

Applying for a German Utility Model

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No examination of protectability

A utility model is registered without examination of its protectability against the prior art. Registration only provides protection, however, if the object is novel and inventive over the prior art. Otherwise a fictitious protective right will result, the assertion of which might give cause for claims for indemnification. The lack of legality of a utility model can be asserted by any party by filing a Request for Cancellation at the German Patent and Trade Mark Office. A defendant can claim lack of legality in an infringement suit.

Search

It is even more important to carry out a search before filing this type of application than in the case of a patent application, since the scope of protection depends on the formulation of the claims initially filed with the application. Due to the fact that there is no examination procedure, the scope of the claims is fixed as filed. Thereafter it can only be narrowed down. Thus it is recommended that the claims be formulated in full knowledge of the prior art to afford optimal protection and legality.

Costs and Time Line for Obtaining a German Utility Model

Time		
Years	Months	<i>All information on actions and net costs indicated herein relates to a "normal" application, as are from 80 to 90 % of all applications. The costs are governed by the effort involved and include the official fees *).</i>
	0	Before filing the application, it may be prudent to make a search and allow the results to be checked by a patent attorney. Cost factor: approximately €1,000 (depending on magnitude, i.e., on the complexity of the object or the extent of the prior art to be analyzed). Power of Attorney, drafting and filing of the utility model application at the German Patent and Trade Mark Office. Cost factor *): from about 2.000 to 4.600 € (depending on complexity). A possible Request for an Official Search will cost 400 €.
	2 to 3	Registration of the utility model
	approx. 8	Receipt of the Search Report and the found prior art. Thereafter analysis by the patent attorney. Costs according to magnitude.
	10	Filing, at home and abroad, Subsequent Applications including applications in the form of patent applications. (Regarding Subsequent Applications see the information notes on applications for patents in Germany and Europe and PCT applications)
1		Deadline for Subsequent Applications (this date cannot be postponed).
		Renewal fees required are: (charge and fees)
3		First renewal fee 385 €
6		Second renewal fee 575 €
8		Third renewal fee 805 €
10		End of lifetime