

POLIMI European Patent Litigation Certificate 2024 - 2025 Edition

University Politecnico di Milano

Course programme

Module	Date	Time	Topic	Lecturers
A general introduction into law, including main aspects of European Union law				
1	26 nov. 24	09:30 - 12:45	<ul style="list-style-type: none"> a) General introduction into continental law and common law legal system; b) Hierarchy of sources of law in both of aforesaid legal systems including presentation of bodies authorised to create the law as well as its legal and factual position and role in legislative procedure (among others: separation of powers, the importance of parliament sovereignty rule, role of president/king and judges, existence of written constitution, precedents); c) EU legal system including mainly: sources of Union Law and legislative procedure. d) The place of the EU's sources of law in hierarchy of national law of Member States. 	<p>Giulio Sironi Stefania Bergia</p>
Basic knowledge of private law, including contract law, company law and tort law in both common and continental law and EU law				
2	26 nov. 24	14:15 - 17:30	<ul style="list-style-type: none"> a) General introduction into private law as the branch of the legal system and features distinguishing from others, mainly: the limited intervention of the states into the private law, corporate/natural persons, legal capacity, the range of private law. b) Contract law <ul style="list-style-type: none"> i. general introduction into the contract law ii. main differences between the contract law principles in both continental and common law legal systems (mainly: the importance of statutory law in contract law in continental law legal system vs. the concept of contract law in common law legal system, <i>parol evidence rule</i>, privity of contract, basic elements of binding contract, other terms in contract, liability for breaching of the terms of contract); iii. license agreement for IP rights; 	<p>Giulio Sironi Stefania Bergia</p>

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			Basic knowledge of international civil and commercial law	
3	3 Dec. 24	09:30-12:45	<ul style="list-style-type: none"> a) Sources of international law b) Jurisdiction: Regulation EU 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (Brussels Regulation) and its amendments by the Regulation EU 542/2014 of the European Parliament and of the Council of 15 May 2014 as regards to the rules to be applied with respect to the Unified Patent Court and the Benelux Court of Justice 	Ivana Kunda
4	3 Dec. 24	14:15 - 17:30	<ul style="list-style-type: none"> c) Applicable law Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) and Regulation (EC) No 864/2007 of the European Parliament and of the Council of 11 July 2007 on the law applicable to non-contractual obligations (Rome II) for international transactions; d) Recognition and enforcement of judgements: Regulation (EU) 1215/2012 of the European Parliament and of the Council of 12 December 2012 on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters (Brussels Regulation) 	Ivana Kunda

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Module	Date	Time	Topic	Lecturers
			Basic knowledge of private law, including contract law, company law and tort law in both common and continental law and EU law	
5	10 Dec. 24	09:30 - 12:45	<p>c) Company law</p> <ul style="list-style-type: none"> i. general introduction into the concept of company and partnership, ii. the difference between the companies incorporated under the continental law vs common law legal system, the internal regulations of companies and the importance of official commercial register as well as annual report. iii. international capital groups (holdings) in connection with the idea of IP rights as the subject to the transaction between related entities (on the international level) as the mechanism of obtaining tax benefits for the owners. <p>d) Tort law</p> <ul style="list-style-type: none"> i. general introduction into the concept tort law ii. basic differences between the concept of tortious liability for negligence in both continental and common law legal system, including the presentation the possible responsibility of person from whom the special knowledge is required (e.g. patent attorneys) - The idea of Trusts in common law legal system – short introduction into the concept of equity and trust law under the common law legal system 	Luigi Mansani
6	10 Dec. 24	14:15 - 17:30	<p>e) Arbitration: Convention on the Recognition and Enforcement of foreign Arbitral Awards (the New York convention 1958)</p> <p>f) Disputes resolutions procedures under the aforesaid Regulations: arbitration, mediation, transaction.</p>	Joachim Feldges
			Substantive law on Patents as resulting from the substantial rules contained in the Agreement on the Unified Patent Court and the patent-related case law of the Court of Justice of the European Union, including case law on supplementary protection certificates	
7	17 Dec. 24	09:30 - 12:45	<ul style="list-style-type: none"> a) Patentable inventions b) Requirements of validity c) Scope of Protection and limitations thereof d) Supplementary Protection Certificates <p>Review of the case law of the Court of Justice of the European Union in patent-related and supplementary protection certificates matters;</p>	Micaela Modiano

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Tech-transfer and licensing				
8	17 Dec. 24	14:15 - 17:30	<ul style="list-style-type: none"> a) TRIPS agreements Section 8: Control of Anti-competitive Practices in Contractual Licences b) Commission Regulation on technology transfer agreements EU 316/2014 <ul style="list-style-type: none"> - Definitions - Hardcore restrictions - Excluded restrictions c) SEP and FRAND licenses d) Compulsory licenses 	Giovanni Casucci
The role and organisation of the Court of Justice of the European Union				
9	14 Jan. 25	09:30 - 12:45	<ul style="list-style-type: none"> a) The Court of Justice of the European Union in the legal framework of the EU constituent treaties (TEU, TFEU); b) The structure of the Court of Justice of the European Union: the General Court, the Court of Justice and its composition; 	Jacopo Alberti Filippo Croci
10	14 Jan. 25	14:15 - 17:30	<ul style="list-style-type: none"> c) The jurisdiction of the Court of Justice of the European Union: direct actions, preliminary ruling referrals; d) Links between the Court of Justice, the National Courts and the UPC. 	Jacopo Alberti Filippo Croci
A comparative overview on patent infringement proceedings and revocation of patents in the main European countries - part A				
11	24 Jan. 25	09:30 - 12:45	The British system	Christopher Stothers (online)
12	24 Jan. 25	14:15 - 17:30	The German system	Carl-Richard Haarmann

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Module	Date		Time	Topic
			Enforcement of patents, providing knowledge of Directive 2004/48 (EC) on the enforcement of intellectual property rights and relevant case law of the Court of Justice of the European Union	
13	28 Jan. 25	09:30 - 12:45	a) Evidence issues: the evaluation of the evidence, the right of information and the preservation of the evidence b) Provisional and precautionary measures: seizure, injunction and alternative measures	Giovanni Casucci
14	28 Jan. 25	14:15 - 17:30	a) Ordinary proceeding: the trial and the assessment of the validity and the infringement issues b) Measures resulting from a decision on the merit: damage evaluation, legal costs and publication	Giovanni Casucci
			A comparative overview on patent infringement proceedings and revocation of patents in the main European countries - part B	
15	4 Feb. 25	09:30 - 12:45	The French system	François Pochart
16	4 Feb. 25	14:15 - 17:30	The Dutch system	<u>Tjibbe Douma</u>
			Unitary patent protection, providing advanced knowledge of Regulations 1157/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection and 1160/2012 (EU) implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements as well as the Rules relating to unitary patent protection	
17	11 Feb. 25	09:30 - 12:45	a) The birth of the unitary patent protection regulations: the concept of enhanced cooperation in the legal framework of the EU constituent treaties (TEU, TFEU); Art. 118 TFEU: ordinary legislative procedure vs special legislative procedure;	Francis Leyder
18	11 Feb. 25	14:15 - 17:30	b) The Unitary Patent Regulation c) The Translation Regulation	Francis Leyder

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Module	Date		Time	Topic
			The operation of the Unified Patent Court, providing advanced knowledge of the Agreement on the Unified Patent Court and the Unified Patent Court's Statute	
19	18 Feb. 25	09:30 - 12:45	<ul style="list-style-type: none"> a) The legal personality of the Unified Patent Court: a court common to contracting EU Member States b) Sources of law 	Gualtiero Dragotti
20	18 Feb. 25	14:15 - 17:30	<ul style="list-style-type: none"> c) The structure of the Unified Patent Court <ul style="list-style-type: none"> - The Court of First Instance: Central Division, Local Divisions, Regional Divisions; - The Court of Appeal; 	Giuseppe Colucci
21	25 Feb. 25	09:30 - 12:45	<ul style="list-style-type: none"> d) Compositions of the panels of UPC judges: multi-nationalism, pool of judges, technical judges; e) Language regime; f) Jurisdiction, distribution of competence; transitional regime: opt-out, jurisdictions of the national courts; 	David Holland
22	25 Feb. 25	14:15 - 17:30	<ul style="list-style-type: none"> g) Actions before the Unified Patent Court (infringement, revocation, bifurcation); h) First instance proceedings (written proceedings, interim proceedings, oral proceedings) i) Appeal proceedings 	Martin Drews
			Litigation before the Unified Patent Court, providing advanced knowledge of procedures, litigation and advocacy skills, practice and case management before the Unified Patent Court, with special regard to the Rules of Procedure of the Unified Patent Court.	
23	4 Mar. 25	09:30 - 12:45	Introduction <ul style="list-style-type: none"> - litigation and advocacy skills, code of conduct, practice and case management before the Unified Patent Court - The role of protective letters and non-infringement actions 	Cesare Galli

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24	4 Mar. 25	14:15 - 17:30	Coordination of the various procedures <ul style="list-style-type: none"> - Coordination between nullity proceedings and infringement proceedings - Relationship between proceedings pending before Central Division, Local/Regional Divisions and the Court of Appeal - Possible strategies of attack and defence 	Michael Kobler
			PROCEDURES BEFORE THE COURT OF FIRST INSTANCE	
25	11 Mar. 25	09:30 - 12:45	a) Written procedure – first part <ul style="list-style-type: none"> - Infringement action - Revocation action - Action for declaration of non-infringement 	Klaus Grabinski
26	11 Mar. 25	14:15 - 17:30	Written procedure – second part <ul style="list-style-type: none"> - Action within articles 33(5) and (6) of the agreement - Action for compensation for licences on the bases of Art. 8 of Regulation (EU) No. 1257/2012 - Action against decision of the European Patent Office in carrying out the tasks referred to in Art. 9 of Regulation (EU) No. 1257/2012 	Wouter Pors
27	18 Mar. 25	09:30 - 12:45	b) Interim procedure <ul style="list-style-type: none"> - Role of the judge rapporteur - Interim conference - Preparation for the oral hearing c) Oral procedure <ul style="list-style-type: none"> - Role of presiding judge - Conduct of the oral hearing - Absence of one or both parties - Decision on the merits - Interim award of damages 	Anna-Lena Klein

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28	18 Mar. 25	14:15 - 17:30	<p>d) Court fees and procedure for the determination of damages and compensation</p> <p>Fees and legal aid</p> <ul style="list-style-type: none"> - Court fees - Legal aid <p>Determination of damages</p> <ul style="list-style-type: none"> - Application for the determination of damages - Request to lay open books <p>Procedure for the cost decision</p> <ul style="list-style-type: none"> - Compensation for representation costs - Compensation for costs of experts - Compensation for costs of witnesses - Compensation for costs of interpreters and translators - Appeal against the cost decision <p>Security for costs</p> <ul style="list-style-type: none"> - Security for costs of a party and for the costs of the Court 	Kay Rupprecht
			EVIDENCE	
29	25 Mar. 25	09:30 - 12:45	<p>a) Witnesses and experts of the parties</p> <p>b) Court experts</p> <p>c) Order to produce evidence and to communicate information</p> <p>d) Order to preserve evidence and order for inspection</p> <p>e) Other evidence</p>	Giovanni Casucci
			PROVISIONAL MEASURES	
30	25 Mar. 25	14:15 - 17:30	<ul style="list-style-type: none"> - Application for provisional measures - Oral hearing - Order of the Application for provisional measures - Order of provisional measures without hearing the defendant - Revocation of provisional measures 	Jean-Frédéric Gaultier

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			PROCEDURE BEFORE THE COURT OF APPEAL	
31	1 Apr. 25	09:30 - 12:45	<ul style="list-style-type: none"> - Appealable decisions - Application for suspensive effect a) Written procedure <ul style="list-style-type: none"> - Statement of appeal, statement of grounds of appeal - Statement of response - Reply to a statement of cross appeal - Referral to the full Court 	Ferenc Török
32	1 Apr. 25	14:15 - 17:30	<ul style="list-style-type: none"> a) Interim procedure <ul style="list-style-type: none"> Role of the Judge- rapporteur b) Oral procedure c) Decisions and effect of decisions d) Procedure for application of rehearing 	Manolis Samuelides
			GENERAL PROVISIONS	
33	15 Apr. 25	09:30 - 12:45	<ul style="list-style-type: none"> a) General procedural provisions b) Service <ul style="list-style-type: none"> - Service within the contracting member States - Service outside the contracting member States - Service by an alternative method - Service of orders, decisions and written pleadings c) Rights and obligations of Representatives d) Stay of proceedings e) Time periods 	Andrea Piai

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34	15 Apr. 25	14:15 - 17:30	f) Parties to proceedings <ul style="list-style-type: none"> - Plurality of parties - Change in parties - Death, demise or insolvency of a party - Transfer of patent - Intervention - Re-establishment of rights g) Miscellaneous provisions on languages h) Case management i) Rules relating to the organization of the Court j) Decisions and orders k) Decision by default l) Actions bound to fail or manifestly inadmissible Settlement	Graham Brunett-Hall
35	date will be defined in May - June	10:00 – 13:15	Exercises 01 - part A Presentation and discussion of case-studies	Oliver Schön
36		14:15 - 17:30	Exercises 01 - part B Presentation and discussion of case-studies	Christopher Heath
			MOCK TRIAL	
37	Date will be defined in May - June	09:30 - 12:45	Exercises 02 <i>Mock Litigation</i> <ul style="list-style-type: none"> - Presentation of the case - Preliminary proceedings 	Case study proposed by Andrea Marietti Paolo Catalozzi Mark Bosshard
38		14:15 - 17:30	<ul style="list-style-type: none"> - Proceeding with/without bifurcation - Appeal 	Luigi Perrotti Benedetta Cartella
			MOCK Tech-transfer Negotiation	
39	Date will be defined in May- June	09:30 – 12:45	Exercises 03 <i>Tech-transfer negotiation</i> <ul style="list-style-type: none"> - Introduction of a negotiation case - Formation of two teams and discussion within the teams 	Case study proposed by Giovanni Casucci

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			- Confrontation, discussion and conclusion	
			MOCK Mediation	
40		14:15 - 17:30	Exercises 04 <i>Mediation between two teams having conflicting interests.</i> <ul style="list-style-type: none"> - Introduction of the case - Formation of two teams and discussion within the teams - Confrontation with the two teams and the mediator - Discussion and conclusion 	To be determined

EXAM

On the fourth day in person, an exam will take place comprising a written part with multiple-choice questions and an oral part with questions on different topics seen during the course.

			Written exam	
		09:30 - 10:30	Written test with multiple choice questions	
			Oral exam	
	Date will be defined in May - June	11:00 - 12:45	Participants will be divided into groups of max 12 people Each group will receive one case	
		14:15 - 17:30	Each group will divide the case into tasks to assign to each of the participants Each participant will have to discuss his task in front of a panel of examiners	