

Apply for a patent

Technical inventions that are new, inventive and industrially applicable can be protected as patents at the German Patent and Trade Mark Office (DPMA).

Competent Department

- [Deutsches Patent- und Markenamt \(DPMA\)](#)

Basic information

A patent is an industrial property right that gives you, as the owner, the exclusive right to dispose of your invention. No one else may make use of the patented invention without your consent. For example, no one may manufacture, offer, market or import patented products or use patented processes without a license, except in exceptional cases regulated by law. This property right is generally valid for a period of up to 20 years.

Patents can be granted for inventions in all areas of technology that

- are new,
- are based on an inventive step and
- are industrially applicable.

Novelty: An invention is new if it is not part of the state of the art. The state of the art comprises all knowledge that was available to the public worldwide in every conceivable way before the application for the invention in question was filed. This may be the case through written or oral descriptions, use or exhibition. Written descriptions include, for example, books, journals and patents. An oral description is, for example, a presentation at a conference.

Information that you have published yourself also counts as prior art. As an inventor, you should therefore always ensure that you keep your invention secret before filing an application.

- **Inventive step:** Even if your invention is new worldwide, it does not automatically have to lead to a patent. Inventive step means that the innovation must be sufficiently different from the state of the art. Patent protection is not granted if it is an obvious and therefore minor innovation.
- **Industrial applicability:** Industrial applicability is given if the invention can be manufactured or used in any industrial field, including agriculture.

- Technical invention: A patent is only granted for technical inventions. The continuous development of science and technology is constantly redefining the areas for which patent protection can be obtained.

When you register your invention, you must disclose it clearly and completely in the application documents so that a person skilled in the art can easily carry it out.

Subsequent additions to the technical information are not permitted.

On the other hand, patent protection is not possible for, among other things

- Discoveries (finding something existing that was not previously known, for example magnetism),
- scientific theories,
- mathematical methods,
- aesthetic creations (you can apply for design protection for shapes and colors),
- plans, rules and procedures for intellectual activities (such as building plans, patterns or teaching methods),
- business activities (such as organizational models or accounting systems),
- Reproduction of information (such as tables, forms or written arrangements),
- Computer programs as such (without technical reference),
- inventions whose exploitation would be contrary to morality or public order,
- the human body in the stages of its formation and development, including germ cells and the mere discovery of one of its components, including the sequence or partial sequence of a gene,
- procedures for the surgical or therapeutic treatment of the human or animal body and diagnostic procedures,
- animal breeds and plant varieties as well as essentially biological processes for the production of plants and animals and the plants and animals obtained thereby.

If you wish to apply for a patent for an invention at the German Patent and Trade Mark Office, you must submit a comprehensive description of the invention that enables a person skilled in the art to understand and carry out your invention.

Requirements

- Your invention fulfills the three criteria for the patentability of inventions:
 - Novelty,
 - based on an inventive step and
 - industrial applicability.
- You disclose your invention so clearly and completely that a person skilled in the art can readily carry it out.
- If you do not live in Germany and have neither a registered office nor a branch in Germany, you need a lawyer or patent attorney licensed in Germany to represent you.

What documents do I need?

- Application for the grant of a patent
 - Description of the invention,
 - claims,
 - drawings, if applicable,

- summary and
- Designation of the inventor

Procedure

A patent is not automatically granted when you file an application with the DPMA. A patent can only be granted once your invention has successfully passed the statutory examination procedure.

You can apply for the grant of a patent in writing or electronically. If you wish to submit the application in writing:

- Print out the application for the grant of a patent, complete it and submit it to the DPMA together with the required documents.
- Transfer the application fees.
- If you have also included the examination of the application in the request, also transfer the examination fee.
- Your application will now be examined for compliance with the formal requirements and obvious grounds for refusal. In addition, your invention will be classified according to its substantive content in a classification scheme (International Patent Classification IPC).
- Then file the request for examination and pay the examination fee. You can also file the request for examination in the application for the grant of a patent by ticking the appropriate box. Otherwise, you can also send an informal letter to the DPMA (paper, fax, "DPMAdirektPro" service). You have seven years from the filing date to file the request for examination. However, to maintain your application, you must pay renewal fees from the third patent year onwards.
- If you wish, you can also file a fee-based search request for your application before filing your request for examination. In this case, the protectability of your invention will be assessed and substantiated in a detailed search report, which also contains the documents that may be relevant for examining the patentability of your invention.
- If you have filed a request for examination for your application, a patent examiner will then examine the prior art relevant to your invention and, if necessary, grant a patent.
- If your invention does not meet the requirements or your application has other deficiencies, you will be informed of this in an office action.
- You can then comment and correct the deficiencies. It is important to note that all amendments must be within the scope of the description of your invention submitted on the filing date.
- Your patent application will remain secret for 18 months, after which it will be published in the so-called "Offenlegungsschrift". The publication is published regardless of whether you have filed a request for examination.
- If a patent is granted, the grant is published in the Patent Gazette. It can also be searched in the "DEPATISnet" and "DPMAreger" databases.
- A granted patent is effective for a maximum of 20 years, starting on the day after the application is filed. In order to maintain patent protection, you must pay annual fees for each patent and each application from the beginning of the third year.
- Your patent can be challenged by third parties - either by opposition or by an action for revocation

If you want to apply for your patent electronically:

- You can use the free "DPMAdirektPro" software for your application. You cannot apply for a patent by e-mail.
- Download the software and follow the instructions.
- Transfer the application fee and, if applicable, the examination fee without being asked to do so.
- The rest of the procedure is the same as for the written application.

Legal bases

- [§§ 1 bis 17 Patentgesetz \(PatG\)](#)

More information

- Payment of the application fee: within 3 months of receipt of the application. Without payment, the application is deemed to be withdrawn.
- Filing of the technical description, the patent claims and, if applicable, the drawings: together with the application
- Filing of the abstract and the designation of the inventor: within 15 months of the filing date
- Filing the request for examination: 7 years from the filing date. Renewal fees must be paid from the third patent year.
- Payment of the search request fee: within 3 months of receipt of the search request
- Payment of the examination request fee: within 3 months of receipt of the examination request
- Opposition to the grant of the patent: within 9 months of publication of the grant of the patent in the Patent Gazette
- Payment of the renewal fee: unsolicited at the beginning of the third and each subsequent year, calculated from the filing date. If you do not pay the renewal fee on time or in full, the patent will lapse.

What deadlines must be paid attention to?

Payment of the application fee: within 3 months of receipt of the application. Without payment, the application is considered withdrawn.

Submission of the technical description, the patent claims and, if applicable, the drawings: together with the application

Submission of the abstract and the designation of the inventor: within 15 months of the filing date

Filing the request for examination: 7 years from the filing date. Renewal fees must be paid from the third patent year.

Payment of the search request fee: within 3 months of receipt of the search request

Payment of the examination request fee: within 3 months of receipt of the examination request

Opposition to the grant of the patent: within 9 months of publication of the grant of the patent in the Patent Gazette

Payment of the renewal fee: unsolicited at the beginning of the third and each subsequent year, calculated from the filing date. If you do not pay the renewal fee on time or in full, the patent will lapse.

How long does it take to process

2-3 years typical processing time if you submit the examination application within the first 4 months after registration, pay the examination fee and have not applied for an extension.

What are the costs?

20 EUR - 40 EUR.

The application fee (electronic) for up to 10 claims is EUR 40.00.

The fee for each additional claim is EUR 20.00.

300 EUR: Advance search without registration

350 EUR: Examination fee without prior search request

30 EUR - 60 EUR.

The application fee (paper form) for up to 10 claims is EUR 60.00.

The fee for each additional claim is EUR 30.00.

70 EUR - 1,940 EUR: Annual fees from the third patent year

150 EUR: Examination fee according to search request