

99092004029000

Patentfähigkeit der Erfindung, Prüfung der Patentanmeldung

Heruntergeladen am 28.06.2025

<https://fimportal.de/xzufi-services/580587/B100019>

Modul	Sachverhalt
Leistungsschlüssel	99092004029000
Leistungsbezeichnung I	Patentfähigkeit der Erfindung, Prüfung der Patentanmeldung
Leistungsbezeichnung II	Apply for patent
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	Prüfung (29)
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)

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Lagen Portalverbund	Patente und geistiges Eigentum (2100500)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	18.03.2022
Fachlich freigegeben durch	Federal Ministry of Justice
Handlungsgrundlage	https://www.gesetze-im-internet.de/patg/
Teaser	Technical inventions that are new, inventive and industrially applicable can be protected as patents at the German Patent and Trademark Office (DPMA).
Volltext	<p>The patent is an industrial property right that gives you, as the owner, the exclusive right to dispose of your invention. No one else may make use of the patented invention without your consent. Except in exceptional cases regulated by law, for example, no one may manufacture, offer, market or import patented products or use patented processes without a license. This protective right is generally valid for a period of up to 20 years.</p> <p>Patents can be granted for inventions from all fields of technology that are</p> <ul style="list-style-type: none"> • are new • are based on an inventive step and • are industrially applicable. <p>Novelty: An invention is new if it does not belong to the prior art. Prior art includes all knowledge that was available to the public worldwide in any conceivable way before the application for the invention in question was filed. This may be the case, inter alia, through written or oral descriptions, use or exhibition. Written descriptions include, for example, books, journals, and patents. An oral description is, for example, a presentation at a conference.</p> <p>Information that you have published yourself also counts as prior art. As an inventor, therefore, always take care to keep your invention secret before filing an application.</p>

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- Inventive step: Even if your invention is new worldwide, it does not automatically have to lead to a patent. Inventive step means that the innovation must differ sufficiently from the prior art. Patent protection is not granted if the innovation is obvious and therefore minor.
- Industrial applicability: Industrial applicability is given if the invention can be made or used in any industrial field, including agriculture.
- Technical invention: A patent is granted only on technical inventions. The constant advancement of science and technology continues to redefine the areas of what patent protection can be obtained for.

When you apply for a patent for your invention, you must disclose it in the application documents so clearly and completely that a person skilled in the art can readily carry it out. Subsequent expansion of the technical information is not permitted.

On the other hand, patent protection is not possible for, among other things:

- Discoveries (finding something existing that was previously unknown, for example, magnetism),
- scientific theories,
- mathematical methods,
- aesthetic creations (you can apply for design protection for shape and color creations),
- plans, rules and procedures for mental activities (such as construction plans, cutting patterns or teaching methods),
- business activities (such as organizational models or accounting systems),
- Reproduction of information (such as tables, forms, or type arrangements),
- computer programs as such (without technical reference),
- inventions, the exploitation of which would be contrary to morality or public order,
- the human body at the stages of its formation and development, including germ cells, as well as the mere discovery of one of its components, including the sequence or partial sequence of a gene,

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- procedures for surgical or therapeutic treatment of the human or animal body, as well as diagnostic procedures,
- animal breeds and plant varieties, as well as essentially biological processes for breeding plants and animals and the plants and animals obtained thereby.

If you wish to apply for a patent for an invention at the German Patent and Trademark Office, you must provide a comprehensive description of the invention that enables a person skilled in the art to understand and carry out your invention.

Erforderliche Unterlagen

- Application for the grant of a patent
- Description of the invention,
- claims,
- drawings, if any,
- abstract and
- Inventor's designation

Voraussetzungen

- Your invention meets the three criteria for patentability of inventions: Novelty, Based on an inventive step, and Industrial applicability.
- You disclose your invention so clearly and completely that a person skilled in the art can readily carry it out.
- If you do not reside in Germany and have neither a registered office nor a branch office in Germany, you need a lawyer or patent attorney admitted in Germany to represent you.

Kosten

Gebühr: 300€
 Advance search without application
<https://www.dpma.de/service/gebuehren/patente/index.html>
 Gebühr: 20€ - 40€
 Application fee (electronic) for up to 10 claims: EUR 40.00, for each additional claim: EUR 20.00.
<https://www.dpma.de/service/gebuehren/patente/index.html>
 Gebühr: 150€
 Examination fee according to search request
<https://www.dpma.de/service/gebuehren/patente/index.html>
 Gebühr: 30€ - 60€
 Application fee (paper form) for up to 10 claims: EUR

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60.00, for each additional claim: EUR 30.00.
<https://www.dpma.de/service/gebuehren/patente/index.html>
 Gebühr: 70€ - 1.940€
 Annual fees from the third patent year
<https://www.dpma.de/docs/formulare/allgemein/a9510.pdf>
 Gebühr: 350€
 Examination fee without prior search request
<https://www.dpma.de/service/gebuehren/patente/index.html>

Verfahrensablauf

A patent does not come into existence automatically with the application to the DPMA. A patent can only be granted once your invention has successfully passed through the legally prescribed examination procedure.

You can apply for the grant of a patent in writing or electronically. If you wish to submit the application in writing:

- Print out the application for the grant of a patent, complete it and submit it to the DPMA together with the required documents.
- Transfer the application fees.
- If you have also included examination of the application in the request, also remit the examination fee.
- Your application will now be examined for compliance with the formal requirements and obvious obstacles to patentability. In addition, your invention will be classified according to its subject matter in a classification scheme (International Patent Classification IPC).
- Then file the request for examination and pay the examination fee. You can also file the request for examination already in the application for the grant of a patent, if you check the corresponding box. Otherwise, you can also send an informal letter to the DPMA (paper, fax, service "DPMAdirektPro". You have seven years from the filing date to file the request for examination. However, to maintain your application, you must pay renewal fees from the third patent year.
- If you wish, you can also file a search request for your application prior to filing your request for examination,

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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 will also contain the documents that may be relevant for the examination of the patentability of your invention.

- If you have filed a request for examination for your application, a patent examiner will then examine the prior art relevant to your invention and grant a patent if appropriate.
- If your invention does not meet the requirements or your application has other deficiencies, you will be notified in an examination communication.
- You can then comment and correct the deficiencies. It is important that all changes must be within the scope of the description of your invention filed on the filing date.
- Your patent application remains secret for 18 months, after which it is published in the so-called Offenlegungsschrift. The Offenlegungsschrift appears regardless of whether you have filed a request for examination.
- When a patent is granted, the publication of the grant is made in the Patent Gazette. It can also be searched in the databases "DEPATISnet" and "DPMAreger".
- A granted patent is effective for a maximum of 20 years, starting from the day after the application. To maintain patent protection, you must pay renewal fees for each patent and application from the beginning of the third year.
- Your patent can be challenged by third parties - either by opposition or by a nullity action

If you wish to file your patent electronically:

- You can use the free software "DPMAdirektPro" for your application. You cannot apply for a patent by e-mail.
- Download the software and follow the instructions.
- Transfer the application fee and, if applicable, the examination fee without being asked.
- The further procedure is the same as for the written application.

Bearbeitungsdauer

2 - 3 Jahr(e)

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	Typical processing time if you submit the exam application within the first 4 months of registration, pay the exam fee, and have not filed any requests for extensions of the deadline
Frist	<ul style="list-style-type: none"> • Payment of the application fee: within 3 months from the date of receipt of the application. Without payment, the application is considered withdrawn. • Filing of the technical description, claims and drawings, if any: together with the application. • Filing of the abstract and designation of inventor: within 15 months from the filing date • Filing the request for examination: 7 years from the filing date. Renewal fees must be paid from the third patent year. • Payment of the search request fee: within 3 months from the date of receipt of the search request. • 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 after 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/recherche/dpmaregister/index.html
Hinweise	
Rechtsbehelf	Appeal under the Patent Act
Kurztext	<ul style="list-style-type: none"> • Patentability of the invention, examination of the patent application • Patent is an industrial property right which gives its owner the exclusive right to dispose of his invention. • Patents can be granted for inventions from all fields of technology. • Patents are granted for technical inventions that are new are based on an inventive step, and are industrially applicable. • To obtain a patent, the invention must be registered with the German Patent and Trademark Office (DPMA). • There, upon request, it will be examined whether a patent can be granted for the invention.

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	<ul style="list-style-type: none"> • subject to a fee, processing time 2.5 to 3 years • The term of protection of a patent is 20 years. • responsible: DPMA
Ansprechpunkt	
Zuständige Stelle	
Formulare	<p>Forms: yes</p> <p>Written form required: yes</p> <p>Informal application possible: no</p> <p>Personal appearance required: no</p> <p>Online services available: yes</p>
Ursursportal	<p>Patentfähigkeit der Erfindung, Prüfung der Patentanmeldung, Patentfähigkeit der Erfindung, Prüfung der Patentanmeldung</p>