

COMMITTEE ON LEGAL AFFAIRS

Delegation to Düsseldorf
24 – 25 May 2011

**NOTE FOR THE CHAIR
AND MEMBERS OF THE DELEGATION**

Participants

Members EP

Klaus-Heiner LEHNE (Chair of the delegation)
Tadeusz ZWIEFKA
Sebastian Valentin BODU
Bernhard RAPKAY
Françoise CASTEX
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Andrea LASKAVA (PPE)
Corina Daniela POPA (S&D)
Cameron SMITH (ECR)
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Erik JOSEFSSON (Greens)

Interpreters (FR, DE, EN, PL passive)

Johanna TYSARCZYK (Team leader, DE (FR, EN, PL)
Jean Louis WUNSCH FR (DE, IT, EN)
Andrew James GILLIES EN (FR, DE, PL)
Helen FERGUSON EN, (FR, DE, IT)
Gabrielle BAUDRY-DELANGH FR (DE, IT, EN)
Rita SPRENGER DE (FR, IT, EN, ES)

Hotel:

HOTEL MELIÁ DÜSSELDORF

Inselstrasse 2
40479 Düsseldorf
tel: +49 211 522 84 - 0

Bus transfer from Brussels to Düsseldorf and back

You will find general information on Düsseldorf in Annex I.

Source: <http://en.wikipedia.org/wiki/D%C3%BCsseldorf>

Tuesday, 24 May

13.00 *Departure with bus from Brussels (see attached map) to hotel*

17.00 *Departure bus from hotel to Town Hall*

17.30-18.30 Reception with Dirk Elbers, First Lord Mayor (*Oberbürgermeister*) of Düsseldorf

Venue: Town Hall, Jan-Wellem Saal
Marktplatz 1, 40200 Düsseldorf



Photo: <http://www.duesseldorf.de/rat/ob/index.shtml>

Dirk Elbers is First Lord Mayor of the city of Düsseldorf, capital of the Federal State (*Land*) North Rhine-Westphalia.

After his studies in business administration, he was employed as business manager by a real estate management company in Düsseldorf. He joined the CDU (Christian Democratic Union) in 1976, and became a member of the Düsseldorf city council in 1996. His previous positions included: 1994 – 1999 Member of the district representation committee; 1999 – 2003 Member of the Düsseldorf district council; 2003 – 2004 Member of the Rhineland regional authority; 1999 – 2008 Chair of the Committee for economic promotion and development, tourism, real estate; since 2001 Member of the executive committee of the CDU Düsseldorf; 2002 – 2008 Chair of the CDU parliamentary group. He held the position of First Mayor (*Erster Bürgermeister*) of Düsseldorf from 2004 to 2008, and was elected to his current position on 31 August 2009.

He is chairman of the main and financial committees and executive committee chairman of the *Messe Düsseldorf* (Düsseldorf trade fair), Düsseldorf airport, the industrial terrain Reisholz AG (IDR) and management advisory chairman of the Sparkasse (savings bank) Düsseldorf.

Bus transfer to the restaurant (possibility to walk)

19.00

Dinner with Henkel

<http://www.henkel.com/index.htm>

Venue: Industrie-Club, Elberfelder Strasse 6, 40213 Düsseldorf
Tel: +49-(0)211-13 90 50

Participants from Henkel:

Peter Florenz
Thomas-Gerd Kühn
Hans-Christof Wilk

(please note: there is no bus transfer after the dinner)

Wednesday, 25 May

8.00

Bus transfer hotel - State Chancellery

(please note: the bus will not pass at the hotel after the end of the delegation)

08.30-09.15

Meeting with Dr Angelica Schwall-Düren, Minister for European Affairs of the Federal State (Land**) North Rhine-Westphalia**

Venue: State Chancellery, Room "Westfalen"
Stadtter 1, 40219 Düsseldorf



Photo: <http://www.mbem.nrw.de/minister/>

Dr Angelica Schwall-Düren is Minister for Federal Affairs, Europe and the Media of the State North Rhine-Westphalia.

She studied history, political sciences and French language and literature in Freiburg im Breisgau, Montpellier and Münster. She holds a PhD in economic and social history, and qualified as a grammar school teacher in 1977. She worked as a grammar school teacher from 1977-1994 in Ahaus and Gronau. In 1982, she passed an additional examination in sociology in Münster and attended from 1985-1992 a part time further training to become a family therapist and supervisor.

She is member of the Social Democratic Party (SPD) since 1976 and was Member of the German *Bundestag* (one of the chambers of Parliament) from 1994 to 2010. Since 2002, she was deputy leader of the SPD parliamentary group in the *Bundestag* with responsibility for EU affairs. She holds her

current position since 15 July 2010. In this function, she oversees the department on Europe, international affairs and the media within the State Chancellery as well as the Brussels and the Berlin offices of the Land North-Rhine Westphalia.

Dr Schwall-Düren is also member of the **Bundesrat**, the chamber of Parliament through which the German Federal States (*Länder*) participate in the legislation and administration of the Federation (see http://www.bundesrat.de/cln_179/nn_11010/EN/funktionen-en/funktionen-en-node.html?__nnn=true). In the latter function she chairs the Chamber of European Affairs (*Europakammer*) and is member of the Committee on European Union Questions (*Ausschuss für Fragen der Europäischen Union*):

- The **Chamber of European Affairs** within the *Bundesrat* deals with cases where the Bundesrat plenary, through its monthly meeting rhythm, cannot address European legislation rapidly enough or if confidential deliberations are required; it can be convened in these cases within a one-week deadline that can even be further shortened.
- The **EU Committee** is responsible for EU documents that are of importance for the *Länder*. The Committee generally examines the documents on the basis of recommendations from the specialist committees, in particular with a view to considerations deriving from policy on the European Union and European integration. Furthermore, the committee also considers whether there is a sufficient legal basis in European law for the draft legislation and whether the principles of subsidiarity and proportionality have been respected. A further fundamental point in the committee's examination is whether the *Bundesrat's* opinion on a particular topic is to be given the greatest possible respect in defining the government's position.

Source: http://www.bundesrat.de/cln_179/nn_267932/EN/europa-int-en/europa-int-en-node.html?__nnn=true

The Minister will introduce herself and her work, afterwards there will be an opportunity for questions.

Topics for discussion:

- as substantive topics of general interest the following have been mentioned:
 - patent law/patent litigation;
 - European Contract Law;
- on a more general note it might be interesting to discuss:
 - role of national parliaments under Lisbon: first experiences on the level of a Federal State;
 - dealing with European Affairs on *Länder* level within the Federal Republic of Germany: experiences regarding the functioning of the mechanisms within Bundesrat.

Bus transfer to the Superior District Court

9.30-12.30 Visit to the Superior District Court (*Oberlandesgericht*) Düsseldorf

Venue: Oberlandesgericht Düsseldorf
Cecilienallee 3, 40474 Düsseldorf

9.30-9.40 **Welcome by Anne-José Paulsen, President of the Superior District Court (*Präsidentin des Oberlandesgerichts*)**

9.40-10.30 **Introduction to German patent infringement litigation and introduction to the cases which will be dealt with before the patent chamber of the Superior District Court**

10.30-12.15 **Attendance of two proceedings in appeal cases before the patent chamber of the Superior District Court**

12.15-12.30 **Opportunity to discuss the proceedings attended**

Participants:

Anne-José Paulsen, President of the Superior District Court Düsseldorf
Dr Thomas Kühnen, Presiding Judge of the Superior District Court Düsseldorf (Patent Chamber)

Axel Verhauwen, *Rechtsanwalt* (Lawyer admitted to the bar)

Dr Hans Peter Kunz-Hallstein, President of GRUR (German Association for the Protection of Intellectual Property)

Dr Ulrich Egger, Spokesperson of the Superior District Court Düsseldorf

Ulrike Voß, Presiding Judge at the District Court (*Landgericht*) Düsseldorf

Dr. Tim Crummenerl, Presiding Judge at the District Court Düsseldorf

Stephanie Sauer, Administrator on Legal Affairs at the Brussels office of the Land North-Rhine Westphalia



Photo: <http://www.vgh.nrw.de/mitglied/paulsen.htm>

Anne-José Paulsen is President of the Superior District Court of Düsseldorf.

She qualified as a lawyer in 1979 and started working in the administration of the Superior District Court in 1980. She was appointed judge at the District Court in 1982. As from 1983, she served as criminal judge at the local court in Rating, and then in the Fourth Civil Senate (Patent Chamber) Düsseldorf. She worked in management functions in the human resources administration at the Superior District Court from 1986 to 1992. In 1987, she was appointed judge at the Superior District Court. From 1992 to 1996, she served as a judge in a commercial chamber of the Superior District Court Düsseldorf. She was Vice-President of the District Court Mönchengladbach from 1996 to 1998, and President of the District Court Bochum from 1998 to 2002. She holds her current position since March 2002 and at the same time presiding judge at the 19th Civil Chamber.

From 2002 to 2007, she was President of the advisory board of the faculty of law at the Heinrich Heine University of Düsseldorf. She was member of the Constitutional Court Münster from 2003 to 2005. Since 2007, she is President of the Board of Governors (*Hochschulrat*) of the Heinrich Heine University of Düsseldorf. She is second Vice-President of the Constitutional Court of the Land North-Rhine Westphalia since December 2008.



Photo: http://www.jura.uni-duesseldorf.de/dozenten/kersting/Gespraechskreis_Kartellrecht/No2.shtml

Dr Thomas Kühnen is Presiding Judge of the Second Civil Senate (Patent Chamber) of the Düsseldorf Superior District Court.

He qualified as a lawyer, and was first appointed judge in 1988, and served in this capacity at the Düsseldorf Local Court and the Düsseldorf District court until 1994. From August 1991 until August 1994 he served in the patent litigation chamber of the Düsseldorf Regional Court. He worked as member of the scientific staff at the Tenth Civil Senate (competent for patent litigation) of the German Federal Court in Karlsruhe. He then served as judge at the Superior District Court at the Second Civil Senate (competent for patent litigation) from November 1997 to June 2002, and until December 2007 as presiding judge in a patent litigation chamber of the District Court Düsseldorf. He was appointed presiding judge of the Second Civil Senate (Patent Chamber) of the Düsseldorf Superior District Court in January 2008.

Dr Kühnen holds a PhD from the University of Münster (dissertation: "*Die Teilung des Patents*").



Photo: http://www.krieger-mes.de/anwaelte_05.php?language=en

Axel Verhauwen is partner at the law firm Krieger Mes & Graf v. der Groeben, Düsseldorf. "He is engaged in the complete range of patent litigations and especially on patent infringement proceedings in all technical areas. He often represents global corporations from the electronics industry and offers particular expertise in enforcing standards-related patents in the field of digital technology and telecommunication. He cooperates with an international network of established IP law firms in conducting cross-border proceedings against globally acting patent right violators. His responsibilities also include litigations related to trademark, unfair competition, drug advertising and pharmaceutical law.

Subsequently to his studies in Germany and abroad and immediately after he was admitted to the bar in 1996, Axel Verhauwen started to focus on patent law at Krieger Mes. He became a partner of the firm in 2003.

He published the essence of his patent law experience in cross-border proceedings in an article on § 14 PatG in the patent law comments by Prof. Dr. Mes (Mes, PatG, 2nd edition, § 14, annex to § 14 – Practice applied in the individual Contracting States of the European Patent Convention). He holds lectures at companies and professional associations. Axel Verhauwen is a lecturer at the Hagen Law School for the “Fachanwalt für den Gewerblichen Rechtsschutz” (specialist lawyer for intellectual property) and a member of GRUR as well as the German Group of the AIPPI."

Source: http://www.krieger-mes.de/anwaelte_05.php

Dr Hans Peter Kunz-Hallstein is President of the GRUR (German Association for the Protection of Intellectual Property) <http://www.grur.de/en/home.html>

He qualified as a lawyer in 1969 and was admitted to the bar in 1970. Since then, he is in legal practice in intellectual property and unfair competition matters, public international law, international civil service law (practising before the Administrative Tribunal of the International Labour Organisation (ILO), Geneva).

He was senior research fellow at the Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law, Munich from 1968 to 2000. From 1980 to 1982 he was Legal Advisor to the Delegation of the Federal Republic of Germany at the Diplomatic Conference on the Revision of the Paris Convention for the Protection of Industrial Property, Geneva and Nairobi. He is legal advisor to the European Organisation for Astronomical Research in the Southern Hemisphere (ESO) (since 1982), to the European Organisation for the Exploitation of Meteorological Data (EUMETSAT) (since 1995), to the European Patent Organisation (EPO) (since 1996) and to the European Schools (since 1997). He was president of the German Group in the International Association for the Protection of Industrial Property (AIPPI) and is member of the International Law Association (ILA).

He holds a PhD from Tübingen University. He is Cavaliere Ufficiale dell'Ordine al Merito of the Italian Republic and Member of Honour of the International Association for the Protection of Intellectual Property (AIPPI).

You will find the following **additional information** relating to this visit in the Annexes:

- Annex II General information on the Superior District Court within the German judiciary (EN/DE)
- Annex III Slides for the presentation on "The patent law venue Düsseldorf" (EN/DE)
(more language versions as well as information on the patent proceedings attended will be distributed on the spot)

The recent legislative proposals in the area of patent protection are:

Proposal for a Council Regulation implementing enhanced cooperation in the area of the creation of unitary patent protection with regard to the applicable translation arrangements (COM(2011)0216 – 2011/0094 (CNS))

Proposal for a Regulation of the European Parliament and of the Council implementing enhanced cooperation in the area of the creation of unitary patent protection (COM(2011)0215 – 2011/0093 (COD))

Bus transfer to the restaurant

12.45-14.30 Working lunch

Venue: Radisson Blu Scandinavia
Karl-Arnold-Platz 5, 40474 Düsseldorf
Tel: + 49 211 4553-0

Participants: see visit at the Superior District Court

Bus transfer to the Ministry of Justice

14.45-15.30 Meeting with Thomas Kutschaty, Minister of Justice of the Land North-Rhine Westphalia

with participation by Members of the Legal Affairs Committee of North Rhine-Westphalia's State Parliament (*Landtag*), including the Committee Chair Dr. Robert Orth (*the list of participants will be circulated later*)

Venue: Ministry of Justice
Martin-Luther-Platz 40, 40212 Düsseldorf



Thomas Kutschaty is Minister of Justice of the Land North Rhine-Westphalia.

He qualified as a lawyer and was appointed to the bar in 1997. He worked as a practising lawyer in Essen-Borbeck from 1997 to 2010. He is Member of the *Landtag* (the Parliament of the Land North-Rhine Westphalia) since June 2005, his functions included: member of the Home Affairs Committee, of the Legal Affairs Committee, as well as of the Committee for scrutiny of elections, he was also member of a parliamentary monitoring body established in accordance with the Law for Protection of the Constitution of the Land North Rhine-Westphalia. He chaired two parliamentary committees of inquiry. He is Minister of Justice of the Land North Rhine-Westphalia since 15 July 2010 and is also substitute member of the German Bundesrat.

The **Ministry of Justice** is the supreme authority of the administration of justice in the Land North Rhine-Westphalia. It is responsible for the personnel of the judiciary in the Land, as well as lawyers admitted to the bar and notaries; for budget, information technology, real estate and organisation concerning the judiciary in North Rhine-Westphalia; and for vocational training concerning the legal professions and other professions within the judiciary. It is one of the constitution ministries within the government of the Land North-Rhine Westphalia and participates as such in legislation on the level of the *Land* and on the federal level, through the Legal Affairs Committee of the *Bundesrat*, as well as in European legislation through the control of subsidiarity and proportionality. The Ministry also participates in legislation in criminal matters through the *Bundesrat* and has the supervision over the penitentiary and penal institutions within the Land.

Further information: http://www.justiz.nrw.de/WebPortal_en/ministry_of_justice/index.php



Photo: http://www.landtag.nrw.de/portal/WWW/Webmaster/GB_I/I.1/Abgeordnete/abgeordnetendetail.jsp?k=01412

Dr Robert Orth is Member of the *Landtag* of North Rhine-Westphalia and Chair of the Legal Affairs Committee.

He qualified as a lawyer, and established a law firm in 1996 of which he is partner. He is member of the FDP (*Freie Demokratische Partei*, Free Democratic Party) since 1986 and member of the bureau of the North Rhine Westphalia FDP since 1993. He is member of the *Landtag* of North Rhine-Westphalia since 2000. His functions included: 1999-2000 Member of the City Council Düsseldorf, 2002-2005 deputy chair of the FDP parliamentary group in the *Landtag*.

The **Landtag** (State Parliament) of North Rhine Westphalia is composed of at least 181 members who are elected every five years in a general, equal, direct, secret and free election. Functions of the Landtag are: election of the Prime Minister (*Ministerpräsident*, Head of the Government of the *Land*) as well as four members of the constitutional court and the President and members of the supreme court, the Data Protection Supervisor; legislation as well as maintaining parliamentary checks and balances. As regards legislation, within the German federal system, competences of legislation of the Federal States include communal constitutional law, education and vocational training as well as the police, in other areas a framework set by the Federation has to be implemented by the Federal States. The Landtag also determines the budget of the Land North Rhine-Westphalia. In order to maintain checks and balances, instruments available to the Landtag include: an extensive right of information toward the Land government (question time, interpellations and written questions). Furthermore, the Landtag hears petitions and can establish committees of inquiry. The Landtag may also, according to the Land constitution, express its lack of confidence in the Prime Minister by, at the same time, electing a new Prime Minister with the majority of votes cast.

Further information: http://www.landtag.nrw.de/portal/WWW/Navigation_R2010/070-Europa/030-Wissenswertes/060-English-Information/Inhalt.jsp

Within the Landtag, the **Legal Affairs Committee** is competent, within the budgetary procedure and as regards the monitoring of the *Land* government, for matters within the competence of the Ministry of Justice. It is further the committee responsible for immunities and for matters of constitutional jurisdiction.

The Minister will hold a greeting address, also referring to the issue of patent litigation. Afterwards there will be an opportunity of an open exchange of views between participants.

Topics for discussion:

- substantive topic: patent law/patent litigation;
- on a more general note it might be interesting to discuss:
 - role of national parliaments under Lisbon: first experiences on the level of a Federal State;
 - dealing with European Affairs on *Länder* level within the Federal Republic of Germany

16.00

Return to Brussels