year in Germany 2025 – Legal 500
Best IP Advisor DACH 2025 – Leaders League
Law Firm of the Year for Patents in Germany 2023 – JUVE
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Europe's Leading Patent Law Firms – Financial Times
TOP-KANZLEI Patentrecht – WirtschaftsWoche



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The background of the image consists of horizontal window blinds. Sunlight is streaming through the slats, creating a series of parallel, bright white lines that recede into the distance, creating a strong sense of perspective. The spaces between the slats are in deep shadow, appearing as dark, almost black lines. The overall effect is a rhythmic, geometric pattern of light and shadow.

B

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