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**MINISTÈRE
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**Einheitliches
Patentgericht**

Unified Patent Court

**Jurisdiction unifiée
du brevet**

And with the support of



inpi

Mouvement
des **Entreprises**
de **France**

afep

“ THE
UPC
IS COMING ”

**MOCK
TRIAL
UJUB**

Paris

**21 NOV
2022**

PROGRAM

BEGIN CET	DESCRIPTION	SPEAKERS	POSITION
13:00	Welcome address	<i>Mr Thierry Sueur</i>	UJUB President
	State of the play	<i>Mr Johannes Karcher</i>	Chairman Administrative Committee UPC
	State of the play	<i>Ms Florence Butin</i>	President Court First Instance UPC
	Welcome address	<i>Minister Roland Lescure</i>	French Minister of Industry
	Welcome address	<i>Minister Éric Dupond-Moretti</i>	French Minister of Justice
14:00	Mock trial		
	Mock trial trailer	<i>Mr Pierre Véron</i>	UJUB script doctor & coordinator
	Opening statement by the Court	<i>Mr Klaus Grabinski</i> <i>Ms Camille Lignières</i> <i>Mr Patrik Rydman</i> <i>Ms Margaux Grondein</i>	Pdt Court of Appeal (DE) Local div Paris (FR) TOJ (SE) Clerk Central Division (FR)
	Claimant's introductory statements	<i>Claimant team</i>	<i>Mr Jean-Hyacinthe de Mitry (Gide)</i> <i>Mr Pierre-Yves Demaure (Atout PI Laplace)</i> <i>Ms Mathilde Rauline (Sanofi)</i>
	Defendant's introductory statements	<i>Defendant team</i>	<i>Ms Pauline Debré (Linklaters)</i> <i>Mr Oliver Tischner (Lavoix)</i> <i>Mr François Rivière (L'Oréal)</i>
	Witness deposition	<i>Mr Philippe Bessière (Pierre Fabre)</i> <i>Court</i> <i>Representatives</i>	
15:30	Coffee break		
16:00	Claimant's final statements	<i>Claimant team</i>	<i>Mr Jean-Hyacinthe de Mitry (Gide)</i> <i>Mr Pierre-Yves Demaure (Atout PI Laplace)</i> <i>Ms Mathilde Rauline (Sanofi)</i>
	Defendant's final statements	<i>Defendant team</i>	<i>Ms Pauline Debré (Linklaters)</i> <i>Mr Oliver Tischner (Lavoix)</i> <i>Mr François Rivière (L'Oréal)</i>
17:00	Deliberation of the audience (during separate deliberation by the court)	<i>Ms Nathalie Sabotier</i>	Presiding Judge, Tribunal judiciaire Paris Member Drafting Committee UPC Templates
	Court judgment	<i>Mr Klaus Grabinski</i> <i>Ms Camille Lignières</i> <i>Mr Patrik Rydman</i> <i>Ms Margaux Grondein</i>	Pdt Court of Appeal (DE) Local div Paris (FR) TOJ (SE) Clerk Central Division (FR)
	Discussion	<i>Court + public</i>	
18:00	Cocktail (on site)		

INTRODUCTION



Thierry Sueur

Chairman of UJUB
(Union pour la Juridiction Unifiée
des Brevets)

It took many years to the Europe Union and the Member States to create the Unitary patent and the Unified Patent Court and to overcome major obstacles such as language, legal framework, money ... while building a system answering user's needs.

Finally, a solution was found in 2013 thanks to reinforced cooperation as unanimity among all Member States was not reached.

Today 24 countries and probably more tomorrow may be protected by a Unitary patent and may be covered by a decision of the UPC.

In the years to come the economic impact of the UP and the UPC will probably be huge in the same way as the creation of the European patent was a significant event about 50 years ago.

Furthermore, the geopolitical impact will also be of importance' as thanks to the UP and the UPC the UE, at least the 24 countries member of the UPC, will be considered as one territory.

Another consequence that has been seen in France is the mobilization of all actors i.e the enterprises (Medef, Afep, ICC and CPME) of all sizes and the IP specialists of these companies (ASPI), the lawyers and litigators (Ordre des avocats au Barreau de Paris and AAPI) and the Patent Attorneys (CNCPI and ACPI) plus all the IP associations such as AIPPI, AFPPI, LES France, APEB and AACEIPI.

Since the beginning of 2022 many seminars, meetings, visio or in person meetings took place to study and share knowledge about the UP and the UPC and train all people so that on the one side the enterprises and patent owners would be ready to make the relevant decision about their portfolio and define their strategy and on the other side lawyers and patent attorneys would be ready to give relevant advice to their clients and assist them in UPC litigation.

I wish that the today's mock trial enables you to knowledge the enthusiasm and professionalism of the members of UJUB.

THE UNIFIED PATENT COURT AND THE UNITARY PATENT (the «patent package»)

The most important innovation in the world of patents in Europe since the creation of the European patent in 1973

The Agreement on a Unified Patent Court of 19 February 2013 and the EU Regulations on the European Patent with unitary effect of 17 December 2012, which will eventually enter into force on 1 April 2023, collectively known in Brussels as the «patent package», are the two pillars of the most important reform of the European patent system since the creation of the European patent in 1973.

The 2012 European regulations implement enhanced cooperation between most Member States of the European Union to confer on their territory a unitary protection for a European patent: unlike the existing European patent, which is only a «bundle» of parallel patents, the future «unitary patent» is a single title, which ensures uniform protection and produces identical effects in all participating Member States.

The international agreement signed on 19 February 2013 by twenty five Member States of the European Union establishes the Unified Patent Court, a court common to these States, for deciding disputes relating to European patents and European patents with unitary effect.

The Agreement thus creates the first international tribunal in Europe with jurisdiction to adjudicate disputes between private parties, be they individuals or companies.

As a court common to several Member States of the European Union, the Unified Patent Court comes in addition to the national courts but is not a court of the European Union (as is the Court of Justice of the European Union).

It will have the power - which national courts do not currently have - to rule, by a single judgment, on the validity and infringement of a patent for the whole of Europe, thus avoiding the parties to initiate parallel proceedings in all the countries concerned.

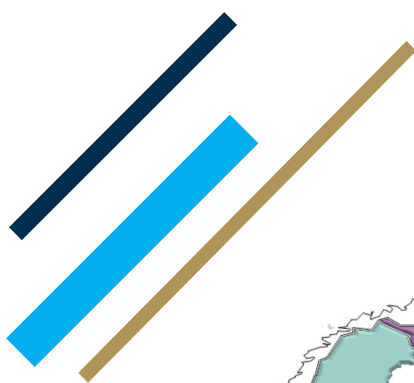
Its unique feature is that it is comprised of specialized judges, in first instance and appeal, always coming from several different States (technical judges are present when the validity of the patent is in question).

Its Rules of Procedure, created especially for it, seek to retain the best judicial practices of the main European countries in patent litigation.

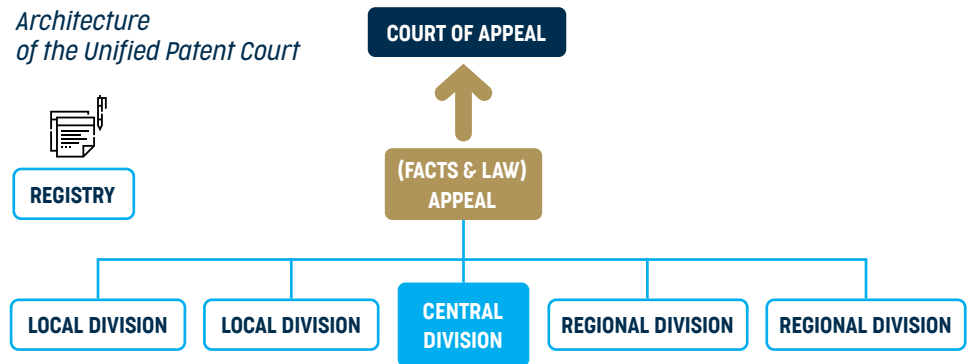
The mock trial organized by the UJUB, a French NGO that supports the creation of this new court, will allow the companies concerned to better visualize its operation.

More information on the website of the Unified Patent Court
 → <https://www.unified-patent-court.org/>

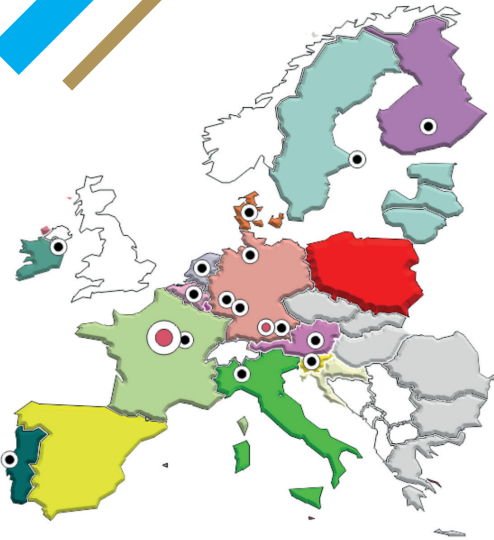
ARCHITECTURE AND GEOGRAPHY OF THE UNIFIED PATENT COURT



Architecture of the Unified Patent Court



Geography of the Unified Patent Court



		Central Division also competent as "local" for BG, LU and MT
		Baltic Regional Division (SE, EE, LT, LV)
		Finland
		Denmark
		The Netherlands

		Germany(4 divisions)
		Belgium
		France
		Austria
		Italy
		Slovenia
		Portugal

CENTRAL DIVISION (1 SEAT + 2 SECTIONS), 13 LOCAL DIVISIONS, 1 REGIONAL DIVISION

UJUB 4th Mock-trial

International Chamber Paris Commercial Court
(Chambre internationale du tribunal de commerce de Paris)
1, quai de Corse (île de la Cité), Paris

MONDAY 21 NOVEMBER 2022 13:00-18:00

SUMMARY OF THE CASE

The mock case to be decided by true judges of the Unified Patent Court composing the mock court is a typical patent dispute.

The claimants are a French university (Université des Sciences de Marseille) and an Italian company La Nuova Tessera, who developed together a disruptive invention made by the university Professor Gaspard Montretou: after a market study, they discovered that the roof photovoltaic panels were not a success since they disturb the appearance of the buildings; therefore, they had the idea to create photovoltaic roof tile.

A prototype of the new tile was presented on 14 October 2017 at the Batomat fair in Paris where Professor Gaspard Montretou was present, and a patent application for this invention was filed with the European Patent Office on 21 November 2017.

In October 2023, the Université des Sciences de Marseille became aware that Bad-Glass, a Tiledavia brickdury company, was promoting at Paris Batomat 2023 a transparent cover which could be assembled with a solar collector to obtain a photovoltaic roof tile.

The university commenced then patent infringement proceedings in a French court, the *Tribunal judiciaire* of Paris.

Some months after, in March 2024, La Nuova Tessera discovered that Bad-Glass was selling transparent covers to a tile manufacturer called "The Tuilerie" in Luxemburg which manufactures and distributes photovoltaic roof tiles comprising a solar collector and a transparent cover.

La Nuova Tessera informed the Université des Sciences de Marseille and they decided to launch together a patent infringement action against Bad-Glass for all the designated countries by their patent before the Central Division of the Unified Patent Court based in Paris.

La Nuova Tessera and the Université des Sciences de Marseille are claiming for an injunction against Bad-Glass in all countries where their patent is in force and for damages.

In defence, Bad-Glass is asking the UPC to stay the proceedings until the decision of the Paris *Tribunal judiciaire*.

As to the merits of the case, Bad-Glass lodges a counterclaim for the invalidity of the patent for lack of novelty because of its disclosure at Batomat on October 14, 2017 (patent law provides that an invention must be patented before any disclosure to the public) and argue, as an alternative that there is no infringement.

Professor Gaspard Montretou will be heard as a witness during the oral hearing to help determining whether or not the exhibition of a prototype at the Batomat fair in 2017 was destroying the novelty of the patented invention.

The mock court will have to decide several issues.

The first one is a procedural question: whether the claimants may put on foot two different proceedings, one before a French court, the Tribunal judiciaire of Paris, the other one before the Unified Patent Court.

As to the substance of the case, the mock court shall decide whether the exhibition of a prototype during the 2017 Batomat fair destroys the novelty of the invention and the validity of the patent.

If the mock court holds that, notwithstanding this exhibition, the patent is valid, it will have to decide whether defendant Bad-Glass commits acts of infringement; this defendant claims that it only sells transparent covers - not tiles - such that there is no infringement (patent law provides that a patentee may prevent the supplying or the offer to supply of means, relating to an essential element of that invention only when the third party knows, or should have known, that those means are suitable and intended for putting that invention into effect).



THE JUDGES

PRESIDENT COURT OF THE FIRST INSTANCE OF THE UPC



Florence BUTIN

President of the Court of first instance - Unified Patent Court

Florence BUTIN graduated in civil law and has been serving in the French judiciary system for 25 years, successively as a public prosecutor and in the French ministry of justice where she was notably in charge of ethical issues, conduct, disciplinary proceedings and human resources. She joined the Paris court of 1st instance in 2012, and from this time onwards her functions were definitively oriented towards civil and economic litigation, first at the social chamber - in charge of collective labor disputes and consumer law - and later at the intellectual property chamber. She chaired one of the 3 panels of the chamber until September 2021, when she was appointed at the Economic department of the Paris Court of appeal. Florence BUTIN has taken part in workshops and conferences organised in Alicante (EUIPO), and represented France at symposiums dedicated to intellectual property law. She also participated in the Exchange Program of the European Judicial Training Network (EJTN) in Stuttgart. She took office as president of the court of first instance of the Unified patent court in November 2022.

PRESIDING JUDGE



Nathalie SABOTIER

Presiding Judge

Nathalie SABOTIER is graduated in civil law and holds a Master 2 Research in property law from the Paris Sorbonne University (1995).

Nathalie was a conseiller référendaire at the Cour de cassation (French Supreme Court), when she has been appointed to the Paris High Court (Tribunal judiciaire de Paris), as a Premier vice-président adjoint (2018).

Currently, Nathalie is the head of the 3rd Chamber, specialised in Intellectual Property Law (patents, trademarks, designs and copyrights) with an exclusive jurisdiction in France over patent cases.

Nathalie regularly represents the 3rd Chamber in various conferences, and contributes to professional trainings including Center for International Intellectual Property Studies (CEIPI) and the International Department of the French National School for the Judiciary (ENM).

COMPOSITION OF THE MOCK TRIAL



Dr Klaus GRABINSKI

*President of the Court of Appeal -
Unified Patent Court*

Dr Klaus GRABINSKI is President of the Court of Appeal of the Unified Patent Court since 1 November 2022. Before he was Justice in the Federal Court of Justice (Bundesgerichtshof) and since June 2020 Deputy Presiding Justice of the 10th Division which has inter alia jurisdiction in patent matters. He is co-author of commentaries on the European Patent Convention (Benkard, Europäisches Patentübereinkommen, 3rd edition, 2019) and on the German Patent Act (Benkard, Patentgesetz, 11th edition, 2015).



Camille LIGNIERES

*Legally Qualified Judge,
UPC Paris local Division*

Camille LIGNIERES joined the Judiciary in 1994 after having graduated in Political Science and Private Law. She was in charge of civil, commercial and enforcement law matters for 19 years. In 2013, she joined the Paris Court of First Instance, in the Chamber specialising in Intellectual Property law, where she chaired as Presiding judge of a 3 judge-panel. In 2019, she was appointed at the Paris Court of Appeal, in the Economic Law Chamber, in charge of Competition and Distribution Law disputes. Camille Lignieres is currently a Legally Qualified Judge at UPC Paris local Division. She is a lecturer at EU Seminars and Conferences such as the Circle of European Trademarks' Judges (CET'J), ERA (Trier), UCL IBIL (London), Expert patent judges workshops (London, UPC premises), IP mock trials (ECTA annual Seminar, Athens), UP and UPC conferences (EPO, Munich). She is also a lecturer as an IP expert at Pantheon-Assas Paris II University and the French National School of Judges.



Patrik RYDMAN

*Technically qualified judge at the
UPC in the field of physics.*

MSc in Applied Physics and Electrical Engineering (Linköping Institute of Technology). Since September 2016, working full time as a technically qualified patent judge at the Swedish Patent and Market Court. Beforehand, worked for 2 years at the Swedish Court of Patent Appeals and as a patent examiner at the Swedish Patent Office (1996-1999 and 2004-2014) and the EPO (1999-2003). Works mainly in the fields of physics and electricity. Appointed as technically qualified judge at the UPC in the field of physics.

CLAIMANT TEAM



Jean-Hyacinthe DE MITRY

Gide

Admitted to the Paris Bar in 2005 and Gide partner since 2017, Jean-Hyacinthe DE MITRY specialises in industrial property. His expertise includes both contentious and non-contentious matters in all areas of industrial property (patents, trademarks, designs and related copyright issues), as well as unfair competition and trade secrets.

In contentious matters, he regularly advises and represents domestic and international clients, mainly in infringement disputes and in disputes relating to agreements having a strong IP and/or technology content. He has wide experience in national and multijurisdictional patent disputes, notably in the life sciences and telecom sectors.

Jean-Hyacinthe is, inter alia, a board member of LES France and co-chairs the Unified Patent Court committee of AIPPI's French group.

Jean-Hyacinthe holds a postgraduate degree (DEA) in Intellectual Property (2003) and a Master's degree in business law from the University of Paris II, and graduated from SciencesPo Paris in 2001.

He regularly speaks on industrial property, notably at the Paris Bar School (EFB) and was a lecturer at Sciences-Po Paris in Pr. Vincent Forray's course «How Do Lawyers Think».



Pierre-Yves DEMAURE

Atout PI Laplace

Pierre-Yves began his career at the French Patent Office where he worked for 3 years as a patent examiner in the field of automotive transmissions. He then developed his skills as a patent engineer within various international groups in technical fields related to mechanics, embedded electronics in the automotive industry and telecommunications.

Through his education and professional experience, Pierre-Yves has been able to work in various fields and his technical expertise lies mainly in the following areas: computer science, telecommunications, cryptography, image processing, signal processing, artificial intelligence, but also general mechanics, fluid mechanics, thermodynamics, biomechanics. Recently, Pierre-Yves has been particularly interested in the field of cyber defence and space law.



Mathilde RAULINE

Sanofi

Mathilde RAULINE is a European patent attorney, is qualified as a French patent attorney and is admitted to the Paris bar. She is head of Greater Europe patent litigation at Sanofi, after having been a patent litigator in private practice (mostly in the pharmaceutical field), and a patent attorney in the industry (Sanofi, Nestlé). She has extensive experience in pharmaceutical and life-science patent litigation in France, at the EPO, in Europe and in Eurasia.

Her expertise also comprises contractual matters, settlements, regulatory aspects and the SPC regulation. Mathilde is lecturing on patents in various conferences, and is involved in the training of future European patent attorneys

DEFENDANT TEAM



Pauline DEBRÉ

Linklaters

Pauline is head of Linklaters' Intellectual Property department in Paris. She specialises in patent litigation, particularly in the healthcare and telecommunications sectors. She advises clients on all types of litigation, both domestic and cross-border, and on all aspects of the procedure: seizure, preliminary injunction, revocation and infringement actions, arbitration and mediation, coordination with parallel litigation. Pauline works closely with the Competition Law Department in dealing with essential patent disputes and more generally with the growing influence of this subject in patent litigation.

Pauline co-leads the French group's Patent Committee and the International Patent and Standards Committee of AIPPI. She is a member of EPLAW, APEB and LES.



Oliver TISCHNER

Lavoix

Oliver TISCHNER, partner at LAVOIX, is a German Patent Attorney, a French Patent Attorney and a Representative before the European Patent Office (EPO). He holds a mechanical engineering degree from the University of Technology Munich (TUM). He advises and represents clients in oppositions and appeals before the EPO as well as in nullity actions before the German Federal Patent Court (BPatG). He specializes in production technology (robotics), medical devices and precision agriculture. Oliver is member of a working group at LAVOIX dedicated to the UPC and uniting patent attorneys and attorneys-at-law for accompanying clients before the UPC.



François Rivière

L'Oréal

François RIVIÈRE holds a PhD in Chemistry (Paul Sabatier University, Toulouse), did a post-doctorate in Japan (Tohoku University, Sendai), graduated from CEIPI (with a specialization in patents), is registered with INPI and is European Patent Attorney before the EPO.

François started his career as a patent engineer in the pharmaceutical industry (Les Laboratoires Servier) in March 2001. Then in 2005 he joined the "Direction Internationale de la Propriété Industrielle" (DIPI) of the L'Oréal group as a patent engineer in the field of hair dyes. Appointed as "senior expert" in 2018, he is now in charge of the management of the patent portfolio of L'Oréal's transversal advanced research and fragrances. He participates several times a year in oral opposition and appeal proceedings to defend L'Oréal's interests.

In addition, he served on the ASPI board from 2017 to 2022.

MOCK
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UJUB

Paris
21 NOV
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ORGANIZATION COMMITTEE



Pierre VÉRON
*UJUB Script doctor
and coordinator*



Guillaume DE LA BIGNE
UJUB treasurer



Frédéric GAILLARDE
APEB



Géraldine GUÉRY-JACQUES
ASPI president



Sophie MICALLEF
AAPI president



Jean-Christophe ROLLAND
CNCPI president



BASED ON A SCENARIO DESIGNED BY:

- Raphaëlle Dequiré-Portier (Gide),
- Christophe Léveillé (Ex Materia),
- Pierick Rousseau (ex-Pierre Fabre),
- Ina Schreiber (Plasseraud),
- Laurent Teyssedre (Saint-Gobain),
- Charles Tuffreau (Allen & Overy),
- Pierre Véron (UJUB script doctor).

UJUB MEMBERS



Association des amis du Centre d'études internationales de la propriété intellectuelle



Created in 1993, the **Association des Avocats de Propriété Industrielle (A.A.P.I.)** brings together French lawyers from the Bars of Paris, Lyon, Marseille and others, who are experienced practitioners in industrial property litigation, in particular patent litigation. It deals with issues of interest to the legal profession in the field of industrial property and in particular with relations with other professionals working in this field. It is also active in the training of lawyers specialized in industrial property, by organizing colloquiums or meetings devoted to current issues in industrial property law.



The **Association of Industrial Property Attorneys (ACPI)** was created in 1884, in order to organize the activity of patent and trademark attorneys around strong principles of ethics and quality of work.

With the aim of bringing together patent and trademark attorneys, the ACPI is developing its action in an employer's dimension, by representing the heads of firms, and internationally, by bringing together the French members of the International Federation of Intellectual Property Attorneys (FICPI), which brings together colleagues from all over the world practicing in a liberal capacity.



Since 1982, **AFEP** brings together large companies operating in France. The Association, based in Paris and Brussels, aims to foster a business-friendly environment and to present the company members' vision to French public authorities, European institutions and international organizations. Restoring business competitiveness to achieve growth and sustainable employment in Europe and tackle the challenges of globalization is AFEP's core priority.

AFEP has 115 members. More than 8 million people are employed by AFEP companies and their annual combined turnover amounts to €2,600 billion.

AFPPI

Since its declaration in 1903, the **French Association for the Protection of Industrial Property (AFPPI)** is an independent association which studies intellectual property in France, within three families (Industrials, Counsels and Jurists). Thus, AFPPI studies, among other, patent law (including plant breeders' law), as well as know-how and business secrets. On the periphery of patents, AFPPI also studies the law of unfair or parasitic competition, as well as that of restrictions on competition, in the context of freedom of industry and commerce.



The French group of AIPPI is the French National Chapter of the **Association Internationale pour la Protection de la Propriété Intellectuelle** (International Association for the Protection of Intellectual Property), founded in 1897, having the goal of promoting Intellectual Property and working towards improvements and harmonisation of IP legislation worldwide. AIPPI counts over 8000 members, specialists in Intellectual Property law (specialists from industry, lawyers, and IP attorneys) in over 100 countries around the world.



Association des Praticiens Européens des Brevets

The **APEB** was established in 2005 by patent law specialists. Driven by a unifying desire, the APEB brings together patent attorneys from private practice and industry, and IP lawyers. It organizes numerous works and public events to promote, in France and abroad, patent law.



The **French Association of Industry IP specialists** (« ASPI » in French) was created in 1970 and is more than five hundred members strong today, i.e representing the great majority of French IP in House professionals. ASPI aims at gathering in House patent attorneys and in House IP lawyers working in IP and/or legal Departments within the French Industry.



The **CNCPI (Compagnie nationale des conseils en propriété industrielle)** is the institution established by law, and codified in the French Intellectual Property Code, to represent the regulated profession. It brings together all French industrial property attorneys whose core business is to represent and assist companies in the protection, defence and enhancement of their intellectual property rights (trademarks, patents, designs, software, personal data, new technology law, etc.).



99.9% of French businesses are micro, small or medium-sized companies. Their success is the key to the country's growth. **CPME (Confederation of small and medium-sized enterprises)** promotes and defends their interests. It is chaired by an entrepreneur, François Asselin. CPME is the employers' organisation for small and medium-sized companies in all sectors: industry, service, trade, craft and liberal professions. As a social partner, the Confédération defends these employers in joint negotiations and with public administrations, in France and around the world.



ICC France is one of the oldest and most active **National Committee of the International Chamber of Commerce**, which represents more than 45 million companies worldwide. The French Committee contributes to the work of ICC's international commissions on key issues of arbitration and regulation of world trade through its 10 commissions (notably the Intellectual Property Commission). ICC France defends the priorities of its 159 members (companies, professional federations, law firms) and formulate recommendations to the French public authorities, European institutions and international organizations.



The **Licensing Executives Society (LES) France** is a leading association for intellectual property and technology which brings IP and licensing groups together to network, collaborate and discuss some of the most critical issues facing the industry. It is a member of the Licensing Executives Society International (LESI), an international association of 33 national and regional Member Societies comprised of men and women who have an interest in the transfer of technology, or licensing of intellectual property rights.



The **Mouvement des entreprises de France (MEDEF)** is the first representative organization of companies. Spokesperson for all companies, MEDEF is the privileged interlocutor of decision-makers and public authorities. With 119 territorial organizations in mainland France and overseas, 98 federations representing 400 professional unions bringing together all sectors of activity and 13 associated organizations and partners, it has 190,000 member companies, the majority of which are VSEs-SMEs. In France, more than one out of two private sector employees works in a company affiliated with the MEDEF network.



Ordre des avocats à la cour de Paris



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**21 NOV
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 **CONTACT**

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