Deutsches
Patent- und Markenamt

Guidelines for the Classification of Patent and Utility Model Applications at the DPMA

(Classification Guidelines)[1]
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The International Patent Classification (IPC) of the World Intellectual Property Organization in Geneva (WIPO) is a language independent classification system that can be used in more than 120 countries for filing and retrieving patent documents. The German Patent and Trade Mark Office (DPMA) also classifies patent and utility model applications according to the IPC. The following summary explains the classification procedure at the DPMA. In addition to defining the essential principles, it contains provisions on special cases (such as divisional applications) and on how to proceed in the event of a subsequent change of the initial classification.

1. Principles

At the DPMA, examiners of the patent divisions (hereinafter referred to as "examination sections") are responsible for the first-time and complete classification of all patent and utility model applications according to the IPC. Classification is carried out immediately after receipt of the application, irrespective of whether a request for examination or search has been filed.

Relevant for the classification is the current version of the IPC. It can be viewed, for example, on the website of the DPMA or of WIPO. The *Handbuch zur IPC* or the Guide to the IPC also explains the general principles and classification rules under the IPC. In cases of doubt regarding language, the original English version of the IPC, published by the World Intellectual Property Organization (WIPO), always prevails.

For the classification of an application, all claims as well as the problem to be solved, the description and the drawings are adequately taken into consideration. The classification place which most accurately represents the invention is listed first. At the DPMA it corresponds to what is referred to as the **main class**. The main class, in turn, serves as the basis for the assignment of duties at the DPMA and determines which of the examining sections is competent. While the main class is the main focus of the subject matter to be classified, other relevant technical subject matter is listed as what is referred to as **supplementary classes**. The initial classification is the result of the first-time determination of these details.

In cases where the appropriate classification is in dispute or classification is not possible (e.g. due to inadequate or missing documents), internal rules are in place which provide, for example, for cooperation between different classification experts.

2. Special cases

For applications received by the DPMA together with a request claiming **domestic priority**, the classification of the earlier application is adopted as a suggestion. If the classification of the priority application turns out to be incorrect for the later application, reclassification will be carried out.

Reclassification may also be performed if the classification of the parent file is no longer appropriate if one or more subject matters have been removed from a patent application resulting from a **division due to lack of unity** or in the case of the **division** of the application.

PCT applications in the national phase and **applications with a foreign priority** also undergo the classification process. Exceptions are those PCT applications for which the DPMA is merely the receiving office, but not the search and examination authority (designated office). In this case, classification is not carried out by the DPMA.

Patent applications drafted entirely or partly **in English or French** can be classified according to the English or French documents.

Patent applications in other foreign languages as well as **utility model applications in any foreign language** are classified according to the German translation. German translations must be filed within the time limits prescribed in **Section 35a of the Patent Act or Section 4b of the Utility Model Act.**

3. Change of classification

If, during the further course of the procedure, the originally assigned main class is found to be inapplicable, the examining section may any time change the **main class**. If this causes a change as to which examination section is competent, this change will be coordinated with the examination section which would become competent as a result of the change. In disputed cases, the respective competent classification experts will be consulted. In individual cases, the main class may also be changed in this way in opposition proceedings, if required. The same applies to registered utility models for which the main class is found to be disputable.

Supplementary classes can be changed or added at the dutiful discretion of the competent examining section, any time during the procedure.

4. Entry into force

These Guidelines will enter into force on 1 April 2019, replacing the Guidelines for the Classification of Patent and Utility Model Applications of 2 December 2014.