
Lodging of «opt out applications» with the Unified Patent Court UPC 12 March 2023

1 Background

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

With the date of the entry into force of the UPCA a so-called «sunrise period» of three months is running from March 1st 2023 to May 31st 2023. During this «sunrise period» 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.

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

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 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 and Service Charges

Within the Service Charges annexed 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 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 General Conditions for «opt out applications» to pursuant RoP Rule 5

- 4.1 The service charges are VAT-free, as H. Kley is not liable for VAT.
- 4.2 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.
- 4.3 Any additional efforts regarding deficiencies of the information given by a holder are charged additionally.
- 4.4 The service charges indicated in the annexe for lodging «opt out applications» with two or more holders are subject of a special agreement.
- 4.5 Orders for applications to opt out more than 50 European Patents or European patent applications per holder are subject of a special agreement (discount).
- 4.6 Orders for applications to opt out for European Patents with supplementary protection certificates SPC based on said European Patents are not be accepted.
- 4.7 Further information on order processing can be found at <https://kley.ch/kanzlei/>.

5 Address, contact data:

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⁶ Sozialversicherungsanstalt des Kantons Zürich

Number of European Property rights of the same holder	Service Charge in EUR and CHF		Average Service Charge per European Property right
1	260,00		260,00
2	400,00		200,00
3	530,00		176,67
4	650,00		162,50
5	770,00		154,00
6	890,00		148,33
7	1'000,00		142,86
8	1'110,00		138,75
9	1'220,00		135,56
10	1'320,00		132,00
11	1'420,00		129,09
12	1'520,00		126,67
13	1'610,00		123,85
14	1'700,00		121,43
15	1'790,00		119,33
16	1'875,00		117,19
17	1'960,00		115,29
18	2'045,00		113,61
19	2'130,00		112,11
20	2'215,00		110,75
21	2'295,00		109,29
22	2'375,00		107,95
23	2'455,00		106,74
24	2'535,00		105,63
25	2'615,00		104,60
26	2'695,00		103,65
27	2'775,00		102,78
28	2'855,00		101,96
29	2'935,00		101,21
30	3'015,00		100,50
31	3'090,00		99,68
32	3'165,00		98,91
33	3'240,00		98,18
34	3'315,00		97,50
35	3'390,00		96,86
36	3'465,00		96,25
37	3'540,00		95,68
38	3'615,00		95,13
39	3'690,00		94,62
40	3'765,00		94,13
41	3'835,00		93,54
42	3'905,00		92,98
43	3'975,00		92,44
44	4'045,00		91,93
45	4'115,00		91,44

Number of European Property rights of the same holder	Service Charge in EUR and CHF		Average Service Charge per European Property right
46	4'185,00		90,98
47	4'255,00		90,53
48	4'325,00		90,10
49	4'395,00		89,69
50	4'465,00		89,30