Deutsches
Patent- und Markenamt

Extract from the Act Concerning the Costs of the German Patent and Trade Mark Office and of the Federal Patent Court (Patent Costs Act)[1]

of 13 December 2001
(Federal Law Gazette[2] I, page 3656)

last amended by
Article 11 of the Act of 11 January 2026 (Federal Law Gazette 2026 I, number 9)

[1] *Patentkostengesetz*
[2] *Bundesgesetzblatt (BGBl.)*

	Address	Telephone	Fax
Dienststelle München **Dienststelle Jena** **Informations- und Dienstleistungszentrum Berlin**	Central mailing address: 80297 München	Customer Care and Services: +49 89 2195-1000	Central fax number: +49 89 2195-2221

Beneficiary: Bundeskasse
IBAN: DE84 7000 0000 0070 0010 54, BIC (SWIFT-Code): MARKDEF1700
Address of the bank: Bundesbankfiliale München, Leopoldstraße 234, 80807 München

Internet:
https://www.dpma.de

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Section 1
Scope,
authority to prescribe by statutory order

(1) The fees of the German Patent and Trade Mark Office and the Federal Patent Court shall be payable in accordance with this act except where otherwise provided for by law. The Court Costs Act (*Gerichtskostengesetz*) shall apply to costs in proceedings before the Federal Patent Court (*Bundespatentgericht*).

(2) The Federal Ministry of Justice and Consumer Protection may prescribe by statutory instrument, without requiring the consent of the Bundesrat

1. that expenses as well as administrative costs (fees and expenses for certificates, authentication, file inspection and information or other official acts) shall be collected in procedures before the German Patent and Trade Mark Office, in addition to the fees payable in accordance with this act, and
2. which modes of payment shall apply to the costs payable to the German Patent and Trade Mark Office and the Federal Patent Court (fees and expenses), and the provisions concerning the date of payment.

Section 2
Amount of fees

(1) The fees shall be collected in accordance with the schedule of fees annexed to this act.

(2) Fees for actions and injunctions before the Federal Patent Court shall be based on the value in dispute. The amount of the fee shall be based on section 34 of the Court Costs Act. The minimum fee shall amount to 121 euros. For fixing the value in dispute the provisions of the Court Costs Act apply accordingly. The provisions on the reduction of the value in dispute (section 144 of the Patent Act [*Patentgesetz*] and section 26 of the Utility Model Act [*Gebrauchsmustergesetz*]) apply accordingly.

Section 3
Due date of the fees

(1) The fees shall fall due upon filing an application, request, or upon performing another act or upon recording the respective declaration except where otherwise provided for by law. Another act within the meaning of the Patent Costs Act is in particular:

1. seeking legal remedies or lodging appeals;
2. a request for a court decision pursuant to section 61 (2) of the Patent Act;
3. giving notice of intervention in opposition proceedings;
4. bringing an action;
5. the amendment of an application or of a request, if this leads to higher fees for the procedure or the decision.

The fee for the unsuccessful notice of defect due to violation of the right to be heard shall be due upon notification of the decision. For the assessment of the fee amount, an auxiliary request shall be added to the main request, insofar as a decision is made on the auxiliary request; if the main request and the auxiliary request concern the same subject matter, the amount of the fees shall only be assessed according to the request that leads to the higher fee. If the party that lodged a special motion (*Erinnerung*) lodges an appeal under section 64 (6) sentence 2 of the Trade Mark Act (*Markengesetz*), they do not have to pay an appeal fee.

(2) The annual renewal fees for patents and patent applications and the renewal fees for utility models and registered designs are due for the respective following period of protection on the last day of the month bearing the same name as the month of the application. The annual renewal fees for protection certificates are due on the last day of the month bearing the same name as the month of the beginning of the term of protection. If the protection certificate is only granted after the expiry of the basic patent, the annual fee for the terms of protection expired at that point is due on the last day of the month of the granting; the due date of the annual fees for subsequent terms of protection is based on sentence 3. Where a utility model or a design is registered only after the end of the first or a subsequent period of protection, the renewal fee shall be due on the last day of the month in which the entry into the register is carried out.

(3) For trade marks, the renewal fees for the following term of protection fall due six months before the expiry of the respective period of protection, under section 47 (1) of the Trade Mark Act. Where a trade mark is registered only after the end of the first or a subsequent period of protection, the renewal fee shall be due on the last day of the month in which the entry into the register is carried out.

Section 4
Party liable for costs

(1) The following persons shall be liable for the payment of costs:

1. any person who initiates the official act or is the beneficiary of the act;
2. any person who is awarded the costs by a decision of the German Patent and Trade Mark Office or the Federal Patent Court;
3. any person who has assumed the costs in a declaration to the German Patent and Trade Mark Office or the Federal Patent Court or by

a declaration communicated to the German Patent and Trade Mark Office or the Federal Patent Court;

4. any person who is liable for the costs of another person by act of law.

(2) Several parties liable for costs shall have joint and several liability.

(3) Insofar as a party is liable for costs under subsection (1) numbers 2 and 3, another party shall only be held liable to pay costs where execution levied upon the movables of the first mentioned party has been attempted unsuccessfully or seems to have no prospect of success. If legal aid is granted to a party liable for costs under subsection (1) number 2, no other party shall be held liable for costs. Amounts which have already been paid shall be reimbursed.

Section 5
Advance payment

(1) In procedures before the German Patent and Trade Mark Office, processing should be carried out only after payment of the fee for the procedure; this shall also apply in case of requests that are amended. The first sentence shall not apply to the requests for transmittal of an application to the European Union Intellectual Property Office under section 62 of the Design Act (*Designgesetz*) and the requests for transmittal of international applications to the International Bureau of the World Intellectual Property Organization (WIPO) under section 68 of the Design Act. In proceedings before the Federal Patent Court the service of the action shall be effected only after payment of the fee for the proceedings; if a valid SEPA Core Direct Debit Mandate and a specification of the purpose of use of the mandate have been submitted, the action shall be served immediately. Upon intervention in an opposition in appeal proceedings or intervention in an opposition in the case of a court decision under section 61 (2) of the Patent Act no judicial action should be performed before payment of the fee.

(2) Except where otherwise provided, payments of annual renewal fees for patents and patent applications and the renewal fees for utility models and registered designs are allowed up to one year before the due date, at the earliest. Payments of annual renewal fees for protection certificates are allowed earlier than one year before the due date. For trade marks, the renewal fees may be paid in advance not earlier than six months before the due date.

Section 6
Terms of payment, consequences of non-payment

(1) If a time limit is prescribed by law for filing a request or for carrying out any other act, the fee must also be paid within this time limit. All other fees must be paid within three months from the due date (section 3 (1)) except where otherwise provided for by law.

(2) If the full amount of the fee under subsection (1) is not paid or not paid in due time, the application or the request shall be deemed to have been withdrawn, or the act shall be deemed not to have been carried out, except where otherwise provided for by law.

(3) Subsection (2) shall not apply to transmittal fees (numbers 335 100, 344 100 and 345 100).

(4) If the party that lodged a special motion *(Erinnerung*) fails to pay the fee for the special motion (*Erinnerung*) proceedings in time or fails to pay the full amount of this fee, the appeal lodged by them under section 64 (6) sentence 2 of the Trade Mark Act, shall be deemed to have been withdrawn.

Section 7
Terms of payment for annual fees and renewal fees for IP rights, late surcharge

(1) The annual renewal fees for patents, protection certificates and patent applications and the renewal fees for utility models and registered designs are to be paid up to the expiry of the second month after the due date. If the fee is not paid within this time limit it can still be paid along with a surcharge for late payment up to the expiry of the sixth month after the due date.

(2) If publication of the reproduction of registered designs is deferred, the extension fee is to be paid within the period of deferment (section 21 (1) sentence 1 of the Design Act).

(3) For trade marks, the renewal fees must be paid within a period of six months after the due date. If the fee is not paid within this period, the fee and a surcharge for late payment can still be paid within a grace period of six months after expiry of the period of protection, under section 47 (1) of the Trade Mark Act.

Section 8
Assessment of costs

(1) The costs shall be assessed

1. at the German Patent and Trade Mark Office
   a) upon filling an application;
   b) upon filing a request;
   c) upon intervention in the opposition proceedings;
   d) upon filing a request for a court decision pursuant to section 61 (2) of the Patent Act; and

e) upon seeking a legal remedy or lodging an appeal;

2. at the Federal Patent Court

a) upon bringing an action;

b) upon applying for an injunction;

c) upon intervention in an opposition in appeal proceedings or in proceedings pursuant to section 61 (2) of the Patent Act; and

d) upon unsuccessful notice of defect due to violation of the right to be heard;

even if they have accrued at the requested court or the requested authority.

(2) The authority which has assessed the costs shall also take the decisions under sections 9 and 10.

Section 9
Incorrect handling of a matter

Costs which would not have accrued if the matter had been handled correctly shall not be charged.

Section 10
Refund of costs, abolition of fee

(1) Fees paid in advance which will no longer become due and advance payments for costs not consumed shall be refunded. The refund of partial amounts of the annual fees (numbers 312 205 to 312 207 of the schedule of fees) shall be excluded.

(2) If an application or a request is deemed withdrawn (section 6 (2)) or withdrawn on the basis of other legal provisions, or if an IP right lapses, due to non-payment of the fee or part of the fee, the fee shall not be applicable, if the act requested has not been carried out.

Section 11
Special motion (*Erinnerung*), appeal

(1) The authority which has assessed the costs shall decide on special motions (*Erinnerung)* of the party liable for costs regarding the assessment of costs or measures under section 5 (1). It may change the decision *ex officio*. The special motion (*Erinnerung*) is to be filed in writing or recorded at the registry of the authority that has assessed the costs.

(2) An appeal from the decision of the German Patent and Trade Mark Office on the special motion (*Erinnerung)* may be filed by the party liable for costs. The appeal is not subject to a time limit and is to be filed in writing with the German Patent and Trade Mark Office or recorded at the registry of this office. If the German Patent and Trade Mark Office considers the appeal to be well founded it shall rectify its decision. If the appeal is not allowed it shall be remitted to the Federal Patent Court.

(3) The decisions of the Federal Patent Court on the assessment of costs shall not be subject to appeal.

Section 12
Limitation of action; payment of interest

Section 5 of the Court Costs Act applies accordingly to the limitation of action and the payment of interest regarding cost claims, and to the claims for reimbursement of costs.

Section 13
Application of the previous fee rates

(1) Even after the entry into force of an altered fee rate the fee rates applicable prior to this date shall be applied,

1. if the fee was due before the entry into force of the altered fee rate, or

2. if a time limit has been fixed by law for the payment of a fee and the relevant event for the commencement of the time limit occurred before the entry into force of the altered fee rate, or

3. if the payment of a fee falling due after the entry into force of an altered fee rate was made under established advance payment schemes before the entry into force of the altered fee rate.

(2) The previous fee rates shall only remain applicable to examination requests under section 44 of the Patent Act and search requests under section 43 of the Patent Act, section 11 of the Extension Act (*Erstreckungsgesetz*) and section 7 of the Utility Model Act, if the request and the fee payment were received before the entry into force of the altered fee rate.

(3) In the case of oppositions under section 42 of the Trade Mark Act, section (1) numbers 2 and 3 shall not apply.

(4) Where a fee falling due within three months from the entry into force of an altered fee rate is paid in due time according to the previous fee rates, the differential amount may be paid until the expiry of a time limit to be fixed by the German Patent and Trade Mark Office or the Federal Patent Court. Where the differential amount is paid within the fixed time limit, the fee shall be deemed to have been paid in due time. A surcharge for late payment shall not be collected in these cases.

(5) Procedural acts which amend an application or a request shall not affect the amount of the fee, if the fee was not assessed on the basis of the extent of the request that initiated the procedure at the time of its initiation.

Section 14
Transitional provision on occasion of the entry into force of this act

(1) The previous fee rates of the annex to section 1 (Schedule of Fees) of the Patent Fees Act (*Patentgebührengesetz*) of 18 August 1976 (*Blatt*

für PMZ [official gazette] 1976, page 257 and following), as amended by Article 10 of the Act of 22 December 1999 (*Blatt für PMZ* 2000, page 1 and following, Federal Law Gazette I, page 2534), shall be applicable even after 1 January 2002,

1. if the fee was due prior to 1 January 2002, or
2. if a time limit has been fixed by law for the payment of a fee and the relevant event for the commencement of the time limit occurred prior to 1 January 2002, or
3. if the payment of a fee which shall fall due after 1 January 2002 was made prior to 1 January 2002 under established advance payment schemes.

If, in the cases provided for in the first sentence, number 1, the service of a fee notice is required for the time limit for payment to commence, under the provisions heretofore in force, and if it was not effected prior to 1 January 2002, the fee may still be paid until 31 March 2002.

(2) In cases in which, under the provisions heretofore in force only the annual renewal fees and the renewal fees for industrial property rights fall due on 1 January 2002, but not yet the surcharges for late payment, the amount and due date of the surcharge for late payment shall be governed by section 7 (1) provided that the fees may still be paid until 30 June 2002 along with the surcharge for late payment.

(3) The previous fee rates shall only remain applicable to registered designs and typefaces applied for prior to 1 January 2002 if, while the respective term of protection or time limit under section 8b (2) sentence 1 of the Design Act expired before 1 January 2002, the time limit for paying the renewal or extension fees with a surcharge for late payment has not yet expired, provided that the fees may still be paid until 30 June 2002 along with the surcharge for late payment.

(4) The previous fee rates shall only remain applicable to examination requests under section 44 of the Patent Act and search requests under section 43 of the Patent Act, section 11 of the Extension Act and section 7 of the Utility Model Act if the request and the fee payment were received prior to 1 January 2002.

(5) Where a fee falling due within three months from 1 January 2002 is paid in due time according to the previous fee rates, the differential amount may be paid until the expiry of a time limit to be fixed by the German Patent and Trade Mark Office or the Federal Patent Court. Where the differential amount is paid within the fixed time limit, the fee shall be deemed to have been paid in due time. A surcharge for late payment shall not be collected in these cases.