



Brief Outline of Recent Amendments of German Industrial Property Laws

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The new regulations, which in substance will enter into force on April 1, 2014, entail major improvements for applicants, in particular by harmonizing requirements of the German Patent and Trademark Office (GPTO) with the practice of the European Patent Office (EPO), making file inspection easier for the public and offering some interesting opportunities for non-German applicants. The most important changes are summarized in the following:

Electronic file inspection available

Based on the new provisions, anybody can directly perform an online inspection of published German patents, patent applications and utility models. Access to the German patent register including the file inspection facility is already available from the website of the GPTO at www.dpma.de.

Search and Examination of German applications filed in English or French language

With the new patent law, the GPTO improves its attractive services also for non-German applicants, who might be interested in the low-cost, high-quality searches of the GPTO to evaluate their priority applications:

As in the past, a German patent application can be filed with the GPTO in any language provided a German translation is later on supplied. However, under the new patent law, the time limit for filing such a translation is generally extended from three to twelve months (or fifteen months after the priority date), if the application is written in English or French. When such an application is filed with the GPTO together with a request for search or examination, the result of the search or examination should according to the GPTO Guidelines be available to the applicant before the expiry of the twelve months' time limit. Without having to file a Ger-

man translation yet, applicant can then make an educated decision whether or not to continue the German application and / or whether to pursue broader patent protection, *e.g.* by filing an EP application or even a PCT application.

Unfortunately, the law remains unchanged for the German national phase of an international patent application under the PCT, where a German translation has to be filed together with the initiation of the national phase in Germany within 30 months after the priority date.

Extended search report

A major change is the provision of an extended search report for German patent applications, not only including the documents identified by the search but also a provisional assessment of patentability of the invention, thus providing a complete picture of the chances of success of the respective application.

Hearings in examination and opposition proceedings

The amendment makes a hearing mandatory in examination proceedings, if requested, thus closing ranks with the EPO in this respect. The rapprochement with the European Patent Convention (EPC) goes even further in that hearings in opposition proceedings, which are already mandatory, will now normally become public.

Extension of opposition period

Another alignment with European proceedings is the extension of the opposition period from hitherto three months to nine months as provided in the EPC.

Patentability of animals and plants

At rather short notice, the German Parliament accepted a further amendment excluding patentability of plants and animals that are exclusively obtained by essentially biological processes for the production of plants and animals. Regarding EP patents, this issue is still pending before the Enlarged Board of Appeal of the EPO.



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