

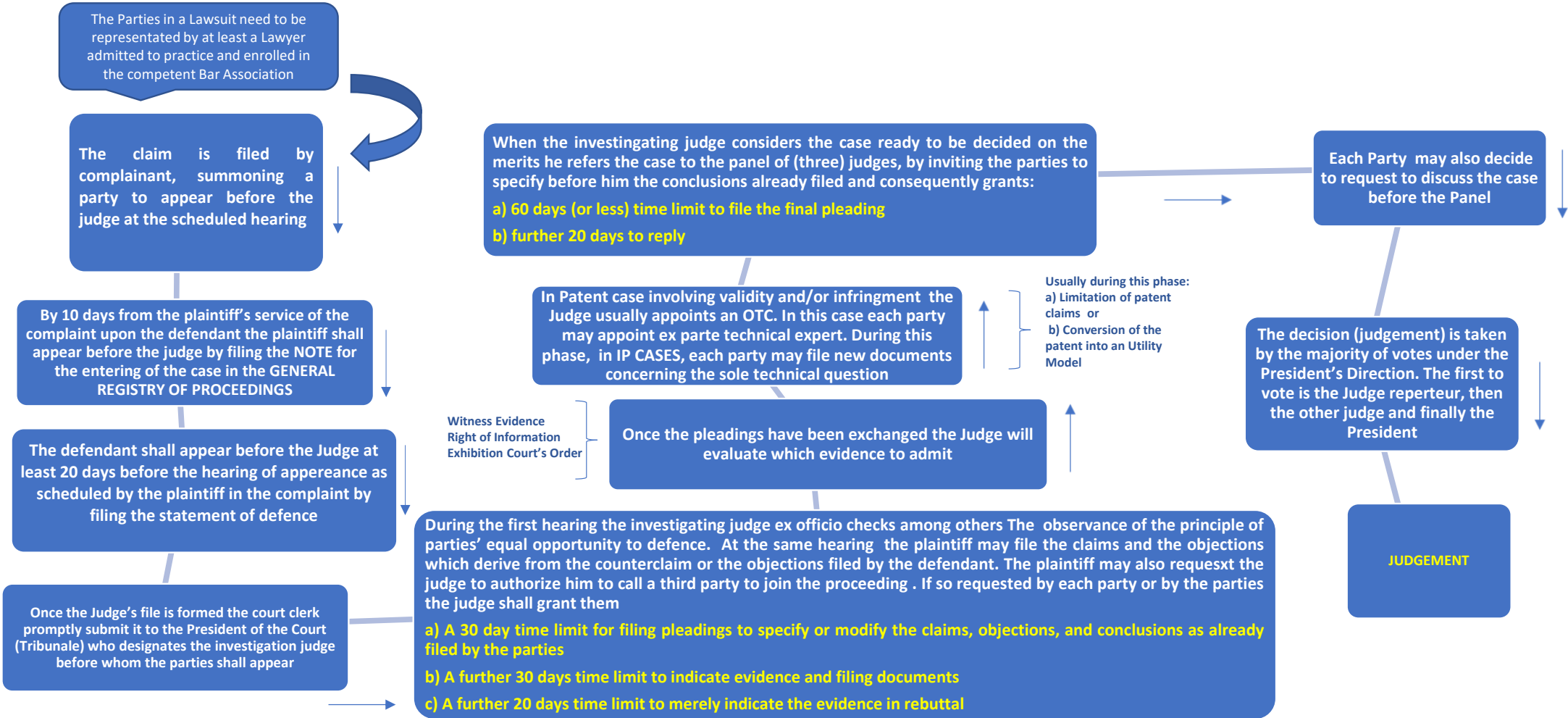
IP HOT TOPICS IN THREE DIFFERENT SYSTEMS: USA, UPC AND ITALY.

**Introduction to precautionary
and ordinary proceedings**

Cristiano Bacchini



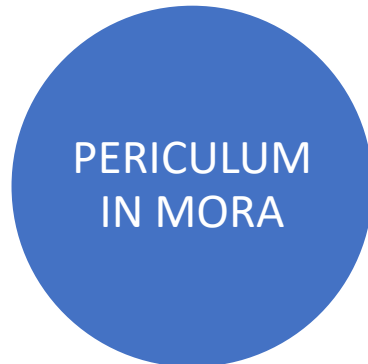
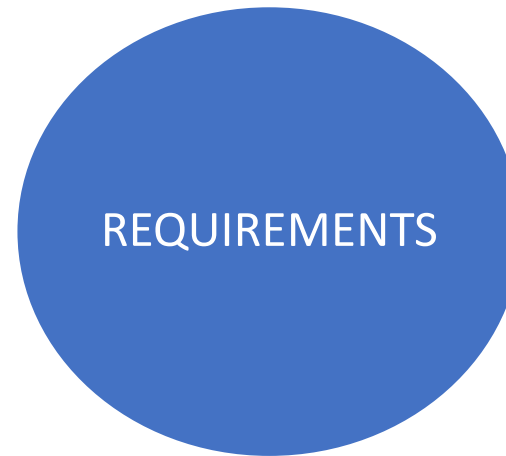
IP CASES - FIRST INSTANCE ON THE MERITS



INTERIM PROCEEDINGS



The owner of an IP right may request the description or seizure of some or all the items constituting an infringement of that right, as well as of the means used for their production and of the elements of proof concerning the reported infringement and its entity constituting an infringement of that right, as well as of the means used for their production and of the elements of proof concerning the reported infringement and its entity.



A credible case for the claim.



The well-founded fear that, pending issue of a ruling on the merits, the right which the interim measure seeks to safeguard may be irreparably harmed

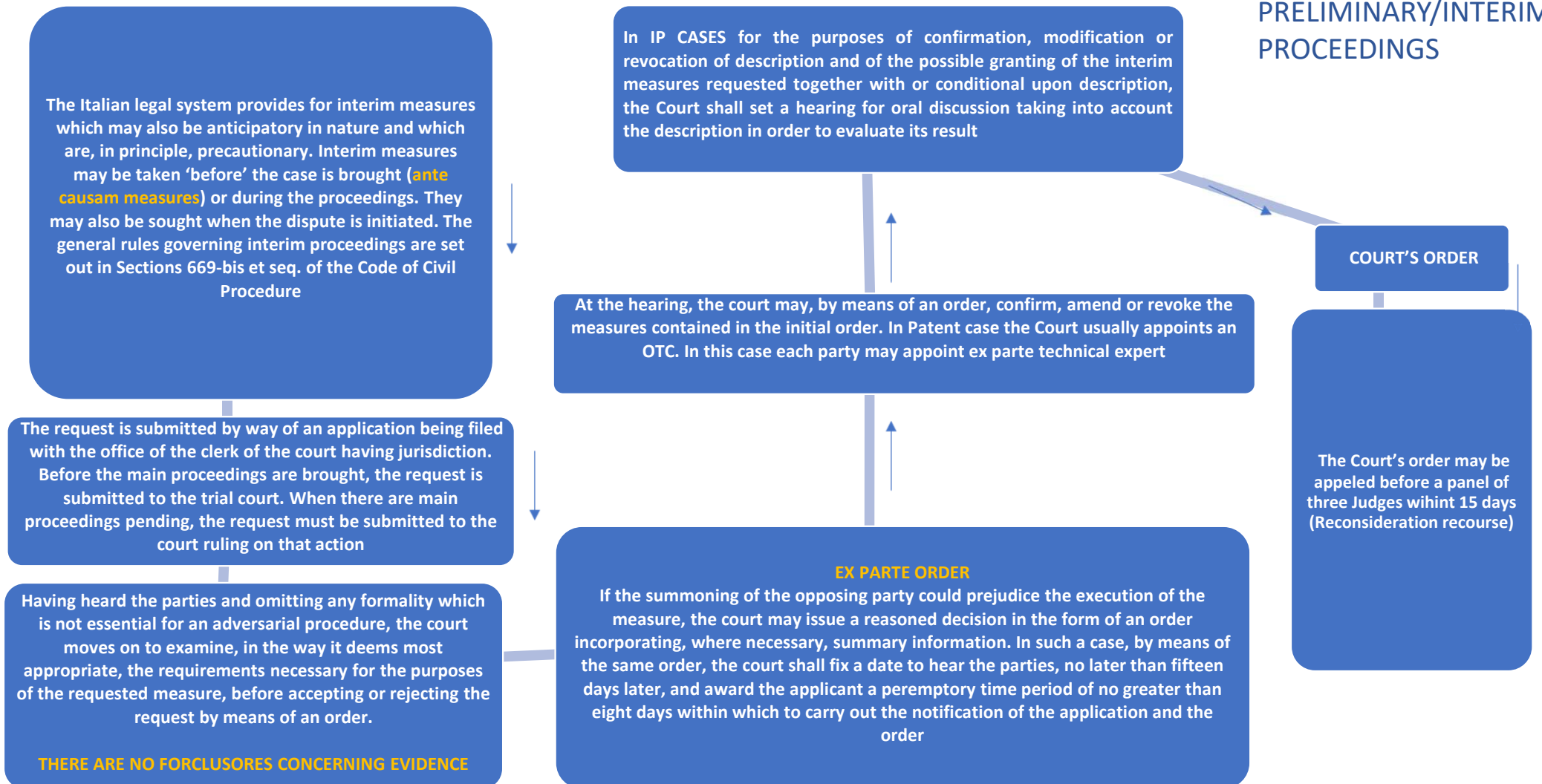
INTERIM/PRELIMINARY PROCEEDINGS: MAIN IP MEASURES

Description (Judicial Inspection)

Seizure

Injunction

PRELIMINARY/INTERIM PROCEEDINGS



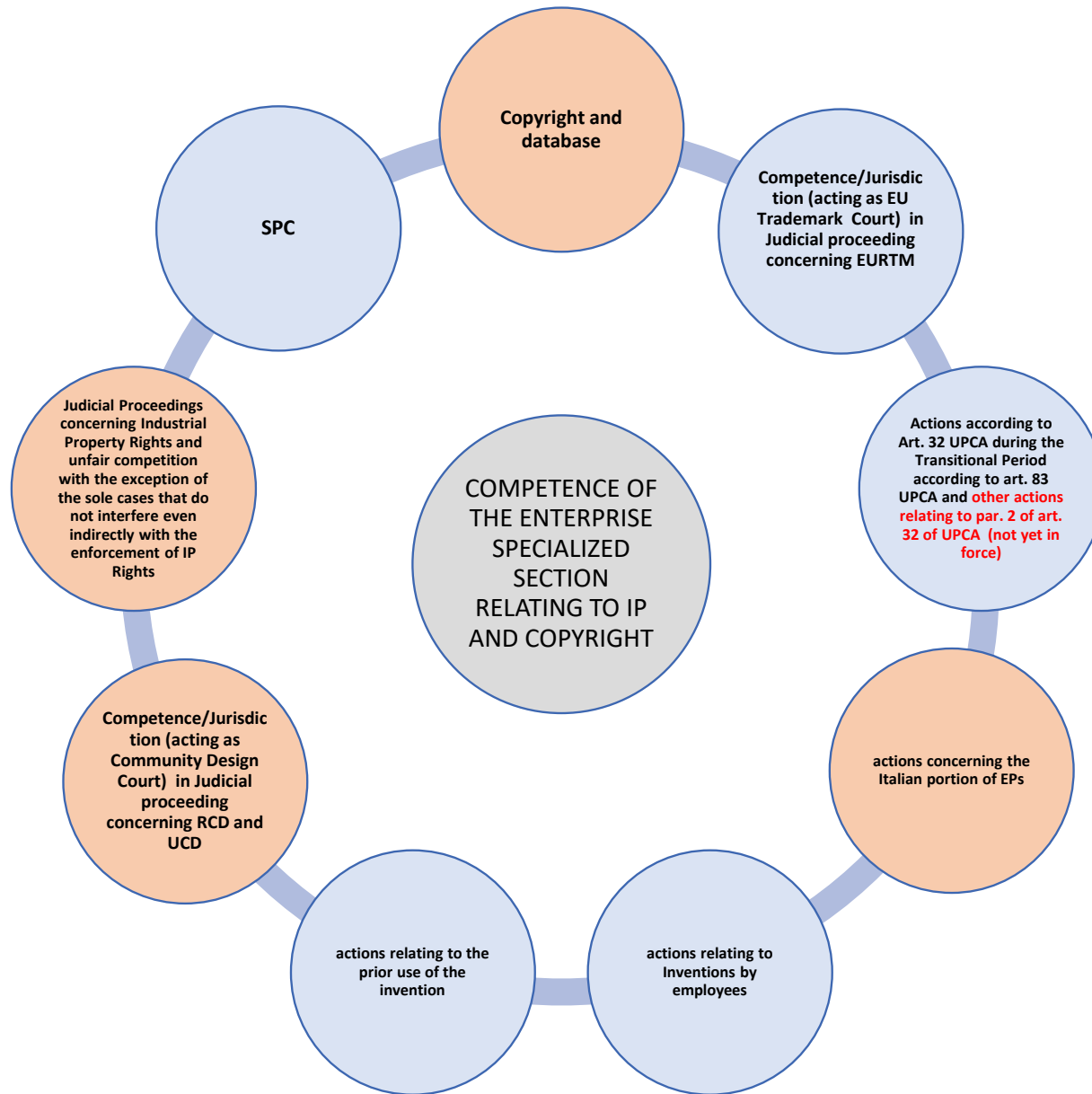
DISTRIBUTION OF IP CASES

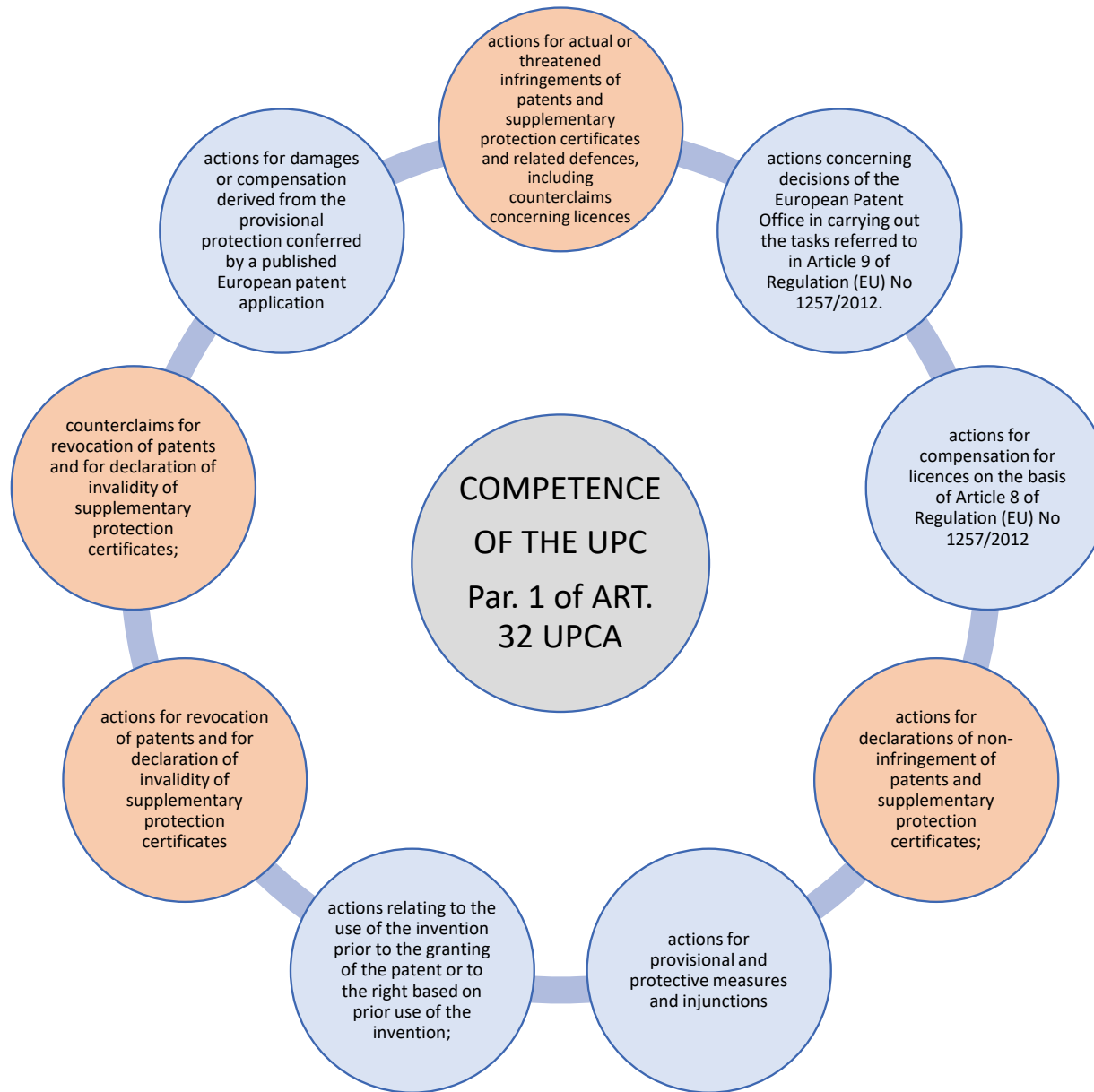
JUDICIAL PROCEEDINGS INVOLVING ONE OR MORE FOREIGN PARTIES

- **11 ENTITLED VENUES (ENTERPRISE COURTS):**
- Turin, Milan, Venice, Genoa, Rome, Naples, Bari, Catania, Florence, Cagliari, Bozen, Trento.

JUDICIAL PROCEEDINGS INVOLVING ITALIAN PARTIES

- **23 ENTITLED VENUES (ENTERPRISE COURTS):**
- Turin, Milan, Brescia, Bologna, Venice, Genoa, Rome, Naples, Bari, Catania, Palermo, Florence, Cagliari, Bozen, Trento, Trieste, L'Aquila, Ancona, Catanzaro, Campobasso, Cagliari, Perugia, Potenza.





NATIONAL COURTS AND ART. 32 (2) UPCA: «OTHER CASES»

Competent or not Competent: that is the question



NATIONAL COURTS AND ART. 32 (2) UPCA: OTHER CASES

Outside the Court's exclusive competence defined by par. 1 of art. 32 UPCA the National Courts of the Member States remain competent.

Art. 32 (2) UPCA does not concern the rule relating to Transitional Period (Art. 83 UPCA) since actions before a national Court of a Member State that may be brought under art. 83 (1) UPCA are actions for which, pursuant to par. 1 of art. 32 (UPCA), the UPC is competent and pursuant to art. 83 (1) UPCA, remains competent alongside the national Courts.

ACCORDING TO ART. 32 (2) UPCA

the possible number of actions not falling under Court's exclusive competence is unlimited and among others may concern:

- a) Invention status
- b) Co-inventor relationship
- c) co-proprietor relationship
- d) Employee relationship
- e) Contractual relationship



APPLICABLE LAW

Art. 83 does not indicate the Applicable Law
Example of GAP: ART. 27 UPCA and Art. 5 EPUE
Reg.



REFERRAL TO ECJ

QUI VIVET, VIDEBIT



Thanks

Grazie