



Notices of the President of the German Patent and Trade Mark Office 2022

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Notice No. 1/22**of the President of the German Patent and Trade Mark Office of 16 December 2021 concerning the amount of provision costs for the supply machine-readable data (weekly publications on patents and utility models, trade marks and designs in the form of data packages via DPMAconnectPlus) in 2022**

Within the scope of fulfilling its statutory duties in connection with the different types of IP rights, the German Patent and Trade Mark Office produces machine-readable data that can be supplied to third parties for setting up, developing and updating their own IP databases and other information systems and services. This requires the conclusion of a contract and the payment of the provision costs. These costs are determined on an annual basis and communicated to the public.

The costs for the provision of the weekly publications on patents and utility models, trade marks and designs in the form of data packages will be reduced from 8 euros in 2022 to 7 euros per data category and per delivery in 2021.

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

1519/2-001 – 2.1.2

Notice No. 2/22**of the President of the German Patent and Trade Mark Office of 9.
February 2022 concerning changes in recording domestic branches**

The previous practice of the office regarding the recording of domestic branches is being changed: IP right owners and applicants can now be recorded in the register under the firm name of their domestic branch if the firm name of the branch is registered in the German commercial register, unless it is not possible to identify the legal entity from the firm name of the branch.

As seat and address, the seat of the branch and the address of the branch, respectively, will be recorded.

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

3610/4.3.3/2019-1

Notice No. 3/22**of the President of the German Patent and Trade Mark Office of 16 March 2022 concerning the extensions of the time limits for entry into designated Office (Art. III section 4 of the Act on International patent Conventions (Gesetz über internationale Patentübereinkommen)) or elected Office (Art. III section 6 of the Act on International Patent Conventions) from 30 months to 31 months**

Article 2 of the Second Act to Simplify and Modernise Patent Law (Second Patent Law Modernisation Act – 2. Patentrechtsmodernisierungsgesetz) extends the time limits for PCT applications to enter the national phase before the German Patent and Trade Mark Office (DPMA) as designated Office (Article III section 4 of the Act on International Patent Conventions) or elected Office (Article III section 6 of the Act on International Patent Conventions) from 30 months to 31 months.

This amendment will enter into force on 1 May 2022 without any transitional provision.

The DPMA intends to apply the amended provisions to all PCT applications for which the previously applicable 30-month time limit has not yet expired or does not expire on 30 April 2022. Another requirement is that the applicant has not made an effective request for entry into the national phase under PCT Articles 23(2) and 40(2) before 1 May 2022.

The DPMA submitted a notification of this amendment to WIPO. This notification was published in the PCT Gazette of 10 March 2022 (https://www.wipo.int/export/sites/www/pct/en/official_notices/officialnotices.pdf).

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

1243/1-4.3.2/2022-1

Notice No. 4/22**of the President of the German Patent and Trade Mark Office of 2 May 2022 concerning the Guidelines for Oppositions, Revocation and Limitation Proceedings before the DPMA**

The Guidelines for Opposition, Revocation and Limitation Proceedings before the DPMA of 3 July 2018 have been revised. The Guidelines, as revised, entered into force on 1 May 2022.

The Guidelines explain the office's practice in the light of the statutory framework, parts of which were amended by the Second Act to Simplify and Modernise Patent Law (2. Patentrechtsmodernisierungsgesetz) of 10 August 2021 (Federal Law Gazette I p. 3490). They take into account the information needs of small and medium-sized enterprises as well as individual applicants. The current version of the Guidelines is available on the DPMA website under "Services", "Forms and more", "Patents".

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

1243/1-4.3.2/2022-2

Notice No. 5/22

of the President of the German Patent and Trade Mark Office of 2 May 2022 concerning the revision of the Guidelines for the Examination Procedure and the repeal of the Notice No. 7/87 of the President

The Guidelines for the Examination Procedure have been revised and in particular brought into line with amendments resulting from the Second Act to Simplify and Modernise Patent Law (2. Patentrechtsmodernisierungsgesetz) of 10 August 2021 (Federal Law Gazette I p. 3490).

The Guidelines for the Examination Procedure, as revised, entered into force on 1 May 2022. The Guidelines are addressed to the examining sections of the German Patent and Trade Mark Office.

A form P 2796 (not yet in english) containing the text of the Guidelines can be obtained free of charge from the German Patent and Trade Mark Office or accessed on the DPMA website under "Services", "Forms and more", "Patents".

At the same time, the Notice No. 7/87 of the President is repealed by this Notice. The details regarding the granting of time limits in examination procedures, which were the subject of this Notice, are now governed by section 2.5 of the Guidelines for the Examination Procedure.

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

1243/1-4.3.2/2022-3

Notice No. 6/22

of the President of the German Patent and Trade Mark Office of 2 May 2022 concerning the temporary option to defer the grant of a patent in connection with the entry into force of the Agreement on a Unified Patent Court (UPCA)

The prohibition on double protection, as it is referred to in Article II section 8 of the Act on International Patent Conventions (Gesetz über internationale Patentübereinkommen), is amended by Article 1 No. 1 lit. c) of the Act Adjusting Patent Law Provisions Due to the European Patent Reform (Gesetz zur Anpassung patentrechtlicher Vorschriften auf Grund der europäischen Patentreform) of 20 August 2021 (Federal Law Gazette I p. 3914). The amendment to Article II section 8 of the Act on International Patent Conventions shall enter into force on the date on which the UPCA enters into force in accordance with Article 89 thereof.

After the entry into force of the amendment to Article II section 8 of the Act on International Patent Conventions, the prohibition on double protection only applies to European patents which are not subject to the exclusive jurisdiction of the Unified Patent Court by making use of the exception of Article 83 (3) of the UPCA (known as opt-out). In this case, a national patent with the same subject-matter ceases to have effect. If, on the other hand, no opt-out has been declared and the European patent continues to fall under the exclusive jurisdiction of the Unified Patent Court, the national patent continues to have effect in addition to the European patent. However, under certain conditions, such double protection is subject to an objection to double demands (Article II section 18 of the Act on International Patent Conventions). European patents with unitary effect can also co-exist with a national patent without the latter ceasing to have effect.

If a European patent has already been granted, it is only possible to obtain double protection for national patents granted after the entry into force of the UPCA. In order to keep the option of such double protection open for applicants, the DPMA provides the following transitional measures:

If the subject-matter of a patent application is an invention in respect of which a European patent with the same priority has been granted to the same inventor or his/her successor in title with effect in the Federal Republic of Germany, and a request for examination under section 44 of the Patent Act has already been validly filed in the procedure before the DPMA, the patent applicant has the following options:

- Request for extension of time limits, which have not yet expired, for replying to a communication in the examination procedure (sections 44, 45 of the Patent Act): If a time limit set by the examining section for replying to a communication in the examination procedure under sections 44, 45 of the Patent Act has not yet expired, this time limit may be extended upon request.
- Request for deferment of the decision on the application: If a time limit set by the examining section has been observed by replying to a communication in the

examination procedure under sections 44, 45 of the Patent Act, the decision on the application may be deferred upon request. If such a request is received by the DPMA only after the decision to grant has been issued, it is no longer possible to consider the request.

The extension of the time limit and the period of deferment shall be not more than eight months initially and not more than four months after deposit of the instrument of ratification by the Federal Republic of Germany under Article 84 of the UPCA.

The option to file these requests ends upon entry into force of the UPCA. The UPCA will enter into force on the first day of the fourth month after the deposit of the instrument of ratification by the Federal Republic of Germany (Article 89 (1) of the UPCA).

In order to speed up processing of requests, applicants are requested to indicate the publication number of their European patent when filing the request.

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

1243/1-4.3.2/2022-5

Notice No. 7/22**of the President of the German Patent and Trade Mark Office of 7 September 2022 concerning the publication of the Patent Gazette (*Patentblatt*), the Trade Mark Journal (*Markenblatt*) and the Design Gazette (*Designblatt*) on the official Internet platform DPMAregister in 2023**

In 2022, in accordance with the regulations, patents and utility models, trade marks and designs will be published for the last time on 30 December 2022. Generally, publications take place on Thursdays (for patents and utility models) and on Fridays (for trade marks and designs).

If planned publication days coincide with public holidays in Bavaria, the publication days shall be brought forward by one day in each case. If the previous day is also a public holiday, the publication days shall be brought forward by another day to the previous working day.

In 2023, the following publication dates will be affected by this regulation:

- 6 January 2023 (trade marks and designs) - rescheduled to 5 January 2023
- 7 April 2023 (trade marks and designs) – rescheduled to 6 April 2023
- 18 May 2023 (patents and utility models) – rescheduled to 17 May 2023
- 8 June 2023 (patents and utility models) – rescheduled to 7 June 2023

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

544 E 9 – 2.1.2

Notice No. 8/22**of the President of the German Patent and Trade Mark Office of 19 October 2022 concerning the opening hours of the German Patent and Trade Mark Office from 24 December 2022 to 1 January 2023**

Opening hours of the German Patent and Trade Mark Office for the offices in Munich, Jena and Berlin – Information and Service Centre – from 24 December 2022 to 1 January 2023.

The German Patent and Trade Mark Office will be closed from 24 December 2022 to 1 January 2023.

Cash payments will not be possible during that period. The search rooms will be closed. The enquiry units will not be staffed.

Furthermore, the desk of the Document Receiving Service in the Munich office will be closed from Saturday, 24 December 2022, to Sunday, 1 January 2023.

Please note that the Document Receiving Service cannot accept business documents during that period.

As an alternative, to ensure we receive business documents (especially applications) within the applicable time limits, you can hand them in at the reception desk of the Zweibrückenstraße office in Munich and use the night letterboxes of the offices in Jena and Berlin.

The DPMAdirekt services (Pro and Web) for online filing of IP applications as well as the DPMAreger service will be available during the closure period of the office.

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

2043 E 9 – 4.1.2

Notice No. 9/22**of the President of the German Patent and Trade Mark Office of 30 November 2022 concerning the opening hours of the Munich office of the German Patent and Trade Mark Office on 21 February 2023 (Shrove Tuesday/Mardi Gras)**

On 21 February 2023 (Shrove Tuesday/Mardi Gras), the Munich office of the German Patent and Trade Mark Office will be closed all day. However, you can contact Customer Care and Services by phone as usual for general enquiries about IP rights (+49 89/2195-1000) and for questions regarding the DPMA databases (+49 89/2195-3435) during service hours from 8:00 to 16:00.

Cash payments will not be possible on 21 February 2023. The enquiry unit, the search room and the document reseiving service will be closed to visitors on this day.

On 21 February 2023 (Shrove Tuesday/Mardi Gras), to ensure we receive business documents (especially applications) within the applicable time limits, you can hand them in at the reception desk of the Zweibrückenstraße office in Munich. The DPMAdirektPro and DPMAdirektWeb services for electronic applications and the DPMAregister will be available throughout the day.

The one-day closure will not affect the offices in Jena and in Berlin – Information and Service Centre. Furthermore, in the cases permitted by law, IP applications can also be filed with legal effect at the patent information centres.

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

2043 E12 – 4.1.2

Notice No. 10/22**of the President of the German Patent and Trade Mark Office of 2 December 2022 concerning the amount of the provision costs for the supply of machine-readable data (weekly publications on patents and utility models, trade marks and designs in the form of data packages via DPMAconnectPlus) in 2023**

Within the scope of fulfilling its statutory duties in connection with the different types of IP rights, the German Patent and Trade Mark Office produces machine-readable data which can be supplied to third parties for setting up, development and updating their own IP databases and other information systems and services. This requires the conclusion of a contract and the payment of the provision costs. These costs are determined on an annual basis and communicated to the public.

The costs for the provision of weekly publications on patents and utility models, trademarks and designs in the form of data packages will be increased from EUR 7 in 2022 to EUR 8 per data category and per delivery in 2023.

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

1519/2-001 – 2.1.2

Notice No. 11/22

of the President of the German Patent and Trade Mark Office of 13 December 2022 concerning the 12th edition of the international Nice Classification (in force as from 1 January 2023) and concerning the publication of the list of classes and the alphabetical lists of goods and services in the Federal Gazette

On 1 January 2023, the 12th edition of the “International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification)” (NCL 12-2023) will enter into force.

Since 2017, annual new versions of the 11th edition of the Nice Classification which provide for a number of new entries and deletions have been published. The new 12th edition also includes changes of classes. The new edition contains amendments concerning

- the alphabetical lists of goods and services;
- the lists of classes;
- the class headings and the explanatory notes.

On 22 December 2022, the 12th edition of the lists of classes and the alphabetical lists of goods and services based on the Nice Classification was published in the Federal Gazette (www.bundesanzeiger.de). Pursuant to section 19 of the Trade Mark Ordinance (Markenverordnung), it will be applied to the procedures at the German Patent and Trade Mark Office (DPMA) from 1 January 2023. The version of the lists of classes and the alphabetical lists of goods and services published in the Federal Gazette (www.bundesanzeiger.de) is also available on the website of the DPMA. https://www.dpma.de/english/trade_marks/classification/goods_and_services/nice_classification/index.html).

The DPMA will implement the amendments resulting from the 12th edition of the Nice Classification as follows:

- Trade mark applications received by the DPMA on or after 1 January 2023 will be classified in accordance with the 12th edition of the Nice Classification. These applications must indicate the goods and services in the order provided by the lists of classes applicable from 1 January 2023 (section 20 (4) of the Trade Mark Ordinance).
- The class fees will be determined according to the lists of classes applicable at the date on which the DPMA receives the application.
- A reclassification based on a new edition of the Nice Classification will be made neither in pending application procedures nor with respect to the renewal of the duration of protection of trade marks, not even upon request (see Important Notice of 14 December 2018 on the Trade Mark Law Modernisation Act [Markenrechtsmodernisierungsgesetz]).

An overview of the key structural amendments (changes of classes) to the 12th edition is available on our webpage "Nice Classification".

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

1243-4.3.3/2022-1