

# Patent and Trademark Registration in Germany



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# Outline

- Introduction
- Patent and Patentability
- European Patent Registration
- German Patent Registration
- Supplementary Protection Certificate
- IP-Protection before the Patent
- Trademark

# Introduction

- Industrial property rights are an effective way to fight plagiarism and counterfeiting.
- Important industrial property rights are:
  - Patents
  - Utility Models
  - Trademarks
  - Designs
- Patent: a legal title granting its holder the right to prevent third parties from commercially exploiting an invention without authorisation
- Patent Bargain: Patent protection in exchange for disclosure of the invention

## What is patentable?

- Inventions that
- are new,
- involve an inventive step and
- are susceptible of industrial application

# What is not patentable ?

- ❖ mere discoveries
- ❖ scientific theories & mathematical methods
- ❖ aesthetic creations
- ❖ schemes & methods for performing mental acts etc.
- ❖ computer programmes
- ❖ inventions against „ordre public“ or morality
- ❖ methods for treatment of the human/animal body
- ❖ plants and animal varieties or biological processes for their production

# European or German Patent?



## 1. Legal Factors

- European Patent gives uniform extent of protection
- Prior rights in one or more contracting states may make different handling necessary

## 2. Financial Factors

- Fees levied for the European Grant Procedure
- Costs for representation by a single agent and
- Costs of conducting proceedings in one language,  
as a rule a European patent costs as much as 3 to 4 national patents

# Application Procedure I



General: Applications can be filed

- with the European Patent Office in Munich, its branch in The Hague, its sub-office in Berlin or with the central industrial property office of a contracting state
- by any natural or legal person
- in English, French or German
- for all the EPC's contracting states at time of filing and, in addition to that, for any of the extension states

# Application Procedure II

## Elements of the Application:

1. Request for the Grant
2. Description of the Invention
3. One or more Claims
4. Drawings referred to in one of the above
5. Abstract



# European Patent Grant Procedure

## 1. Stage:

- Formalities examination
- Preparation of European search report
- Preliminary opinion on patentability
- Publication of application and search report

## 2. Stage:

- Substantive examination
- Grant

## German Patent

- ❖ Patentability and contents of the patent description like European patent application
- ❖ Applicant: any natural person or legal entity
- ❖ Residence outside of Germany: representation by patent attorney
- ❖ German Patent and Trade Mark Offices (DPMA) located in Munich, Jena and Berlin
- ❖ E-filing generally possible

# Supplementary Protection Certificates

- Extension of maximum term of protection of 20 years for medicinal products and plant protection products by up to five years;
- Introduced to compensate for long authorisation process for these products;
- Application must be filed within six months from authorisation to place the product on the market;
- SPC takes effect at the end of the maximum term of protection of the basic patent;

# IP-Protection before Patent Application

- No publication prior to filing of application
- Non-Disclosure Agreements
- Confidentiality Clauses
- Regulations as to who communicates inventions to whom
- Regulations as to who will hold patent – inventor or company

# Trade Mark I

- ❑ Trade Marks: signs that distinguish the goods/services of one trader from those of others.
- ❑ Signs that can be registered: words, letters, numbers, images, sounds and shapes.
- ❑ Trade marks may be registered
  - nationally, at the DPMA
  - Europe-wide, at the Office for Harmonization in the Internal Market in Alicante (Spain) or
  - internationally, at the World Intellectual Property Organisation (application through natl. IP-office)

## Trademark II

- ❑ Community Trademark: refusal in one country leads to invalidity in all countries.
- ❑ Application must indicate desired type of trade mark
- ❑ Examination of trademark with regard to absolute grounds of refusal
- ❑ No examination with regard to relative grounds of refusal

Thank you for your  
attention!

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