

# B1 Information on Contracting States B1

## DE GERMANY DE

### General information

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| Name of Office:   | Deutsches Patent- und Markenamt<br>German Patent and Trade Mark Office  |
| Location:   | Zweibrückenstrasse 12, 80331 München, Germany   |
| Mailing address:  | 80297 München, Germany  |
| Telephone:  | (49-89) 2195-0<br>(49-89) 2195-1000 (Customer Care and Services)  |
| Facsimile machine:  | (49-89) 2195-2221   |
| E-mail:   | info@dpma.de  |
| Internet:   | www.dpma.de   |
| Does the Office accept the filing of documents by means of telecommunication (PCT Rule 92.4)?   | Yes, by facsimile machine   |
| Which kinds of documents may be so transmitted?   | All kinds of documents  |
| Must the original of the document be furnished in all cases?  | Yes, within 14 days from the date of the transmission, if the transmitted document is the international application or a replacement sheet containing corrections or amendments of the international application<br>No, only upon invitation in the case of other documents |
| Would the Office accept evidence of mailing a document, in case of loss or delay, where a delivery service other than the postal authorities is used (PCT Rule 82.1)? | Yes   |
| Does the Office send notifications via e-mail in respect of international applications?   | No  |
| Competent receiving Office for nationals and residents of Germany:  | German Patent and Trade Mark Office, European Patent Office (EPO) or International Bureau of WIPO, at the choice of the applicant (see Annex C)   |
| Does national legislation <sup>1</sup> restrict the filing of international applications with the European Patent Office (EPO) or the International Bureau of WIPO?   | Yes, filing restrictions apply to:<br>Applications containing State secrets   |
| Competent designated (or elected) Office if Germany is designated (or elected):   | National protection: German Patent and Trade Mark Office (see National Phase)<br>European patent: European Patent Office (EPO) (see National Phase)   |
| May Germany be elected?   | Yes (bound by Chapter II of the PCT)  |

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<sup>1</sup> Patent Law, Section 52 and Law on International Patent Treaties, Art. III, Sec. 2.

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| Types of protection available via the PCT: | National: Patents, utility models (a utility model may be sought instead of or in addition to a national patent) |
|  | European: Patents  |

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| Provisions of the law of Germany concerning international-type search: | None |
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| Provisional protection after international publication: | <p>Where the designation is made for the purposes of a national patent:<br/>The applicant may, from the date of publication in German, claim from any person who uses the subject of the application, although he knew or should have known that the invention used by him was the subject of the application, compensation appropriate to the circumstances. The applicant is not entitled to enjoin the use of the subject of the application. However, no claim for compensation is provided for if the subject of the application is obviously unpatentable (see Section 33 of the German Patent Law, and Art. III, Section 8 of the Law on International Patent Treaties, of 21 June 1976 [<i>IntPatÜG</i>]).</p> <p>Where the designation is made for the purposes of a European patent:</p> <p>(1) International application published in one of the EPO official languages: compensation appropriate to the circumstances, on condition that the national requirements (that a translation of the claims in the application be published or transmitted to a possible user) have been met (see Art. II, Sections 1 and 2 of the Law on International Patent Treaties).</p> <p>(2) International application published in a language which is not an EPO official language: the protection referred to in (1) does not become effective until the EPO publishes the international application supplied to it in one of its official languages.</p> |
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### Information of interest if Germany is designated (or elected)

#### For national protection

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| Time when the name and address of the inventor must be given if Germany is designated (or elected): | May be in the request or may be furnished later. 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. |
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Are there special provisions concerning earlier national applications from which priority is claimed and what are the effects of these provisions?

Article III, Section 4(3) of the Law on International Patent Treaties provides that the filing of an international application designating Germany and claiming the priority of an earlier national patent application or utility model application filed with the German Patent and Trade Mark Office shall have the result that the earlier national application is deemed withdrawn upon entry into the national phase of the international application. However, this will only take effect if the national application whose priority is claimed relates to the same kind of protection as the international application (patent/patent or utility model/utility model). Pursuant to Article III, Section 4(2) of the Law on International Patent Treaties, the international application enters into the national phase without further action by the applicant, provided the German Patent and Trade Mark Office is both receiving Office and designated Office and the international application has been filed in the German language. In this case, the filing fee is deemed paid by payment of the transmittal fee (Article III, Section 4(2), last sentence of the Law on International Patent Treaties). Consequently, if the applicant wants to avoid the withdrawal of the earlier national application, pursuant to PCT Rule 4.9(b), he may exclude Germany from the automatic designation or may consider withdrawing the designation of Germany subsequent to the filing of the international application but before entry into the national phase.

Are there special provisions concerning the deposit of microorganisms and other biological material?

Yes (see Annex L)

**For a European patent — See European Patent Organisation (EP) in Annex B2**