

Public consultation about PMAC draft Mediation Rules, joint observations of 8 French IP Organisations (GF AIPPI, AFPPI, APEB, APRAM, ASPI, CNCPI, CNCPI, LES France, PMPI)

GF AIPPI
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PMPI

Patent Mediation and Arbitration Center

Mr. Aleš Zalar

contact-pmac@unifiedpatentcourt.org

Paris, 21 July 2025

Public consultation on Draft Mediation Rules: Joint Observations of Eight French Intellectual Property Organisations

Dear Mr. Aleš Zalar,

This letter and the attached annotated draft mediation rules express the views of eight major IP Organisations in France, hereafter quoted in their alphabetical order:

- GF AIPPI : French Group of International Association for the Protection of Intellectual Property
- AFPPI : French Association for the Protection of Intellectual Property
- APEB: Association of European Patent Practitioners
- APRAM: Association of Trademark and Design Law Practitioners
- ASPI: French Association of Industrial Property Specialists for Industry
- CNCPI: Compagnie Nationale des Conseils en Propriété Industrielle
- LES France: Licensing Executive Society France
- PMPI: Promotion of Mediation in Intellectual Property

The undersigned French IP Organisations have coordinated their efforts to prepare the present joint submission in response to the public consultation launched by the Patent Mediation and Arbitration Centre (PMAC) of the Unified Patent Court (UPC) concerning the draft Mediation Rules.

The French IP Organisations welcome the inclusion of mediation within the UPC framework and comment the publication of a dedicated set of draft Mediation Rules in this respect. Since its establishment, the UPC has demonstrated both procedural efficiency and a high degree of legal and economic relevance, swiftly earning the trust of market participants and legal professionals alike. It has been observed that a number of early UPC decisions have led parties to settle their disputes before the UPC could issue a ruling on the determination of damages for patent infringement. More recently, the mere initiation of UPC proceedings has, in some cases, prompted the parties to enter into negotiations and seek amicable resolutions.

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However, it has also been noted that the UPC does not currently stay procedural deadlines in light of ongoing settlement discussions. In certain instances, this lack of stay of the proceedings has resulted in final decisions being handed down while the parties were on the verge of concluding a global settlement. Moreover, in some cases, parties may abusively prolong negotiations with the sole purpose of delaying the proceedings. Mediation, by offering a structured and supervised framework, can serve as an effective safeguard against such tactics and enhance the efficiency and fairness of the UPC dispute resolution process.

The French IP Organisations further welcome the reference in Article 2 of the draft Mediation Rules to the applicability of mediation to all disputes falling within the jurisdiction of the UPC pursuant to Article 32 of the Agreement on a Unified Patent Court (UPCA), including those relating to European patents regardless of their designation. They also support the extension of these rules to related disputes, which would allow the PMAC to assist in resolving matters involving non-European patents or related legal issues, such as trade secrets, unfair competition, or contractual relationships.

It is the view of the French IP Organisations that, where the parties agree to submit their dispute to mediation, such mediation should be capable of addressing the dispute in its entirety — and not only those aspects that fall strictly within the jurisdiction of the UPC. While Article 35 of the UPCA provides that the PMAC may offer mediation and arbitration services in relation to patent disputes within the scope of application of the UPCA, Article 3 limits the substantive scope of the UPCA to European patents, unitary patents, and supplementary protection certificates (SPCs). The French IP Organisations respectfully invite consideration of the possibility of extending the jurisdiction of the PMAC to cover all patent-related disputes and related disputes, even where the underlying dispute does not involve a European or unitary patent. Such an extension would significantly enhance the attractiveness of the PMAC as a forum for contractual dispute resolution and support its long-term success. It would also avoid the risk of time-consuming disputes about the competence of the PMAC.

The French IP Organisations further note with interest the inclusion of specific provisions addressing FRAND licensing disputes. However, they consider that the provisions designed for FRAND cases should be generalised and made applicable to all mediations conducted under the auspices of the PMAC.

Confidentiality is, in the French IP Organisations' view, a cornerstone of any effective mediation process. They respectfully suggest that the current provisions of Article 21 be reinforced. In particular, it should be stipulated that all information exchanged during the mediation — irrespective of whether a settlement is ultimately reached — must remain confidential for the entire duration of the existence of the parties or their legal successors. Additionally, the applicable law governing a breach of confidentiality should be clearly identified. The French IP Organisations note that the wording of Article 45 of the draft Arbitration Rules would be well suited for this purpose and should be incorporated by reference into the mediation rules.

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Further clarification is also recommended regarding Article 15, which currently provides that communications between a party and the mediator might be disclosed to the other party unless confidentiality is expressly requested. The French IP Organisations submit that a more appropriate default rule would be the inverse: all communications with the mediator should be presumed confidential and may only be shared with the other party if the disclosing party has given prior and express consent.

In addition, the French IP Organisations consider that further clarification is warranted on a number of points, including (i) the procedure for referral to the PMAC; (ii) the interaction between the mediation agreement and the rules; and (iii) the definition of the “representative” — notably, whether this refers to external counsel or to an in-house party representative. To support this submission, the French IP Organisations have annotated the draft Mediation Rules with their comments and suggestions, which are appended in the form of margin notes.


The French IP Organisations wish to express their sincere appreciation to the drafters for their work and for the attention they will give to the present observations and the accompanying annotated version of the draft rules. These contributions are intended to further support the development and promotion of both the UPC and the PMAC as trusted and effective instruments of dispute resolution not only in Europe but globally.

These French IP Organisations remain available and would be happy to exchange further with you.

Best regards,

Attachment: annotated draft Mediation Rules (PDF file and Word file)

For GF AIPPI, French Group of International Association for the Protection of Intellectual Property: Richard Monni, President

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For AFPPI, French Association for the Protection of Intellectual Property: Ghislain de Trémoilles, President




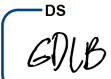
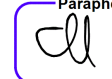
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For APEB, Association of European Patent Practitioners: Pauline Debré, President, represented here by Marianne Gabrielle:

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For APRAM, Association of Trademark and Design Law Practitioners: Julien Delucenay, President

Signé par : Claire-Line Lallemand signe pour le compte de Julien Delucenay
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For ASPI, French Association of Industrial Property Specialists for Industry: Géraldine Guéry Jacques, President

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For CNCPI, Compagnie Nationale des Conseils en Propriété Industrielle: Emmanuel Potdevin, President

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For LES France, Licensing Executive Society France: Frédéric Portal: President

Signé par : Frédéric Portal
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For PMPI, Promotion of Mediation in Intellectual Property: Guillaume de La Bigne: President

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