



EUROPEAN PATENT AND
TRADEMARK ATTORNEYS

European champions: the private practice teams that dominate EPO oppositions

This article analyses the private firms that are
most active in EPO opposition.



While Hoffmann Eitle sits in top place, overall UK outfits are beginning to supplant those from Germany. Wannes Weymiens of NLO takes a detailed look at which private practice firms are retained as representatives by patentees and opponents at EPO oppositions proceedings.

Oppositions at the EPO are complex and very different to examination proceedings. As a result, companies often opt for representatives with specific oppositions skillsets. The attributes required to successfully represent patentees may even differ from those required to represent opponents. Choosing the appropriate representative for each of these scenarios is, therefore, a major call.

This article focuses on analysing which private practice firms have the most experience in opposition cases, either representing the patentee or the opponent, throughout the 2017-2019 period. An opposition is counted in the year the first notice of opposition is filed. The firms analysed throughout this article are those that acted as representatives in more than 1% of the oppositions in 2016 (source: [EPO opposition: private practice patent firm's engagement](#)).

Figures 1-3 show the top 20 private practice firms ranked according to the percentage of total opposition proceedings they were involved in during 2017, 2018 and 2019, respectively. Also included is a breakdown for the percentage of patentee representations and opponent representations. Note that only one representative can act for the patentee per opposition, while multiple opponent representatives may contribute to a single opposition.

Figure 1 Top 20 private practice firms acting as patentee or opponent representatives in 2017.

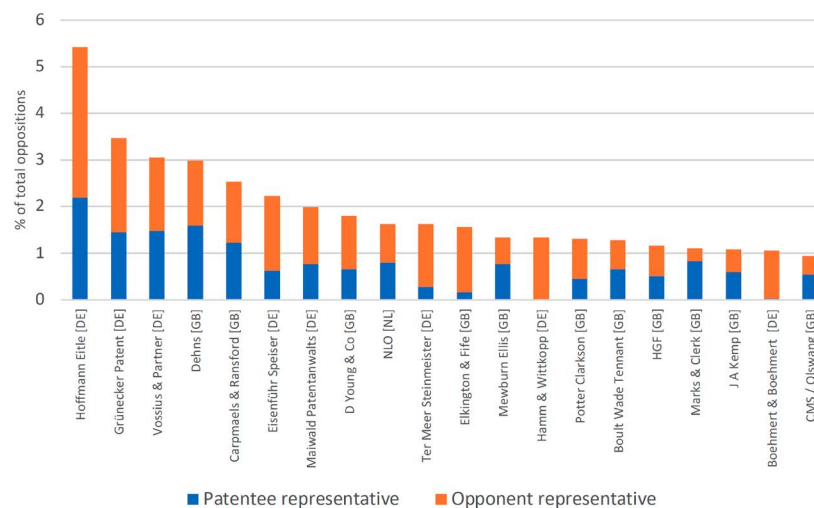


Figure 2 Top 20 private practice firms acting as patentee or opponent representatives in 2018.

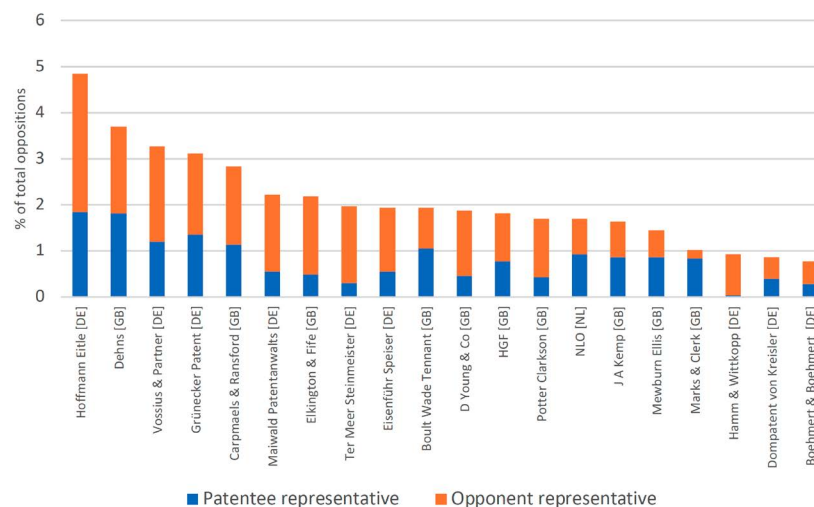
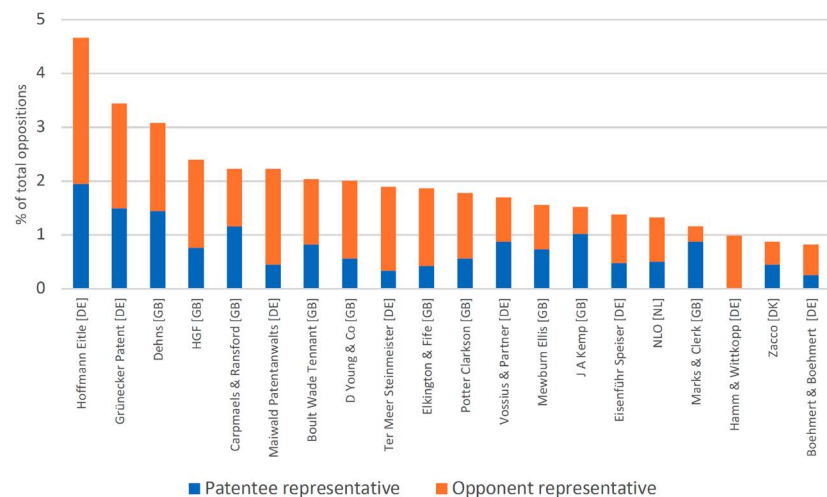


Figure 3 Top 20 private practice firms acting as patentee or opponent representatives in 2019.



Unsurprisingly, most of the top 20 private firms in the opposition rankings are from Germany or the UK. The ones appearing in these rankings remained largely unchanged between 2017 and 2019, with the exception of CMS being replaced by Dompotent von Kreisler in 2018, and again by Zacco in 2019.

UK representation in the top 10 has grown from three in 2017 (Dehns, Carpmaels & Ransford and D Young & Co) to six in 2019 (those three plus HGF, Boult Wade Tennant and Elkington & Fife).

German firm representation is moving the other way, from six in 2017 (Hoffmann Eitle, Grünecker Patent, Vossius & Partner, Eisenführ Speiser, Maiwald Patentanwalts and Ter Meer Steinmeister) to four in 2019, with Vossius & Partner and Eisenführ Speiser out of the top 10.

Hoffmann Eitle ranked first for all of the 2017-2019 period. However, the percentage of total oppositions in which this firm was involved decreased from 5.4% in 2017 to 4.7% in 2019.

Both Grünecker Patent and Dehns, the latter being consistently the highest ranked UK firm, appear in the top four throughout the 2017-2019 period, and were involved in around 3% of the total oppositions. In addition, Carpmaels & Ransford remained in fifth position throughout the analysed years, consistently acting as representative in more than 2% of the total opposition proceedings.

HGF steadily increased in importance as a representative, rising from 16th position in 2017 to 12th position in 2018, before entering the top 10 in 2019 in fourth position. This dramatic growth was mainly due to an increase in representation of opponents, which more than doubled during the period. This upward trend also applies to another UK firm, Boult Wade Tennant, which increased from the 15th position in 2017 to 10th in 2018 and finally to seventh in 2019, once more mainly due to an increased opponent representation.

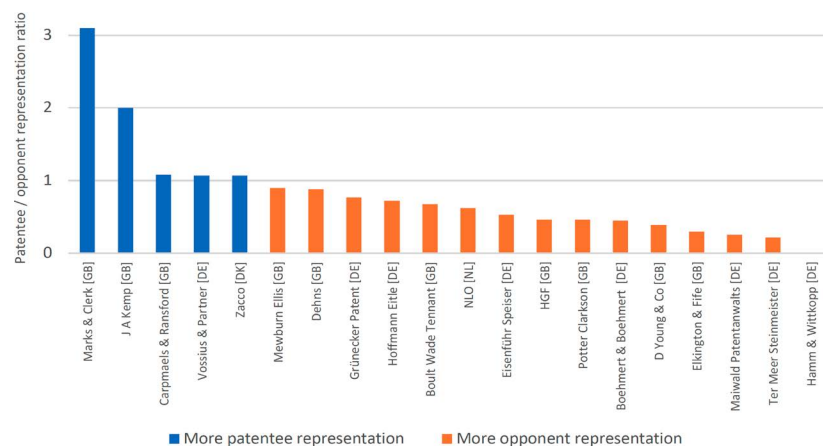
The rise of UK firms is counter-balanced by a steady decrease for some German firms. First and foremost, Vossius & Partner decreased from third place in 2017 and 2018 to twelfth in 2019, due to a decrease in both patentee and opponent representation. It's a similar trend for Eisenführ Speiser, which fell from sixth in 2017 to ninth in 2018 and finally to 15th in 2019, in this case mainly caused by a drop in opponent representation.

Thus, while UK firms such as HGF and Boult Wade Tennant improved their position in the top 20 ranking because of an increased opponent representation, the reverse trend applies for some German firms. This has a crucial impact on the overall rankings, which shift towards a more UK-centred position.

The first non-German, non-UK firm in all of 2017-2019 rankings was consistently the same: NLO from the Netherlands; although it fell from ranking ninth in 2017 to 14th in 2018 and 16th in 2019. The only other non-German, non-UK firm in the top 20 is Scandinavian firm Zacco, appearing in 2019 in 19th position. This underlines the persistent dominance of German and UK firms in opposition proceedings.

Most firms in the top 20 exhibit a balanced distribution of representing patentees and opponents. However, some firms clearly stand out, acting mainly, or even exclusively, in one of these two roles. This is analysed further for 2019 in Figure 4.

Figure 4 Patentee/opponent representation ratio for the top 20 firms in EPO opposition in 2019.



A patentee/opponent representation ratio of 1 represents a perfect one-to-one balance of patentee and opponent representation, with values above 1 indicating a greater share of patentee representations for that firm. Most firms have a ratio below 1, meaning that they are involved mainly as opponent representative in EPO opposition procedure. This is understandable given that single opposition procedures can have multiple opponents, each with its own representative.

UK firms Marks & Clerk and JA Kemp predominantly focus on the representation of patentees. In contrast, the German firms Hamm & Wittkopp, Ter Meer Steinmeister and Maiwald Patentanwalts occupy the last positions in this ranking, meaning that they are mainly focused on opponent representation.

Strikingly, Hamm & Wittkopp only represented opponents for oppositions filed in the 2017-2019 period. Thus, even though most firms strike a more-or-less even balance between patentee and opponent representation, some firms are primarily used for one role and may be considered to specialise in that specific role.

The general trend that German firms have a stronger position in representing opponents, while UK firms have a slight increased tendency to represent patentees, is noteworthy - although that is mainly caused by the top two in the list.

Some high-ranking UK firms, such as HGF and Boult Wade Tennant, have increased their share in opponent representation, something that encapsulates the upward trend of opponent representation by UK firms. Nonetheless, the traditional preference in selecting German firms for filing offensive oppositions seems still to be in place.

Among the non-German non-UK firms, it is interesting to note that Scandinavian outfit Zacco has a greater share of patentee representation in opposition. While Dutch firm NLO has about the same amount of patentee representation as Zacco in absolute amounts in 2019 (see Figure 3), it benefits from a greater share of opponent representation, which is – again – the cause of its higher ranking (16th v 19th in 2019). This shows that the overall trend that improvement in the ranking is mainly achieved by increasing share in opponent representation.

The rise of UK firms

The top 20 of private practice firms active in opposition procedures before the EPO is still dominated by German and UK firms, with NLO from the Netherlands and Scandinavia's Zacco the sole exceptions to the rule.

While most firms appearing in the top 20 ranking were largely the same between 2017 and 2019, their position the ranking does appear to be moving towards a more UK-centred scenario in detriment to German firms. An improved position in the ranking is mainly caused by an increase in opponent representations.

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I joined NLO as a trainee patent attorney in 2011 and have since developed into an all-round advisor on patents. As well as easily being able to switch from one field of technology to another, I can also switch from being a strategic advisor with a helicopter view to being a sparring partner. All with the aim of protecting your new technology as effectively as possible. One of the aspects I personally enjoy most in my work is luckily what I do on a regular basis: defending or opposing patents during a hearing at the European Patent Office.

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