

**GERMAN PATENT AND
TRADE MARK OFFICE**
(*DEUTSCHES PATENT- UND MARKENAMT*)
AS
DESIGNATED (OR ELECTED) OFFICE

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List of abbreviations:

Office:	German Patent and Trade Mark Office
PatG:	Patent Law 1981 [<i>Patentgesetz 1981</i>]
GebrMG:	Utility Model Law [<i>Gebrauchsmustergesetz</i>]
IntPatÜG:	Law on International Patent Treaties [<i>Gesetz über Internationale Patentübereinkommen</i>]
PatKostG:	Law on Patent Charges [<i>Patentkostengesetz</i>]

SUMMARY**Designated
(or elected) Office****SUMMARY****DE****GERMAN PATENT AND
TRADE MARK OFFICE****DE****Summary of requirements for entry into the national phase**

Time limits applicable for entry into the national phase:	Under PCT Article 22(1): 30 months from the priority date Under PCT Article 39(1)(a): 30 months from the priority date
Translation of international application required into: ¹	German
Required contents of the translation for entry into the national phase: ¹	Under PCT Article 22: Description, claims (if amended, both as originally filed and as amended, together with any statement under PCT Article 19), any text matter of drawings, abstract Under PCT Article 39(1): Description, claims, any text matter of drawings, abstract (if any of those parts has been amended, both as originally filed and as amended by the annexes to the international preliminary examination report)
Is a copy of the international application required?	No
National fee:	Currency: Euro (EUR) For patent: Filing fee: ² EUR 60 Annual fee for the third year: ³ EUR 70 For utility model: Filing fee: ² EUR 40
Exemptions, reductions or refunds of the national fee:	No filing fee is payable if the international application was filed with the German Patent and Trade Mark Office as receiving Office. The fee for requesting examination is reduced where an international search report has been established.

[Continued on next page]

¹ Must be furnished within the time limit applicable under PCT Article 22 or 39(1). A translation of the abstract is not required in case of a utility model application.

² Must be paid within the time limit applicable under PCT Article 22 or 39(1).

³ It is due on the last day of the month containing the second anniversary (24 months) of the international filing date. If the applicant does not initiate early entry into the national phase, he does not have to pay the third annual fee before the expiration of the 30-month time limit under PCT Article 22(1) or 39(1)(a). In that case, the third annual fee may be paid without surcharge before the expiration of the second month after the expiration of the 30-month time limit. If the third annual fee is not paid within this two-month time limit, the fee may still be paid with a surcharge before the expiration of the sixth month after the expiration of the 30-month time limit.

SUMMARY**Designated
(or elected) Office****SUMMARY****DE****GERMAN PATENT AND
TRADE MARK OFFICE****DE***[Continued]*

Special requirements of the Office
(PCT Rule 51*bis*):⁴

Where the applicant is a legal entity, indication of the name of an officer representing that entity

Declaration concerning the inventor and the right of the applicant to apply for a patent⁵

Appointment of an agent if the applicant is not resident in Germany

If the international application is for a patent and a utility model, the translation and the power of attorney must be furnished in duplicate

Furnishing, where applicable, of a nucleotide and/or amino acid sequence listing in electronic form

Furnishing of any missing indication of the address and residence of each of the applicants

Who can act as agent?

In case an agent is required (because the applicant is a non-resident): Any patent attorney or attorney-at-law⁶ resident in Germany or a national of a member State of the European Union or of a State party to the Agreement on the European Economic Area authorized to pursue certain professional activities (see Law on the Qualifying Examination for Gaining Admission to the Profession of Patent Attorney and Law on the Professional Activities of European Lawyers in Germany), provided that a patent attorney or attorney-at-law,⁶ resident in Germany, has been authorized to receive service of official communications

Otherwise: Any natural person resident in Germany

Does the Office accept requests for
restoration of the right of priority
(PCT Rule 49*ter.2*)?

No

⁴ If not already complied with within the time limit applicable under PCT Article 22 or 39(1), the Office will invite the applicant to comply with the requirement within a time limit fixed in the invitation.

⁵ This requirement may be satisfied if the corresponding declaration has been made in accordance with PCT Rule 4.17.

⁶ The list of patent attorneys may be obtained from the Patentanwaltskammer (Chamber of Patent Attorneys), Postfach 260108, 80058 Munich, Germany, and the list of attorneys-at-law from the Bundesrechtsanwaltskammer (Chamber of Attorneys-at-Law), Littenstrasse 9, 10179 Berlin, Germany.

THE PROCEDURE IN THE NATIONAL PHASE

- DE.01 **TRANSLATION (CORRECTION).** Errors in the translation of the international application can be corrected with reference to the text of the international application as filed (see paragraphs 57 and 58 of the General Part of this Volume). If the translation furnished to the Office contains only the description, the Office will invite the applicant to furnish the missing part and will excuse the late furnishing provided that the scope of the disclosure contained in the translation furnished to the Office is not broadened thereby.
- IntPatÜG Art. III
Sec. 4(2) DE.02 **FEES (MANNER OF PAYMENT).** The manner of payment of the fees indicated in the Summary and in this Chapter is outlined in Annex DE.I.
- PatG Sec. 37 DE.03 **DECLARATION CONCERNING THE INVENTOR AND THE RIGHT OF THE APPLICANT TO APPLY FOR A PATENT.** For details, see the model of such declaration (not an official form) in Annex DE.II. Legalization is not required. For time limits, see the Summary.
- PatG Sec. 25 DE.04 **POWER OF ATTORNEY.** An agent must be appointed by filing a power of attorney. A model is given in Annex DE.III.
- PatG Sec. 17
PatKostG Sec. 3(2)
7(1) DE.05 **ANNUAL FEES.** They are payable for the third and each subsequent year following the international filing date before the expiration of the last day of the month in which the anniversary of the international filing date occurs. The fees may be paid before the expiration of the second month after the due date. Where the fee is not paid within the two-month time limit, payment can still be made with a surcharge before the expiration of the sixth month after the due date. If the applicant does not initiate early entry into the national phase, he does not have to pay the third annual fee before the expiration of the 30-month time limit under PCT Article 22(1) or Article 39(1)(a). In that case, the third annual fee may be paid without surcharge before the expiration of the second month after the expiration of the 30-month time limit. If the third annual fee is not paid within this two-month time limit, the fee may still be paid with a surcharge before the expiration of the sixth month after the expiration of the 30-month time limit. The amounts of the annual fees and of the surcharge are indicated in Annex DE.I.
- PatG Sec. 44 DE.06 **REQUEST FOR EXAMINATION.** A patent will be granted only after examination as to patentability which may be requested by the applicant or by a third party. There is no special form for the request.
- PatG Sec. 44(2) DE.07 **TIME LIMIT FOR REQUESTING EXAMINATION.** Examination must be requested within seven years from the international filing date.
- PatKostG Sec. 3(1)
5(1)
IntPatÜG Art. III
Sec. 7 DE.08 **FEE FOR REQUESTING EXAMINATION.** Within the time limit for requesting examination a fee for requesting examination must be paid. Processing of the request for examination will only start after the fee for requesting examination has been paid. The amount of the said fee is indicated in Annex DE.I. It is reduced where an international search report has been established.
- PCT Art. 28
41
PatG Sec. 38 DE.09 **AMENDMENT OF THE APPLICATION; TIME LIMITS.** The following amendments may be made in the national phase provided that the scope of the subject matter of the application is not broadened:
- (i) until a request for examination is filed: correction of obvious mistakes, remedying of any defect pointed out by the Examining Section, amendments to the claims;
 - (ii) up to the decision to grant a patent: amendments to any part of the application.

It is to be noted that, during opposition procedure following the grant of the patent, amendments to the description, claims or drawings may still be made, but only within the scope of the patent as granted.

PCT Art. 25
PCT Rule 51
IntPatÜG Art. III
Sec. 5
PatG Sec. 65(1)
73

DE.10 REVIEW UNDER ARTICLE 25 OF THE PCT. The applicable procedure is outlined in paragraphs 63 to 66 of the General Part of this Volume. If, upon review under PCT Article 25, the Office denies an error or omission on the part of the receiving Office or the International Bureau, an appeal against this decision may be lodged within one month from the date of receipt of the decision. Within the same one-month time limit, a fee for appeal must be paid. The Federal Patent Court will then decide on the appeal.

PCT Art. 24(2)
48(2)
PatG Sec. 123
123a
GebrMG Sec. 21

DE.11 EXCUSE OF DELAYS IN MEETING TIME LIMITS. Reference is made to paragraphs 67 to 71 of the General Part of this Volume. Reinstatement may be requested where the applicant, through no fault of his own, has failed to comply with a time limit during the international phase or before the Office and non-observance of the time limit is detrimental to his rights. Reinstatement is excluded, however, where the missed time limit is the time within which the application is to be filed if priority of an earlier German application is claimed, whereas reinstatement may be requested if priority of an earlier foreign application is claimed. A request for reinstatement must be presented in writing within two months after the removal of the cause of the failure to perform the action but not later than one year from the expiration of the time limit which has not been observed. Within these two months, the omitted act must be completed and the request must state the facts which justify the reinstatement; these facts must be substantiated [*glaubhaft machen*]. Since 1 January 2005, it is possible to request further processing of the application if the application has been rejected following a failure to observe a time limit fixed by the Office. The request for further processing shall be filed within one month after notification of the decision to reject the application. The omitted act must be completed within this time limit and a fee must be paid. The amounts of fees for further processing are indicated in Annex DE.I. Reinstatement of rights in respect of the time limit to request further processing is not possible.

PCT Art. 4(3)
43
44
PCT Rules 49bis.1
(a) and (b)
76.5
GebrMG Sec. 4

DE.12 UTILITY MODEL. If the applicant wishes to obtain utility model registration in Germany on the basis of an international application

- (i) instead of a patent or
- (ii) in addition to a patent,

for international applications filed before 1 January 2004, this must have been indicated in the international application (in Box No. V of the request) when filed; for international applications filed on or after 1 January 2004, since the request form no longer provides for the furnishing of such an indication, the applicant, when performing the acts referred to in PCT Article 22 or 39(1), shall so indicate to the designated Office. Where no special acts are required for entry into the national phase, because the Office is both the receiving Office and designated Office, *and* the application was filed in the German language, the applicant shall nonetheless be responsible for the timely execution of his right of choice under PCT Rule 49bis.1.

DE.13 If the international application is for a utility model instead of a patent (see the case referred to in paragraph DE.12(i)), the requirements are basically the same as for patents except that the applicant is not required:

- (i) to furnish a translation of the abstract,
- (ii) to furnish a declaration concerning the inventor,
- (iii) to make a request for examination,
- (iv) to pay a fee for grant, and
- (v) to pay annual fees.

Instead of annual fees, maintenance fees become due for utility models. The due date, amounts and terms of protection are indicated in Annex DE.I. The maximum term of protection is 10 years.

IntPatÜG Art. III
Sec. 4(2)
GebrMG Sec. 4

DE.14 If the international application is for both a utility model and a patent (see the case referred to in paragraph DE.12(ii)), the applicant must, within the time limit applicable for entry into the national phase, comply with the following requirements:

- (i) pay two filing fees for both the patent and the utility model,
- (ii) where the international application was not filed in German, furnish a translation into German,
- (iii) furnish the translation of the international application in duplicate,
- (iv) file the power of attorney (if any) in duplicate.

The requirements (i), (iii) and (iv) may still be complied with within a time limit fixed in an invitation by the Office, if not already complied with within the time limit applicable for entry into the national phase.

GebrMG Sec. 5

DE.15 A utility model application concerning the subject matter of an earlier national, international or European patent application for a national or European patent for Germany may claim the filing date of that earlier patent application provided the utility model application is filed before the expiration of two months from the end of the month in which the patent application is disposed of or in which the opposition procedure, if any, is terminated, at the latest, however, up to the end of the tenth year from the date of filing of the patent application. Any priority which is claimed in the earlier patent application under the Paris Convention for the Protection of Industrial Property will also apply to the subsequent utility model application.

FEES**(Currency: Euro)****Patents**

Filing fee ¹	60
Fee for requesting examination:	
(i) where an international search report has been established	150
(ii) where no international search report has been established	350
Annual fees:	
— for the 3 rd year	70
— for the 4 th year	70
— for the 5 th year	90
— for the 6 th year	130
— for the 7 th year	180
— for the 8 th year	240
— for the 9 th year	290
— for the 10 th year	350
— for the 11 th year	470
— for the 12 th year	620
— for the 13 th year	760
— for the 14 th year	910
— for the 15 th year	1,060
— for the 16 th year	1,230
— for the 17 th year	1,410
— for the 18 th year	1,590
— for the 19 th year	1,760
— for the 20 th year	1,940
Surcharge for late payment of the annual fee	50
Fee for further processing	100
Utility models	
Filing fee ¹	40
Maintenance fees:	
— for the 4 th to the 6 th year of protection	210
— for the 7 th and the 8 th years of protection	350
— for the 9 th and the 10 th years of protection	530
Surcharge for late payment of the maintenance fee	50
Fee for further processing	100

¹ Where the international application has been filed with the German Patent and Trade Mark Office as receiving Office, the filing fee is considered to have been paid with the payment of the transmittal fee (IntPatÜG Art. III, Sec. 4(2)).

How can payment of fees be effected?

The payment of the fees has to be effected in euro. All payments must indicate the application number (national, if already known; international, if the national application number is not yet known), the name of the applicant and the category of fee being paid.

In addition to payment by cash, fees may be paid by:

- (a) bank transfer;
- (b) payment into the account of the Bundeskasse Weiden (No. 700 010 54 at the Deutsche Bundesbank (BBk) Munich, bank code 700 000 00; BIC/SWIFT code: MARKDEF1700, IBAN: DE84 7000 0000 0070 001054). Customers should declare that any handling charges are borne by the payer;
- (c) authorisation to directly debit an account in Germany; the official form of the Office should be used for the direct debiting authorisation.

Applicants must choose a mode of payment guaranteeing that the *full amount of the fees due* is received by the Office. There is a danger of loss of rights if bank charges are deducted.

ERFINDERBENENNUNG DECLARATION CONCERNING THE INVENTOR

Der (Die) unterzeichnete(n) Anmelder(in) (Name und Anschrift wie im Antrag für die inter- nationale Anmeldung)	The undersigned applicant(s) (name and address as on the request form)
der Erfindung (Bezeichnung wie im Antrag)	of the invention (title as on request form)
nationales Aktenzeichen (wenn noch nicht bekannt, internationales Akten- zeichen)	national filing number (if not yet known, international application number)
benennt (benennen) als Erfinder (Vor- und Zuname, Anschrift)	declare(s) as inventor(s) (given name(s), family name(s), address)
Es wird versichert, dass meines (unseres) Wissens weitere Personen an der Erfindung nicht beteiligt sind. (I/We state that to my/our knowledge no other person has contributed to the invention.)	
Das Recht auf das Patent ist an den (die) Anmelder(in) aus folgendem Grunde gelangt: (The applicant(s) has (have) the right to apply for a patent on the following ground:)	
<input type="checkbox"/> Erfinder ist (sind) der (die) Anmelder. (the inventor(s) is (are) the applicant(s).)	
<input type="checkbox"/> durch (by virtue of) _____, vom (dated) (z.B. Vertrag, mündliche Vereinbarung)/(e.g., contract, oral agreement)	
<input type="checkbox"/> Sonstige*; Grund angeben (other*; specify)	
Ort (place) und (and) Datum (date)	(Eigenhändige Unterschrift des Anmelders oder der Anmelder(in); bei natürlichen Personen: Namen und Vornamen voll ausschreiben, bei Firmen genaue, eingetragene Firmenbezeichnung angeben.) (Personal signature of the applicant(s); given names and family names of individual persons are to be given in full; in the case of corporate bodies, their full registered name must be given.)

e.g. Laws relating to inventions of employees.

Vollmacht – Power of Attorney

Dem Patentanwalt – Den Patentanwälten
The Patent Attorney(s)

wird hiermit in Sachen
is (are) hereby appointed in the matter of

Vertretervollmacht erteilt für das Anmelde- und Schutzbewilligungsverfahren, für das erteilte bzw. eingetragene Schutzrecht sowie für das Einspruchs-, Nichtigkeits-, Zwanglizenz- oder Lösungsverfahren vor dem Deutschen Patent- und Markenamt, dem Bundespatentgericht und dem Bundesgerichtshof. Die Vollmacht schließt auch das Verfahren nach dem Vertrag über die internationale Zusammenarbeit auf dem Gebiet des Patentwesens (PCT) ein. Der (Die) Bevollmächtigte(n) ist (sind) berechtigt, Untervollmachten zu erteilen.

Auf Grund dieser Vollmacht ist er (sind sie) insbesondere zu folgenden Rechtsgeschäften und Verfügungen ermächtigt: Alle Mitteilungen, Bescheide und Beschlüsse des Patent- und Markenamtes und der Gerichte in Empfang zu nehmen, Rechtsmittel oder Rechtsbehelfe einzulegen und zurückzunehmen, Vergleiche abzuschließen, auf die Anmeldung oder das Schutzrecht ganz oder teilweise zu verzichten, die Beschränkung des Patentes zu beantragen, eine Lizenzbereitschaftserklärung abzugeben oder einen von einem Gegner erhobenen Anspruch anzuerkennen, in Markensachen Widerspruch gegen die Löschung der Marke oder Aberkennung des Schutzes der Marke und gegen die Eintragung sowie gegen die Schutzbewilligung anderer Marken zu erheben und die Löschung bzw. Schutzentziehung anderer Marken zu beantragen, gestellte Anträge zurückzunehmen, Zahlungen für den Auftraggeber in Empfang zu nehmen, Strafanträge zu stellen.

(Nur bei ausländischen Vollmachtgebern:) Durch diese Vollmacht ist (sind) der Patentanwalt (die Patentanwälte) zum Vertreter gemäß § 25 des Patentgesetzes, § 28 des Gebrauchsmustergesetzes, § 11 Halbleiterschutzgesetz, § 96 des Markengesetzes und § 58 des Geschmacksmustergesetzes bestellt.

Erfüllungsort für alle Ansprüche aus dem der Vollmacht zugrunde liegenden Rechtsverhältnis und Gerichtsstand ist der Ort der Kanzlei des Patentanwaltes (der Patentanwälte).

Die Vollmacht gilt auch für eine Praxisverweser (Treuhänder, Abwickler), solange sie diesem gegenüber nicht widerrufen wird.

to act for me/us in proceedings concerning applications, registrations, granted or registered industrial or intellectual property rights, and in proceedings concerning opposition, nullity, compulsory license, rectification, revocation or cancellation in the German Patent and Trade Mark Office, before the Federal Patent Court and before the Federal Court of Justice. This authorization includes also the procedure under the Patent Cooperation Treaty (PCT). The authorized agent(s) is (are) authorized to grant powers of substitution.

By virtue of this authorization he is (they are) especially empowered to carry out the following legal transactions and disposals: to receive all communications, official actions and decisions of the Patent and Trade Mark Office and the Courts; to lodge or withdraw legal measures or legal remedies; to conclude agreements; to fully or partially disclaim the application or the property right; to apply for the restriction of a patent; to deliver a declaration of "readiness to license" or to acknowledge a claim raised by an opposing party; in matters of trade marks to contest an application for the cancellation or revocation of an entry in the Register in respect of a trade mark, to enter opposition against the registration of other trade marks including internationally registered marks, and to apply for the cancellation or revocation of an entry in the Register in respect of other trade marks including internationally registered marks; to withdraw applications; to receive payments on behalf of the client(s); and to demand penalties.

(For foreign clients only:) By this Authorization, the Patent Attorney(s) is (are) appointed as representative(s) in accordance with § 25 of the Patent Act, § 28 of the Utility Model Act, § 11 Semiconductor Protection Act, § 96 of the Trade Mark Act and § 58 of the Design Act.

The place of settlement and the court for all claims arising out of the legal relationship existing by virtue of the Power of Attorney are at the location where the office of the Patent Attorney(s) is situated.

The power is also extended to an administrator (trustee, liquidator) of the office of the Patent Attorney(s) unless revoked.

.....
Ort/Place; Datum/Date

.....
(Bei Personen : Namen und Vornamen voll ausschreiben, bei Firmen genaue, eingetragene Firmenbezeichnung angeben. Keine Beglaubigung erforderlich.)

(First names and surnames of individual persons are to be written in full; corporate bodies are to sign in the form in which they are registered. No legalization.)