

Kluwer Patent Blog

3 days of UPC sunrise in numbers

Laurence Lai (Simmons & Simmons LLP) · Saturday, March 4th, 2023

At 09:00 CET on 1 March 2023, the three month sunrise period for the Unified Patent Court began. Whilst it is still early days, insights can already be gleaned from opt out requests and UPC representative applications that have already been filed on the Case Management System.

199 patents and applications opted out

150

patents

49

applications

110

different first-named
applicants

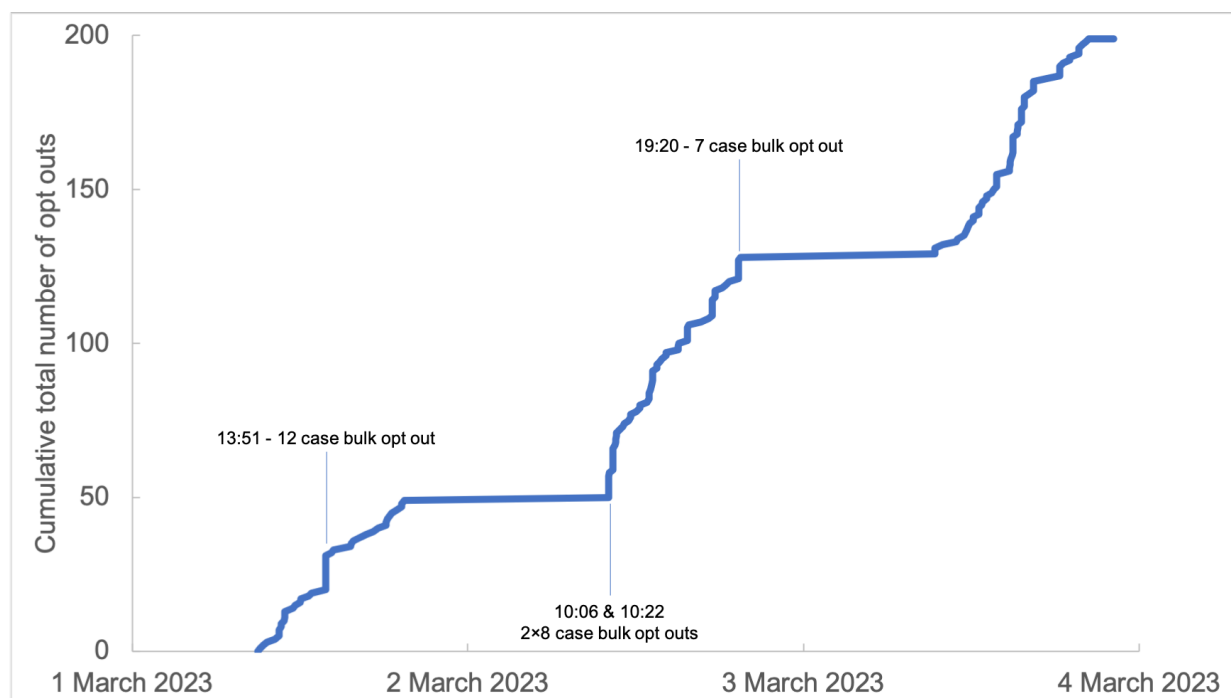
41

different UPC
representatives

A surprisingly high 25% of opt outs so far are in relation to pending European patent applications. Only 7% of UPC representatives have filed an opt out.

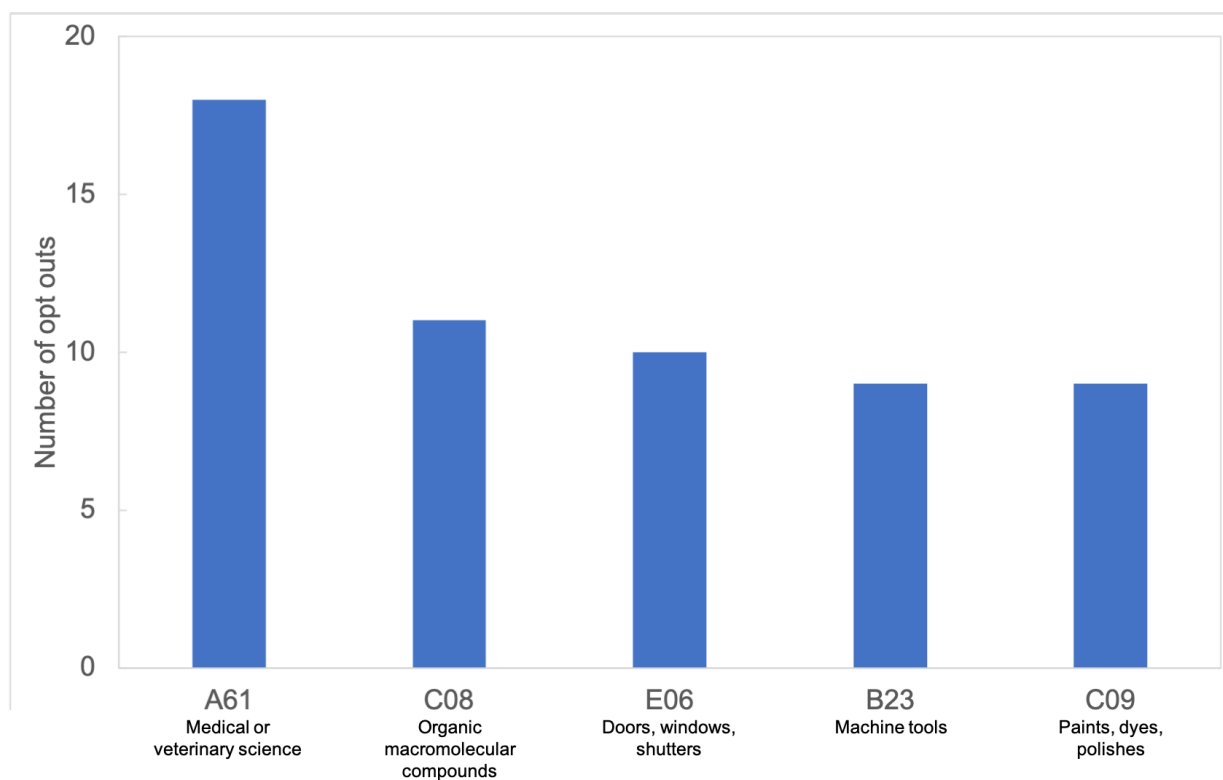
The mean number of patents and applications opted out per first-named applicant is 1.8 and the mode is 1. Applicants with smaller portfolios and less complex ownership structures will of course find it more straightforward to file their opt outs in these opening days of the UPC sunrise.

Opt out requests over the first 3 days



The first opt out, with respect to EP1388578B1, was filed at 09:08 CET – remarkably soon after the Case Management System went live.

Top 5 primary International Patent Classifications of opted out patents and applications

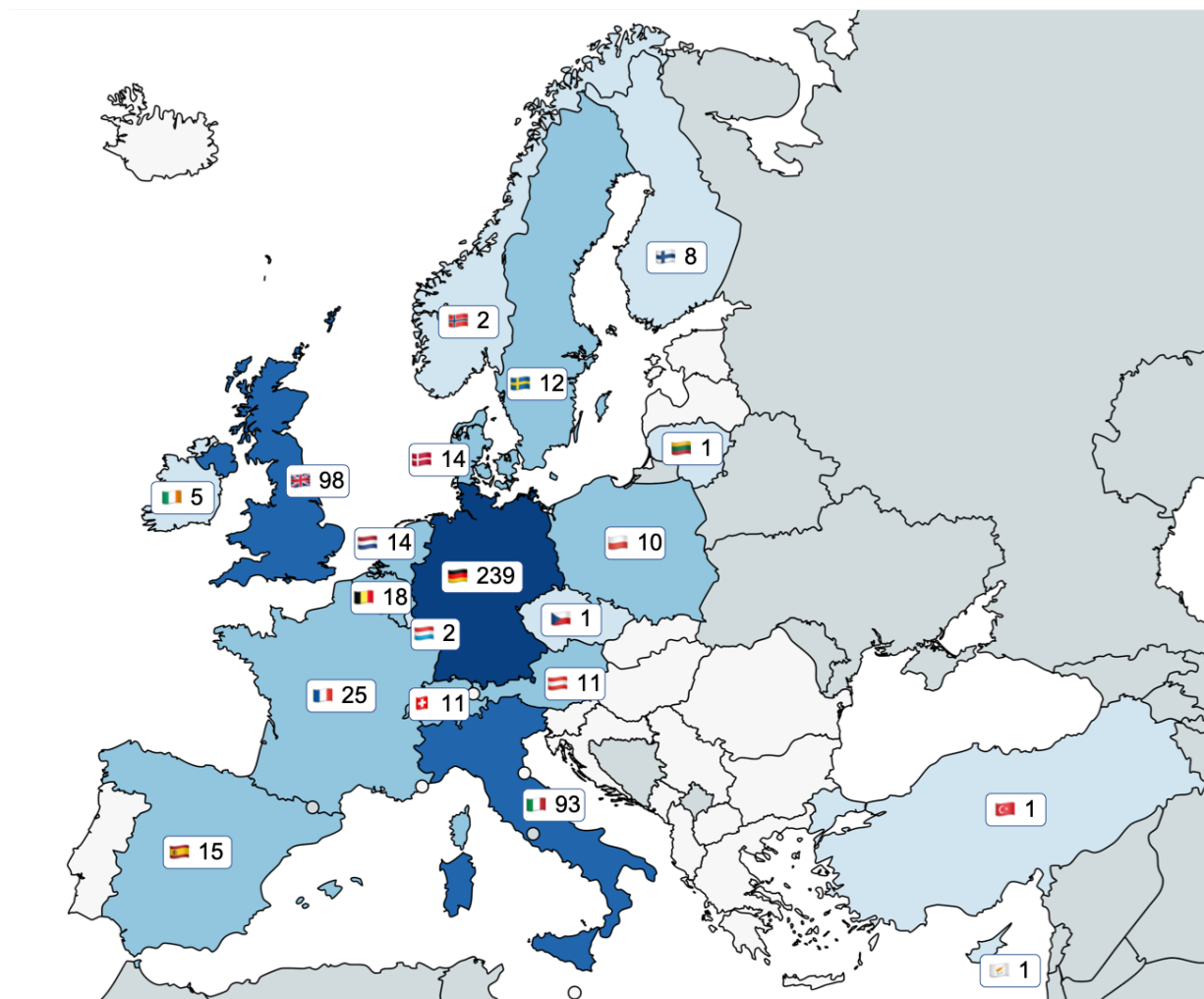


The opting out of potentially high-value medical device patents and applications is to be expected.

This small data set also shows a relatively large number of opted out patents and applications classified under doors, windows and shutters. This subject matter may drop down the rankings as anticipated “massive” bulk opt outs are filed.

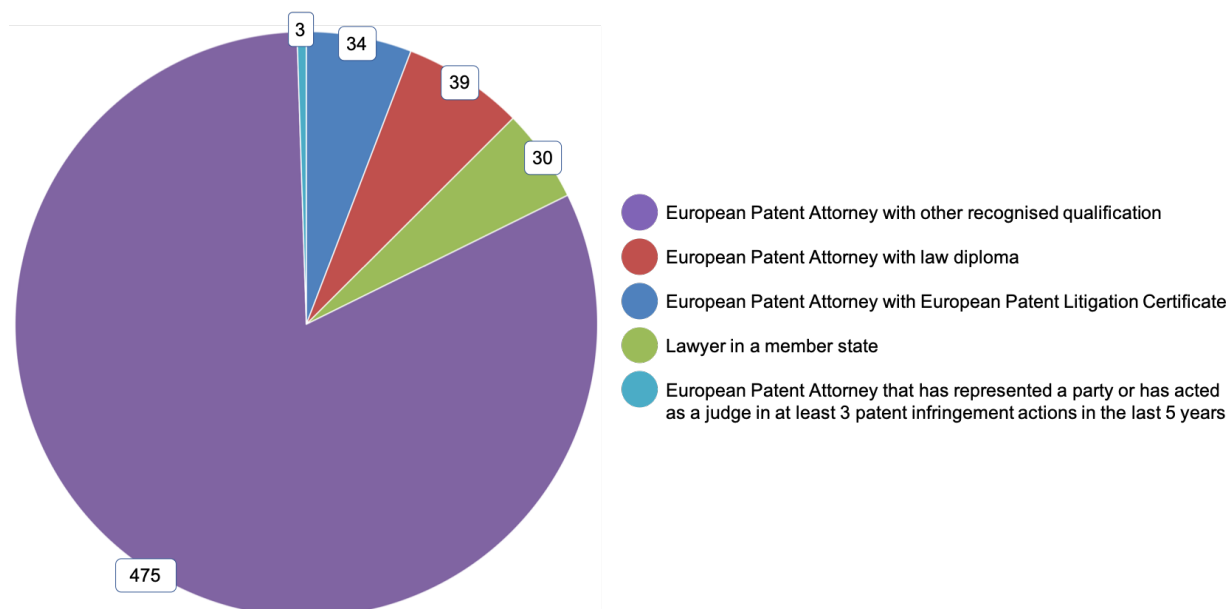
581 people registered as a UPC representative

Country in address of representative



European patent attorneys can, for up to one year from entry into force of the UPC, make use of recognition by the UPC of specific qualifications to request entry onto the list of UPC representatives, without requiring the attorney to have obtained the European Patent Litigation Certificate or a law diploma. The recognised qualifications obtainable in Germany, the UK and Italy in particular seem to have enabled a relatively high number of attorneys from those countries to register.

Indicated entitlement to be a UPC representative



European Patent Attorneys currently form the majority of the list of UPC representatives as they will be more likely than lawyers to file opt outs on behalf of their clients during this sunrise period.

Data based on a snapshot from the Unified Patent Court Case Management System taken at 23:09 CET on 3 March 2023. Representatives currently appearing on the list of UPC representatives are pending check by the Registry of the Court. Where two entries with the same representative name were present on the list with different entitlement reasons, the entry with the entitlement based on the European Patent Litigation Certificate was removed from this analysis.

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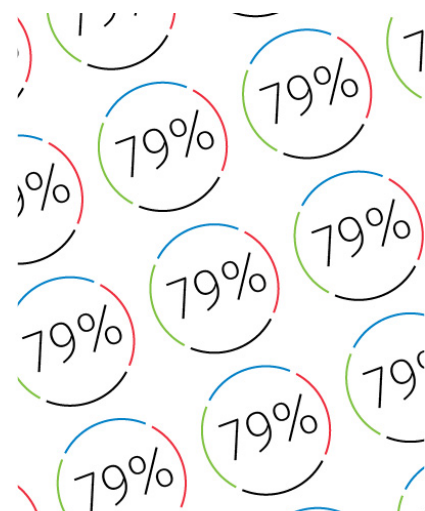
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