

UPC and Unitary Patent Status Report

Global Network Summit, Istanbul, 26 October 2023

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KEIL & SCHAAFHAUSEN

UPC and Unitary Patent – Status Report

In 2017 future was foggy

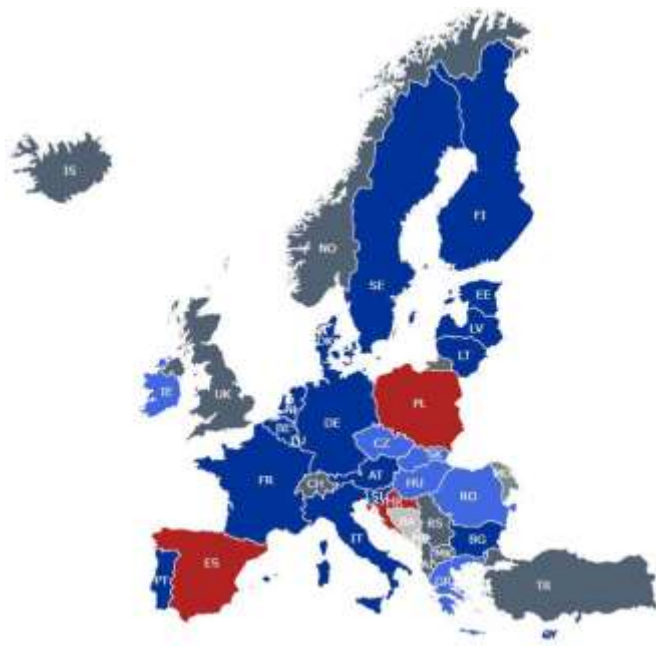


In 2022 ready to start

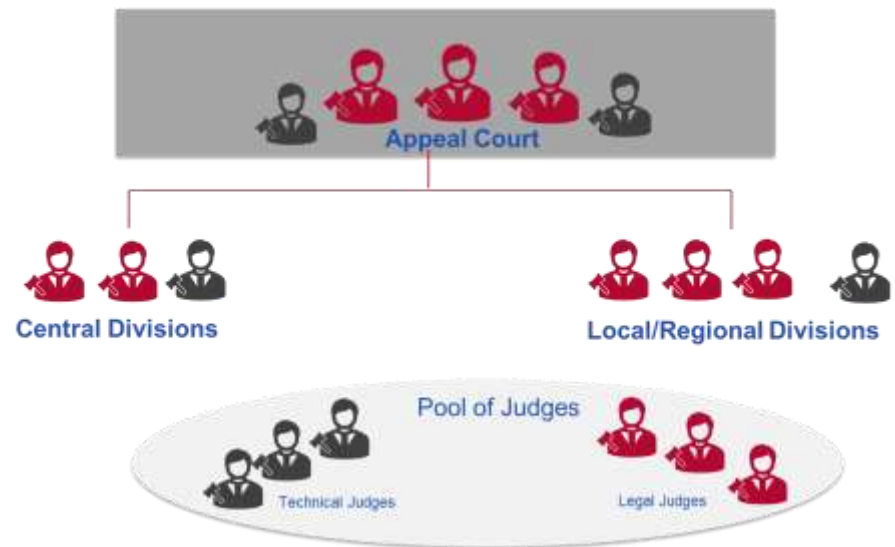


I. Unified Patent Court (1)

Participating Countries



Court Structure



I. Unified Patent Court (2)

Locations

Central Divisions: Paris and Munich (and Milano as of June 27, 2024)

Local Divisions: one or more per participating member state (Germany: 4)

Regional Division: Baltic Court (SE, EE, LT, LV)

Court of Appeal: Luxembourg

Jurisdiction

Unitary patents

European bundle patents

No jurisdiction

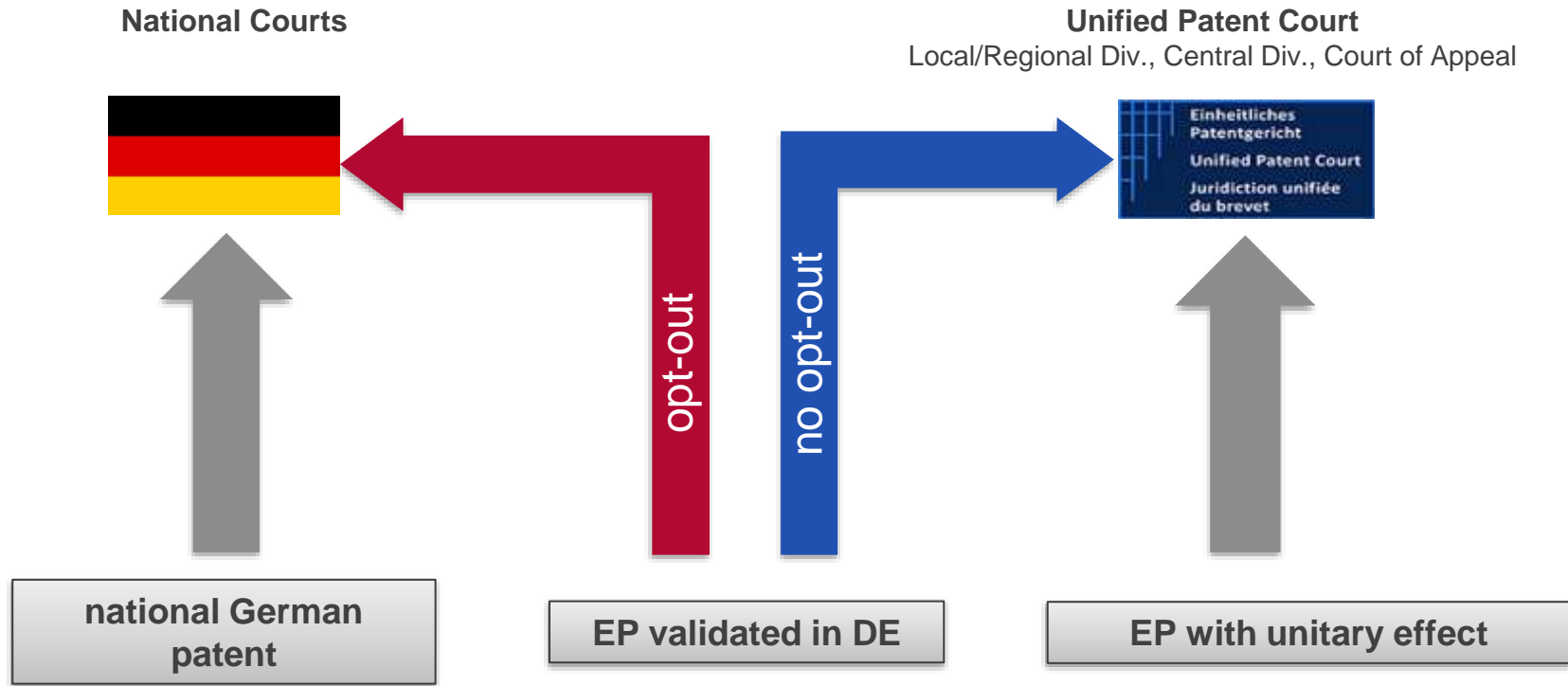
National patents

Opted-out European bundle patents

Decides on infringement and validity

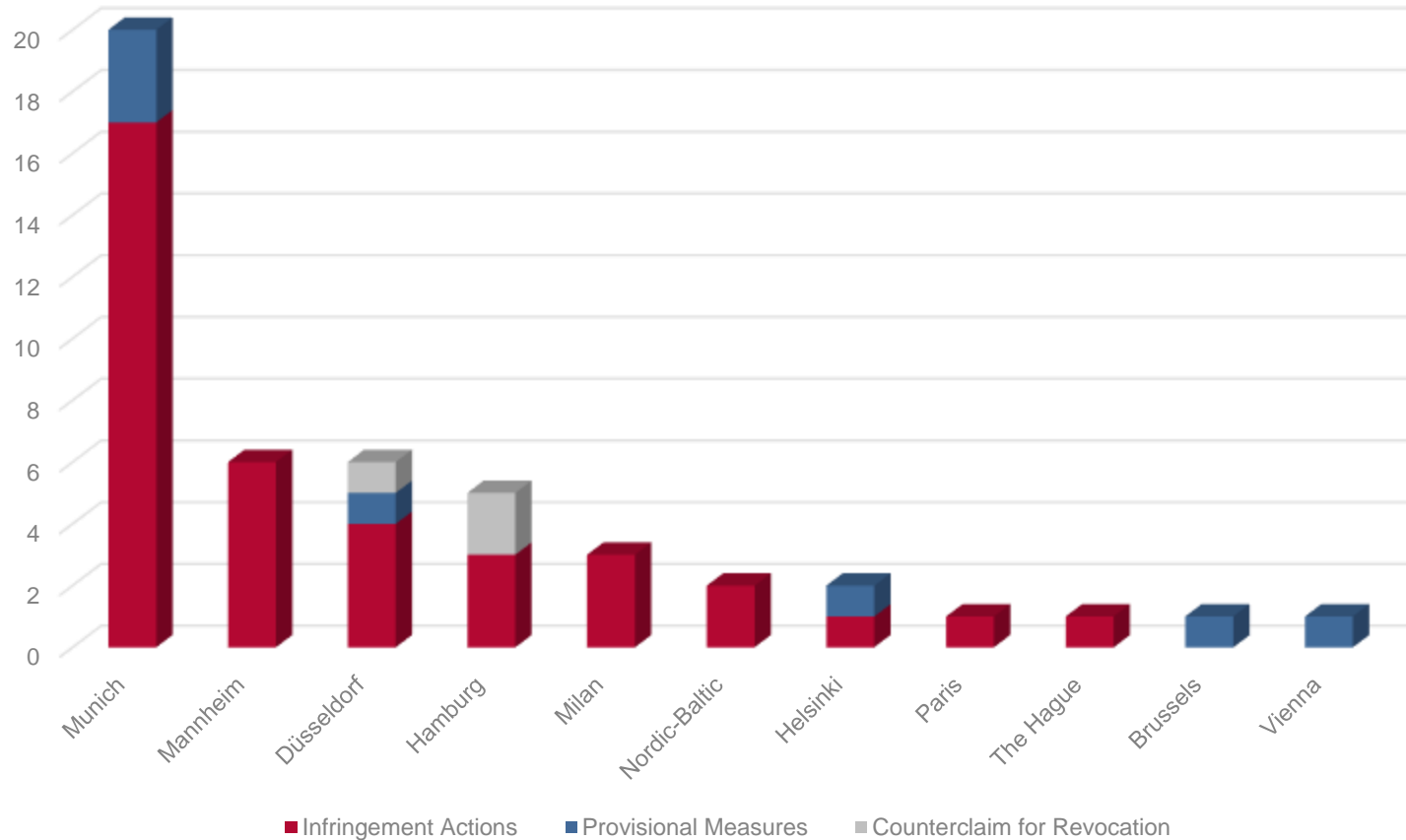


I. Unified Patent Court (3)



I. Unified Patent Court (4) - Statistics

Registered Proceedings Local/Regional Divisions

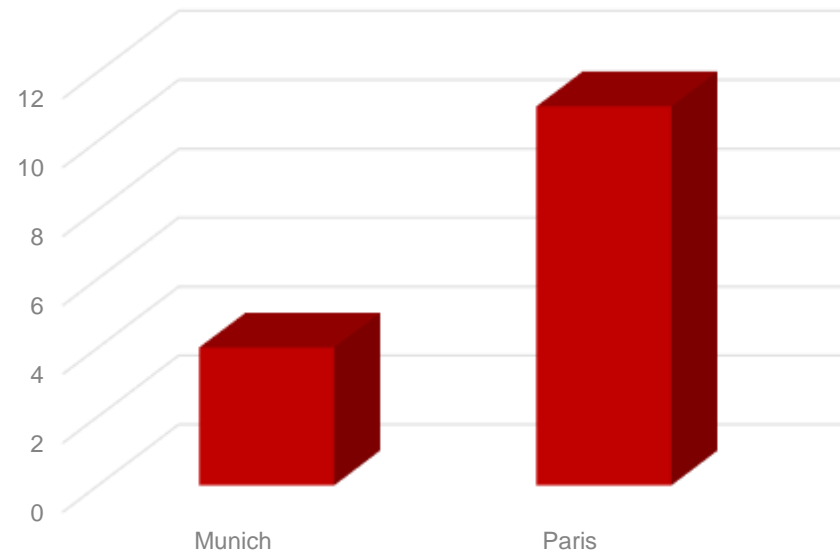


(as of October 12, 2023, source: UPC Case Management System)



I. Unified Patent Court (5) - Statistics

Registered Proceedings Central Division

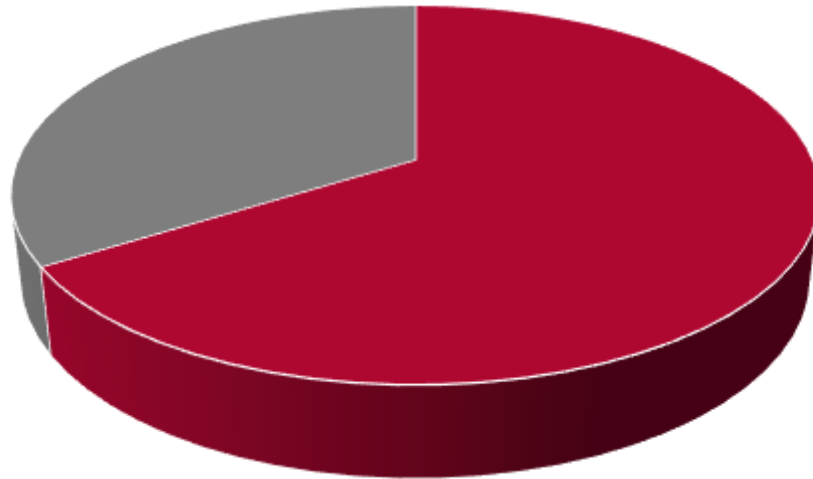


(as of October 12, 2023, source: UPC Case Management System)

I. Unified Patent Court (6) - Statistics

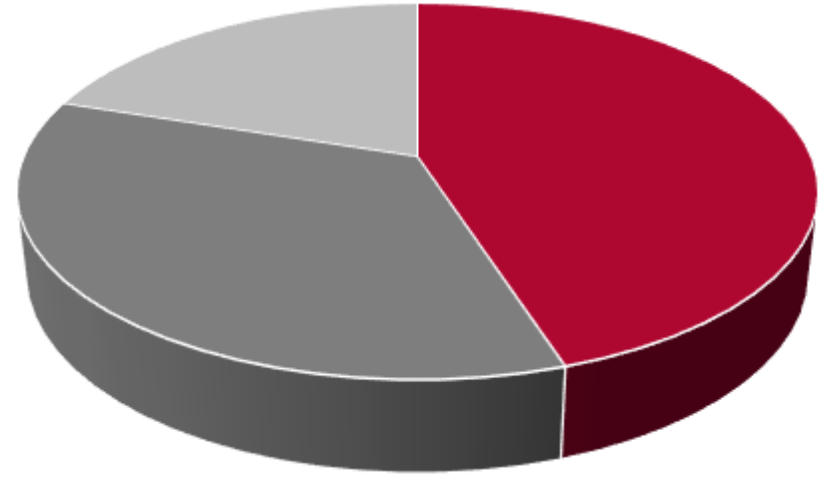
Registered Proceedings

by Court Location



■ Courts in Germany ■ Other Courts

by Technology



■ Electronics/Physics ■ Mechanics ■ Chemistry/Pharma

(as of October 10, 2023, source: UPC Case Management System)

I. Unified Patent Court (7) - Statistics

Court Orders granted

About 50

- Mostly procedural issues
 - Injunctions granted in Munich and Düsseldorf
 - Preservation of Evidence granted in Brussels and Milan
 - Injunction rejected in Vienna
-
- Injunctions may be granted extremely fast (same day)
 - *Ex parte* injunctions possible



II. UPC - Opt-out (1)

UPC will be competent for existing and future European bundle patents

Opt-out

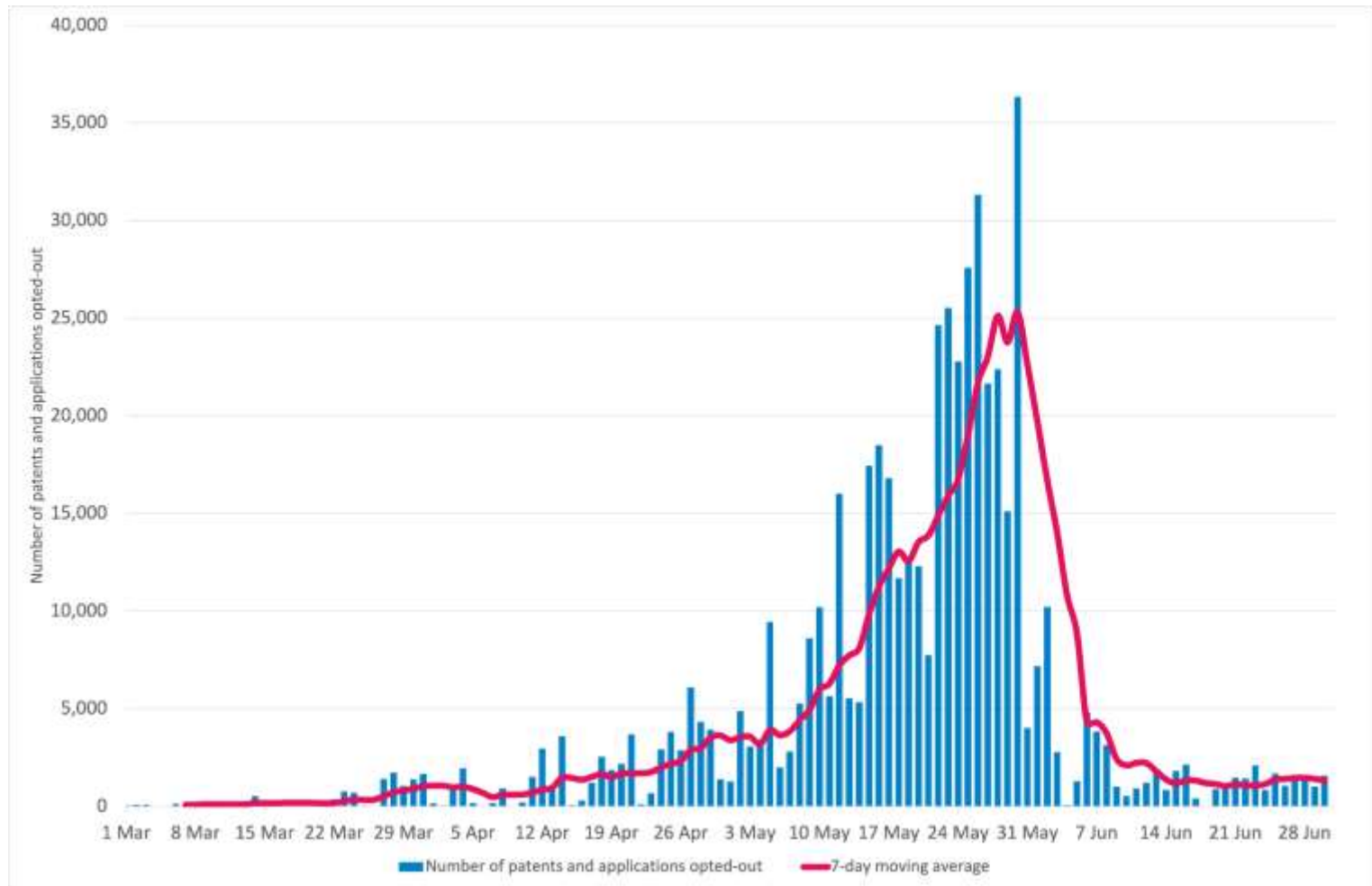
Patent proprietor may opt-out from UPC for any EP patent, which

- has not been subject of UPC proceedings, and
- has not been opted out before

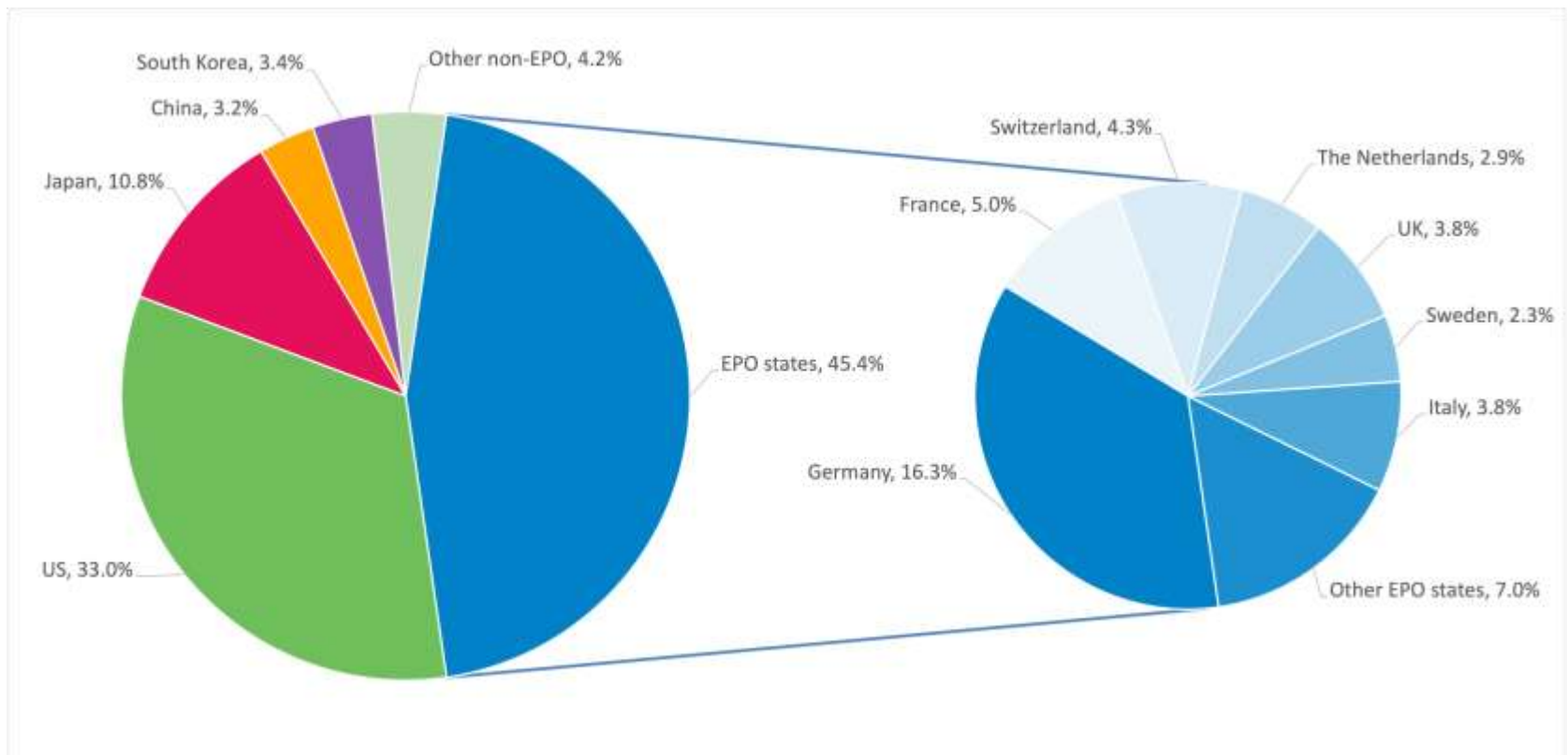
Opt-out can be withdrawn (opt-in)

Not available for unitary patents

II. UPC - Opt-out (2) - Statistics



II. UPC - Opt-out (3) - by country



II. UPC – Opt-out (4) – more statistics

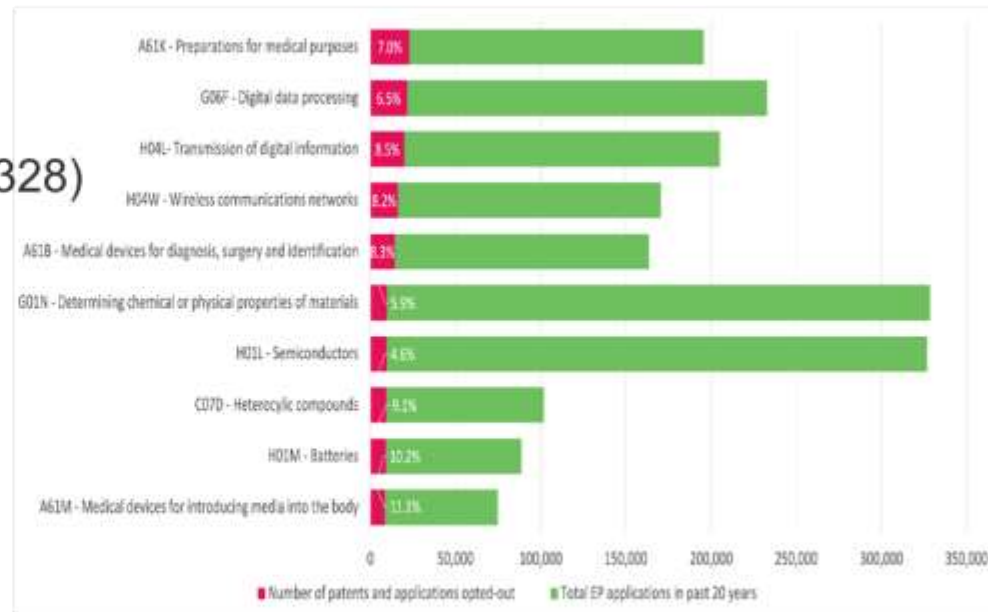
Leading applicants in opting-out

1. Huawei Technologies (5,384)
2. Honeywell International (4,724)
3. The Boeing Company (4,441)
4. Microsoft Technology Licensing (4,328)
5. Samsung Electronics (3,939)

Since starting

Number of opt-outs has stabilized to around **2,700** applications and **7,600** patents per week.

This compares to around **3,700** applications filed and approximately **1,500** patents granted per week by the EPO.



III. Unitary Patent (1) - Basics

- Unitary patent (UP) will be administered by EPO
- Procedure until grant = classic European patent application
- After grant: request for unitary effect (within 1 month!)

During transitional period (6-12 years), the patent proprietor will have to file one full translation of the European patent specification:

- into English if the language of the proceedings before the EPO was French or German
- into any other official language of an EU member state if the language of the proceedings was English.

The translation must be filed together with the request for unitary effect. It is for information purposes only and has no legal effect.

After the transitional period, no translations will be required for UP

- One register, one renewal fee („true top four“)

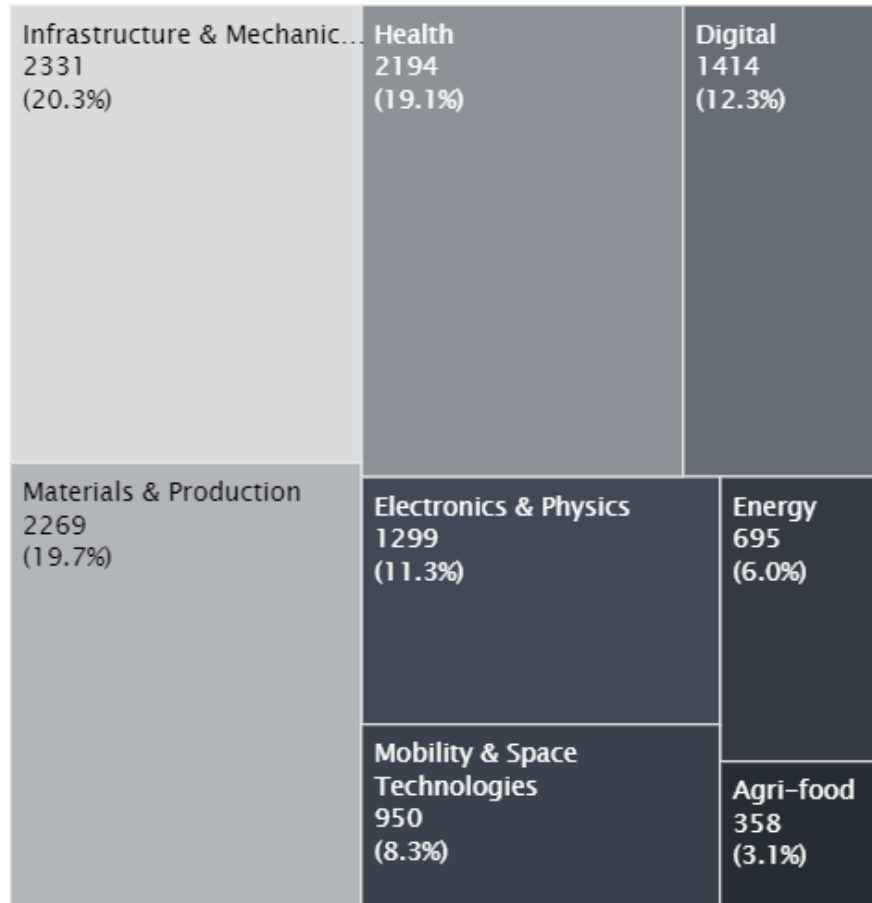


III. Unitary Patent (2) - Requests received by EPO

Status of registration



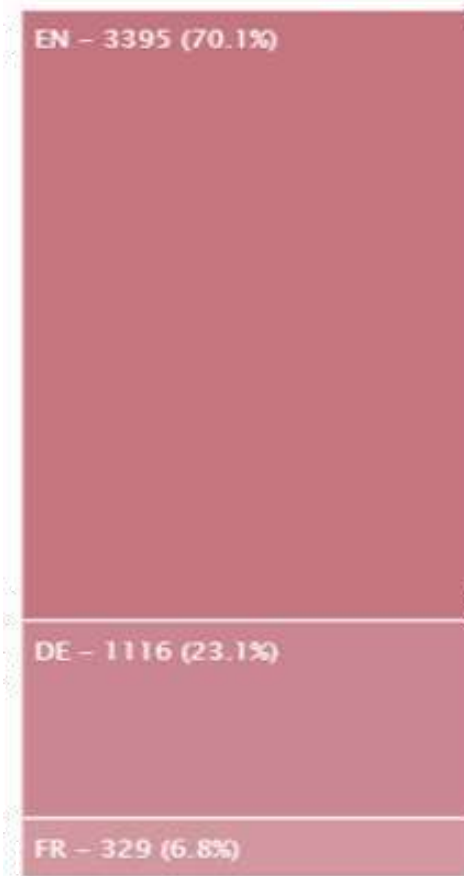
Technology



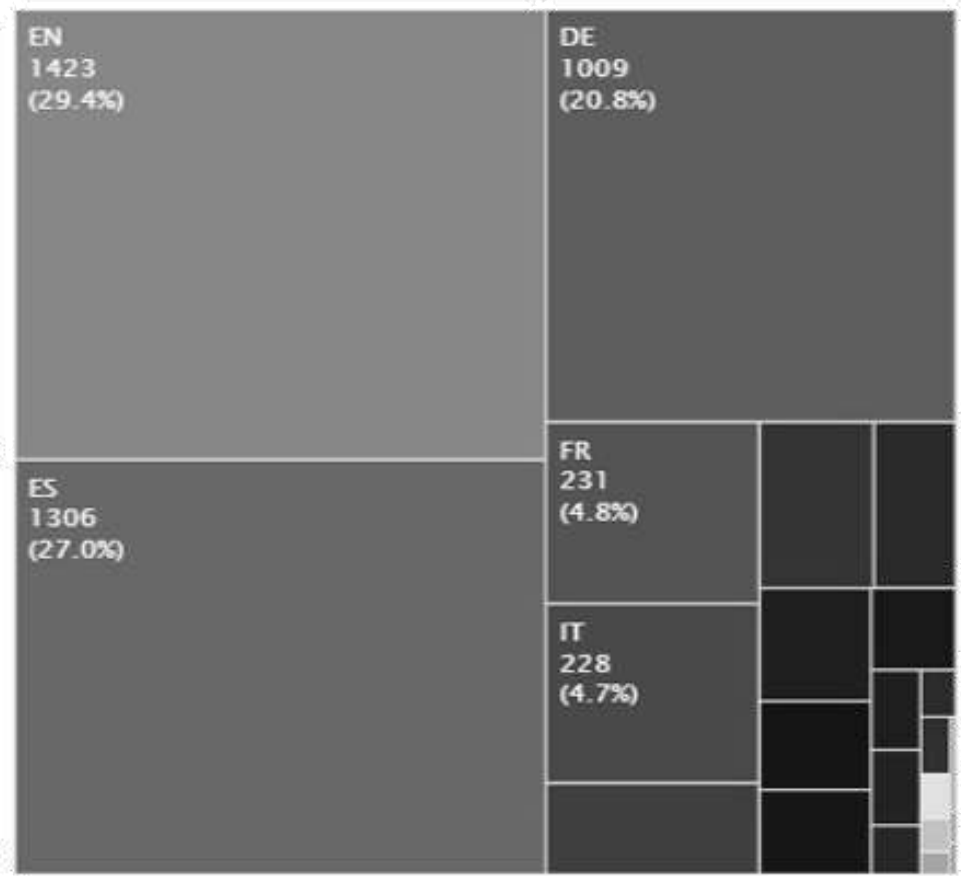
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III. Unitary Patent (3) - Requests received by EPO

Procedural language

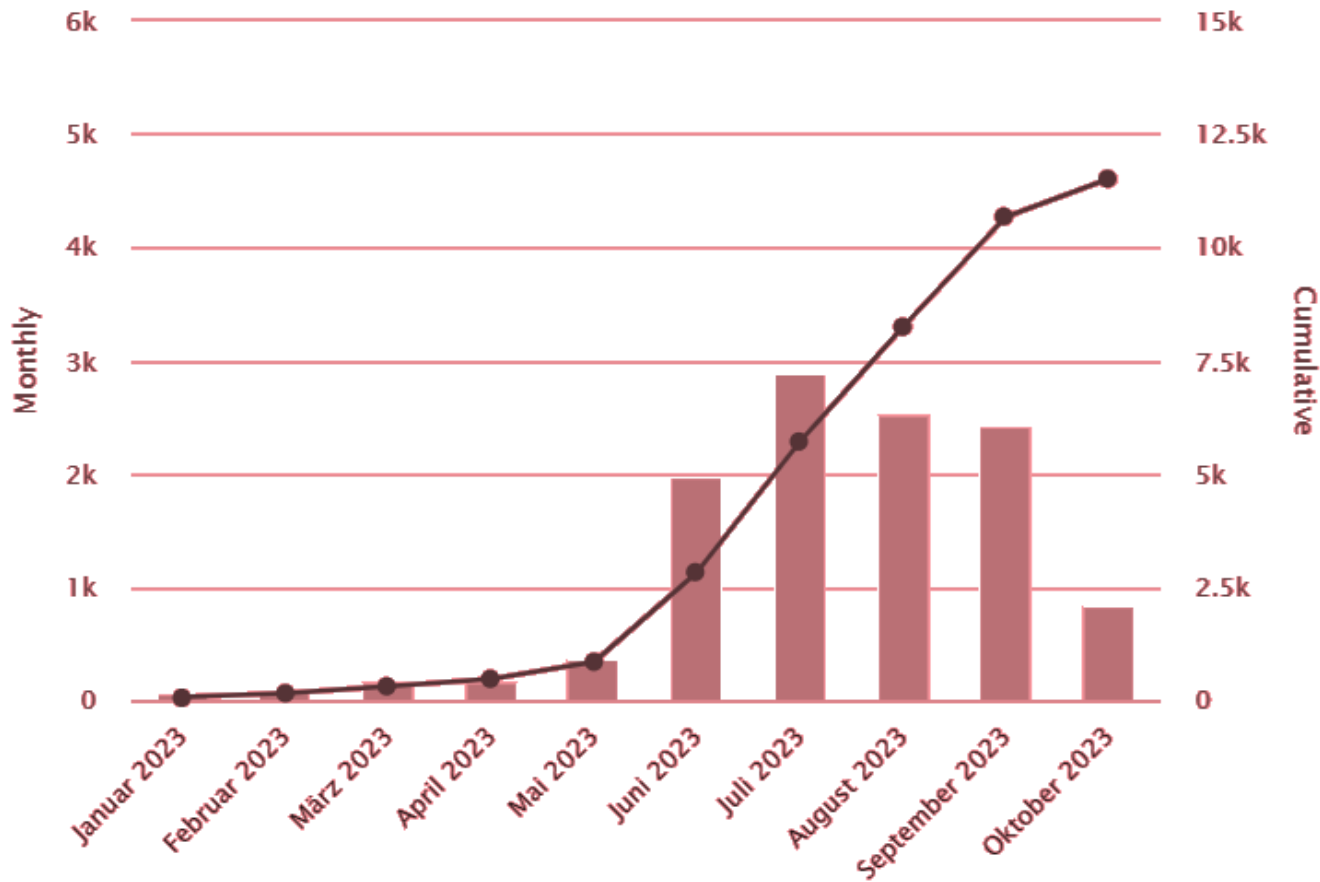


Translation language



(as of October 10, 2023, source: EPO)

III. Unitary Patent (4) - Requests received by EPO



(as of October 10, 2023, source: EPO)



As of June 1, 2023 UPC and Unitary Patent under full sail



Thank you for listening

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