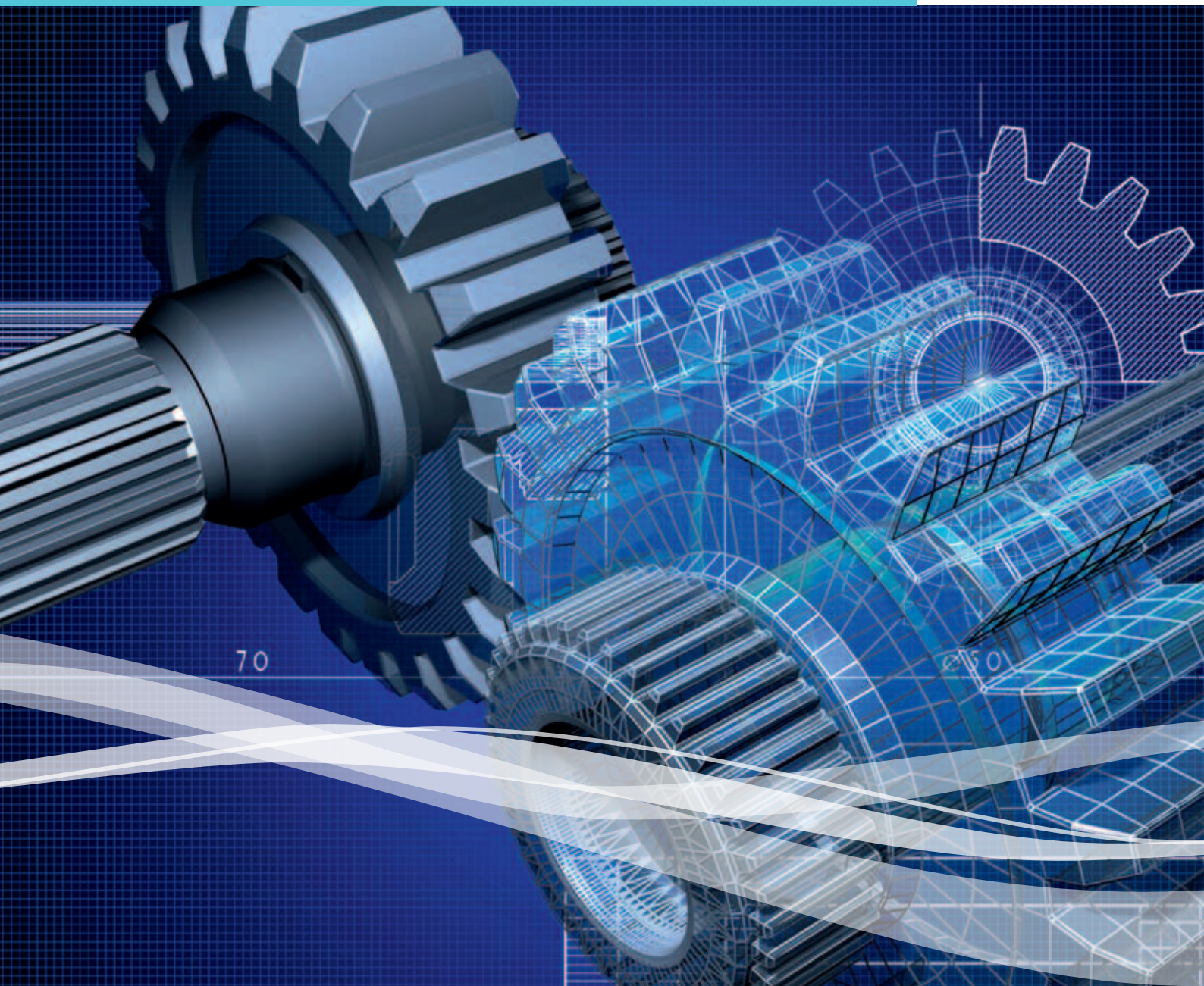




German Patent
and Trade Mark Office

Utility model

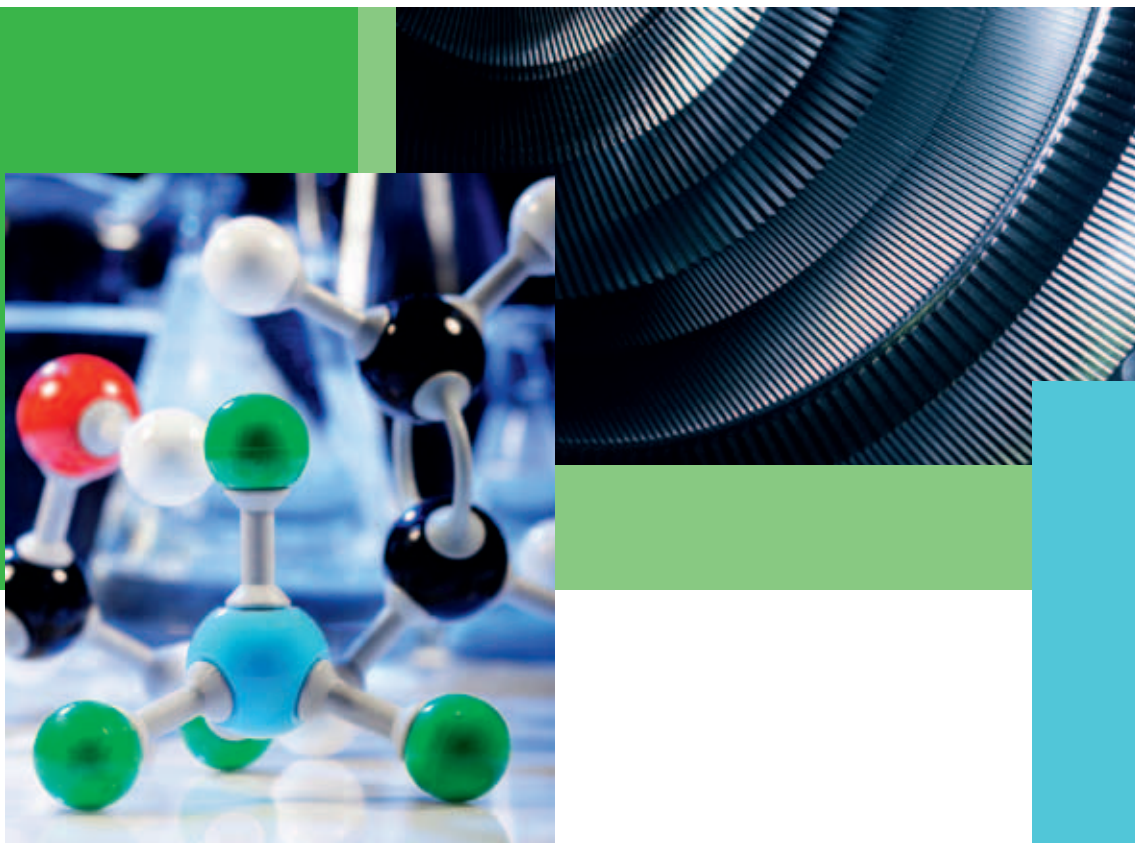
An information brochure on
utility model protection





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The utility model – the underrated industrial property right

You are looking for fast and low-cost protection for your invention? Then the utility model – the “little brother” of the patent – is the right thing for you.

Like the patent, it can protect all technical inventions, including also chemical substances, food and medicinal products, except for processes (manufacturing and working processes, measuring processes, and others).

The examination and grant of a patent usually takes several years. The utility model, in contrast, will be registered within a few months after filing the application, provided the documents filed comply with the provisions of the Utility Model Law.

The IP right becomes effective upon registration and it gives you the same rights as a patent: exclusive right to use, produce and market your invention. You may prohibit any person from doing the same.



The most important differences between the utility model and the patent

The utility model is an **unexamined IP right**. The registration procedure does not examine **novelty, inventive step and industrial applicability**. You should conduct thorough searches to make sure that your application actually meets these requirements applying to effective IP rights. Otherwise you may not invoke any rights based on the utility model registration.

Another important difference to the patent is the “life” of a utility model. A patent can be maintained for 20 years, while a utility model can only last for a maximum of 10 years.

Small price for a big effect

Overview of the fees for utility model protection:

Application fee	40 Euro
Search fee	250 Euro
1 st maintenance fee after three years	210 Euro
2 nd maintenance fee after six years	350 Euro
3 rd maintenance fee after eight years	530 Euro

The leaflet “Information concerning Costs, Fees and Expenses” (www.dpma.de/docs/service/formulare_eng/allgemein_eng/a9510_1.pdf) of the German Patent and Trade Mark Office (DPMA) provides detailed information on fees, time limits and modes of payment.

Searches give you security

The utility model will be registered without examination as to novelty, inventive step and industrial applicability – the criteria on which valid protection depends. Possibly, someone might allege that your invention is not new or does not have the required level of inventiveness.

To reduce this risk you should carefully search the state of the art in comparison to your invention. It is the yardstick of the “novelty” requirement. The state of the art for a utility model comprises publications in writing, worldwide, and – in contrast to the patent – uses in Germany that have been made available to the public.

You can use our extensive databases for your searches, free of charge, at www.dpma.de. You are welcome to visit our enquiry units in Munich, Berlin and Jena, or contact them by phone, fax or e-mail. We will be pleased to answer your questions and provide information. In addition, more than 20 regional patent information centres, all over the territory of the Federal Republic of Germany, are the contact points for customers seeking information on industrial property rights and searches (www.piznet.de).

For a fee of 250 Euro you can also commission DPMA experts to conduct a search regarding your utility model application. The search report will list the publications to be considered for assessing protectability of your utility model application. The identified publications will be sent to you together with the search report. This will make it easier for you to assess whether your claims will be enforceable or if an attack on your IP right will be successful.



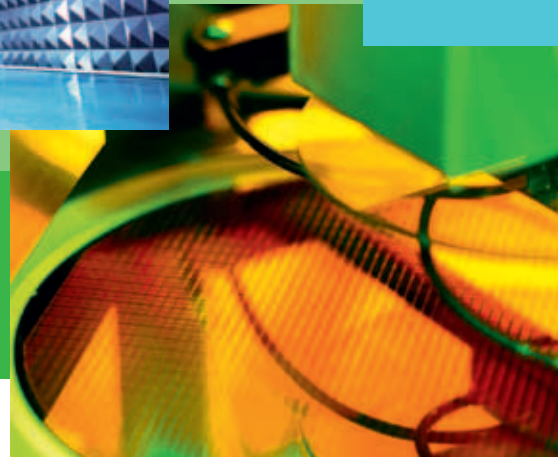
Patent or utility model?

Patent and utility model!

You can use the utility model in addition to your patent application. Splitting off a utility model provides flanking protection in the period between patent application and grant, when no or only limited protection is available.

By making a respective splitting off declaration on the request form, you may obtain an independent utility model application for which you can claim the filing date of the patent application.

Upon registration of the split-off utility model your invention enjoys full protection (injunctive relief and claim for damages) irrespective of the outcome of the patent grant procedure.



How to apply

Fill in the request form for the registration of a utility model and enclose the description of the invention and the claims. Drawings are not mandatory.

It is important that the invention is described in a sufficiently clear and complete manner. Since only the matter disclosed in the documents on the date of filing can be redrafted and modified as to conform with the provisions governing Utility Model Law, technical

features relevant to the invention cannot by any means be added subsequently. You cannot derive any rights from an inadmissible extension of the subject matter of the application, which might be a reason for the cancellation of the utility model at a later date.

Please consult the leaflet “Information for Utility Model Applicants” for detailed information. Tips and an example of how to draft claims are provided for your guidance.

Please note:

If the application fee of 40 Euro is not paid within three months from the date of filing, the application will be deemed withdrawn.



Your application has priority

The registered utility model is valid in the Federal Republic of Germany. If you wish to gain protection for the same invention abroad you have a priority right within a period of 12 months after the date of filing of the German utility model application.

The priority enables you to claim the earlier filing date of your German utility model application for the later application abroad. The filing date at the DPMA is also the basis for assessing the novelty of your invention abroad. Technical developments that have meanwhile been published will not be considered.

If you file subsequent applications after the expiry of the priority year, your invention is no longer considered new. The basic requirement for effective IP protection is no longer fulfilled.



Cancellation proceedings – the utility model is put to the test

The utility model is registered without examination as to protectability. Cancellation proceedings put the utility model to the test. In case of a dispute these proceedings will clarify whether the registered invention is new and involves an inventive step. Any person may file a cancellation request. It is not necessary to prove a particular legal interest. The request is subject to a fee (300 Euro) and must be filed in writing together with a statement of reasons.

It is not mandatory to appoint an agent, but since proceedings may be intricate and complicated, we recommend that a patent attorney or an attorney-at-law should be consulted and appointed as representative.

A committee consisting of a lawyer and two patent examiners of the relevant technical field decide on cancellation requests. The decisions may be contested by lodging appeals with Bundespatentgericht (the Federal Patent Court).

For utility model cancellation proceedings the risk of costs should be considered. As in civil proceedings the losing party has to bear the costs including the costs incurred by the opponent.



Service

Do you have any questions?

We will be pleased to answer your questions and to provide information on how to file an IP application. You are welcome to visit us in Munich, Jena or Berlin. You can also contact

us by phone, fax or e-mail. For more information and for downloading the required application forms please go to www.dpma.de.

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This information leaflet is intended to provide an initial overview of utility model law. Consequently, it also contains general simplified information. It is not possible to make complete and binding statements of the complex subject in this form. For more information please visit the website of the DPMA (www.dpma.de).