

The German language agreement is the authentic version –  
English translation provided for information only

## **Agreement**

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The following agreement on the  
**supply of data via an interface with the DEPATIS document archive**

is made between the

**Federal Republic of Germany**

acting through the

Federal Minister of Justice and Consumer Protection,

the latter acting through the  
President of the German Patent and Trade Mark Office,  
80297 München, Germany,

hereinafter the **DPMA**

and

the company \_\_\_\_\_

acting through

\_\_\_\_\_ ,

hereinafter the **Recipient:**

## **Section 1**

### **Subject matter of the agreement**

The DPMA allows the Recipient to receive patent data via an interface connection with the DEPATIS document archive (DEPATISconnect) under this agreement.

## **Section 2**

### **Provision; scope**

1. The Recipient will gain access to the DEPATIS document archive via an interface (XML query) to download national official patent data. Connection with the interface will be established according to the technical specification provided that the Recipient performs the download via a system with a registered and non-dynamic IP address. The Recipient shall have the obligation to prevent any unauthorised third-party use of the data access. If the Recipient gains information about unauthorised third-party use of their data access, they shall inform the DPMA without delay. In this case, the DPMA shall be entitled to suspend the access to the data without delay.
2. The DPMA shall not be under the obligation to provide uninterrupted access to the download platform and permanent availability of data.
3. Connection with the interface will be established over an Internet leased line of the DPMA. The data transfer volume caused by the data download shall not exceed the bandwidth of 250 Kbit/s per connected Recipient on average.
4. The DPMA shall provide the Recipient with the required technical infrastructure to access the DEPATIS system at the DPMA in addition to the interface. The Recipient alone shall be responsible for the technical, organisational, financial and other measures required for the connection with the Recipient's interface as well as the costs and effort related with these measures between the interface and the Recipient. All expenses of the DPMA shall be covered by the payment under Section 4(1).

5. Via the interface, only searches using the document identification number consisting of the country code, number and kind code shall be allowed. If no kind code is used for the search query, all available documents with the same country code and the same document number will be offered for download. Searches via other bibliographic data fields shall be excluded.
6. Via the interface, it shall be allowed only to download facsimile patent documents, either in PDF, TIFF or BACON format, of the DPMA (DE documents), of the European Patent Office (EP documents) and of the World Intellectual Property Organization (WO documents) as well as optionally the corresponding bibliographic data. If available, searchable full texts of the DE and DD documents can be downloaded in XML format. It shall not be allowed to download patent documents of other offices.
7. The supply of new data to be published by the DPMA shall be made no earlier than the first day of publication of the respective data. The mentioned dates of provision shall not be binding. The Recipient cannot derive any rights from non-observance of these dates.
8. The DPMA reserves the right to change the interface specification as well as the data formats and data contents. A relevant notice shall be issued, at the latest, four weeks before the change comes into effect. The DPMA does not assume any responsibility for the completeness, accuracy and correctness of the data provided or supplied. In view of the vast amount of data, errors and omissions cannot be ruled out completely, particularly in the backfile.

### **Section 3**

#### **Purpose limitation of data provision; rights of use**

1. The data on IP rights referred to under Section 1 and Section 2 shall be provided by the DPMA exclusively for the following purpose (please tick):
  - ☐ a) for establishing/developing/enlarging the Recipient's own data collections on IP rights (for example, by way of databases), which the Recipient uses internally for identifying, managing and checking IP rights

- ☐ b) for establishing/developing/enlarging the Recipient's own data collections on IP rights (for example, by way of databases), which the Recipient makes available to authorised third parties (for consideration, where applicable) to enable them to identify, manage and check IP rights

- ☐ c) for developing and marketing information products and services on IP rights (other than those mentioned under a and b)

Please specify the contents of the information products and services. Please indicate the circle of recipients/target groups. Please provide as accurate information as possible.

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- ☐ d) scientific activity

Please provide information about the objective of the scientific work. In case of contract research, please indicate the contract awarder. Please provide as accurate information as possible.

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- ☐ e) other purpose

Please provide as accurate information as possible.

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2. By concluding this agreement, the Recipient obtains a simple, non-exclusive right to use the data for the purpose mentioned under item 1, which right shall not be transferable to third parties.

Any processing or use of data for any other purpose shall not be allowed. In particular, it shall not be permitted

- to pass on data or data sets provided by the DPMA in full or in part to third parties. Any passing-on within the scope of a utilisation according to the purpose under item 1(b) to (d) shall be exempted from this prohibition.
- to use or read out the supplied data or data sets for a commercial exploitation of addresses.
- to use the data or data sets in connection with an activity that gives or may give the impression that the Recipient is entitled or qualified to validly register, renew or otherwise manage IP rights.
- to use the data for the purpose of rating of natural persons.

Likewise, the Recipient may not enable third parties to process or use the data in such an inadmissible manner.

3. In the event that the data file supplied by the DPMA contains data not included in the scope of provision under Section 2 of this agreement, the Recipient may not process or use those data.

## **Section 4**

### **Charges and mode of payment**

1. The XML interface for the provision and supply of data shall be activated and available for use at marginal costs. The provision shall be decisive, not the actual use or processing of data by the Recipient.
2. The marginal costs amount to:

one-off cost for the connection:	250.00 euros
cost for the continued use per calendar year:	2,500.00 euros

The cost per calendar year includes a total data volume of 400 gigabytes maximum. If the downloaded data volume exceeds 400 gigabytes in a calendar year, the DPMA shall be entitled to charge 12.00 euros per additionally downloaded gigabyte. All marginal costs are net amounts. Any value-added tax shall be charged to the amount applicable at the time of invoicing.

3. The amount of marginal costs can be adapted by the DPMA. A notice of the President of the DPMA in the gazette *Blatt für Patent-, Muster- und Zeichenwesen* shall be sufficient for adapting the amount of marginal costs.
4. Once a year, at the beginning of the calendar year, the DPMA shall charge the costs for the provision of data for the given calendar year. Payments shall be due for the entire calendar year in advance. If the provision of data via the XML interface is taken up in the course of a calendar year, the first invoice shall be created after conclusion of the contract, on a *pro-rata* basis, covering the remaining period of that calendar year. The calendar day of the activation of the XML interface shall be relevant for the invoicing. The amount due shall be paid within 30 calendar days from the receipt of the invoice.

## **Section 5**

### **Secrecy and security**

1. In the event that the data file supplied by the DPMA contains data not or not yet released for publication in the interest of applicants of IP rights or IP right holders, the Recipient, to the extent that they are aware of this, may not publish or otherwise pass on these data at all, or at any rate not before the date on which the publication is admissible pursuant to the legal provisions. The Recipient shall undertake to take all required measures within their sphere to ensure that these data are kept secret. In addition, the Recipient undertakes to inform in detail their staff and, where applicable, third parties commissioned to process or use data about the secrecy requirement under the first and second sentences and about the legal provisions relating to data protection, who shall also be required to give an undertaking to maintain confidentiality (Section 5 of the German Federal Data Protection Act – *Bundesdatenschutzgesetz*).

2. If the DPMA communicates corrections to the data provided to the Recipient, e.g. the deletion of individual data sets or parts of data sets, or supplements, the Recipient shall correct the affected data files or products produced from these data files without delay. The Recipient shall hold the DPMA harmless of any third-party claims that may arise from a correction, according to the first sentence, that was not carried out or not carried out in time.
3. The Recipient shall be obliged to take all measures according to the recognised state of the art to ensure data security while using the interface. The recommendations of the Federal Office for Information Security shall be implemented.

## **Section 6**

### **Liability**

1. The DPMA shall only assume liability for damages caused intentionally or by gross negligence by the DPMA or its staff and vicarious agents. This shall not apply to damages arising from injury to life, body or health and to damages resulting from the violation of obligations whose fulfilment is indispensable for the proper fulfilment of the agreement and on whose observance the contractual partner may regularly rely (fundamental contractual obligations). In the event of slightly negligent violation of fundamental contractual obligations, liability shall be limited to compensation for the foreseeable damage typical for this type of agreement.
2. The Recipient shall assume unlimited liability to affected third parties for damages to the extent that the Recipient processes or uses the data communicated by the DPMA for other than the intended purposes or enables third parties to carry out such activities.

## **Section 7**

### **Duration of the agreement; termination**

1. The agreement shall take effect upon signing and shall be concluded for an undetermined period of time.
2. The parties can terminate the agreement by the end of any quarter, with a one-month notice, without giving reasons.
3. The right to extraordinarily terminate the agreement for good cause without notice remains unaffected. In particular, any breach of the obligations under Sections 2, 3 and 5 of the agreement by the Recipient shall constitute a good cause.
4. The DPMA shall be entitled to terminate the agreement extraordinarily without notice if, due to legal provisions on data protection, it is no longer in a position to supply the data to be provided under Section 2 in compliance with the conditions set out in this agreement.
5. In the event of an extraordinary termination without notice, the DPMA shall be entitled to block access to the data with immediate effect. The Recipient shall be obliged to delete all previously communicated data and any copies made of these data which are in their possession. The Recipient shall no longer be entitled to use or process the data.
6. The restrictions of the right of use under Sections 2 and 3 and the obligations of the Recipient under Section 5 shall remain in effect even after termination of the agreement. If the Recipient violates their obligations resulting from these clauses, the DPMA shall be entitled to require the Recipient to delete all previously communicated data and any copies made of these data which are in their possession, even after termination of the agreement. In this case, the Recipient shall no longer be entitled to use or process the data.



## **Section 8**

### **Disclosure of the name of the Recipient**

For the purpose of complying with its obligation set forth in Section 16(3) of the Federal Data Protection Act, the DPMA shall be entitled to disclose the name of the Recipient to persons affected by the data provision (including but not limited to applicants of IP right, IP right holders, inventors and representatives). This can be done, in particular, by making a list of all Recipients available for general inspection on the DPMA website.

## **Section 9**

### **Miscellaneous**

1. The Recipient shall be obliged to inform the DPMA without delay about any changes occurring during the term of the agreement and relating to
  - the persons authorised to enter into binding commitments *vis-à-vis* the DPMA,
  - the legal form of the enterprise,
  - the name of the enterprise,
  - the principal place of business of the enterprise.
2. The agreement, its amendments and supplements – including the revocation of the requirement of the written form – shall require the written form. Amendments and supplements must expressly be identified as such.
3. The DPMA shall be entitled at any time to transfer the rights and obligations accruing from this agreement to third parties. The Recipient shall be informed about any such transfer in writing.
4. If the Recipient is a business, a legal entity under public law or a special fund under public law, or if the Recipient does not have a general place of jurisdiction in Germany, the place of jurisdiction shall be Munich.
5. The agreement shall be governed by the law of the Federal Republic of Germany.

**Section 10**  
**Severability clause**

In the event that a provision of this contract is found to be invalid or unenforceable, this shall not affect the validity of the other provisions of the contract. Invalid provisions shall be replaced by provisions which come closest to the intended purpose of the agreement.

Munich, \_\_\_\_\_ ,

For the  
Federal Republic of Germany

For the Recipient

The President of the  
German Patent and Trade Mark Office  
By order

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

## Annex 1 of the standard agreement on DEPATISconnect

### Personal Details:

Title		
Family name		
Given name		
Company		
Street/number		
Postal code	City/town	
Country		
Phone	Fax	
E-mail address		

### Your login details to the DPMA server:

<b>Username</b> (ten digits at most):	
<b>Password</b> (ten digits at most):	