

Introduction

The UPC is currently working on improving the functionality for the Correction of an opted out patent, **as concerns the correction of supplementary protection certificate (SPC) data**. The goal of this improvement is to reflect SPC data in the correction workflow on the Case Management System (CMS) and not only on the uploaded application form and thereby to be more easily accessible on the CMS front end and included in the receipt of the correction.

The aim of this document is to:

- (1) inform users on the **current workflow** regarding corrections of SPC data, until improvement has been implemented, and
- (2) to inform 3rd parties of the current process to consult corrected data.

UPC is working on a more suitable implementation within the CMS and on a plan to update the Registry of corrected SPCs. More details on improvement of the correction workflow will be communicated in due time.

I. Current workflow for correcting SPC data of an opted-out patent-

Precondition(s)

Please note you must have filed a valid opt-out (either via API or via the CMS Front End), including relevant SPC data.

Guidance: please follow the steps below:

1) Select the application “Correction of Opt-Out” within the menu



1. Select the “RoP5 and RoP5A Applications” menu and the submenu “RoP5 Applications”
2. Within this submenu, select the item “Correction of an opt-out”

- 2) Enter the patent number (EP number) of the opted-out patent you would like to correct (1) and click start (2)

Correction of an Opt-out (RoP5.5)

In this guidance unless the context otherwise requires "patent" refers both to a granted patent and an application for a patent. Patent "proprietor" refers also to a patent applicant.

A proprietor of a patent who wishes to correct an opt-out in addition to completing this Application form must lodge a correction of opt-out document.

The correction of opt-out document and any mandate must be lodged in pdf readable format.

A correction of an opt-out may be lodged by a registered user of the CMS who is authorised by all proprietors and all holders of SPCs to lodge the correction. Such user must declare in the correction of an opt-out document that each proprietor is entitled to be registered as proprietor pursuant to RoP5.5.

If the authorised user is a representative before the UPC in accordance with Art.48 of the Agreement on a UPC a mandate authorising the correction is not required. If the user is not such a representative a mandate from all proprietors and holders of SPCs must also be lodged specifically authorising the correction in question.

A natural person who is the sole proprietor of a patent may lodge the correction without a mandate.

A correction of an opt-out must be lodged in respect of each patent where the opt-out data was incorrect.

Full and correct details as required by RoP5.3 must be included in the correction.

It is not possible to correct the patent number in the original opt-out. In this case a new application to opt out must be lodged with the correct number.

It is possible to correct all other details in the original opt-out.

Following the lodging of the correction of the opt-out the date of correction will be recorded in the opt-out register and an email acknowledgement will be sent. Details of the corrected registration will be available to the public in the correction of the opt-out document. The opt-out remains effective from the date of the Application to opt out if the omission or error the subject of the correction would have been obvious to the reasonable third party at that date. For all other corrections the opt-out shall be effective from the date of correction.

Templates

It is possible to download the following templates from the "Templates" column on the right:

Template for the correction of an opt-out document - this template sets out all information required to be lodged in your document for the correction of an opt-out

Template for the mandate

Patent Number

The patent Id for which you want to enter a correction of opt-out

- 3) Enter all the personal details (you may correct data as necessary) (1) and press complete (2)

No. 68123 / 2023

Correction pursuant to RoP5.5

Personal Details

Personal Details - Correction pursuant to RoP5.5 - Correction of an opt-out - 68123 / 2023

The personal details provided in this form must also be included in the document for the correction of an opt-out as required by RoP5.3.

Person lodging this application to correct an opt-out on behalf of each proprietor

*Indicates required data

First Name*

Last Name*

Company/Firm

Contact e-mail*

Postal Address

Address*

City*

Postcode

Country*

Registered address (for companies)

Same as postal address

Internal case reference

Internal Reference

Status of the person lodging the Application

Status of the person lodging the Application*

4) Upload the Application Form (correction template) reflecting the corrected SPC data

The screenshot shows the 'Upload document - Correction pursuant to RoP5.5 - CORRECTION_OF_OPT_OUT - 68123 / 2023' interface. It includes a 'Document Type' dropdown set to 'Application', a 'File name' field with a 'Choose File' button, a 'Document Title' field, and a 'Document description' field containing 'Correction of my previous Optout CASE 67621/2023 - Correction of SPC Id for AUSTRIA'. A callout box titled 'Extract of the Application Form – Corrected One' shows a form with 'SPC Grant Number: 4142546' highlighted in red. A warning icon points to this highlight with the text: 'We recommend to "highlight" the change(s) / correction(s) you want to introduced'.

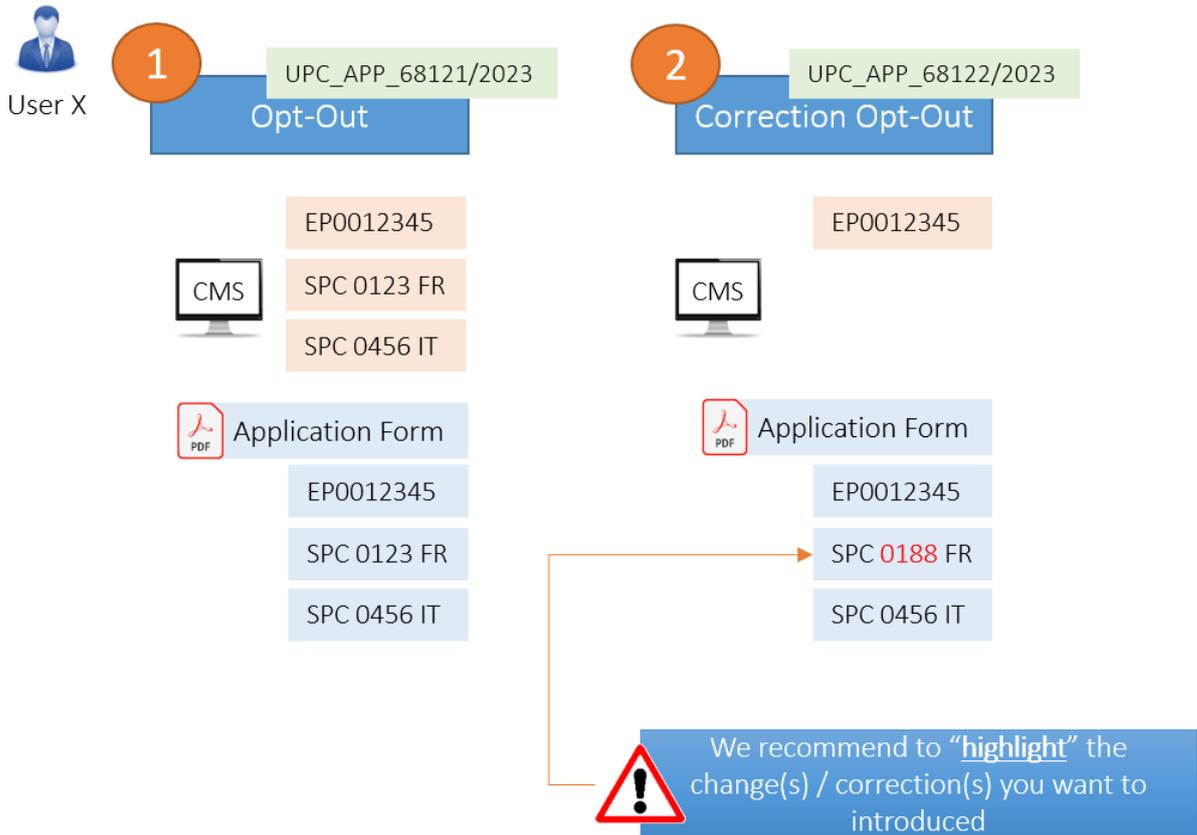
1. Select and upload the filled-in Application Form template (Correction of an opt-out) in PDF/A format and electronically signed;
2. Select "Application" as document type
3. Optional: enter description of document (do not hesitate to add some comments about the intended correction)
4. Click on "Complete"



We recommend you to highlight the corrected data within the filled-in template

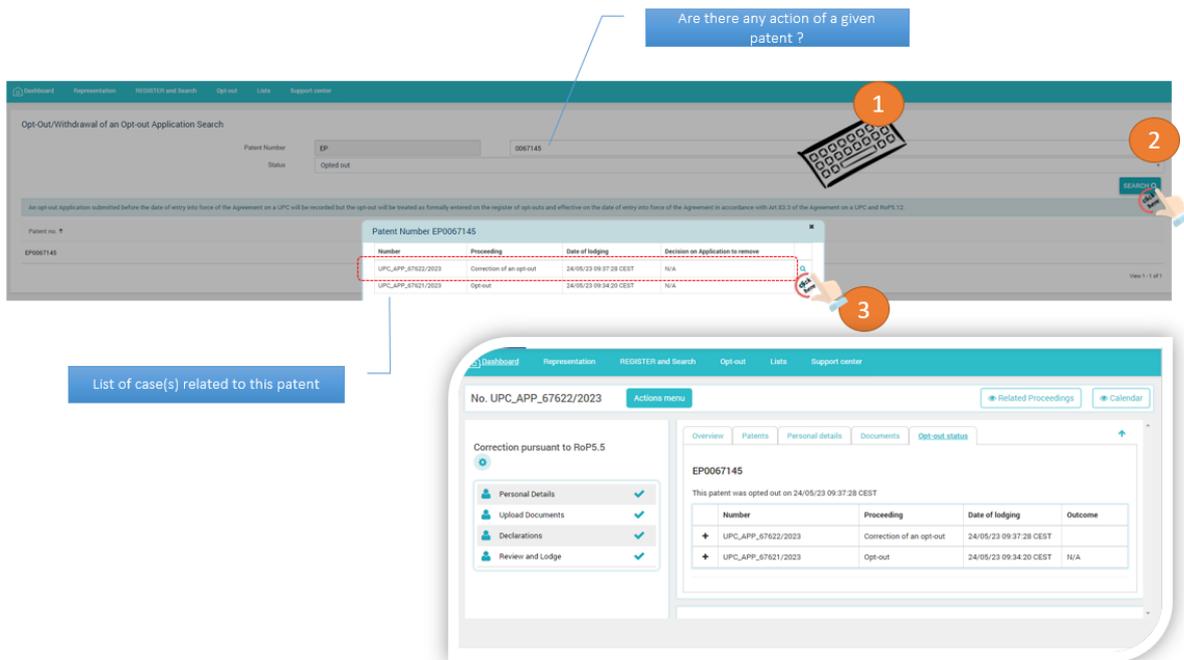
After the “correction” of your opt-out, the following situation can be depicted [the information below is for illustration purposes only]

Please note that even if the information on the SPC is neither displayed on the correction receipt generated by the CMS nor on the CMS front end (in the tab “patents”) the legally valid information, as corrected, will be contained in the filled-in correction template, which is uploaded in step 4) above.



II. Current process on consulting corrected SPC data

1. Enter the relevant patent number
2. Click on Search button
3. Within the list, you may select the information on the “original” opt-outed out patent, which will display the SPC data as originally provided.



The screenshot shows the 'Documents' tab for patent EP0067145. A table lists proceedings with columns for Number, Proceeding, Date of lodging, and Outcome. A red dashed box highlights a document entry in the table. A blue callout box with a warning icon states: 'As user different from the "owner" of the application, you do not have access to the details of this documentation'. An orange callout box with an envelope icon states: 'You need to address a request to the UPC Registrar'.

4. If you want to see the applied correction(s), select the “Correction of an opt-out” corresponding to the opted-out patent,
5. The SPC details are not displayed / available directly. To access them, please consult the corresponding Application document (available in the Documents’ tab) – **this step is valid only for the applicant who has filed the opt-out and correction**,
6. As a third party (i.e. not the applicant who filed the opted-out patent) you will not have access to the filled-in correction template under the documents’ tab.
7. To access this content, you will need to address a request to the Registrar at the following email address: LU_CoA_Registry@unifiedpatentcourt.org

Following improvement of the workflow, which will be communicated in due time you will be able to visualize the corrected SPC data directly under the tab “patents” – SPC list.