

1 Background

The entry into force of the UPCA¹ was on June 1st 2023.

On May 31st, 2023 the «sunrise period» of three months ended.

Existing European Patents and existing supplementary protection certificates SPC issued for a product protected by a European patent as well as pending European patent applications can be excluded (= «to opt out») from the exclusive competence of the UPC² in accordance with Article 83(3) of the UPCA.

It is after May 31st, 2023 still possible to opt out European Patents as well as pending European Patent Applications for a transitional period of least 7 years, Art. 83(3) UPCA.

A lodging of «opt out applications» has be done via a CMS³ of the UPC via a strong authentication and with a Qualified Digital Signature in accordance with the requirements of the Regulation EU 910/2014 (eIDAS Regulation⁴).

During the «sunrise period» H. Kley lodged in the role of a person authorized by the holder(s) opt-out applications for over 230 EP-Titles (=European Patents, European Patent Applications).

2 Offer

H. Kley is equipped with a valid SmartCard for accessing the CMS via a strong authentication of the UPC.

H. Kley has contractual relationships with two different Trust Service Providers based in EU Member States for a Qualified Signature in accordance with the requirements of the Regulation EU 910/2014.

H. Kley offers «opt out applications» of European Patents and European Patent Applications pursuant RoP Rule 5⁵.

Included in this offer are services for

- withdrawal of an opt-out,
- correction of an opt-out and
- correction of a withdrawal of an opt-out

as far as this is specified in a mandate and ordered by a holder (=patentee/applicant).

3 Scope of Services

Within the Service Charges (→ 4 List of service charges on the next page) the following services are included:

- prefilling the form «Mandate» for lodging a «opt out application» ready for signature by a holder,
- preparing a mandatory «opt out document» based on the «Mandate» and signing the «Opt-out document» by H. Kley with a Qualified Signature in accordance with the Regulation EU 910/2014;
- lodging the «Mandate» (signed by the holder in handwritten in ink) and lodging the «opt-out document» together with the corresponding EP-Publication numbers.

¹ UPCA Agreement on a Unified Patent Court

² UPC Unified Patent Court

³ CMS Content Management System

⁴ eIDAS electronic IDentification, Authentication and trust Services

⁵ ROP Rules of Procedure as of September 1, 2022

4 List of service charges

Number of EP-Titles of the same holder	Service Charge in CHF as from 01.10.2023	Service Charge in EUR as from 01.10.2023	Per EP-Title in EUR
1	200,00	211,00	211,00
2	300,00	316,00	158,00
3	380,00	400,00	133,33
4	460,00	484,00	121,00
5	530,00	558,00	111,60
6	600,00	632,00	105,33
7	660,00	695,00	99,29
8	720,00	758,00	94,75
9	780,00	821,00	91,22
10	840,00	884,00	88,40
Any additional EP-Title will be charged with an additional amount of CHF 60,00/EUR 63,00			
EP-Title: European Patent or a pending European Patent application			
Ratio EUR / CHF	0,95		

5 General Conditions for «opt out applications» to pursuant RoP Rule 5

- 5.1 The service charges are VAT-free, as H. Kley is not liable for VAT.
- 5.2 H. Kley is registered as self-employed with the SVA ZH⁶ under the number NM8.435. This ensures that legal entities domiciled in Switzerland as clients do not encounter problems due to a possible «work relationship in disguise» in the event of an AHV audit.
- 5.3 Any additional efforts regarding deficiencies of the information given by a holder are charged additionally.
- 5.4 The service charges indicated below for lodging «opt out applications» with two or more holders are subject of a special agreement.
- 5.5 Orders for applications to opt out for European Patents with supplementary protection certificates SPC based on said European Patents are not be accepted.

6 Address, contact data:

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⁶ Sozialversicherungsanstalt des Kantons Zürich