German Patent
and Trade Mark Office

Annual Report 2008

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Dear Reader,

At the turn of the year 2008/2009, I took over the leadership of the German Patent and Trade Mark Office from Dr. Jürgen Schade. Our organisation can look back on a long tradition as the central institution for the protection of industrial property. It is a privilege and a duty for me to continue this success story together with my staff.

The German Patent and Trade Mark Office is one of the leading national institutions for the protection of intellectual property at world level. Together with many national and international cooperation partners we strive to ensure that the ideas of creative people and inventors are recognised and protected.

The permanent exchange of skills and knowledge with other patent and trade mark offices and the search for the best methods to optimise processes and quality enrich the daily work of our examiners. These manifold contacts foster our endeavours to continually improve our work methods and products. At the same time, we spare no effort to shorten our processing times.

I look forward to working in partnership with you all within the big IP community.
I am very confident that I can rely on both your critical input and your support, in a spirit of mutual trust.

Yours sincerely,

Cornelia Rudloff-Schäffer
President of the German Patent and Trade Mark Office

GERMAN PATENT AND TRADE MARK OFFICE –

COMPETENCE AND QUALITY FOR OVER 130 YEARS

The German Patent and Trade Mark Office (DPMA) operates within the portfolio of the Federal Ministry of Justice and is the central authority in the field of industrial property protection in Germany. We grant patents, register trade marks, utility models and designs, and administer these industrial property rights. In addition we provide information to the public on IP rights.

The 'we' refers to the approximately 2,500 staff at the DPMA offices in Munich, Jena and Berlin. The headquarters of the DPMA are located in Munich.

Organisation structure

The DPMA is divided into five areas of activity, the so-called Departments (compare organisation chart on the inside back cover):

Patents (Department 1/I and 1/II)

The patents area covers such a large field of work that it is organised into two Departments: Department 1/I (mechanical engineering and mechanical technology) and Department 1/II (electrical engineering, chemistry and physics).

More than 700 patent examiners from the fields of engineering, physics, chemistry and other sciences work in Department 1. They examine the patentability of inventions contained in applications, grant patents and deal with oppositions.

Information (Department 2)

The staff of Department 2 provide information to the public on industrial property rights and the individual steps of a patent, utility model, trade mark or design application. They administer and update our databases and help users in performing searches.

The staff of the Information Department are also responsible for cooperation with the more than 20 regional patent information centres in Germany.

Trade Marks, Utility Models, Designs (Department 3)

The staff in the trade mark area examine national trade mark applications and enter these trade marks in the register, provided the requirements for registration are met. They also deal with oppositions of third parties against trade mark registrations and take decisions in trade mark cancellation procedures. They also fulfil a multitude of tasks regarding the international registration of trade marks.

In addition, the staff of Department 3 are also in charge of utility models, designs and topographies. They register those IP rights on request and decide on cancellation requests.

Central Administration, Legal Affairs (Department 4)

The staff of Department 4 manage the types of administrative tasks that are typical of all authorities, including, for example, personnel, budget and legal affairs, administration and facilities maintenance and the organisation of administrative processes.

History of the DPMA

Together with its predecessors – Kaiserliches Patentamt and Reichspatentamt – the German Patent and Trade Mark Office looks back on more than 130 years of history.

On 2 July 1877, the first German patent was granted for a ‘process for manufacturing a red ultramarine colour’. On 16 October 1894, the first trade mark ‘PERKÊO’ was registered for lamps and lamp parts.

On 1 November 1998, the German Patent Office was renamed German Patent and Trade Mark Office to emphasise the growing importance of trade marks as a field of activity of the DPMA.

More information on the German Patent and Trade Mark Office is available at www.dpma.de.

AT A GLANCE

Budget German Patent and Trade Mark Office and Federal Patent Court per million €	**2007**	**2008**		**Changes in %**
Income	266.7	300.7	↗	+ 12.7
Expenditure	221.6	229.1	↗	+ 3.4
of which for personnel	121.5	126.6	↗	+ 4.2

Personnel of the German Patent and Trade Mark Office				
Staff	2,501	2,500	→	- 0.0

Industrial property rights		2007	2008		Changes in %
Patents	Applications [1]	60,992	62,417	↗	+ 2.3
	Concluded examination procedures (final)	34,297	33,193	↘	- 3.2
	- with patent grant [2]	18,218	17,584	↘	- 3.5
	Stock [3]	131,362	135,309	↗	+ 3.0
Trade marks	Applications (national and international)	83,673	80,772	↘	- 3.5
National marks	Applications	76,165	73,903	↘	- 3.0
	Concluded registration procedures	76,750	72,223	↘	- 5.9
	- with registration	54,534	50,259	↘	- 7.8
	Stock	764,472	776,628	↗	+ 1.6
International marks	Requests for grant of protection in Germany	7,508	6,869	↘	- 8.5
	Grants of protection	7,346	6,243	↘	- 15.0
Utility models	Applications	18,083	17,067	↘	- 5.6
	Concluded registration procedures	18,397	17,263	↘	- 6.2
	- with registration	15,469	14,347	↘	- 7.3
	Stock	102,559	100,093	↘	- 2.4
Designs	Designs applied for	54,301	48,238	↘	- 11.2
	Concluded registration procedures	59,757	51,468	↘	- 13.9
	- with registration	56,208	49,146	↘	- 12.6
	Stock	304,388	297,206	↘	- 2.4

1 patent applications with the DPMA and PCT patent applications after entering the national phase (international applications filed under the Patent Cooperation Treaty)
2 including patents in respect of which an opposition was filed under Section 59 Patent Law
3 including patents granted by the European Patent Office with effect in the Federal Republic of Germany a total of 522,949 patents were valid in Germany in 2008

PATENTS

Patents

The main purpose of a patent is to protect products and processes against copying. The patent owner has the exclusive right to offer his/her products. For a limited period – up to 20 years from the filing date – competitors are excluded from utilising the invention without the patent owner's consent.

The basic idea underlying the patent is to create an incentive for technical development and to provide protection against misuse of inventions. As a reward for disclosing the invention to the public the patent owner receives a temporary IP right. Any other person is prohibited from using the invention. This concept aims at promoting innovation and increasing knowledge and benefits developers and consumers alike.

A patent is granted for a *technical* invention which is new, involves a sufficiently *inventive* step and is *industrially* applicable.

Novelty:

An invention is new if it does not form part of the state of the art. The state of the art comprises all knowledge made available to the public by means of a written or oral description anywhere in the world before the date of filing.

Inventive Step:

Even an invention that is new cannot be patented if it is obvious to a person skilled in the art. Thus the invention must differ sufficiently from the state of the art.

Industrial applicability:

The requirement of industrial applicability is basically met by all inventions that can be carried out in any field of industry. Ideas which cannot be carried out must not be patented, for example, a perpetual motion machine which deviates from currently recognised physical laws.

Business situation

Development in patent application numbers

In 2008, 62,417 patent applications were filed at our office. In 2007, we received 60,992 applications. Compared to the previous year, the number of applications increased by 2.3 %.

The number of patent applications in 2008 comprises 58,755 direct applications, filed at the DPMA, and 3,662 applications under the international Patent Cooperation Treaty (PCT) which entered the national phase at the German Patent and Trade Mark Office.

Due to the PCT revision in 2004, strictly speaking, it is not possible to directly compare the current figures with those prior to the year 2004. Nevertheless, to show the development, the effects of the PCT revision were eliminated in Figure 1. Consequently, the data reflect the actual application conditions since 2002. For more data on patent applications, please refer to Table 1.1 in the annex 'Statistics' on page 129.

	Applications at the DPMA	Percentage
Germany	49,240	78.9
USA	4,279	6.9
Japan	3,511	5.6
Switzerland	1,103	1.8
Republic of Korea	904	1.4
France	210	0.3
Netherlands	97	0.2
United Kingdom	76	0.1
Others	2,997	4.8
Total	**62,417**	**100**

Table 1: Patent applications at the German Patent and Trade Mark Office (DPMA-direct applications and DPMA-PCT applications in the national phase)

Origin of patent applications

Table 1 shows the countries of origin of the patent applications received at the DPMA. The figures comprise direct applications at the German Patent and Trade Mark Office and PCT applications which entered the national phase at the DPMA.

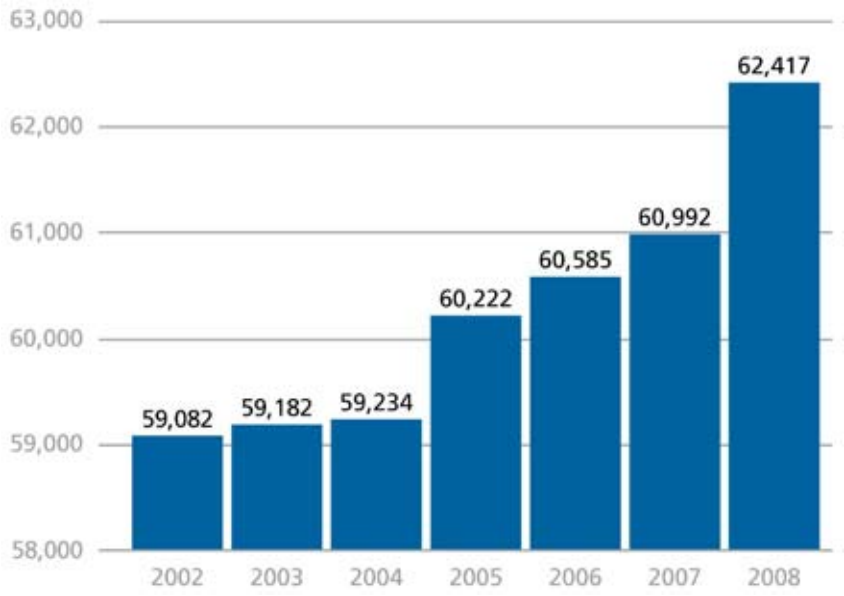


Figure 1: Patent applications at the German Patent and Trade Mark Office. Consolidated figures for the years 2002 and 2003 (also see text for explanations)

Table 2: The 50 most active patent applicants at the German Patent and Trade Mark Office (irrespective of any possible interlinking of business enterprises). Patent documents published in 2008 (published patent applications and patent specifications, if the patent application has not been published before).

	Applicants	Seat	Applications
1	Robert Bosch GmbH	DE	2,645
2	Siemens AG	DE	1,741
3	Daimler AG	DE	1,279
4	GM Global Technology Operations Inc.	US	994
5	Denso Corp.	JP	716
6	Bayerische Motoren Werke AG	DE	632
6	Continental Automotive GmbH	DE	632
8	Schaeffler KG	DE	605
9	ZF Friedrichshafen AG	DE	594
10	Volkswagen AG	DE	592
11	Audi AG	DE	488
12	Infineon Technologies AG	DE	472
13	BSH Bosch und Siemens Hausgeräte GmbH	DE	468
14	Fraunhofer-Gesellschaft e.V.	DE	384
15	Voith Patent GmbH	DE	353
16	Henkel AG & Co. KGaA	DE	325
17	Qimonda AG	DE	310
18	General Electric Co.	US	298
19	Airbus Deutschland GmbH	DE	277
20	Dr.Ing.h.c.F. Porsche AG	DE	244
21	LuK Lamellen und Kupplungsbau Beteiligungs KG	DE	221
22	Samsung Electronics Co. Ltd.	KR	202
23	Continental Teves AG & Co. oHG	DE	197
23	Toyota Jidosha K.K.	JP	197
25	Koenig & Bauer AG	DE	191
26	Behr GmbH & Co. KG	DE	187
27	Osram GmbH	DE	177
28	Deutsches Zentrum für Luft- und Raumfahrt e.V.	DE	176
29	Ford Global Technologies LLC	US	174
30	Evonik Degussa GmbH	DE	157
30	Manroland AG	DE	157
32	Heidelberger Druckmaschinen AG	DE	154
33	Continental AG	DE	147
34	Webasto AG	DE	143
35	Mitsubishi Electric Co.	JP	141
36	Giesecke & Devrient GmbH	DE	138
37	Linde AG	DE	135
38	ABB AG	DE	134
38	Wilhelm Karmann GmbH	DE	134
40	Knorr-Bremse Systeme für Nutzfahrzeuge GmbH	DE	132
41	OSRAM Opto Semiconductors GmbH	DE	126
42	Carl Zeiss SMT AG	DE	124
43	Beiersdorf AG	DE	120
44	Hilti AG	LI	117
44	Hyundai Motor Co.	KR	117
44	LG Electronics Inc.	KR	117
47	Bayer MaterialScience AG	DE	113
48	Hella KGaA Hueck & Co.	DE	112
49	Wacker Chemie AG	DE	108
50	Lear Corp.	US	106

The most active patent applicants

The list of the 50 most active patent applicants (see Table 2) shows how active applicants from Germany and abroad are on the German patent market. The list contains patent documents published by the German Patent and Trade Mark Office in 2008 (published patent applications and patent specifications, if the patent application has not been published before).

Irrespective of possible interlinking of business enterprises, the individual firms are recorded in their capacity as patent applicants. This means that the patent applications of the individual applicants are listed separately, even if the company is part of a group.

In the 2008 ranking, Robert Bosch GmbH, which replaced Siemens AG at the top position in 2007, was able to consolidate its lead. Among the 50 most active applicants, 39 come from Germany, four from the USA, three from Japan, three from the Republic of Korea and one from Liechtenstein.

Patent applications by German Laender

In the year 2008, 49,240 of the 62,417 patent applications received were of domestic origin. The number of national applications has remained at the high level of previous years proving the great attractiveness of the German patent system to the national industry. These figures mirror the innovative capacity of Germany and are proof of constant research and development activities.

The breakdown of national patent applications by German Laender is based on the place of residence or seat of the person, company or institution filing the application. In the Laender ranking, Baden-Württemberg extended its overall lead. With 15,081 patent applications (30.6 %), Baden-Württemberg comes top, followed by Bavaria – that had occupied the top position from 1996 to 2006 – with 13,528 (27.5 %) and North-Rhine/Westphalia with 7,797 patent applications (15.8 %). Consequently, nearly three-quarters (73.9 %) of all national applications come from these three Laender (see Figure 2 and Table 3). For timeseries covering the preceding years, please refer to Table 1.5 in the annex 'Statistics'.

Figure 2: Patent applications by German Laender in 2008

However, on the basis of the filing figures in real terms, it is difficult to assess how innovative the inhabitants of the individual Federal Laender actually are, because the number of inhabitants differs widely in the individual Laender. An assessment is more effective when applications are considered in relation to the size of the population: In Germany, 60 patent applications on average were filed per 100,000 inhabitants. With 140 and 108 applications per 100,000 inhabitants, respectively, Baden-Württemberg and Bavaria are in the lead. With 62 applications per 100,000 inhabitants Hamburg takes third place, just above the overall German average; all other Federal Laender are below the average (see Table 3).

Table 3: Patent applications, percentages and number of applications per 100,000 inhabitants by German Laender

German Laender	2007			2008		
	Applications	Proportional share in %	Applications per 100,000 inhabitants	Applications	Proportional share in %	Applications per 100,000 inhabitants
Baden-Württemberg	13,638	28.5	127	15,081	30.6	140
Bavaria	13,616	28.5	109	13,528	27.5	108
North-Rhine/Westphalia	8,190	17.1	45	7,797	15.8	43
Lower Saxony	2,715	5.7	34	3,351	6.8	42
Hesse	2,963	6.2	49	2,678	5.4	44
Rhineland-Palatinate	1,235	2.6	30	1,274	2.6	31
Hamburg	973	2.0	55	1,100	2.2	62
Saxony	923	1.9	22	998	2.0	24
Berlin	992	2.1	29	891	1.8	26
Thuringia	598	1.2	26	605	1.2	26
Schleswig-Holstein	615	1.3	22	590	1.2	21
Brandenburg	389	0.8	15	366	0.7	14
Saxony-Anhalt	327	0.7	13	356	0.7	15
Saarland	331	0.7	32	295	0.6	28
Mecklenburg-Western Pomerania	170	0.4	10	186	0.4	11
Bremen	178	0.4	27	144	0.3	22
Total	**47,853**	**100**	**Ø 58**	**49,240**	**100**	**Ø 60**

Size categories of patent applicants

In 2008, two-thirds of the roughly 11,500 patent applicants from Germany filed only one application each, accounting for 16.1 % of the total number of applications. 96.4 % of all applicants filed between one and ten applications, i. e. just under 40 % of all applications. The remaining applications, a good 60 %, were accounted for by 3.6 % of all applicants (see Table 4). Thus, more than 50 % of all patent applications were filed by a small group of applicants with many patent applications – mostly large enterprises. This concentration process in favour of large patent applicants is also reflected in the category 'applicant is inventor' (see following paragraph).

Table 4: Breakdown of domestic patent applicants according to filing activity (in %)

Percentage of applicants								Percentage of applications by applicants						
2002	2003	2004	2005	2006	2007	2008	having filed	2002	2003	2004	2005	2006	2007	2008
68.7	69.0	68.2	66.5	66.7	66.3	67.3	**one application**	20.7	19.9	19.0	16.6	16.7	16.4	16.1
28.5	28.1	28.8	29.9	29.5	30.1	29.1	**2-10 applications**	27.3	26.2	25.0	24.3	24.5	24.5	23.2
2.5	2.6	2.7	3.3	3.4	3.2	3.2	**11-100 applications**	18.5	19.3	19.0	22.7	22.2	22.4	21.5
0.3	0.3	0.3	0.3	0.4	0.4	0.4	**more than 100 applications**	33.5	34.6	37.0	36.4	36.6	36.7	39.2
100	**100**	**100**	**100**	**100**	**100**	**100**	**Sum**	**100**	**100**	**100**	**100**	**100**	**100**	**100**

Did you know that ....

... Otto Lilienthal secured a patent for one of the first flying machines 115 years ago?

In Otto Lilienthal's times, the 'bird-men' were regarded as mad. In 1891, Lilienthal embarked on the first gliding flight of 25 metres. Later he flew 250 metres with a glider made of a willow frame covered with canvas – the Otto Lilienthal museum at his birthplace in Anklam showcases replicas of the original gliders. By studying the flight of birds, and making countless experiments and test flights, Lilienthal recognised that aircraft wings with curved surfaces generated more lift than those with flat surfaces and thus became a pioneer of 'heavier-than-air' aviation.
You can also find Lilienthal's invention in our poster gallery (see page 121).
To order a free copy please e-mail presse@dpma.de.

The category 'applicant is inventor'

Under German law the inventor must always be named in a patent application. Thus it is possible to find out the number of cases where the applicant and inventor are identical or not. Applicant and inventor are not identical, for example, if the patent application is filed by an enterprise. On the other hand, the applicant is usually identical with the inventor, if the application is filed by an independent inventor or employee with a released invention.

In 2008, 8.4 % of the patent applications were filed by the respective inventor himself/ herself. For applications from Germany it was 9.6 %, and for foreign applications 3.1 % (see Table 5).

Table 5: Patent applications of the category 'applicant is inventor' by origin (in %)

	2002	2003	2004	2005	2006	2007	2008
National	11.2	10.7	10.9	10.7	10.6	10.8	9.6
Foreign	4.2	4.4	3.7	3.5	3.7	3.7	3.1
Total	**10.0**	**9.6**	**9.7**	**9.4**	**9.3**	**9.5**	**8.4**

Patent applications filed by German universities

In 2008, German universities applied for patents for 598 inventions in their own name. This is a 2.9 % decrease against last year's figure of 616 patent applications. Table 6 shows the applications by German Laender.

Table 6: Patent applications filed by universities by Federal Laender (Applications from some Laender had to be combined for anonymisation purposes)

German Laender	2002	2003	2004	2005	2006	2007	2008
Schleswig-Holstein, Hamburg	20	33	39	32	32	32	28
Lower Saxony, Bremen	47	43	27	51	58	52	58
North-Rhine/Westphalia	16	49	55	71	82	79	67
Hesse	30	35	31	49	35	46	44
Rhineland-Palatinate, Saarland	10	27	21	26	27	13	18
Baden-Württemberg	65	101	75	114	81	77	77
Bavaria	31	56	36	46	67	61	68
Berlin	44	36	26	25	27	40	34
Brandenburg, Mecklenburg-Western Pomerania	21	43	26	34	51	34	28
Saxony	55	83	114	89	106	111	97
Saxony-Anhalt	13	21	18	23	25	20	27
Thuringia	49	45	51	44	54	51	52
Sum	**401**	**572**	**519**	**604**	**645**	**616**	**598**

Main technical areas of patent activity

Under the International Patent Classification (IPC), with its letter and number code, inventions are organised in different technological fields (see page 64). The IPC organises all technological fields in more than 70,000 units. By this means, every patent application and the invention described in it can be attributed to one or more classes.

For many years, most of the applications have been attributed to the IPC area B60 'Vehicles in general'. In 2008, 5,709 patent applications were filed in this class. The next positions are occupied by the following classes: F16 'Engineering elements or units' with 5,103 applications and H01 'Basic electric elements' with 4,032 applications (compare Table 7). Table 1.7 on page 132 shows the development in recent years.

Table 7: Patent applications by IPC classes (with over 1,200 applications in 2008)

IPC class		Applications in 2008	Percentage	Differences between 2008 and 2007 in %
B60	Vehicles in general	5,709	9.7	+ 3.4
F16	Engineering elements or units	5,103	8.7	+ 12.9
H01	Basic electric elements	4,032	6.9	+ 8.7
G01	Measuring, testing	3,767	6.4	- 2.0
A61	Medical or veterinary science; hygiene	2,750	4.7	- 1.5
F02	Combustion engines	2,302	3.9	+ 19.1
H02	Generation, conversion or distribution of electric power	1,818	3.1	+ 6.3
H04	Electric communication technique	1,644	2.8	- 10.5
B65	Conveying, packing, storing, handling thin material	1,616	2.8	+ 3.0
F01	Machines or engines in general	1,515	2.6	+ 42.0
G06	Computing, calculating, counting	1,252	2.1	- 2.3
B62	Land vehicles for travelling otherwise than on rails	1,219	2.1	+ 22.9

Selected data on patent examination

The demand for patents has increased in the previous years. That is why it was not possible, despite extensive organisational measures and the high commitment of the examiners, to cope with the workload under the current staff situation. Detailed data on applications received and concluded procedures are provided in Table 8 and Tables 1.2 and 1.3 on page 129.

Table 8: Selected data relating to patent procedures

	2002	2003	2004	2005	2006	2007	2008
Requests for examination	37,561	37,071	36,575	37,387	38,696	39,228	38,470
- including requests filed together with application	25,945	25,479	25,444	25,082	25,452	24,972	24,714
Search requests	11,900	12,708	12,800	13,352	13,238	13,394	14,176
Examination procedures concluded (final)	29,971	33,515	33,862	36,064	38,140	34,297	33,193
Requests not yet concluded in the patent divisions at end of year	111,768	116,766	118,184	114,826	116,857	121,386	128,777

Did you know that ....

...the car safety belt was invented 50 years ago?

The three-point safety belt replaced the former lap seatbelts or sash seatbelts that did not provide sufficient protection in a crash. In 1958, Nils Bohlin designed a safety belt that in a 'physiologically favourable manner restrains the upper as well as the lower part of the body' and 'is easy to fasten and unfasten'. The safety belt comprises three mountings firmly secured to the body structure of the vehicle and, between them, a chest strap and a hip strap forming a continuous sling. Today, it is a standard requirement that all seats in a vehicle are fitted with three-point safety belts – in virtually unaltered design.
On 24 August 1959, a patent for Bohlin's invention was applied for. In 1961, the grant of the patent, file number DE 1101987 B, was published by the patent office. You can also find the invention in our poster gallery (see page 121). To order a free copy please e-mail presse@dpma.de.

Renewable energy

Applications concerning environmentally relevant inventions can be found in almost all fields of technology. The innovative enthusiasm of industry regarding renewable energy is shown in Table 9. In the field of solar technology, the number of applications have been increasing for years despite a largely mature technology. The current increase in patent applications effective in Germany is mainly caused by foreign applicants. Many of the applications received by the German Patent and Trade Mark Office (DPMA) relate to semiconductor components and the mounting of solar panels on roofs. A small number of big applicants account for the greatest part of the applications concerning wind generators. Many applications focus on integrating wind generators and wind farms into the grid; inventions concerning offshore wind farms deal with improving technical feasibility. Furthermore, other renewable energy sources such as geothermal energy or biogas plants have meanwhile shown significant and growing numbers of applications. ●

Table 9: Patent applications effective in the Federal Republic of Germany in selected fields of renewable energy. Applications published by the DPMA and the European Patent Office (EPO), avoiding double-counts, by publication year and the applicant's place of residence.

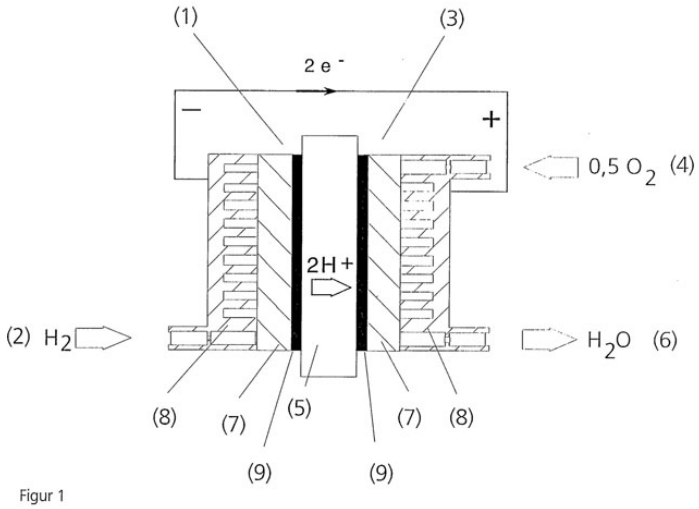
	2002		2003		2004		2005		2006		2007		2008	
	Ga[1]	fa[2]	Ga[1]	fa[2]	Ga[1]	fa[2]	Ga[1]	fa[2]	Ga[1]	fa[2]	Ga[1]	fa[2]	Ga[1]	fa[2]
Solar technology[3]	108	62	90	64	82	94	85	80	101	108	149	98	143	224
Wind generators[4]	75	28	72	54	82	67	89	75	92	100	91	72	123	151
Hydro power/wave and tidal power[5]	18	12	10	13	9	15	14	12	11	21	13	1	19	29
Geothermal energy, biogas, other energy sources[6]	22	17	25	11	29	22	25	19	26	17	59	13	78	33
Sum	**223**	**119**	**197**	**142**	**202**	**198**	**213**	**186**	**230**	**246**	**312**	**184**	**363**	**437**

1 German applicants
2 foreign applicants
3 IPC: F24J2, F03G6, H02N6, E04D13/18, C02F1/14, H01L31/04 to H01L31/078
4 IPC: F03D
5 IPC: F03B13/10-F03B13/26; F03B7
6 IPC: F24J3, F03G4, F03G3, F03G7/00 to F03G7/08, C12M1/107, C12M1/113

Fuel cells – key technology of the future

At the motor shows, car manufacturers clearly committed themselves to using environmentally friendly technologies in their products. In the search for the drive technology of the future many companies resort to fuel cells which stood the test in space technology.

In a fuel cell, chemical energy is converted into electrical energy for as long as the fuel (for example hydrogen) and the oxidant (for example oxygen) are supplied continuously. An electrolyte physically separates the fuel and oxidant streams in the fuel cell (see Figure 3) to control cold combustion and prevent a direct hydrogen-oxygen reaction.



Figur 1

Figure 3: Schematic construction of a hydrogen oxygen fuel cell with anode 1 and cathode 3 and a polymembrane 5 as solid electrolyte (from DE 196 53 484 A1).

The basic principle of this form of energy conversion has been known for more than 170 years, but fuel cell technology was not applied before the 1950s when it was used to supply electrical power to spacecraft and submarines. In 2002, research was boosted by the 'hydrogen initiative[1]', announced by the US Secretary of Energy. In 2005, the European Parliament put forward a 'hydrogen manifesto[2]' calling for a rapid shift to a 'green' hydrogen economy.

The key technology of such a hydrogen economy is the fuel cell. There is a wide range of applications for fuel cells:

- as portable fuel cells to replace batteries and rechargeable batteries in small devices;
- as mobile fuel cells in vehicles and
- as stationary fuel cells in local CHP units generating electricity and producing heat in a single process. The capacity of such stationary fuel cell systems ranges from just a few kilowatts of electricity for a single-family house to several hundred kilowatts for the power supply of hospitals and small communities.

Patent activities

The increasing development activities are also reflected by the constant growth of the number of patent applications effective in Germany. For instance, the number of patent applications in the field of fuel cells, published for the first time by the DPMA and the EPO, has more than doubled in the past seven years (see Table 10). Furthermore, the also rapidly increasing number of international patent applications (PCT applications) entering the national phase must be added to this number.

1 http://www1.eere.energy.gov/hydrogenandfuelcells/pdfs/national_h2_roadmap.pdf (searched on 11 May 2009)
2 Wasserstoff-Spiegel No. 5/05, page 3 et seq, http://www.dwv-info.de/aktuelles/wss2005/wss0505.pdf (searched on 11 May 2009)

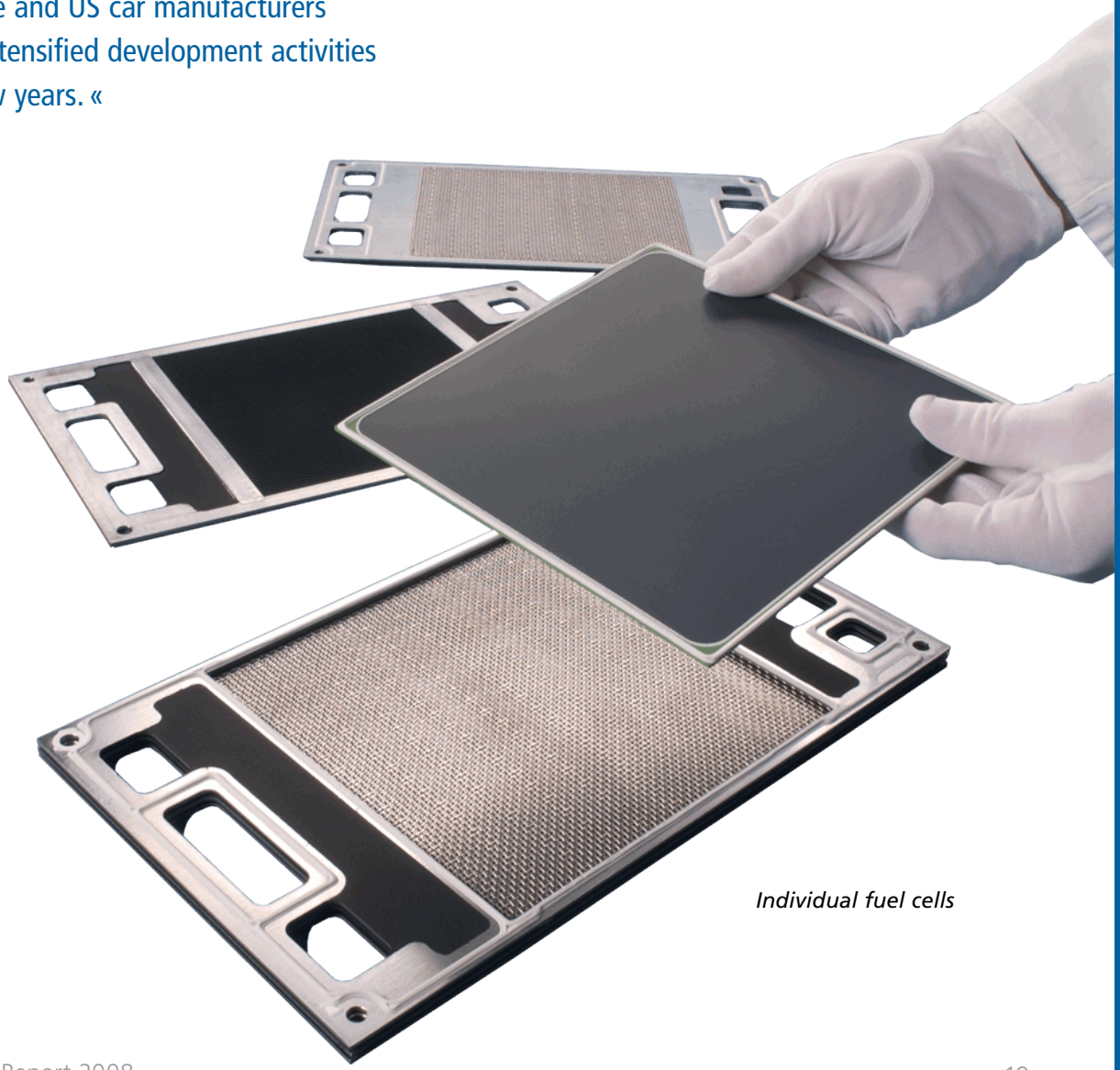
The majority of patent applications originate from companies of the car industry and the corresponding car parts suppliers in Germany, Japan and the USA. The big Japanese and US car manufacturers, in particular, significantly intensified development activities in the past few years. In addition, there are many applications from big German research institutions and German medium enterprises, among them also comparatively young and small enterprises specialising in fuel cells. Few applications come from universities and individual applicants.

Table 10: Patent applications effective in the Federal Republic of Germany in the fields of fuel cell technology. Applications published by the DPMA and the EPO, avoiding double-counts, by publication year.

	2001	2002	2003	2004	2005	2006	2007	2008
Fuel cells [1]	406	539	641	728	694	682	780	946

1 IPC: H01M4/86 to H01M4/98, H01M8, H01M12/04 to H01M12/08, B60L11/18

» The Japanese and US car manufacturers significantly intensified development activities in the past few years. «



Individual fuel cells

Development trends

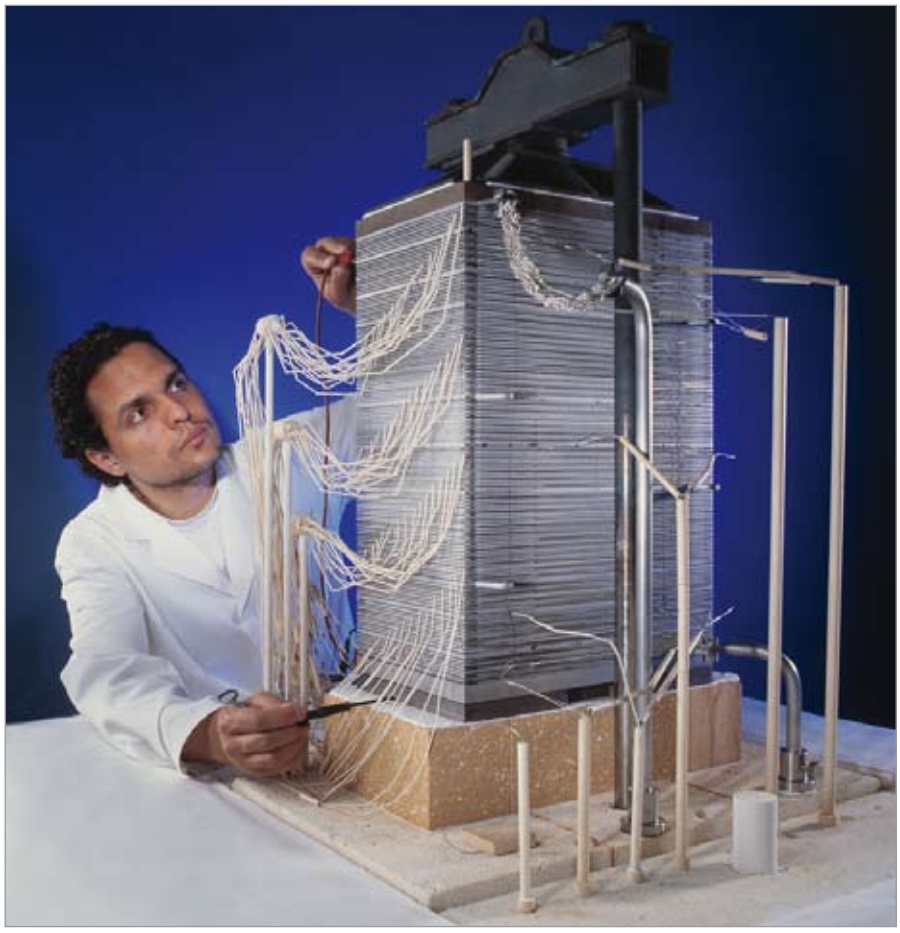
It is true that there are functioning prototypes of the individual types of fuel cells and also for the different applications – from the micro fuel cells to fuel cell powered cars and to local fuel cell CHP units – but these products are not yet widely available on the market. Cost/use analyses have prompted developers to improve the performance of the existing fuel cells. According to Dr. Volker Rüger, patent examiner in the field of fuel cells at the German Patent and Trade Mark Office 'corresponding control technology and an ever exacter recording of operating conditions of the fuel cell can positively affect the efficiency and life of the fuel cell.'

Another subject of many patent applications is the modular structure of the components: The development of universally usable components – for the different applications – allows the mass production of components, thus reducing the production costs of a fuel cell. New electrolyte materials are designed to show higher resistance to temperature fluctuations and corrosion, and hence a slower rate of degradation. The non-active components of a fuel cell are also being constantly improved; these are, for example, the gas distributor plate, gaskets and connections. Micro fuel cells, for example, in the form of a plug-in card that can be incorporated in printed circuit boards are an interesting variant, according to the patent examiner, Frank Senftleben. He also assesses the patentability of inventions in the field of fuel cells.

» Cost/use analyses have prompted developers to improve the performance of the existing fuel cells. «

Transition to electric vehicles?

Car manufacturers face the question of which future drives concepts they want to focus on in addition to the conventional combustion engines. 'A genuine alternative to conventional vehicles are electric cars which combine a powerful battery with a fuel cell', explains Volker Rüger. These 'hydrogen vehicles' are powered solely by an electric motor which is supplied



Environmentally friendly and efficient – this fuel cell stack generates enough electricity to supply an apartment building.

with electricity from a fuel cell. Many of the patent applications concerning transport-related uses of fuel cells deal with the integration of fuel cells in vehicles with electric motors. According to Frank Senftleben, these focus on hydrogen generation or on-board storage of hydrogen, control systems in connection with the other motor vehicle components – for example, the cooling system, air conditioning or the car battery – as well as managing certain operating conditions – such as a cold start in winter, or the operation of fuel cells when the vehicle is parked.

» Car manufacturers face the question of which future drive concepts they want to focus on in addition to the conventional combustion engines. «

Fuel cells achieve high electrical efficiency levels. However, they only make economic sense and are ecologically worthwhile if the energy required for generating hydrogen comes from renewable energy sources (for example, generation by electrolysis by means of solar electricity). The conversion of carbohydrates, for example, natural gas or refined biogas, is a possible alternative to hydrogen generation by electrolysis. By upstream or internal catalytic conversion these raw materials can be converted into hydrogenous fuel gas which is then fed to the fuel cell. The advantage of using natural gas or refined biogas is that the network of gas stations required is already there – a hydrogen infrastructure would still have to be built.

The constant research efforts and the persistently large number of patent applications suggest that developers are working full steam ahead to solve the existing technical problems. So it seems to be only a matter of political will and of time before fuel cell technology is sufficiently mature to bring it to the market. ●

Did you know that ...

the term 'Nachhaltigkeit' (sustainability) originates from forestry?

It was first mentioned in 1713 – in times of increasing wood shortage – by Hannß Carl von Carlowitz who published a 'Sylvicultura oeconomica or Haußwirthliche Nachricht und Naturmäßige Anweisung zur wilden Baum-Zucht'. In this publication he demanded a consistent and sustainable use of resources in forest cultivation. To preserve the wood resources for the following generations he recommended that the amount of trees harvested should not exceed the amount that would grow back. In the 20th century this concept of sustainability was introduced into international environmental and economic policies.

Automotive technology: exhaust technology and hybrid electric cars

In 2008, the number of patent applications in the field of motor vehicle exhaust technology remained on the high level of the previous year. In addition to the demand for cars with low fuel consumption, this is also due to ever lower emission limits and the sensor systems that have to be installed in every vehicle to monitor emissions and control emission compliance (on-board diagnostic system). The percentage shares accounted for by applicants having a place of residence or an establishment in Germany or Japan slightly decreased while US applicants have been catching up. With regard to diesel vehicles, European vehicle manufacturers focused on exhaust treatment (including the use of the diesel particle filter) – because they can only comply with future EU standards and the even more stringent US standards by a more efficient exhaust treatment.

Applications on the different aspects of hybrid electric cars again increased steeply – from simple start/stop systems, which means that when the car is stationary the combustion engine automatically cuts out and restarts, to full hybrid electric vehicles, which can even run on electric power alone. Formerly, Japanese applicants had been clearly in the lead in this field, but now they have to share this market with their American and, above all, European competitors: Since 2004, the percentage of applications from Japan has declined, while applications from Germany have further increased. The majority of applicants are big international car manufacturers and component suppliers. They do not only place importance on good fuel economy and a low emission drive, but also work on improving driving dynamics and the driving comfort of their hybrid electric vehicles.

Table 11: Patent applications effective in the Federal Republic of Germany in selected fields of automotive technology. Applications published by the DPMA and the EPO, avoiding double-counts, by publication year and the applicant's place of residence.

Motor vehicle exhaust technology [1, 2]							
Country of origin	2002	2003	2004	2005	2006	2007	2008
Total	**742**	**847**	**1,117**	**1,052**	**1,139**	**1,314**	**1,297**
DE	362	330	471	458	495	563	535
US	99	145	168	134	158	178	247
JP	207	284	381	338	367	463	401
KR	8	6	3	10	6	5	2
FR	29	24	39	58	71	60	57

Hybrid vehicles [2, 3]							
Country of origin	2002	2003	2004	2005	2006	2007	2008
Total	**372**	**376**	**414**	**429**	**474**	**562**	**887**
DE	73	104	95	92	131	219	337
US	76	53	40	94	101	110	193
JP	205	200	248	223	213	203	304
KR	2	0	4	5	11	20	16
FR	5	10	13	5	7	8	11

1 IPC: F01N3, F01N5, F01N9, F01N11, F02D41 to F02D45
2 Applications filed by applicants having several seats are counted for each country
3 Data collected with a specified search profile due to the 2006 IPC reform

The European Patent Office (EPO) and the DPMA received only few applications in the field of exhaust technology and hybrid electric cars from France and Korea, two countries with large car industries. ●

Further development of quality management at the DPMA

The patent area has a long tradition of quality management and quality assurance. The aim of our quality management system is to retain and continually enhance the quality of our IP rights. Here we are caught between the (competing) demands of quality and of timely and efficient processing of IPR case files. It is very important for us to strike a fair balance between quality and quantity.

Against the background of international developments, the DPMA established its own project group for the further development of quality management at the DPMA at the end of 2006. Since then, the project group has been in close contact with the staff members in charge of quality management of other patent offices. In the course of 2008, the project group held meetings at working level with representatives of the European Patent Office and the patent offices of the United Kingdom, Denmark, China and the USA.

With our active participation, the Administrative Council of the European Patent Organisation adopted a standard for a European Quality Management System (EQMS) in 2007. The main requirements of this standard are largely based on the international DIN EN ISO 9001 quality standard. Our current quality management system already meets the requirements of this standard to a high degree.

Based on the above-mentioned versatile experience and the international developments, the project group has drafted a basic concept outlining the continuous further development of the existing quality management in 2008. The basic concept aims at systemising and complementing our existing quality management to fulfil the requirements of the European Quality Management System.

Developments within the framework of the European Patent Network

We also actively participated in the development of the European Quality System (EQS) within the framework of the European Patent Network (EPN). The European Quality System provides a basis for continually improving the quality of products (such as patents and searches) and services of the participating offices of Europe. The EQS consists of the following two parts:

- the above-mentioned standard for a European Quality Management System (EQMS) – it deals with the quality of processes in patent offices, for instance, search and examination procedures – and

- the Product Quality Standard (PQS) – it was adopted by the Administrative Council of the European Patent Organisation in October 2008.

As we are aware that a quality management system focusing on processes does not automatically ensure high-quality products, the product quality standard

Meeting of a German delegation with representatives of quality management at the Danish Patent and Trademark Office (DKPTO) in June 2008

is also very important. In this context, this standard defines the minimum requirements for classifying applications, drafting reports on search results, written communications, as well as requirements for rejections and granted patents.

With regard to many quality aspects of a concluded patent product, the ultimately decisive question is whether the product can stand up to the 'test' of being challenged or enforced in a court, for example, in nullity or infringement proceedings. However, the percentage of granted patents that face such a 'test' is very low – a fact for which there may be various reasons, for example, financial reasons. The introduction of EQMS and PQS aims to increase the probability that the other granted patents would also stand this 'test'.

The definition of minimum requirements in the form of standards has certainly encouraged discussion about quality. In our view, this is a way to proceed further.

Key issues of the work at the DPMA

Some key issues are particularly important to produce high-quality results in patent examination. These include:

- profound scientific and technological knowledge of patent examiners, which is absolutely essential for professional examination;
- careful selection and ongoing training of personnel, since our staff are the key to high-quality work;
- high degree of independence and autonomy of patent examiners, which provides a crucial incentive for good work;
- adequate time for processing applications in order to effectively deal with complex cases and
- awareness among all staff of the office of the importance of high-quality work. ●

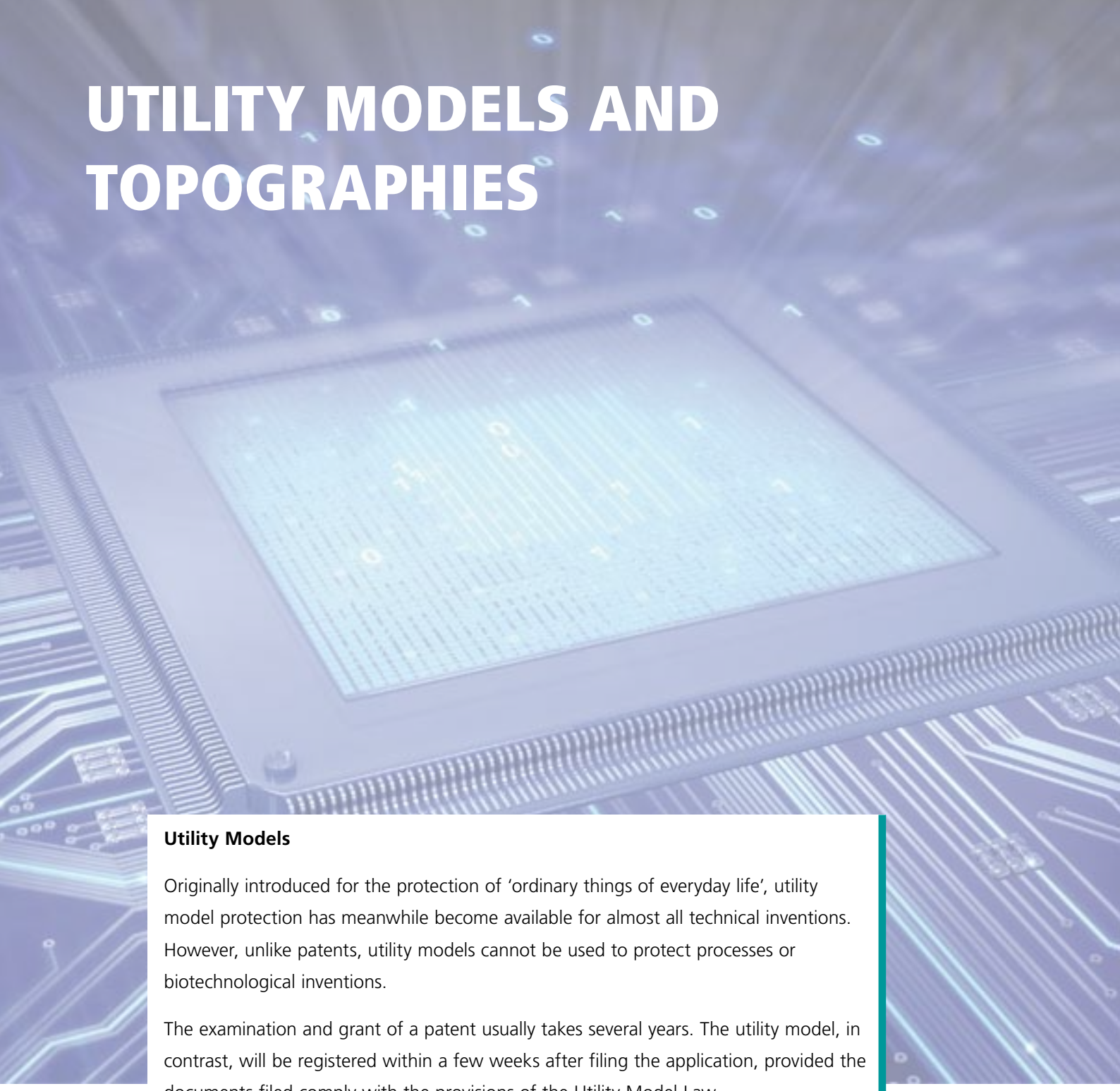
Opposition proceedings at the DPMA

Professor Dietmar Harhoff, Director at the Institute for Innovation Research at the Department of Business Administration at Ludwigs-Maximilians-Universität in Munich, calls the opposition against granted patents a 'hygiene factor of the patent system'. He feels that it is being used less and less. By filing a notice of opposition, which is subject to a moderate fee, anybody who thinks that a patent was wrongfully granted can request that the patented invention be re-examined for patentability within three months from the publication of the grant of the patent. The opponent has to explain in detail why, in his or her view, the patent ought not to be maintained. In fact, the number of oppositions filed per granted patents has been decreasing for a few years. Ten years ago, about eight oppositions were filed per 100 patent grants, whereas this figure was only four oppositions per 100 grants in 2007.

The Federal Patent Court (Bundespatentgericht) dealt with opposition proceedings from 2001 to 2006 to reduce the workload at the DPMA. During this period, the legal basis was amended. From 1 July 2006, we have again been in charge of processing new oppositions received. Since then, a hearing must be held upon request in any proceedings. A hearing was requested in more than 80 % of the cases. It is true that this increases the time required for the individual proceedings, but it allows patent owners and opponents to explain and illustrate their reasoning in detail to patent examiners who are specialists in the relevant field. This allows well-founded decisions to be reached more quickly.

To avoid new backlogs of unsettled opposition proceedings, we set the objective of concluding the opposition proceedings within one year. At the end of 2008, the balance was 773 new opposition proceedings vs. 665 proceedings concluded, so that we largely met our goal. We were again able to clarify in a fast and reliable manner whether a patent – as a rule these are patents having a particular commercial importance – was to be maintained fully, partly, or not at all. In 2008, we had just under five oppositions per 100 grants. This means that the 2008 figure was higher than that of the preceding year. We do not consider this as a sign of a weakening quality of granted patents, since the percentage of patents fully revoked hardly changed in comparison to the previous years, but rather as a sign that our fast method of dealing with proceedings is being appreciated and makes it again attractive to use the opposition more frequently as a 'hygiene factor of the patent system'. Besides, this route might sometimes serve as an alternative to costly nullity proceedings. ●

UTILITY MODELS AND TOPOGRAPHIES



Utility Models

Originally introduced for the protection of 'ordinary things of everyday life', utility model protection has meanwhile become available for almost all technical inventions. However, unlike patents, utility models cannot be used to protect processes or biotechnological inventions.

The examination and grant of a patent usually takes several years. The utility model, in contrast, will be registered within a few weeks after filing the application, provided the documents filed comply with the provisions of the Utility Model Law.

The IP right becomes effective upon registration and – provided the unexamined substantive requirements for protection are fulfilled – it gives the owner the same rights as a patent in the territory of the Federal Republic of Germany: The owner of a utility model has the right to seek injunctive relief and to claim damages if his utility model right is infringed.

Utility model protection can be obtained fast and at low cost. Apart from the application fee, no other fees are due in the initial three-year term of protection. Protection can be renewed after three, six and eight years by paying the appropriate maintenance fee. Protection may last up to ten years.

Business situation

17,067 utility model applications were filed, including 1,557 utility model applications split off from patent applications. 14,347 utility models were entered in the register. 2,916 applications were withdrawn, rejected or did not lead to registration for other reasons.

At the end of the year, a total of 100,093 utility models were in force. Within the course of the year, 22,839 utility model registrations were renewed, 16,813 utility models were cancelled from the register, for example, because they were not maintained or withdrawn. You will find further statistical data in the annex 'Statistics' on page 129.

A utility model is entered in the register without substantive examination. It lasts as long as it is not challenged by a request for **cancellation** and cancelled.

In cancellation proceedings it is examined whether the requirements for protection, **novelty**, **inventive step** and **industrial applicability**, are actually met and whether the utility model is legally valid in full or in part.

Cancellation proceedings are handled by a separate division in the utility model area. In 2008, 216 requests for cancellation of a utility model were filed there. This is an increase of just under 12 % over the previous year (2007: 193). After conclusion of 284 proceedings, 265 cancellation proceedings were still pending at the end of the year.

Topography

Topography protection is available for the three-dimensional structures of microelectronic semiconductor products, e. g. those in memory chips or processors. Demand for this type of IP right has virtually disappeared. In 2008, we received only one topography application. Due to the progress in the field of semiconductor technology it seems no longer necessary to protect products in this way.

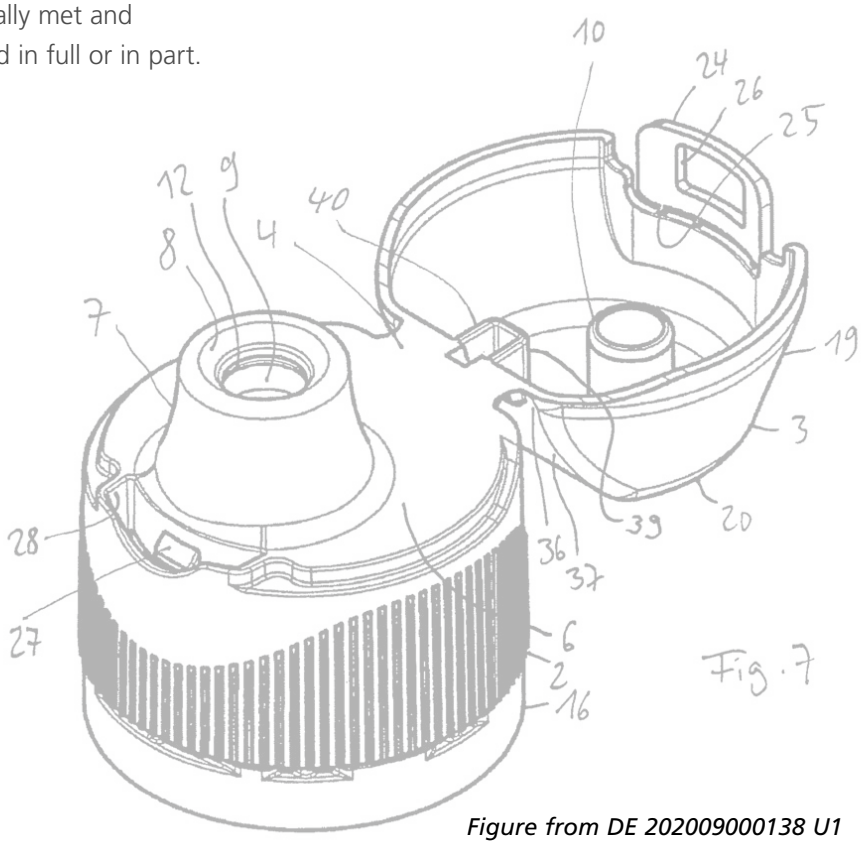


Figure from DE 202009000138 U1

A useful little brother

Christoph Schmid is Head of the Cancellation Division. Diane Nickl is Head of the Utility Model Section.

The utility model is often referred to as 'the little brother' of the patent. How would you characterise this 'family relationship'?

DN: Seen by many as the little brother of the patent, the utility model indeed stands somewhat in the shadow of its big brother and is easily underestimated although utility models give their owners the same rights as patents. That means the utility model owner has the exclusive right to use the invention, to produce it and to market it. Any other person is prohibited from doing the same, unless the utility model owner has given his/her explicit consent.

Furthermore, utility model protection is not limited to small inventions or certain fields of technology. Just like patents, utility models can protect all technical inventions, for example, electronic components, chemical substances, food and pharmaceuticals.

Diane Nickl and Christoph Schmid

The only exceptions are processes, such as manufacturing and working processes, measuring processes, and biotechnological inventions.

Utility models also provide fast and low cost protection. The application fee is only € 40 and utility models are registered after three months on average, provided the application documents meet the legal requirements for the registration of a utility model.

» Utility models provide fast and low cost protection. «

Certainly, there must be a catch?

DN: Maybe you can see a 'slight catch' in the most important difference compared to the patent. During the utility model registration procedure there is no examination as to whether the invention is new, industrially applicable, and involves an inventive step. If these requirements for an effective IP right are not met, no rights may be derived from the utility model after registration. Consequently, the applicant is responsible for thoroughly searching the state of the art. By the way, for a fee of € 250 the DPMA also offers such searches. Upon request patent examiners will conduct a search. The search report will list the publications and documents identified that are relevant for assessing protectability of the respective utility model application.

This will make it easier for you to assess whether your claims will be enforceable or if an attack on your IP right will be successful.

Speaking of attack – what legal options are available for challenging a utility model?

CS: The only way to delete a utility model is to file a cancellation request at the DPMA.

A cancellation request may be filed by any person. You do not need to have an economic interest. However, the request must contain a sufficient statement of reasons, particularly, citing prior art against the utility model. The request is also subject to a fee of € 300.

In contrast to patents, it is possible to go to the regular courts to clarify whether any rights may be derived from the utility model at all. This essential difference is based on the fact that there is no substantive examination before the registration of the utility model.

Can you tell us how cancellation proceedings are conducted?

CS: Initially, we notify the owner of the utility model that we have received a request for the cancellation of his utility model. The owner may then file a contesting reply within one month. If the owner fails to object to the request, the utility model will be cancelled immediately.

If a contesting reply is filed, the examination of the substantive requirements for an effective IP right will be subsequently conducted in proceedings with a hearing. A cancellation division, consisting of a lawyer and two technical members, will clarify above all whether the invention is new and involves an inventive step.

Do I have to appoint an agent?

CS: No, but it may well be useful to consult or appoint a patent attorney or an attorney-at-law as representative, since the legal and technical details of proceedings may be intricate and complicated. The risk of costs should also be considered. As in civil proceedings the losing party has to bear the costs of proceedings, including the costs incurred by the opponent. Parties to utility model cancellation proceedings should also be aware of this fact.

How many utility models are challenged in this way?

CS: In comparison to the total number of utility model registrations, the proportion challenged during cancellation proceedings is very small. The 216 cancellation requests filed in 2008 amount to just 0.22 %: of the 100,093 registered utility models. About 70 % of the cancellation proceedings result in the challenged utility model being cancelled in full or in part.

» In comparison to the total number of utility model registrations, the proportion challenged during cancellation proceedings is very small. «

So it appears that utility models generally have a higher degree of validity than you would initially expect?

CS: That is true, but it is definitely inherent in the system, for cancellation proceedings are initiated first and foremost in the case of real disputes. They close a 'gap' created by registering utility models without prior examination of the substantive requirements of protection. The cancellation proceedings are an important and effective instrument for clarifying the protectability of a utility model. However, the parties will usually attempt to reach agreement without the involvement of the DPMA to also avoid cancellation proceedings.

» The cancellation proceedings are an important and effective instrument for clarifying the protectability of a utility model. «

This sounds like a well-rounded system. Are there really many people who are interested in utility model protection?

DN: In recent years, the number of utility model applications has declined. We do not know the exact reasons for this trend. Perhaps one reason is that many applicants still think that they have to choose between the application for a patent or a utility model.

» The utility model is the perfect complement to the patent application. «

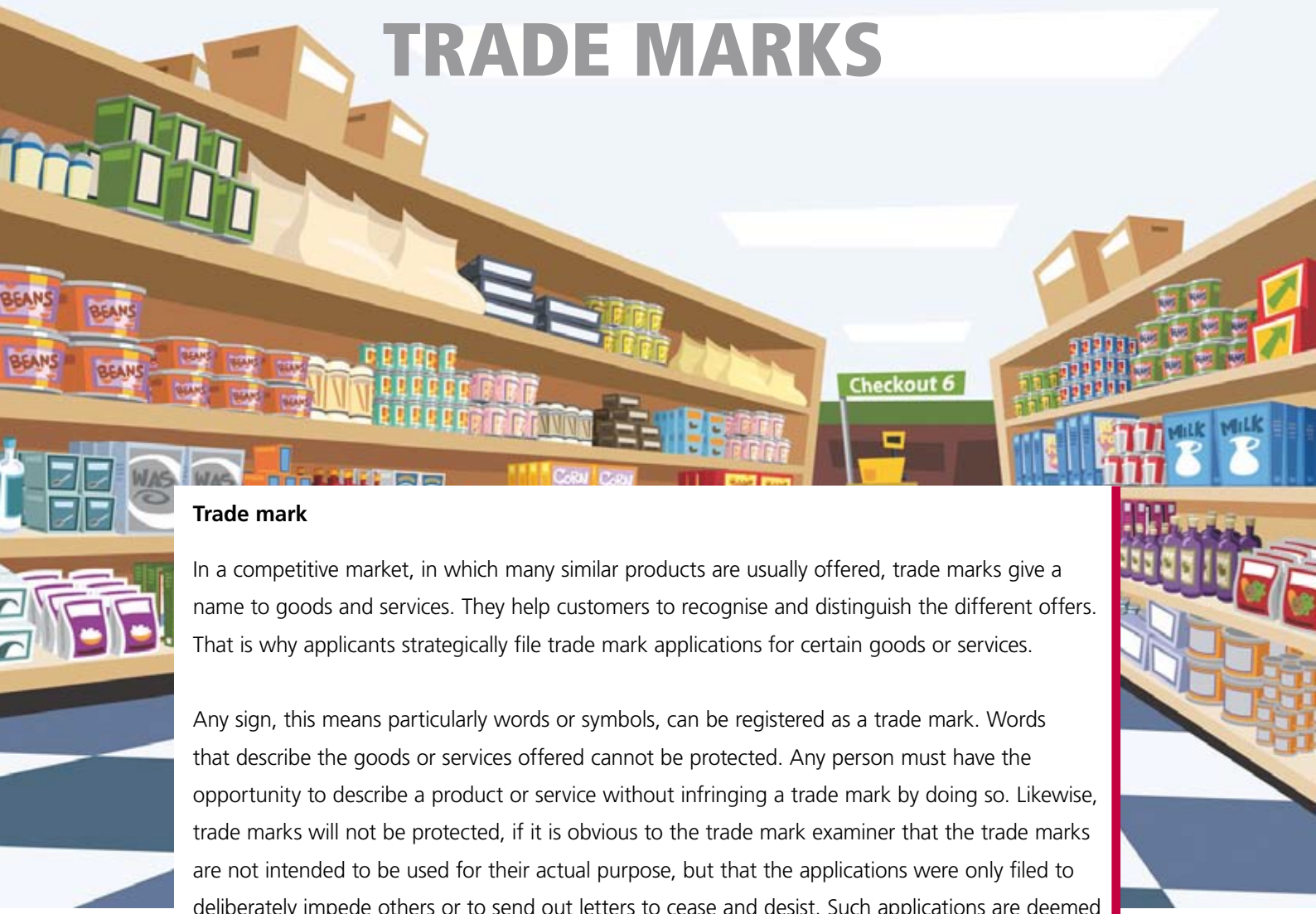
Quite contrary, the utility model is the perfect complement to the patent application. The applicants may either file both applications at the same time or – as long as processing of the patent application has not yet been concluded – use the so-called split-off option. It allows the applicant to claim the filing date of the pending patent application by making a split-off declaration on the request form of the utility model application. And indeed, the filing date is an extraordinarily important date, because: First come, first served! This means, among other things, that applications with the same or a similar invention, filed later by competitors, cannot lead to a patent. This means that it is never too early to apply for a patent or utility model for an invention.

» The utility model registration gives the applicant low-cost full protection in the otherwise more or less 'unprotected pendency period', between the filing of the patent application and the patent grant. «

And what is the advantage for an applicant to have his/her invention protected by both, a patent and a utility model?

DN: The advantage is readily obvious. The utility model registration gives the applicant of a protectable invention low-cost full protection in the otherwise more or less 'unprotected pendency period', between the filing of the patent application and the patent grant. During that period, which may last several years, the 'little brother' may indeed prove to be very useful. ●

TRADE MARKS



Trade mark

In a competitive market, in which many similar products are usually offered, trade marks give a name to goods and services. They help customers to recognise and distinguish the different offers. That is why applicants strategically file trade mark applications for certain goods or services.

Any sign, this means particularly words or symbols, can be registered as a trade mark. Words that describe the goods or services offered cannot be protected. Any person must have the opportunity to describe a product or service without infringing a trade mark by doing so. Likewise, trade marks will not be protected, if it is obvious to the trade mark examiner that the trade marks are not intended to be used for their actual purpose, but that the applications were only filed to deliberately impede others or to send out letters to cease and desist. Such applications are deemed to be filed in bad faith. Applicants having such unfair intentions will only cause temporary trouble; bad-faith trade mark applications or registrations will not be protected in the first place or will be cancelled quickly.

Applicants who also wish to have their trade marks registered in other countries besides Germany can file applications for the registration of their trade marks at other national offices for IP protection, the World Intellectual Property Organization (WIPO) or the Office for Harmonization in the Internal Market (OHIM). Trade marks registered by the Office for Harmonization in the Internal Market are effective in the entire European Union. International registrations by WIPO can be effective in nearly all countries around the world.

Applicants for or proprietors of German trade marks who wish to obtain international protection of their trade marks can file the respective requests with us. We transmit such requests to WIPO. Vice versa, we accept requests for examination transmitted by WIPO, which were filed by applicants seeking to obtain trade mark protection in Germany.

As of 1 September 2008, the international registration may not only be based on a registered trade mark, but also on a trade mark application.

Business situation

As in previous years, we were pleased to witness a great demand for trade marks – although there was a slight decline of 3 % in 2008 (from 76,165 in 2007 to 73,903 in 2008). This is confirmed by our long years experience: The trade mark as an IP right is very cyclical. If companies are sceptical about whether new products will be profitable they bide their time before they launch the products onto the market. Since the development of a product also includes the finding of a suitable trade mark and filing an application for that trade mark, each product that is not put on the market also means at least one trade mark not applied for. The economic downturn over the course of 2008 and, to an even greater extent, the general uncertainty about the economic development have presumably led to a certain restraint in filing trade mark applications.

There was also a decrease in the number of foreig trade marks (international registrations), which car filed for registration in Germany through the World Intellectual Property Organization (WIPO). Here, the trend of recent years persisted. However, other than in the case of national trade marks, the economic situation is not the reason for this trend. The reason is the accession of the European Union (EU) to the so-called Madrid system for the international registration of trade marks in 2004. The Madrid system governs the protection of foreign trade marks in the member states of the system. If an applicant seeks protection for his/her internationally registered trade mark in the entire EU he/she must indicate this in his/her application. From the accession of the EU to the Madrid system, the trade mark gains protection in all countries of the EU simultaneously. A separate application for the individual countries, e. g. for Germany, is not required any more. Vice versa, there was a slight increase in cases where an applicant had already registered a trade mark in Germany and wished to obtain protection in other countries. For the individual origin of applications please see Figure 4 and Table 12. More statistical data are provided in the annex 'Statistics' on page 129.

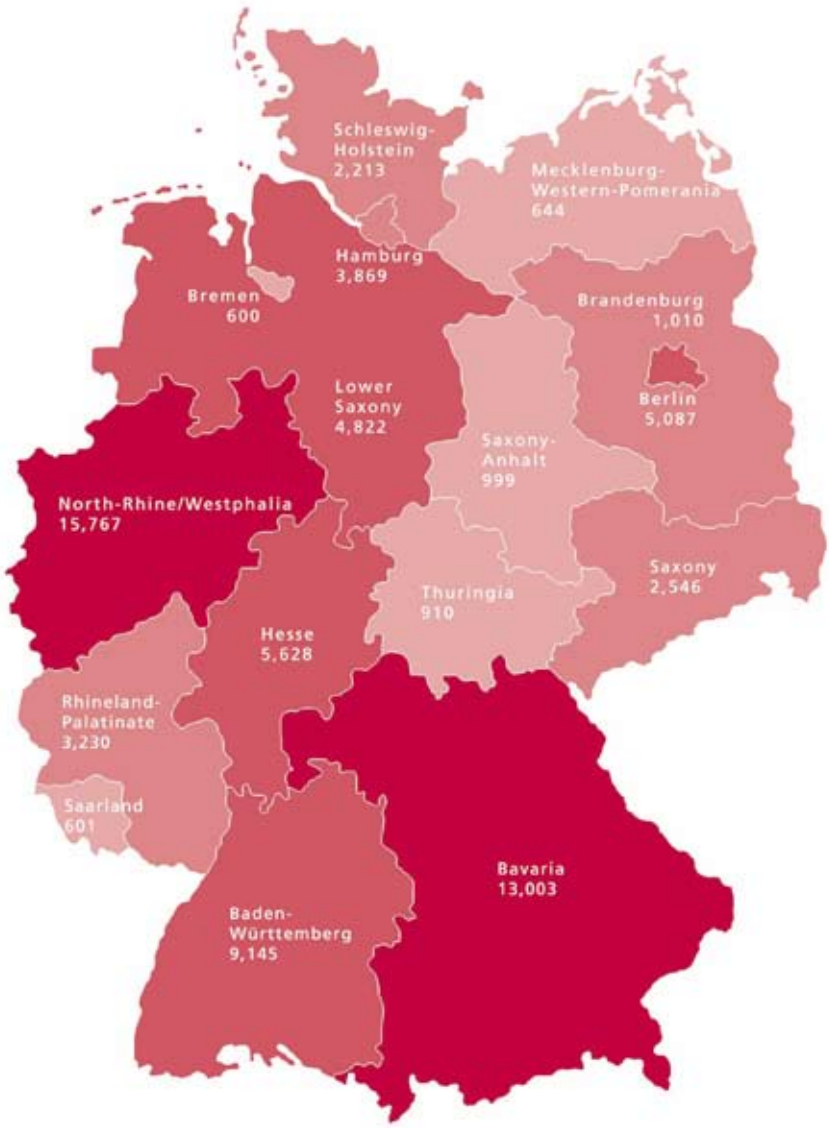


Figure 4: Trade Mark applications by German Laender in 2008

Table 12: Where do the applications come from?

	2007	2008	+/- in %
Foreign countries	3,377	3,829	+ 13.4
Baden-Württemberg	9,207	9,145	- 0.7
Bavaria	12,895	13,003	+ 0.8
Berlin	5,028	5,087	+ 1.2
Brandenburg	1,108	1,010	- 8.8
Bremen	701	600	- 14.4
Hamburg	4,088	3,869	- 5.4
Hesse	6,056	5,628	- 7.1
Mecklenburg-Western Pomerania	623	644	+ 3.4
Lower Saxony	4,935	4,822	- 2.3
North Rhine/Westphalia	17,250	15,767	- 8.6
Rhineland-Palatinate	3,424	3,230	- 5.7
Saarland	748	601	- 19.7
Saxony	2,704	2,546	- 5.8
Saxony-Anhalt	834	999	+ 19.8
Schleswig-Holstein	2,168	2,213	+ 2.1
Thuringia	1,019	910	- 10.7

Table 13: Applications by classes

Class	Class headings	2007	2008	+/- in %
0	not classifiable	277	214	- 22.7
1	Chemicals	1,023	967	- 5.5
2	Paints, varnishes, lacquers	226	223	- 1.3
3	Cleaning preparations	2,184	2,005	- 8.2
4	Industrial oils and greases, fuels	344	323	- 6.1
5	Pharmaceutical preparations	3,153	2,932	- 7.0
6	Common metals and goods of common metal	850	924	+ 8.7
7	Machines, motors and engines	1,741	1,833	+ 5.3
8	Hand tools	291	214	- 26.5
9	Electrical apparatus and instruments	5,249	4,482	- 14.6
10	Medical apparatus and instruments	1,071	1,099	+ 2.6
11	Heating, ventilation, sanitary installations	1,260	1,358	+ 7.8
12	Vehicles	1,841	1,582	- 14.1
13	Firearms	112	104	- 7.1
14	Jewellery, clocks and watches	867	805	- 7.2
15	Musical instruments	131	149	+ 13.7
16	Office requisites, stationery	2,720	2,871	+ 5.6
17	Insulating materials, semi-finished goods	372	405	+ 8.9
18	Goods made of leather	639	689	+ 7.8
19	Building materials (non-metallic)	784	926	+ 18.1
20	Furniture	1,178	1,261	+ 7.0
21	Household or kitchen utensils	575	584	+ 1.6
22	Ropes, string, sails	78	84	+ 7.7
23	Yarns and threads	27	43	+ 59.3
24	Textiles, bed and table covers	479	394	- 17.7
25	Clothing, footwear	3,043	2,920	- 4.0
26	Lace, ribbon, buttons, trimmings	75	76	+ 1.3
27	Materials for covering floors, wall hangings	184	77	- 58.2
28	Games, sporting articles	1,362	1,383	+ 1.5
29	Food of animal origin	1,797	1,917	+ 6.7
30	Food of plant origin	2,310	2,274	- 1.6
31	Agricultural and forestry products	737	751	+ 1.9
32	Beers, non-alcoholic drinks	1,614	1,346	- 16.6
33	Alcoholic beverages	1,270	1,231	- 3.1
34	Tobacco, smokers' articles	219	108	- 50.7
35	Advertising, business management	8,232	8,339	+ 1.3
36	Insurance	3,392	3,322	- 2.1
37	Building construction, repair	1,307	1,247	- 4.6
38	Telecommunications	2,470	2,034	- 17.7
39	Transport	1,763	1,720	- 2.4
40	Treatment of materials	514	483	- 6.0
41	Education; sporting and cultural activities	8,248	8,088	- 1.9
42	Scientific and technological services	3,973	4,006	+ 0.8
43	Providing food & drink, temp. accommodation	1,862	1,952	+ 4.8
44	Medical services	3,094	3,017	- 2.5
45	Legal services, security services	1,227	1,141	- 7.0

The goods to services ratio for trade mark applications shifted again towards service applications (by 0.4 percentage points). Service marks account for 47.8 %, which means almost half of all new trade mark applications.

The development of the highest volume classes (classes with more than 1,000 applications per year) shows increases in some classes, for example, in the following (see also Table 13):

- class 7 (machines, motors and engines),
- class 11 (heating, ventilations, sanitary installations),
- class 16 (office requisites, stationery),
- class 20 (furniture),
- class 29 (food of animal origin),
- class 43 (providing food & drink, temporary accommodation).

In many other classes of goods and services the applications declined, for example, in

- class 9
  (electrical apparatus and instruments, hardware and software),
- class 12 (vehicles),
- class 32
  (beers, non-alcoholic drinks),
- class 38 (telecommunications).

Interestingly, the development of the financial crisis has had hardly any effect on the applications in class 36 (insurance; financial affairs; monetary affairs; real estate affairs) yet. In 2006, we received 3,363 applications in this area, in 2007, the number remained fairly constant at 3,392 and in 2008, 3,322 applications constituted only a minor change.

Table 14: Top trade mark proprietors regarding registrations in 2008 (Registration of trade marks under Sec. 41 of the Trade Mark Law)

	Proprietor	Town	Country	Number
1	Mibe GmbH Arzneimittel	Brehna	DE	192
2	Deutsche Telekom AG	Bonn	DE	153
3	Bayer AG	Leverkusen	DE	144
4	Henkel AG & Co. KGaA	Düsseldorf	DE	112
5	Merck KGaA	Darmstadt	DE	107
6	Boehringer Ingelheim International GmbH	Ingelheim	DE	104
7	Eckes-Granini Deutschland GmbH	Nieder-Olm	DE	85
8	Beiersdorf AG	Hamburg	DE	80
9	Daimler AG	Stuttgart	DE	76
10	BSH Bosch und Siemens Hausgeräte GmbH	München	DE	68
11	Merz Pharma GmbH & Co. KG	Frankfurt	DE	63
12	MIP METRO Group Intellectual Property GmbH & Co. KG	Düsseldorf	DE	56
13	internetstores AG	Stuttgart	DE	52
14	Molkerei Alois Müller GmbH & Co. KG	Fischach	DE	50
15	Hubert Burda Media Holding GmbH & Co. KG	Offenburg	DE	46
15	Orthomol pharmazeutische Vertriebs GmbH	Langenfeld	DE	46
17	Kaufland Warenhandel GmbH & Co. KG	Neckarsulm	DE	44
17	Siemens AG	München	DE	44
19	REWE-Zentral AG	Köln	DE	43
20	Roche Diagnostics GmbH	Mannheim	DE	42
20	TUI AG	Hannover	DE	42
22	Artec GmbH	Leipzig	DE	41
22	Fraunhofer-Gesellschaft e.V.	München	DE	41
24	Coty Deutschland GmbH	Mainz	DE	36
25	Bayerische Motoren Werke AG	München	DE	35
25	GEZE GmbH	Leonberg	DE	35
25	Volkswagen AG	Wolfsburg	DE	35
28	Société des Produits Nestlé S.A.	Vevey	CH	34
29	AUDI AG	Ingolstadt	DE	33
29	Kaiser Spiele GmbH	Euskirchen	DE	33
29	Vodafone D2 GmbH	Düsseldorf	DE	33
32	AAA-Pharma GmbH	Neu-Ulm	DE	31
33	biomo pharma GmbH	Hennef	DE	30
33	Katjes Fassin GmbH + Co. KG	Emmerich	DE	30
33	R & D Express Aussenhandels GmbH	Rheinstetten	DE	30
36	dm-drogerie markt GmbH + Co. KG	Karlsruhe	DE	29
36	MWH-Metallwerk Helmstadt GmbH	Helmstadt-Bargen	DE	29
36	Ostfriesische Tee Gesellschaft Laurens Spethmann GmbH & Co. KG	Seevetal	DE	29
39	HeineMack GmbH	Nürnberg	DE	28
39	Lidl Stiftung & Co. KG	Neckarsulm	DE	28
39	MZA Meyer-Zweiradtechnik-Ahnatal GmbH	Vellmar	DE	28
42	adp Gauselmann GmbH	Espelkamp	DE	27
42	Cycle-Union GmbH	Oldenburg	DE	27
44	Bayerischer Rundfunk, Anstalt des öffentlichen Rechts	München	DE	26
44	Bristol-Myers Squibb Co.	New York	US	26
44	Nycomed GmbH	Konstanz	DE	26
44	Tendance GmbH	Rüsselsheim	DE	26
44	Westfälische Fleischwarenfabrik Stockmeyer GmbH	Sassenberg	DE	26
49	Gühring oHG	Albstadt	DE	25
49	Tchibo GmbH	Hamburg	DE	25

News from the trade mark department

Jena Sub-Office celebrates its 10th year

On 1 September 1998, the Jena Sub-Office of the German Patent and Trade Mark Office started its work. In 2008, we celebrated its 10th anniversary. The Federal Minister of Justice, Brigitte Zypries, and Jena mayor Dr. Albrecht Schröter together with about 120 representatives from politics, science, the civil service, business and industry were invited by the President of the DPMA Dr. Jürgen Schade to a ceremony to mark the anniversary.

Dr. Schade emphasised in his welcome address the historic importance of the establishment of the Jena Sub-Office for the DPMA as a consequence of Germany´s unification. He thanked the staff of the Jena Sub-Office for their work and dedication. Jena mayor Dr. Schröter said that he was impressed by the achievements of the Sub-Office, which has grown in staff numbers since its opening, and announced that he would 'roll out the red carpet' for the DPMA and for all its future plans. In her speech 'The 10-year success story of the Jena Sub-Office', Federal Minister Zypries praised the establishment and development of the Sub-Office as an exemplary model of functioning federalism and an example of successful German reunification. In her closing remarks, Cornelia Rudloff-Schäffer, then Head of the Department – Trade Marks, Utility Models and Designs of the DPMA, highlighted the efficient cooperation between the offices in Munich and Jena in the fields of trade marks and designs.

To mark the 10th anniversary, we organised an exhibition in GoetheGalerie, next door to the office building of the Jena Sub-Office in September 2008. The exhibition not only presented the DPMA, in particular the Jena office, but also the two IP rights: trade marks and designs. The exhibition offered a broad range of information through posters, showcases and an information stand. Historical and current exhibits, including cars and motorcycles, illustrated the history of the following trade marks and companies: Audi, Bayer-Schering, Halloren-Schokolade, Horch, Jenapharm, Maggi, Meissner Porzellan, MZ Motorrad- und Zweiradwerk, Nivea, Rotkäppchen-Sekt, Vitacola and Zeiss.

Dr. Schade thanks the Federal Minister of Justice, Brigitte Zypries, for her speech

View of the exhibition marking the 10th anniversary of the Jena Sub-Office of the German Patent and Trade Mark Office in the GoetheGalerie Jena

Consistency of registration practice

Every applicant considers whether his or her trade mark will be registered at all. A glance at the trade mark register and the collection of decisions of the Federal Patent Court (Bundespatentgericht) shows some inconsistencies: Some trade marks that appear to be similar were registered while others were refused. Making registrations more predictable is a permanent issue among the concerns of applicants. In recent years, they have focused on the issue of adherence to prior registrations. The key issue of the trade mark forum 2008, a biannual conference organised by the trade mark association (Markenverband) in cooperation with the DPMA and the Federal Patent Court, was the quality assurance measures of the trade mark offices to ensure a consistent registration practice.

In her lecture 'Legal certainty by predictability – strategies for a consistent registration practice' Cornelia Rudloff-Schäffer, then Head of the Department – Trade Marks, Utility Models and Designs of the DPMA, gave her view on this issue. With regard to the rulings of the Federal Court of Justice (Bundesgerichtshof), the Federal Patent Court and the European Court of Justice, Mrs. Rudloff-Schäffer pointed out that the decision on registration had to be taken exclusively on the basis of the law and that the law gave no scope for exercising discretion. The examiners of the office had to consider each individual case separately under the relevant statutory provisions. Earlier registrations or refusals of similar trade marks did not constitute a criterion for assessing protectability under the Trade Mark Law.

Consequently, the examiners are not bound by law to adhere to prior decisions. However, this is only the legal aspect of the issue. It does not release the office from its obligation to make decisions predictable, because an inconsistent decision-making practice is a great problem for applicants when they consider whether to file a trade mark application. In order to be able to predict the future decision of the office the former decisions must be comprehensible and reliably follow a consistent pattern. The DPMA has taken various measures to fulfil these quality standards: The top priority is the qualification of examiners. The intensity of the training for examiners at the German Patent and Trade Mark Office is unparalleled in Europe and even after the end of the training, the examiners continue to further develop their skills. They discuss current legal questions and draft decision guidelines in regular team meetings, examiner meetings and a multi-team coordination group of all team leaders and heads of division. Databases and an IT system provide technical support that will even be extended in the future. Essential data in this system are now available to the public and the parties to the procedure. In addition, the parties can better assess their chances of success for future applications on the basis of a detailed statement of reasons usually provided to them in the case of refusal.

EUROclass

Submitting a list of goods and services that complies with the Nice Classification (see information box on page 64) is a major hurdle for many applicants. Checking the lists of goods and services is one of the most time-consuming and work-intensive processing steps of a trade mark application in all offices in Europe. This also leads to a delay in the processing time for an application causing disadvantages for applicants.
The long-term objective of the EUROclass project is to create a common unified search engine for goods and services whose results will be accepted by all European offices. In a first step, it is intended to make the existing databases of the individual EU countries and of the Office for Harmonization in the Internal Market (OHIM) searchable via a common search engine. The search can be supplemented by the option to translate the terms and classifications, and match the terms used by the participating offices.

The prototype of this EUROclass version was developed by the OHIM, first in cooperation with Sweden and the United Kingdom. Later, data pools from Portugal, the Czech Republic, Germany, Poland and Finland were integrated.

The common search engine has been available to the public since 2008.

You can find EUROclass at http://oami.europa.eu/euroclass/actions/main.do. Soon a link to EUROclass will also be available on the website of the DPMA.

Although, at present, the search request only lists the results of the databases of the participating countries side by side this certainly leads to greater transparency of the classification practice of the various countries. It reveals possibilities for harmonisation and so the next step will be easier to achieve: a binding unified database.

Current registration and cancellation practice

From Diana to Obama

On 31 August 1997, when Diana, Princess of Wales, died in an accident, this not only aroused unexpected public emotions but also triggered a wave of trade mark applications. Until that day in 1997 precisely three applications with the term 'Diana' had been filed but, by the end of that year, 59 other applications had been added, for example, 'DIANA – KÖNIGIN DER HERZEN' and 'DIANA CANDLE IN THE WIND'. This gave birth to a phenomenon that still exists today. As soon as a person steps into the public spotlight, the applicants attempt to register the name of that person as a trade mark for a wide variety of different goods and services. Further personalities in this group were and still are Frank Sinatra, Pope John Paul II, Pope Benedict XVI and in 2008, newly elected US President Barack Obama (ten applications were filed for Obama alone). The trend is not limited to people but extends to animals too: We still well remember the (ecstatic) enthusiasm for the baby polar bear Knut with numerous trade mark applications.

When the polar bear cub named Flocke was born in the Nuremberg Zoo in 2008, the zoo management was forewarned: It first filed an application to register 'Flocke' as a trade mark before it made the name public. In this case, the trade mark application made sense – it is legitimate for the zoo to use the name of its polar bear cub for souvenir articles. However, many applicants of such names and terms forget the whole purpose of a trade mark. A trade mark does not grant an unlimited monopoly on a certain name or certain term. A trade mark is simply the name that a supplier chooses for his or her product or service. Consequently, it is registered for certain goods or services only. These must be indicated when the application is filed. Before a trade mark is registered – that means protected – we examine whether it is capable of being understood as a product name. If it is only understood as a word as such – in a conceptual sense – or if it even constitutes a description of features of the product, then trade mark protection must be refused. For example, the name 'Papst Johannes Paul II' cannot be protected as a trade mark for print products or books because it could describe the contents of the publications and to publish a book on Pope John Paul II must be possible without infringing trade mark rights.

Generally, we advise against such types of trade mark applications. It only appears to be a good idea to cash in on a trade mark application for a famous name or term. The vast majority of those trade marks will not be registered at all. The few trade marks that are registered will frequently be challenged by cancellation requests. In addition, it is difficult to enforce the rights derived from those trade marks in court. At the end of the day, such trade marks only cause unnecessary expenses.

LOTTO

As in previous years, the DPMA had to deal with many trade mark cancellation proceedings regarding the verbal element 'LOTTO'.

In 2006, the Federal Court of Justice (Bundesgerichtshof) decided that 'LOTTO' was a descriptive indication and confirmed the decision of the DPMA to cancel the trade mark 'LOTTO' for many goods and services (GRUR 2006, 760 et seq).

Several proceedings concerning 'LOTTO' were pending before the DPMA. Decisions on these proceedings had to be taken in 2008. With regard to the decision by the Federal Court of Justice, the trade mark proprietor had already surrendered some of the goods and services so that the DPMA cancelled the trade mark in part. The DPMA rejected cancellation requests regarding those goods and services in respect of which it was possible to use the trade marks.

The trade mark 'LOTTO.DE' (register number 396 02 576) was cancelled for the registered services 'telecommunications and entertainment'.

In another case, the DPMA had cancelled the word/figurative mark 305 39 481 'LOTTO with a four-leaf clover'. This decision was not confirmed by Federal Patent Court (Bundespatentgericht) in appellate proceedings. In contrast to the DPMA, the court regarded the image of the cloverleaf as distinctive and held that there was no need to keep the sign free for general use, because it was not merely – as the office had argued – a decorative arrangement of an unprotectable element primarily intended to increase attention. According to the court, the concrete image of the cloverleaf clearly differed from a true-to-life image or a nearly true-to-life image (revocation decision of the Federal Patent Court of 30 July 2008, reference number 27 W (pat) 81/08).

In addition to the trade marks of the state lottery administration, the DPMA took decisions on a large number of trade marks that included the element 'LOTTO'. The trade marks 'Wunschlotto' and 'PLUSLOTTO' were cancelled in part. The requests for the cancellation of the word marks 'Lottoglobe' and 'Lottopixel' as well as the word/figurative mark 'LOTTO RADAR' were rejected. It is true that the DPMA had doubts whether the word element 'LOTTO RADAR' alone might refer to a descriptive factual statement which was consequently not eligible for protection. However, it maintained the trade mark registration with a view to the overall combination of its elements that means owing to the existing figurative elements.

Activities in 2008

Jena Talks

In 2001, a lecture series on industrial property and copyright was launched by the staff of our Jena Sub-Office in cooperation with Prof. Dr. Volker Michael Jänich (Gerd Bucerius Chair of Civil Law with German and International Industrial Property Protection, Friedrich-Schiller-Universität, Jena). Since then, experts have explored intellectual property in lectures several times a year. The centre-east district group of GRUR (German Association for Industrial Property and Copyright) and the Association of Intellectual Property Experts (VPP) supported the lectures as co-organisers.

The following lectures were held in 2008:

- 'New copyright law' – Dr. Irene Pakuscher, Federal Ministry of Justice,
- 'German designs law' – Marcus Kühne, German Patent and Trade Mark Office,
- 'Customs in the network fighting against trade mark counterfeiting and product piracy' – Klaus Hoffmeister, Industrial Property Rights Department of the customs authorities.

If you wish to attend future Jena lectures please contact Ms. Lüders (phone: +49 (0) 3641 40 5501; e-mail: carmen.lueders@dpma.de).

4th Jena Trade Mark Law Day

In July 2008, FORUM Institute for Management GmbH held the 4th Jena Trade Mark Law Day in cooperation with the DPMA. Mrs. Cornelia Rudloff-Schäffer, then Head of the Department – Trade Marks, Utility Models and Designs of the DPMA, opened the event with the topic: 'Industrial property rights – a review of the current situation'. The lecture was followed by other papers on trade mark law covering a broad range of topics:

- 'Questions on formal and procedural law from the practice of the DPMA' – Markus Ortlieb, German Patent and Trade Mark Office,
- 'Current national court rulings on trade mark law' – Prof. Dr. Reinhard E. Ingerl, law firm Lorenz, Seidler, Gossel,
- 'Current developments in Europe' – Gregor Schneider, IP Litigation Unit, OHIM,
- 'Implementation of the EU enforcement directive: current situation' – Prof. Dr. Volker Michael Jänich, Gerd Bucerius Chair of Civil Law with German and International Industrial Property Protection, Friedrich-Schiller-Universität,

- 'Recent legal developments concerning the Community trade mark' – Achim Bender, presiding judge at the Federal Patent Court (Bundespatentgericht),

- 'The statutory obligation to use a trade mark' – Dr. Paul Ströbele, presiding judge at the Federal Patent Court,

- 'Standardisation trends in monetary assessment of trade marks' – Christopher Scholz, trade mark association (Markenverband).

4th German Day at the Office for Harmonization in the Internal Market in Alicante

The 4th German Day at the Office for Harmonization in the Internal Market (OHIM) took place in Alicante (Spain) on 13 October 2008. Two staff members of the DPMA, the President of the patent attorney association and representatives of associations, enterprises and law firms attended the event.

As representatives of the host organisation, Wubbo de Boer (President), Beate Schmidt (Director of the Trade Marks and Cancellation Department), Paul Maier (President of the Boards of Appeal) and many staff were present to answer questions.

First President de Boer explained the goal of the OHIM to further speed up all procedures. The next issue was the fee surpluses of the OHIM (€ 60 to 70 million in 2008). He also explained how to prevent these in future. The other discussions focused on the quality of work at the OHIM. In this area, the attendees had noted improvements. Further issues thoroughly discussed were the differentiation between colour marks with contours and figurative marks or the provision of evidence of use in opposition proceedings.

In the course of the day, an OHIM staff member described how an application was handled after filing. Afterwards, the attendees had the opportunity to gain information on the computer programs used in trade mark examination.

Organisers and attendees agreed that the open and constructive discussions within the framework of the German Day helped to promote understanding and contributed to avoiding or solving problems. That is why this event is planned to take place again in the coming year.

The participants of the 4th German Day in front of the Office for Harmonization in the Internal Market (OHIM)

INTA 130th Annual Meeting in Berlin

From 17 to 21 May 2008, Berlin hosted the 130th Annual Meeting of the International Trademark Association (INTA). With more than 8,000 visitors, INTA Annual Meeting is the largest global meeting in the field of trade mark law and industrial property protection. For the first time, the meeting took place in Germany. The visitors from all over the world, above all, from the USA and Canada, the People's Republic of China, and Japan as well as South America enjoyed the vibrant atmosphere of the German capital city and the many highlights of the conference programme at the ICC. As in the preceding years, the German Patent and Trade Mark Office shared a joint stand with eleven other national offices. Our staff discussed with many interested visitors the advantages of national, European and international IP systems.

Within the scope of this meeting we not only aimed at providing information to visitors but also actively exchanging views with high level experts from China and Japan. Staff of our office welcomed the delegation of these two countries to the Technical Information Centre (TIZ) Berlin. On this occasion, the visitors expressed their keen interest in future bilateral cooperation.

A special event for several hundred German and international visitors was the evening reception at the joint invitation of the Federal Minister of Justice and DPMA

Lutz Diwell, State Secretary in the Federal Ministry of Justice, opens the meeting

Dr. Jürgen Schade welcoming the guests at the reception held at the Federal Ministry of Justice

At the stand of the national patent and trade mark offices

Lecture held at the stand of the national patent and trade mark offices

President Dr. Schade. The reception took place at the Ministry of Justice at Gendarmenmarkt, on 19 May 2009. State Secretary in the Federal Ministry of Justice Diwell and President Dr. Schade emphasised the importance of industrial property rights, above all, the trade mark for national and international industry and business circles in the age of globalisation and praised the outstanding cooperation between the national and intergovernmental offices and institutions around the world.

Guests at the reception on occasion of INTA 2008

Dr. Schade talking with guests at the reception

On 19 May 2008 a nine-member delegation from China gained a thorough insight into the German system of trade mark protection. The delegation was headed by Ren Gang, Deputy Secretary General of the China Trademark Association (CTA), which is a department of the State Administration of Industry and Commerce (SAIC) of the PR of China, and Yang Xu, Deputy Director of the CTA. Mrs. Rudloff-Schäffer, then still Head of the Department – Trade Marks, Utility Models and Designs of the DPMA, and Mrs. Franke, Head of TIZ Berlin, answered a large variety of questions on the trade mark and on the tasks of the regional patent information centres in the Federal German Laender.

On 20 Mai 2008, a delegation of the Japan Patent Office visited our Technical Information Centre. The group was headed by Yuichiro Takenami, Director-General of the Trademark, Design and Administrative Affairs Department. The hosts and the guests exchanged views on organisational and technical issues of trade mark protection and designs protection in Japan and Germany. The visitors took a special interest in the possibilities provided under German trade mark law to refuse and cancel trade mark applications obviously filed in bad faith.

Representatives of the Swiss Federal Institute of Intellectual Property visit the German Patent and Trade Mark Office

In January 2008, Dr. Eric Meier, the Head of Trademark Division of the Swiss Federal Institute of Intellectual Property (IGE), and two heads of sections of the IGE visited our Department – Trade Marks, Utility Models and Designs. For many years, our office has maintained intensive contact with the IGE also including reciprocal visits to the other office.

The talks in January focused on the classification and cooperation within the Nice Union, individual questions on the protectability of trade marks and cancellation proceedings. All participants found that the open and constructive exchange of views was extremely useful and that it provided a wide range of interesting ideas for their work. In future too, we want to maintain the close contact for our joint benefit. ●

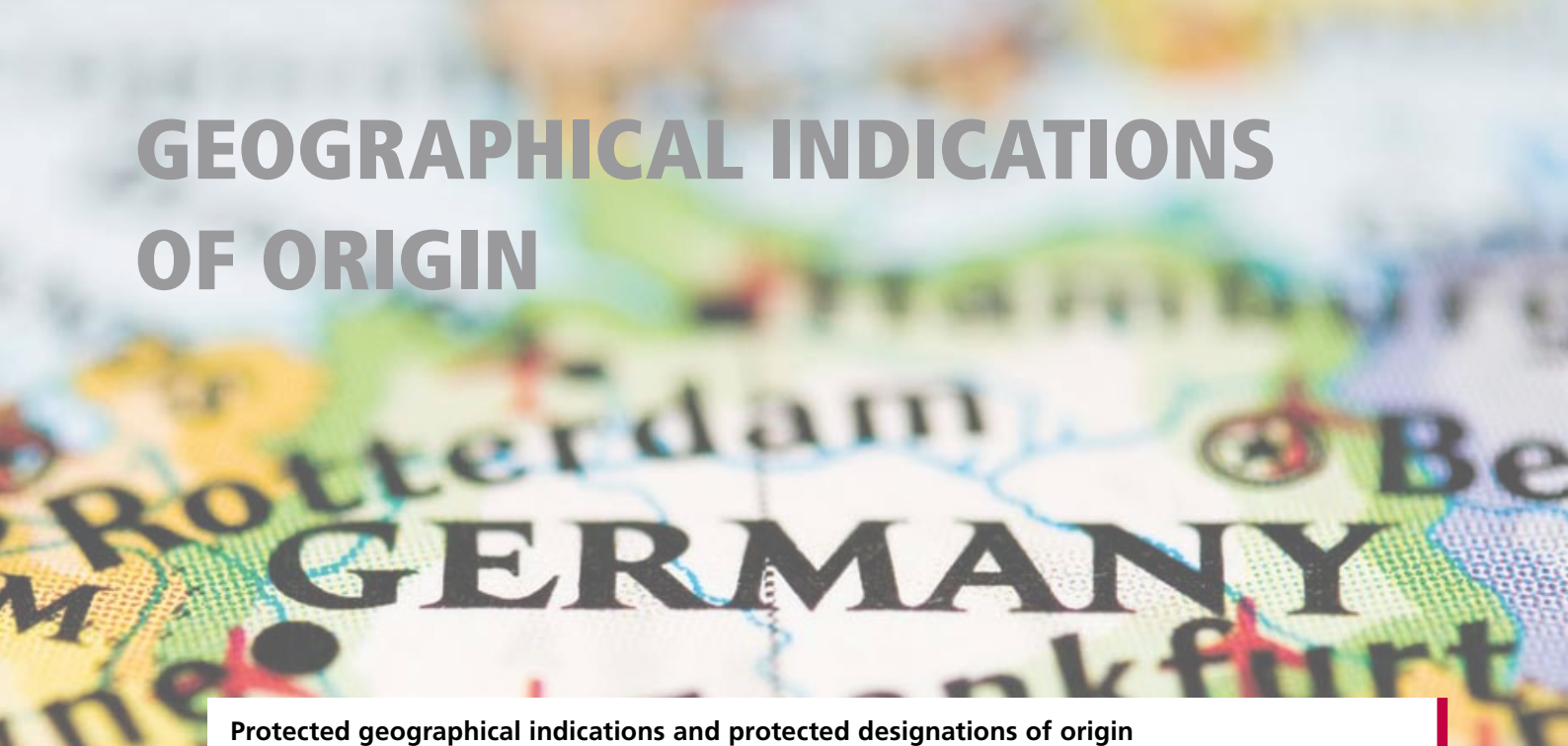
Did you know that ....

...the Trade Mark Law is the first piece of legislation in Germany dealing with industrial property protection?

The first law on the protection of trade marks entered into force on 1 May 1875. It enabled business people to apply at the competent court for registration of signs in the commercial register kept at the town of their principal place of business.
The registration was published in 'Deutscher Reichs-Anzeiger'. All trade marks of German and foreign tradesmen, ordered in groups by categories of goods, were published annually in the journal 'Der Markenschutz'.

Until 1 October 1898, it was possible to apply for entering the trade marks which had been registered in the trade mark registers of the individual court districts into the trade mark register of the Kaiserliches Reichspatentamt, free of charge.

GEOGRAPHICAL INDICATIONS OF ORIGIN



Protected geographical indications and protected designations of origin

Products that have acquired a reputation beyond the borders of their region of origin frequently attract imitators who offer lower quality products under the same name and pretend that these products are authentic. In order to protect producers of foodstuffs from this kind of unfair competition and consumers from being misled, the European Communities introduced the labels 'protected geographical indication' (PGI) and 'protected designation of origin' (PDO) in 1992. The legal basis is now provided by Regulation (EC) 510/2006.

Indications of geographical origin, such as 'Nürnberger Rostbratwürste' (sausages) do not only provide information on the provenance of a product (in this case: the town of Nürnberg). Consumers associate the name with certain properties of the product and a certain guaranteed quality. This constitutes the value of indications of geographical origin. Under economic and legal aspects they come fairly close to trade marks. In contrast to a trade mark, however, no enterprise or association has the exclusive right to use an indication of geographical origin. Rather, it can be used by any producer based in the region who manufactures the product in the traditional, customary way, described in a product specification.

Depending on the degree of connection with the region of origin, special regional products can be entered in the register of the European Commission either as 'protected designation of origin' or as 'protected geographical indication'. This registration provides for protection against copying.

The label 'protected geographical indication' (PGI) protects products that have been either produced, processed or prepared in a defined geographical area.

The requirements for a product to qualify for the label 'protected designation of origin' (PDO) are stricter than for protected geographical indications. In this case, all manufacturing steps must be performed in the region of origin.

42 names of German products are at present registered in Brussels, for example, Allgäuer Emmentaler (cheese), Nürnberger Rostbratwurst and Lübecker Marzipan. 800 foodstuffs and agricultural products from 21 EU member states have been protected until now. The range of protected products includes cheese, meat and meat products, fish and shellfish, fruit, vegetables, olives, vinegar and oil, as well as pastries and beer.

The registration procedure consists of a national and a European part:

First, an application for registration must be filed with us. Among other things, the application must precisely specify the properties, the manufacturing process and the region of origin of the product (specification). We examine the application under formal and substantive aspects and ask expert Laender or Federal agencies and commercial associations and organisations to issue opinions. German residents having a legitimate interest, such as other manufacturers of the relevant product, can lodge objections within four months from the publication of the application in the Markenblatt (trade mark journal – http://register.dpma.de). The opinions and objections received will be considered in the examination process. If the application complies with the legal requirements, we transmit it to the European Commission, via the Federal Ministry of Justice.

The European Commission examines if the application is justified and publishes the main details in the Official Journal of the European Union. Objections can be lodged within six months by persons established or residing in other member states of the EU or third countries. If objections were not successful or not lodged at all, the Commission enters the name in the register. Community-wide protection accrues from this registration only.

The indications 'protected geographical indication' (PGI) and 'protected designation of origin' (PDO) and the corresponding Community symbols of the European Union guarantee consumers that the relevant foodstuffs are authentic products, manufactured in a specific region according to specific production methods.

From 1 May 2009 onwards, it will be obligatory to use these indications on the label or packaging of products marketed under a registered name.

Applications for registration presently under examination by the Commission and product names already registered as PDO or PGI are available in the *DOOR-Europa* database at: (http://ec.europa.eu/agriculture/quality/door/browse.html?search).

In 2008, we received 14 applications for registration (2007: 12) including 'Bamberger Hörnla' (potatoes), 'Walbecker Spargel' (asparagus), 'Bayrische Breze' (bread pastry), 'Pommersche Leberwurst' (sausage) and 'Aachener Karlswurst' (sausage).

In 2008, 12 applications for registration were forwarded to the European Commission following successful conclusion of the national examination. The applications related to the indications of origin 'Holsteiner Katenschinken' (ham), 'Dresdner Stollen' (pastry), 'Salzwedeler Baumkuchen' (cake), 'Rheinisches Zuckerrübenkraut' (sugar beet molasses) and 'Aischgründer Karpfen' (fish).

In March 2008, the European Commission registered the following protected geographical indications: 'Salate von der Insel Reichenau' (lettuce), 'Gurken von der Insel Reichenau' (cucumber), 'Feldsalat von der Insel Reichenau' (lettuce) and 'Tomaten von der Insel Reichenau' (tomatoes).

Enterprises and associations from Germany lodged objections to the applications for the registration of 'Edam Holland' and 'Gouda Holland' (cheese) from the Netherlands and 'Gentse Azalea' (shrub) from Belgium in 2008. We have transmitted the objections to the European Commission.

Modified national procedure

In 2008, the national procedural provisions (Sections 130 et seq. Trade Mark Law, Sections 47 et seq. Trade Mark Ordinance) were brought into line with the amended legal Community requirements. Under the new provisions, persons having a legitimate interest (other producers of the relevant product, in particular) can file an objection to an application within four months from the publication of the application in the Markenblatt (trade mark journal). Furthermore, we now publish additional documents in part 7 of this journal (http://register.dpma.de): if we are of the view that an application complies with the legal requirements, our complete decision and, if the decision is final, the corresponding specification, will be published. ●

DESIGNS

Koziol Klebeband-Abroller

Reisenthel 'Carrybag'

Designs

The registered design is one of the non-technical IP rights. It protects the appearance of a product. Basically, the shapes and colours of any product can be protected – provided the appearance is new and has individual character.
A design is new if no identical design was published before the application date. A design has individual character if it differs from previously known designs.

In the light of globalisation and tougher competition it is important that enterprises make sure that their creations and ideas are legally protected against copying. This enables them to use high-quality designs as competitive elements and set their products apart from the common product types. Furthermore, the outer appearance is an important feature for distinguishing a company's product from competing products. Design and appearance have an important influence on buying decisions – specifically with regard to largely saturated markets where several products are offered whose properties are virtually identical.

Designs law plays the most important role in designs protection in Germany. A registered design confers to its owner the exclusive right to use a specific design for a limited period of time. As soon as a design has been published in the designs gazette of the German Patent and Trade Mark Office, the registered design confers a monopoly right effective vis-à-vis other designs of the same type.

Business situation

In 2008, 5,702 applications were filed, covering 48,238 designs. In the preceding year we received 5,838 applications comprising 54,301 designs. This is a drop of 11.2 % regarding designs and 2.2 % regarding applications.

Our Designs Unit, which is based in Jena, conclusively dealt with requests for the registration of 51,468 designs (2007: 59,757). 49,146 designs (2007: 56,208) were entered in the designs register (see Figure 5).

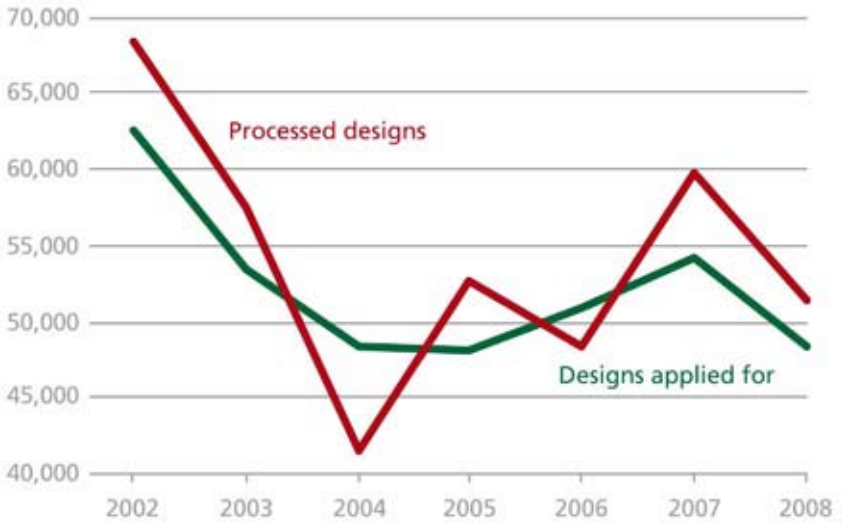


Figure 5: Designs applied for and processed designs

Individual statistical analyses

59.1 % of the applicants opted for grouping up to 100 designs in one multiple application (2007: 60.1 %).

On average 14 designs were filed per multiple application (2007: 15 designs).

Upon request, publication of the reproductions of a design will be deferred for up to 30 months (deferment of publication of the representation). Deferred publication was requested for 45.1 % of the designs applied for, a slight decrease against 2007 (49.8 %).

The proportional share of designs filed by applicants based in foreign countries fell to 23.8 % (2007: 28.5 %). The majority of the designs applied for by foreign applicants originated from Austria (58 %), followed by Italy (25.4 %) and the Russian Federation (2.8 %) (see Figure 15.1).

Table 15.1: Distribution of designs filed by foreign applicants by countries of origin

	2008	Proportional share in %
Austria	6,661	58.0
Italy	2,921	25.4
Russian Federation	319	2.8
Bulgaria	300	2.6
USA	279	2.5
Switzerland	244	2.1
Japan	177	1.6
Other countries	576	5.0
Total	**11,477**	**100**

Table 15.2: Distribution of designs filed by domestic applicants

	2008	Percentage
North-Rhine/Westphalia	9,290	26.3
Bavaria	8,425	23.9
Baden-Württemberg	5,424	15.4
Lower Saxony	3,137	8.9
Rhineland-Palatinate	1,895	5.4
Hesse	1,220	3.5
Berlin	1,199	3.4
Saxony	1,113	3.2
Hamburg	992	2.8
Schleswig-Holstein	815	2.3
Saarland	394	1.1
Thuringia	359	1.0
Saxony-Anhalt	360	1.0
Brandenburg	244	0.7
Mecklenburg-Western Pomerania	238	0.7
Bremen	194	0.5
Total	**30,590**	**100**

A breakdown of domestic application figures by Federal Laender is provided in Figure 6 and Table 15.2.

Figure 6: Domestic design applications in 2008 by Federal Laender

Due to the possibility of multiple classification, the 48,238 designs registered in 2008 resulted in 93,728 class entries (2007: 102,711). The percentages of the registrations in the various classes of goods are shown in Figure 16.

Table 16: Distribution of classes of goods in 2008

Class		2008	Percentage
02	Clothing	20,567	21.9
05	Textiles	17,101	18.3
06	Furnishing	13,362	14.3
19	Stationary / office equipment	7,259	7.7
11	Articles of adornment	6,641	7.1
25	Building units and construction elements	3,618	3.9
26	Light apparatus	3,099	3.3
21	Games, toys, tents, sports goods	2,821	3.0
07	Household goods	2,571	2.7
09	Packages and containers	2,178	2.3

The development of the figures for procedures after registration in the designs register (renewals and cancellations, but also extensions of protection and assignments) is shown in Figure 7. You will find further statistical data in the annex 'Statistics' on page 129.

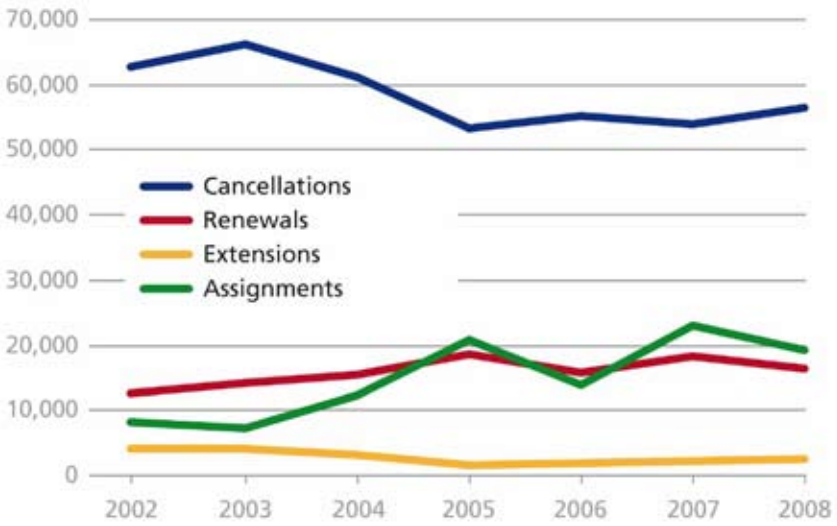


Figure 7: Development of renewals, cancellations, extensions, assignments

Good design is not everything?

It is also important to have it protected. Mr. Kühne, Head of the Designs Unit at the DPMA, explains how to proceed.

Mr. Kühne, what exactly is a registered design?

A registered design protects the two or three dimensional appearance of a whole product, or of a part of a product, i. e. the design in its broadest meaning. This means that neither the product as such nor the underlying idea are protected, but rather the visual aspects, the 'appearance'.

Mr. Kühne, the Designs Unit at the DPMA is the only contact point in Germany for the registration and administration of designs. What are your actual duties?

30 staff members are working in the Designs Unit of the German Patent and Trade Mark Office in Jena.

Marcus Kühne

They examine whether there are bars to registration and whether or not the application has formal defects. After examination, the design is entered in the designs register and published in the electronic designs gazette (Geschmacksmusterblatt) if the application documents comply with the legal requirements. We are also in charge of administrative matters, this means the extension, maintenance, assignment or cancellation of a registered design.

» A registered design protects the design in its broadest meaning. «

The designs ordinance was amended in November 2008. What are the most important changes?

The amendment of the ordinance has not only simplified the registration procedure, but also modernised it and made it more customer-friendly. Under the new provisions, 'paper representations' of designs need to be filed in one copy only, whereas two copies had been required previously. The reproductions can now be filed as JPEG files on electronic data carriers. The maximum number of reproductions has been raised from seven to ten.

» The registration procedure has not only been simplified, but also modernisied and made more customer-friendly. «

Mr. Kühne, the Office for Harmonization in the Internal Market in Alicante (Spain) registers Community designs effective throughout the European Union. The OHIM recorded substantial growth rates in recent years. What are, in your view, the advantages of the German registered design?

The DPMA (and the Designs Unit, in particular) is not a mere registration agency, but a service provider for the applicants. Our specialists are available anytime to answer questions on registered designs and registration formalities. It is our explicit goal to ensure permanent phone availability of the Designs Unit. We apply high standards to the quality of our work and our products. It is specifically important to grant IP rights that remain valid. This is the only means for right holders to fight copycats.

For this reason we attach great importance to a high quality of the filed reproductions that will later enable holders to furnish proof of their rights to a certain product design.

Our duties include providing information to the public. For this reason we meticulously check the product indication – that means the objects in relation to which the design is to be used – since this indication should later be searchable in our databases with the largest possible degree of precision.

The exclusive right granted to the owner of the registered design is a big challenge for us: on the one hand, the owner should get an effective IP right, and, on the other hand, our databases should help other persons to precisely assess the scope of this right.

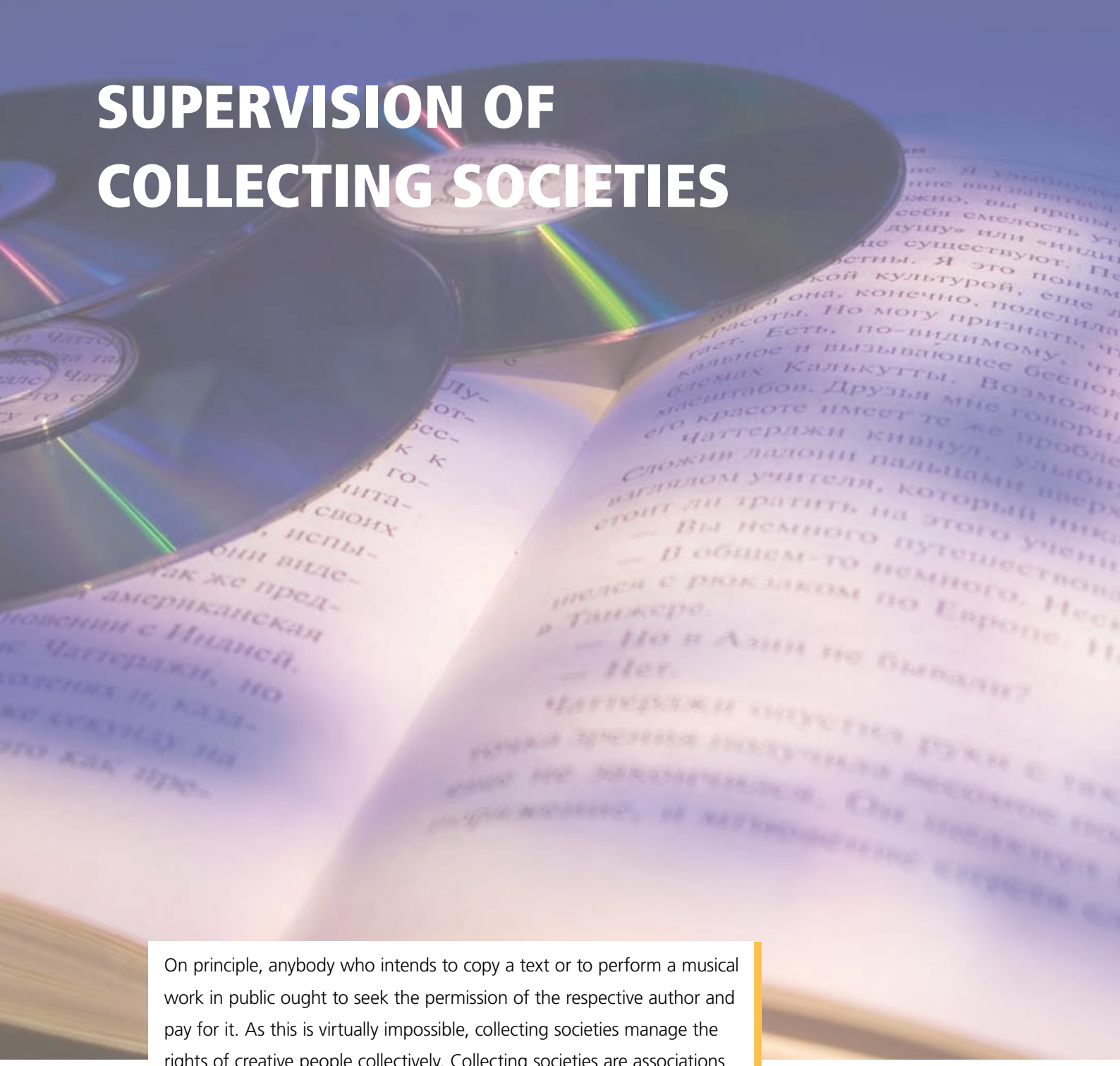
» We will gladly assist you at anytime as competent contacts. «

Did you know that ....

...the design of the Bavarian police cars is registered at the DPMA?

The (silver/green) paintwork and the exterior appearance are protected by design rights (file numbers 403 04 237, 403 04 277 and 403 04 279).

SUPERVISION OF COLLECTING SOCIETIES



On principle, anybody who intends to copy a text or to perform a musical work in public ought to seek the permission of the respective author and pay for it. As this is virtually impossible, collecting societies manage the rights of creative people collectively. Collecting societies are associations under private law whose members are, for example, composers, lyricists, writers, visual artists, photographers, screen actors, producers of phonograms and film producers.

The collecting societies grant licences authorising the utilisation of the works and collect royalties in return. The revenues are subsequently distributed to the right holders according to a distribution scheme.

As the collecting societies perform their tasks in a fiduciary capacity and therefore often have a monopoly position, they are subject to government supervision. This supervision is exercised by the German Patent and Trade Mark Office (Section 18 et seq. Copyright Administration Law).

At the beginning of 2008 we granted an authorisation to conduct business, which is compulsory under Section 1 Copyright Administration Law, to the collecting society Treuhandgesellschaft Werbefilm mbH (VG TWF). Presently, 13 collecting societies have the required authorisation, which we issue in agreement with the Federal cartel office.

As supervisory authority we constantly examine whether the relevant conditions for granting authorisation continue to exist and make sure that the collecting societies fulfil their duties. In order to comply with these responsibilities we are entitled, under the Copyright Administration Law, to demand ample information and to attend the meetings of the various boards of the collecting societies. We can prohibit a collecting society from continuing to conduct business, if it exercises its activity without the required authorisation. Furthermore, we can take all necessary measures to ensure that a collecting society duly fulfils its obligations.

In 2007, the authorised collecting societies had a total income of roughly € 1.3 bn (the 2008 figures were not yet available at the copy deadline). The income of each individual collecting society may be seen from the chart 'Collecting Societies'.

The following 13 collecting societies had authorisation to conduct business in Germany in 2008:

Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA), Gesellschaft zur Verwertung von Leistungsschutzrechten mbH (GVL), Verwertungsgesellschaft WORT (VG Wort), Verwertungsgesellschaft Musikedition (VG Musikedition), Verwertungsgesellschaft Bild-Kunst (VG Bild-Kunst), Gesellschaft zur Übernahme und Wahrnehmung von Filmaufführungsrechten mbH (GÜFA), Verwertungsgesellschaft der Film- und Fernsehproduzenten mbH (VFF), Verwertungsgesellschaft für Nutzungsrechte an Filmwerken mbH (VGF), Gesellschaft zur Wahrnehmung von Film- und Fernsehrechten mbH (GWFF), AGICOA Urheberrechtsschutz-Gesellschaft mbH, Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH (VG Media), Verwertungsgesellschaft Werbung + Musik mbH (VG Werbung) and Verwertungsgesellschaft Treuhandgesellschaft Werbefilm mbH (VG TWF).

Register of anonymous and pseudonymous works

Authors who previously published their works anonymously or under a pseudonym may have them registered under their real name in the 'Register of Anonymous and Pseudonymous Works'. Copyright expires 70 years after publication for works that were published anonymously or under a pseudonym. Copyright expires 70 years after creation of the work if the work was never published during this period of time. If the true name of the author is recorded in the register kept at the DPMA, copyright expires 70 years after the death of the author. The register does not constitute a documentation of all works protected by copyright, but is only relevant for the term of protection of works published anonymously or pseudonymously.

In 2008, the true name of the author was submitted for registration in respect of 18 works; registrations were entered in nine cases. In total, 721 works by 386 authors are recorded in the register (status: 31 December 2008). Further statistical data are provided in the table 'Register of Anonymous and Pseudonymous Works' and in the annex 'Statistics' on page 129.

Table 17: Income of the collecting societies in 2007

Collecting Societies	Total Budget 2007[1]
GEMA	849,599,407.94 €
GVL	159,076,123.47 €
VG WORT	94,549,776.22 €
VG Musikedition	2,484,158.23 €
VG Bild-Kunst	63,870,252.82 €
GÜFA	8,664,080.83 €
VFF	18,253,513.31 €
VGF	17,690,637.37 €
GWFF	63,262,699.73 €
AGICOA GmbH	7,102,235.78 €
VG Media	29,526,251.32 €
VG Werbung	–
VG TWF	–
Total	**1,314,079,137.02 €**

1 The total budget includes income from licenses and claims to remuneration, income from interest and securities as well as other operation revenues.

PATENT ATTORNEYS AND REPRESENTATIVES

Patent attorneys

Patent attorneys work at the interface between technology and the law. The IP experts, for example, advise and represent inventors seeking protection for their latest developments or their know-how, or enterprises wishing to register a trade mark or a design. Patent attorneys file applications for all industrial property rights on behalf of their clients, at the national and international level, draw up licence agreements and represent their clients before national and international authorities and courts. They are key in helping to set the course for future success of an innovation, a design or a trade mark.

In order to meet these challenges, prospective patent attorneys must have a university degree in a science, engineering or technical subject and complete a one-year technical training in the relevant field of technology before undergoing a three-year training at a patent law firm or patent department of an enterprise and attending training courses at the DPMA and Bundespatentgericht (Federal Patent Court) to gain the required qualification in the field of law. A ten or eight year primary occupation in the field of IP protection is accepted instead of the additional three-year training organised by the Patent Attorneys and Representatives section of the DPMA.

The DPMA decides which candidates have the qualification required for admission to the training and the examination. German universities have largely replaced the former uniform graduation system by a three-stage bachelor – master – doctorate system ('Bologna reform'). This reform has created manifold and new combinations of degrees which are not easily covered by the unchanged legal provisions and constitute new challenges for us – specifically with regard to the basic right to occupational freedom (Article 12 of the German basic law). In particular, it will be necessary to reconsider the evaluation of the master degree courses offered by universities of applied sciences. Likewise, the required share of technical/scientific subjects will have to be redefined.

We also organise and coordinate the qualifying examination. Successful candidates may bear the title 'Patentassessor' or 'Patentassessorin' (patent agent). They are entitled to work as advisors in fixed employment, as a rule in industrial enterprises. If they wish to work as patent attorneys, they must gain admission to the Patent Bar and be sworn in. At present, the admission is granted by the German Patent and Trade Mark Office. Probably from the end of 2009 it will be issued by the German chamber of patent attorneys (Patentanwaltskammer). The so-called patent advisors/attorneys combine the fields of activity of an employed advisor and of a free-lance patent attorney: they work as advisors for employers and, additionally, as free patent attorneys for other third parties. If there is a conflict of interests, they are not authorised to act at all, neither for their employer nor for the third party.

In 2008, 154 out of 158 candidates gained a pass in the regular patent attorney examination. A French candidate passed the specific qualifying examination for patent attorneys from other European countries.

159 patent attorneys were newly admitted in 2008. This number nearly corresponds to the 2007 level. Since the number of cancellations was significantly lower than in the preceding year, namely 42 as opposed to 63, the number of patent attorneys registered at the end of the year reached a new all time high of 2,693.

The DPMA provides an important service to patent attorneys and representatives: We register powers of attorney under specific numbers, making it unnecessary to submit a power of attorney together with each individual application handled. 28,284 powers of attorney had been registered at the end of 2008. This, too, is a new all time high.

More detailed and permanently updated information on patent attorney training and examination is available at www.dpma.de/dasamt/ausbildung/patentanwaltsausbildung and www.patentanwalt.de (in German).

COPYRIGHT ARBITRATION BOARD

The Arbitration Board under the Law on the Administration of Copyright and Neighboring Rights (Copyright Administration Law) mediates disputes between copyright collecting societies and users of copyrighted works and performances, above all. For example, the Board deals with disagreements between Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA) and concert organisers, discotheque operators, broadcasting corporations and producers of phonograms. Since 1998, the Board also deals with disputes between broadcasting corporations and cable network operators. Proceedings frequently concern the question whether the tariffs set up by the collecting societies are applicable and equitable in the individual case.

The Arbitration Board endeavours to resolve pending disputes in an amicable way. Where this goal is not achieved in the course of the proceedings, for example by way of an amicable settlement, it submits a settlement proposal to the parties. If this proposal is not contested, its effect is similar to a court judgement. The Arbitration Board is integrated in the organisation of the DPMA (Section 14 Copyright Administration Law). Yet it is an independent body and not identical with the DPMA as supervisory authority of the collecting societies (Section 18 Copyright Administration Law).

In 2008, the Board concluded 97 proceedings (including three inclusive contract proceedings) and received 61 new requests. For the first time since 2002, the Board was able to reduce the number of pending proceedings to 70. These comprise six inclusive contract cases. An inclusive contract is a contract between a collecting society and an association whose members exploit copyrighted works or performances.

94 % of the proceedings pending on 1 January 2008 were concluded. In further 3 % of the cases, a proposal for a partial settlement was issued, and a contractual agreement is expected to be concluded in January 2009. In the proceedings that had been pending for more than one year on 31 December 2008 the parties have agreed to extend the arbitration proceedings by six months.

The average duration of proceedings at the Arbitration Board is currently about eight months. Our objective in 2009 is to issue settlement proposals in new cases within six months, as a rule. If the case is very complex, such as an inclusive contract case or proceedings for determining an equipment levy, a longer period (up to one year) will be necessary.

In 2008, nine proceedings were of particular importance, which involved manufacturers and suppliers of mobile phones with integrated MP3 players. The Arbitration Board decided that the levy applicable to such mobile phones was identical to conventional MP3 players, irrespective of whether or to what extent the MP3 function of the mobile phone was utilised.

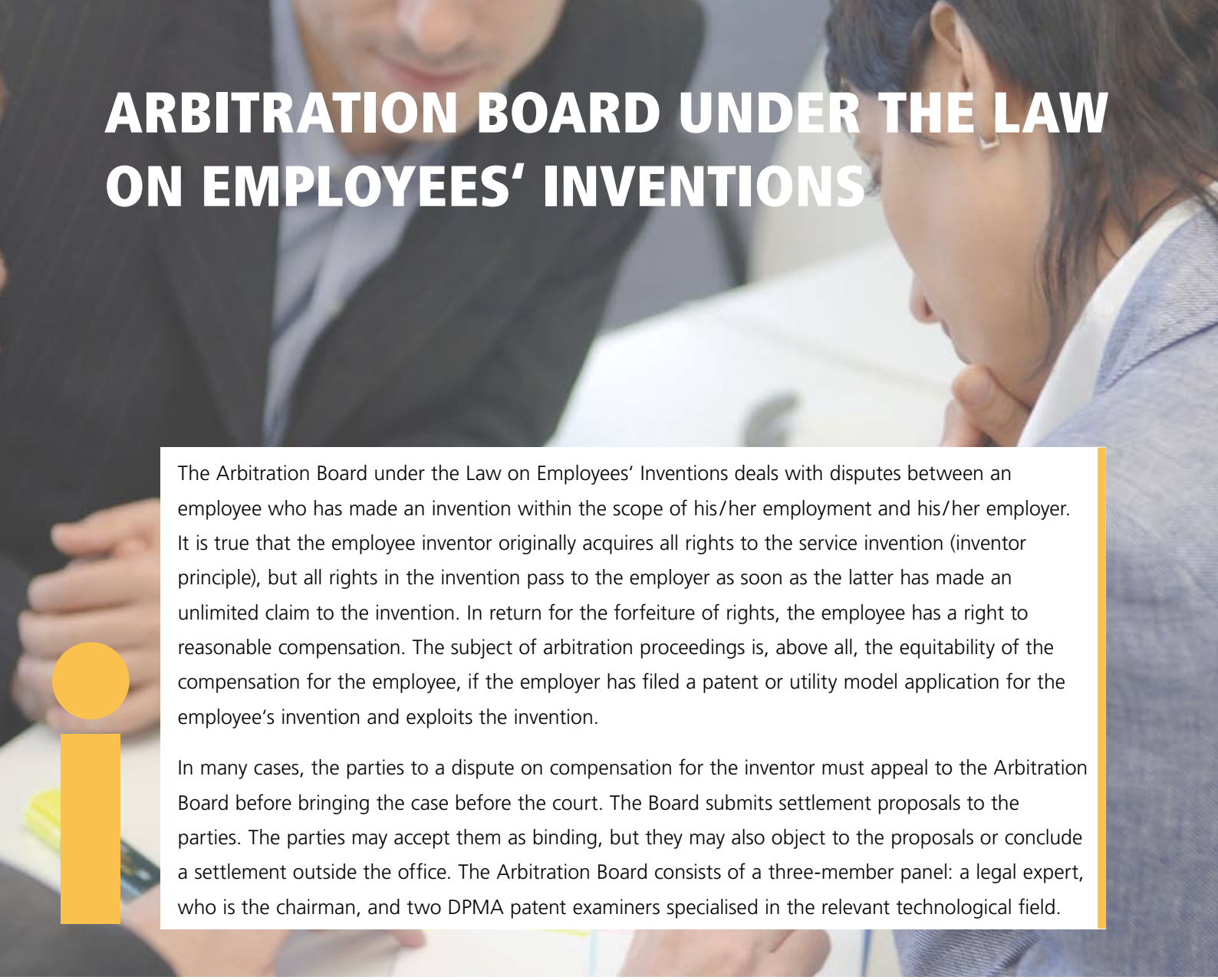
Four proceedings concerned multifunction devices. We proposed to the manufacturers and suppliers concerned that they should consider those legal tariffs as largely equitable which were applicable until 31 December 2007. However, based on a ruling of the Federal Court of Justice (Bundesgerichtshof), the simple royalty tariff shall be applied – in deviation of the statutory provision – to multifunction devices that include a colour copier. The maximum amount of the equipment levy shall be limited to one third of the respective average end-user price.

Another important settlement proposal of the Arbitration Board related to the royalties which hotel operators must pay to broadcasting corporations, if they wish to retransmit TV programmes to the hotel rooms. For example an amount of € 1 applies per day and room for the CNN channel.

The Board settled two disputes between collecting societies and the Federal Laender. The first case concerned the library levy, which was raised substantially to reflect the increased lending volumes in public libraries. The library levy compensates the loss in sales income which authors suffer from the lending of their books.

In the second case, an equitable remuneration scheme was proposed for institutions established under public law, whose activities relate to education and research (such as universities) and whose lecturers or professors make parts of scientific books available on the Intranet for the purposes of education and research. This practice causes financial losses to publishing houses, since students utilising the Intranet refrain from purchasing the respective books. On the other hand, it should be possible, in the area of education and research, to utilise modern communication techniques, in order not to jeopardise Germany's position in science and research.

ARBITRATION BOARD UNDER THE LAW ON EMPLOYEES' INVENTIONS



The Arbitration Board under the Law on Employees' Inventions deals with disputes between an employee who has made an invention within the scope of his/her employment and his/her employer. It is true that the employee inventor originally acquires all rights to the service invention (inventor principle), but all rights in the invention pass to the employer as soon as the latter has made an unlimited claim to the invention. In return for the forfeiture of rights, the employee has a right to reasonable compensation. The subject of arbitration proceedings is, above all, the equitability of the compensation for the employee, if the employer has filed a patent or utility model application for the employee's invention and exploits the invention.

In many cases, the parties to a dispute on compensation for the inventor must appeal to the Arbitration Board before bringing the case before the court. The Board submits settlement proposals to the parties. The parties may accept them as binding, but they may also object to the proposals or conclude a settlement outside the office. The Arbitration Board consists of a three-member panel: a legal expert, who is the chairman, and two DPMA patent examiners specialised in the relevant technological field.

In 2008, the Arbitration Board received 66 requests for performing arbitration proceedings. The number of requests was slightly higher than in the previous three years. The Arbitration Board submitted proposals for amicable settlements in 51 hearings, or issued interim notices and decisions on the disputes with which it had been seized. In the period under review 58 proceedings were concluded and the Arbitration Board dealt with the backlogs from the preceding year that had been due to a several-month vacancy of the Board's chair. In more than 50 % of the cases, in which settlement proposals had be submitted, the parties to the proceedings accepted these proposals. The actual settlement rate is even higher: Employers sometimes formally object to settlements proposals for general business reasons, although they subsequently reach an agreement outside arbitration proceedings with the employee which is based on the Board's settlement proposal.

After the failure of the fundamental revision of the Law on Employees' Inventions, the Federal Ministry of Justice submitted, on 16 June 2008, a proposal for a law for streamlining and modernising patent law (PatRModG) (processing status: 30 May 2008), which led to the draft law on streamlining and modernising patent law of the Federal government of 10 December 2008 (document: Bundestag Drucksache 16/11339). Articles 7 and 8 of the draft are intended to modernise procedural provisions of employee invention law and to repeal unnecessary or unsuitable rules. The new provisions will introduce a fictitious claiming of the employee invention. The Federal government is of the opinion that the combination of the formal

claiming of the invention (Section 6 of the Law on Employees' Inventions) and the formal reporting of the invention (Section 5 of the Law on Employees' Inventions) regularly leads to differences of opinions if the employer and the employee do not observe the relevant formal requirements. Under the Law on Employees' Inventions a service invention made by the employee within the scope of his/her employment is to be attributed to the employer and the employee is to get a reasonable compensation. The Federal government is of the view that the claiming procedure should be simplified. For this reason, the express formal declaration of claiming the invention has been supplemented by certain rules in the draft: according to the draft, for the future the claiming of the invention is considered to have been declared if the employer does not release the invention within four months from the report. The new Section 6 (2) of the Law is likely to significantly foster legal peace between employees and employers concerning employee inventions.

The Federal government's draft also provides for replacing the requirement of the written form by the text form so that a declaration will not only be valid on paper but also if it is submitted on diskette or CD ROM, or by e-mail or fax. The limited claiming of the service invention, irrelevant in practice, is to be abolished. Finally, the provisions governing the Arbitration Board will be revised and some unnecessary or obsolete provisions will be deleted. The committee for inventors' law of Deutsche Vereinigung für gewerblichen Rechtsschutz und Urheberrecht (GRUR) had suggested to abandon rules on improvement proposals, formalities concerning the release in foreign countries (Section 14 Law on Employees' Inventions) and the surrender of an industrial property right (Section 16 Law on Employees' Inventions) (GRUR 2007, page 494 et seq.). However, the legislator did not take up these proposals.

The Arbitration Board dealt again with a large variety of issues of employee invention law in the past year. They concerned, specifically, the following issues:

- compensation for the use of a technical teaching reported at first as an improvement proposal, before being reported and claimed as an employee invention;
- determining whether an invention was a service invention where contractual activity and authorised secondary activity overlapped;
- the assessment of the value of an invention in the automotive industry by licence analogy, taking spare parts sales into account;
- the value of a utility model invention;
- whether it was common practice, in the automotive industry, to graduate the licence rate;
- the assessment of the value of an invention by quantifiable business use or investment costs;
- estimate of the sales price where the invention was assigned to another company of the same group;
- the difference between a process claim and a product-by-process claim with regard to the licence rate;
- reinterpretation of an ineffective assessment of a compensation as an offer for compensation, accepted by receipt of the compensation;
- the lack of an agreement on compensation despite acceptance, by way of conclusive behaviour, of a compensation offered, when arbitration proceedings were pending simultaneously;
- the requirements regarding the statement of reasons, prescribed by law, for the compensation fixed;
- statute of limitations tolled due to negotiations and application to the Arbitration Board;
- inequitable compensation agreements;
- the effectiveness of declarations vis-à-vis the other party, to be issued under the Law on Employees' Inventions, sent to the Arbitration Board within the scope of arbitration proceedings.

WE WILL KEEP YOU INFORMED

OUR INFORMATION SERVICES

Enquiry units in Munich, Jena and Berlin

The enquiry units are the first contact point for many applicants, particularly for small and medium enterprises and individual inventors. The enquiry units provide general information on industrial property rights, filing routes and requirements, and on all questions concerning the national as well as the European and international procedures. The enquiry staff are not authorised to provide legal advice. Only patent attorneys and attorneys-at-law are entitled to offer legal counselling, under the Legal Services Act (Rechtsdienstleistungsgesetz).

Our three enquiry units in Munich, Jena and Berlin can be contacted on the central phone number +49 (0) 89/21 95-34 02. They work closely together. We are also pleased to promptly answer your written enquiries (by mail, fax or e-mail). You can visit the enquiry units in person to gather information.

Forms and fact sheets on the various IP rights can be downloaded from the DPMA website at www.dpma.de. We will be pleased to send you the documents by mail.

The central forms dispatching service of the enquiry unit in Berlin supplies information material to patent information centres, chambers of commerce, and law firms.

The interest in information on IP rights increased again in 2008. In the period under review, customers contacted us more than 175,000 times (nearly 16,000 additional contacts in comparison to the preceding year). Two thirds were phone calls.

The redesigned DPMA website was visited particularly frequently in 2008. The topics of the enquiry units are now presented in a more easily understandable way and provide valuable assistance for our work (see article on the new web pages on page 63).

Counselling for inventors in Munich and Berlin

In close cooperation with the patent attorney association, the enquiry units arrange initial consultations of about 30 minutes for inventors, which take place at the premises of the DPMA in Munich and Berlin. Upon appointment, patent attorneys advise clients free of charge on any matters relating to intellectual property.

The patent information centres, many chambers of commerce and comparable service institutions offer free initial consultations for inventors at the regional level. The enquiry units will be pleased to provide information on the many services available all over Germany. Appointments should be made well in advance.

Enquiry units and search rooms in figures

	Staff
Enquiry unit Munich	14
Switchboard Munich	5
Enquiry unit Berlin	7
Enquiry unit Jena	2
Search room Munich	6
Search room Berlin	6

Customer contacts in 2008, total	**175 280**
including	
telephone calls (without switchboard operator)	115 270
enquiries by e-mail	27 360
enquiries by mail / fax	3 230
Sets of forms sent out	49 080
Personal counselling at the enquiry units	11 340
Visitors to the search rooms	15 000
Visitors attending guided tours / workshops	2 860
including	
participants in the search workshops at the DPMA	215

Central telephone number of the enquiry units:
+49 (0) 89/21 95-34 02

Central e-mail of the enquiry units:
info@dpma.de

German Patent and Trade Mark Office
(Deutsches Patent- und Markenamt)
Zweibrückenstraße 12
80331 München, Germany
Search room +49 (0) 89/21 95-25 04 and -34 03

Technical Information Centre Berlin
(Technisches Informationszentrum Berlin)
Gitschiner Straße 97
10969 Berlin, Germany
Search room +49 (0) 30/2 59 92-2 30 and -2 31

Jena Sub-Office
(Dienststelle Jena)
Goethestr. 1
07743 Jena, Germany

Database hotline search support:
+49 (0) 89/21 95-34 35
datenbanken@dpma.de

*Questions concerning **DPMAdirekt**:*
Peter Klemm +49 (0) 89/21 95-37 79
and
Uwe Gebauer +49 (0) 89/21 95-26 25
DPMAdirekt@dpma.de

Opening hours of the enquiry units

- Munich: Monday through Thursday 8:00 a.m. to 4:00 p.m., Friday until 2:00 p.m.
- Berlin: Monday through Thursday 7:30 a.m. to 3:30 p.m., Friday until 2:00 p.m.
- Jena: Monday through Thursday 9:00 a.m. to 3:30 p.m., Friday until 2:00 p.m.

Opening hours of the search rooms:

- Munich: Monday through Wednesday 7:30 a.m. to 4:00 p.m., Thursday until 6:00 p.m., Friday until 3:00 p.m.
- Berlin: Monday through Wednesday 7:30 a.m. to 3:30 p.m., Thursday until 7:00 p.m., Friday until 2:00 p.m.

The search rooms of the DPMA in Munich and Berlin

In the two search rooms in Munich and Berlin, computers with Internet access are available to the public for carrying out online searches. The search room staff provide free advice on the many information services in the field of IP protection. More than 65 million patent documents, contained in different collections, can be searched for determining the state of the art, which is important for patent applications. These documents are mostly available in the in-office DEPATIS database or via the online DEPATISnet service. If clients wish to conduct a systematic search, we help them to find the appropriate classes of the International Patent Classification (IPC). Our customers frequently consult the legal status registers, such as DPINFO.

At the Technical Information Centre in Berlin, visitors will find historical patents and patents from Eastern Europe and the USSR/Russia. In addition to the collections of patent documents, visitors of the public search rooms in Munich and Berlin may also use our extensive library collection.
The option to inspect case files on the spot is mostly used by attorneys and patent search firms.

You can contact our 'Search Support' service from home by phone at +49 (0) 89/21 95-34 35 or send an e-mail to datenbanken@dpma.de. Our experienced team answers questions on how to choose the most appropriate database, provides tips on search strategies and deals with error messages.

Training courses – workshops on patent search

We enlarged our training programme for interested customers from small and medium enterprises in 2008. Payable search workshops now take place at our Technical Information Centre in Berlin too.

Course dates are published on our website at www.dpma.de, in the DPMA-Newsletter and on the notice board in the information centres.

Did you know that ...

... the question 'How do I search for trade marks' is among the most frequently asked questions our enquiry unit staff receive?

Before using a name in trade to designate a product or service, you should carry out a trade mark search. When you file a trade mark application, the DPMA does not examine whether identical or similar trade marks have been registered previously. Our flyer Online Searches for Trade Marks provides easy instructions on how to search for trade marks within free databases.

The flyer is available on our website at www.dpma.de.

Internet

2008 was a leap year – also for our website. On 29 February 2008, the new DPMA website was launched.

What has changed?

- Most of the new web pages are designed to be accessible to disabled people. The objective was to provide accessible online services and information.

- Information was edited to suit the needs of different target groups. The homepage now contains six menu items: 'The Office' – 'Patents' – 'Utility Models' – 'Trade Marks' – 'Designs' – 'Service'

- The website features an up-to-date and user-friendly webdesign.

- A clear navigation structure helps the users in performing their searches.

- An extensive information portal is available to journalists at http://presse.dpma.de.

- Some contents of the webpages are also available in English.

Find out yourselves what else is new – the web address has not changed: www.dpma.de.
We welcome your comments and suggestions (e-mail: internetredaktion@dpma.de).

International Patent Classification (IPC) for patents and utility models

The International Patent Classification (IPC) is an indispensable tool for searching patent literature. The IPC organises all fields of technology in more than 70,000 units, using a hierarchical structure. All inventions applied for can be attributed to at least one of these units, and the relevant documents can be found in our databases, irrespective of the description of the invention and the language of filing.

The IPC has eight sections:

A Human Necessities
B Performing Operations; Transporting
C Chemistry; Metallurgy
D Textiles; Paper
E Fixed Constructions
F Mechanical Engineering; Lighting; Heating; Weapons; Blasting
G Physics
H Electricity

Each section is then sub-divided in several steps. Example:

G – Physics
G10 – Musical instruments; Acoustics
G10D – Musical instruments
G10D 13/00 – Percussive musical instruments
G10D 13/02 – Drums; Tambourines

More than 100 patent authorities around the world use the IPC.

For more information please go to http://www.dpma.de/english/service/classifications/index.html.

The 4/2008 issue of our DPMA**informativ** series provides detailed information and tips on searching by means of classification symbols. It is available in German language at http://www.dpma.de/service/veroeffentlichungen/dpmainformativ/index.html.

'Vienna Classification' and 'Nice Classification' for trade marks

Nice Classification

The Nice Classification contains all standardised and admissible terms in 45 classes (34 for goods and 11 for services), which you need for the list of classes of your application.
The classes of goods are roughly divided into product groups and material groups, the services classes are divided by sectors/branches. Information on the Nice Classification is available at http://www.dpma.de/english/service/classifications/niceclassification/index.html.

Vienna Classification

Trade marks can contain or consist of figurative elements. The Vienna Classification organises these images and figurative elements in 29 categories, sub-divided into nearly 2,000 units, for example:

1. Celestial Bodies, Natural Phenomena, Geographical Maps
    1.1 Stars, Comets
        1.1.1 Stars
            1.1.10 Stars with more than four points

This trade mark classification system makes it much easier to search our databases. For more information please see http://www.dpma.de/english/service/classifications/viennaclassification/index.html.

The 'Locarno Classification' for designs

You intend to register a design? Then you should find out before filing if very similar designs have been registered previously. We do not check this, but we provide facilities to perform searches in our databases at http://www.dpma.de/english/designs/search/index.html.

The 'International Classification for Industrial Designs under the Locarno Agreement' (short form: 'Designs Classification' or 'Locarno Classification') is a useful search tool. It classifies goods whose design can be protected by registration. The designs classification has 32 classes and many subclasses. For example, musical instruments are classified in class 17, and drums are therefore classified in its subclass 17-04, percussion instruments.

Where do you find the appropriate subclass to be specified in your application?

The DPMA contributed to the international updating of the designs classification and translated the new edition into German in 2008.

Hard copies of the 9th edition of the designs classification in German language, in force from 1 January 2009, can be ordered from Carl Heymanns Verlag.

The classification is also available at http://www.dpma.de/english/service/classifications/locarnoclassification/index.html.

Trade fair activities 2008

In 2008, we participated in more than 25 trade fairs and exhibitions and informed more than 4,500 visitors and exhibitors about our office and our activities. The focus was on raising awareness of IP matters and explaining IP rights and the relevant applications and grant procedures.

With regard to trade mark and product counterfeiting, we have cooperated for several years with the industrial property rights department of the German customs authorities with whom we set up joint stands at many trade fairs. This cooperation has been very successful. We will further expand it in the future (see also the interview on page 67).

In 2008, we participated at the following trade fairs:

- Heimtextil
- Paperworld, Christmasworld, Beautyworld
- ISPO – International trade show for sports fashion and equipment
- Ambiente
- Musikmesse / Prolight + Sound
- Analytica
- Erfindersalon – International fair for inventions
- Light + Building
- HannoverMesse
- IFAT
- Intertech
- Intersolar
- DEGUT – Deutsche Gründer- und Unternehmertage
- Decorate Life
- Automechanica
- Mittelständischer Unternehmertag
- Materialica
- iENA
- Innovationsmesse
- Electronica

Our fair activities are frequently based on cooperation agreements with trade fair organisers. The information services which we provide about industrial property protection constitute a useful addition to the events, for the benefit of both visitors and exhibitors. As cooperation partners of Messe Köln we are currently participating in four events within the scope of the 'No Copy' initiative. With Messe München, we have concluded cooperation agreements covering five events. The currently most extensive cooperation agreement has been concluded with Messe Frankfurt, covering seven fairs within the scope of the 'Messe Frankfurt Against Copying' initiative. We provide information about the protection of intellectual property, together with the Office for Harmonization in the Internal Market (OHIM), the customs authorities, the Aktion Plagiarius e. V. (Plagiarius campaign), Aktionskreis Deutsche Wirtschaft gegen Produkt- und Markenpiraterie e. V. (APM), (anti-product piracy campaign committee of German industry), and the Enterprise Europe Network of the European Commission (represented by Hessen Agentur GmbH). The positive feedback to this joint stand encouraged Messe Frankfurt to organise information stands at foreign fairs too.

We are very keen to continue and further expand these cooperation activities and to set up cooperation schemes with further trade fair organisers.

The DPMA at iENA 2008

The Nuremberg iENA exhibition 'Ideas-Inventions-Products' celebrated its 60th anniversary from 30 October to 2 November 2008.
iENA continues to count among the largest exhibitions for inventors around the world. In 2008, it presented more than 700 inventions from 29 countries. Visitors came from 39 countries. For many years, the DPMA has been present at this exhibition, together with other European IP offices. In 2008, we shared a stand with staff members from the IP offices of Finland, Austria, Romania, Sweden and the Czech Republic, as well as the European Patent Office and the customs authorities.
At the iENA exhibition, free inventors, above all, present their latest inventions to the public and market them. Besides German innovators, Russian, Taiwanese and Malaysian exhibitors were the most represented groups. We assist inventors mainly by providing information on how to apply for IP rights at the DPMA and by presenting our online services. 'Product piracy' has become an increasingly important topic of discussion of our information talks at this exhibition too.

On the trail of counterfeit goods

Klaus Hoffmeister is Head of the Zentralstelle Gewerblicher Rechtsschutz (the industrial property rights department of the customs authorities). Claudia Mayr is employed at the Zentralstelle and advises victims and those affected by product and trade mark piracy.

Mr. Hoffmeister, product piracy has been given more and more media coverage. What developments is the Zentralstelle Gewerblicher Rechtsschutz (the industrial property rights department of the customs authorities) observing? How serious is the damage to companies?

It is true that statistics of customs authorities 'only' show a slight worsening of the problem in Germany in the past three to four years, but at a high level regarding volume and value. Thanks to the successful confiscation of numerous pirated goods, the departments of the German customs authorities have ranked among the 'top of the pops' among the member states of the European Union for many years. We have also managed to constantly increase our successes every year. At first glance this appears to be a positive result, but it also reveals the explosive nature of this issue. Any opportunity to make money attracts the notice of the infringer. The range of products concerned is very wide. Particularly, technical and thus safety-relevant products play an important role here. Regrettably, a minority of right holders use the assistance of the customs authorities.

» Regrettably still too few right holders seen the assistance of the custom authorities. «

Customs cannot assess the actual economic damage to companies, but we can assess the dimensions of the problem by looking at the amount of pirated goods seized. In the years 2004 to 2007 alone, German customs seized goods worth just under € 2 billion.

» In order to take action against copycats and counterfeiters, a company must be well positioned. «

How can a company protect itself against the threat of copycats and counterfeiters?

A company must be well positioned to effectively battle against copycats and counterfeiters. This ranges from the registration of IP rights, and the establishment of an IP management to the creation of intra-organisational structures to be able to quickly act and respond. The organisation and review of internal manufacturing and marketing steps and finally cooperation with public agencies, particularly cooperation with the customs authorities in the field of the international movement of goods are also essential measures. How this is organised in practice depends on the internal structures of the enterprise. Basically, it is advisable to appoint one person in the company who is responsible for industrial property protection or to commission an external provider to deliver these services.

Klaus Hoffmeister

Good organisation and the support by strong partners are the basis for a promising route to achieving the goal.

Ms. Mayr, what can customs or, to be more precise, the industrial property rights department (ZGR) do to help companies fight piracy? What services do you offer?

Every owner of an intellectual property right valid in Germany can request customs to act, by filing a corresponding request with the industrial property rights department (ZGR) in Munich. Customs offers the right owners the unique opportunity to combat counterfeiting of their products, of which they might not even be aware without assistance of the customs authorities.
However, the request can only be successful, if the right owners closely cooperate with ZGR by supplying suitable information for the identification of the original products. If, based on this information, a customs unit suspects that the imported goods are counterfeited it will detain the suspect goods and inform the right owner concerned. The right owner will get the opportunity to inspect the detained goods. Usually, civil or criminal proceedings will ensue. Since 1 September 2008, the goods may also be destroyed under a simplified procedure without civil court proceedings, supervised by customs.

What IP right is violated most often in your experience and which industries are most affected?

The majority of the goods seized by customs relate to trade mark infringement. Goods infringing patent and design rights are less frequently seized. However, this is also due to the fact that the majority of the requests are based on trade marks. If you compare this number to the number of requests that are submitted on the basis of patents you will find that only very few patent owners seek the help of customs. Here, we still see a great potential for right holders to become active.

The industry most frequently affected by IP infringement is the textile industry, followed by manufacturers of clocks and watches, jewellery and accessories (e.g. bags) and electrical appliances.

Claudia Mayr

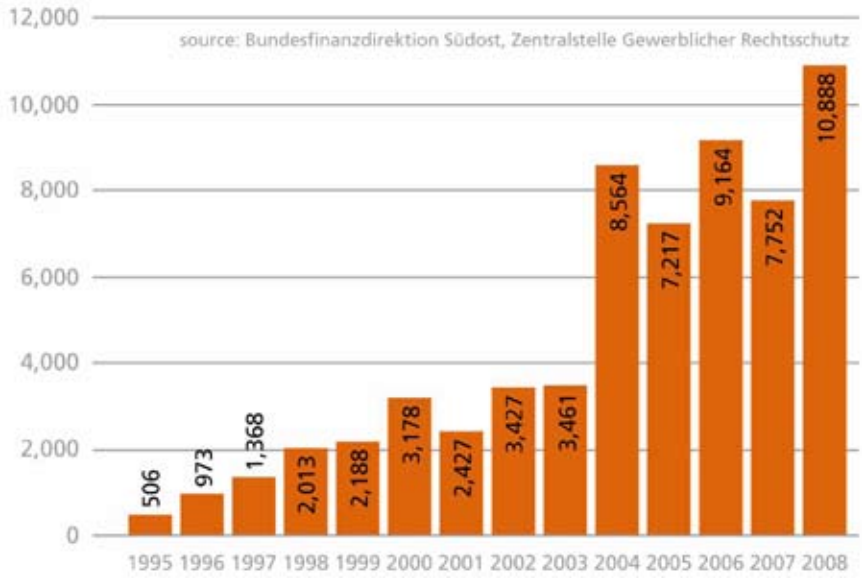


Figure 8: Development of the number of seizures

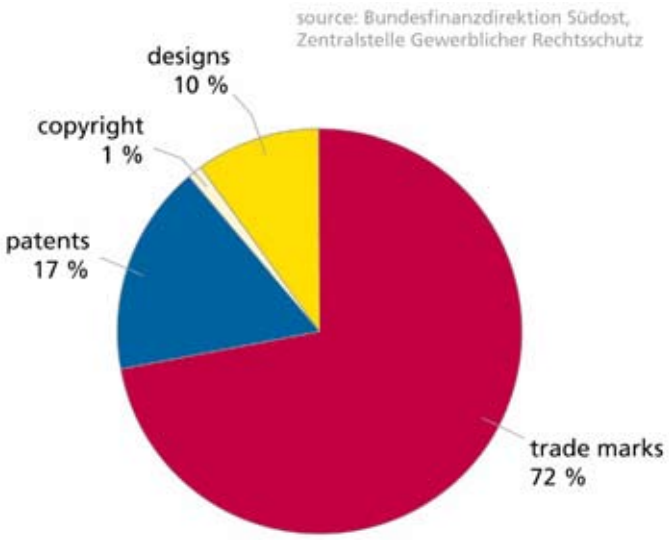


Figure 9: Percentage shares of the value of seized goods by type of IP concerned in 2008

» It is only in very rare cases that we are able to become active without a registered IP right. «

For more than two years the industrial property rights department (ZGR) has closely cooperated with the DPMA at trade fairs. What do you think of this cooperation and how does it benefit fair visitors?

The fair stand, operating under the motto 'You have the idea – we protect it', offers fair visitors the unique opportunity to obtain information on registration and enforcement of IP rights directly from the experts of the DPMA and the ZGR. Cooperation of our institutions lies – so to speak – in the nature of things. Because, in 90 % of the cases, the basis for customs to become involved is a registered IP right. It is only in very rare cases that we are able to become active without a registered IP right, for example, in case of copyright infringement.
Our cooperation with the DPMA benefits two interest groups. Firstly, the fair exhibitors, who can gain information on the legal possibilities and practical options regarding themselves and their products, and secondly, the fair visitors or consumers, who need to become more aware of these problems and for whom we have created a suitable platform.

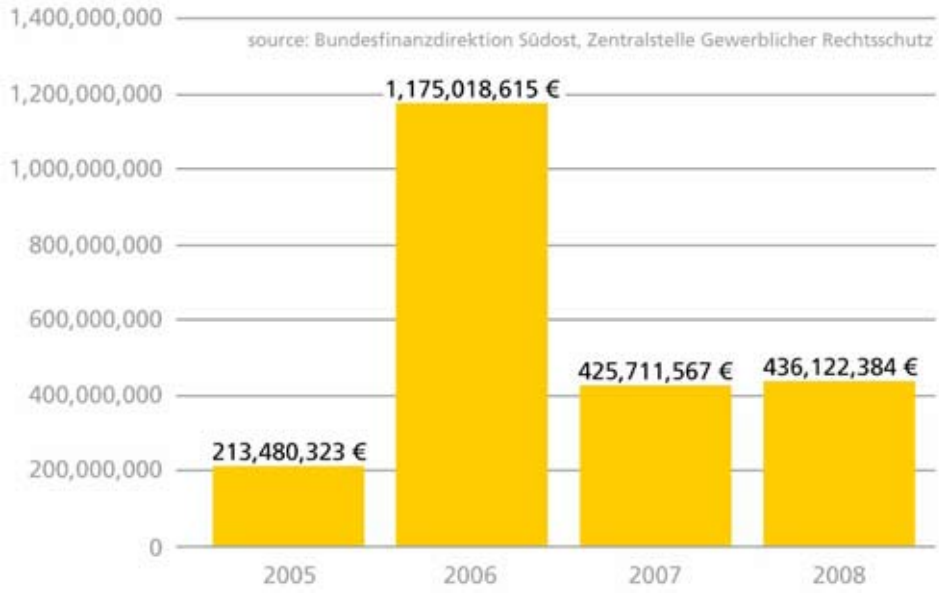


Figure 10: Value of seized goods (The 2006 increase was disproportionately high due to what is believed to be the world's largest seizure of counterfeit or pirated goods in Hamburg harbour in the autumn of 2006

Patent information centres and Technical Information Centre Berlin

In the Federal Republic of Germany, 24 patent information centres (PIZ) closely cooperate with the German Patent and Trade Mark Office. Since 2004, the Technical Information Centre (TIZ) in Berlin has managed relations with the patent information centres.

The patent information centres are the contacts at Laender level for questions concerning industrial property rights. The most important target groups are small and medium enterprises (SMEs), universities and representatives of research institutions. In addition the centres provide information on issues and aspects relating to industrial property protection for the public and thus raise awareness for intellectual property in Germany. Applications of all types of industrial property rights may be filed at eleven centres for transmittal to the DPMA and securing a date of filing.

The DPMA assists the patent information centres in organising and carrying out information events on industrial property protection. In 2008, 28 information events with lectures and computer workshops were organised at the Technical Information Centre Berlin and the patent information centres. More than 500 attendees used this offer. The topics were electronic filing of IP applications, online patent databases and trade mark protection. Training workshops for staff of the patent information centres were also organised, for example, a three-day information event with visiting lecturers from the Office for Harmonization in the Internal Market in Alicante on Community trade marks and Community designs of the European Union. In addition, the staff of the Technical Information Centre Berlin organised 60 seminars, guided tours, information events and lecture series at Technische Universität Berlin, attended by more than 1,000 people.

Locations of patent information centres

Industrial property rights are particularly important in a global economy

Bruno Götz is Head of the patents and standards department at the TÜV Rheinland LGA based in Nuremberg, Hof and Munich. The Munich patent information centre was opened in 2008.

Mr. Götz, a patent information centre (PIZ) was opened in Munich in autumn 2008. What was the reason for establishing a new centre?

A patent information centre has been run in Nuremberg for 130 years. In 1919, a branch office was opened in Hof to provide assistance to our customers in Northern Bavaria.

In recent years we found that we were receiving an increasing number of enquiries from the area of Southern Bavaria. Furthermore, Fraunhofer patent unit ceased its activities at the beginning of 2008. It seemed obvious to us that we should become active in Southern Bavaria. We are mandated by the Bavarian State Ministry for Economic Affairs, Infrastructure, Transportation and Technology to provide assistance, above all, to small and medium enterprises on questions of industrial property protection all over Bavaria. As local counselling is specifically important, we decided to become active in Munich too.

» We provide assistance above all to small and medium enterprises all over Bavaria. «

Which services does the PIZ offer in addition to the DPMA?

As a SIGNO partner we manage the 'KMU-Patentaktion' (SME patent action) which provides funding of patent first filings, if certain conditions are met. Furthermore we run SIGNO's enquiry service for inventors, which provides comprehensive counselling to individual inventors, in particular. Inventors get advice on patent exploitation too. Regrettably, the exploitation rate of patents owned by individual inventors is very low. Frequently, good ideas are not implemented. To improve matters in this field, we have specifically developed a so-called invention check. This is an assessment of the quality of an invention which provides a fast overview on the status of an invention. Furthermore, we offer a wide range of payable services, such as patent searches and monitoring. We are a cooperation partner of the DPMA, and our services complement each other perfectly. This allows us to provide the best possible support to our customers.

Bruno Götz

» We are a cooperation partner of the DPMA, and our services complement each other perfectly. This allows us to provide the best possible support to our customers. «

How do enterprises use patent information today?

Previously, patent searches were carried out, above all, to ascertain the state of the art before filing a patent application. Today, you can conduct a large range of analyses using patent databases, which provide valuable assistance to enterprises in their strategic planning. Last year we established a study on the potentials of use of patents in the technology and innovation management, in cooperation with Hochschule Amberg-Weiden. It showed that patent analyses can be a valuable element of this process. For example, the current maturity of a certain technology can be determined by means of a patent based technology lifecycle analysis.

By analysing patent statistics, you can screen the activities of competitors and compare it with your own patent position. Enterprises frequently do not put their patent portfolio to the best possible use. They keep patents in force which are no longer of commercial relevance and produce unnecessary costs, or they do not recognise the potential of patents and do not fully exploit it. In such cases, patent portfolio analyses can be helpful.

These analyses allow enterprises to optimise their patent strategies in order to increase competitiveness. Such evaluations are common practice in large enterprises, whereas SMEs are lagging behind. This is one starting point for our advisory services.

What does your typical workday look like?

Our work encompasses many different tasks. On the one hand, we advise our clients in person, over the phone or via our online support service at the workplace. On the other hand, we organise many events and actions in order to raise awareness of the importance of IP rights among SMEs and start-ups. In this field, we cooperate with the chambers of commerce and industry and, of course, with the DPMA as well. Twice yearly, we organise a patent working group meeting where patent managers from many different enterprises meet for an exchange of experience.

» Anybody requiring information on patents, trade marks and designs can contact us. «

Who are your clients?

Our main target group are SMEs and start-ups. We also advise pupils, students and individual inventors. Anybody requiring information on patents, trade marks and designs can contact us. For example, we are regularly receiving enquiries from the police forces and other prosecution authorities.

What are the IP topics that you and your customers deal with most frequently?

The topics are just as manifold as IP protection as such. They cover the whole range of questions from 'What is a patent?' to 'How can I optimise my patent portfolio?'. SMEs are increasingly facing problems in enforcing their IP rights. This concerns not only counterfeited goods from the Far East. Even the best IP right is useless if it is not respected. In this respect, it would certainly be helpful if there was an infrastructure including contact points to provide assistance to enterprises.

Which specific problems do individual inventors face?

We frequently find that individual inventors, in particular, have little knowledge about the area of industrial property rights. Many inventors contact us too late. In these cases, much time and money has been invested in an invention without previously meeting the basic conditions such as an extensive patent search. My advice to anybody is to gain thorough information first, otherwise they might be in for a rude awakening. Frequently, people have exaggerated expectations about the value of an invention. This causes problems when it comes to patent exploitation.

» The search is the basis of every patent application. «

What developments had (the greatest) influence on your work in the past years?

The development of new services provided over the Internet. The free online patent databases are becoming ever more comprehensive and sophisticated. For example, German patents, from no. 1 onwards, are now available in full text under DEPATISnet. This is, at first sight, a positive development as it makes searching easier and raises the quality of searches. On the other hand, it is dangerous too. If you search without having prior knowledge, the result will in most cases be incomplete. This might lull you into false security. The search is the basis of every patent application and searching errors might later prove expensive and time-consuming. I recommend anybody who is not sufficiently proficient in searching to seek professional assistance, for example at the DPMA or a regional PIZ.

» Enterprises are well aware that they must not lag behind technologically if they wish to participate in the next upswing. «

Is the demand for advice on the protection of intellectual property growing?

The demand for advice is not lessening and the topic is more interesting than ever. The issues are becoming ever more complex. For this reason, our staff's know-how is becoming ever more important. In a globalised economy, IP rights are of specific importance. The economic and financial crisis is hardly felt in this area. Enterprises are well aware that they must not lag behind technologically if they wish to participate in the next upswing.

How do the PIZ cooperate with the DPMA?

The 24 German PIZ are recognised cooperation partners of the DPMA and regional contact points for questions concerning industrial property protection. Joint participation in trade fairs and other events are a sign of the close cooperation. For the PIZ, it is very important to have fully trained staff for providing optimum advice. In this field, the DPMA provides assistance by running training courses on national IP rights and organising training on international IP matters. Above all, the personal contact with many DPMA staff members is very helpful in our daily work.

Has the cooperation with the DPMA changed in recent years?

Lately, the DPMA and the PIZ have worked together increasingly in the area of raising awareness of IP rights among the public. The regional structure of the PIZ is specifically useful since it enables enterprises to be reacted all over Germany. We increasingly run joint projects where the DPMA and the PIZs complement each other well and utilise synergies.

LGA Training & Consulting GmbH
TÜV Rheinland Group
Patente und Normen
Moosacherstraße 56a
80809 Munich, Germany
Phone +49 (0) 89/37 42 81-74
Fax +49 (0) 89/37 42 41-79
patente-muenchen@lga.de
www.patente.lga.de

IPeuropeAware[1] – Exemplary commitment of the DPMA at the European level

Successful conclusion of the first project year

With regard to the difficulties that small and medium enterprises (SMEs) are facing when they actively use the existing IP options and enforce their IP rights, the European Commission initiated the 'IPeuropeAware' project in cooperation with the national patent offices.

Between 2007 and 2010, twenty national patent offices in Europe and three research institutions work together, specialising in different subject areas. The aim is to raise awareness among SMEs of industrial property protection and convey applicable strategies for fighting against IP infringement committed by product and trade mark counterfeiters.

Within this project, the DPMA is responsible for a work package which aims at working out measures which help to improve the services and the quality of the enquiry units in the area 'enforcement', among others, in the short and medium term. So it was possible to develop consistent quality standards for enquiry units during the first year of the project which will be reviewed and implemented step by step by the European project partners and the DPMA in the coming months.

But we take also part in other work packages of the project, for example, the further improvement of the common website of the national patent offices of Europe www.innovaccess.eu, the organisation of events for SMEs as well as the training of staff of regional stakeholders.

Within the scope of the project, a conference on 'enforcement of intellectual property rights' took place at the Technical Information Centre Berlin (TIZ) in cooperation with the Enterprise Europe Network in November 2008. This 'enforcement conference' was specifically targeted at representatives of SMEs.

International workshop at the Technical Information Centre Berlin (TIZ)

1 IPeuropeAware is co-financed by the European Commission under the Competitiveness and Innovation Framework Programme of DG Enterprise and Industry.

Conference on 20 November 2008 at TIZ Berlin

'Boutique shop of fakes' on the occasion of the 'enforcement conference' at TIZ Berlin

A mix of lectures and workshops provided information on strategies and solutions to protect intellectual property. More than 100 attendees from all over Germany used the opportunity to exchange views and to refresh their knowledge on infringement proceedings before the regular courts, border seizures by the customs authorities, actions to be taken at trade fairs but also on the services provided by the China contact desk of the action group against product and trade mark counterfeiting (APM) in practice-based workshops and lectures.

A 'boutique shop of fakes' presented by the customs authorities and a stand of Enterprise Europe Network (EEN) in the foyer complemented the ambitious programme of accompanying events.

Invitation to the conference at TIZ Berlin

Signing of cooperation agreement with Hochschule Amberg-Weiden (University of Applied Sciences Amberg Weiden)

The German Patent and Trade Mark Office (DPMA, Munich), represented by President Dr. Jürgen Schade, and Hochschule Amberg-Weiden (HAW), represented by President Prof. Dr. Erich Bauer, signed a cooperation agreement in December 2008.

For many years, the German Patent and Trade Mark Office has been engaged in intensive contact with Hochschule Amberg-Weiden in the patent engineering degree programme, which resulted in the first cooperation agreement in 2007. In December 2008, the contents of cooperation were extended and set out in a written contract aiming at increasing knowledge of intellectual property through joint conferences and training courses.

For example, President Dr. Jürgen Schade (DPMA) took up a lectureship in patent engineering at HAW with a view to an even greater intensification of the practice-based education.

Besides further joint events, the additional agreement sets out that the HAW should gain access to DPMA databases for the training of HAW students. Moreover the DPMA and the HAW intend to jointly undertake research activities, for example, in the subject 'innovation management and patents', and work together on joint publications.

Prof. Dr. Erich Bauer (HAW) and Dr. Jürgen Schade (DPMA) during the signing of the cooperation agreement

Taking the law to the lab

Dr. Ursula Versch is Professor at Hochschule für angewandte Wissenschaften Amberg-Weiden (University of Applied Sciences Amberg-Weiden) and, since 2008, Head of the 'patent engineering' course of study. Her lectures focus on search and information techniques. She is training officer for this programme, which is unique in Germany.

Professor Versch, you have been Head of the patent engineering programme since 2008. What makes this programme special?

The patent engineering degree programme features a specific, currently unique modular combination of technical, legal, and business administration contents, offered exclusively within the scope of an eight-semester taught course at the department of mechanical engineering and environmental engineering at Hochschule für angewandte Wissenschaften Amberg-Weiden (HAW) in Amberg. The establishment of a concept for the programme and its subsequent implementation and extension presented particular challenges since there were no comparable programmes for the education of patent engineers in Germany. Our programme provides a novel type of qualification. Because of the modular and cross-subject structure, the programme is very demanding. Meanwhile, more than 100 students are enrolled in patent engineering at HAW. More than 30 % are female students.

What are the subjects of the programme?

Let me cite a few lectures of each module to give you a general impression. In the technology module, the focus is on mechanical engineering and electrical engineering. The technological contents account for more than 65 % of the coursework. In addition to core subjects such as technical mechanics, electrical engineering, physics, computer science or control technology, the lecture 'technical product development', for example, aims at developing skills for setting up construction and production strategies under functional, ergonomic and economic aspects. In the 'search technique' course, which is another main component of the programme, students learn to carry out searches for the state of the art (keywords: novelty or infringement). In the area of industrial property protection, which is the teaching domain of Vice-President Professor Dr. Andrea Klug, students gain, among other things, fundamental knowledge in the fields of national und international patent law, procedural law and the legal protection of non-technical achievements. In addition, the very practice-oriented lecture series 'applied industrial property protection', which covers several semesters, confers expertise in analysing patentability prospects of ideas, preparing patent drafts, accompanying examination procedures and defending granted IP rights.

Prof. Dr. Ursula Versch

The former President of the German Patent and Trade Mark Office (DPMA), Dr. Jürgen Schade, took up a lectureship on patent law. The lecture series 'applied industrial property protection' and other practice-oriented advanced lectures are presented by experts working in the field of patent matters, such as patent attorneys or judges of the Federal Patent Court (Bundespatentgericht). This specific practice-based orientation is of particular relevance for the students, since they get a direct insight into their future professional activities. In the field of business administration, taught by Professor Dr. Thomas Tiefel, lectures on R&D controlling or marketing, for example, provide proficiency in evaluating patents within the scope of entrepreneurial value-adding processes. Since the topic of patents plays an important role in the strategic innovation management of industrial enterprises, above all, additional advanced lectures are being offered on this topic.

» The specific practice-based orientation is of particular relevance, since the students get a direct insight into the future professional activities. «

What do you appreciate about this course of study?

The strong connection with professional practice. This connection is provided by workshops organised for students at the German Patent and Trade Mark Office (DPMA), field trips to enterprises, patent offices – European Patent Office (EPO) and DPMA – and to the courts, lectures presented by speakers and lecturers from the patent offices, the Federal Patent Court and patent law firms. Likewise, themes for dissertations or project papers in the field of patents are chosen in cooperation with industrial enterprises and patent law firms. A cooperation agreement, intensified in 2008, had been established with the German Patent and Trade Mark Office (DPMA) in 2007, mainly thanks to the commitment of two former staff members of the DPMA, Dr. Sacher and Mr. Werner Bertl, who is now Presiding Judge at the Federal Patent Court. In implementation of this agreement, students can complete internships at the DPMA, DPMA examiners provide assistance in the education and professors are given the opportunity to enhance their practical knowledge at the DPMA. Furthermore, practice units of study and work experience placements in the 6th semester, covering 20 weeks, provide students with practical experience.

For which duties are graduated patent engineers qualified?

Graduates are qualified for a large variety of duties and fields of work. Patent engineers can work together with patent agents in patent departments, or ensure relations between the R&D department and the patent department of an enterprise, or they can work in patent law firms. In small or medium enterprises without an in-house patent department, patent engineers can be in charge of cooperation with patent law firms.

The possible duties and activities of a patent engineer might include:

- assisting R&D in the development process
- filing patent applications
- defending the company's patent applications (for example: appeal, opposition)
- checking granted patents of competitors (to avoid collision)
- checking the company's patent portfolio for possible licensing
- reviewing the company's patent portfolio with regard to maintenance/abandonment
- checking possible infringement of the company's IP rights
- et cetera

Junior students, senior students and graduates of this course of study are in high demand by enterprises and law firms. Meanwhile, more than 55 graduates work in small and medium enterprises, patent law firms and patent departments of industrial enterprises.

» The graduates of this course of study are in high demand by enterprises and law firms. «

How do you see the cooperation with the German Patent and Trade Mark Office?

It deserves the attribute 'very positive'! The cooperation agreements include two main aspects. The first aspect relates to providing assistance to education. For example, the cooperation agreement provides that we will be given access to the DEPATIS database of the German Patent and Trade Mark Office, probably from 2010 onwards. The utilisation of DEPATIS will enhance the quality of searches for the state of the art which are carried out in the lectures. The second aspect relates to raising awareness for industrial property matters. We often find that pupils hardly know anything about the topics 'patent system' and 'intellectual property'. For this reason, we are very pleased to be able to contribute to raising awareness in IP matters, together with examiners of the German Patent and Trade Mark Office. Within the scope of a pilot project, we will organise so-called 'P seminars' for pupils at Bavarian secondary schools, in cooperation with the German Patent and Trade Mark Office. These seminars are named 'From the invention to the patent'. We run workshops for teachers to prepare them for these seminars.

» We are very pleased to be able to contribute to raising awareness in IP matters. «

Which activities does your programme include in addition to university education?

In order to anchor the topic of intellectual property even more firmly at secondary schools, professors of HAW have presented lectures on the protection of intellectual property at schools for some years, or have invited pupils to attend lectures on this topic at the university. Furthermore, a very successful conference series called 'Amberger Patenttag' (Amberg patent day) was run for the third time at HAW in 2008. The 3rd Amberger Patenttag, organised by Prof. Dr. Andrea Klug, attracted more than 100 specialists from all over Germany.

A final remark, Professor Versch

2009 will mark the 10th anniversary of the patent engineering course of study. Our experience is that the graduates are much in demand by business and industry, and we have established a very close and trusting relationship with our network partners, specifically with your organisation.

Ms. Zimmerer, students, and Prof. Dr. Versch

Did you know that ...

... the 'patent engineering' course of study has been offered by Hochschule für angewandte Wissenschaften Amberg-Weiden since 1999?

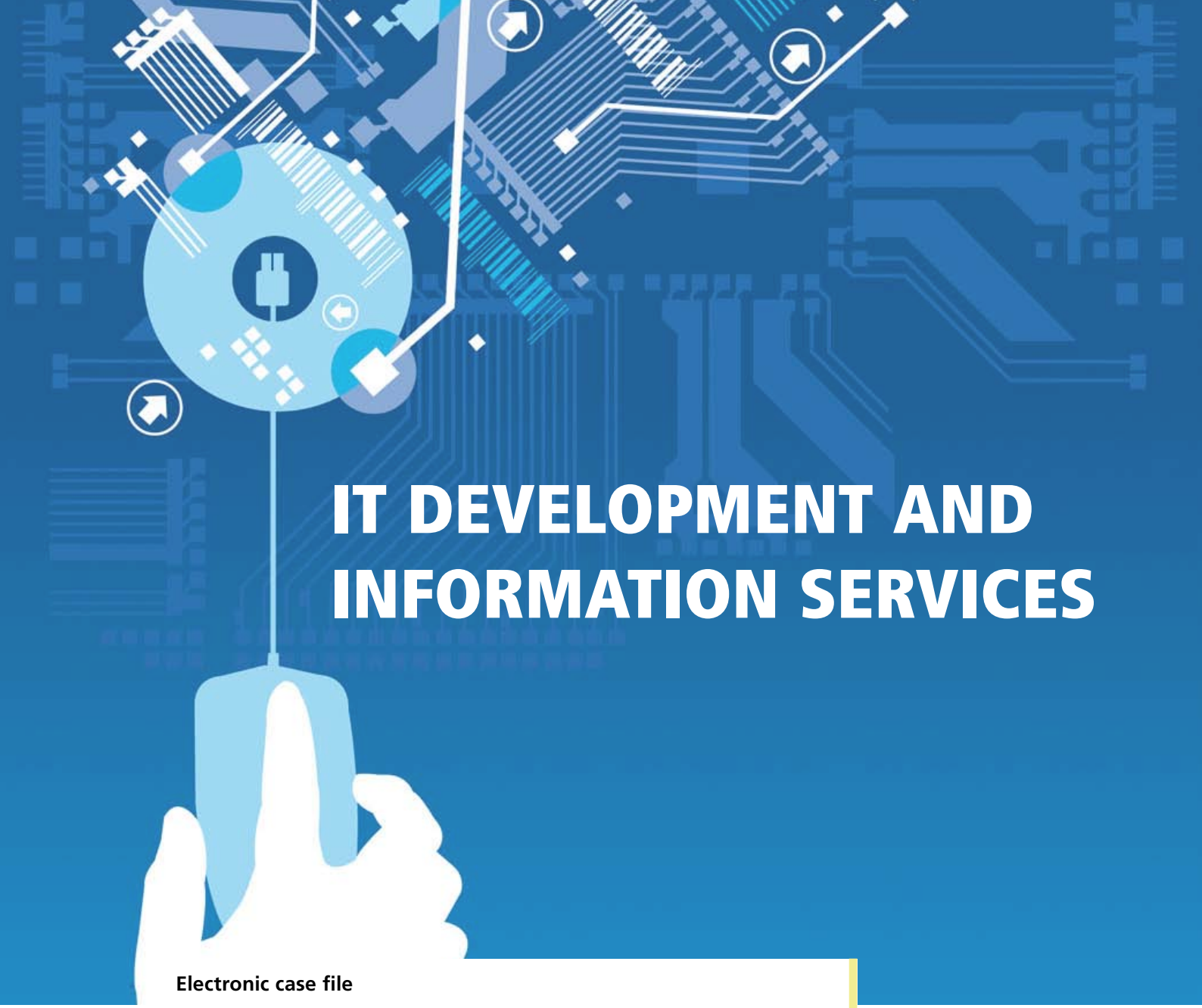
'The objective of this degree programme, which is unique in Germany, is to provide application-related education on a scientific basis, in the field of patent engineering.'

The idea to establish a patent engineering programme resulted from the high demand for specialists combining skills in technical fields with knowledge on industrial property protection, search techniques and business administration. The patent engineering degree programme has a modular structure, which combines technical, legal, and business administration content.

It is offered exclusively at the department of mechanical engineering and environmental engineering of Hochschule für angewandte Wissenschaften Amberg-Weiden (HAW) in Amberg. The syllabus was set up in cooperation with patent professionals from associations, patent offices, chambers of commerce, and business and industry. Meanwhile, more than 100 students are enrolled in patent engineering at the university of Amberg. More than 30 % are female students.

For more information and contact details, please go to www.patentingenieurwesen.de or www.haw-aw.de .


TECHNOLOGY
INSPIRATION
INNOVATION
CONCEPT
FUTURE
VISION



IT DEVELOPMENT AND INFORMATION SERVICES

Electronic case file

For some time it has been possible to file IPR applications online at the DPMA. We then publish the applications and the registered and the granted IP rights on the Internet. Between these two steps, the 'input' of the application at the DPMA and the 'output' that means the publication at www.dpma.de, there is a discontinuity of data media. This means the electronic application is printed out and a paper file is used for processing.

In future, we want to use fully IT supported processing for all types of IP rights, for patents, trade marks, designs and utility models. We call this end-to-end electronic processing 'the electronic case file'. It will then also allow our customers to inspect our files electronically.

The electronic case files are categorised and named according to the respective type of IP right. For example, the electronic case file in the patent area is called DPMA**patente** and those for utility models and designs are called DPMAgebrauchsmuster and DPMA**geschmacksmuster**, respectively.

Electronic case file

The project

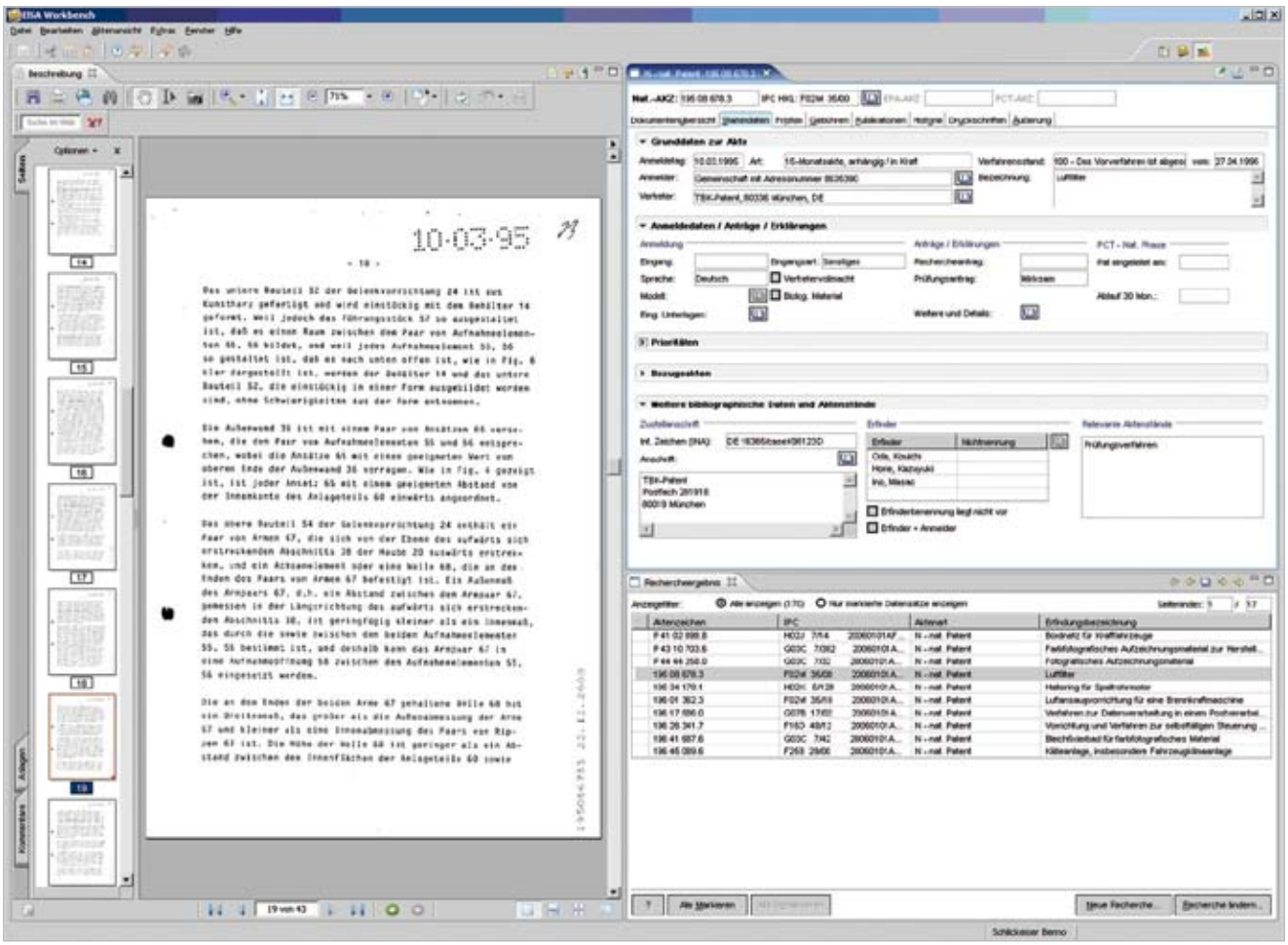
In 2008, we came a significant step closer to achieving our aim, that is the introduction of electronic file keeping and file handling for all types of IP rights. For patents, utility models and supplementary protection certificates, trial operations of the internal file inspection and file search started in the year under review. This was the first opportunity for many of the staff to test parts of the newly developed system. Above all, the staff of file administration can now follow the current development of the electronic case file.

It is necessary to introduce numerous other software programs and change the related business processes in order to implement electronic file keeping and file handling. All staff that will work with the electronic case file must be equipped and trained to use the necessary technology. Applications filed on paper must be scanned first and then stored in the electronic case file. The back-scanning of existing paper-based files ('old paper files') is of particular importance: The electronic case file can only work effectively if the documents presently available on paper are also made available electronically.

In 2008, we established the technical and organisational conditions for back-scanning the 'old paper files'. In the next two years, about 140,000 case files will be added to the new system. These physical file records will then be available in an electronic form to staff. The electronically searchable records are increasing daily by roughly 400 files. The master data of those files already included in the system are supplemented by the corresponding documents and can be retrieved and displayed in the document window of file inspection. Searches in the digital file records can be conducted and the search results displayed via the electronic desk.

More recently, the 'electronic record card for locations and time limits' has been operative. It allows information on the current locations of physical paper-based files and pending deadlines regarding IP procedures to be managed centrally and electronically. After introduction of the electronic case file, the system will provide the current processing status of each case file.

Figure 11:
'Electronic desk'



The introduction of the electronic case file in detail

The development and introduction of the electronic case file was based on some essential decisions on the architecture of the new system. When taking these decisions, we attached great importance to an open, expandable and uniform structure of the software programs. This also meant that the services and functions that need to be shared by several users or software programs were to be made available in so-called 'services' or also 'horizontal functions'. This type of software architecture is also referred to as 'service-oriented architecture'

The following horizontal functions required for the electronic case file have been put into operation in the past years:

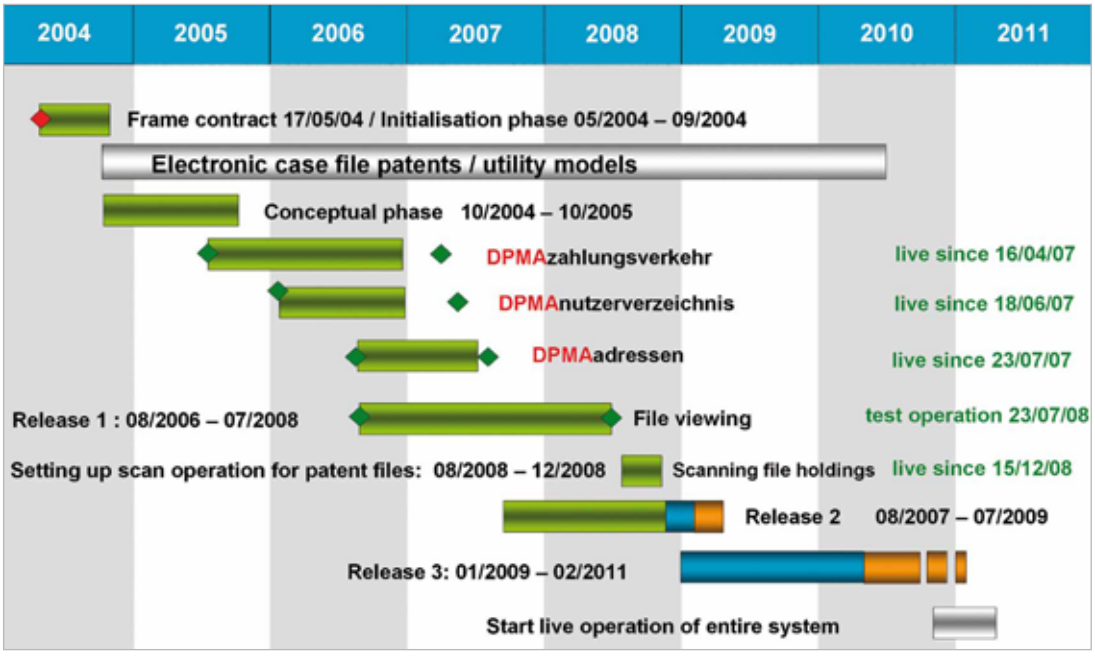
- DPMAadressen for the central administration of the addresses of applicants and their representatives
- DPMAzahlungsverkehr for the management of fee payments
- DPMAnutzerverzeichnis for the administration of user data

DPMApatente and DPMAgebrauchsmuster

In the year under review, we began to develop and test further software for the electronic case file of patents, utility models, supplementary protection certificates and topographies in order to achieve the aim of end-to-end electronic keeping and handling of files. In this context, too, we follow the above described approach of a service-oriented architecture.

We know from experience that, due to the great complexity of the system, we have to expect a high error rate during the development, test and introductory phases of the software programs. To counteract this problem, the phases will be implemented in several builds and releases.

Release 1 includes the internal file inspection and file search as well as the installation of the scanning facilities. Trial operations of file inspection, file search and scanning facilities started in August 2008. In the following releases, the software programs for electronic file handling will be implemented.



Project plan 'Electronic case file'

First, we had to analyse the workflow and business processes in the IPR areas to be able to introduce the electronic case file. Next, we developed a software program module for each work step. An 'electronic process control' ensures that the system will allocate precisely the right work to be dealt with, at precisely the right time, to staff.

In 2008, the first programs were implemented and process-related tests were carried out. In 2009, we will begin to test the processes with regard to their interaction (integration tests). We aim to conclusively implement the software programs of all business processes in 2009 and 2010.

On 15 December 2008, we began back-file scanning. For this purpose, a new organisation unit was established and staff assigned to this unit. The scanning itself constitutes the smallest part of the total work effort. Preparing the paper documents for back-file scanning is more work intensive. Documents must be taken out of the folders, all staples must be removed and the individual documents sorted and structured. After scanning, much time and effort has to be spent on the follow-up work. Each document is inspected and the file structure reproduced electronically.

In the next few years, the back-file scanning will lay the foundations for electronic file keeping and handling and also for electronic file inspection.

The distribution of patent and utility model applications to the examination units in charge has already worked very well, but the electronic case file will make it even more efficient and exact in the future: In 2008, a system-supported coarse allocation was tested successfully. The contents of the newly received patent and utility model applications are analysed electronically and an IPC classifying proposal is submitted (IPC = International Patent Classification). Based on this proposal, the application will then be further processed in the system and allocated to the patent division in charge.

DPMAmarken

Electronic processing of trade mark applications was already introduced successfully. However, there is not yet an end-to end electronic case file in that area. Detailed information is available on page 86.

DPMAgeschmacksmuster

After having introduced the electronic case file in the patent and utility model areas and integrated international registrations in DPMAmarken, we will also introduce electronic case files in our designs area. Furthermore, the DPMAmarken system will be extended by a document management system. Presently, we are analysing the business processes in those areas.

Advantages for our customers

As soon as we have introduced the electronic case file in all IP areas, applications for patents, trade marks, utility models and designs will be processed without the need to change over from one data media to the other. By this means great synergy effects will be created providing noticeable benefits to our customers, too. The applications can be processed fast because no paper will circulate through the office. Almost immediately after filing, the application will be routed to the examiner in charge. Several staff will be able to handle files simultaneously. That way we can process incoming applications for patents, trade marks, utility models and designs faster, or make faster decisions on registration or grant.
The greatest advantage for our customers is that they will be able to inspect the files of their patent or utility model applications online from 2011; from 2012, we intend to make online file inspection available in respect of the other types of IP rights too. At present, the files can only be inspected in our search rooms in Munich or Berlin, or copies of the files may be ordered.

DPMAmarken

The DPMAmarken system has been operational since May 2006. The system has become an indispensable component of the working environment of the trade mark area and is being used by more than 400 staff members for processing and managing all stages of trade mark procedures.

The features of DPMAmarken

DPMAmarken is a very complex and integrated 'umbrella' IT system that reproduces all processes relevant under trade mark law. All trade mark procedures are IT supported and carried out in DPMAmarken. Specifically, any publication and recording required under the trade mark procedure are initiated electronically by DPMAmarken.

Objectives achieved

DPMAmarken ensures that trade mark data are being processed in compliance with the current legal and organisational framework conditions. Furthermore, it allows our staff members to work in a comfortable and ergonomic manner. DPMAmarken contributes significantly to a consistent decision practice and thus increases legal certainty and clarity. Not least, trade mark registration and administration processes are now being carried out faster and more efficiently, in the interest of our customers.

Integration of international registrations (IR area) into DPMAmarken

Since mid-May 2008, our staff members in charge of international registrations of trade marks can use DPMAmarken for certain processes. Originally, DPMAmarken had been used exclusively for the registration and administration of German national trade marks. Since we also process international registrations of trade marks, which are inseparably interlinked with the national system, we started a new project in 2006 to integrate the area of international registrations (IR area) into the DPMAmarken system.

The IR area staff is in charge of transmitting requests for the international registration of trade marks, applied for or registered in Germany, to the International Bureau (IB) of WIPO/OMPI in Geneva, which manages these registrations. Vice versa, we accept requests for the grant of protection of foreign trade marks in Germany,

transmitted by the IB, and conduct the national trade mark examination procedure.

What are the objectives of the project?

Our aim is to enable staff working in the IR area to process data, produced in high quality by means of the DPMAmarken system, for integration in the register and publication and search purposes, to reduce processing times and to enhance legal certainty and clarity with a view to increase customer satisfaction in this area too.

What is the envisaged time frame?

The project was commissioned in 2006. It will be implemented in several stages.

Since mid-June 2008, we have worked on the support for the processing steps.

All IR procedures are to be processed under DPMAmarken. In addition, electronic documents of WIPO are to be integrated directly into the data pool of DPMAmarken. Within the scope of the project, we regularly hold internal meetings and meetings with WIPO staff to coordinate matters. This stage is scheduled to become operational at the turn of the year 2009. The long-term objective is to exchange data with WIPO exclusively by electronic means.

DPMAdirekt – online filing of IP applications

With our DPMAdirekt service you can file your IP application online. The e-filing software for IP applications was completely updated in 2008. It offers many new features. Above all, the user interface was redesigned. All functionalities such as establishing, editing and submitting documents and receiving acknowledgements are now directly accessible on the screen.

You can save addresses in the integrated address book and easily insert them in new forms. Furthermore, you can create user specific templates for all tasks that are suitable for electronic processing. The former name of the software, PaTrAS, was replaced by DPMAdirekt.

Our customers are very happy with the more comfortable operation. In 2008, we received about 10,000 applications online (in 2007 this figure was about 1,500).

At the request of our customers, e-filing of designs will be available from October 2009. From then, on applications for all types of IP rights, which can be filed with us, will be accepted online.

More information on DPMAdirekt and the software is available at www.dpma.de.

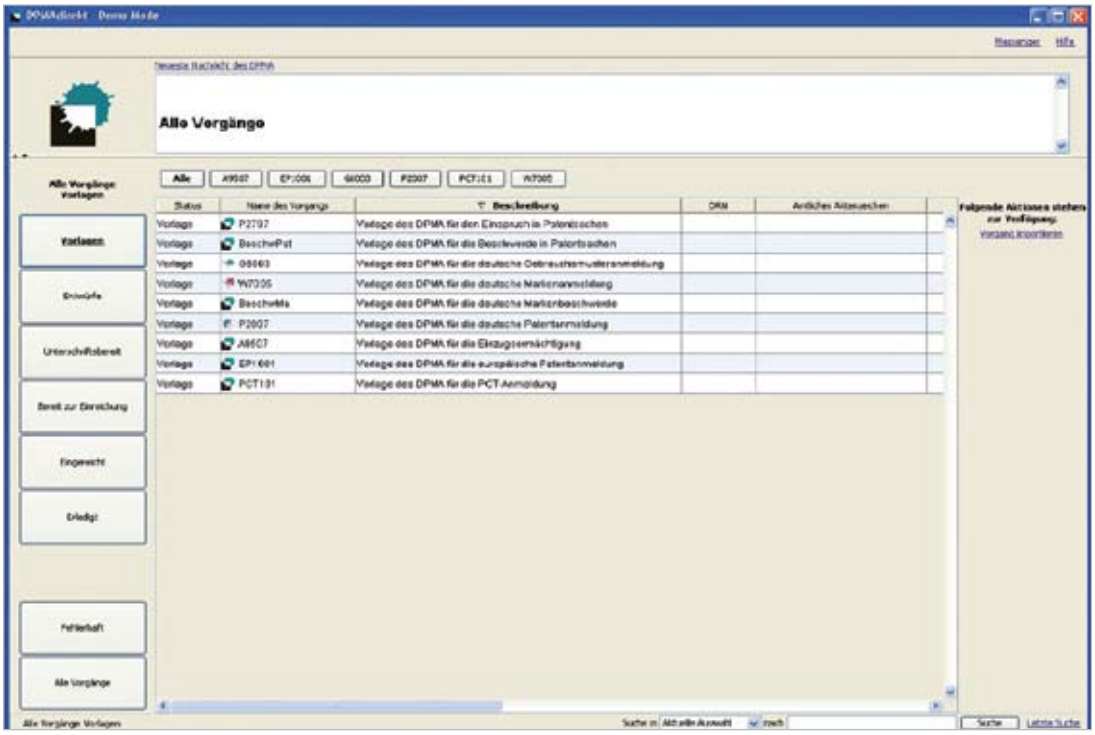


Figure 12:
Screenshot DPMAdirekt

New functions of our databases

In 2008, too, the contents and functions of our freely accessible online databases were further improved.

DEPATISnet

Users can search for patent publications from all over the world in the DEPATISnet database. As at 2008, searchable full texts have been available for German patent documents since 1877, in other words since the first German patent. These full texts were captured by OCR (optical character recognition), so the quality of the words recognised is not consistent.

To further improve the quality of our data pool we have introduced report error buttons to the bibliographic data screen and the document screen so that you can notify us directly of any error in a document.

In addition, documents cited in patent documents are now searchable via two new search fields (CT: cited documents and CTNP: cited non-patent literature).

Since mid-2008, the prior art references cited by the applicant have been recorded in the German first publications of patent applications and in the utility model documents and reproduced in a list. These references will also be searchable in DEPATISnet in future.

Furthermore, the catchword index was integrated in the IPC search so that the IPC and the catchword index may be covered in a single search.

DPMApublikationen

All our official publications on IP rights are available via the DPMApublikationen service.

The official publication platform was changed over to the new file reference formats for trade marks and designs on 1 January 2008. At the same time, publication of designs was switched to a weekly cycle (formerly, twice-monthly). The design gazette (Geschmacksmusterblatt) and the trade mark journal (Markenblatt) are usually published each Friday.

In 2008, the patent gazettes (Patentblatt), issued between 1950 and the end of 2003, were included in the download section of DPMApublikationen. These patent gazettes can be displayed, printed or downloaded and also searched in PDF format. The old trade mark journals will soon also be made available in the same way.

DPMAkurier

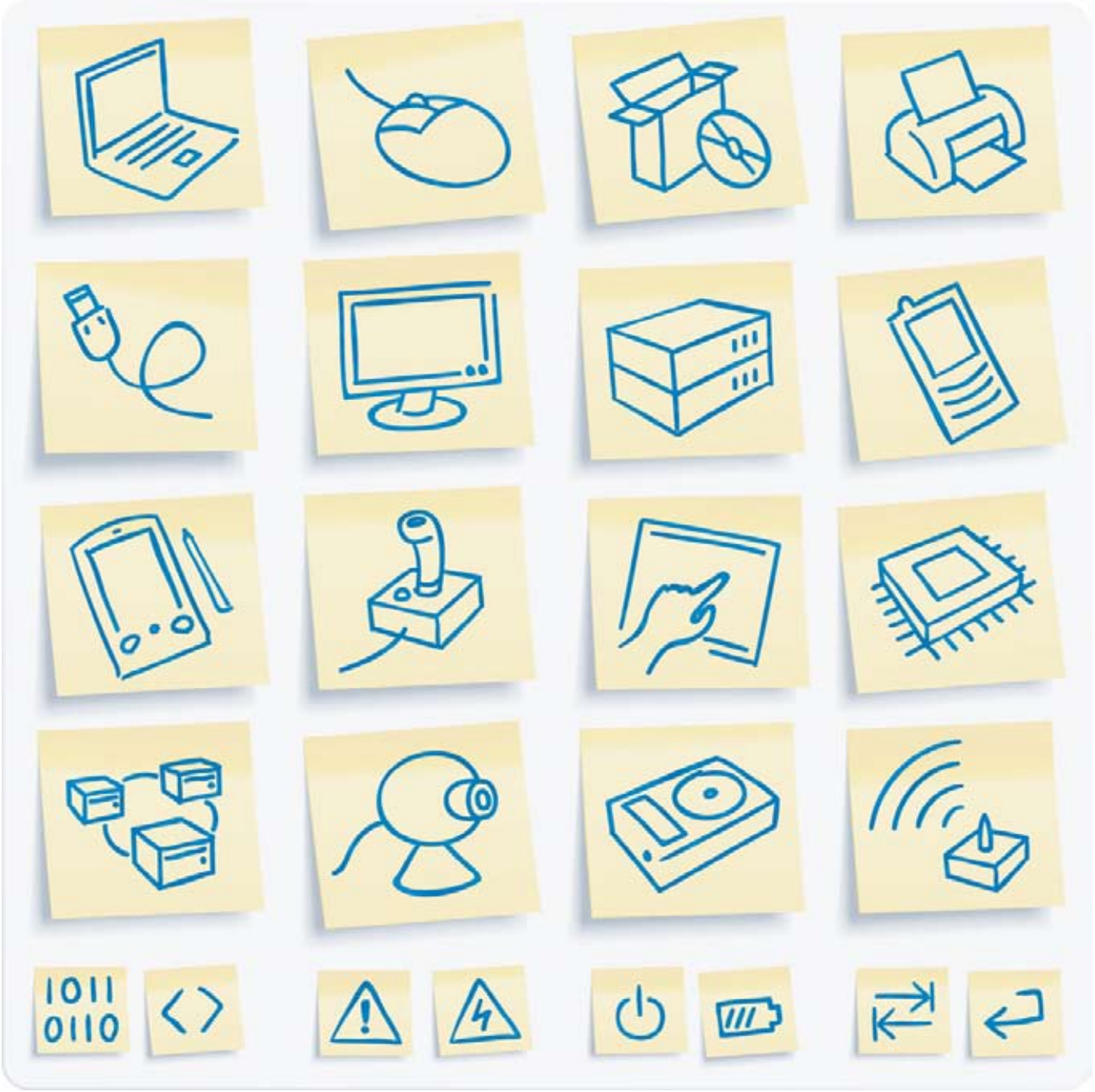
Our free DPMAkurier service regularly provides updated information on the legal status of industrial property rights to you by e-mail.

Since early 2008, monitoring by names and by classification symbols (for classification see information box on page 64) has also been possible.

Monitoring options
Users can submit:

- up to 10 names of applicants, inventors or owners for each type of IP right
- up to 50 full IPC symbols for patents/utility models
- up to 10 classes of the Nice Classification for trade marks
- up to 50 classes of the Locarno Classification for designs

The users will be notified by e-mail of the results of each search, optionally, on a weekly or monthly basis.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PERSONNEL AND BUDGET

Personnel

In 2008, 2,500 staff worked at the German Patent and Trade Mark Office (DPMA). 2,182 staff worked in Munich and 318 in Jena and in Berlin. This means that the overall headcount remained almost stable compared to 2007.

In 2008, the gender ratio of DPMA staff was balanced: 1,244 of the staff were women and 1,256 men. The percentages of both groups remained nearly the same as in previous years. Certainly, one reason is the enormous effort that has been put in by the DPMA to allow staff to better balance work and family life.

Recruitment initiative

In 2008, a large number of patent examiners were recruited in order to cope with the constantly increasing number of patent applications and to improve the work situation in the patent divisions. With the support of the Federal Ministry of Justice, we have created a total of 82 positions for patent examiners in 2008. Due to an amended staff selection procedure we were able to fill a large part of the new positions at the end of 2008 despite the fact that the employment situation for graduate engineers was good in 2008. This shows that the DPMA enjoys a very good reputation among the public. In 2009, too, we will recruit many new examiners.

In the tenth year of the existence of the Jena Sub-Office, it was also possible to considerably improve the personnel situation there. This reflects the high esteem in which the work done by the German Patent and Trade Mark Office is held by professional circles and the public. In 2008, the Bundestag granted fifteen new positions at the Jena location, thus further strengthening the Jena Sub-Office.

Staff incentive scheme

In 2008, incentive bonuses paid to civil servants totalled € 200,000. A total of 364 civil servants received incentive bonuses.

Training at the DPMA

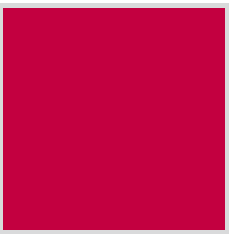
In 2008, vocational training provided by the DPMA is again much-sought-after. The DPMA offers training in six skilled occupations. 75 young people found training places in the commercial, technical, library and administrative fields. This means that the training quota remained high. In 2008, we were again able to offer temporary employment contracts to all trainees after completion of their qualifying training.

It is worth noting that we offer our trainees a large variety of options within the scope of their training at the DPMA: on the one hand, the regular training under the 'dual system' (within which, time is divided between the workplace and a vocational school) and, on the other hand, the opportunity to undertake an internship outside the DPMA, with a company in the private sector – not only in the Munich area, but right across Germany.

In addition, 25 students and pupils completed internships with the DPMA in 2008.

In 2008, the training of staff focused on extensive IT training with a view to the introduction of the electronic case file and the new DPMAmarken IT system and on considerably intensified training of staff at the management level. The long-standing successful standard training programme includes language courses and training courses of Bundesakademie für öffentliche Verwaltung (Federal academy for public administration).

In addition, four staff members had the opportunity to attend the qualifying training course I for employees at the Bavarian School for Administration. This training course is equivalent to the training for civil servants of the non-technical intermediate civil service.


Family-friendly employment – an important issue at the DPMA

As an employer, the DPMA places particular importance on helping staff to better balance work and family life. In addition to flexi time, part time and teleworking, the nursery, which is managed in cooperation with the City of Munich, is another important contribution to a better work-life balance.

Part time

About one eighth of our staff are working part time. It is possible to submit a respective request to accommodate family responsibilities. Part time workers can choose a part time working pattern according to their individual needs.

Teleworking

Since 2003, teleworking has been introduced step-by-step and has meanwhile become a highly successful model of employment with 350 teleworking positions. In the autumn of 2007, 50 new teleworking places had been created, which were allocated to staff in 2008. This means that just over 14 % of staff can work from home on some days of the week. This means that the German Patent and Trade Mark Office has a top position within the Federal administration.

Nursery

Since September 2007, the on-site nursery in Munich looks after 24 children aged between eight weeks and three years.

On 28 November 2008, the formal opening ceremony of the nursery was held and we were able to look back upon a successful first year. On this occasion, everybody was invited to have a look at the welcoming and attractive rooms, providing, above all, a suitable environment for children and an atmosphere in which all children feel happy and content.

All 12 nursery places available for the children of staff are now full and it seems that all childcare places available in 2009 will soon be filled too. Staff with parental responsibilities can return to work soon.

Organisation

Simply hiring more staff will not be sufficient to make the DPMA 'fit for the future': in addition, we must actively shape change processes and adapt the organisational framework conditions to new situations – also in respect of large IT projects.

An organisation must have a customer-oriented future-proof structure that is able to adapt to future developments. What kind of organisational structure will be required, for example, in the patent administration section of the DPMA, in order to provide the best possible assistance and support for the introduction of the electronic case file (ElSA) in the patent area? In order to answer this question we analysed the organisational structure of our patent administration section in 2008. The analysis covered about 300 workplaces. For the reorganisation, the strategic and the organisational goals of the DPMA and the future of the electronic case file business processes were taken into consideration. It was specifically important to devise a process-oriented structure in order to cope with the challenges posed by the electronic case file. In cooperation with the divisions concerned, we developed several alternative structure models. These were evaluated within the scope of a value benefit analysis. The project




was concluded at the end of 2008. We submitted a concrete and detailed recommendation for implementation.

The organisational structure of the IT divisions is subject to changing times, too, and must take the challenges of new and upgraded IT systems into account. We have conducted a study, which is nearly completed, with the aim to establish an IT structure which will allow the DPMA to operate and maintain the IT systems on its own, to the largest possible extent independent of external support. This solution aims to secure the high investments in IT projects of the past years and, at the same time, to create and maintain attractive and high-quality jobs in the IT area.

The DPMA can only comply with its statutory duties in a successful manner if a sufficient number of staff are available. Since we are part of the public administration, we are required to observe the principle of cost-effectiveness. The analysis of staffing requirements ('PBE') is a recognised method for determining the number of personnel required in the individual areas. We develop our staff planning and, if applicable, create new jobs, on the basis of the PBE assessment. It is regularly carried out in combination with an analysis of the organisation and allows us to enhance efficiency of organisational structures and business processes and to distribute the workload more evenly.

In 2008 an extensive analysis of staffing requirements was carried out in the area of patent examination which covered 700 workplaces. It showed that – owing to the significantly increased complexity of patent applications matched by a similar increase in the search file which documents the state of the art – the current number of patent examiners was not sufficient to meet the strategic goals of the DPMA in respect of processing times (see page 124). The DPMA's demand for personnel, included in the budget estimate for 2010, is based on the result of the analysis of staffing requirements.

Budget

As in the previous years, the overall income of the DPMA exceeded the expenditures in budget year 2008. Due to rising filing figures and the great work done by the divisions concerned, the overall income was markedly higher than in the preceding year. It totalled € 300.7 m, an increase of € 34 m over 2007.

The overall expenditures amounted to € 229.1 m. The large funds allocated for personnel, construction measures and IT projects reflect the esteem in which the Federal Ministry of Justice, the Federal Ministry of Finance and policy makers at the Bundestag hold the DPMA. Thanks to secure funding we were able to start/complete urgent construction measures and to further pursue all important IT projects (electronic case file, DEPATIS-Redesign, DPMAmarken). ●

Table 18: DPMA and Federal Patent Court (Income and Expenditure per million €)

	2007	2008	Change (in %)
Income	266.7	300.7	+ 12.7
Expenditure	221.6	229.1	+ 3.4
including personnel	121.5	126.6	+ 4.2




Modern administration

The German Patent and Trade Mark Office is not only a service provider for innovative customers, but also a modern and future-oriented organisation in itself. In addition to using cutting-edge IT applications, the DPMA rigorously applies business management methods such as cost/performance accounting, controlling and the balanced scorecard.

In 2008, duties in the field of internal auditing were assigned to a central unit, specifically established for this task. The unit directly reports to the office management to reflect the specific importance attributed to this issue.

This central unit also assumes key duties relating to the prevention of corruption. Prevention of corruption is a major topic in the public and political discussion, not only because of the current cases of corruption in business, industry and public administration, but also due to a definitely increased level of awareness. Corruption causes considerable damage to the economy, impedes fair competition and undermines trust in the integrity and efficiency of the public administration. We do not know of any case of corruption in connection with the German Patent and Trade Mark Office. As a preventive measure we instruct our staff and raise their awareness with a view to identify any risk of corruption at an early stage.

Data protection is another important issue at our office. If you wish to obtain information on your personal data or other information on the treatment of personal data at the German Patent and Trade Mark Office, please contact our data protection officer (phone: +49 (0) 89/21 95-33 33, fax: +49 (0) 89/21 95-38 66, e-mail: Datenschutz@dpma.de). For more detailed information on this topic, please see our data protection statements at www.dpma.de. ●

INTERNATIONAL COOPERATION

International Cooperation

The German Patent and Trade Mark Office attaches great importance to international cooperation in the field of industrial property protection. In view of the ongoing globalisation, it is absolutely necessary to effectively strengthen the protection of intellectual property even beyond the borders of Germany. This is in the interest of German and European enterprises alike. We are very eager to give new impulses to the development of the IP rights system at world level and to pursue common strategic goals together with our cooperation partners.

Bilateral Cooperation

The ever growing utilisation of the patent systems all around the world is accompanied by new challenges. This makes international exchanges of experience and the cooperation of national and regional patent and trade mark offices ever more important. The German Patent and Trade Mark Office has maintained intensive contacts with patent and trade mark authorities in numerous countries for many years and strives to continue and enhance cooperation in the future.

China

The State Intellectual Property Office of the People's Republic of China (SIPO) has become the third largest national patent office in the world, receiving far more than 250,000 patent applications per year. The number of innovations developed by Chinese enterprises is growing continually so that an efficient protection of intellectual property is increasingly important for Chinese business and industry too.

Participants of the Rule of Law Dialogue

German-Chinese Rule of Law Dialogue

In April 2008, the 8th German-Chinese Rule of Law Symposium took place at the premises of the German Patent and Trade Mark Office in Munich. About 70 high-ranking experts from both countries discussed possibilities of giving intellectual property effective protection. Both sides agreed that effective protection of intellectual property formed an indispensable component of a modern state founded on the Rule of Law. The discussion concerned legal foundations for enforcing intellectual property rights, procedures for enforcing intellectual property rights and possibilities of court protection of intellectual property rights, particularly through provisional court relief.

Federal Minister of Justice Brigitte Zypries and her Chinese counterpart, Minister Cao Kangtai (Head of the Legislative Affairs Office of the State Council of the People's Republic of China), agreed to continue the German-Chinese Rule of Law Dialogue for the next two years.

Federal Minister of Justice Brigitte Zypries and her Chinese counterpart, Minister Cao Kangtai, signing the two-year programme

Participants of the German-Chinese symposium in September 2008

Cooperation with the State Intellectual Property Office of the People's Republic of China (SIPO)

In April 2008 the heads of both patent offices signed a common work plan for the year 2008, in which it was agreed to adopt a patent examiner exchange programme, to run workshops and to again hold a common German-Chinese symposium.

The third German-Chinese symposium in the field of intellectual property took place in Munich in September 2008. The feedback from the attending representatives from business, industry and the legal profession was again extremely positive.

Discussions focused on alternative models for international cooperation. The second main topic was the international patent system at the interface of law, economy and technology. The lively exchange of experiences and views fostered mutual understanding, intensified the trusting relationship between the two offices and helped to find common approaches for global questions of patent law. The heads of the two offices emphasised their intention to continue to face the challenges to the patent system together.

Tian Lipu awarded honorary doctoral degree

In recognition of his personal achievements in establishing intellectual property in the People's Republic of China, the Commissioner of the State Intellectual Property Office of the People's Republic of China, Prof. Tian Lipu, was awarded an honorary doctoral degree by the department of economics of Technische Universität München.

Dean Prof. Dr. Christoph Kaserer and the President of Technische Universität München, Prof. Dr. Dr. h. c. mult. Wolfgang A. Herrmann, awarded the honorary doctoral degree to Prof. Tian Lipu. Because of the close cooperation between the Chinese and the German patent offices, the ceremony took place at the German Patent and Trade Mark Office.

President Dr. Schade and the Commissioner of the State Intellectual Property Office of the People's Republic of China

Ceremony awarding honorary doctoral degree to Prof. Tian Lipu

The President of Technische Universität München, Prof. Dr. Dr. h.c. mult. Wolfgang A. Herrmann and Dean Prof. Dr. Christoph Kaserer awarding honorary doctoral degree to Prof. Tian Lipu

EU-project IPR II

Furthermore, the German Patent and Trade Mark Office plays an active part in a project on the protection of intellectual property rights in China (IPR II), set up jointly by the European Union and the People's Republic of China. The project is carried out by the European Patent Office (EPO) in cooperation with the Office for Harmonization in the Internal Market (OHIM) and the Contracting States of the European Patent Organisation. The aim is to foster a smooth integration of China in the world trade system and to support the country's transition to a market economy. The project is specifically intended to take concerns of business and industry in Europe into account. For this reason, one of the main project targets is 'to improve the effectiveness of IPR enforcement in China'. The German Patent and Trade Mark Office is the coordinating body for the Contracting State Germany and represented in the project committee.

Japan

The DPMA and the Japan Patent Office (JPO) intensified their longstanding cooperation by launching a joint pilot programme on a Patent Prosecution Highway (PPH) in March 2008. The aim of the project is to avoid duplication of work through mutual utilisation of work results and to enhance efficiency of the patent examination process.

The PPH allows applicants to request accelerated examination with the German and Japanese patent authorities provided that the patent application was previously filed at the respective other office and at least one claim was determined to be patentable by that office. In this case, the two offices will exchange and mutually use work results. Neither the DPMA nor the JPO are bound by the decisions of the respective other office. The examination at the DPMA will of course be governed by the German Patent Law and the ordinances applicable to the DPMA. The project will initially run for two years, with the option of extension. It will be evaluated at the end of the pilot phase.

In November 2008, the managements of the DPMA and the JPO met for an exchange of views. The heads of both offices emphasised that the intensive cooperation of the two offices will be continued in the future.

Republic of Korea

DPMA President Dr. Schade met the new Commissioner of the Korean Intellectual Property Office (KIPO), Dr. Jung-Sik Koh, for bilateral talks in the margins of the General

Meeting at management level: President Dr. Schade and his Japanese counterpart, Commissioner Takashi Suzuki, with the delegations

President Dr. Schade and his Korean counterpart, Commissioner Dr. Jung-Sik Koh, with the delegations

Assemblies of WIPO, in September 2008. They agreed to intensify the patent examiner exchange and to envisage a pilot programme on a Patent Prosecution Highway (PPH).

India

In late October 2007, DPMA President Dr. Jürgen Schade and Mr. Ajay Shankar, Secretary, Department of Industrial Policy and Promotion at the Indian Ministry of Commerce and Industry, signed a memorandum of cooperation in New Delhi. On 16 July 2008, Dr. Schade and Mr. Shankar set up a work plan in Munich specifying concrete measures of bilateral cooperation. The offices will work together in the following areas: capacity building, human resources development, public awareness programmes, including also patent data exchange, cooperation in the training of personnel and joint organisation of events.

United States of America

The heads of the German and the US patent and trade mark offices signed a working agreement on future cooperation of the two offices, in November 2008. This joint memorandum marked the beginning of a cooperation between the DPMA and the USPTO. Staff members of our two offices will regularly exchange information at management and working levels and discuss best practices. Cooperation will focus on two programmes: a patent examiner exchange and a joint Patent Prosecution Highway (PPH) pilot. The exchange and mutual utilisation of search results is intended to help enhance the quality of examination and shorten processing times. In addition, questions concerning the quality of patents and the quality management are to be discussed. The DPMA now has bilateral cooperation relations with all major patent offices throughout the world and is in a position to participate in shaping international developments of the global patent system.

A first work plan has already been adopted for the year 2009. It provides for launching the patent examiner exchange and the PPH pilot in spring 2009, and for organising a joint symposium on current issues of IP protection in autumn 2009. The symposium will be held in Munich.

Romania

On 5 June 2008 the heads of the DPMA and of the State Office for Inventions and Trademarks of Romania (OSIM) signed a memorandum of understanding on bilateral cooperation in Bucharest. Within the framework of this agreement, several training measures were run in Munich and Bucharest in autumn 2008. At the same time, the work plan for 2009 was set up in cooperation with the Romanian colleagues and adopted by both sides at the end of the year. ●

Dr Schade and Ajay Shankar signing the memorandum of co-operation

DPMA / USPTO meeting at working level in Munich

World Intellectual Property Organization (WIPO) in Geneva

It is among the duties of the World Intellectual Property Organization (WIPO) in Geneva to promote the exchange of experience and international cooperation of the member states in order to enable further development of the system of industrial property protection at the international level. We actively participated in the decision-making processes in various WIPO committees in Geneva in 2008. At present, WIPO has 184 members. Since 1 October 2008, WIPO is headed by a new Director General, Francis Gurry.

Patent Cooperation Treaty

By filing a single international application under the Patent Cooperation Treaty (PCT), applicants can obtain applications in all PCT Contracting States that have the effect of a national application. Consequently, the PCT system is a considerable procedural simplification for applicants. São Tomé and Príncipe acceded to the treaty in 2008. Hence, 139 countries are party to the PCT. Some provisions of the PCT Regulations were modified in 2008 in order to further improve the PCT system and to better adapt it to the needs of the applicants. From 2009, the PCT will offer the option to request a supplementary international search.

European cooperation

London Agreement

The London Agreement on the application of Article 65 of the European Patent Convention entered into force on 1 May 2008. Germany had ratified the London Agreement in 2004. The main objective of the agreement is to significantly lower patenting costs in Europe by reducing the translation requirements for validating European patents after grant. Under the Agreement, Contracting States whose official language is one of the official languages of the European Patent Office (English, French, German) entirely waive the requirement of a translation of a patent provided for in Article 65 EPC. Contracting States which do not have an official language in common with one of the official languages of the European Patent Office, dispense with translation requirements if the patent is available in the official language of the EPO prescribed by that State. These states may however require that a translation of the claims into their official language be supplied. The following states have ratified the London Agreement: http://www.epo.org/index_de.html. All states that have not acceded to the London Agreement can maintain their translation requirements established under Article 65 EPC.

European patent judiciary and Community patent

The Council of the European Union is examining a draft agreement on the establishment of a European Patent Judiciary under Article 300 of the EC Treaty and a draft regulation on the Community patent. The contents of the European Patent Judiciary agreement are drafted along the lines of the draft European Patent Litigation Agreement (EPLA). It provides for local first-instance divisions, based on established structures, a central division, and a court of appeal. The panels will be composed of legally qualified members and technically qualified judges. The European Court of Justice will be responsible for interpreting Community law.

European Quality System

After adoption of a standard for a European Quality Management System (EQMS) in 2007, the Administrative Council of the European Patent Organisation agreed, in 2008, on a set of quality standards for products within the scope of the European Patent Networt (EPN). Please see page 23 for a more detailed article on this topic.

Pilot project on the utilisation of work results

The pilot project on the utilisation of work results (Utilisation Pilot Project – UPP), which had been running for nearly two years, was concluded in 2008. Within the scope of the pilot project it was explored to what extent the results of work previously done by national patent offices during the examination of applications could be utilised by the European Patent Office in the examination of corresponding subsequent filings. An analysis of 1,268 processed European patent applications showed that the utilisation of work results of national patent offices by the European Patent Office contributed to avoiding duplication of work and to increasing the efficiency of the European patent grant procedure. For this reason, the Administrative Council of the European Patent Organisation agreed to extend the utilisation of work results by stages.

Reception for the members of the Administrative Council of the European Patent Organisation

In March 2008, the German Patent and Trade Mark Office hosted a festive reception in the Historischer Festsaal of the ancient town hall of the city of Munich on the occasion of the 113th meeting of the Administrative Council of the European Patent Organisation. About 120 members of the European Patent Organisation, the European Patent Office, the Federal Ministry of Justice and the City of Munich administration followed President Dr. Jürgen Schade's invitation. Many delegations from the 34 Contracting States seized the opportunity to foster European relations and exchange views in an informal setting. Alison Brimelow, President of the European Patent Office, Dr. Roland Grossenbacher, Chairman of the Administrative Council of the European Patent Organisation, and Dr. Reinhard Wieczorek, Head of Department of Labour and Economic Development of the City of Munich, also addressed the guests, which contributed to the success of the event. ●

Did you know that ...

...the first Chancellor of the Federal Republic of Germany, Dr. Konrad Adenauer, was also an inventor?

In 1915, for example, he was granted a patent on a process for making a whole meal bread similar to the Rhineland-style rye bread (DE 296648 A). His invention was intended to help combat the famine raging at that time by providing a cheap alternative to the conventional bread.

Guests at the reception (from left): Dr. Roland Grossenbacher (Chairman of the Administrative Council of the European Patent Organisation and Director of the Swiss Federal Institute of Intellectual Property), Dr. Hubert Weis (Head of Directorate General, Commercial/Economic Law at the Federal Ministry of Justice), Raimund Lutz (President of the Federal Patent Court) and Dr. Reinhard Wieczorek (Head of Department of Labour and Economic Development of the City of Munich)

Staff exchanges and study visits

In 2008, we continued the previous successful cooperation with other national IP offices including the patent and trade mark examiner exchange programmes.

Japan Patent Office (JPO)

The cooperation with the Japan Patent Office (JPO) was continued in March 2008, when four Japanese patent examiners spent two weeks at the DPMA, where they worked together with four DPMA examiners. As the DPMA and the JPO have sufficient numbers of corresponding patent applications claiming priority of the respective other office, it was no problem to choose applications that were suitable for joint processing. This year, the following fields of technology were in the focus:

- Catalysts
  (class B01J of the International Patent Classification)

- Brake systems for vehicles
  (class B60T of the International Patent Classification)

- Transmission systems
  (class H04B of the International Patent Classification)

- Spectrometry
  (class G01J of the International Patent Classification)

In the run-up to the visit, the participants had processed suitable patent files in the examination stage, that claimed priority of the other office, from their relevant fields of technology. They carried out a full search in relation to each file and established the first office action. During the visit, the participants discussed the results, differences and common features. This approach also revealed differences in patent law. We organised presentations on DEPATISnet, first examination and allocation of IPC classes, patent information, and showed our guests the data processing centre.

Welcoming the four Japanese exchange patent examiners in March 2008

Our Japanese guests had the opportunity to visit industrial enterprises in Munich and Aldersbach.

The return visit of the four German participants in the exchange programme to the JPO is scheduled for spring 2009.

Korean Intellectual Property Office (KIPO)

The patent examiner exchange programme with the IP office of the Republic of Korea (KIPO) was continued with the return visit of two German examiners to the Republic of Korea in June 2008. As on the occasion of the visit of the Korean colleagues in Germany in November 2007, patent files in the examination stage were processed from the following fields of technology: LCD display technology (class G02F of the International Patent Classification) and semiconductor elements (class H01L of the International Patent Classification). The colleagues compared the results of their searches and the first official communications. They identified differences and common traits of the two examination systems and specific features in the application of the respective patent laws.

President Dr. Schade (3rd from right) and the participants in the patent examiner exchange programme with KIPO in November 2008

In November 2008, two further Korean patent examiners visited our office and worked together with two of our examiners in the fields of chemistry (classes C07C and C07D of the International Patent Classification) and mechanical engineering (classes F01L and F01M of the International Patent Classification). They had prepared about five patent applications each. We briefed our Korean visitors on the organisation and history of our office, the DEPATIS patent document archive, the receiving unit, the patent administration, the area of first examination of new applications, the patent information services and the computer centre. The visit included two field trips to industrial enterprises in Munich and Augsburg. The visitors got a good overview on the structures and processes in the area of patent examination.

United Kingdom Intellectual Property Office (UKIPO)

After a one-year break, cooperation with the UKIPO was resumed. Three DPMA patent examiners visited the UK office in Newport (Wales). The visit focused on questions regarding the quality management of patent examination processes, which has been part of a certified pre-grant patenting process at the UKIPO for some time. Cooperation will continue in 2009.

State Intellectual Property Office of the People's Republic of China (SIPO)

The patent examiner exchange programme with China was launched in July 2008. Two German patent examiners working in the field of chemistry stayed for two weeks at the Chinese office.

In an introductory seminar, the German examiners presented the structure and processes of the DPMA. In addition, they explained the principles of the patent examination procedure, the search facilities, the classification of applications and the patentability criteria to staff groups, using twelve selected patent applications as examples.

The visit programme was rounded off with a visit to the 'Reexamination Board', which comprises eight appeal panels, seven of which are technical appeal panels. On this occasion, the examiners discussed specific questions with representatives of the appeal panels for polymer chemistry.

German patent examiners welcomed at the UKIPO

SIPO Commissioner Tian Lipu and Ms. Wang Wei welcoming the German guests

Finally, the German examiners visited a patent law firm in Beijing and had interesting discussions on some of the selected cases.

National Institute of Industrial Property (INPI) of Brazil

Cooperation with the Instituto Nacional da Propriedade Industrial (INPI) of Brazil was launched in 2005. In 2008, too, Brazilian patent and trade mark examiners attended training in Rio and Munich within the scope of the cooperation project.

Training courses in Brazil

In April 2008, two of our patent examiners working in the fields of chemical process engineering and pharmacy stayed for two weeks at the Instituto Nacional da Propriedade Industrial (INPI).

Workshop at the Instituto Nacional da Propriedade Industrial

The training course comprised a lecture module, which started with a brief introduction to the principles of patent law and was followed by detailed explanations on specific questions relating to the patenting of chemical compounds and processes, and pharmaceuticals. On the following two days, cases from the current examination practice, selected in advance by the Brazilian examiners, were thoroughly discussed and possible examination strategies were developed jointly

Three DPMA patent examiners working in the fields of metallurgy, mechanical technology and agronomy carried out a two-week training course for 45 examiners of the Instituto Nacional da Propriedade Industrial (INPI) in June 2008. In the first week, they held lectures on the German patent system and the principles of patent examination. The second week was dedicated to practical work in the form of subject-specific workshops, where selected applications were presented and processed.

Our delegation in Brazil

Training courses in Munich

In September 2008, six Brazilian trade mark examiners visited us in Munich. The training programme covered, above all, the area of international registrations of marks. DPMA staff members from the trade mark department provided an overview of the system of the Madrid Agreement Concerning the International Registration of Marks and its practical application.

The work plan for 2009–2010 was established in November 2008 together with the Brazilian colleagues and adopted by both sides at the end of the year.

At the Intellectual Property Office of India

Intellectual Property Office (India)

Based on the cooperation agreements concluded with the Indian IP authorities in 2007 and July 2008, a first six-member team of patent examiners – three from the European Patent Office (EPO) and three from the DPMA – was sent to India in mid-October 2008. The DPMA delegation consisted of experts in the fields of computer implemented inventions, chemistry and semiconductor elements. The EPO examiners covered the fields of biotechnology, pharmacy and mechanical engineering. For an interview with a member of the delegation please see page 108.

Study visits

Besides participants of the patent examiner exchanges we were pleased to welcome a number of other visitors to study visits of several days' duration in 2008.

Within the scope of a supra-regional seminar on industrial property protection, organised by the World Intellectual Property Organization (WIPO), the European Patent Office (EPO) and the DPMA, our specialists provided a one-week on the job training for 14 patent examiners in July 2008. The participants came from Belarus, Romania, Georgia, Egypt, Syria, Zimbabwe, Zambia, Indonesia, North Korea, the Philippines, Thailand and Viet Nam. They were supervised by German colleagues working in the same technical fields with whom they processed patent files.

Numerous delegations of various industrial property institutions and industrial enterprises, above all, from Asia visited us in 2008. We were pleased to welcome foreign delegations from China, Japan, South Korea, Taiwan, India and the USA. Our experts gave the delegations introductions to the structure and organisation of our office and provided insights into the information services and the patent examination procedure in Germany.

In December, two representatives of the German Patent and Trade Mark Office visited the State Intellectual Property Office of the People's Republic of China. Within the scope of workshops, groups of 10 to 12 persons exchanged information on personnel recruitment, selection of personnel, training of patent examiners and quality management issues. ●

Workshop at the Intellectual Property Office of India

Two DPMA experts with their colleagues from SIPO

IP rights in demand in India too

In October 2008, three patent examiners of the DPMA and their colleagues from the European Patent Office (EPO) visited the Indian Patent Office (IP India). Dr. Holger Frohne, patent examiner in the field of semiconductor devices, held a patent seminar in Chennai.

Mr. Frohne, India is experiencing an economic boom. What does that mean for the patent system over there?

The trade relations between India and Germany have greatly intensified in recent years. In 2007, the trade volume between the two countries increased and amounted to over € 10 bn. A doubling of this amount is expected within the next few years – provided this is still possible in the global economic crisis. Due to the growing interest in the Indian market, investors are interested in reliable IP rights so that German companies have urged us to develop closer cooperation with IP India. Germany ranks only behind the United States in the number of foreign patent applications filed in India, followed by Japan that ranks third. In 2007, 6,955 applications of US patent applicants entered the national phase under the PCT; German and Japanese applicants accounted for 1,933 and 1,409 national phase applications, respectively.

Dr. Holger Frohne

In 2007, the key fields of invention of patent applications were chemistry (6,354 applications) followed by the fields of computers and electronics (5,822), mechanical inventions (5,536 applications) and drugs (3,239).

The Indian patent system is witnessing an exciting phase since a declining number of patent examiners (135 at the end of 2008) face a steeply increasing number of patent applications (more than 35,000 in 2008).

When you compare Indian patent law and German patent law – what are the similarities and what are the differences?

The German Patent Law and the Indian Patents Act have many parallels, one of the reasons for this is that both countries are members of the TRIPS Agreement. Indian patent applications are also published 18 months after their date of filing and the maximum life of Indian patents is 20 years, just like in Germany. Inventions can be filed in the official languages English and Hindi, however English is the preferred language for almost all applicants.

In India, the majority of patent applications of international applicants with a domicile or establishment outside India use the PCT national phase route (in 2007: 19,768 PCT national phase applications and 3,858 direct national applications). In Germany in contrast, direct national applications play a greater role

1 Annual Report IP India 2006-2007 (period under review 12 months), http://ipindia.gov.in/cgpdtm/AnnualReport_English_2006-2007.pdf (searched on 20 May 2009)

(in 2008: 2,770 foreign PCT applications entered the national phase and 10,407 national applications were filed directly at the DPMA by applicants with a domicile or establishment outside Germany).

As early as in 2007, IP India was appointed international PCT authority by the WIPO General Assembly so that it will be active as International Searching Authority (ISA) and International Preliminary Examination Authority (IPEA) in future. For this purpose, an independent section was founded in Delhi which will conduct the corresponding searches.

Achim Altvater, Dr. Holger Frohne and Dr. Johannes Freudenreich (from left to right)

» A specialisation of branch offices on certain fields of examination is in discussion. «

What is the structure of IP India?

IP India is a subordinate office of the Department of Industrial Policy & Promotion under the Ministry of Commerce & Industry and headed by the Controller General of Patents, Designs and Trademarks (CGPDTM). The headquarters of IP India are located in Kolkata, further branch offices are located in New Delhi, Chennai and Mumbai. The patent examiners of the individual branch offices examine exclusively the patent applications filed in the surrounding region so that the fields of examination of the patent examiners of the respective branch offices are comparatively large. However, IP India is discussing a specialisation of branch offices in certain fields of examination in connection with an allocation of applications that is independent of the location of filing.

What characterises the Indian patent examiner?

A university degree is an entry requirement for Indian patent examiners, however, the Indian patent examiners do not need to have any job experience in contrast to their colleagues in Germany (5 years). In India, many women take up a career as patent examiners. In Chennai, for example, women account for about a third of the patent examiners. After a two-week training at the centrally located training centre in Nagpur the patent examiner starts the examination work at one of the four locations of IP India where patent applications are examined.

TRIPS

Under the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights), members of the World Trade Organization (WTO) are obliged to observe minimum standards for the protection of intellectual property. The agreement comprises harmonised standards for patent protection and requires the contracting states, among other things, to introduce certain rules in order to avoid distortions and impediments to international trade.

In contrast to the German Patent and Trade Mark Office, there is one assistant controller for each group of five patent examiners at IP India. The assistant controller can amend the office actions and decisions submitted by the examiners, even without consulting the examiner.

What is the examination procedure at IP India like?

Until 2003, the claimed invention was only examined as to novelty in India. It was only after that date that the assessment of the inventive step has become important.

The Indian examination procedure essentially differs from the German examination procedure in that the Indian patent examiner has to conclude a case within 12 months from service of the first office action, irrespective of the differences arising from the reasoning of the applicant. This period is used tactically by some attorneys, for example, by submitting a new set of claims shortly before the expiry of the 12-month time limit. If differences relevant to the decision come up then, a hearing will be held on short notice involving the participation of the assistant controller. At the end of the hearing a decision will be pronounced.

» Indian patent examiners have to conclude a case 12 months from service of the first office action. «

The Indian patent examiners usually revert to the search results of the priority applications or the PCT application. They use the major online databases as search tools, for example, STN, Elsevier, Delphion (WPI) or Google Patents. Special search tools, such as the patent examiner version of DEPATIS or Epoque have not been used yet. However, there are current considerations and test runs with the view to adopting such search tools of another patent office.

Indian patent examiners are attending German language classes to make that prior art better accessible to them in future.

» An online platform was announced for 2009. «

Is it possible to search in Indian patent publications?

Yes, it is possible to a limited extent. However, the bibliographic data and the abstract only are published in the online '*Patent Office Journal*', issued weekly in English by IP India.

For searches for Indian patent documents the following online platforms are available as alternatives to the official databases: the website of *BigPatents India*, funded by the Ford Foundation, and the website of *Technology Information, Forecasting and Assessment Council*, an independent organisation subordinate to the Department of Science and Technology. However, these databases are also limited to bibliographic data and titles of applications.

In order to gain a comprehensive insight into a publication it is indispensable to inspect the case file of the patent application at the location of the patent office. Until now, the only way for Indian patent examiners also to view the full text of an Indian patent is via the respective paper case file.

The Indian government assists IP India in adapting this form of providing information to the public to the technical possibilities. In this context, an online platform was announced for 2009 which will provide similarly comprehensive information as, for example, DEPATISnet (DPMA) or esp@cenet (EPO).

In cooperation with some EPO colleagues you held various training courses for Indian patent examiners. What issues were of particular interest to them?

Before the departure to India, we worked out a patent seminar in cooperation with the colleagues of the European Patent Office, and took turns presenting it in India in the first week. We focused on patent law courses, for example, on the issues of novelty, inventive step or computer-implemented inventions, but also on presentations of the practical examining work, for example, the different search techniques or the structure of office actions on examination.

Afterwards the various issues of this patent seminar were illustrated and intensified by practical exercises.

This form of cooperation attracted much interest. Many questions during the seminars and in the discussions after the courses showed that the considerations of patent examiners are very similar, it does not matter whether the examiner works at the EPO, IP India or the DPMA.

The exercises showed that some Indian colleagues are also familiar with the current court decisions in Germany and Europe.

» Many questions showed that the considerations of patent examiners are very similar. «

During your stay in India you worked with Indian patent examiners in examining patent applications. Were there any differences in the assessment of patentability?

Every day for the second week of our stay we accompanied another patent examiner to jointly work on an application in his/her field.

The case files dealt with already contained the search results of the international phase under the PCT, which formed the basis for the joint search. It proved that on this basis there was no essential difference in the assessment of patentability.

In particular, the assessment of patent claims of mixed technical and non-technical features was discussed with patent examiners in the field of 'computer science'. With respect to computer-implemented inventions and inventions concerning data processing, the wording of Indian patent law is analogous to German patent law or the EPC. When we talked about the interpretation necessary in examining practice we found out that there were clear parallels with long standing discussions at the DPMA and the EPO with regard to the assessment of technicity and exclusion criteria.

What consequences can be drawn from this exchange of experiences?

Although we come from different patent systems the considerations of Indian patent examiners on the patent examination procedure are so similar to ours that it was perfectly possible to undertake a comparison of processes and legal principles. We got along very well right from the start.

At the end of our visit to India, the Indian patent examiners as well as the Controller expressed the wish to continue this form of cooperation in the coming years. We too wish that this first visit to India will enable us to establish long term cooperation. As the world gets smaller, international contacts and the exploitation of synergies resulting therefrom are of strategic importance to the DPMA. ●

» As the world gets smaller, international contacts and the exploitation of synergies resulting therefrom are of strategic importance to the DPMA. «

Examiners visiting the Intellectual Property Office of India

Visit to the Romanian Patent Office

Exchange
between Rio and Munich

INVENTORS' AND INNOVATION AWARDS

**» Innovation depends on invention –
and inventors should be treated as the pop stars of industry «**

*HRH Prince Philip, Duke of Edinburgh (*1921), husband of Queen Elizabeth II of the United Kingdom*

In this spirit inventors who have outstanding ideas and turn them into practice are being rewarded with innovation prizes.

President of the German Patent and Trade Mark Office Dr. Jürgen Schade was again a member of the selection boards and committees, entitled to propose candidates, and involved in the selection processes of the innovation awards in 2008. Our staff gave him qualified assistance in fulfilling these duties by providing technical assessments of the projects.

The 'German Future Award' and the 'Innovation Award of German Industry' are among the most prestigious national innovation awards.

The German Future Award 2008

The 12th annual German Future Award – Award of the German President for Technology and Innovation –, endowed with € 250,000, was presented on 3 December 2008. This award is intended to make the public aware of people who provide solutions for the challenges posed to science and industry by global competition. At the award ceremony, the German President called on young people not only to admire and use technology but also to understand and develop it.

The following teams and projects were nominated for the German Future Award in 2008:

- Dr. Nikolaus Benz, Dr. Thomas Kuckelkorn – Schott Solar CSP GmbH, Mitterteich: 'The core of solar thermal power plants: high-performance receiver collects solar energy'

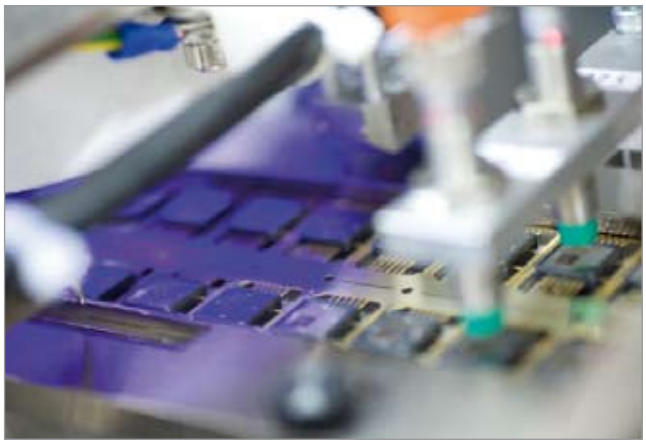
- Dr. Jiri Marek, Dr. Michael Offenberg, Dr. Frank Melzer – Robert Bosch GmbH and Bosch Sensortec GmbH, Reutlingen: 'Smart sensors conquer consumer electronics, industry and medicine'

- Prof. Dr. Jörg Sennheiser, Gerrit Buhe – Sennheiser electronic GmbH & Co. KG, Wedemark: 'Professional digital wireless microphone system'.

The team of Robert Bosch GmbH and Bosch Sensortec GmbH (Dr. Jiri Marek, Dr. Michael Offenberg, Dr. Frank Melzer) won the finals.

German President Professor Dr. Horst Köhler and the winners of the German Future Award 2008

The Bosch research team succeeded in opening up new applications for silicon sensors, used in the car industry, in consumer electronics by developing new manufacturing processes for the sensors using surface micro-machining.



Bosch researchers developed key technology for the manufacture of tiny electronic sensors

The five important key processes, developed by Bosch, are:

- Depositing and structuring of layers of polycrystalline silicon of up to 20 µm in thickness. These are required to produce big movable masses with minimum space requirement, for example, in acceleration sensors.

- Deep reactive-ion etching – the DRIE process or 'Bosch process'. It allows to be created accurately very deep vertical-walled trenches inside the silicon.

- Chemical vapour etching to remove the sacrificial layer in a particularly easy and reliable manner.

- Ultra-thin sealing layers in the 'MEMS first process'. These hermetic seals take up a minimum of space and protect micro-mechanical elements against environmental factors.

- The 'APSM process' (advanced porous silicon membrane) for pressure sensors. It accurately creates vacuum chambers under monocrystalline silicon membranes. It allows the manufacturing of high-precision, small and cost-effective pressure sensors with evaluation electronics on a chip.

The new surface micro mechanical elements are already in use: the sensors measure accelerations and, for example, detect if a laptop falls to the floor and protect the hard drive from data loss before impact. They are used in mobile phones too: The inclination of the mobile is used to control the menu.

The technology has a huge potential: Bosch founded a separate subsidiary enterprise, Bosch Sensortec GmbH, to market the technology and expects a doubling of the present turnover in this area in the next few years by using sensors in electronic consumer goods.

Micro-mechanical sensor of the winning team of the German Future Award 2008

Innovation Award of German Industry

On 24 January 2009, the 29th Innovation Award of German Industry, endowed by Wirtschaftsclub Rhein-Main e. V. and WirtschaftsWoche, was conferred to one candidate each from the categories 'major enterprises', 'medium enterprises' and 'start-ups' at a great gala night at the Alte Oper in Frankfurt/Main. The three prize winners were chosen from the nominated five finalists for each category.

Infineon Technologies AG won the Innovation Award 2008 in the major enterprises category for the project: 'E-GOLDvoice – Infineon's innovative approach of designing a single-chip mobile'. Infineon's E-GOLDvoice combines all essential components of mobile phones (a baseband processor, radio frequency transceiver, power unit and RAM) on a single chip. The single-chip allows the material costs for mobile phones to be reduced significantly in order to produce particularly low-cost mobiles.

Jungtec GmbH & Co. KG received the award in the medium enterprises category for developing an innovative stainless steel seal for flange connections in industrial piping systems. The special seal is an embossed cam profile gasket with a 0.1 mm flexible stainless steel core and two-sided encapsulated graphite. The design and the variable depth and pitch of the embossed gasket grooves provide a metal seal and ensure that the graphite is effectively encapsulated. The sealing material cannot be destroyed by aggressive, hot fluids flowing under high pressure through the pipes of industrial plants. Hence the sealing also contributes to reducing leakage of environmentally harmful and hazardous substances in technical manufacturing facilities.

Winner of the Innovation Award of German Industry 2008 in the start-up category was immatics biotechnologies GmbH. The award paid tribute to immatics' innovative therapeutic cancer vaccines aiming at activating the immune system of cancer patients against tumour cells. These vaccines contain so-called tumour-associated peptides (TUMAPs) – structures found on the surface of cancer cells. The scientists at immatics want to sensitise the patient's immune system by administering specific TUMAPs thus provoking a targeted immune response against the tumour. The drug is intended to activate the immune system of the vaccinated patient so that it is able to identify and destroy cancer cells.

Additionally, Wirtschaftsclub Rhein-Main e. V. presented the sustainability award for the last decade to Daimler AG.

EVENTS IN 2008

Talk about Intellectual Property: Panel discussion on 'Cooperation in the field of patents in Europe'

Within the scope of the event series 'Talks about Intellectual Property', we organised a panel discussion on 21 February 2008. The topic was 'Cooperation in the field of patents in Europe'.

Mr. Lutz Diwell (State Secretary at the Federal Ministry of Justice) and Ms. Alison Brimelow (President of the European Patent Office) held the opening speeches. In his address, Mr. Diwell advocated the establishment of a close patent network between independent and efficient national offices and a strong central European authority. Intensive cooperation and the utilisation of synergies would allow to keep Europe in a top position in the international competition for innovations. In her speech, Ms. Brimelow emphasised the importance of the projects initiated within the framework of the European Patent Network (EPN). She said that an infrastructure had been created which would be able to effectively cope with the challenges which the European patent system would be facing in the 21st century.

The subsequent discussion, moderated by DPMA President Dr. Schade, focused on the further development of the European Patent Network, set up to optimise the cooperation of the European Patent Office (EPO) and the national patent offices. All participants in the discussion were in favour of an intensive cooperation of the EPO and the national patent offices.

The panel participants during the discussion

Girls' Day at the DPMA on 24 April 2008

On 24 April 2008 the DPMA participated for the third time in the nationwide 'Girls' Day' initiative. 34 girls in the seventh and eighth grades of secondary schools had registered to participate in the Girls' Day at the DPMA.

After an introductory lecture on industrial property protection and a guided tour of the document receiving service and a file administration unit, the girls had the opportunity to invent technical novelties in a 'patent workshop' and to immediately put them to a practical test.

In the afternoon, they visited staff working in technological, technical and craft occupations at their workplaces. During the visits the girls gained information on the spot about those job profiles and the training positions offered, and learned about the daily work of a patent examiner, IT specialist, carpenter, printer or bookbinder.

The feedback of the girls was overwhelmingly positive, not least thanks to the commitment of the numerous staff participating in the initiative.

We plan to participate again in the Girls' Day 2009 activities.

'Flying egg machine' during construction

Visit to the work place of a patent examiner

Exhibition about car-related inventions

On 17 July 2008 an exhibition presenting inventions relating to cars was opened at the German Patent and Trade Mark Office.

The exhibition was organised in connection with a presentation published on our website (www.dpma.de), explaining the International Patent Classification using examples from automotive technology. For more information on the International Patent Classification (IPC), please refer to page 64.

The exhibition featured many interesting exhibits provided by car manufacturers and suppliers. It provided an insight into historical and current technological developments relating to cars.

Meeting of the Legal Committee of the German Bundestag at the DPMA

On 22 September 2008, an external meeting of the Legal Committee of the German Bundestag took place at the German Patent and Trade Mark Office. Committee chairman Andreas Schmidt (MdB) headed the meeting which was attended by eleven other members of the German Bundestag. Parliamentary State Secretary to the Federal Minister of Justice Alfred Hartenbach and Dr. Wilfried Bernhardt, Head of Directorate, within the Directorate-General: Administration, attended the meeting on behalf of the Federal Ministry of Justice.

On the basis of a paper presented by President Dr. Jürgen Schade, the committee gained information on the legal mandate, the business situation and the international cooperation of the DPMA. Questions relating to designs law and to patent applications in the field of biotechnology were discussed particularly intensively by the committee. Furthermore, the 'IT environment' of the DPMA attracted great interest. The members of parliament also visited the workplace of a patent examiner and gained an insight into the concrete steps of the patent examination procedure.

Visit of the Legal Committee of the German Bundestag to the DPMA

Did you know that ...

...Werner Siemens was member of the patent office?

The successful company founder and owner of numerous national and international patents was not only ennobled for his services by the emperor, but was also appointed 'Geheimer Regierungsrat' and 'non-permanent member of the patent office' for five years.

New poster gallery

Our poster gallery presents inventions that have or had a tremendous impact on our everyday life. The gallery was founded as early as in the 1960s and has comprised, the following motifs up to now:

- Linde refrigerator (patent specification no. DE 1250 A)
- Edison phonograph (patent specification no. DE 12631 A)
- Nipkow disk (patent specification no. DE 30105 A)
- First motor vehicle by Benz (patent specification no. DE 37435 A)
- Diesel engine (patent specification no. DE 67207 A)
- Crown cap by William Painter (patent specification no. DE 68350 A)
- Lilienthal's flying machine (patent specification no. DE 77916 A)
- Hülsmeyer's telemobiloscope, better known as radar (patent specification no. DE 165546 A)
- Three point safety belt by Niels Bohlin (patent specification no. DE 1101987 B)
- Sauer's mini relay (patent specification no. DE 1243271 B)
- Safety plug by Albert Büttner (patent specification no. DE 489 003 B)
- Hans Haupt's 'Knirps' umbrella (patent specification no. DE 606015 B)

In 2008, we extended the poster gallery by adding the following three new motifs:

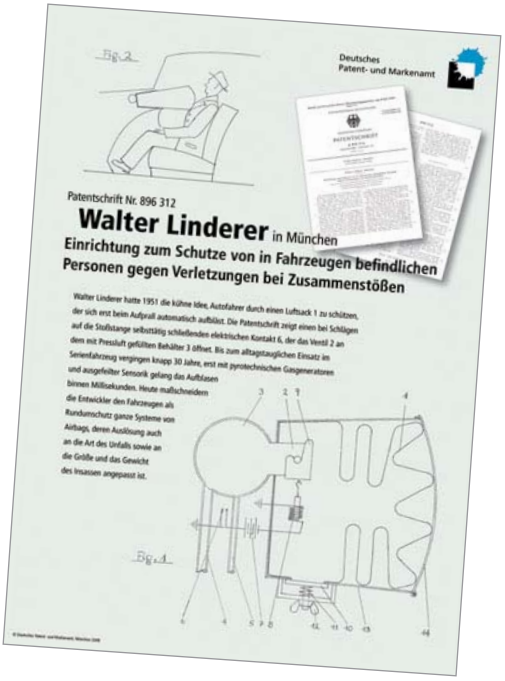
Falk street map (patent specification no. DE 835 219 B)

In 1945, the cartographer Gerhard Falk founded a publishing house in Hamburg. In order to fold the large-sized street map of Hamburg into a handy pocket sized format, Falk designed a system of horizontal and vertical folds that allowed the map to fold up sideways. The 'bridges' between the vertical cuts constituted the special feature:
These 'bridges' held the map together even if the whole map was opened up. Nonetheless, it was also possible to unfold the map both left-to-right and top-to-bottom.

Long before the introduction of electronic navigation systems Falk's folding method – patented in 1948 – split the customers of street maps into two camps: Either they loved these maps or they hated them, the latter because they despaired over trying to figure out how to fold the map back up after use.

Whether Berlin, Paris or New York – city maps in the patented folding format became a worldwide bestseller.

Airbag by Walter Linderer (patent specification no. DE 896 312 B)



In 1951, Walter Linderer received a patent for the idea to protect the driver of a car by an airbag inflating automatically upon impact. Hence he is considered the inventor of the airbag. The patent specification shows the airbag, which is folded up before it is activated, and a valve. When something hits the bumper of the car an electrical contact is closed and the valve opens a container with compressed air.

However, it took almost 30 years before this idea was finally ready for everyday use. In reality inflation by compressed air was not very practicable and the sensors were unreliable.

Finally, the pyrotechnic gas generator led to a breakthrough in airbag technology. The Mercedes Benz S-Class models were first available with frontal airbag on the driver's side. A sophisticated sensory system succeeded in blowing up the bag within milliseconds.

Meanwhile there are passenger frontal air bags, head, knee and side-impact airbags and also airbags for motorcycles and for the protection of pedestrians. Carmakers are still focussing on airbags: the DPMA counts about 300 new applications every year. Today, the developers design tailor-made airbag systems for cars that inflate differently depending on the type of accident and the occupants.

Grünberg's giant magnetoresistance (GMR) (patent specification no. DE 38 20 475 C1)

In 1988, the solid-state physicist Peter Grünberg observed the following effect: When two ferromagnetic layers are separated with a very thin intermediate layer and an external magnetic field is applied, the electrical resistance of the thin magnetic layers can be greatly changed through the magnetic field applied. The patent specification already mentions 'reading magnetically stored data' as a possible application of this effect. The GMR effect revolutionised storage technology and made it possible to miniaturise hard disks in computers, mobile phones and MP3 players.

The 'Grünberg' patent has led to eight-figure earnings from royalties for the Research Centre Jülich, the patent applicant.

Grünberg was awarded the 2007 Nobel Prize for physics, together with the French physicist Albert Fert, for the discovery of giant magnetoresistance.

To obtain the poster gallery (size A3) free of charge,
e-mail us at presse@dpma.de or phone us at +49 (0) 89/21 95-32 22.

Talks with representatives from business and industry – 2008 meeting

Our yearly meeting with representatives from business and industry, called 'Industriebesprechung', took place on 15 October 2008. Dr. Jürgen Schade (President), Ms. Rudloff-Schäffer (Head of Department 'Trade Marks, Utility Models, Designs') and Dr. Strößner (Head of Department 'Information') presented current developments and the general budget situation at the DPMA to about 80 invited representatives from business and industry, professional associations, the legal profession and patent attorneys. Dr. Wichard, Head of Directorate at the Federal Ministry of Justice, provided information about current legal developments in the field of industrial property protection. Mr. Dellinger (Vice-President) presented the extended poster gallery (see also page 121).

Presentation of the extended poster gallery

During lunch break, information on electronic filing of patent and trade mark applications (DPMA**direkt**) and the e-services was available at information stands; our guests were free to stroll along the poster gallery.

In the subsequent discussion round, participants asked questions or offered suggestions relating specifically to electronic filing, electronic case file with online file inspection, and international IP protection.

Guests of the 'Industriebesprechung' during lunch break

OUTLOOK FOR 2009

Strategic objectives

In the coming years we aim to offer customers attractive processing times, while maintaining a high quality level to ensure legal certainty in the interest of our customers. For this reason, we make efforts to achieve a maximum level of efficiency in organising our work processes and regularly monitor work results. This objective essentially determines our strategic planning for the coming year and beyond.

Despite the very tense staff situation in the patent area, we maintain our goal to issue the first official communication in 80 % of the cases within 10 months, by 2010. The first official communication informs the applicants about the first results of our patent examination.

We have the very ambitious plan to conclude 75 % of the patent examination procedures within 24 months, from 2012 onwards, while maintaining the usual high quality level. There is still 'some way to go' before we can achieve this aim. To cope with the workload within that time frame, we will further optimise the organisation of work processes in the patent examiner area. At the same time, we do not cease in our efforts to increase staffing levels of patent examiners. In 2009, we intend to recruit at least 60 patent examiners.

In the trade mark examination area, we have succeeded in speeding up the registration procedure. For 2009, we plan to sustain and further improve the quality level of trade mark examination. For this purpose, we will further ensure and improve the consistency of decision practice by intensive mutual coordination within the teams.

Within the scope of an IT project, we work at electronically supporting the international registration of trade marks in future. In cooperation with the OHIM and other countries, we want to establish a unified classification database to support customers in filing applications and to also reduce our own workload as well.

We are modernising our buildings

Entrance area

When our customers submit applications they entrust us with their inventions and innovative products. In addition, patent applications must be kept secret for 18 months after filing. We must have specific regard to the protection of these business secrets and, for example, carefully watch that no unauthorised persons enter the office.
At present, the entrance is designed as a so-called closable passage. This entrance no longer copes with the rising number of visitors and must be altered for technical reasons as well. The renovation of the entrance area, which had originally been scheduled for 2008, has to be postponed until 2010, since the 'Auslegehalle' will be renovated first. A modernised night letterbox system was installed in 2008.
An up-to-date technical system will satisfy safety requirements and at the same time allow an entrance space to be designed which well create an open and welcoming atmosphere.

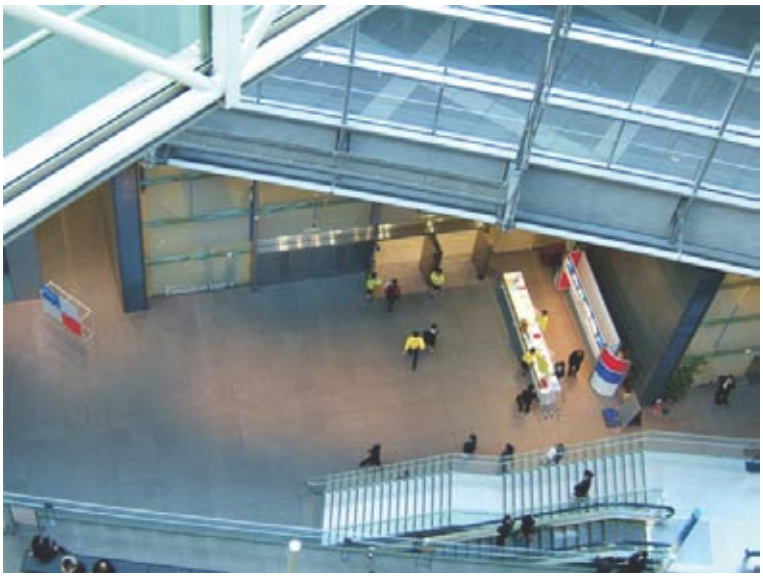
Former 'Auslegehalle'

For some years now, most of our official publications have been published exclusively in electronic form. The 'Auslegehalle', the hall where patent specifications and other documents had formerly been laid out for public inspection has lost its original purpose. For two years we have been using this hall for events and meetings. Currently, it is only provisionally equipped for such events. Extensive modernisation measures will be required to make it suitable for running large events professionally: lighting, sound equipment, emergency escape routes and furnishings must be adapted to the new purpose. Renovation started in autumn 2008 and is expected to be finished in September 2009. The renovated hall will also be given a new name.

Come and visit us at our fair stands

	Trade fair	Date	Location	Hall / Stand
January				
	Heimtextil	14. 01. – 17. 01. 2009	Frankfurt / Main	Foyer of hall 4.1
	Imm Cologne	19. 01. – 25. 01. 2009	Cologne	Hall 10.1
	Paperworld, Christmasworld, Beautyworld 2009	30. 01. – 03. 02. 2009	Frankfurt / Main	Foyer of hall 4.1
February				
	ISPO Winter	01. 02. – 04. 02. 2009	Munich	West Entrance / 13
	Ambiente	13. 02. – 17. 02. 2009	Frankfurt / Main	Foyer of hall 4.1
March				
	Asia-Pacific Sourcing	01. 03. – 03. 03. 2009	Cologne	No-Copy-Stand, Hall 11.1, No. B 02 / C 03
	Anuga Foodtec	10. 03. – 13. 03. 2009	Cologne	Hall 7 / K19
	ISH – Weltleitmesse	10. 03. – 14. 03. 2009	Frankfurt / Main	Foyer of hall 4.1
	DEGUT	20. 03. – 21. 03. 2009	Frankfurt / Main	Foyer of hall 4.1
April				
	Musikmesse / Prolight + Sound	01. 04. – 04. 04. 2009	Frankfurt / Main	Foyer of hall 4.1
	Erfindersalon	01. 04. – 05. 04. 2009	Geneva (CH)	Hall 7 / Geneva Palexpo
	HannoverMesse	20. 04. – 24. 04. 2009	Hanover	Hall 002, Stand C30/1
May				
	Interzum	13. 05. – 16. 05. 2009	Cologne	Boulevard B – 65 (Segment C – F)
	Intertech	14. 05. – 16. 05. 2009	Dornbirn (AT)	Hall 8, Stand 7 – Patent Office

	Trade fair	Date	Location	Hall / Stand
May				
	Tag der Wirtschaft 2009	19. 05. 2009	Bochum	Main hall 1 A / Stand B5
	Intersolar	27. 05. – 29. 05. 2009	Munich	B 6.159
June				
	Avantex + Techtextil	16. 06. – 18. 06. 2009	Frankfurt / Main	Foyer of hall 4.1
July				
	Tendence	03. 07. – 07. 07. 2009	Frankfurt / Main	Foyer of hall 4.1
September				
	Drinktec	14. 09. – 19. 09. 2009	Munich	
October				
	Materialica	13. 10. – 15. 10. 2009	Munich	
November				
	IENA	05. 11. – 08. 11. 2009	Nuremberg	
	Productronica	10. 11. – 13. 11. 2009	Munich	
	START-Messe	13. 11. – 14. 11. 2009	Essen	
	Medica	18. 11. – 21. 11. 2009	Düsseldorf	



STATISTICS

1. Patent applications and patents

1.1 National patent applications and international patent applications with effect in the Federal Republic of Germany

Year	National applications (DPMA direct applications) [1]			International applications which entered the national phase at the DPMA (DPMA PCT national phase) [2]			Applications DPMA direct applications and DPMA PCT national phase [2]		
	National	Foreign	Total	National	Foreign	Total	National	Foreign	Total
2002	47,352	9,557	56,909	4,161	2,374	6,535	51,513	11,931	63,444
2003	47,328	9,610	56,938	5,097	2,483	7,580	52,425	12,093	64,518
2004	48,329	9,455	57,784	119	1,331	1,450	48,448	10,786	59,234
2005	47,537	10,214	57,751	830	1,641	2,471	48,367	11,855	60,222
2006	47,213	10,364	57,577	799	2,209	3,008	48,012	12,573	60,585
2007	47,012	10,382	57,394	841	2,757	3,598	47,853	13,139	60,992
2008	48,348	10,407	58,755	892	2,770	3,662	49,240	13,177	62,417

1 Applications for a German patent filed with the DPMA
2 Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years

1.2 Patent applications before entry into the examination procedure [1]

Year	Total applications received [2]	Procedures concluded before filing of examination request	Patent applications before entry into the examination procedure	
			Total	including applications for which formal examination was concluded
2002	58,594	23,759	120,984	104,722
2003	58,602	22,316	122,104	108,843
2004	59,223	23,303	124,169	110,387
2005	58,720	22,006	126,540	113,491
2006	58,251	21,227	129,938	115,078
2007	58,177	21,685	131,488	116,621
2008	59,383	21,263	135,382	121,253

1 DPMA direct application
2 including remissions by the Federal Patent Court, allowed appeals, reinstatements

1.3 Patent applications in the examination procedure

Year	Examination requests received		Concluded in the examination procedure, total	Patents granted by the DPMA [1]
	Total	together with applications		
2002	37,561	25,945	29,971	14,887
2003	37,071	25,479	33,515	17,432
2004	36,575	25,444	33,862	16,661
2005	37,387	25,082	36,064	17,063
2006	38,696	25,452	38,140	21,034
2007	39,228	24,972	34,297	17,739
2008	38,470	24,714	33,193	17,308

1 patents granted without opposition and patents maintained after opposition

1.4 Patents in force (granted by the DPMA)

Year	New grants	Lapsed patents [1]	Patents in force at the end of the year
2002	15,180	18,267	115,985
2003	17,911	16,433	117,463
2004	17,016	16,075	118,404
2005	17,377	14,877	120,904
2006	21,193	14,661	127,436
2007	17,884	13,958	131,362
2008	17,421	13,474	135,309

1 Lapsed patents due to abandonment, non-payment of annual fees, expiry of the term of protection and declaration of nullity

1.5 Patent applications [1] (DPMA direct applications and DPMA PCT national phase) by German Laender (seat of applicant)

German Laender	2002	2003	2004	2005	2006	2007	2008
Baden-Württemberg	12,822	13,888	12,856	12,828	13,347	13,638	15,081
Bavaria	14,144	14,279	13,449	13,688	14,010	13,616	13,528
Berlin	1,146	1,101	905	866	943	992	891
Brandenburg	367	386	347	311	428	389	366
Bremen	150	164	172	173	142	178	144
Hamburg	1,213	998	994	919	946	973	1,100
Hesse	4,133	3,981	3,783	3,402	3,202	2,963	2,678
Mecklenburg-W. Pomerania	190	231	205	197	183	170	186
Lower Saxony	2,959	2,983	2,813	2,738	2,603	2,715	3,351
North-Rhine/Westphalia	9,025	8,796	7,830	8,151	8,195	8,190	7,797
Rhineland-Palatinate	2,459	2,531	2,139	2,218	1,311	1,235	1,274
Saarland	340	330	347	360	318	331	295
Saxony	848	824	834	847	810	923	998
Saxony-Anhalt	361	455	398	366	343	327	356
Schleswig-Holstein	629	647	624	600	585	615	590
Thuringia	727	831	752	703	646	598	605
Total	**51,513**	**52,425**	**48,448**	**48,367**	**48,012**	**47,853**	**49,240**

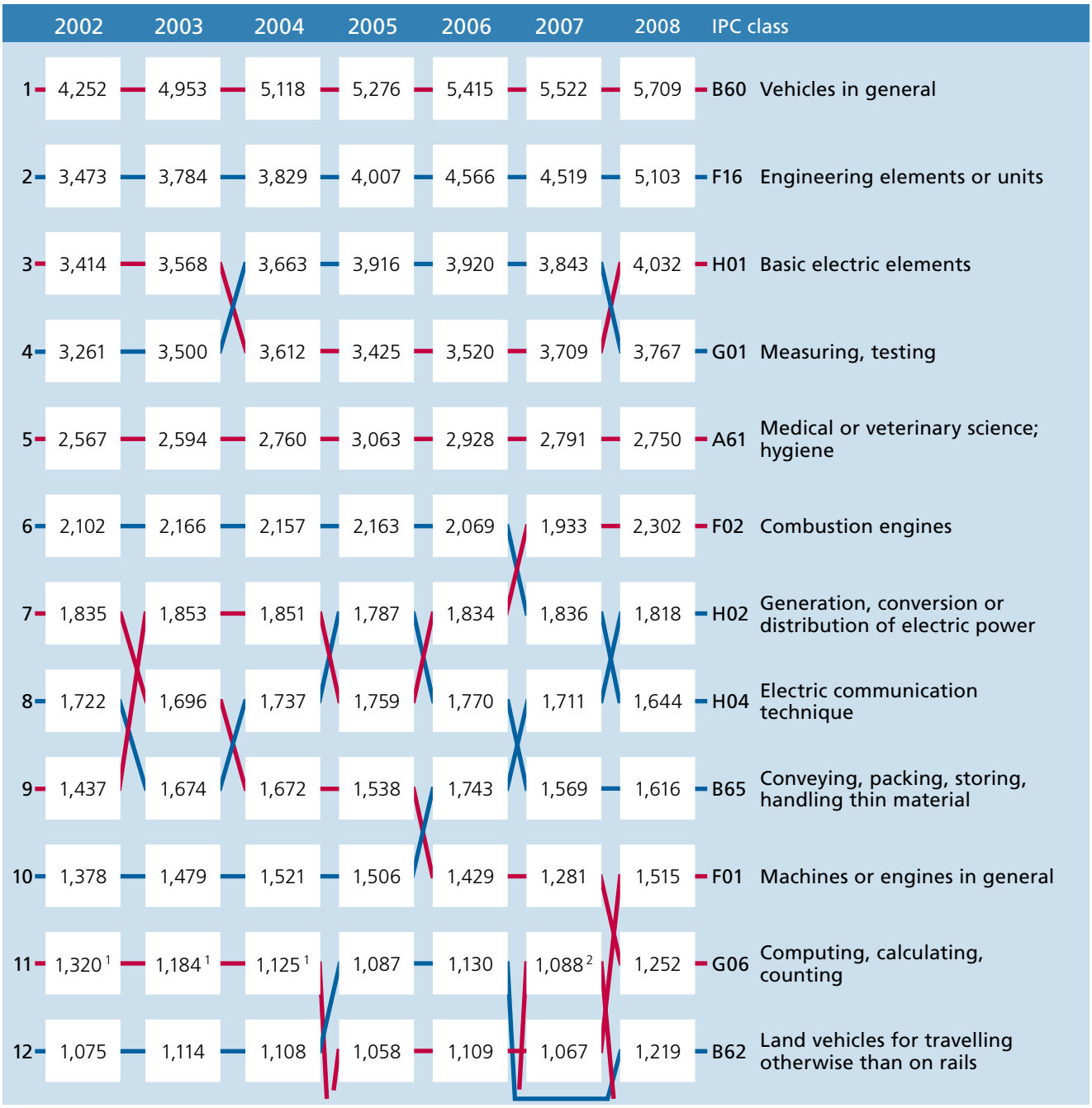
1 Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years.

1.6 Patent applications by countries of origin (Direct applications and PCT applications in the national phase)

	Applications filed at the DPMA[1]						
	2002	2003	2004	2005	2006	2007	2008
Germany	51,513	52,425	48,448	48,367	48,012	47,853	49,240
USA	2,829	2,955	2,702	3,245	3,283	3,835	4,279
Japan	3,426	3,422	3,407	3,449	3,618	3,782	3,511
France	299	289	280	312	268	272	210
Netherlands	154	107	118	104	142	82	97
Switzerland	1,505	1,543	976	943	1,157	1,127	1,103
Republic of Korea	590	603	726	777	915	723	904
United Kingdom	114	190	100	120	116	150	76
Italy	148	122	89	85	97	121	104
Sweden	255	314	313	338	285	267	261
Others	2,611	2,548	2,075	2,482	2,692	2,780	2,632
Total	**63,444**	**64,518**	**59,234**	**60,222**	**60,585**	**60,992**	**62,417**

1 Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years

1.7 Patent applications by IPC classes (with over 1,200 applications in 2008)



	2002	2003	2004	2005	2006	2007	2008	IPC class	
1	4,252	4,953	5,118	5,276	5,415	5,522	5,709	B60	Vehicles in general
2	3,473	3,784	3,829	4,007	4,566	4,519	5,103	F16	Engineering elements or units
3	3,414	3,568	3,663	3,916	3,920	3,843	4,032	H01	Basic electric elements
4	3,261	3,500	3,612	3,425	3,520	3,709	3,767	G01	Measuring, testing
5	2,567	2,594	2,760	3,063	2,928	2,791	2,750	A61	Medical or veterinary science; hygiene
6	2,102	2,166	2,157	2,163	2,069	1,933	2,302	F02	Combustion engines
7	1,835	1,853	1,851	1,787	1,834	1,836	1,818	H02	Generation, conversion or distribution of electric power
8	1,722	1,696	1,737	1,759	1,770	1,711	1,644	H04	Electric communication technique
9	1,437	1,674	1,672	1,538	1,743	1,569	1,616	B65	Conveying, packing, storing, handling thin material
10	1,378	1,479	1,521	1,506	1,429	1,281	1,515	F01	Machines or engines in general
11	1,320 [1]	1,184 [1]	1,125 [1]	1,087	1,130	1,088 [2]	1,252	G06	Computing, calculating, counting
12	1,075	1,114	1,108	1,058	1,109	1,067	1,219	B62	Land vehicles for travelling otherwise than on rails

1 C07 Organic Chemistry.
2 A47 Furniture, domestic articles or appliances

2. Utility models and topographies

2.1 Utility models

Year	Filings				Procedures concluded		
	New applications [1]	Applications from Germany	Others [2]	Total	by registration	without registration	Total
2002	23,428	17,363	182	23,610	17,188	3,898	21,086
2003	23,408	16,945	151	23,559	17,114	4,324	21,438
2004	20,286	17,053	144	20,430	17,357	7,898	25,255
2005	20,418	17,021	85	20,503	17,138	3,632	20,770
2006	19,766	16,406	80	19,846	16,638	3,036	19,674
2007	18,083	14,834	82	18,165	15,469	2,928	18,397
2008	17,067	14,047	86	17,153	14,347	2,916	17,263

1 including PCT applications: in the international phase until 2003, since 2004 in the national phase. The figures since 2004 cannot be directly compared with those of the previous years
2 remissions by the Federal Patent Court, allowed appeals, reinstatements

Year	Pending applications at the end of the year	Utility models in force at the end of the year	Renewals	Cancellations
2002	10,068	110,962	24,592	21,422
2003	12,189	108,175	22,233	19,901
2004	7,364	106,096	20,428	19,436
2005	7,097	104,976	25,108	18,258
2006	7,269	104,117	22,333	17,497
2007	7,037	102,559	22,604	17,027
2008	6,927	100,093	22,839	16,813

2.2 Topographies under the Semiconductor Protection Law

Year	New applications received	Procedure concluded			Pending applications at the end of the year	Lapse due to expiry of time	Registrations in force at the end of the year
		by registration	without registraion	Total			
2002	41	69	1	70	6	152	560
2003	12	0	1	1	17	116	444
2004	4	8	1	9	12	120	332
2005	6	0	0	0	18	99	233
2006	2	10	0	10	10	76	167
2007	2	1	0	1	11	59	109
2008	1	5	0	5	7	59	55

3. National trade marks

3.1 Applications and registrations

Year	Filings					Registrations under Section 41 Trade Mark Law
	New applications			Others[1]	Total	
	Total	Applications from Germany	for service marks			
2002	57,416	53,817	23,923	718	58,134	51,730
2003	62,041	58,731	25,728	1,097	63,138	51,295
2004	65,918	62,576	27,650	998	66,916	48,401
2005	70,926	67,208	30,181	1,019	71,945	50,798
2006	72,321	68,810	33,164	896	73,217	51,124
2007	76,165	72,788	36,082	817	76,982	54,534
2008	73,903	70,074	35,349	777	74,680	50,259

1 in particular, cases returned by the Federal Patent Court

3.2 Oppositions

Year	Oppositions received		Opposition procedures concluded		
	trade marks challenged by oppositions	number of oppositions	without affecting the trade mark	cancellation in full or in part	surrender by the proprietor
2002	6,407	9,538	5,822	1,449	951
2003	5,377	7,365	6,393	1,931	888
2004	5,290	7,301	5,294	1,712	781
2005	4,697	6,873	4,124	1,255	500
2006	4,679	6,965	3,215	929	698
2007	5,132	7,642	3,477	920	1,200
2008	4,784	7,612	3,691	1,008	1,271

3.3 Cancellations, renewals, trade marks in force

Year	Cancellations and other disposals	Renewals	Trade marks in force at the end of the year
2002	36,876	23,559	680,027
2003	36,356	23,840	695,060
2004	27,425	26,335	716,123
2005	35,955	29,104	731,039
2006	37,458	26,131	744,769
2007	34,899	26,614	764,472
2008	38,173	31,113	776,628

4. Designs

4.1 Designs filed for registration and design procedures concluded

Year	Applications filed				Procedures concluded			
	Designs in multiple applications	Applications with one design	Total	including national applications	by registration	including national applications	without registration	Total
2002	57,723	4,944	62,677	50,567	65,068	52,358	3,194	68,262
2003	49,985	3,346	53,331	44,372	54,669	45,106	2,794	57,463
2004	45,272	3,021	48,293	39,565	39,982	31,756	1,585	41,567
2005	45,459	2,624	48,083	36,989	50,070	38,502	2,502	52,572
2006	48,460	2,554	51,014	39,207	46,557	35,619	1,925	48,482
2007	51,974	2,327	54,301	38,834	56,208	41,478	3,549	59,757
2008	45,909	2,329	48,238	36,659	49,146	36,130	2,322	51,468

4.2 Pending designs (applied for) and registered designs in force

Year	Pending designs (applied for) at the end of the year	Extensions of registered designs	Designs maintained/ renewed	Cancellations	Registered and in force at the end of the year
2002	18,516	3,986	12,628	62,687	346,562
2003	14,384	3,962	14,136	66,197	335,034
2004	21,143	3,021	15,329	61,233	313,783
2005	16,654	1,163	18,541	53,154	310,699
2006	19,186	1,983	15,720	55,054	302,202
2007	13,730	2,260	18,136	54,022	304,388
2008	10,500	2,541	16,478	56,328	297,206

4.3 Designs (applied for) by Federal German Laender

German Laender	2002	2003	2004	2005	2006	2007	2008
Baden-Württemberg	8,229	8,133	8,525	7,094	7,623	7,503	5,633
Bavaria	14,252	12,822	11,779	10,074	8,864	9,993	8,750
Berlin	953	1,004	997	992	1,233	1,266	1,245
Brandenburg	189	438	193	147	342	203	254
Bremen	164	121	123	63	172	297	201
Hamburg	730	1,126	983	268	763	783	1,030
Hesse	4,173	2,482	1,499	2,277	1,855	1,659	1,267
Mecklenburg-W. Pomerania	183	79	458	101	127	95	247
Lower Saxony	2,360	2,528	1,804	2,648	2,631	2,787	3,258
North-Rhine/Westphalia	14,199	10,584	9,787	8,614	11,637	9,690	9,648
Rhineland-Palatinate	1,545	1,535	1,068	1,725	1,033	1,629	1,968
Saarland	208	212	226	176	302	246	409
Saxony	1,031	919	1,232	1,039	845	1,358	1,156
Saxony-Anhalt	141	345	126	248	395	299	374
Schleswig-Holstein	1,568	1,390	463	896	826	700	846
Thuringia	642	654	302	627	559	326	373
Total	**50,567**	**44,372**	**39,565**	**36,989**	**39,207**	**38,834**	**36,659**

5. Register of anonymous and pseudonymous works

Year	Number of works in respect of which the author´s true name was filed for registration in the year under review	Number of applicants[1]	Number of works in respect of which the author´s true name		Number of works in respect of which an application procedure was still pending at the end of the year
			was registered	was not registered	
2002	18	13	15	18	5
2003	31	11	5	19	20
2004	29	8	12	23	14
2005	17	8	7	9	16
2006	18	15	7	8	19
2007	12	12	1	13	20
2008	18	11	9	26	3

1 Several requests or requests relating to several works may possibly be attributed to one applicant.

6. Copyright Arbitration Board at the DPMA

Year	Requests received	Inclusive contracts under Section 14 (1) no. 1 (c) Copyright Administration Law	Cases concluded				Requests pending at the end of the year
			Settlement proposals of the Arbitration Board	Conciliations after proposal by the Board	Discontinued proceedings and other decisions	Total	
2002	40	3	21	6	6	33	70
2003	67	6	18	0	8	26	111
2004	53	0	57	1	26	84	80
2005	87	4	32	4	20	56	111
2006	75	1	43	1	24	68	118
2007	83	2	64	1	30	95	106
2008	61	6	83	1	13	97	70

7. Arbitration Board under the Law on Employees´ Inventions at the DPMA

Year	Requests received	Cases concluded					Arbitration proceedings pending at the end of the year
		Settlement proposals accepted	Objections to settlement proposals	Refusals to participate in the arbitration proceedings	Proceedings concluded in other ways	Total proceedings concluded	
2002	87	27	35	18	16	96	139
2003	102	43	28	19	21	111	130
2004	98	27	16	10	24	77	151
2005	61	43	24	10	17	94	118
2006	52	25	21	13	8	67	68
2007	59	10	6	6	16	38	89
2008	66	24	18	12	4	58	97

8. Patent attorneys and representatives

Year	Patent attorneys		Qualifying examination		Permit holders	Patent agents	General powers of attorney
	Entered in register	Registered at the end of the year	Number of candidates	Successful candidates	Registered at the end of the year		
2002	125	2 073	168	163	288	1,107	23,880
2003	141	2 151	168	157	284	1,123	24,541
2004	147	2 255	165	163	284	1,136	25,091
2005	178	2 389	162	151	283	1,054	25,912
2006	131	2 477	186	171	277	1,081	26,666
2007	162	2 576	179	169	273	1,108	27,557
2008	159	2 693	158	154	272	1,111	28,284

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Enquiry units

Munich	+49 (0) 89/21 95-34 02
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	info@dpma.de

Internet www.dpma.de

Press and public relations +49 (0) 89/21 95-32 22
presse@dpma.de
http://presse.dpma.de

Questions concerning **DPMAdirekt** DPMAdirekt@dpma.de

Questions concerning databases datenbanken@dpma.de

Munich
Deutsches Patent- und Markenamt
Zweibrückenstraße 12
80331 München, Germany

Switchboard operator	+49 (0) 89/21 95-0
Fax	+49 (0) 89/21 95-22 21

Jena
Deutsches Patent- und Markenamt
Dienststelle Jena
Goethestraße 1
07743 Jena, Germany

Switchboard operator	+49 (0) 36 41/40-54
Fax	+49 (0) 36 41/40-56 90

Berlin
Deutsches Patent- und Markenamt
Technisches Informationszentrum Berlin
Gitschiner Straße 97
10969 Berlin, Germany

Switchboard operator	+49 (0) 30/2 59 92-0
Fax	+49 (0) 30/2 59 92-4 04

Patent information centres

A list of the addresses of the more than twenty patent information centres is available at: www.piznet.de.

Many busy helpers contributed to the production of this Annual Report. We depend on the expertise and commitment of our colleagues. We would like to thank all those who helped us.

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