

Annual Report 2024

Federal Patent Court

Executive Summary

In the reporting year, the total number of incoming cases to the Federal Patent Court declined compared with the year before (20, previous year 31). There was a significant reduction in the number of ordinary proceedings (11, previous year 20), and the number of summary proceedings was slightly lower (9, previous year 11).

Of the 16 ordinary proceedings handled by the Court, nine were settled and five were adjudicated. Two cases were dismissed. Of the nine summary proceedings handled in the reporting year, seven were adjudicated, and two were dismissed. There were slightly fewer cases pending at the end of the year (24, previous year 28).

At CHF 1,044,494, income was significantly higher (previous year, CHF 679,987), mainly because several rulings from the year before became final and enforceable in the reporting year and the corresponding court fees were recognised in accounting. Expenditure was down slightly compared with the prior year – CHF 1,508,459 against CHF 1,522,108. As a result, the deficit was nearly half that of the year before (CHF 463,966, previous year CHF 842,121). The cost-coverage rate rose to 69% (previous year 45%).

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Annual Report of the Federal Patent Court 2024

St. Gallen, 21 February 2025

Madam President

Distinguished members of the National Council and the Council of States

Relying on Article 3 paragraph 3 of the Patent Court Act (PatCA), we hereby submit the Annual Report covering our activities in 2024.

Please accept, Madam President and distinguished members of the National Council and the Council of States, the assurance of our highest consideration.

On behalf of the Federal Patent Court

President: Mark Schweizer

First Court Clerk: Sven Bucher

Members of the court

Administrative Committee

President:	Mark Schweizer
Second permanent judge:	Tobias Bremi
Vice-President:	Frank Schnyder

Non-permanent judges with technical training

Natalia Clerc
Roland Dux
Susanne Finklenburg
Giovanni Gervasio
Barbara Herren
Michael Kaufmann
Stephan Kessler
Alfred Koepf
Christoph Müller
Markus A. Müller
Lorenzo Parrini
Lorena Piticco
André Roland
Werner A. Roshardt
Susanna Ruder
Regula Rüedi
Philipp Rüfenacht
Christophe Saam
Frank Schager
Frank Schnyder
Andreas Schöllhorn Savary
Martin Sperrle
Hannes Spillmann
Kurt Stocker
Michael Störzbach
Kurt Sutter
Daniel Vogel
Prisca von Ballmoos
Diego Vergani
André Werner
Marco Zardi

Non-permanent judges with legal training

Daniel M. Alder
Lara Dorigo
Philippe Ducor
Christoph Gasser
Andri Hess
Christian Hilti
Simon Holzer
Stefan Kohler
Daniel Kraus
Thomas Legler
Rudolf Rentsch
Ralph Schlosser
Christoph Willi

Caseload

At the end of the reporting year, 18 ordinary proceedings and six summary proceedings were pending before the Federal Patent Court (previous year: 22 and 6 respectively).

The total number of incoming cases fell to 20 (previous year 31). There was a marked decline in the number of ordinary proceedings (11 as against 20 the previous year), while the number of summary proceedings was slightly lower (9, previous year 11).

The Court heard 16 ordinary proceedings (previous year 21), of which nine were settled (previous year 4), two were dismissed as being without object (previous year 3), and five were adjudicated (previous year 14). Three judgments on merits and two procedural orders were appealed to the Federal Supreme Court. In the reporting year, the Federal Supreme Court decided seven appeals against decisions by the Federal Patent Court. Three appeals were rejected, and one was partially granted. The Federal Supreme Court refused to hear two appeals and dismissed one following its withdrawal. Two appeals were still pending at the end of the reporting year.

The Federal Patent Court heard nine summary proceedings (11 in the previous year), adjudicating in seven (9 in the previous year), settling none (previous year, 1), and dismissing one as being without object (1 in the previous year).

Languages

In the reporting year, the language of proceedings was German in eight of the ordinary proceedings submitted to the Federal Patent Court, and French in three. As for the summary proceedings,

the language of proceedings was German in seven cases and French in two. There were no proceedings in Italian. In one ordinary proceeding and four summary proceedings, the parties mutually agreed to avail themselves of their right to use English in their submissions and hearings before the Federal Patent Court instead of an official language. Of the 49 protective briefs overall, 16 were submitted in English. Parties clearly continue to show great interest in pleading their cases in English. This is due to the fact that English is the working language used not only by the many foreign companies involved in court cases here, but also by the R&D and patent divisions of a number of Swiss companies, and by the fact that most key prior art technical documents are in English.

The number of electronic submissions made via an accredited platform for secure service, within the meaning of Article 2 of the Ordinance on Electronic Service in Civil and Criminal Proceedings and Debt Enforcement and Bankruptcy Procedures, was up again (about 35% of all filings by post, previous year 30%). We expect the share of electronic submissions to continue to rise.

Non-permanent judges

The system of non-permanent judges with legal or technical training continues to prove extremely effective. Thanks to the combined participation of qualified legal specialists and technical experts from the fields of expertise at issue, the panels have a high level of competence enabling them to hear cases of significant technical complexity in a reasonable time and at an acceptable cost.

At the end of the reporting year, Judge Regula Ruedi retired. Her replacement was elected during the 2023 autumn

session, at the same time as the general re-election.

Panel formation

As a rule, the Federal Patent Court conducts its decision-making through three-member panels, each of which must comprise one member with technical training and another with legal training. Where appropriate for the further development of the law or in the interest of case-law consistency, the President may order a case to be decided by a five-member panel. Decisions on precautionary measures are decided by the President sitting alone; where the understanding of a technical matter is of particular significance, the decision must be made by a three-member panel.

The panel is formed by the President who participates in all decisions unless there are grounds for recusal. The judges with technical training are assigned depending on their working languages and the subject matter at issue in the dispute; at the same time, care is taken to ensure as balanced a workload as possible for the judges. In practice, the grounds for recusal play a decisive role in the assignment of the non-permanent judges to the panels since judges must be impartial to participate in a panel. Given the small overall number of cases and the need to take into consideration the subject matter at issue, case-assignment is not automated.

If it subsequently appears that a judge cannot sit on a panel – e.g., because a ground for recusal is discovered, or the judge is unable to discharge his or her duties for a longer period of time – the composition of the panel may be modified by way of exception. In the reporting year this happened once when a ground for recusal was discovered after the

panel had been formed; this affected two joined proceedings.

Administrative office

The staff still consists of only two administrative employees (equivalent to 130% full-time posts) and two court clerks (equivalent to 100% of a full-time post). The Second Clerk, whose principal employment is as Clerk in Division II of the Federal Administrative Court, is brought in on a case-by-case basis as required.

Premises

Like the hearing rooms that it shares with the Federal Administrative Court, the office premises of the Federal Patent Court fulfil their intended purpose and there is no need to modify the existing arrangement.

When the Federal Patent Court needs to sit somewhere other than in St. Gallen, the host canton provides the hearing rooms. In the reporting year, two preparatory hearings were held in the Salle du Conseil Général of the Hôtel de Ville in Neuchâtel.

Finances

The operating account of the Federal Patent Court shows slightly lower costs of CHF 1,508,459 (previous year CHF 1,522,108). Income, at CHF 1,044,494, was significantly higher than the prior year (CHF 679,867) despite fewer cases handled. The cost-coverage rate rose to 69% (previous year 45%).

Taking into account the higher income and lower costs recorded by the Court in the reporting year, the shortfall to be covered by the Swiss Federal Institute of Intellectual Property (IPI) pursuant to Article 4 PatCA was CHF 463,966, or nearly half that of the prior year (previous year CHF 842,121).

Co-operation

The supervisory meetings with the Federal Supreme Court took place on 12 April 2024 in Lucerne and on 4 October 2024 in St. Gallen; the support granted to the Federal Patent Court is well-appreciated.

As in prior years, the co-operation with the Federal Administrative Court was very pleasant.

Statistics

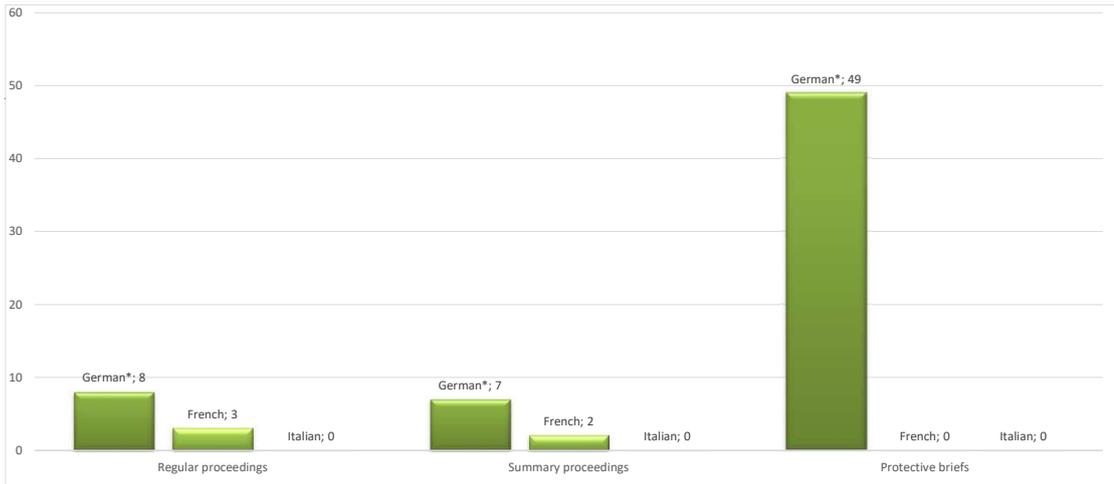
Number and type of case

	Action taken				Outcome of proceedings			
	Cases still pending before 01.01.2024	Cases submitted to PFC in 2024	Cases settled	Cases still pending on 31.12.2024	Case settled by judgment	Case settled by compromise	Case declared inadmissible	Case declared groundless *
Regular proceedings								
Infringement of patent without counter-claim of nullity of patent	8	5	8	5	2	4	0	2
Nullity of patent without counter-claim of infringement of patent	10	1	3	8	1	2	0	0
Infringement and nullity of patent	0	2	0	2	0	0	0	0
Right to a patent	1	0	1	0	1	0	0	0
Claim	2	3	4	1	1	3	0	0
Other	2	0	0	2	0	0	0	0
Total	23	11	16	18	5	9	0	2
Summary proceedings								
Injunction/safeguarding of interests	2	8	6	4	4	0	0	2
Description	1	0	0	1	0	0	0	0
Seizure	1	0	1	0	1	0	0	0
Evidence secured	1	0	1	0	1	0	0	0
Description and evidence secured	1	0	1	0	1	0	0	0
Other	0	1	0	1	0	0	0	0
Total	6	9	9	6	7	0	0	2

* including due to withdrawal of action or acknowledgement of action

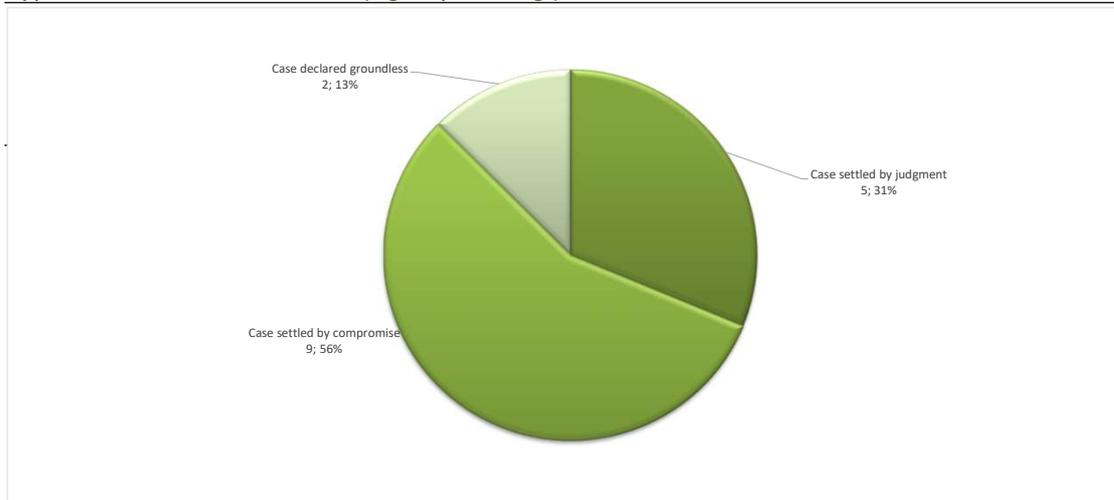
	Transfer from 2023	Received in 2024	Period of protection expired	Relevant up to 2025
Protective briefs				
Swiss patents (incl. supplementary protection certificates)	6	6	10	2
European patents (incl. supplementary protection certificates)	25	43	48	20
Others (applications, other national patents)	0	0	0	0
Total	31	49	58	22

Cases by language of proceedings in 2024

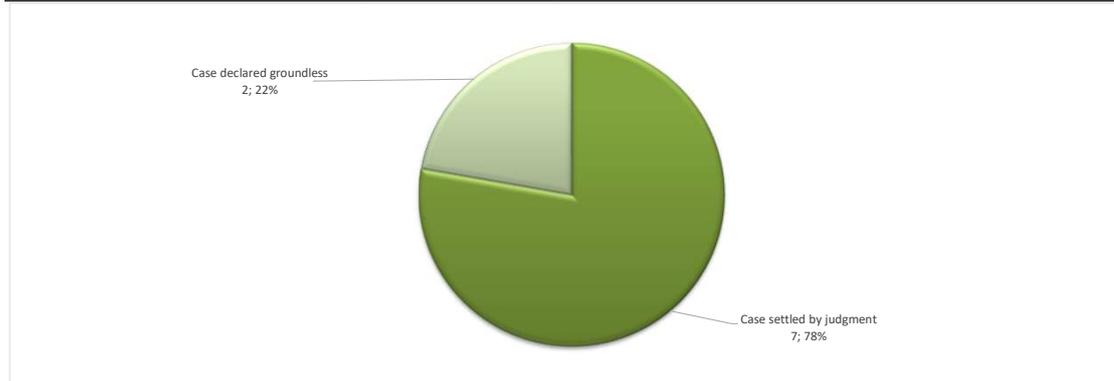


*Including 21 cases where English was used during proceedings (1 ordinary proceeding, 4 summary proceedings, 16 protective briefs)

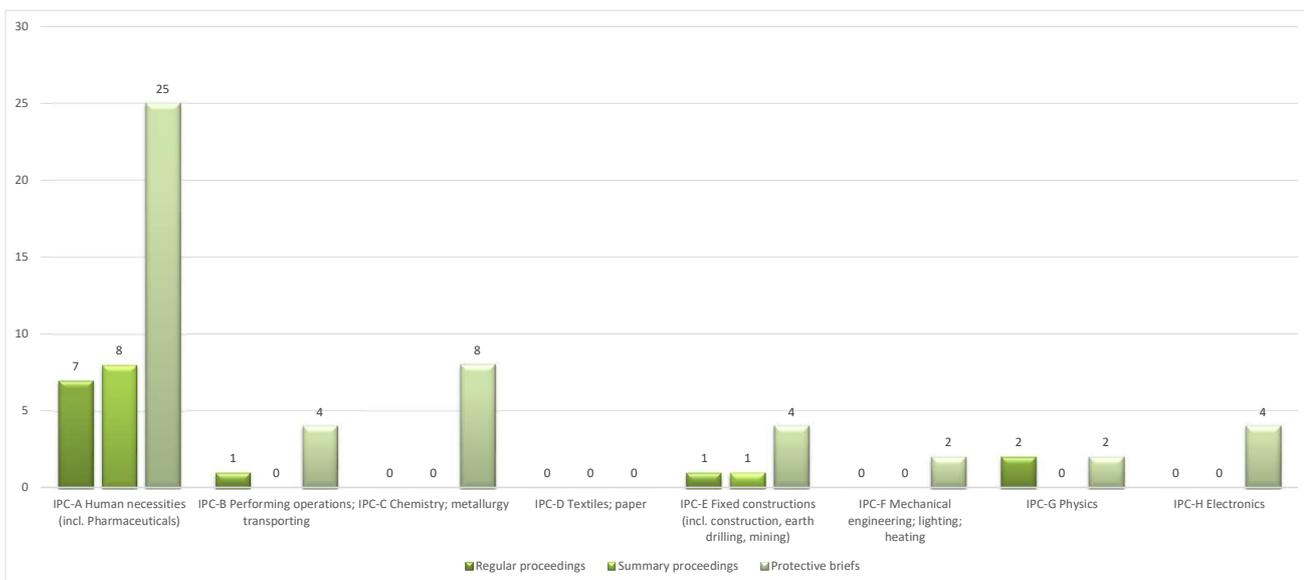
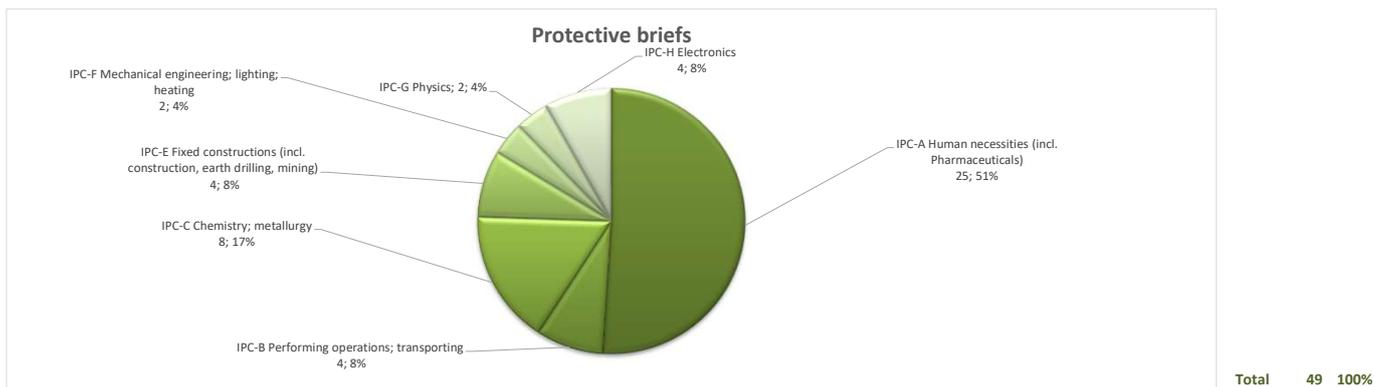
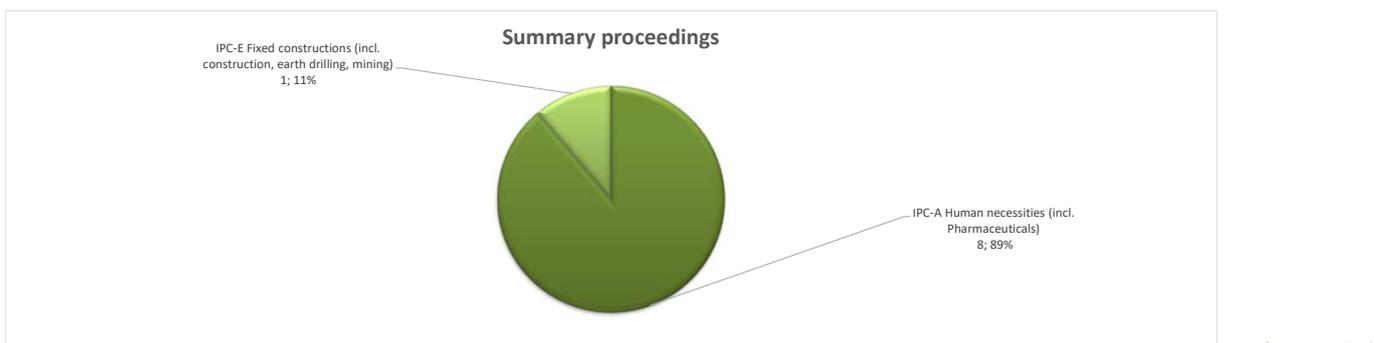
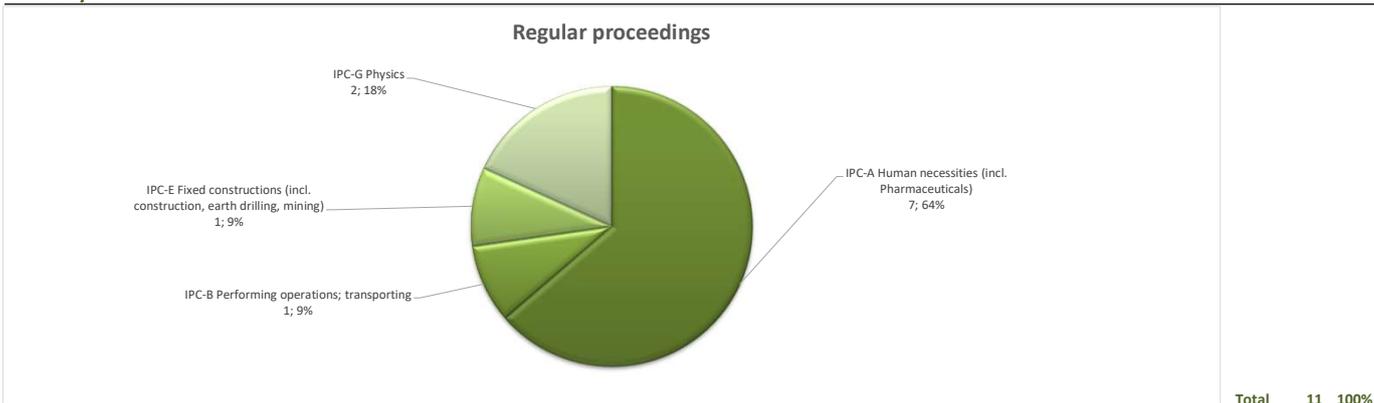
Approach used to settle cases in 2024 (regular proceedings)



Approach used to settle cases in 2024 (summary proceedings)



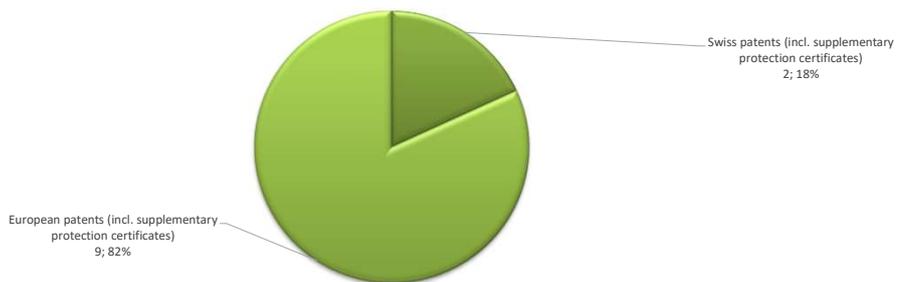
Cases by technical field



IPC = International Patent Classification

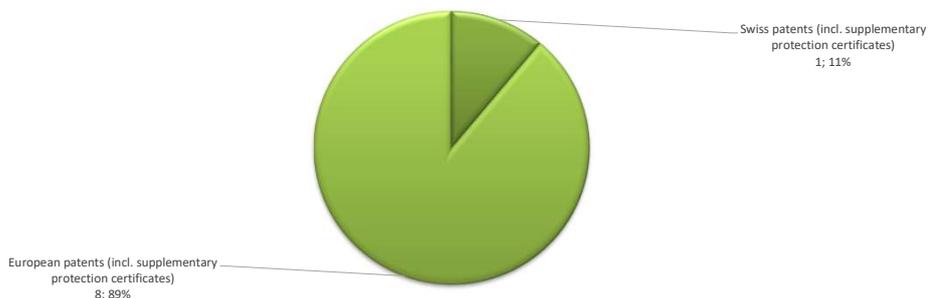
Cases by intellectual property rights

Regular proceedings



Total 11 100%

Summary proceedings

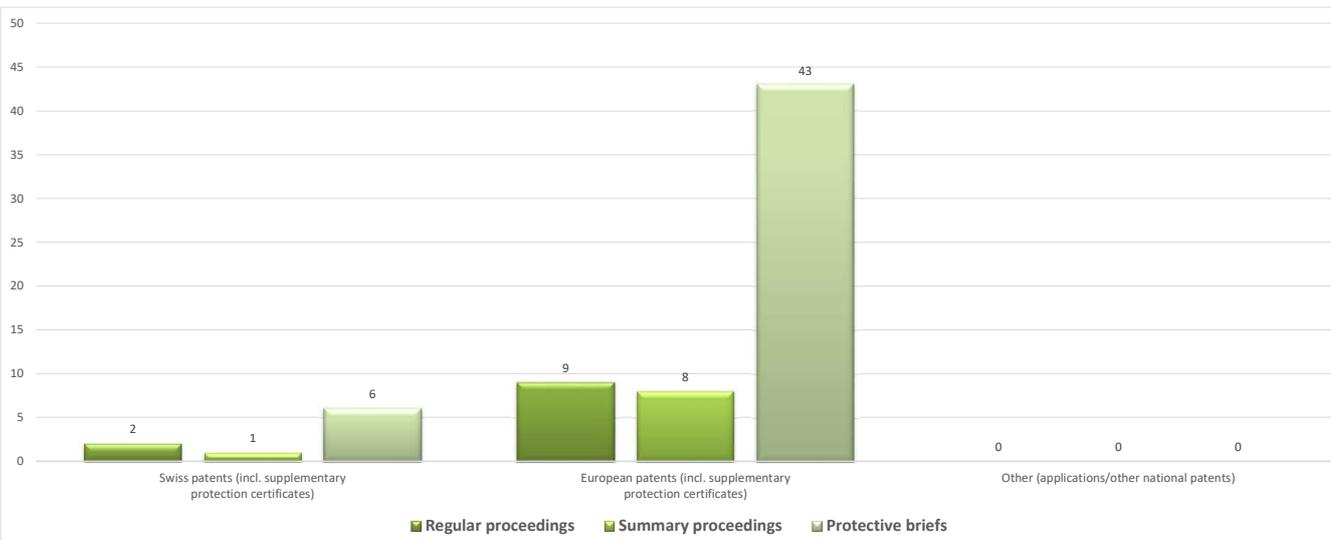


Total 9 100%

Protective briefs



Total 49 100%



Duration of cases

	Cases settled					Total cases settled in 2024	Cases still pending					Total cases still pending at the end of 2024
	1 to 3 months	4 to 6 months	7 to 12 months	1 to 2 years	over 2 years		1 to 3 months	4 to 6 months	7 to 12 months	1 to 2 years	over 2 years	
Regular proceedings												
Infringement of patent without counter-claim of nullity of patent	2	1	2	3	0	8	1	2	0	2	0	5
Nullity of patent without counter-claim of infringement of patent	0	0	0	3	0	3	0	0	1	7	0	8
Infringement and nullity of patent	0	0	0	0	0	0	1	1	0	0	0	2
Right to a patent	0	0	0	1	0	1	0	0	0	0	0	0
Claim	1	2	0	1	0	4	0	0	1	0	0	1
Other	0	0	0	0	0	0	0	0	2	0	0	2
Total	3	3	2	8	0	16	2	3	2	11	0	18
Summary proceedings												
Injunction/safeguarding of interests	3	0	3	0	0	6	1	3	0	0	0	4
Description	0	0	0	0	0	0	0	1	0	0	0	1
Seizure	0	0	1	0	0	1	0	0	0	0	0	0
Evidence secured	0	1	0	0	0	1	0	0	0	0	0	0
Description and evidence secured	0	1	0	0	0	1	0	0	0	0	0	0
Other	0	0	0	0	0	0	1	0	0	0	0	1
Total	3	2	4	0	0	9	2	4	0	0	0	6

Average duration of cases

	Cases settled		Cases still pending	
	Average duration (days)		Average duration (days)	
Regular proceedings				
Infringement of patent without counter-claim of nullity of patent		292		266
Nullity of patent without counter-claim of infringement of patent		562		482
Infringement and nullity of patent		0		62
Right to a patent		614		0
Claim		276		265
Other		0		599
Average		359		376
Summary proceedings				
Injunction/safeguarding of interests		118		112
Description		0		119
Seizure		191		0
Evidence secured		111		0
Description and evidence secured		117		0
Other		0		23
Average		125		98

Approach used to settle case (panel of judges/decision)

	Single judge	Three-member panel	Five-member panel	Seven-member panel	Total	Instruction hearings	Hearings in relation to preliminary measures	Main hearings	Total hearings
Regular proceedings									
Infringement of patent without counter-claim of nullity of patent	6	2	0	0	8	4		0	4
Nullity of patent without counter-claim of infringement of patent	2	0	1	0	3	8		1	9
Infringement and nullity of patent	0	0	0	0	0	0		0	0
Right to a patent	0	1	0	0	1	0		2	2
Claim	3	0	1	0	4	0		0	0
Other	0	0	0	0	0	0		2	2
Total	11	3	2	0	16	12		5	17
Summary proceedings									
Injunction/safeguarding of interests	3	3	0	0	6		1		1
Description	0	0	0	0	0		0		0
Seizure	0	1	0	0	1		0		0
Evidence secured	0	1	0	0	1		0		0
Description and evidence secured	0	1	0	0	1		0		0
Other	0	0	0	0	0		0		0
Total	3	6	0	0	9		1		1
Overall total	14	9	2	0	25	12	1	5	18

issued by

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