



# **Study on the Legal Aspects of Supplementary Protection Certificates in the EU**

Annex V: SPC Statistics to Chapter 7

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# **Study on the Legal Aspects of Supplementary Protection Certificates in the EU**

Annex V: SPC Statistics to Chapter 7

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## **1 DATA OVERVIEW**

This annex supplements Chapter 7 of the study detailing the data collection efforts and presenting selected empirical findings.

### **1.1 SPC APPLICATION DATA**

The authors collected information on SPC applications in France, Germany, and the UK through the respective national register (see also Section 2) in late 2016. The resulting dataset was linked with bibliographic information on the basic patent from PATSTAT<sup>1</sup> via the application/publication number. Excluding SPC applications filed after 2015 and national SPC applications (only applicable to France), the numbers of SPC applications are the following: FR: 1,406. DE: 1,479. UK: 1,486.

### **1.2 SPC LITIGATION DATA**

To collect data on SPC litigation activities in Europe, the authors drew on the darts-IP legal database.<sup>2</sup> SPC-relevant cases were identified by searching for Supplementary Protection Certificates as the relevant point of law. Data retrieval took place in June 2017. For the period 1993 to 2015, darts-IP counts 549 unique case groups (i.e. first instance and appeals in the same judicial system count as one). The authors excluded patent-office-related cases labelled as “administrative hearing” and “opposition action”<sup>3</sup>, which reduces the sample size to 187 observations. Furthermore, cases before the ECJ and cases without SPC/patent information were dropped. The eventual number of observations at case group level is 174. Cases were linked across jurisdictions if the basic patents belong to the same INPADOC extended patent family.<sup>4</sup>

### **1.3 SPC REVOCATION DATA**

To collect full data on SPC validity challenges in Germany, the authors use the DPMAregister, which lists procedural details on administrative events at the patent office as well as revocation actions at the German Federal Patent Court. Overall, 16 granted SPC applications filed between 1993 and 2015 have been subject to at least one revocation action until November 2016. Given the fact that first, Germany’s bifurcated system does not allow for validity challenges before ordinary courts, and second, the DPMAregister receives procedural information directly from the German Federal Patent Court, the list can be considered exhaustive.

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<sup>1</sup> The authors used the PATSTAT - 2017 Autumn Edition, for more information see:

<https://www.epo.org/searching-for-patents/business/patstat.html> (last access on October 31, 2017).

<sup>2</sup> Darts-ip provides global case law data in the fields of trade mark, patent, design and domain name law, for more information see <https://www.darts-ip.com> (last access on October 31, 2017).

<sup>3</sup> This refers to opposition actions against the respective basic patent.

<sup>4</sup> For more information on how INPADOC extended patent families are defined, see: <https://www.epo.org/searching-for-patents/helpful-resources/first-time-here/patent-families/inpadoc.html> (last access on October 31, 2017).

## 2 TABLE: SPC REGISTER INFORMATION BY COUNTRY

Country Code	Link	First year	Usage	Product name / indication	Basic patent	Application filing date	Application status	Application outcome date	Lapse date / duration	Market authorization	Information	
											SPC holder / applicant	SPC holder / applicant
AT	<a href="http://seap.patentamt.at/Schutzzeitfiktasuche">http://seap.patentamt.at/Schutzzeitfiktasuche</a>	1994	N	Y	Y <sup>1</sup>	Y	Y <sup>3</sup>	Y <sup>6</sup>	Y	Y	N	
BE	<a href="http://bpb.economie.fgov.be/fo-eregister-view/search">http://bpb.economie.fgov.be/fo-eregister-view/search</a>	1993	Y	Y	Y	Y	Y	Y	Y	Y	Y	
BG	<a href="https://portal.bno.bg/bpo_online">https://portal.bno.bg/bpo_online</a>	2007	N	Y	N	Y	Y	N	N	Y	N	
CH	<a href="https://www.swissreg.ch/srclient/faces/jsp/patent/sr1.jspx">https://www.swissreg.ch/srclient/faces/jsp/patent/sr1.jspx</a>	1995	N	Y	Y	Y	Y	Y	Y	Y	Y	
CY	-	-	N	N	N	N	N	N	N	N	N	
CZ	<a href="https://isdv.upv.cz/webapp/pta_formular?lok=en">https://isdv.upv.cz/webapp/pta_formular?lok=en</a>	2000	Y	Y	Y	Y	Y <sup>3</sup>	N	Y	Y	Y	
DE	<a href="https://register.dpma.de/DPMAregister/pat/einsteiger?lang=en">https://register.dpma.de/DPMAregister/pat/einsteiger?lang=en</a>	1993	Y	Y	Y	Y	Y	Y	Y	Y	Y	
DK	<a href="http://onlineweb.dkato.dk/nysonline/Patent">http://onlineweb.dkato.dk/nysonline/Patent</a>	1993	N	Y	Y	Y	Y	Y	Y <sup>7</sup>	Y	N	
EE	<a href="http://www.epa.ee/en/databases/inventions-databases">http://www.epa.ee/en/databases/inventions-databases</a>	2001	N	Y	Y	Y <sup>2</sup>	Y <sup>4</sup>	N	Y	Y	N	
ES	<a href="http://consultas2.oepm.es/ceo/jsp/busqueda/busqRapida.xhtml">http://consultas2.oepm.es/ceo/jsp/busqueda/busqRapida.xhtml</a>	1998	N	Y	Y	Y	Y	Y	Y	Y	Y	
FI	<a href="http://patent.prh.fi/patinfo/default.asp">http://patent.prh.fi/patinfo/default.asp</a>	1994	Y	Y	Y	Y	Y	Y	Y	Y	Y	
FR	<a href="http://bases-brevets.inpi.fr/en/home.html">http://bases-brevets.inpi.fr/en/home.html</a>	1993	Y	Y	Y	Y	Y	Y	Y	Y	Y	
GR	<a href="http://www.obi.gr/obi/Default.aspx?tabid=125">http://www.obi.gr/obi/Default.aspx?tabid=125</a>	1997	Y	Y	Y	Y	Y	Y	Y	Y	N	
HR	-	-	N	N	N	N	N	N	N	N	N	
HU	<a href="http://epub.hpo.hu/e-kutatas/?lang=EN">http://epub.hpo.hu/e-kutatas/?lang=EN</a>	2004	Y	Y	Y	Y	Y	Y	Y	Y	Y	
IE	<a href="https://www.patentsoffi.ie/en/Patents/Patent-Searching/SPC-regi">https://www.patentsoffi.ie/en/Patents/Patent-Searching/SPC-regi</a>	1993	Y	Y	Y	Y	Y	N	Y	Y	Y	
IT	<a href="http://www.uibm.gov.it/uibm/dati/Bollettino.aspx">http://www.uibm.gov.it/uibm/dati/Bollettino.aspx</a>	2006	N	Y	Y	Y	Y <sup>5</sup>	Y	Y	Y	Y	
LT	<a href="http://www.vnb.lt/index.php?media=&amp;len&amp;ne=246&amp;kas=dy">http://www.vnb.lt/index.php?media=&amp;len&amp;ne=246&amp;kas=dy</a>	2004	N	Y	N	Y	Y <sup>3</sup>	N	Y	Y	Y	
LU	<a href="http://patent.public.lu/fo-eregister-view/">http://patent.public.lu/fo-eregister-view/</a>	1997	N	Y	Y	Y	Y <sup>3</sup>	Y	Y	Y	Y	
LV	<a href="http://www.lrv.gov.lv/en/inventions/databases">http://www.lrv.gov.lv/en/inventions/databases</a>	2004	Y	Y	Y	Y	Y	N	Y	Y	Y	
MT	-	-	N	N	N	N	N	N	N	N	N	
NL	<a href="http://mijnootrooi.rvo.nl/fo-eregister-view/">http://mijnootrooi.rvo.nl/fo-eregister-view/</a>	1993	Y	Y	Y	Y	Y	Y	Y	Y	Y	
NO	<a href="https://search.patentstyret.no/advanced">https://search.patentstyret.no/advanced</a>	1994	N	Y	Y	Y	Y	Y	Y	Y	Y	
PL	<a href="http://rejserv.uprn.pl/register/simpleSearch?lang=en">http://rejserv.uprn.pl/register/simpleSearch?lang=en</a>	2004	N	Y	Y	Y	Y	Y	Y	Y	Y	
PT	<a href="http://servicosonline.inpi.pt/pesquisas/main/patentes.jsp?lang=EN">http://servicosonline.inpi.pt/pesquisas/main/patentes.jsp?lang=EN</a>	1998	Y	Y	Y	Y	Y	Y	Y	Y	Y	
RO	<a href="http://www.osim.ro/index3_files/publi/publi.htm">http://www.osim.ro/index3_files/publi/publi.htm</a>	2007	Y	Y	Y	Y	Y <sup>3</sup>	N	Y	Y	Y	
SE	<a href="http://was.prv.se/spd/search">http://was.prv.se/spd/search</a>	1994	N	Y	Y	Y	Y <sup>3</sup>	Y	Y	Y	Y	
SK	<a href="https://wbr.indprop.gov.sk/WebRegistre/DoDataKoveOchrAnneOsved">https://wbr.indprop.gov.sk/WebRegistre/DoDataKoveOchrAnneOsved</a>	2002	Y	Y	Y	Y	Y	N	Y	Y	Y	
SL	<a href="http://www2.uil.si/ipo/si/Que031.stm">http://www2.uil.si/ipo/si/Que031.stm</a>	2004	N	Y	Y	Y	Y	Y	Y	Y	Y	
UK	<a href="https://www.ipso.gov.uk/p-find-spc">https://www.ipso.gov.uk/p-find-spc</a>	1993	Y	Y	Y	Y	Y	N	Y	Y	Y	

<sup>1</sup> via E-Number

<sup>2</sup> year of application

<sup>3</sup> if granted

<sup>4</sup> list includes only grants

<sup>5</sup> if granted or pending

<sup>6</sup> at least if granted

<sup>7</sup> if lapsed

Table 2.1: SPC register information by European Union member states + CH and NO



### 3 FIGURES

#### 3.1 SPC APPLICATION FILINGS

##### 3.1.1 Annual SPC application filings by usage type

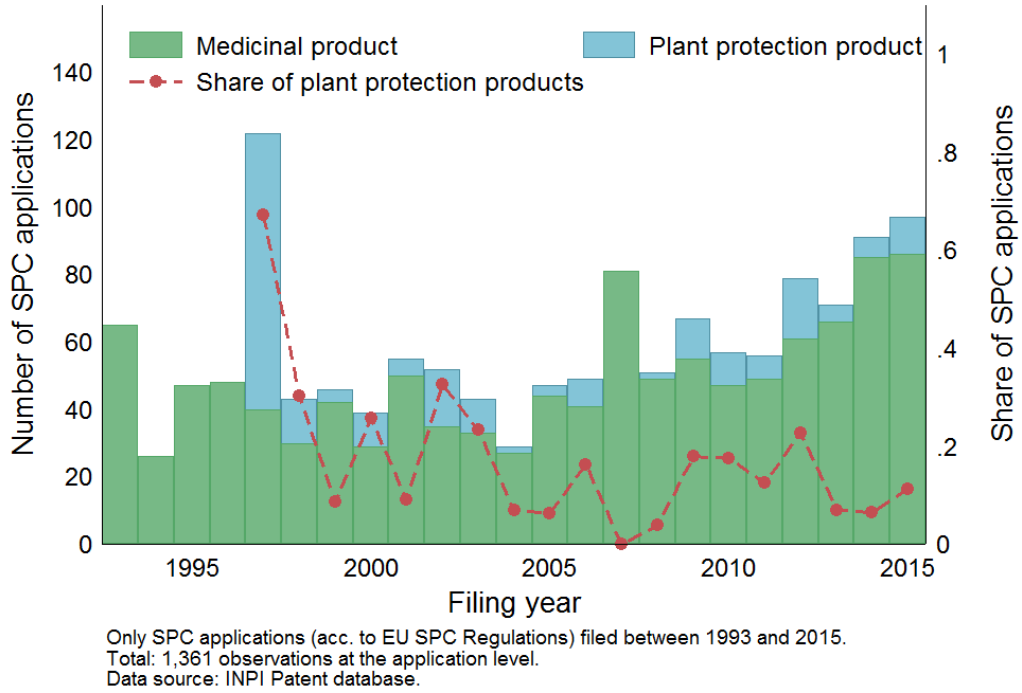


Figure 3.1: SPC application filings by usage type (France)

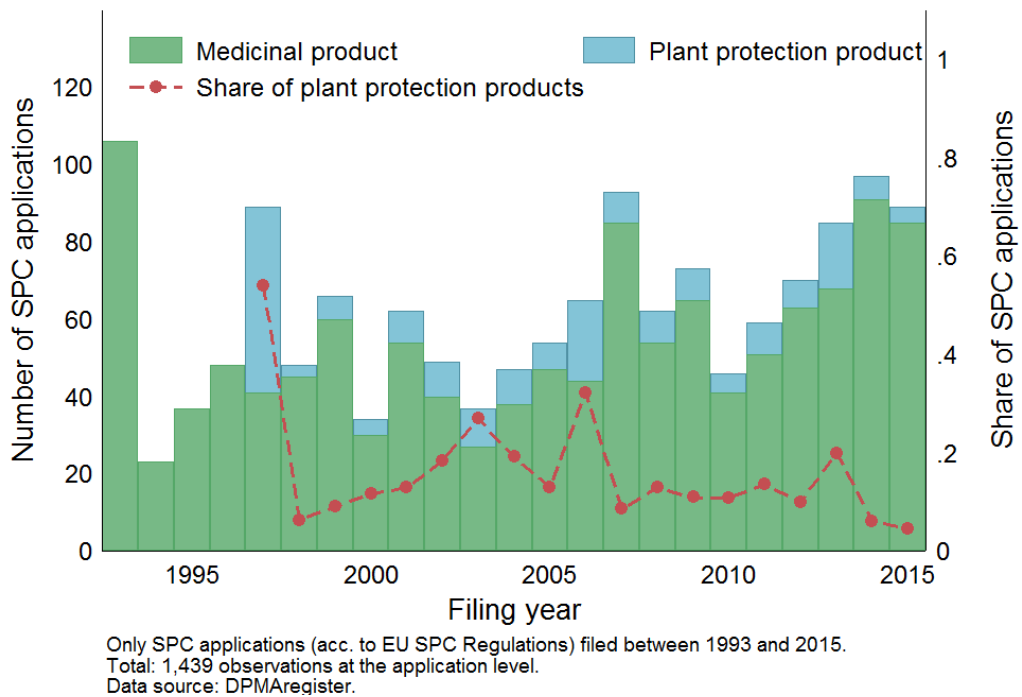
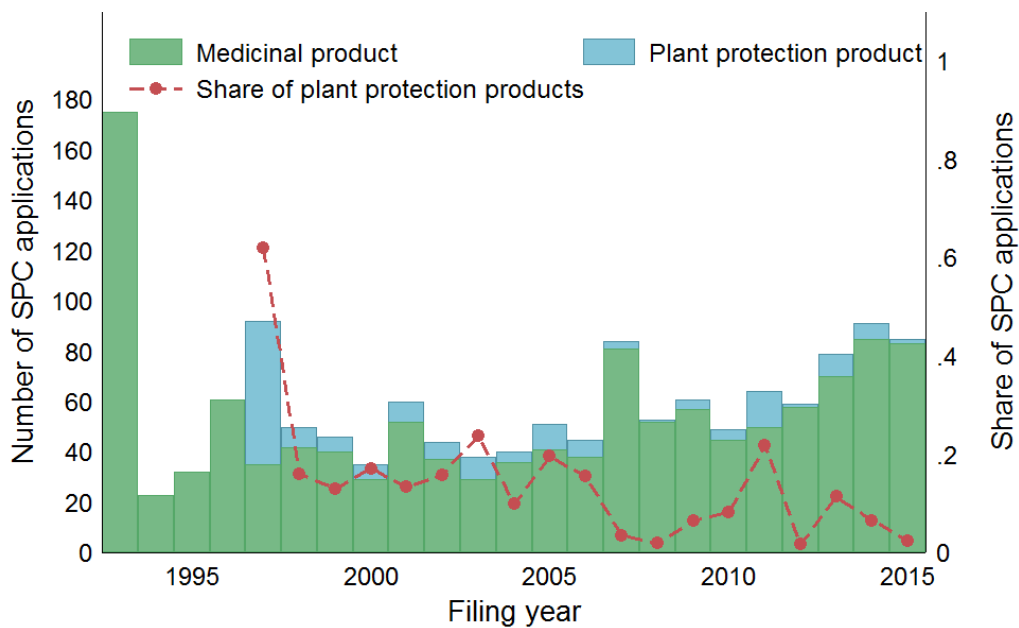


Figure 3.2: SPC application filings by usage type (Germany)



Only SPC applications (acc. to EU SPC Regulations) filed between 1993 and 2015.  
 Total: 1,417 observations at the application level.  
 Data source: IPO (UK) SPC search.

Figure 3.3: SPC application filings by usage type (UK)

3.1.2 Annual SPC application filings by granting authority of basic patent

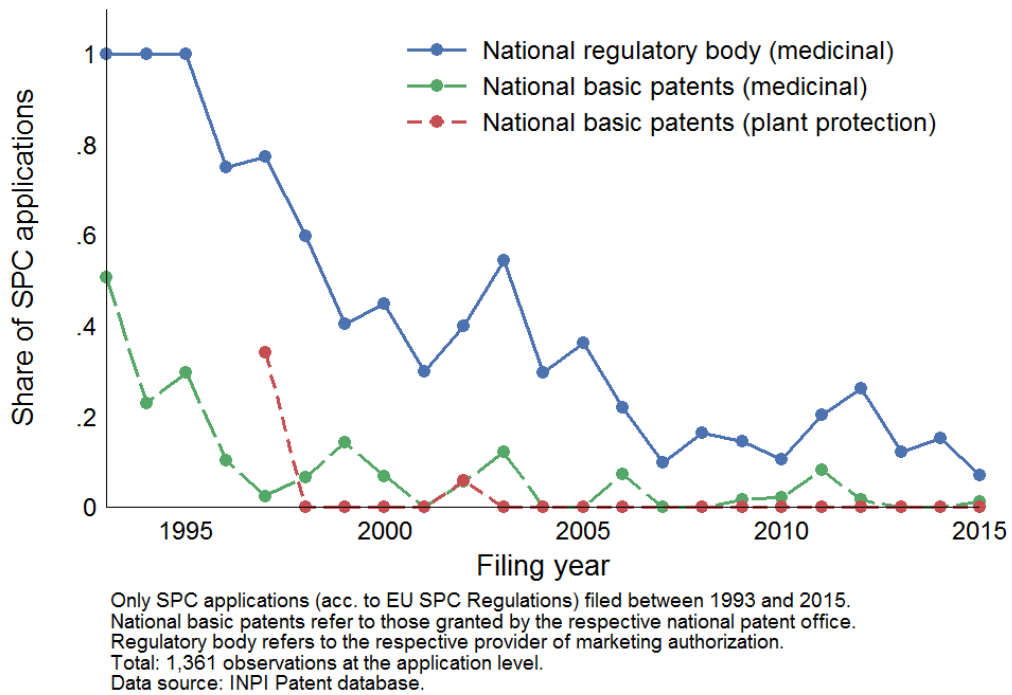


Figure 3.4: SPC application filings by granting authority of basic patent and regulatory body of marketing authorization (France)

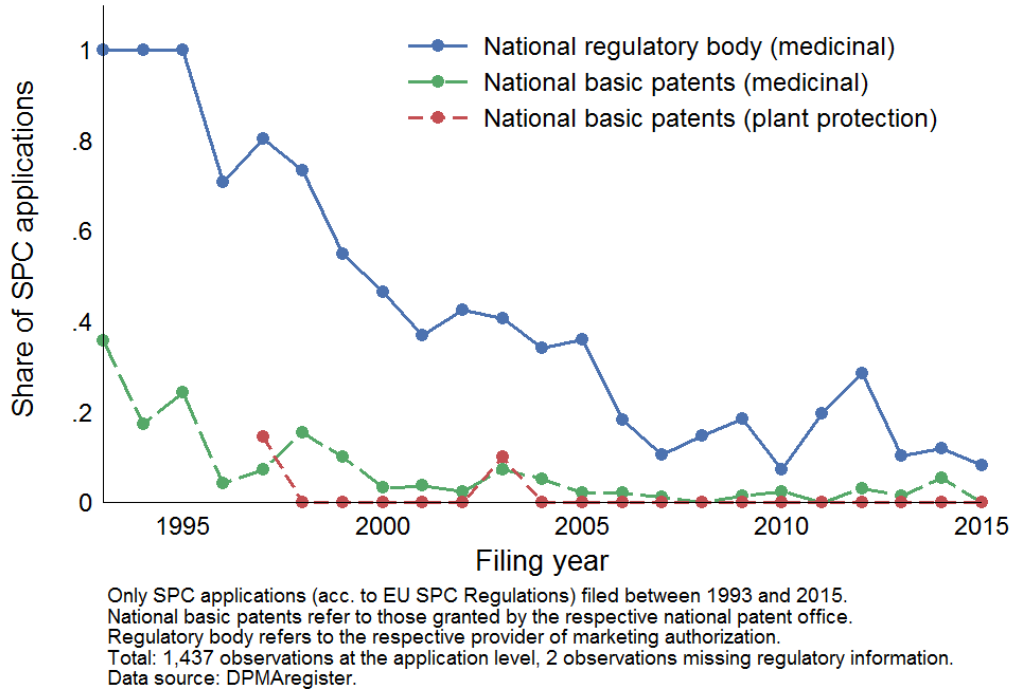
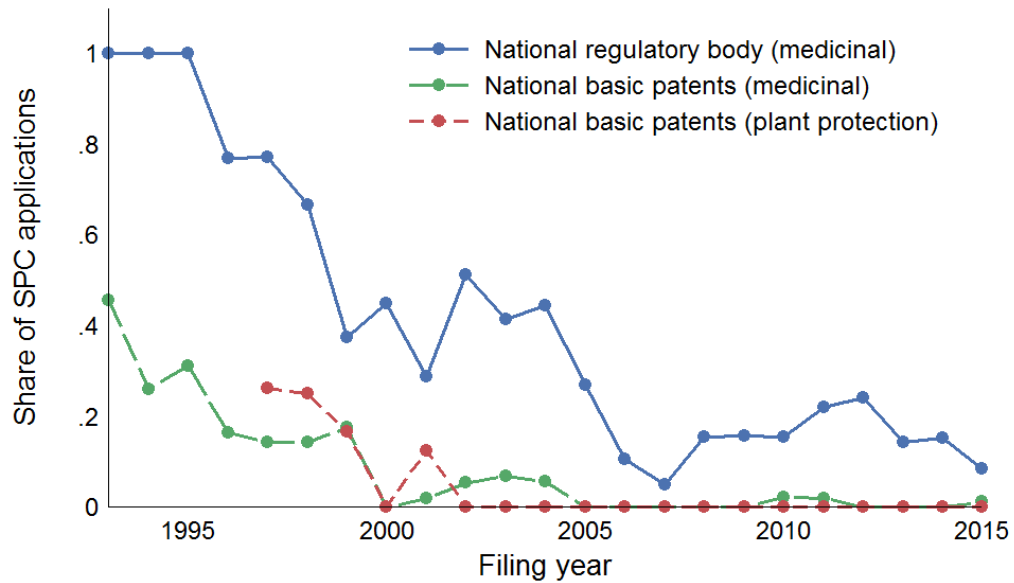


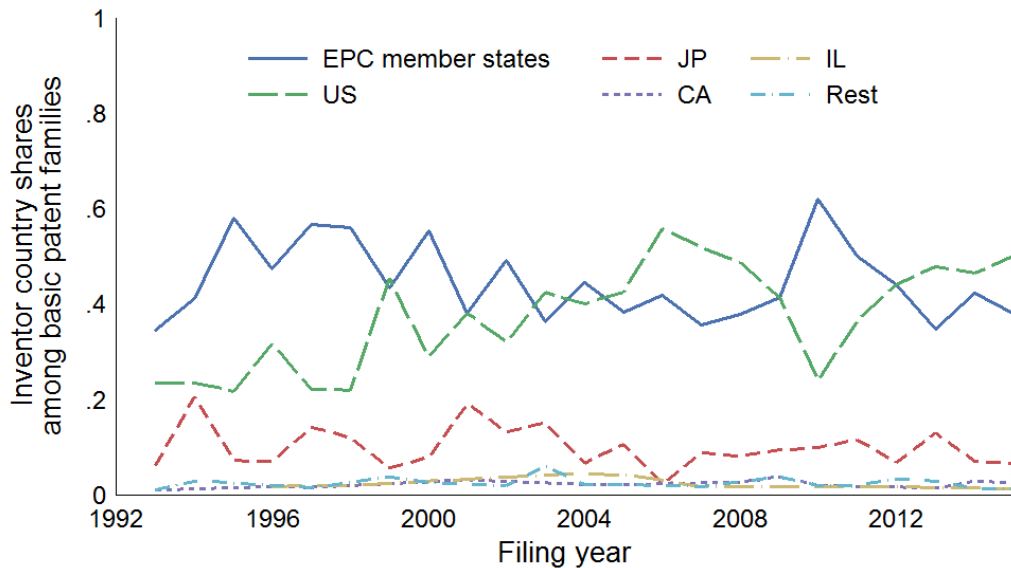
Figure 3.5: SPC application filings by granting authority of basic patent and regulatory body of marketing authorization (Germany)



Only SPC applications (acc. to EU SPC Regulations) filed between 1993 and 2015. National basic patents refer to those granted by the respective national patent office. Regulatory body refers to the respective provider of marketing authorization. Total: 1,417 observations at the application level. Data source: IPO (UK) SPC search.

Figure 3.6: SPC application filings by granting authority of basic patent and regulatory body of marketing authorization (UK)

### 3.1.3 Inventor countries distributions of basic patent families



Basic patents of SPC applications (acc. to EU SPC Regulations) filed between 1993 and 2015 in either France, Germany or the UK. Country refers to first inventor in patent publication. Filing year refers to (first) SPC application. EPC member states as of 2017. Total: 1,334 observations at the patent family level, 98 observations missing country information. Data source: PATSTAT - 2017 Spring Edition, INPI Patent database, DPMAregister, IPO (UK) SPC search.

Figure 3.7: Share of inventor countries among SPC basic patent families

### 3.2 SPC GRANTING PRACTICES

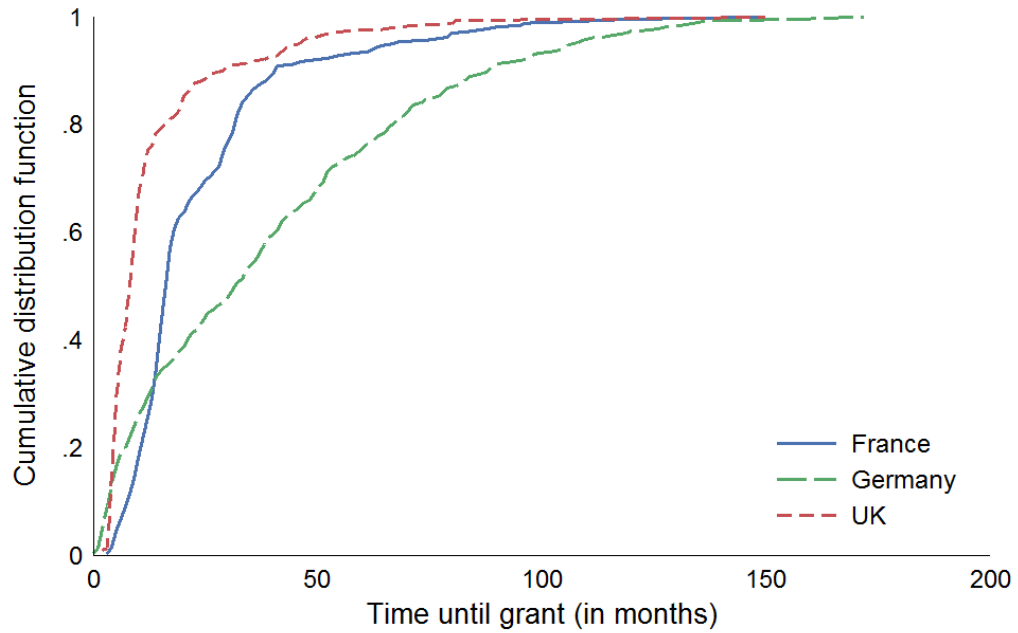


Figure 3.8: SPC application pendency until grant by country (cumulative distribution function)

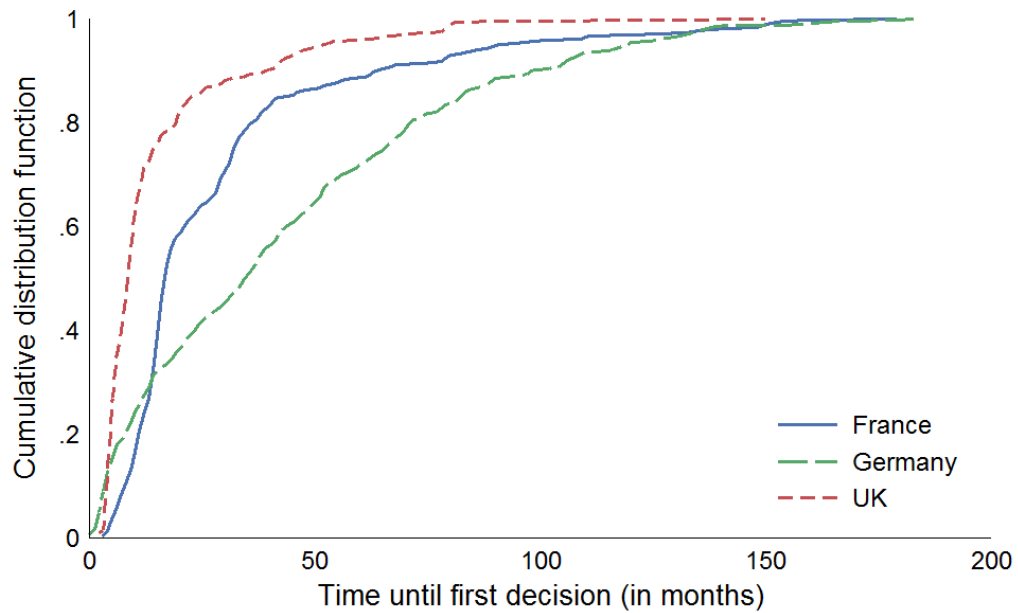


Figure 3.9: SPC application pendency until first decision by country (cumulative distribution function)



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