

Diversification of Proceedings in Civil Dispute Resolution and Current Challenges

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IP Conciliation Proceedings

– Code of Civil Procedure (ZPO)

- Section 278 (since 2002)
 - Each court hearing shall be preceded by a conciliation hearing unless ... such a hearing obviously dose not hold out any prospects of success
 - The court may refer the parties for the conciliation hearing ... to a judge delegated for this purpose, who is not authorised to take a decision (conciliation judge)
- Section 278a

The court may suggest that the parties pursue [external] mediation or other alternative conflict resolution procedures.

– IP cases

- No special rule
- Referral to a conciliation judge in special cases

Video conferencing at the Federal Court of Justice

– Hybrid hearings

- All the judges plus two or three attorneys per party in the court room
- Additional attorneys, representatives or advisers attending online
- Created as an emergency measure during the pandemic
- Likely to remain as a permanent offer, up to the parties' demands

– Visualisation of documents and drawings

- All relevant documents discussed in the hearing are shared on the screen
- Used in remote, hybrid and on-site hearings

– Digitalisation

- Since January 2022, attorneys at law must transmit all their documents to the court online
- From January 2026, all German courts must keep their records as electronic files
- In the patent division, electronic filing will be introduced by December 2022

Pictures from two small court rooms



Unified Patent Court

– Current state (developing rapidly)

- 19 January 2022: start of the provisional application period
- 23 February 2022: inaugural meeting of the Administrative Committee
- 14 July 2022: adoption of the Rules of Procedure and the Table of Fees
- August 2022: selection of judges
- Members of the presidium to be appointed by the end of 2022
- The UPC Agreement may enter into force early in 2023

– Basic Structure

- Court of First Instance
 - Central divisions in Paris and Munich
 - Local or regional divisions in several countries,
including four local divisions in Germany (Düsseldorf, Hamburg, Mannheim, Munich)
- Court of Appeal, located in Luxembourg