



# EPO opposition statistics: a five-year review

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European Patent Office data reveals trends in patent oppositions and outcomes, including an upward swing in revocations, explains Leythem Wall of Oxon IP

Last month the European Patent Office (EPO) Administrative Council published its [annual compendium](#) of statistics on activity at the EPO and member state offices for 2020. As well as information on patent applications and patent validations, most insightfully the report gives details on European patent oppositions and outcomes, including a breakdown by technical area.

A review of the past five years of available statistics makes interesting reading, and some trends can be clearly identified. When comparing the 2020 figures with the 2019 numbers, while some remain relatively unchanged, there are also some notable variations.



Firstly, we can see that the percentage of patents opposed has been decreasing over the past five years (figure 1). This is offset by the increasing number of patents being granted each year at the EPO, with overall typically more than 3,000 oppositions still filed annually. The average number of oppositions filed per patent appears relatively stable, though in 2020 is 5% higher than in 2019.

Another clear trend is that oppositions continue to speed up (figure 2). While the data on the average timeline is for 'standard cases' (ie excluding cases with more than one opponent, participation of a legal member or re-scheduling of oral proceedings), this appears to reflect the EPO's 'Early Certainty' target of 15 months for opposition proceedings.

Patent revocation rates have seen the most notable swing (figure 3). Typically, this has averaged around 28%, but in 2020 rose to 35%, with a corresponding decrease in the number of patents maintained in an amended form. Patent 'wounding' rates (ie, revocation of the patent or maintenance in amended form) remain at familiar levels close to 70%.

Figure 1: Patent opposition volume 2016-2020

	2016	2017	2018	2019	2020
Opposable EPs	73738	99721	107822	133714	137603
Opposed EPs	2938	3647	3416	3673	3247
% Opposed	4%	3.7%	3.2%	2.7%	2.4%
Oppositions per EP	1.24	1.24	1.24	1.22	1.28

Figure 2: Opposition timeline 2016-2020 (expiry of opposition filing period to the date of the opposition decision)

2016	2017	2018	2019	2020
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Months 24.8 22.4 (median) 20.4 (mean) 17.5 (mean) 15.4 (mean)  
(median)

*Figure 3: Opposition outcomes 2016-2020*

	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>
Patent revoked	28%	27%	27.1%	28.6%	34.8%
Patent amended	39%	41%	40.4%	41.9%	34.1%
<i>Patent wounded</i> <i>(revoked or</i>	67%	68%	67%	70.5%	68.9%
<i>amended)</i>					
Opposition rejected	33%	32%	32.5%	29.5%	31.1%

Geographically speaking, in 2020 patents belonging to parties resident in Germany were the most opposed at the EPO (1,033 oppositions filed), followed by USA (956 oppositions), Switzerland (421 oppositions), France (256 oppositions) and with Japan (224 oppositions) completing the 'top five'. The same countries have occupied the top spots for the past five years, the only exception being the Netherlands replacing France in 2018.

Technologically speaking, chemistry is consistently the most opposed area with food chemistry having the highest rate of oppositions from 2016 to 2020 with over 10% of such patents challenged each year, followed by either pharmaceuticals or polymers.

For technical areas where more than 20 oppositions are filed, the highest revocation rates last year were seen in computer technology (59%) and electrical machinery (47%). This compares with computer technology (54%) and surface technology and coatings (40%) in 2019, pharmaceuticals (43%) and telecommunications (40%) in 2018, audio-visual technology (49%) and semiconductors (38%) in 2017, and control instruments (44%) and audio-visual technology (42%) in 2016.

Correspondingly, where more than 20 oppositions are filed the highest percentage of oppositions were rejected in the fields of control instruments (52%) and mechanical elements (42%) in 2020, optic instruments (48%) and mechanical elements (42%) in 2019, chemical engineering (46%) and materials and metallurgy (43%) in 2018, furniture and games (46%) and computer technology (43%) in 2017, and thermal processes (57%) and optic instruments (52%) in 2016.

Overall, the past five years has seen relative consistency and some clear trends in oppositions at the EPO. However, with the numerous disruptions during the pandemic period and the [switch to videoconference opposition hearings as default](#), it will be interesting to see what effect this may have had in 2021, with both patentees and opponents keenly awaiting the release of those statistics next year.

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