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# INPI LAW --- JOURNAL

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The **INPI LAW JOURNAL** is a newsletter published in English by the Institut national de la propriété industrielle (**INPI**) for a non-French-speaking readership. It covers changes in French law and court rulings on intellectual property in France, the INPI’s new missions pursuant to the French PACTE Law, its work with regard to the examination of applications for intellectual property rights, its decisions further to the newly deployed procedures to invalidate and revoke trademarks and oppose patents, and technological upgrades made to its services (digitisation, open data, artificial intelligence, and more).

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# Focus

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## Launch of the unitary patent and the unified patent court

The **European Patent with Unitary Effect (UP)**, a new IP right, came into force on 1 June 2023. It makes it possible for companies to protect their innovations across Europe in one single process.

A **Unified Patent Court (UPC)** is also being set up. It will decide in particular on the validity of patents and cases of infringement in Europe.

Initially, by opting for the UP, companies will benefit from the same protection of their innovations in 17 European Union countries<sup>1</sup> [1] that have already ratified the "Unified Patent Court Agreement". The UP will eventually cover the territories of the 25 Member States of the European Union that have joined the enhanced cooperation.

**Questions for Emilie Gallois<sup>2</sup> and Elodie Durbize<sup>3</sup>:**

**"What is the difference between a French patent, a European patent and a European patent with unitary effect?"**

The common feature of these 3 legal tools is that the patent is subject to the requirements of novelty, inventive step and industrial application of the invention concerned.

The **French patent** is a right granted by the French Patent and Trademark Office (INPI).

- It provides protection for the invention in France;

- Current filing and renewal fees (to be paid online directly to the INPI before the anniversary date) are low;
- Legal disputes concerning French patents fall under the jurisdiction of the *tribunal judiciaire* (Tribunal of First Instance) of Paris.

The **European patent** was established in 1973 and constitutes a right granted by the European Patent Office (EPO).

- Through one single administrative procedure at the EPO, it provides protection for the invention in 39 Member States and 5 States that authorise validation of the European patent (*such as Morocco, Tunisia, etc.*). This protection at national level is not automatic: the European patent must be validated by paying a fee for each of the designated States within a specific period;
- Procedural fees until the patent is granted are to be paid at the EPO, but applicable renewal fees are to be paid at each of the national offices of the states in which the company seeks protection;
- Coverage of protection therefore depends on the number of countries designated, and the administrative fees, which are proportional to the number of countries chosen, can be quite high.
- Since 1 June 2023, the national courts and the Unified Patent Court have jurisdiction to hear cases of infringement and validity of European patents. Ultimately, the UPC will have exclusive jurisdiction for the participating Member States of the European Union.

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<sup>1</sup> 17 States have already ratified the agreements and participate in the unitary patent: Austria, Belgium, Bulgaria, Denmark, Estonia, Finland, France, Germany, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Slovenia and Sweden.

Another 8 countries participate in the enhanced cooperation for the implementation of the unitary

patent system (UP+UPC), which they can join later (through a national ratification process).

<sup>2</sup> *Head of the Studies Unit - Directorate for Economic Action*

<sup>3</sup> *Head of the International Affairs Unit - Directorate for Legal and Financial Affairs*

The **European patent with unitary effect** is also a right granted by the European Patent Office (EPO).

- It is a 'classic' European patent with unitary effect;
- Through one single administrative procedure at the EPO, it now provides protection for the invention **in 17 European Union countries** in an **indivisible** manner, simplifying the formalities for protecting innovations in said territories and reducing maintenance costs.
- Applicable procedural fees and renewal fees are payable to the EPO;
- Since the protection is indivisible, only one renewal fee is payable, and the amount is roughly equivalent to the fees that protect a European patent maintained in 4 countries.
- The Unified Patent Court has exclusive jurisdiction to hear cases on infringement and validity of unitary patents.

#### "How can applicants apply for the unitary effect of their patent?"

In order to obtain a patent with unitary effect, it is first of all necessary to obtain a European patent processed by the EPO.

Upon receipt of the notification issued by the EPO that the patent is soon to be granted and no later than one month after the date of publication of the mention of the grant of the patent in the European Patent Bulletin, the owner must file a "request for unitary effect" with the EPO. The request for unitary effect is free.

The request for unitary effect can only be made on one **single set of claims** for all participating Member States.

#### "Can the same invention be protected by a French patent AND by a European patent with unitary effect?"

Yes, it can. In France, the owner can combine a French patent and a European patent with unitary effect for the same invention provided that he pays the renewal fees for both the

French patent and the patent with unitary effect.

Under certain conditions, it is also possible to benefit from the protection of the European patent and the French patent for the same invention in France, which was not possible until now.

To do so, the owner has to:

- pay the renewal fees for both patents (French patent and European patent designating France);
- not opt out from the jurisdiction of the Unified Patent Court for cases of infringement and validity of his European patent.

#### "What will be the advantages / disadvantages of maintaining both patents?"

The unitary patent protection will be uniform and indivisible in the participating countries. If the patent is revoked in a legal dispute, the protection will be cancelled throughout the territory covered by the unitary effect, including in the case of revocation on the grounds of a prior use in one country.

Moreover, in order to achieve the unitary effect, the set of claims must be strictly identical for all participating Member States. In practice, if there is prior art only in Italy, for example, the set of claims of the patent with unitary effect will have to be adapted to take account of that prior art, including in the other countries affected by the European patent with unitary effect.

Since a French patent can only be revoked by the competent national court, any challenge to the validity of a foreign patent or a patent with unitary effect will not affect the validity of the French patent.

Therefore, it may be strategic to maintain both patents (*i.e. pay the renewal fees for both patents*), particularly if the French market is strategic for the company, because if the unitary patent were to be revoked by the Unified Patent Court, the French patent would still exist.

In addition, if there is relevant prior art in a territory other than France, the protection conferred by the French patent in France may be broader than the protection conferred by the patent with unitary effect.

**"What are the costs of the French patent, the European patent and the unitary patent?"**

The following amounts are for administrative fees only and do not include fees for legal counsel for drafting, translating, validating and maintaining a patent.

	French patent procedure (FR)		European patent procedure (EP)	
	Companies ≥ 1000 employees	Companies < 1000 employees		
<b>Filing</b>	€26	€13	€135	
<b>Additional claims</b>	Over 10: €42/claim	Over 10: €21/claim	Over 16: €265/claim	
<b>Search report</b>	€520	€260	€1460 <i>(part of the fee may be refunded if the EP application is based on a French application and the search report of the French procedure is reused)</i>	
<b>Examination fee</b>	€0	€0	€1840	
<b>Fee for grant</b>	€90	€54	€1040	
			'Classic' EP: Designation fee: €660	Unitary EP: €0
<b>Renewal fees</b>	[from €38 to €800] €800 is the 20 <sup>th</sup> renewal fee		[from €530 to €1775] for the patent application, then the sum of the renewal fees, variable, of the national offices after the grant	[from €35 to €4885] €4855 is the 20 <sup>th</sup> renewal fee

There are now many cost comparators on the Internet to determine the cost of a patent with unitary effect based on the number of years of maintenance, and the cost of a European patent based on the number of countries validated and the number of years of maintenance.

**"How does the Unified Patent Court (UPC) work?"**

Established by the Agreement signed on 19 February 2013, the Unified Patent Court (UPC) has exclusive jurisdiction in disputes concerning:

- unitary patents (Ups)
- classic European patents (as long as they concern one or more of the countries that have ratified the UPC Agreement)
- the supplementary protection certificates associated with said patents.

The decisions of this new court **apply in all the signatory states**, and other states will join the court and the 'unitary patent' as and when their national ratifications are confirmed.

This jurisdiction makes it possible to:

- centralise all European patent legal actions at European level,
- strengthen legal certainty on issues related to infringement and validity of patents,
- simplify court proceedings,
- reduce court fees.

It is composed of a court of first instance with seat in Paris and two sections in Munich and soon in Milan, together with a court of appeal in Luxembourg. ■

# French Case Law

*Below and in the PIBD, INPI's law review (in French),  
you can read about various decisions handed down by the French courts  
and commented on by INPI's legal experts.*

## Trademarks

### Paris Court of Appeal, 2 November 2022:

The Paris Court of Appeal confirmed the [absence of infringement](#) and the absence of detriment to the **reputation of the Adidas three-stripe trademark** as a result of the offer for sale of leisure trousers with two parallel stripes.



*By Sora Shimazaki - [www.pexels.com](http://www.pexels.com)*

**Court of Cassation, 7 December 2022:** The Court of Cassation specified the conditions under which an economic actor has an [interest in seeking](#) to have a French trademark **invalidated** before the courts. The litigation concerns a portfolio of 233 trademarks including the names “Dom Perignon”, “Ruinart”, “Veuve Clicquot” and “Moët & Chandon”.

Note that applications to have French trademarks declared invalid now fall, in principle, within the exclusive jurisdiction of the French Patent and Trademark Office, in application of Article L. 716-5 of the French Intellectual Property Code (amended by Order no. 2019-1169, 13 November 2019). Within the framework of this new administrative procedure, these applications are not subject to the recognition of an interest in bringing an action.

**Paris Court of Appeal, 17 March 2023:** The use, without the permission of the trademark owner, of **domain names** containing the words “[fruit of the loom](#)” that redirect the user to a website selling authentic FRUIT OF THE LOOM products constitutes an infringement.

**Paris Court of Justice, 26 January 2023:** The Paris Court of Justice (*tribunal judiciaire de Paris*) ruled in favour of [the partial revocation](#) of the PUNCH and PUNCH POWERTRAIN trademarks and upheld the owner’s rights to these trademarks only in regard to vehicle parts, transmission systems and services for the development or repair of such systems, but not for the vehicles themselves. It is the opinion of the Court that the former (*i.e.*, vehicle parts) constitute an **independent subcategory** within the meaning of the **Ferrari judgment of the Court of Justice of the European Union** (CJEU, 22 October 2020, Ferrari SpA, C-720/18 and C-721/18); proof of their use does not constitute use for the entire category of vehicles and the trademarks must be revoked for “vehicles” and for “apparatus for locomotion by land, air or water”.

### Paris Court of Appeal, 10 February 2023:

The Paris Court of Appeal, ruling on a **second referral after cassation**, found that [the use of the trade name and trademark](#) ENTERPRISE RENT-A-CAR infringed the **company name, trade name, domain name and trademark** RENT A CAR.

In a previous ruling from 7 July 2021, the Court of Cassation, ruling on the merits of the case, finally rejected the application for cancellation of the trademark RENT A CAR. The Court ruled that the terms which constitute the trademark are merely evocative of the vehicles covered by the registration and that the trademark had

acquired distinctive character with regard to services for the renting of these products as a result of the extensive use of the semi-figurative RENT@CAR trademark as well as the company name, trade name and shop name Rent A Car.

**Lyon Court of Appeal, 9 February 2023:** The Lyon Court of Appeal, ruling on the basis of Article L. 716-4-3 of the French Intellectual Property Code, held that the owner of the REFLEA trademark [was not entitled to bring an action for infringement](#) in the absence of genuine use of their trademark, given that **the health of the director of the licensee company did not constitute a legitimate reason for non-use.**

## Designs

**Paris Court of Appeal, 25 January 2023:** The [clause in a fashion designer's employment contract assigning copyright to her employer](#) is valid if it limits the scope of the assignment to **determinable, individually identifiable works**. It cannot be said that the clause provides for the global assignment of future works within the meaning of Article L. 131-1 of the French Intellectual Property Code, since it relates to works created by the designer within the context of her collaboration, with assignment only taking place upon the creation of such works.

## Patents

**Court of Cassation, 11 January 2023:** The Court of Cassation overturned the judgment of the Paris Court of Appeal, which had overturned the decision of the French Patent and Trademark Office to [reject a patent application](#) relating to an aircraft cockpit display system and had held that this application related to a **patentable invention**. The Court of Appeal has neither established the **existence of a technical contribution** made by the patent application

nor explained how the means claimed had the character of **technical means distinct from a mere presentation of information**, the latter being excluded from patentability by Article L. 611-10 of the French Intellectual Property Code.

**Court of Cassation, 1 February 2023:** Following the French Patent and Trademark Office's rejection of **supplementary protection certificate applications for cancer drugs** filed by the Japanese company Ono Pharmaceutical or by the American company Wyeth, the Court of Cassation issued three judgments on the same day. In the judgments, the Court addresses [the issue of the protection of the product by the basic patent when the active ingredient is functionally defined in the patent](#), referring to the Royalty Pharma judgment of the Court of Justice of the European Union (CJEU, 30 April 2020, Royalty Pharma Collection Trust, C-650/17).

## Geographical Indications

**Paris Court of Appeal, 18 November 2022:** The Court of Appeal ruled that [the reproduction of the appearance](#) of the cheese covered by the **MORBIER Protected Designation of Origin (PDO)**, with its particularly distinctive horizontal dark line, constitutes an infringement of this PDO, even if the name itself is not reproduced. A note is now available regarding this case, which gave rise to a true courtroom soap opera in which the Court of Justice of the European Union intervened (C-490/19) having been asked to give a preliminary ruling by the Court of Cassation. ■

# INPI Decisions

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## Opposition to a patent before the INPI - Rejection of a request for amendment for failure to address a ground of opposition and lack of conciseness

The opposition against the patent entitled "Refrigerated beauty box, for storage and use of cosmetic products" is recognised as justified and the patent is maintained in an amended form.

The opponent requested the full revocation of the contested patent, on the basis of the following grounds: insufficiency of disclosure, lack of novelty and lack of inventive step. During the written examination phase, the owner requested the amendment of the patent claims by filing a main request and five auxiliary requests.

During the opposition proceedings, the owner may amend the claims of the patent provided, in particular, that **the amendments made address one of the grounds of opposition** (Article L. 613-23-3 I 1° of the French Intellectual Property Code, IPC).

In the main request, the owner proposes an amendment of claim 1 via integration of the features of claim 2 and/or claim 6 and/or claim 7 as granted, whereas, in the granted set of claims, these dependent claims 2, 6 and 7 referred directly and only to claim 1. Proposed claim 1 thus contains seven independent alternatives corresponding to **seven independent claims**.

The owner claims that the filing of seven independent alternatives is necessary to maintain the most complete possible protection of the invention. However, some of these alternatives are not direct combinations of claims of the granted patent and introduce subject matters that did not have their equivalent in the claims of the patent as granted. The opposition procedure cannot be the means for improving the drafting of the claims of the granted patent. Thus, it is not

possible to add independent claims, not initially provided for in the granted set of claims, if they are not essential for the defence of the patent.

The INPI observes that adding the six independent additional alternatives is not necessary to address the ground of opposition, since this ground is already dealt with by the first alternative.

Therefore, all of the amendments made do **not constitute an appropriate response** to avoid revocation of the patent, in the sense that all of the amendments made are **necessary to address a ground of opposition raised by the opponent**.

**In addition, the amended claims must comply with the provisions of Article L. 612-6** of the IPC, i.e. to define the subject matter requested, be clear and **concise** and be supported by the description.

The proposed amendment **lacks conciseness** and makes it difficult to determine the subject matter requested. Indeed, even if the seven alternatives relate to seven different subject matters, there is an overlap in the scope of their respective protection. Some alternatives could thus have been formulated as dependent claims of others. Their presentation as independent alternatives, by unjustifiably increasing the number of subject matters to be considered, therefore results in an **excessive burden** on third parties, which will have to study seven independent alternatives while the claim actually contains only three truly independent alternatives, in order to know whether they could infringe the patent.

The main request is therefore rejected because **the amendments do not address a ground of opposition** and **the drafting of the claims lacks conciseness**. On the other hand, the proposed amendment of the patent according to auxiliary request 1, in which claim 1 was amended via integration of the features of claim 2, is considered to comply with Article L. 613-23-3 of the IPC. The patent is therefore




maintained in an amended form according to auxiliary request 1.

**INPI decision, 24 March 2023, [OPP 21-0017](#).**

*By Nadège Bois, engineer, former patent examiner and opposition expert at INPI*

## **Invalidation of the ADOPTE UNE DOLL trademark on the grounds of detriment to the repute of the trademark adopteunmec**

**T**he contested trademark ADOPTE UNE DOLL, registered inter alia for sex accessories, sex toys and dolls for adults, and services related to the sale of said products, **is detrimental to the repute of the earlier French trademark **.

The adopteunmec trademark enjoys a **high degree of recognition** in France for online dating platforms, and more specifically, “services for dating clubs on the Internet and via mobile apps; services organising dates between individuals for social purposes, *i.e.*, dating club services; services connecting individuals for social purposes, *i.e.*, dating club services”. Such degree of recognition is demonstrated by the frequent appearance of the trademark in the media, the scope of the publicity campaigns, the number of individuals registered in these dating clubs, the different references in the press to the brand’s ranking in the online dating sector, and the rewards received.

In all probability, consumers will be incited **to make a link between the two signs** on account of their **strong resemblance** - each sign shares a common structure and evocation, namely, the action of adopting someone or something, the first a “doll” and the second a “mec, *i.e.*, a guy” - and in view of the products and services covered by the contested trademark. Accordingly, when confronted with the contested mark, the image triggered in the minds of consumers will be that of the earlier trademark, which has a high reputation and possesses an **intrinsically distinctive character**. The latter is apparent in the earlier trademark’s structure, adopteunmec which is unusual in that it employs the imperative form of the second

person singular of the verb “adopter, *i.e.* to adopt” alongside the term “mec”. Similarly, it is not established that this trademark is the necessary, generic, or usual designation for the goods and services in question nor that it serves to designate one of their characteristics. Hence, widespread use of the element “Adopte un” for dating services was not established by the proprietor of the contested mark.

Though the services of the earlier trademark and the products and services of the contested trademark **scarcely appear similar, they do all relate, directly or indirectly, to intimate relations**, the earlier trademark having a reputation for online dating services and the products and services of the contested trademark relating to sex toys for adults. As a result, there is **some overlap between the sectors of the public** targeted by the products and services in question.

The contested trademark is likely to **take unfair advantage of the repute** of the earlier trademark. Indeed, the brand image reflected in articles referring to the ranking of the online dating brand and the success of its services in the industry is that of a sector leader, which constantly invests to capture a larger share of the market and increase its visibility. Consequently, the contested trademark could profit from the reputation and power of attraction of the earlier trademark for its own products and services. The proprietor of the contested mark cannot reasonably claim not to have known about the earlier trademark **on the day of filing the ADOPTE UNE DOLL trademark** given the reputation of the adopteunmec trademark in France and its position in the online dating market at that time. Such a transfer of the positive image of the earlier mark could facilitate the placing on the market of the products and services of the contested trademark, thereby reducing the need to invest in publicity, which would then enable the proprietor of the contested trademark to free-ride on the commercial efforts deployed by the invalidity applicant to create and maintain this image.

**INPI Decision, 31 January 2023, [NL22-0053](#), GEB ADOPTAGUY SARL vs Madame F.**  
*By Cécile Fontaine, Legal expert, Cancellation Unit, INPI.*

# French IP Law updates

## Decree no. 2023-166 of 7 March 2023 on envelopes intended to facilitate proof of contents and date-and-time stamping of applications ancillary to industrial property

After the publication in the Journal officiel (JO, no. 58, 9 March 2023) of [Decree no. 2023-166](#) of 7 March 2023<sup>1</sup>, the implementation of the regulatory framework for the **digital Soleau envelope** continues with the publication of the following texts:

- Order of 24 March 2023 (JO, no. 76, 30 March 2023), which repeals Articles 2 to 7 of the Order of 9 May 1986 “laying down the practical procedures for using means of proof of the date of certain creations”<sup>2</sup> ;
- Decree no. 2023-236 of 31 March 2023 concerning the immediate entry into force of four orders, including the Order of 24 March 2023 “relating to fees payable to the French Patent and Trademark Office (INPI)” (JO, no. 78, 1 April 2023). This order, which replaces part “5. Designs” in the table annexed to the Order of 24 April 2008, deletes the fee for “Registration and safekeeping or extension of safekeeping of special envelopes”. The other fees and their amounts remain unchanged.

The two aforementioned decrees of 24 March 2023 came into force on **1 April 2023**.

However, designs or graphic representations which are in a special double envelope made available by the INPI before 1 April 2023 and sent to it by 1 April 2024 at the latest with a view to ensuring a priority date of creation, pursuant to Article R. 511-6 of the French Intellectual property Code as it stood prior to the entry into force of Decree no. 2023-166 of 7 March 2023:

- Remain governed by the provisions of the Order of 9 May 1986, in its version prior to that resulting from the Order of 24 March 2023 amending it;
- Shall continue to be governed by the provisions of the Order of 24 April 2008 on the fees payable to the INPI, in its version prior to that resulting from the Order of 24 March 2023 amending it. ■



By Grafikmente

<sup>1</sup> See [PIBD 2023, 1200, I-1](#).

<sup>2</sup> See JO, 6 June 1986, pp. 7079-7080; *PIBD* 1986, 393, I-45.

# About INPI

## INPI delves into the history of trademarks with its new “Trademarks on show” exhibition

*The “Trademarks on show” exhibition, drawn from INPI’s historical archives, features a selection of fifteen posters, created by nine of the most famous poster artists of the early 20th century, which were also filed as trademarks. Original registration forms and posters are displayed side by side for the first time since their creation. The exhibition can currently be seen at INPI’s offices in Lille and at the Ministry of the Economy.*

The great industrial boom of the 19th century ushered in a new era in information: speeches, newspapers and pamphlets, and posters too.

Illustrated posters, in large format and in colour, became the advertising medium of choice for businesses. With the proliferation of products and trademarks, the need to stand out from the competition was now key to success: posters made an impression and sold.

### INPI delves into the history of trademarks

The exhibition features a selection of fifteen posters illustrated by nine of the most famous poster artists of the early 20th century, among them Firmin Bouisset, Leonetto Cappiello, Raoul Vion, and Eugène Ogé. Also filed as trademarks, the posters are displayed alongside the original registration forms filed at the same time and now carefully preserved at INPI.

They show the emergence of important concepts in trademark filing, such as the choice of a logo, typography, a slogan, figures, characters and symbols, all of which make up

what was not yet called brand image at the time.

The exhibition also traces the economic, social and cultural history of the early 20th century through these emblematic examples of “Made in France” products of the time, including LU Petit Beurre biscuits, Ripolin paint, St Raphaël aperitif, Michelin tyres and L’Oréal products.



### France, champion of trademark filings

Every year, around 100,000 trademark applications are filed with INPI, a figure that places France firmly among the world’s leaders when it comes to trademark filings.

INPI has kept all trademarks registered since 23 June 1857, the date of the first French legislation introducing the systematic registration of trademarks.

INPI has been committed to promoting its heritage for many years and has digitised all 460,000 trademarks registered between 1857 and 1920 when the law was reformed. In 2024, INPI will launch an online portal providing easy access to this unique and little-known heritage.<sup>1</sup>

*By Steve Gallizia, responsible for preserving and promoting INPI’s heritage archives and Pascal Claude, Institutional Communication Officer, INPI*

<sup>1</sup>[Discover the heritage preserved at INPI | inpi.fr - 1857, the first trademark filing procedure | inpi.fr](https://www.inpi.fr/fr/decouvrir-le-heritage-preserve-a-inpi)

[From the first trademark procedure to filing with INPI | inpi.fr](https://www.inpi.fr/fr/la-premiere-procedure-de-declaration-de-marque)

## Eleventh edition of the International IP Index 2023: France is in an excellent position!

France can now enjoy **third place of the ranking** published annually by the **US Chamber of Commerce**. It gained two positions compared to the **ranking** published last year.

The U.S. Chamber of Commerce accounts for three million companies in the United States. Every year, since 2012, it has published an index designed to rank countries **according to their level of intellectual property protection**, based on fifty indicators measuring, on the one hand, the legislative corpus, on the other hand, the enforcement of rights and finally, the awareness of and respect for IP rights.

This new ranking places France just behind the **United States** and the **United Kingdom**, and ahead of **Germany** and **Sweden**.

The **measures taken to strengthen the fight against counterfeiting** are allowing France in particular to gain points. We commend all the efforts made by France to combat counterfeiting more effectively in our country, in Europe and worldwide.

*By Stéphanie Leparmentier, INPI Regional Counsellor, Washington<sup>1</sup>*

## INPI's top patent filers for 2022

*INPI has unveiled its top patent filers for 2022, a ranking that highlights organisations that invest in innovation. Safran, Stellantis and the CEA make up the top three this year.*

### Key facts

- **Safran** and **Stellantis** retain the top spots in the ranking
- The **French Alternative Energies and Atomic Energy Commission (CEA)** is in third position
- **Public research** continues to perform well, with **12 research organisations among the top 50 filers**
- **Three intermediate-sized companies** consolidate their position
- **Ten new entrants** in the top 50

*“The 2022 ranking is based on published patent applications filed between 1 July 2020 and 30 June 2021 at the height of the Covid crisis. Despite this context, the ranking shows that the leading players in the economy are continuing to invest in innovation. The ranking is relatively stable, in line with trends observed by other industrial property offices around the world. This is an encouraging sign that industrial property remains a strategic tool for boosting business competitiveness. Another highlight: the position of public research remains strong. The number of public bodies and their rankings have grown stronger over the years. We can only encourage them to continue this trend and to protect and commercialise their research work”, commented Pascal Faure, CEO of INPI.*

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<sup>1</sup> The International Network Department of the INPI (ten counsellors covering around 100 countries) implements

international cooperation activities in collaboration with its institutional and private partners. It assists companies in their export activities in conjunction with the Directorate General of the Treasury.

### *A slightly different top three*

**Safran continues to top the ranking** with 931 patent applications published in 2022. The aircraft equipment manufacturer came first in last year's ranking.

It is still closely followed by **Stellantis** with 924 patent applications published.

The **French Alternative Energies and Atomic Energy Commission (CEA)** takes 3rd place from Valeo Group, with 672 patent applications published.

### *Rises and falls in ranks 4 to 10*

- **Valeo** moves down to **4th place** with 543 patent applications published in 2022
- **L'Oréal** is one of the biggest climbers this year, moving up from 8th to **5th place**, with 475 patent applications published
- The **French National Centre for Scientific Research (CNRS)** remains in **6th place** for the fifth year running, with 354 patent applications published
- **Renault Group** is in **7th place** (-2) with 344 patent applications published
- **Air Liquide** and **Thalès** are tied in **8th position**, last year coming in 11th and 9th respectively, with 213 patent applications published
- **Forvia** (formerly Faurecia) moves into **10th place** with 210 patent applications published

### *Public research continues to perform well*

15 research, higher education and public institutions (RESE) feature in the top 50 (compared with 12 last year), including 12 research organisations.

The **top three** have remained the same since 2020:

- The **French Alternative Energies and Atomic Energy Commission (CEA)** moves up one place to **3rd position** with 672 patent applications published
- The **French National Centre for Scientific Research (CNRS)** remains in **6th place** with 354 patent applications published
- **IFP Énergies Nouvelles** is in **15th place** (-2 places) with 167 patent applications published

### *Three intermediate-sized companies are in the top 50*

Three intermediate-sized companies (ETI) are among INPI's top 50 patent filers:

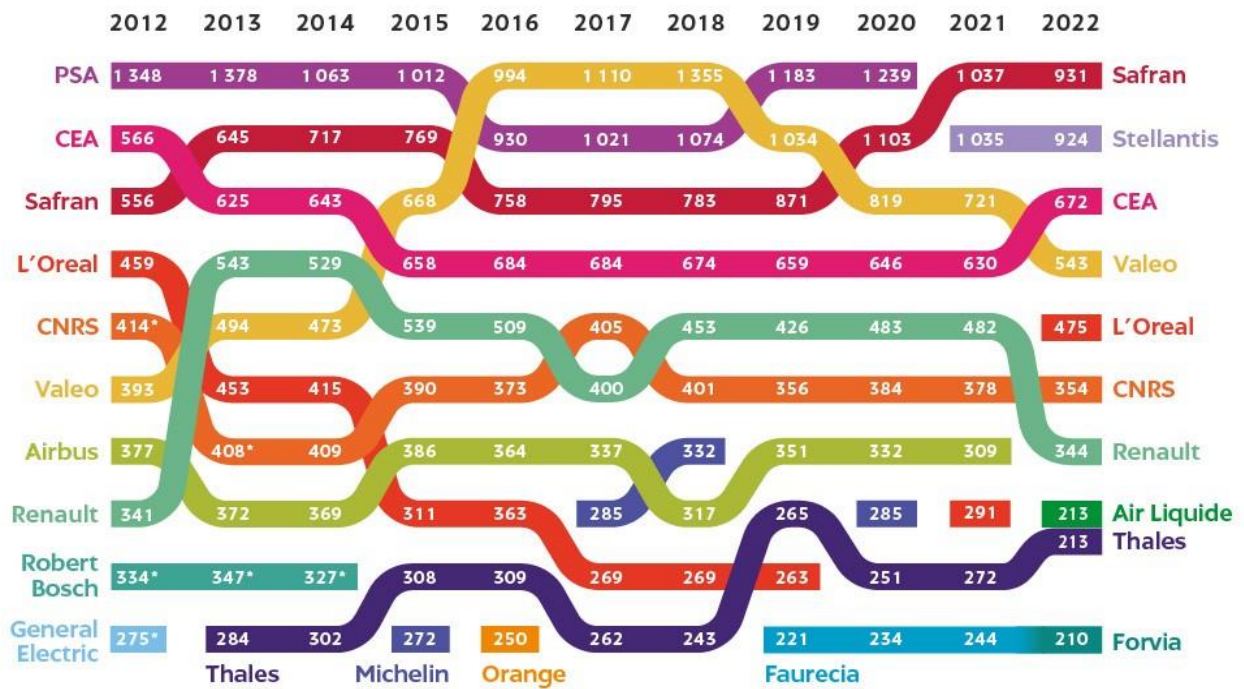
- **Gaztransport and Technigaz (GTT)**, a naval engineering company based in Yvelines (Paris region) specialising in the design of liquified gas storage and transport systems, moves up seven places to **23rd** place in the ranking.
- **Soitec Group**, which specialises in the production of semiconductor materials, climbed to **40th place** (+ 5). It has featured regularly in the top 50 since 2004.
- **Pfeiffer Vacuum SAS\***, which specialises in vacuum technology, enters the ranking in **37th place**.

\*A correction has been made to the version published on 17 March 2023 at the request of Pfeiffer Vacuum SAS, which is considered an ETI.

### *The ten new entrants in the top 50 filers are:*

- Nexans: 32nd place
- Pfeiffer Vacuum SAS: 37th place
- SNCF: 39th place
- Institut Polytechnique de Grenoble: 40th place
- Kuhn Group SAS: 40th place
- Aix-Marseille Université: 43rd place
- Banks and Acquirers International Holding ("Ingenico" brand): 47th place
- LVMH Recherche: 47th place
- Université de Montpellier: 49th place
- Nexter Group: 50th place ■

## TOP 10 PATENT FILERS by number of patent applications published by INPI in 2022



Note 1: Either the patent applications were filed under the names of several entities and the data subsequently aggregated by INPI based on the filers' declarations or all applications were filed under the name of the parent company.

Note 2: The number of patent applications published is based on the full counting approach.

Note 3: Consolidated PSA including Faurecia, for the period 2017-2020.

Note 4: Stellantis is the result of the merger between Fiat Chrysler Automobiles and the PSA Group in January 2021.

Note 5: Faurecia became Forvia in 2022

\* Filer's non-consolidated data

[Source and processing of data: INPI, 2023]

# International IP Law news

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## Bilateral meeting between INPI and CNIPA (China National IP Administration) marked by the signing of a Patent Prosecution Highway (PPH) Agreement between our two IP Office.

On the occasion of the state visit of French President Emmanuel Macron in China, the INPI and its Chinese counterpart CNIPA (China National Intellectual Property Administration) signed a PPH Agreement on **6 April 2023** at the Great Hall of the People, for the benefit of economic players in our two countries.

The signing took place **in the presence of French President Emmanuel Macron and President of the People's Republic of China Xi Jinping**, and is testimony to the awareness growing at top government levels on the importance of intellectual property (IP), particularly in the context of our cooperation with China. For China, IP constitutes a tool to support Chinese scientific and technological development, and is thus invaluable for the country's economic development.

The presence of the INPI CEO in the delegation accompanying the French President also attests that the INPI is acknowledged as the key player in charge of advocating, on behalf of the IP ecosystem, all IP-related issues and challenges at the highest level of the State.

The INPI thus signed its **sixth PPH agreement at international level**, and more specifically the fourth with a country having one of the five largest IP Offices in the world (the IP5 forum)<sup>1</sup>, three of which are located in Asia. As a reminder, since the signature of its first PPH Agreement with the Japanese Patent Office (JPO)<sup>2</sup> on 26 November 2020, the INPI is also bound by PPH Agreements with the United States Patent & Trademark Office (USPTO)<sup>3</sup> and the Korean Intellectual Property Office (KIPO)<sup>4</sup>, signed respectively on 8 November 2021 and 14 July 2022.

In addition, PPH Agreements were also signed on 3 December 2021 with the Canadian Intellectual Property Office (CIPO)<sup>5</sup> and on 15 March 2022 with the Brazilian IP Office (INPI)<sup>6</sup>.

The PPH Agreement with CNIPA entered **into force on 1 June 2023**. From that date on, applicants for a French patent can request a fast-track grant procedure for a second patent filing with the Chinese Office, whether it is a national filing or a China national stage filing under the PCT, provided however that the patent contains claims sufficiently close to those mentioned in the application examined by INPI and recognised as patentable. This PPH Agreement also applies to applicants wishing to speed up the processing of patent applications in France, regardless of whether they claim priority of a Chinese national application or a national PCT filing phase.

As an important reminder, **French applicants** rank **fifth** in number of patent applications filed with the CNIPA, behind those filed by Japan, the USA, Korea and Germany. As for Chinese applicants, they rank second among all foreign priority filings in France since 2021, behind applications filed by Germany, but ahead of those under US, Italian and Japanese priority. This new agreement is a clear proof of international confidence in the robustness of French patents.

Thus in 2023, France is undeniably extending its influence in the international arena and confirming more than ever its attractiveness in terms of IP with its foreign counterparts.

*By Céline Boisseau, Coordinator of INPI International Network*

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<sup>1</sup> IP5: EPO, JPO (Japan), KIPO (Korea), CNIPA (China), USPTO (USA)

<sup>2</sup> See [PIBD 2020, 1149, I-3](#).

<sup>3</sup> See [PIBD 2021, 1171, I-3](#).

<sup>4</sup> See [PIBD 2022, 1186, I-5](#).

<sup>5</sup> See [PIBD 2021, 1172, I-3](#).

<sup>6</sup> See [PIBD 2022, 1179, I-3](#).

## New EUIPO examination guidelines enter into force

Adopted by [Decision No. EX-23-2](#) of 24 March 2023 by the Executive Director of the EUIPO, the examination guidelines for European Union trademarks and registered Community designs have been the subject of a [new revised annual edition](#).

The EUIPO [press release](#) of 17 April 2023, which presents it, highlights the main [changes](#) made. They concern, in particular, the EUIPO's approach to classifying trademark applications relating to virtual goods or services and non-fungible tokens<sup>1</sup>, the consequences of the entry into force of [Regulation \(EU\) 2021/2117](#) of 2 December 2021, the definition of well-known facts, as well as the assessment of novelty and individual character of designs.

Entered into force **on 31 March 2023**, they are available in the five working languages of the office: English, French, German, Italian and Spanish.

## European Union: European Commission patent package

*On 27 April 2023, the European Commission published a set of proposals on compulsory licences (CL), standard-essential patents (SEP) and supplementary protection certificates (SPC). Discussions on these proposals have been initiated in the Council of the European Union.*

**Compulsory Licences (CL):** the general objective of [the initiative](#) is for the EU to respond quickly to crisis situations using the full potential of the single market, and to ensure that in the event of a crisis, critical products and components can be made available in all EU countries and provided without delay to EU citizens and companies, or even to non-EU countries.

Open public consultation period: 17 May 2023 - 31 July 2023

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<sup>1</sup>See EUIPO's [position](#) on virtual goods, non-fungible tokens and the metaverse, [PIBD 2022, 1186, IV-3](#); see also: The designation of goods and services in connection with the filing of trademarks relating to non-



By CQF-Avocat - [www.pexels.com](http://www.pexels.com)

**Standard-essential patents (SEP):** This initiative aims to create a fair and balanced framework for SEP licences. [Standard-essential patents \(SEP\)](#) are patents that protect technology necessary for the implementation of an industrial standard. These standards include communication standards (3G, 4G, 5G, Wi-Fi, NFC), audio/video compression and decompression standards (MPEG, HEVC) and photo formats (JPEG), etc. In practice, many communication standards apply to all connected devices, including phones, smart TVs, connected cars, smart meters and mobile payment terminals.

Open public consultation period: 27 April 2023 - 03 August 2023.

**Supplementary Protection Certificates (SPC):** The European Commission's initiative on [supplementary protection certificates \(SPC\)](#), which allow a patent in the pharmaceutical and plant protection field to be extended by a few years, aims to eliminate fragmentation of the system and ensure the uniform and effective functioning of the European single market. In particular, this initiative aims to establish a centralised procedure for filing and examining applications for SPCs in order to streamline costs for users and standardise decisions, as well as to create unitary protection by SPC for the future Unitary Patent. ■

Open public consultation period: 27 April 2023 - 03 August 2023

fungible tokens, the metaverse and digital assets (INPI), [INPI LAW JOURNAL, dec. 2022, n°4, Focus p. 3.](#)



# Agenda

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## 29-30 June 2023

**Al Invest Verde - Seminar on the governance of geographical indications (GIs) for artisan products in Brazil**



[Details](#)

## 19 July 2023

**WIPO – Hague webinar: Managing your international registrations**

[Details](#)

## 12-14 September 2023

**AfrIPI - Consultative roundtable on enforcement of IPR for North African countries**

[Details](#)

## 20-21 September 2023

**WIPO – Eighth session of the WIPO Conversation on Intellectual Property (IP) and Frontier Technologies**

[Details](#)

## 11-12 October 2023

**OEB – Examination Matters 2023**

[Details](#)

## 17 October / 23 November 2023

**FNDE – Patent Law Round Up**

Obtaining patents - supplementary protection certificates – bio-medical: Patentability requirements, French and European filing procedures.

[Details](#)



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