

1 Background

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

With the date June 1st 2023 the so-called «sunrise period» of three months ended on May 31st 2023.

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 still possible to opt out European patent as well as pending European patent applications.

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).

During the «sunrise period» H. Kley lodged in the role of a person authorized by the holder(s) of EP-Titles 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 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

