

99092003024000

Erteilung eines Patentes Beschluss

Heruntergeladen am 16.06.2025

<https://fimportal.de/xzufi-services/580581/B100019>

Modul	Sachverhalt
Leistungsschlüssel	99092003024000
Leistungsbezeichnung I	Erteilung eines Patentes Beschluss
Leistungsbezeichnung II	Examination for patentability
Typisierung	1 - Bund: Regelung und Vollzug
Quellredaktion	Bund
Freigabestatus Katalog	fachlich freigegeben (gold)
Freigabestatus Bibliothek	unbestimmter Freigabestatus
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	
Verrichtungskennung	Beschluss (24)
SDG-Informationsbereich	Rechte des geistigen Eigentums (Antrag auf Erteilung eines Patents, Anmeldung einer Marke, einer Zeichnung oder eines Gebrauchsmusters, Erwerb einer Lizenz für die Vervielfältigung)
Lagen Portalverbund	Patente und geistiges Eigentum (2100500)
Einheitlicher	

Modul	Sachverhalt
Ansprechpartner	Nein
Fachlich freigegeben am	02.08.2023
Fachlich freigegeben durch	Federal Ministry of Justice (BMJ)
Handlungsgrundlage	https://www.gesetze-im-internet.de/patg/_49.html https://www.gesetze-im-internet.de/patg/_34.html https://www.gesetze-im-internet.de/patg/_44.html https://www.gesetze-im-internet.de/patv/ https://www.gesetze-im-internet.de/dpmav_2004/ https://www.gesetze-im-internet.de/patkostg/
Teaser	<p>Patents allow you to protect your technical inventions from unwanted imitation. To assess the patentability of your invention, the process from application to examination request and possible grant of a patent is described here.</p>
Volltext	<p>To obtain a patent for your invention, you must first file an application for the grant of a patent ("patent application") with the German Patent and Trademark Office (DPMA).</p> <p>In order to maintain your patent application or patent protection, you must pay annuities for each patent or application. These are due from the beginning of the 3rd year after filing and in each subsequent year. You must pay the renewal fees without being asked to do so.</p> <p>With the receipt of the application the filing date is secured. An automatic examination for novelty and inventive step does not take place. For this purpose, a request is required, which can be filed by the applicant, but also by any third party, up to the expiry of 7 years from the filing date. Otherwise, the application is deemed to be withdrawn.</p> <p>You may have a search carried out on an invention already filed before the examination. Such an early search is useful if, for example, you want to get a preliminary impression of the patentability and thus of a later examination result.</p>

Modul

Sachverhalt

****Filing the request for examination****

To actually obtain a patent, you must file a request for examination and pay the examination fee of 350.00 EUR. Only then can the DPMA examine the application and, if necessary, grant a patent.

Note: If you wish, you can also file a search request for your application before you file your request for examination, for which a fee will be charged. In this case, the protectability of your filed invention will be assessed and substantiated in a detailed search report, which also contains the documents that may be relevant for the further examination of the patentability of your invention.

During the examination procedure, the patent examiners of the DPMA ensure that your invention meets the following criteria:

- Novelty
- inventive step
- industrial applicability

In addition, it must be a technical invention that is disclosed in an executable manner.

****Disclosure****

Your patent application remains secret for 18 months, after which it is disclosed, i.e. published. In the database "DPMAregister" a reference to the publication of the so-called Offenlegungsschrift appears. You can view it there from the first day of publication.

The period of secrecy is intended to give you the opportunity to follow up your application or, if necessary, to withdraw it before the publication of the Offenlegungsschrift. The disclosure notice will appear irrespective of whether you have filed a request for examination or not.

Modul

Sachverhalt

****Notice of Examination****

If you have filed a request for examination of your application, a patent examiner will determine the prior art relevant to your invention and examine whether a patent can be granted against this background.

If it is determined that your invention is new, involves an inventive step, is disclosed in an executable form and is susceptible of industrial application, and that your application also meets all other formal requirements, the DPMA will grant you a patent.

If your invention does not meet the requirements or your application has other deficiencies, you will be notified in an examination communication.

You then have the opportunity to comment and correct the deficiencies within a period specified in the examination communication. Please note that all amendments must be within the scope of the original disclosure, i.e. the description of your invention filed on the filing date.

****Grant and Publication****

After successful examination of the patent application, a patent can be granted. The publication of the grant is made in the relevant part of the Patent Gazette. It can also be searched in the databases "DEPATISnet" and "DPMAregister". With the publication of the grant of the patent in the Patent Gazette, the property right of the patent proprietor comes into existence. A granted patent is effective for a maximum of 20 years from the day after the application is filed.

Erforderliche Unterlagen

You must submit the following documents with the patent application:

- Description of the invention
 - The description must be disclosed clearly and completely enough to enable a person skilled in the art to carry out the invention.
 - The description forms the basis for the patent claims.

Modul

Sachverhalt

- Naming of the inventor
- Claims
 - The patent claims determine the scope of protection of the patent, i.e. they specify what exactly is to be protected.
- Drawings, if applicable
- Summary

Voraussetzungen

A patent is granted for a technical invention that is new, involves an inventive step, and is susceptible of industrial application.

****Novelty:****

- An invention is considered new if it does not belong to the prior art. Prior art is considered to be all knowledge that has been made available to the public in writing or orally anywhere in the world prior to the filing date.
- For this purpose, the examiners of the DPMA search and compare patent specifications, published patent applications, technical literature and lectures from many countries.
- Furthermore, prior art includes prior publications by the inventor or the applicant himself, for example, conference papers, articles in scientific journals and exhibitions at trade fairs.

****Inventive step:****

- It is not sufficient that an invention is new. It must also be based on an inventive step, i.e. it must not be obvious from the prior art.
- This criterion ensures that not every innovation, no matter how minor, already leads to an IP right.
- Property rights for inventions that hardly differ from the known would hinder the use and development in the field. This would block progress.

****Industrial applicability:****

Modul

Sachverhalt

- Industrial applicability is basically satisfied by all inventions that are producible or usable in any industrial field.
- Ideas that are not feasible may not be patented.
- In addition, for socio-ethical reasons, medical procedures are not considered to be industrially applicable. The physician should be free to choose the procedure for the surgical or therapeutic treatment of his or her patients and not be hindered by patent rights. However, this exception applies only to the medical procedures, not to the products used in the process.
- Objects such as medical devices, surgical tools, dressings, pregnancy tests or pharmaceuticals can be patented.

Kosten

The current costs can be found in the cost information sheet on fees and expenses of the German Patent and Trademark Office and the Federal Patent Court.

Verfahrensablauf

You can request the grant of an applied patent in writing or online.

Request the grant of a patent in writing:

- For your request, use the form "Request for the grant of a patent (P 2007)".
- Assistance for the patent application is given in the "Information Sheet for Patent Applicants".
- The formal requirements can be found in the "Regulation on the Procedure in Patent Matters before the German Patent and Trade Mark Office".
- It is required that the documents are in German.
- If the application is filed in English or French, the translation must be filed within 12 months after the filing date, but no later than 15 months after the priority date.
- If the application is filed in another foreign language, the translation must be filed within 3 months after the filing date.
- Please make sure to pay the application fee in due time, i.e. within 3 months after the filing date. Otherwise, your application will be considered withdrawn.

Modul
Sachverhalt

Request grant of a patent online:

- You can use the free software "DPMAdirektPro" to create and validate application documents and file the application and grant of a patent online.
- A signature card with the corresponding card reader is required for this purpose. You can find providers of signature cards at the Federal Network Agency.

Bearbeitungsdauer

The typical processing time, if you submit the exam application within the first 4 months of filing, pay the exam fee, and have not filed any extension requests, is 3.2 years on average.

Frist

- Filing of the request for examination: 7 years from the filing date. Renewal fees must be paid from the 3rd patent year.
- Payment of the examination request fee: within 3 months after receipt of the examination request.
- Opposition to the grant of the patent: within 9 months from the date of publication of the grant of the patent in the Patent Gazette.
- Payment of the renewal fee: without request at the beginning of the third and each subsequent year, calculated from the filing date. If you fail to pay the renewal fee on time or in full, the patent will lapse.

weiterführende Informationen

<https://www.dpma.de/patente/index.html>
https://www.dpma.de/patente/pruefung_erteilung/index.html
<https://www.dpma.de/recherche/dpmaregister/index.html>
<https://depatisnet.dpma.de>

Hinweise
Rechtsbehelf

- Appeal under Section 73 Patent Act (PatG)

Kurztext

- Grant of a patent Decision
 - Patent arises after application
 - first, the invention must successfully pass the examination procedure prescribed by law
 - this examines whether the subject matter of the application is new to a person skilled in the art, whether it is based on an inventive step and whether

Modul

Sachverhalt

the invention is disclosed in an executable form and is susceptible of industrial application

- with the publication of the patent grant in the patent gazette, the protection and prohibition right of the patent owner is created
- a granted patent is valid for a maximum of 20 years, starting from the day after the application is filed
- there are, however, exceptions for medicinal and plant protection products
- responsible: German Patent and Trademark Office (DPMA)

Ansprechpunkt

Zuständige Stelle

Formulare

Ursprungsportal

Erteilung eines Patentes Beschluss, Erteilung eines Patentes Beschluss