

GERMANY

Status as of November 2005

FEATURES	STATUS	CHANGES IN LAWS SINCE 1990
Types of protection for inventions	<ul style="list-style-type: none">• Patents• Utility models	N.A
Term of protection	<ul style="list-style-type: none">• Patents: 20 years• Utility models: 10 years • Extension of patent term is possible on the following grounds:<ul style="list-style-type: none">- Supplementary protection certificates based on a regulatory approval for pharmaceuticals or agricultural chemicals	April 1, 1993 – Introduction of supplementary protection certificates.
Subject matters excluded from patentability or not considered to be inventions	<ul style="list-style-type: none">• The following subject matters are excluded from patentability:<ul style="list-style-type: none">- Plant and animals varieties- Inventions contrary to morality/public order • The following subject matters are not considered to be inventions:<ul style="list-style-type: none">- Discoveries- Scientific theories/mathematical methods- Aesthetic creations- Mental acts- Presentation of information- Computer programs- Business methods • The following subject matters are not considered to be industrially applicable:<ul style="list-style-type: none">- Diagnostic, therapeutic and surgical methods for the treatment of humans and animals	February 28, 2005 – Introduction of new provisions regarding biotechnological inventions that substantiate and tighten the requirements for legal protection of biotechnological inventions.

Filing language	<ul style="list-style-type: none"> Filing an application in languages other than an official language is possible. The time limit to provide translation into the official language is 3 months. 	November 1, 1998 – Before that date, it was not possible to file an application in languages other than the official language.
Certain requirements relating to filing	<ul style="list-style-type: none"> The inventor rarely waives his right to be mentioned in the patent. It is not possible to file provisional applications. The most frequent route used for foreign applicants to file patent applications is the Paris Convention. 	No
Link between different inventions in the same application	<ul style="list-style-type: none"> The applicable law allows that the claims in a patent application relate to a group of inventions so linked as to form a single general inventive concept. The applicable standard is the unity of invention. 	November 1, 1998 – The law expressly includes provisions on this issue.
Publication	<ul style="list-style-type: none"> The information related to the application is published or open for public access 18 months from the date of filing or from the priority date. 	No
Classification system	<ul style="list-style-type: none"> The patent classification system used is the International Patent Classification (IPC) system 	N.A
Search and examination	<ul style="list-style-type: none"> The applicable law for patents establishes a substantive search and examination system. The substantive examination must be requested within 7 years from the filing of the application. It includes the necessary search. If the applicant fails to file this request for examination within the time limit, the application is deemed withdrawn. The patent applicant can request a separate search before or together with the request for examination. The applicable law for utility models establishes an examination as to obvious defects and a substantive search system. The search is conducted on request only. The request can be filed at any time as long as the application is pending. During the examination procedure, the following criteria are examined: <ul style="list-style-type: none"> Patents: <ul style="list-style-type: none"> - Novelty - Inventive step/non obviousness - Industrial applicability/utility - Technical invention - Subject matter not excluded from patentability - Unity of invention Utility Models: <ul style="list-style-type: none"> - Technical invention - Subject matter not excluded from patentability - Unity of invention 	N.A

Specific legal provision regarding ownership of patents derived from public (government) research funding	<ul style="list-style-type: none"> • No 	No
Exceptions to exclusive rights conferred by a patent	<ul style="list-style-type: none"> • There are exceptions to the exclusive rights conferred by a patent as follows: <ul style="list-style-type: none"> - Private use - Compulsory licenses - Governmental use - Research and/or experimental exception - Preparation of medicines in accordance with medical prescriptions by physicians - Prior user's right - Exceptions of Article 5ter of the Paris Convention - Exceptions of Article 27 of the Convention on International Civil Aviation of December 7, 1944 	No
Options to challenge a patent	<ul style="list-style-type: none"> • There are the following options to challenge <ul style="list-style-type: none"> A patent: <ul style="list-style-type: none"> - Post-grant administrative/quasi judicial procedure (opposition) within 3 months from the publication of the grant - Court proceedings: declaration of nullity at any time after the 3 months opposition period A utility model: <ul style="list-style-type: none"> - Post-grant administrative/quasi judicial procedure (declaration of nullity) within no time limit 	No