

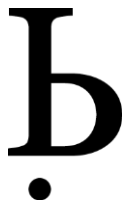


UPC FACT CHECK – SUCCESS RATES, REVOCATION RATES & GROUNDS FOR REVOCATION



Sabrina Hütt, Patent Attorney BARDEHLE PAGENBERG

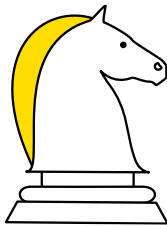
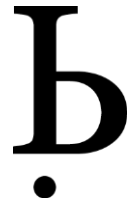
Dr. Tobias Wuttke, Attorney-at-Law BARDEHLE PAGENBERG



**BARDEHLE
PAGENBERG**

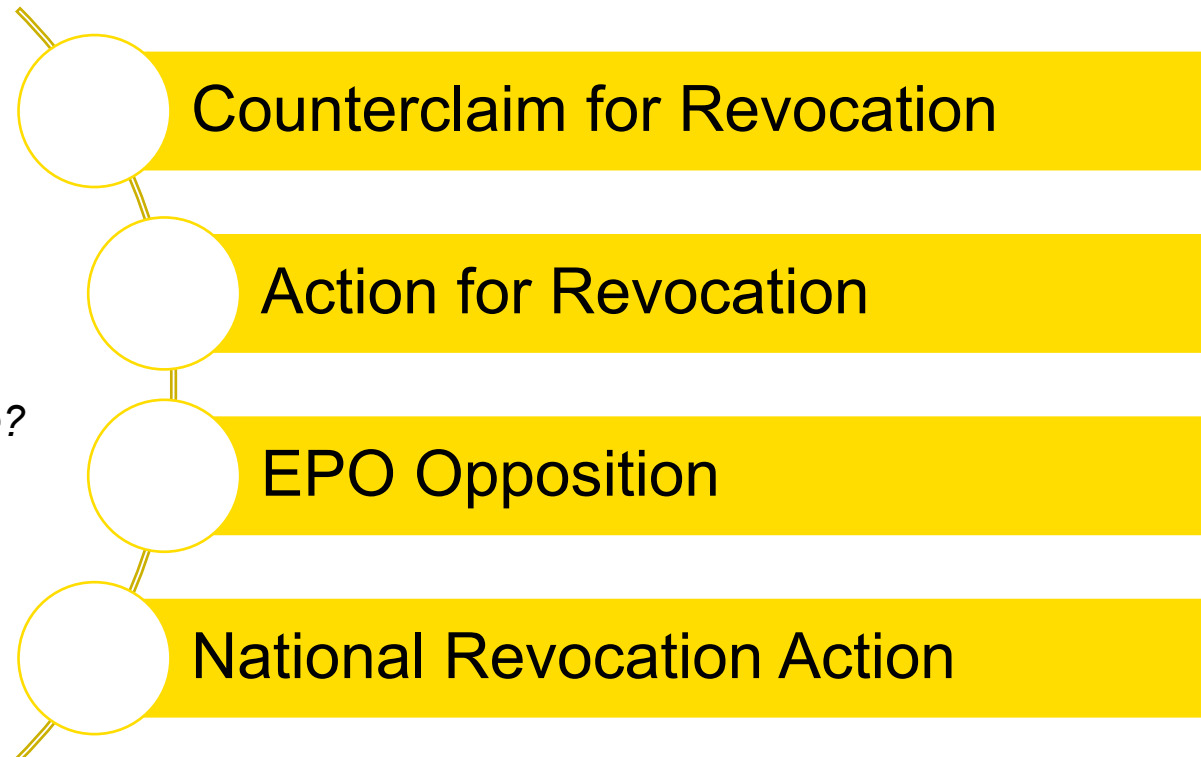
Impact.
Passion.
IP.

Options to attack the validity of a patent



Which option is the right one to take?

Why not choose more than one?

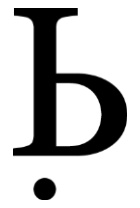


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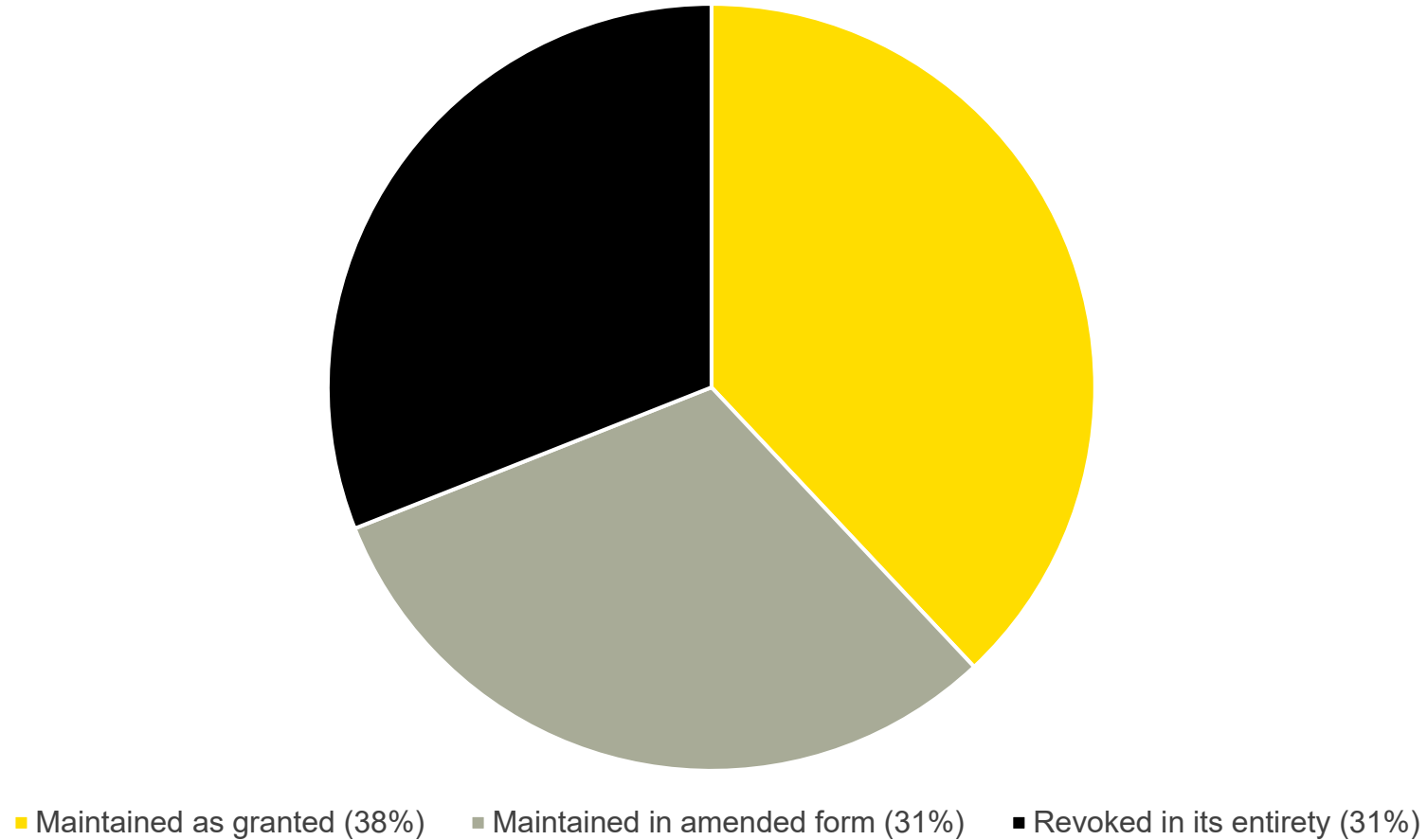
9/11/2025

slide 2

UPC revocation rates

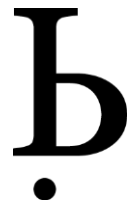


58 cases (Counterclaim + Central Revocation Action)

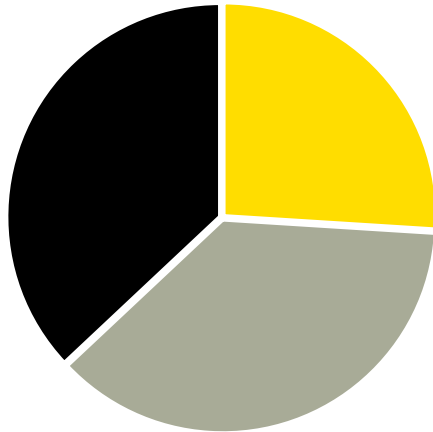


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UPC revocation rates - Central Revocation Action vs. Counterclaim for Revocation

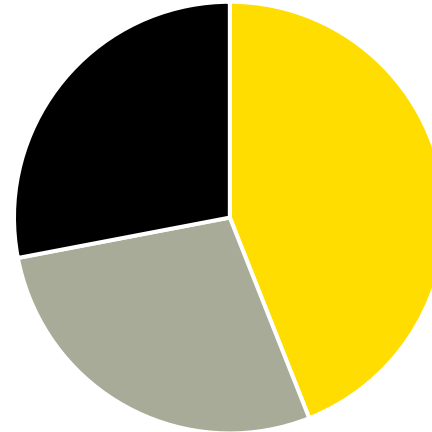


Total (**Central Revocation Action**): 19 cases



- Maintained as granted (26%)
- Maintained in amended form (37%)
- Revoked in its entirety (37%)

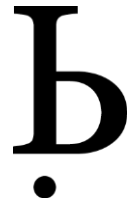
Total (**Counterclaim for Revocation**): 39 cases



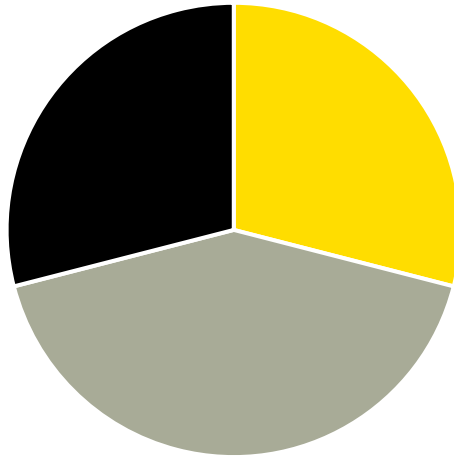
- Maintained as granted (44%)
- Maintained in amended form (28%)
- Revoked in its entirety (28%)

UPC Fact Check –
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UPC revocation rates for **Central Revocation Actions**

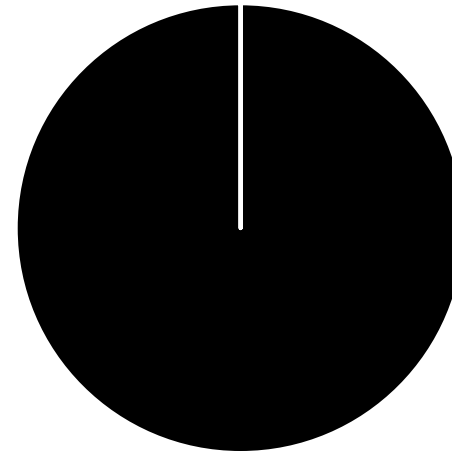


CD Paris: 17 cases



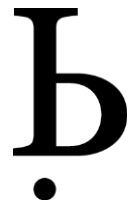
- Maintained as granted (29%)
- Maintained in amended form (42%)
- Revoked in its entirety (29%)

CD Munich: 2 cases



- Maintained as granted (0%)
- Maintained in amended form (0%)
- Revoked in its entirety (100%)

UPC revocation rates for **Counterclaims for Revocation**



LD Munich: 9 cases



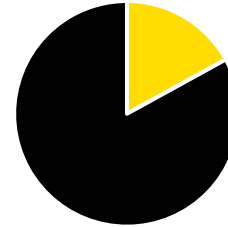
- Maintained as granted (33%)
- Maintained in amended form (45%)
- Revoked in its entirety (22%)

LD Mannheim: 6 cases



- Maintained as granted (50%)
- Maintained in amended form (17%)
- Revoked in its entirety (33%)

LD Paris: 6 cases



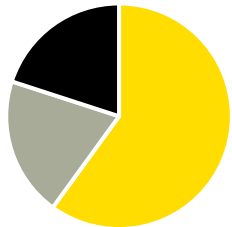
- Maintained as granted (17%)
- Maintained in amended form (0%)
- Revoked in its entirety (83%)

RD Nordic Baltic: 1 case



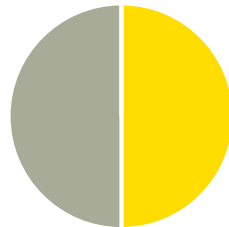
- Maintained as granted (0%)
- Maintained in amended form (100%)
- Revoked in its entirety (0%)

LD Düsseldorf: 10 cases



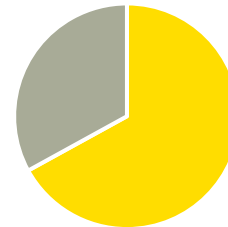
- Maintained as granted (60%)
- Maintained in amended form (20%)
- Revoked in its entirety (20%)

LD Hamburg: 4 cases



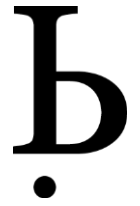
- Maintained as granted (50%)
- Maintained in amended form (50%)
- Revoked in its entirety (0%)

LD The Hague: 3 cases

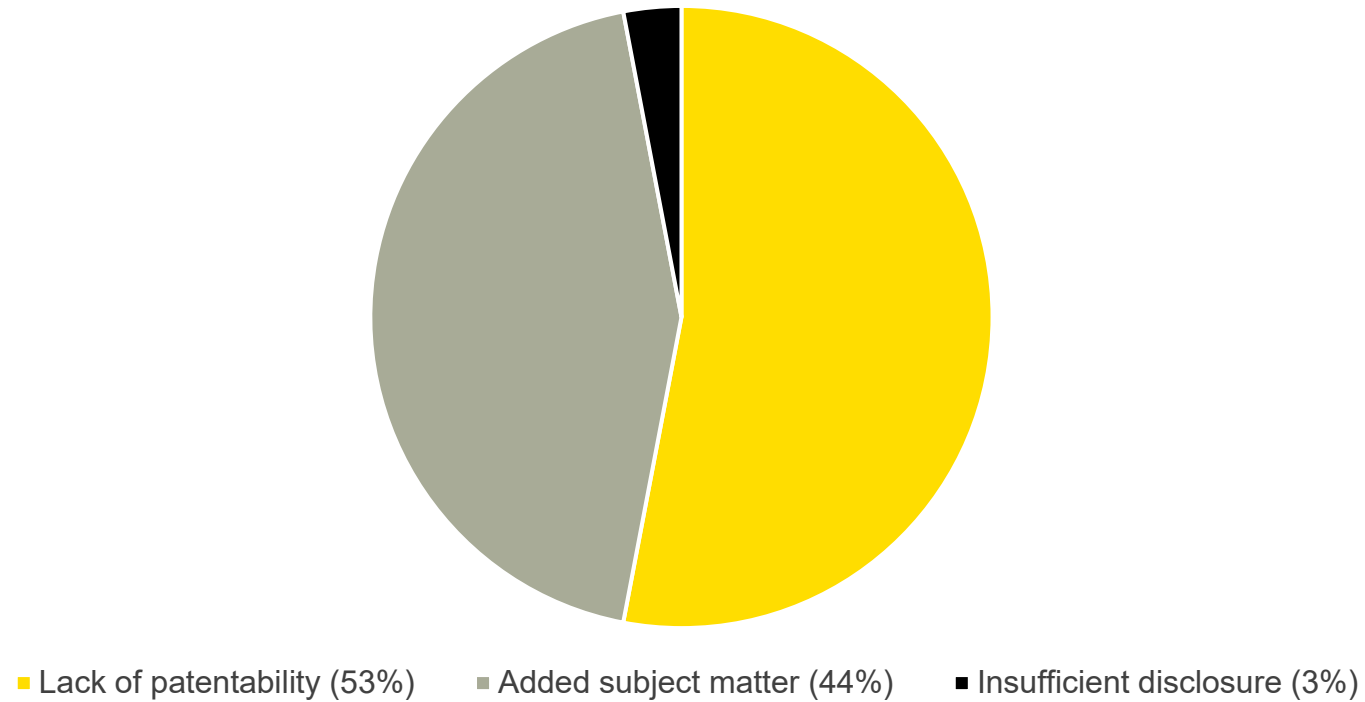


- Maintained as granted (67%)
- Maintained in amended form (33%)
- Revoked in its entirety (0%)

UPC – Grounds for revocation

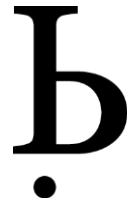


36 (partial) revocations (Counterclaim + Central Revocation Action)

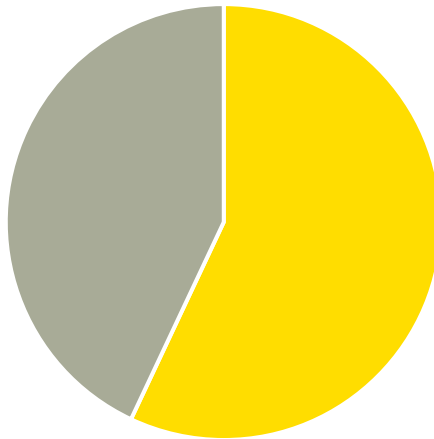


UPC – Grounds for revocation

Central Revocation Action vs. Counterclaim for Revocation

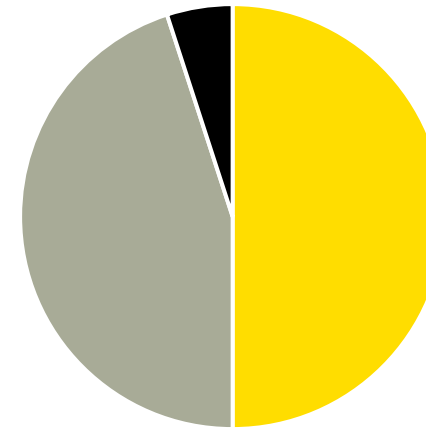


Central Revocation Action (CD):
14 (partial) revocations



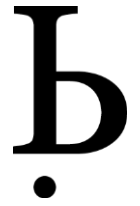
■ Lack of patentability (57%) ■ Added subject matter (43%)

Counterclaim for Revocation (LD):
22 (partial) revocations

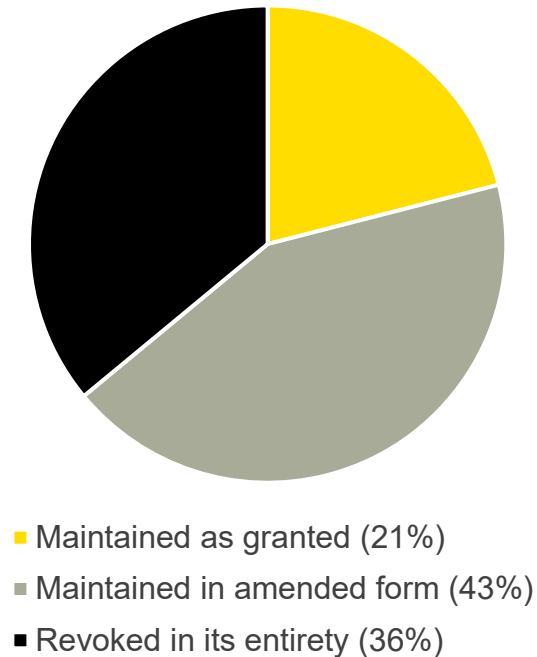


■ Lack of patentability (50%) ■ Added subject matter (45%)
■ Insufficient disclosure (5%)

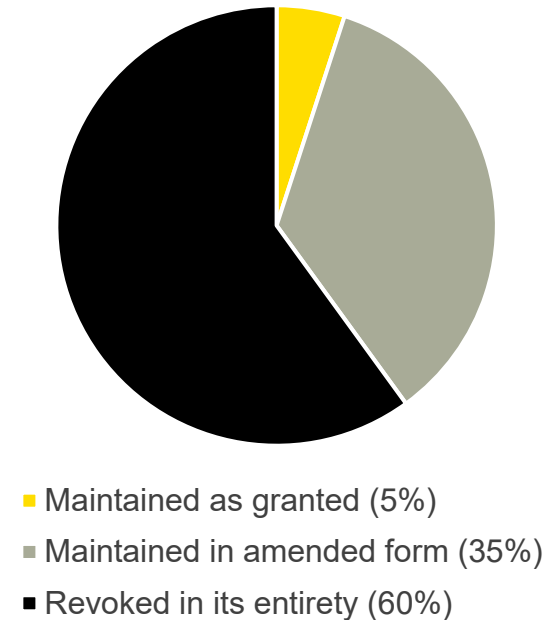
EPO revocation rates



Opposition Division (first instance) in 2023

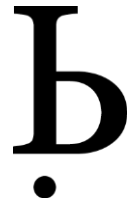


696 opposition appeal proceedings in 2024
(in which the Board of Appeal made a substantive decision)

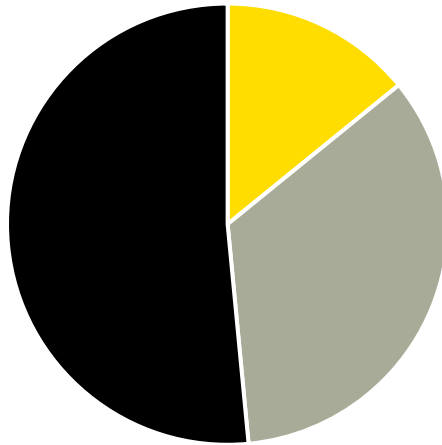


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German National Revocation Action – Revocation rates

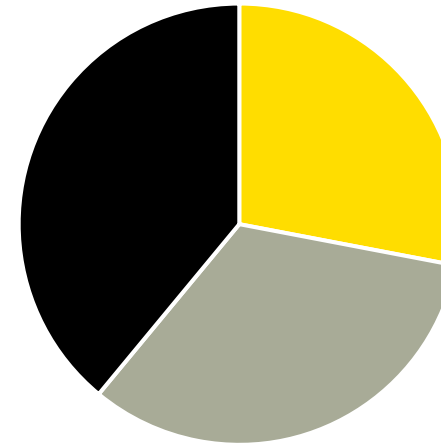


Federal Patent Court
567 cases between 2019 and 2024



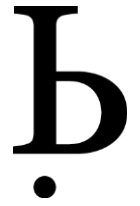
- Maintained as granted (14%)
- Maintained in amended form (34%)
- Revoked in its entirety (51%)

Federal Court of Justice
255 cases between 2019 and 2024

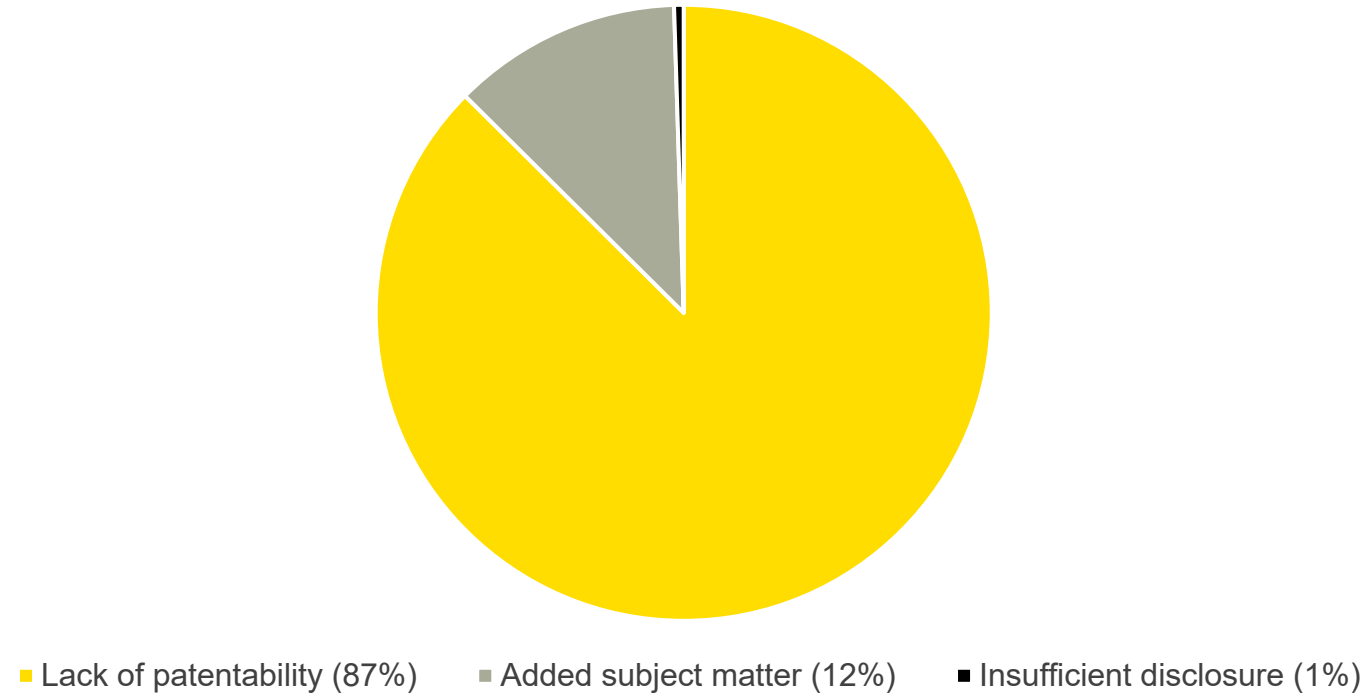


- Maintained as granted (28%)
- Maintained in amended form (33%)
- Revoked in its entirety (39%)

Federal Patent Court – Grounds for revocation



177 (partial) revocations (2018–2020)

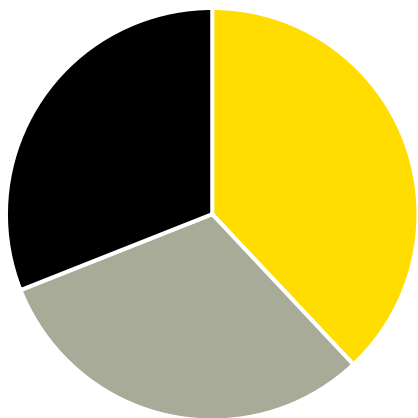


UPC Fact Check –
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Comparison of **revocation rates** at the UPC, EPO and FPC



UPC



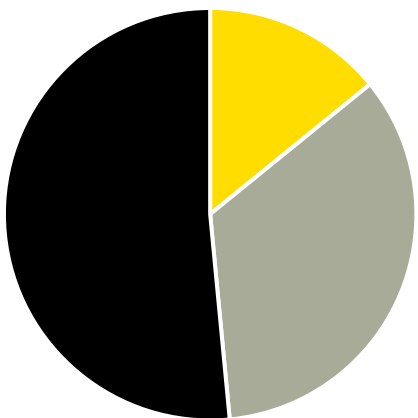
- Maintained as granted (38%)
- Maintained in amended form (31%)
- Revoked in its entirety 31%)

EPO



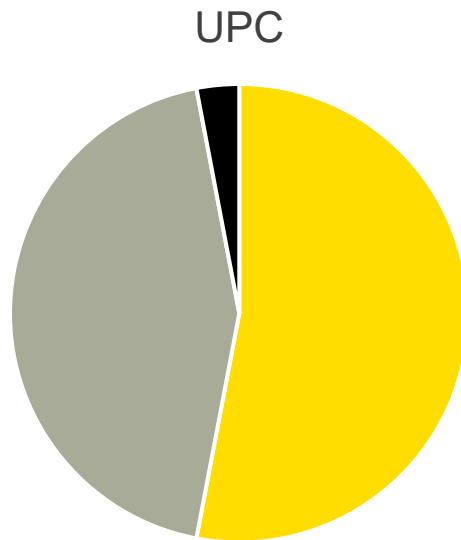
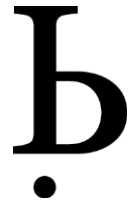
- Maintained as granted (21%)
- Maintained in amended form (43%)
- Revoked in its entirety (36%)

FPC

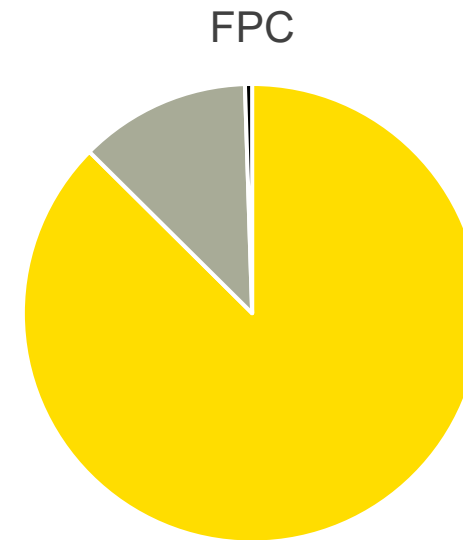


- Maintained as granted (14%)
- Maintained in amended form (34%)
- Revoked in its entirety (51%)

Comparison of **grounds for revocation** at the UPC and FPC



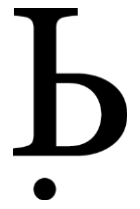
- Lack of patentability (53%)
- Added subject matter (44%)
- Insufficient disclosure (3%)



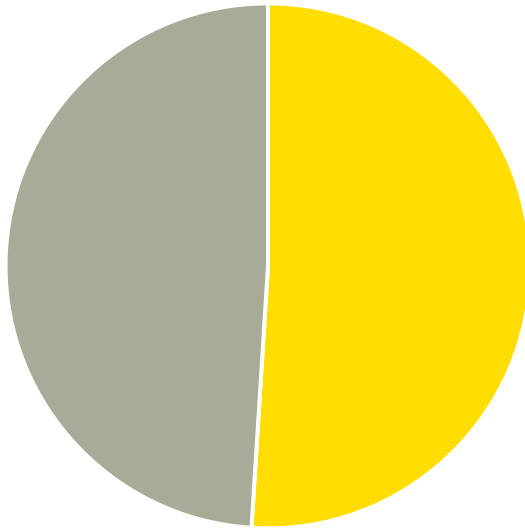
- Lack of patentability (87%)
- Added subject matter (12%)
- Insufficient disclosure (1%)

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UPC success rates – Main Action vs. Provisional Measures

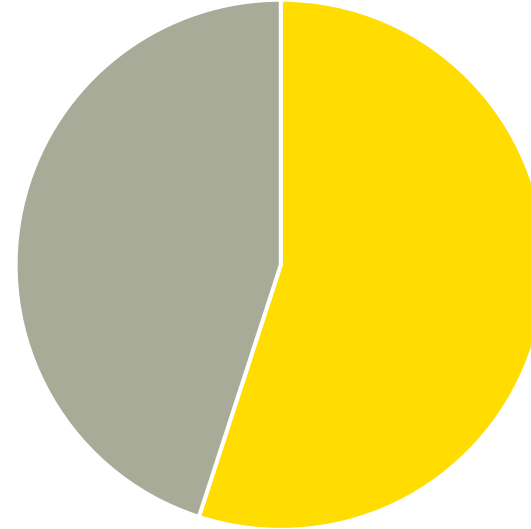


Total (**Main Action**): 49 cases



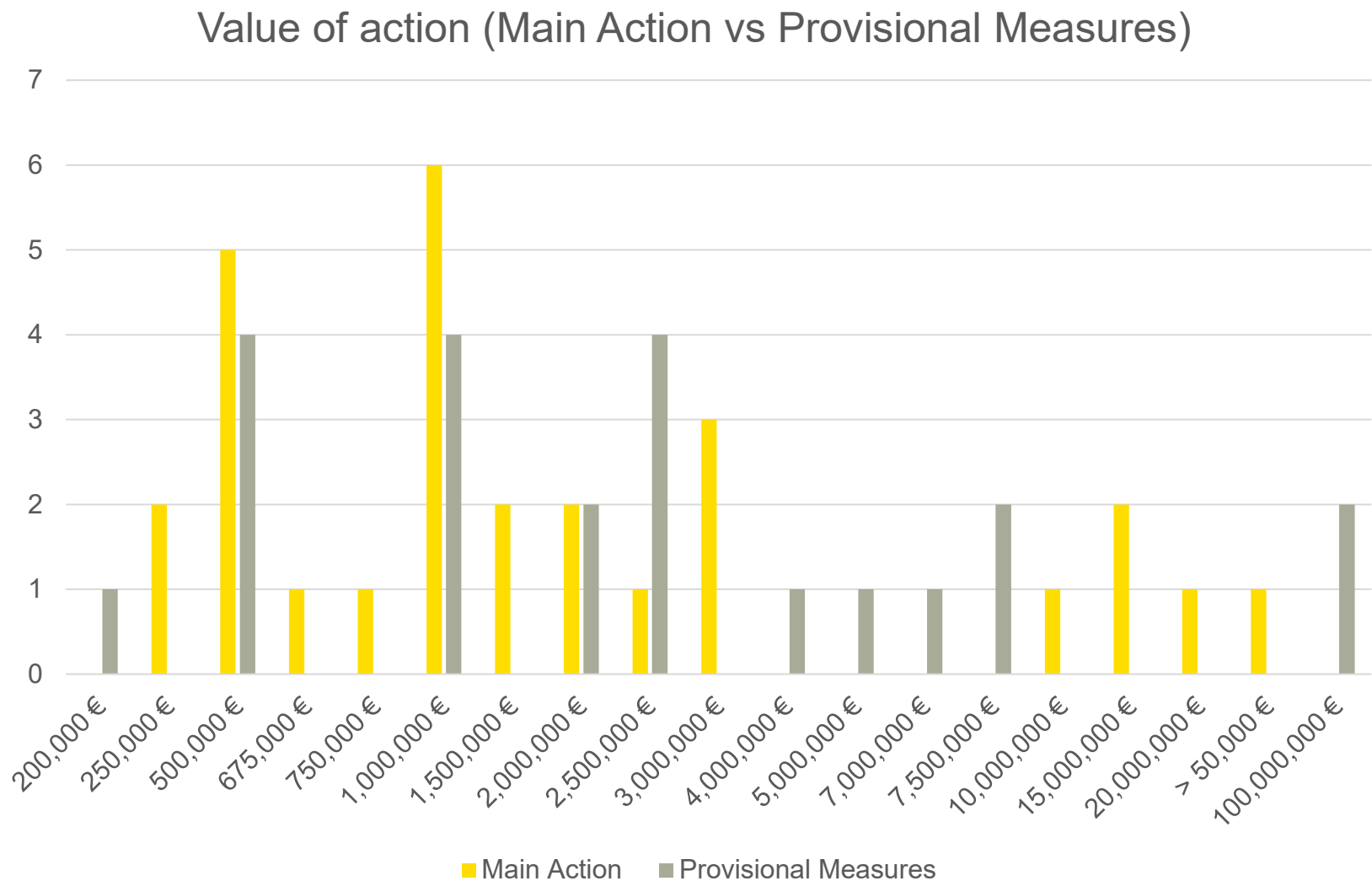
■ Successful (51%) ■ Unsuccessful (49%)

Total (**Provisional Measures**): 31 cases

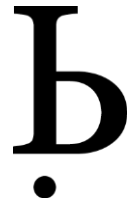


■ Successful (55%) ■ Unsuccessful (45%)

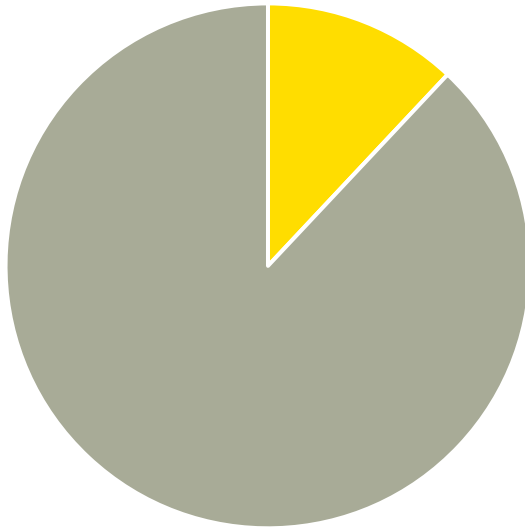
UPC value of the action – Main Action vs. Provisional Measures



UPC enforcement security – Main Action vs. Provisional Measures

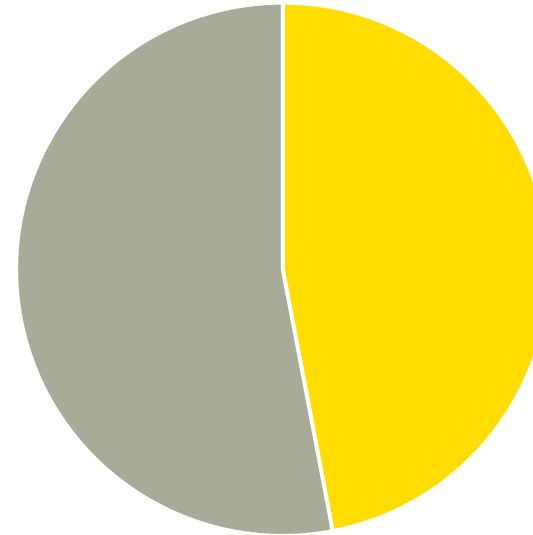


Total (**Main Action**): 25 successful cases



■ Enforcement security (12%)
■ No enforcement security (88%)

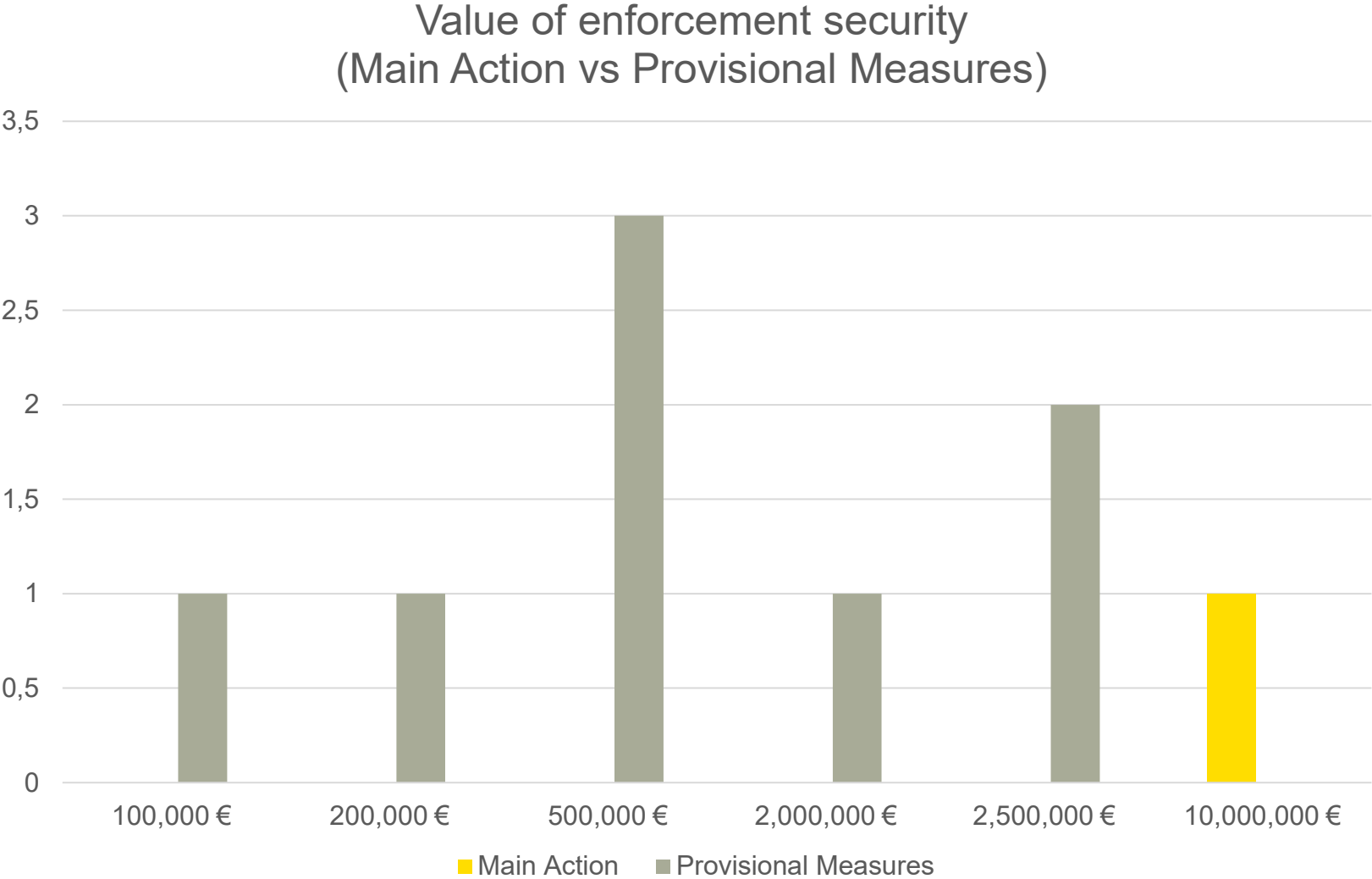
Total (**Provisional Measures**): 17 successful cases



■ Enforcement security (47%) ■ No enforcement security (53%)

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UPC enforcement security – Main Action vs. Provisional Measures



Contact us



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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
Best Lawyers for Intellectual Property Law – Best Lawyers® and Handelsblatt
Europe's Leading Patent Law Firms 2025 – Financial Times
TOP-KANZLEI Patentrecht 2024 – WirtschaftsWoche



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