



CHINA-EU SEMINAR ON THE REFORM OF PRC PATENT LAW

中国专利法改革中欧研讨会

The seminar follows up to the peer-to-peer exchanges of July 2014 in Europe and aims to further address patent related topics which are of actual interest in the current workings of reform of the PRC Patent Law

此次研讨会是 2014 年 7 月双方赴欧交流的后续，在当今中国专利法改革工作背景下，旨在进一步深入讨论与专利法相关、双方关切的议题。

Location: OYC Hotel, Xinghu Avenue, Duanzhou District,
Zhaoqing, Guangdong, China.

地点：中国广东省肇庆市端州区星湖大道
奥威斯酒店

May 12th-13th 2015
2015 年 5 月 12-13 日

IPKey



This seminar has been organised by IP Key and ELD of LAC.
该研讨会由全国人大常委会法工委经济法室和中欧知识产权合作共同组织。

MAY 12, 2015

08:00 – 08:30 Welcome and Registration

MORNING SESSION

08:30 – 08:50 Welcome remarks

Mr. Wang Chaoying, DG Economic Law
Department, LAC
Representative from Standing Committee
of Zhaoqing People's Congress
Introduction to the seminar: Mr. Davide
Follador, IP Key

08:50 – 12:30 **FOCUS: PATENT EXAMINATION**

08:50 – 09:40 Examination of patents: selected issues
**Mr. Stefan Luginbuehl, European Patent
Office**

09:40 – 10:30 Patent quality at the EPO
**Mr. Stefan Luginbuehl, European Patent
Office**

10:30 – 11:00 Q&A

11:00 – 11:10 Tea/Coffee break

11:10 – 12:10 British patent examination practice:
selected aspects
**Mr. Lawrence Cullen, UK Intellectual
Property Office**

12:10 – 12:30 Q&A

12:30 – 14:15 Lunch break

AFTERNOON SESSION

14:15 – 17:40 **FOCUS: PATENT LITIGATION**

14:15 – 15:00 Interim reliefs in Italian patent Court
litigation
Mr. Massimo Scuffi, Court of Aosta, Italy

15:00 – 15:10 Q&A

15:10 - 16:00 Invalidation of patents, utility models and
designs – Court procedure in Germany
Ms Beate Schmidt, Munich Federal IP Court

16:00 – 16:15 Tea/Coffee break

16:15 – 16:45 Invalidation of patents, utility models and
designs – Case studies from Germany
Ms Beate Schmidt, Munich Federal IP Court

16:45 – 17:00 Q&A

17:00-17:30 IPR infringements online : legal frameworks
for liabilities of intermediaries
**Mr. Cesare Galli, Parma University School of
Law**

17:30-17:40 Q&A

17:40 Wrap-up

MAY 13, 2015

MORNING SESSION

09:00 – 12:45 FOCUS: VARIOUS TOPICS

09:00 – 09:30 “Patent Trolls”: is this an issue in the EU?
Mr. Stefan Luginbuehl, EPO

09:30 – 10:10 Supplementary Protection Certificates
Ms. Beate Schmidt/ Mr. Lawrence Cullen/Mr Stefan Luginbuehl

10:10 – 10:40 Q&A and debate

10:40 – 11:00 Tea/Coffee break

11:00 – 11:45 Incentives to patents, tax facilitations
Mr. Cesare Galli, Parma University School of Law

11:45 – 12:30 Considerations on court and administrative procedures
Mr. Stefan Luginbuehl, EPO

12:30 – 12:45 Q&A

12:45 – 14:00 Lunch break

AFTERNOON SESSION

14:00 – 16:00 FOCUS: PATENT LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

14:00 – 14:45 Court enforcement measures
Mr. Massimo Scuffi, Court of Aosta, Italy

14:45 – 15:30 Award of damages in Patent Court litigation
Mr. Cesare Galli, Parma University School of Law

15:30 – 16:00 IP mediation
Mr Tom Duke, UK IP attache’

16:00 Closing remarks
LAC/IP Key

2015 年 5 月 12 日

08:00 - 08:30 欢迎并签到

上午环节

08:30 - 08:50 开场致辞
全国人大常委会法工委经济法室主任王超英先生
肇庆市人大常委会有关负责同志
由中欧知识产权合作付大伟先生介绍本次研讨会

08:50 - 12:30 聚焦：欧盟专利审查

08:50 - 09:40 欧洲专利局专利审查：选定议题介绍
欧洲专利局 Stefan Luginbuehl 先生

09:40 - 10:30 欧洲专利局专利审查质量
欧洲专利局 Stefan Luginbuehl 先生

10:30 - 11:00 问答环节/辩论

11:00 - 11:10 茶歇

11:10 - 12:10 英国专利审查实施：选定方面的介绍
英国知识产权局 Lawrence Cullen 先生

12:10 - 12:30 问答环节

12:30 - 14:15 午餐

下午环节

14:15 - 17:40 聚焦：专利诉讼

14:15 - 15:00 意大利专利法庭诉讼的临时救济
意大利奥斯塔法院 Massimo Scuffi 先生

15:00 - 15:10 问答环节

15:10 - 16:00 专利、实用新型、外观设计无效宣告程序 - 德国法庭程序
德国联邦专利法院 (慕尼黑) Beate Schmidt 女士

16:00 - 16:15 茶歇

16:15 - 16:45 专利、实用新型、外观设计无效宣告程序 - 德国案例研究
德国联邦专利法院 (慕尼黑) Beate Schmidt 女士

16:45 - 17:00 问答环节

17:00 - 17:30 知识产权网络侵权：针对媒介责任的法律框架
帕尔马大学法学院 Cesare Galli 先生

17:30 - 17:40 问答环节

17:40 总结

2015 年 5 月 13 日

上午环节

09:00 – 12:45 多样议题

09:00 – 09:30 “专利流氓”：欧洲也存在这样的问题吗？
欧洲专利局 Stefan Luginbuehl 先生

09:30 – 10:10 补充保护证书方面
德国联邦专利法院（慕尼黑）Beate Schmidt
女士/英国知识产权局 Lawrence Cullen 先生/
欧洲专利局的 Stefan Luginbuehl 先生

10:10 – 10:40 问答与辩论

10:40 – 11:00 茶歇

11:00 – 11:45 专利激励措施，税收促进措施
意大利帕尔马大学法学院 Cesare Galli 先生

11:45 – 12:30 对法庭救济和行政程序的思考
欧洲专利局 Stefan Luginbuehl 先生

12:30 – 12:45 问答

12:45 – 14:00 午餐

下午环节

14:00 – 16:00 聚焦：专利诉讼和非诉讼纠纷解决程序

14:00 – 14:45 法院强制措施
意大利奥斯塔法院 Massimo Scuffi 先生

14:45 – 15:30 在专利诉讼中的损失赔偿
帕尔马大学法学院 Cesare Galli 先生

15:30 – 16:00 知识产权调解
英国知识产权专员 Tom Duke 先生

16:00 闭幕致辞
法工委/IP Key

SPEAKERS 发言人



Lawrence Cullen
Deputy Director
UK Intellectual Property Office
劳伦斯·库伦先生
英国知识产权局资深副局长

Dr Lawrence Cullen is a Deputy Director in the Patents Directorate at the Intellectual Property Office (IPO) in the UK. Since 2007, he has led the group responsible for searching & examining patent applications in the fields of biotechnology, pharmaceuticals, cosmetics and organic chemistry. His team also deals with the examination and grant of Supplementary Protection Certificates (SPCs) at the IPO. He and his team also contribute to policy development in these areas. He acts as an ex-parte hearing officer for patent and SPC cases and has been involved in a number of legal cases concerning patents and SPCs before the UK courts and the Court of Justice of the European Union (CJEU).

Dr Cullen joined IPO in 1997 as a patent examiner dealing with pharmaceuticals and petrochemicals. He has worked in the IP Policy (2001-2005) on various patent and innovation issues as well as a hearing officer deciding disputes between parties over trade marks (2006-2007). He has also worked on IP issues at the European Commission (2000).

Dr Cullen was educated in chemistry in Ireland and the UK and worked as a research scientist in chemistry in universities in France, UK, Germany and USA.

Lawrence Cullen 先生是英国知识产权局专利署的副署长。自 2007 年起，他带领小组成员负责调查审查生物科技、医药、化妆品和有机化学等领域的专利申请。该小组在英国知识产权局还负责审查和颁发补充保护证书。他和其小组成员为在上述领域政策发展方面做出了卓越的贡献。他担任专利和补充保护证书案件单方面政府特派调查员，在英国法院和欧盟司法部之前处理过颇多涉及专利和补充保护证书方面的法律案件。Cullen 先生于 1997 年加入英国知识产权局，担任专利审查员一职，负责处理医药和石油化学制品相关内容。2001 年至 2005 年期间他在知识产权政策部门工作，负责多种专利和创新事务，2006 年至 2007 年，他担任政府特派调查员，负责处理商标相关方之间的纠纷。于 2000 年，他在欧盟委员任职，负责知识产权事务。

Cullen 先生在爱尔兰和英国接受化学专业的教育。并在法国、英国、德国和美国的大学担任化学方面的科研专家。



Tom Duke
Senior Intellectual Property Liaison Officer
杜涛
高级知识产权专员

Tom Duke has been the UK's intellectual property attaché to China since December 2011, based in the British Embassy, Beijing. Tom is part of the UK Intellectual Property Office's international IP attaché network, which includes attaché postings to India, Brazil and South East Asia.

IP attachés help to build relations with the governments of host countries to understand and actively engage with IP policy makers. The network has significantly increased the level of support available for UK businesses operating within these important markets.

Tom works alongside UKTI, the British diplomatic network, and UK and EU-level industry associations and projects to ensure that UK stakeholder IP concerns are addressed and smoothly integrated into bilateral policy discussions.

Prior to joining the embassy, Tom was Director responsible for the IP Centre at the EU Chamber of Commerce in Seoul, South Korea. In Korea, Tom designed and implemented government engagement programmes on IP on behalf of European companies, and launched projects to enhance regional cooperation on IP enforcement.

杜涛先生自 2011 年 12 月起在英国驻华大使馆担任英国驻中国高级知识产权官员。该职位隶属于英国知识产权局的专员网络，此网络目前分布于印度、巴西和东南亚等国。

知识产权专员通过与当地政府建立联系，帮助其了解并参与知识产权政策制定。专员网络也会为英国企业在这些重要市场的运作提供进一步支持。

杜涛先生与英国贸易投资署、英国外交网络、英国及欧洲的多个行业协会和项目等密切合作，顺利解决了多个英国知识产权问题，并将其融入到了中英的双边政策探讨当中。

来到英国驻华大使馆之前，杜涛先生曾任欧盟商会驻韩国首尔知识产权中心的主任，以欧洲企业代表的身份设计并实施了政府参与知识产权事务的项目，并启动了一系列增强区域性知识产权合作的计划。

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Davide Follador
Long Term Expert - IP Key
付大伟
中欧知识产权项目长期专家

Davide Follador is one of the Long Term Experts at the EU funded IP Key Action in Beijing. He is responsible for the Legal Component focusing on trademarks, copyright, geographical indications and IP enforcement. He served as First Lieutenant of Carabinieri (Italian Police Corps) and obtained Masters in Law in International Commercial & IP Law. He is qualified as European Trademark and Design Attorney (OHIM), admitted to the Milan BAR.

Davide Follador has been practicing as an IP lawyer since 2001, working in Beijing since 2011, specialises in cross border EU China intellectual property issues. Prior to joining IP Key, he worked for major international law firms in Europe and China and also acted as an expert for the EU-CHINA and ASEAN IPR SME Helpdesks.

He is author of articles on European and Chinese IP matters, counterfeiting, IP litigation and protection strategy in China.

His academic activities include research fellowship at EU funded Green-Tech projects and tutorship at the IP Summer Institute of the School of Government at Beijing University.

付大伟先生是欧盟资助的 IP Key 项目(北京)长期专家。他在整体上,主要负责商标、著作权法、地理标志和知识产权执法方面的法律部分。他曾任意大利宪兵队中尉一职(意大利军事武装部队)。之后获得法律与国际商业知识产权法硕士学位。他是资深欧盟商标与设计律师(欧盟内部市场协调局)并取得米兰律师资格。

付大伟先生自 2001 年一直从事知识产权律师职务,并从 2001 年开始在北京工作,专门处理中欧跨境知识产权事务。在他加入 IP Key 之前,他曾在欧洲和中国主要国际律所工作过。同时他也曾担任中欧和东亚知识产权中小企业帮助平台的专家。

他发表了诸多关于中欧知识产权事宜的文章,尤其是在反假冒伪劣、知识产权诉讼和保护策略以及中国市场准入等方面。

他曾参与欧盟资助的绿色科技项目调查研究,并曾在北京大学政府管理学院暑期知识产权机构任教。



Cesare Galli
University of Parma, Italy
西萨尔·嘉利
意大利帕尔马大学

Founder of IP Law Galli Law Firm, Cesare Galli deals with important IP litigations in Europe, in particular patents and trade secrets,. He is full professor of IP Law at the Faculty of Law of the University of Parma. In 1999, together with Professor Vanzetti, he obtained the first Italian decision in the biotechnologies field with regard to biotech patents. In 2004 Professor Galli obtained the first Italian decision assessing the validity of a computer implemented invention patent. Likewise between 2004 and 2010 Professor Galli obtained one of the most relevant decisions concerning the protection of strategic patents both in the pharmaceutical and TMT fields. Since 2009 he has been also member of the OHIM European Observatory on Infringements of Intellectual Property Rights. Author of several books on IP Law, including the new Commentary on the Italian Intellectual Property Rights Code, (4,000 pages), Professor Galli regularly gives his contribution to Italian IP Law reviews and financial newspapers and, every year, he also coordinates successful Italian conferences on IP issues. In 2011 he was invited by the Italian Ministry of Economic Development to take part in the panel of Legal Experts of the National Anti-Counterfeiting Council (CNAC).

Gesare Galli 是嘉利律师事务所 (Galli Law Firm) 的创始人, 长期受理欧洲重要的知识产权诉讼案件, 其业务涉及知识产权法的各个分支, 尤其擅长专利和商业秘密两个领域。嘉利先生是意大利帕尔马大学法学院的一名全职知识产权学教授。1999 年, 嘉利教授与万泽蒂教授 (Professor Vanzetti) 合作, 赢得了意大利首个涉及生物科技专利的诉讼。2004 年, 嘉利教授又赢得了意大利首个涉及计算机实现的发明专利有效性评估的诉讼。此后, 在 2004-2010 年间, 嘉利教授多次获得了涉及医药、科技、媒体和电信等领域的战略性专利保护的诉讼胜利。自 2009 以来, 嘉利教授一直是欧洲内部市场协调局 (OHIM) 欧盟知识产权侵权行为观察站的成员。嘉利教授著有几部有关知识产权法领域的著作, 包括长达 4000 页的新版《意大利知识产权法评论》。他还为意大利各大知识产权法评论杂志和财经报刊撰文。此外, 他每年都极力推广和协办几次意大利最成功的知识产权专题会议。2011 年, 他应意大利经济发展部的邀请加入意大利国家反假冒委员会的法律专家小组。



Stefan Luginbuehl
*Directorate International Legal
Affairs of the European Patent Office*
史蒂芬·慕根彼勒
欧洲专利局国际法律事务署

Stefan Luginbuehl, completed his law degree at the University of Berne (CH), then worked at a well-established law firm specializing in business law, with offices in Zurich and Berne, and was admitted to the bar in 1999. In 2009 he received a PhD degree from Utrecht University (NL).

Since 2004 he works as a lawyer in the Directorate International Legal Affairs of the European Patent Office where he is inter alia dealing with the developments of the patent system in Europe, with emphasis on the unitary patent and the uniform patent litigation system, and with the patent related developments in Asia, in particular China.

He participated in several Diplomatic and Intergovernmental Conferences on the reform of the European patent system and the international litigation system and is the author and editor of several books and articles on patent procedure and patent litigation in Europe and China.

Stefan Luginbuehl 毕业于伯恩大学法律专业。之后在一所著名的律师事务苏黎世和伯恩办公室所工作，专门负责商业法。1999 年获得律师资格。于 2009 年他在乌德勒支大学获得博士学位。

自 2004 年起，他在欧洲专利局国际法律事务署担任律师一职，尤其负责处理欧洲专利体系的发展工作，重点致力于统一专利和统一的专利体系，以及亚洲，特别是中国地区相关的专利发展情况。

他曾参与多个关于欧洲专利体系和国际诉讼体系改革的外交和政府间会议，他也是在欧洲和中国专利程序和专利诉讼方面多本书籍和文章的编纂者



Beate Schmidt
*President of the Federal Patent Court –
Munich*
贝亚特 · 施密特
德国联邦专利法院院长(慕尼黑)

Frau Beate Schmidt is President of the Federal Patent Court of Munich, where she oversees the workings of the Court and specialises in Court patent invalidation case.

Her background and professional experience also extends to “Supplementary Protection Certificates”, with reference to Federal Patent Court case law and several preliminary rulings of the ECJ.

Frau Schmidt also worked as director of the OHIM trademark, cancellation and litigation department. Previously also head of department (trademarks, utility models and design patents) at the German Patent and Trade Mark Office in Munich

Prior to being appointed President of the Munich Federal Court, her previous judiciary career included several appointments as judge and public prosecutor in Germany.

At the beginning of her career, Frau Schmidt also worked at the Federal Ministry of Justice, Bonn, as personal assistant of the State Secretary.

Her international experience includes: participation in negotiations in Brussels and at WIPO conferences e.g. Singapore Treaty on the Law of Trade Marks; agent for OHIM in proceedings before the European Courts in Luxembourg; key speaker at ECTA, INTA and other international IP organisations.

Beata Schmidt 女士是德国联邦专利法院院长，在此她监督法院的运作，并专门负责专利无效案件。

她的专业背景和经历也涉及“补充保护证书”方面，以联邦专利法院判例法和欧洲法院的一些初步的裁决为参照。Schmidt 女士也曾在欧洲内部市场协调局商标、撤销和诉讼部门担任负责人一职。

之前也在德国专利商标局（慕尼黑）在商标、实用新型和外观设计专利领域担任部门负责人。

在被任命为慕尼黑联邦法院院长之前，她司法生涯经历也包括在德国担任法官和公诉人。

起初，Schmidt 女士也在联邦司法部（伯恩）工作，任国务卿私人助理。

其他经历：参与布鲁塞尔协商，参与世界知识产权组织会议，如《商标法新加坡条约》；在欧洲法院（卢森堡）之前任欧洲内部市场协调局诉讼代理人，在欧共体商标协会（ECTA）、国际商标协会（INTA）和其他知识产权组织发表讲话。



Massimo Scuffi
*President of the Court of Aosta
(Italy)*
马西莫·斯库菲
意大利奥斯塔法院院长

Dr. Massimo Scuffi is a Supreme Court Judge, currently President of the Court of Aosta (Italy).

He set up as a judge the 1st IP division of the Milan District Court, in the IP Court of Appeal and the IP Division of the Court of Cassation in Rome.

He is President emeritus of IPJA - Intellectual Property Judges Association and a member of AECLJ - Competition Law European Judges Association.

On the bench since 1977 (before he was a lawyer), he has broad experience in the area of intellectual property law, unfair competition and antitrust law, dealing with several leading cases in IP area for over 30 years. He served as legally qualified member of the Enlarged Board of Appeal of the European Patent Office (EPO) between 2000 and 2008. He holds now the position of member of the Board of Appeal of the Italian Patent & Trademarks Office (PTO) and acts as Italian delegate in the legal group of the Preparatory Committee of the Unified Patent Court (UPC). He is often appointed as a teacher to courses for EU judges, IP experts, public officers, lawyers and took part to several training projects organized either by the EU Commission.

He served as panellist in EPO Academy and WIPO seminars, lecturer in IP meetings and symposia held in Europe, China, USA, Arab countries. He is founder and co-editor of the Review "Italian IP Courts case-law report", and author of several publications on IP Law.

马西莫·斯库菲是一名最高法院法官，现任意大利奥斯塔法院院长一职。他在米兰地方法院的第一庭，在知识产权上诉法院和最高法院的罗马再审法院民事审判庭担任法官。他是知识产权法官协会（IPJA）的名誉主席和竞争法欧洲法官协会（AECLJ）的成员。对自1977年以来（之前，他是一名律师），他在知识产权和工业产权、不正当竞争和反托拉斯法领域有着丰富的经验，在知识产权领域工作将近30余年。从2000年到2008他是欧洲专利局上诉委员会扩大会议的资深法律委员。现在他是意大利专利商标局上诉委员会法律委员，并是统一专利法院筹备委员会法律事务组的意大利代表。他多次在欧盟法官、专家、公共官员、律师的进修课程中担任讲师，并多次参与由欧盟委员会、竞争管理部门组织的培训项目，这些项目致力于增强司法制度、改进其他国家进入欧盟知识产权领域的现状。他是欧洲专利局学院和世界知识产权组织研讨会上的专门专家小组成员，并在欧洲、中国、美国和阿拉伯地区知识产权会议和研讨会上担任发言人。

ABOUT IP Key

IP Key is based on an Administrative Agreement signed between the EU and China on 17 July 2013 and confirmed by EU Trade Commissioner Karel de Gucht and PRC Minister of Commerce Gao Hucheng during the EU-China Summit on 21 November 2013. In this agreement, both parties committed to strengthen their IP cooperation by jointly implementing a set of activities of mutual interest, which forms the New EU-China Activity-Based Cooperation on Intellectual Property (otherwise referred to as the New Intellectual Property Cooperation). The New Intellectual Property Cooperation was officially launched in Beijing on January 16, 2014, by Mr Zhang Xiangchen, Assistant Minister of Commerce, Ms Carmen Cano, Deputy Head of the EU Delegation to China, and Mr António Campinos, President of the Office for Harmonization in the Internal Market (OHIM).

ACTIVITIES

IP Key operates on the basis of Activities of Mutual Interest (AMIs), the details of which are negotiated individually with the concerned Chinese counterpart agencies during an extensive ongoing consultation process. Thus engaged in the planning and development, the Chinese agencies take ownership of these activities and significantly contribute to their successful implementation. The activities derive mainly from the outcomes and resolutions in the EU-China IP Dialogue and IP Working Group meetings and may take the form of, for instance, seminars, peer to peer exchanges on best practices, studies, and database/ IT tool implementation projects.

Activities cover the entire spectrum of IP rights, including but not limited to trademarks, designs, patents, utility models, and geographical indications. They focus on various aspects, such as legal revision, implementation, or enforcement. Wherever possible, they foster cooperation, exchange, and networking with European counterparts. For an overview of activities planned for the current year, please visit www.ipkey.org.

关于 由中欧知识产权合作

IP Key 项目基于 2013 年 7 月 17 日由中国和欧盟签署的行政协议，该协议由欧盟贸易委员卡洛·德古赫特和中华人民共和国商务部部长高虎城于 2013 年 11 月 21 日的中欧峰会期间确认签署。在此协议中，双方承诺，通过共同实施一系列符合双方利益的活动来加强双方的知识产权合作，由此形成了“中国-欧盟基于活动的知识产权合作”（换言之，可以称之为“新知识产权合作”）。“新知识产权合作”项目由中国商务部部长助理张向晨先生、欧盟驻华代表团副团长卡门·卡诺女士、欧洲内部市场协调局（OHIM）安东尼奥·坎皮诺斯先生于 2014 年 1 月 16 日在北京正式宣布启动。

关于 由中欧知识产权合作

IP Key 项目以实施符合双方利益的活动(AMIs)为基础，具体内容在与中国对应机构的广泛持续磋商过程中分别进行商议。因此，中方机构将参与活动的规划与发展，对这些活动具有主导权，并会对这些活动的成功实施起到重大作用。这些活动主要源于中欧知识产权对话以及知识产权工作组会议的成果和决议，其形式可能是专题研讨会，关于最佳范列的点对点交流，研究，以及数据库 / 信息技术工具实施项目，等等。

活动覆盖知识产权的全部范畴，包括但不限于商标，外观设计，专利，实用新型以及地理标志等。活动会关注各个方面，比如法律的修订，实施以及执行。这些活动旨在尽可能促进于欧洲对应机构之间的合作，交流和联络。如需浏览本年度的活动计划，请访问 www.ipkey.org。



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Intellectual Property: A Key to Sustainable Competitiveness

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OFFICE FOR HARMONIZATION
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(TRADE MARKS AND DESIGNS)

