

Information from the Registrar

Applications to become a Representative before the UPC

Delays in the approvals of early applications

We have experienced a technical problem with the CMS that has had the effect that the staff of the Registry was not able to access some of the early applications in order to approve them. A technical solution has been developed and is effective as from March 21. The Registry is now proceeding as quickly as possible to examine all pending applications.

Identification of applicants

The UPC Case Management System is based on a strong authentication system where a physical device (card or USB key) is necessary to identify the individual accessing the system. This means that a representative needs to use an individual strong authentication device when accessing the system. On some instances, individuals applying to become representatives before the UPC have accessed the CMS with the device of another person and not via their own individual device. Such applications have not been approved since they are deemed to not fulfil the identification requirement. The Registry will contact the concerned applicants individually in the coming days and inform them accordingly. They will be kindly asked to apply again using their individual strong authentication device.

E-mail addresses used in applications

When acquiring a strong authentication device it is necessary to provide an email address, which thereafter will be linked to the device. When filing an application to be registered as a representative it is again necessary to provide an email address. This latter email will be recorded in the CMS. It is possible to provide a different email address in your application as representative than the one linked to the strong authentication device. When communicating with the representative, the CMS will use the email address provided into the CMS.

Accidentally choosing the wrong entitlement

Some applicants have chosen the option “Article 48(2), Patent Attorney with EPLC – EPLC Decision Rule 1” instead of “Article 48(2), Patent Attorney with EPLC – EPLC Decision Rule 12”.

There is not yet any formally approved EPLC courses, which means that an entitlement under EPLC Rule 1 is not possible. Against this background and under the condition that the applicant fulfill the criteria under EPLC Rule 12, such an application will be approved under the assumption that there has been an obvious mistake when checking the box. The Registry will correct it and register the application under the correct entitlement. We however ask for your understanding that this might take some time due to the fact that we need to configure a technical amendment before we can make the correction. **There is however no need for individual action.** The individuals concerned will be contacted individually before the change is executed.

Opting out patents

API and get document functionality

In accordance with information previously conveyed (see [link](#)), a late change to the API was executed shortly before the start of the Sunrise period with the consequence that the “get document” functionality was temporarily impaired. A solution was presented on March 13, which was introduced in the CMS training environment March 17. The solution went into production and is available on the CMS as of March 21.

Will there be further changes to the API?

All other things being equal, no further changes are foreseen for the moment on APIs related to Sunrise activities. This does not prevent us from adapting them if it is deemed necessary to safeguard the proper functionality of the system. In that case, we will inform users as soon as the change is identified.

How to fill in the country abbreviation section of the opt-out form?

We have received a number of questions on the filling in of the Country abbreviation in the opt-out form. Here are a few indications to help you with this process:

For patents in force: all EPC States (not only Contracting States of the UPC Agreement – see FAQ question 4.35) in which the patent is valid need to be filled into the country abbreviation section. More specially, all EPC Contracting States in which the patent is valid at the time of the opt-out application need to be included in this section of the form. This is also applicable to any granted SPCs- meaning that all EPC Contracting in which an SPC has been granted need to be indicated.

For patent applications: when opting-out an EP application, you need to either indicate in the opt-out form: “all EPC States” (when all EPC Contracting States have been designated) or, should only a selection of EPC States have been designated – the list of all these designated EPC Contracting States as per the application.

Please list all countries, as needed, one after the other in the square brackets (rather than one country at a time per square bracket).

Also please note that you do not need to indicate extension or validation states in the country abbreviation section.

Filing of a declaration under Rule 5, paragraph 3(e) RoP:

Please note that the declaration under Rule 5.3(e) RoP needs to be filled by or on behalf of the proprietor(s), independent of information in relevant national patent registers. No additional proof of proprietorship is needed – see FAQs question 4.6.

When filling in the section on the postal address of the proprietor: should the address have changed since the time of grant: please indicate the new address (even if this address has not been reflected in relevant national patent registers).

Questions on legal advice

Some of the questions asked to the Registry are of a legal nature and refer to how the Court will eventually interpret the Articles of the UPC Agreement or the secondary legislation. Please take note and respect that the Registry cannot provide advice in this regard, and is unable to provide a substantial response to such questions.