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Information for Utility Model Applicants

(Edition 2012)

The legal requirements for a utility model application are set forth in

- the Utility Model Law in its version of the publication of 28 August 1986 (Federal Law Gazette* I, p. 1455), last amended by Article 4 of the law of 21 June 2006 (Federal Law Gazette I, p. 1318),
- the Ordinance Concerning the German Patent and Trade Mark Office of 1 April 2004 (Federal Law Gazette I, p. 514), amended by Article 2 of the ordinance of 26 September 2006 (Federal Law Gazette I, p. 2159),
- the Patent Costs Law of 13 December 2001 (Federal Law Gazette I, p. 3656), last amended by Article 6 of the law of 21 June 2006 (Federal Law Gazette I, p. 1318) and the Patent Costs Payment Ordinance of 15 October 2003 (Federal Law Gazette I, p. 2083),
- the Ordinance Implementing the Utility Model Law (Utility Model Ordinance) of 11 May 2004 (Federal Law Gazette I, p. 890), last amended by Article 3 of the ordinance of 26 September 2006 (Federal Law Gazette I, p. 2159),
- the ordinance concerning the electronic legal transactions with the German Patent and Trade Mark Office of 26 September 2006 (Federal Law Gazette I, p. 2159),
- The ordinance on the deposit of biological material in patent and utility model procedures of 24 January 2005 (Federal Law Gazette I, p. 151).

This leaflet is intended to advise the applicant on how to draft and file utility model applications and on the registration procedure.

The applicant may call on assistance from advisors experienced in the field of intellectual property protection who may represent him also in the registration procedure.

An applicant having neither a domicile seat nor an establishment in Germany may obtain a utility model and assert the rights deriving therefrom only if he has appointed a patent attorney or an attorney-at-law in Germany as his representative (Sec. 28 Utility Model Law).

I. What is capable of being protected?

Inventions (except processes) with new technical features may be eligible for utility model protection.

1. Inventions Eligible for Utility Model Protection

Utility model protection is granted for technical inventions which are new, involve an inventive step and are susceptible of industrial application (Sec. 1 (1) Utility Model Law).

2. Non-Registrable Inventions

The following in particular shall not be protected as utility models:

- discoveries, scientific theories and mathematical methods;
- aesthetic creations;
- schemes, rules and methods for performing mental acts (e.g. building plans, dress patterns, teaching methods), for playing games or for doing business (e.g. rules, accounting systems) and programs for computers;
- presentations of information (e.g. tables, forms, typographical arrangements);
- constructions contrary to the laws of nature (e.g. a machine supposed to operate without energy supply - perpetual mobile);

* Bundesgesetzblatt (BGBl.)

- inventions relating to processes (e.g. to manufacture or use);
- inventions the exploitation of which would be contrary to "ordre public" or morality;
- biotechnological inventions (Sec. 1 (2) Patent Law);
- plant or animal varieties.

3. Novelty

The subject matter of a utility model is considered to be new if it does not form part of the state of the art. The state of the art comprises any knowledge made available to the public by means of a written description or by use in the Federal Republic of Germany before the date relevant for the priority of the application. Description or use within six months preceding the date relevant for the priority of the application is not taken into consideration if it is based on the conception of the applicant or his predecessor in title (period of grace, Sec. 3 (1) Utility Model Law).

It is recommended that applicants inform themselves thoroughly on the state of the art before filing a utility model application. The official publications (first publications, publications of examined applications, patent specifications as well as the documents of registered utility models) may be inspected at the German Patent and Trade Mark Office in Munich, the Technical Information Centre in Berlin and the patent information centres. Before filing an application the applicant should at any rate check the documents in the technical field to which the subject matter of the utility model belongs. A list of the patent information centres indicating addresses and opening hours as well as the documents available are provided on the Internet at: www.dpma.de.

In addition thereto, an advisory service for inventors is organised free of charge by the Professional Association of Patent Attorneys at the German Patent and Trade Mark Office in Munich, the Technical Information Centre in Berlin and at several patent information centres and Chambers of Commerce.

4. Inventive Step

The utility model involves an inventive step if, having regard to the state of the art, it is not obvious to a person skilled in the art.

5. Industrial Application

The subject matter of a utility model is considered susceptible of industrial application if it can be made or used in any kind of industry, including agriculture.

6. Unity of Invention

For each invention a separate application must be filed (Sec. 4 (1) sentence 2 Utility Model Law); in the case of lack of unity several applications are required.

Unity means above all that the problem as such underlying the invention is unitary and all its features are necessary and suited to solve the problem.

7. Scope of Examination

Prior to registration, the Utility Model Section examines only if a technical invention pursuant to the items mentioned in No. 2 (absolute requirements for protection) has been submitted and if the requirements in accordance to No. 6 are met. The requirements set forth in Nos. 3 to 5 (relative requirements) are examined only in the case of litigation (nullity or infringement proceedings). Consequently, a utility model will be registered even in the absence of one or several of the requirements set forth in Nos. 3 to 5. In this case, however, no IP right arises, but only a fictitious title from which no rights may be derived at any time. This insecurity can be avoided - if it has not been removed by the applicants' own searches - by means of a search carried out on request by the German Patent and Trade Mark Office (see below VI. No. 1 box (7)), which will help the applicant to assess the state of the art thus ascertained.

II. Professional advice

Generally speaking the applicant may himself file a utility model application at the German Patent and Trade Mark Office (DPMA). The following particulars should be observed:

1. Consultation and Representation

The applicant may call on assistance from advisors experienced in the field of industrial property and authorised to act as legal advisors. These advisors may represent the applicant in the registration procedure.

2. Foreign Domicile

Applicants having neither a domicile nor an establishment in the Federal Republic of Germany must appoint a patent attorney or an attorney at law in Germany as representative (Sec. 28 (1) Designs Law).

This representative may also be a national of a member State of the European Union or of a State party to the Agreement on the European Economic Area.

3. Power of Attorney

A **written authorisation** document must be submitted to the DPMA only if the representative is not a patent attorney or attorney-at-law.

An enterprise may grant a **general employee's power of attorney** to an employee authorising him to represent his employer in all affairs before the DPMA. The general powers of attorney are registered at the DPMA under an administrative number.

III. Filing of Utility Model Applications

Applications can be filed at the **German Patent and Trade Mark Office (DPMA) in Munich**, at the **Jena Sub-Office** or at the **Technical Information Centre in Berlin (TIZ)** (addresses: see heading of this leaflet). Furthermore, utility model applications are also accepted by certain **Patent Information Centres** (the addresses will be communicated by the DPMA on request). These Patent Information Centres note the date of receipt and transmit the utility model applications to the German Patent and Trade Mark Office without examining them.

IV. Electronic filing of the application

Utility model applications may be filed electronically with the German Patent and Trade Mark Office. A reduced filing fee of Euro 30.- is charged for an electronic utility model application.

The legal and technical requirements are prescribed in Section 21 Utility Model Law in conjunction with Section 125a of the Patent Law, the ordinance on electronic legal transactions with the German Patent and Trade Mark Office, the Utility Model Ordinance and the Ordinance Concerning the German Patent and Trade Mark Office. Detailed technical information on filing an electronic utility model application using the software, provided by the DPMA, is available on the DPMA website at: <http://www.dpma.de/english/service/e-services/dpmadirekt/index.html>.

V. Language Requirements

Applications can also be filed in a language other than German. In that case, however, a German translation must be submitted within a period of three months after filing (Sec. 4a (1) Utility Model Law). If the translation is not filed in due time, the application will be deemed to not have been made.

Translations of documents forming part of the documentation relating to the application must be certified by an attorney-at-law or a patent attorney or be done by an officially authorised translator (Sec. 9 of the Order Concerning Utility Model Applications). The signature of the officially authorised translator must be certified by a notary. The notary must also certify that the translator is officially authorised for such purposes.

VI. Documents to submit

The application must include the following documents:

1. Request for Registration (Sec. 4 (3) No. 2 Utility Model Law, Sec. 3 Utility Model Ordinance)

The request must be filed on the form provided for by the DPMA, i.e. form G 6003 which is also available on the Internet (Internet site see head on first page of this leaflet).

For completing box (1) to (13) of this form, the following information might be useful:

(1) Mailing Address / Date

The person shall be indicated to whom all mail concerning this procedure is to be sent by the DPMA by giving the

- name,
- first name,
- academic degree (if any),
- street,
- house number,
- post office box number (if any),
- place with postal code / in case of foreign places the country as well.

This may be the address of the applicant himself, of a person authorised to accept service or an appointed representative. If the utility model application is jointly filed by several applicants and a common representative is not appointed, the address of a person authorised to accept service must be indicated. Furthermore the filing date of the request shall be entered.

(2) Reference / Telephone

The internal reference, which is used for the internal documents by the addressee, and telephone number of the addressee as indicated in box (1) shall be given.

(3) Function of the Addressee

By marking the appropriate box it shall be stated which of the functions listed in box (1) is exercised by the addressee. If the box "Vertreter" (representative) is marked, the administrative number of the „General Power of Attorney“ (see II. No. 3 above) shall be given, if such number has already been notified by the DPMA after its registration.

(4) Applicant / Representative

Entries in this box are only necessary, if the indications concerning the applicant and the representative differ from the mailing address already given in box (1). In this case the same indications as in box (1) shall be made for the applicant and the representative.

A utility model is registered for a company only if the company is registered in the commercial register. The company shall be designated in the manner in which it appears in the commercial register.

In case of a partnership under the Civil Code, the name and address of at least one partner entitled to act as representative shall also be indicated (Sec. 3 (2) No. 1 Utility Model Ordinance).

(5) Code Numbers

The DPMA assigns an individual administrative number to the applicant, the representative and the mailing address as indicated in box (1).

(6) Designation of the Invention

A short and technically precise designation of the invention for which protection is sought shall be given which corresponds to the title of the description. Trade marks or fancy designations are not admitted. Common terms will be given preference to make-shift terms such as "means", "device", "implement" (e.g. "flower-pot" instead of "pot-shaped appliance to receive plants and mould"). Innovations for which protection is sought should not be anticipated in the designation. They form part of the claims.

(7) Other Requests

Requests made simultaneously with the request for registration of a utility model should be indicated by marking the appropriate box.

a) Postponement

Upon request by the applicant the registration and publication of the invention for which utility model protection is sought may be postponed until the expiration of a period of 15 months beginning either with the day of filing the application or the priority date (Sec. 8 (1) Utility Model Law, Sec. 49 (2) Patent Law). Postponement may be useful if the applicant intends to file an application in non-member States of the Paris Convention for the Protection of Industrial Property, if he wishes to make preparations in view of the commercial exploitation of the invention or if he wants to wait for the result of a search - compare (b) - before the registration of the utility model. However, no industrial property right arises prior to registration.

b) Search

The request for ascertainment of publications (search request) may be submitted at the time of filing the application, but also at a later date. The corresponding box should only be marked if the applicant wants to request a search already when filing the application. The DPMA will then ascertain in the search file of the examining section the domestic and foreign publications to be considered in assessing the registrability of the subject matter of the utility model application (Sec. 7 (1) Utility Model Law). A fee as prescribed by the schedule of fees must be paid with the request (see explanatory notes concerning box (10)). If the said fee is not paid within 3 months after filing the request, the request is deemed to be withdrawn (Sec. 6 Patent Costs Act). The fee for the search is forfeited upon payment; consequently, the fees will not be refunded; please note that the search fee is not refundable, even if the search is terminated, e.g. due to withdrawal or rejection of the application. It is therefore advisable to file a search request only if there are definitely no obstacles to registration. Usually the search will not start before the expiration of a period of four months beginning either with the date of filing the application or the priority date. This period is required to complete the search file. Only on explicit request will the search be commenced prior to the completion of the search file. However this involves the risk that publications prejudicial to novelty may not yet be taken into account. No supplementary search will be carried out.

(8) Explanatory Notes

a) Division / Separation

Indications are only necessary if the application results from a division under Sec. 4 (6) of the Utility Model Law, or separation from a pending and not yet registered utility model application (original application). In this case, the corresponding box shall be marked and the reference number and the date of filing of the original application shall be entered.

b) Splitting off

If the applicant has sought a patent with effect in the Federal Republic of Germany for the same invention at an earlier date he may file together with the utility model application a declaration claiming the date of filing relevant for the patent application for this utility model application (splitting off). Any priority right claimed in respect of the patent application shall continue to apply to the utility model application. Splitting off may be exercised up to the expiration of two months from the end of the month in which the patent application is concluded or in which an opposition procedure, if any, is terminated, at the latest, however, by the end of the tenth year from the date of filing of the patent application (Sec. 5 Utility Model Law).

The applicant shall declare splitting off when filing the utility model application. He shall mark the appropriate box, indicate the reference number and the date of filing of the earlier patent application and file a copy of the earlier patent application (original application documents).

The patent application whose date of filing is claimed may be a German patent application as well as a European or an international (PCT) application if that application shall have effect in the Federal Republic of Germany.

c) Grant of Licences

The declaration of being interested in licensing is noncommittal. It does not oblige the applicant to grant licences, but is an information for potential licensees. If the utility model is registered, the declaration is entered in the Utility Model Register and published in the Patent Gazette. It may be revoked at any time vis-a-vis the DPMA and third parties.

(9) Priority

On principle the priority of an application is determined by the date of receipt at the DPMA. The priority of an earlier application concerning the same invention may be claimed for a later application as a domestic priority, a foreign priority or an exhibition priority.

If the requirements for claiming priority are met, and if the applicant wishes to claim priority, he shall indicate in the appropriate box on which earlier application or exhibition the priority is based. When claiming priority, the following principles should be observed:

- domestic priority (Sec. 6 (1) Utility Model Law)

Within a period of 12 months from the filing date of an earlier patent or utility model application with the DPMA, the applicant shall enjoy a right of priority for the application for a utility model for the same invention, unless a domestic or foreign priority has already been claimed for the earlier application. The priority of several applications for patents or utility models filed with the DPMA may be claimed for the application. The priority may only be claimed within two months from the filing date of the *later* application and only for such features of the application which are disclosed in an adequately clear manner in the entirety of the application documents of the earlier application. The declaration of priority shall only be deemed to have been made if the reference number of the earlier application was filed with the DPMA without invitation to this effect within two months from the filing date of the later application. If the earlier application is a utility model application still pending before the DPMA, it shall be deemed to have been withdrawn when the declaration of priority is made.

- foreign priority (Sec. 6 (2) Utility Model Law, Sec. 41 Patent Law)

An earlier patent or utility model application for the same subject matter and duly filed in a country party to the Paris Convention for the Protection of Industrial Property affords the priority of that earlier application for a later application filed within one year with the DPMA. The applicant has to state the date, the country and the reference number of the earlier application within 16 months from the date of filing. Within this period, he must also submit a copy of the earlier application. Within the specified time limits, the statements may be amended. If the statements are not made in due time, the priority claim for the application shall be forfeited. It is therefore advisable to file the respective documents and statements already together with the request for registration of a utility model.

- exhibition priority

Based on the display of the subject matter of the application, the applicant may claim the priority of the first display in respect of an application filed within six months from the opening date of the exhibition. It is the date of display that determines the priority. Any person who claims an exhibition priority shall indicate, before the expiry of the 16th month after the day of the first display of the invention, the date of the first display and the name of the exhibition and furnish evidence of the display of the invention. After registration of the utility model, however, the applicant can no longer demand the entry of an indication to this effect in the Patent Gazette and in the Utility Model Register. Any uses prior to

the opening of the exhibition which are directly connected with the display either temporally or locally, are not prejudicial to the priority right. Exhibition priority may only be claimed with regard to exhibitions regularly published by the Federal Ministry of Justice in the Federal Law Gazette and in "Blatt für Patent-, Muster- und Zeichenwesen".

(10) Fees

The following fees are payable under the Patent Costs Act:

- for the application procedure: 40.00 EUR (fee number 321 100)
for electronic filing 30.00 EUR (fee number 321 000)
- for a search:250.00 EUR (fee number 321 200)

The application or the search request will be deemed withdrawn, if the filing fee or the search request fee are not paid within three months from the date of filing of the application or the search request (Sec. 6 Patent Costs Law).

The payment of fees is governed by the Ordinance on Payment of Costs of the German Patent and Trade Mark Office and of the Federal Patent Court (Patent Costs Payment Ordinance) of 15 October 2003 (Federal Law Gazette I, p. 2083). Under these provisions fees may be paid as follows:

1. in cash (at the paying offices of the German Patent and Trade Mark Office, in the Munich or Jena offices and in the Technical Information Centre in Berlin);
2. by transfer to the account of *Bundeskasse Halle* (account no. 700 010 54, bank sort code: 700 000 00);
3. by payment by cash to the account of *Bundeskasse Halle* at a financial institution (account no. 700 010 54, bank sort code: 700 000 00); or
4. by handing in or sending a direct debiting mandate for an account in Germany. It is strongly recommended to use the official form (**A 9507**) in order to avoid mistakes and delays in crediting the fee.

Forms are also available on the Internet at: http://www.dpma.de/english/service/forms_brochures/forms/index.html

Please note:

The following day is considered the date of payment:

- a) for cash payment (cf 1. above): the day of paying in the amount,
- b) for transfer: the day when the amount is credited to the account of *Bundeskasse Halle*,
- c) for payment by cash to the account of *Bundeskasse* (cf. 3. above): the day of paying in the amount,
- d) for debiting advice mandate: the day of receipt of the debiting advice mandate at the German Patent and Trade Mark Office, provided the paying office of the DPMA is the beneficiary of debiting transaction.

All payments must indicate the purpose of the payment and the official file number, if it is known, otherwise the name of the applicant and the filing date.

If you intend to pay fees by transfer from a foreign country or pay in the fees by cash from a foreign country, please give the following details:

Beneficiary: Bundeskasse Halle
Name of the bank: BBk München (= Deutsche Bundesbank Filiale München)
Account number: 700 010 54
Bank sort code: 700 000 00
BIC (SWIFT Code): MARKDEF1700
IBAN: DE84 7000 0000 0070 0010 54

IBAN and BIC codes help to reduce duration and minimise costs of cross-border payments.

Note that this will not extend the periods for payment. Important: All bank charges must be met by the payer who should instruct the bank accordingly. If the amount received by the DPMA does not cover the fees due, this will lead to the legal consequences of insufficient payment.

In case of direct debiting authorisation the fees should be paid at the time of filing the application, in other cases payment should be made only after the official reference number has been communicated. In case of transfer or cash payment, the **purpose of the payment must be indicated by using the corresponding fee number** (see above); in addition, the **reference number** and the **payer** must be indicated.

Digression – Maintaining protection

The term of protection of the registered utility model begins on the filing date and ends 10 years after the expiry of the month in which the filing date falls. For the maximum term of protection, maintenance fees must be paid for the utility model, each time, after the expiry of three, six and eight years, respectively (Sec. 23 (2) Utility Model Law). The following fees must be paid:

- to maintain the utility model for the first time:EUR 210.00 (fee number 322 100),
- to maintain the utility model for the second time:EUR 350.00 (fee number 322 200),
- to maintain the utility model for the third time:EUR 530.00 (fee number 322 300).

The maintenance fees must be paid, each time, after the expiry of the preceding term of maintenance (three, six or eight years). They are due on the last day of the month in which the filing date falls (Sec. 3 (2) Patent Costs Act). The maintenance fees can be paid within two months without legal prejudice (Sec. 7 (1) Patent Costs Act). If the fee is not paid upon the expiry of the two-month time limit for payment, a surcharge of EUR 50.- must be paid. The utility model will lapse if the maintenance fee and the surcharge are not paid within further four months - ie within six months after the due date of the maintenance fee (Sec. 23 (3) No. 2 Utility Model Law).

The utility model owner alone is responsible for timely payment of the maintenance fee! The owner will not be notified by the office in case of non-payment of the fees.

(11) Enclosures

The number of the attached enclosures shall be indicated.

(12) Signature(s)

The applicant or his representative must sign the documents (see II. No. 1) using the civil name, in the case of companies, the person authorised to sign. If an employee signs for his employer (applicant), the authorisation to sign must be satisfactorily established. In the case of several applicants without a common representative, the request shall be signed by all applicants. In case of a partnership under the Civil Code, at least one partner entitled to act as representative (whose name shall be indicated) shall sign the documents.

(13) Function of the signatory

If the application is not filed by a natural person using his civil name, the function of the signatory (e.g. managing director, authorised officer) must be indicated to prove the signature power.

2. Application Documents

The invention must be disclosed in the application in a manner sufficiently clear and complete for it to be carried out without difficulty by a person skilled in the art. For this purpose, it is as a rule not sufficient to submit a filled-in form (form G 6003) **only**. The invention must be described in words (Sec. 4a (2) Utility Model Law) to be accorded a filing date. For this purpose, a **technical description, claims and drawings**, if any, must be furnished in two copies.

2.1 Description (Sec. 4 (3) No. 4 Utility Model Law, in conjunction with Sec. 6 Utility Model Ordinance)

The title of the description shall be the same as the designation in box (6) of the application form and in the preamble used in the claims.

It is recommended to start the description by indicating the technical field to which the invention belongs. Subsequently, the state of the art from which the applicant sets out, as well as the deficiencies of the known solutions should be indicated. The applicant should then present the technical problem that - in his view - is underlying the invention and the means by which he has solved this problem. Thereupon, the subject matter should be explained by describing at least one way of carrying out the invention, also by giving details for particular embodiments of the invention as contained in the other claims. If drawings are referred to, reference signs shall be used in this part of the description; it is advisable to conclude the description by stating the advantages achieved by the new invention.

Documents shall be cited in a way which permits their identification, e.g. patent specifications with country and file number (however, no reference shall be made to unpublished applications); books with author, title, editor, edition, place and year of publication as well as page; journals with title, volume or year of publication, number and page.

Reference is made to the example given at the end of this leaflet.

2.2 Claims (Sec. 4 (3) No. 3 Utility Model Law, in conjunction with Sec. 5 Utility Model Ordinance)

The scope of protection of the utility model is determined by the terms of the claims (Sec. 12a, sentence 1 Utility Model Law). It is therefore strongly advised to draft the claims with particular care.

Claims may be drafted in one part or in two parts, the latter being divided in the preamble and the characterizing part. In both cases, the text may be arranged according to features.

If the two-part version is chosen, the features of the invention underlying the invention as state of the art shall be included in the preamble. The technical designation of the invention as indicated in box (6) of the application form shall be used in the preamble. The characterizing part shall contain the features for which protection is sought in connection with the features of the preamble. The characterizing part shall be preceded by expressions such as "characterized in that" („*dadurch gekennzeichnet, dass*") or by "characterized by" („*gekennzeichnet durch*") or any other analogous expression.

If claims are arranged according to features or groups of features, this arrangement shall be accentuated by a new line for each feature or group of features. The features or groups of features shall be preceded by division signs clearly set off against the text.

The essential features of the invention shall be indicated in the first claim (principal claim). An application may contain several independent claims (secondary claims) provided the principle of unity is respected (Sec. 4 (1) sentence 2 Utility Model Law). Secondary claims may contain a reference to at least one of the preceding claims. Any principal or secondary claim may be followed by one or more dependent claims concerning particular embodiments of the invention. Dependent claims shall contain a reference to at least one of the preceding claims. They shall be grouped together to the extent and in the most appropriate way possible.

If there are several claims, they shall be numbered consecutively in Arabic numerals.

Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings, e.g. "as described in part ... of the description" or "as illustrated in figure ... of the drawing".

Reference is made to the example given at the end of this leaflet.

Where the application contains drawings, reference signs should be used for the features stated in the claims, if this allows an easier understanding of the claims.

2.3 Drawings (Sec. 4 (3) No. 5 Utility Model Law, in conjunction with Sec. 7 Utility Model Ordinance)

Drawings are not mandatory. They must be filed only if the claims or the description contain any references to them.

Important Notice: If the application contains a reference to drawings and if these drawings are submitted subsequently, the filing date may be deferred on request. The filing date of the entire application will be the date on which the drawings were received by the DPMA. This may be of advantage for the applicant, if full disclosure results from the drawings only.

If this is not the case, the applicant can declare that a reference to drawings shall be deemed not to have been made; in that case, the initial date of filing will be maintained.

Where, despite an invitation, such a declaration is not received, the DPMA states *ex officio* that references to drawings shall be deemed not to have been made.

The drawings shall clearly show the interaction of the individual features of the invention and emphasize the essential points. Unimportant details may be neglected. Reference signs (Arabic numerals) for the individual parts of the drawings shall be used if a reference to the respective part of the description facilitates the comprehension of the invention.

Photographic representations are not equivalent to drawings within the meaning of Sec. 7 of the Order Concerning Utility Model Applications. They cannot replace the drawings, if drawings are required.

The claims, the description and the drawings, if any, shall be filed on separate sheets and in two copies.

VII. The Procedure after Filing

After filing the application the applicant, the person authorised to accept service or his representative will receive a certificate of receipt which contains the filing date as well as the filing number allotted to the application.

The applicant shall observe further particulars:

1. Correction of Defects

If certain requirements concerning the application documents have not been complied with the legal consequences are different depending on the kind of defect.

- a) Certain basic requirements have to be fulfilled at the date of filing the registration request, which cannot be complied with at a later date. Thus, for instance, the invention must be disclosed in a sufficiently explicit and comprehensive way for it to be carried out by a person skilled in the art. If this requirement is not fulfilled the application cannot be registered as a utility model. The only possibility is to file a new application. The application must be rejected by decision if it is not withdrawn before.
- b) In addition thereto, further requirements must be fulfilled, but may be complied with subsequently. The DPMA shall notify the applicant accordingly requesting him to fulfill the requirements within a specified period. If the applicant does not comply with the request, the application will probably be rejected in this case also.

2. Hearing

Where appropriate, the Utility Model Section may hear the applicant *ex officio* or upon his written request. A hearing can only take place after prior arrangement. It serves to clarify the matter, aiming at the registration of the application.

3. Registration and Publication

After payment of the relevant fees, applications without formal defects are recorded in the Utility Model Register. The registration is published in the Patent Gazette.

4. Legal Aid and Assignment of a Representative

An applicant who furnishes proof that his personal and economic conditions prevent him from paying the application fee or permit him to do so only in part or by instalments shall upon request be granted legal aid in the registration procedure if there are sufficient prospects that the utility model will be registered. For the declaration concerning the personal and economic conditions, a special form shall be completed and signed. It can be obtained upon request free of charge along with a leaflet concerning the claiming of legal aid.

An applicant who has been granted legal aid may, upon request, be assigned a patent attorney or an attorney-at-law of his choice who agrees to represent him, if such representation appears necessary for the proper handling of the registration procedure. The applicant has to explain why this is necessary. It has to be taken into account that the German Patent and Trade Mark Office supplies information and renders assistance. If the applicant furnishes proof that he has in vain requested several representatives to take the case, a representative designated by the DPMA may be appointed upon request.

VIII. Exploitation of Utility Models

The assessment and exploitation of inventions as well as the prosecution of utility model infringements do not form part of the functions of the DPMA. In this context persons and companies dealing with the exploitation of inventions may be helpful. The DPMA cannot provide any advice or references for this purpose.

Quite often the patent information centres (addresses may be obtained from the DPMA or on the Internet) may give advice.

IX. Example of Description, Claims and Drawings

For the intention of so-called "novice inventors" or persons not having filed an application in recent years, we have drafted a utility model application below. It concerns a "lockable drawer designed to store keyboards" and comprises a technical description, several claims (two part version) and three drawings (Fig. 1 to 3).

The **technical description** and the **drawings** must always be filed as annexes to the request for the registration of a utility model ("*Antrag auf Eintragung eines Gebrauchsmusters*" - form G 6003). **Drawings** are not mandatory.

The description comprises a presentation of the state of the art (to the extent known), the problem underlying the invention, the solution (ie the invention as such) and the advantages achieved (see explanation item VI.2.1).

The **claims** follow on a separate sheet. They constitute the core of the application, since the content of the claims - and not the information contained in the description and, where applicable, the drawings alone - will determine the scope of protection: only technical features mentioned in the claims will be protected.

Drafting the claims might be easier if you answer eg the following questions: Which parts does the device comprise? Where are particular parts located? In what manner are what parts connected? ... etc.

The claims may not contain descriptions of functions, applications and advantages. These details should be mentioned in the description. Please note: each claim must be introduced by the title; if there are several claims, they must be numbered consecutively.

If you file **drawings** please make sure that you have respected the minimum margins according to Sec. 7, Utility Model Ordinance, and that the presentation has clear contours. The drawings must not contain explanations.

Description

Lockable drawer designed to store keyboards

Example

Drawers of standard design show a base plate, two side parts, a front panel and a back side. They may be lockable. In their simplest form they mainly consist only of the base plate and can be drawn out and slid in within a housing (eg. desk, cupboard or tool support).

Such drawers are used for storing the operating unit or keyboards of electrical or electronic typewriters, organs, computers, terminals and the like (DE 31 32 015 A1). But in this way the keyboard can always be operated by unauthorised persons. A standard drawer with lockable front panel is not always helpful. When drawn out, the front panel would hamper the operation of the keyboard or make it virtually impossible to use the keyboard.

The problem underlying the invention as indicated in claim 1 is to create a drawer which can be locked, preventing the operation of the keyboard in the slid-in position and allowing to use the keyboard without restricting the freedom of motion of the hands when pulled out.

This problem is solved by the features listed in claim 1.

The purpose of the invention is achieved by the keyboard being stored invisibly, protected from dust and locked when the drawer is slid in. If the front panel is turned down, the object inside is freely accessible also from the front; the operation of a keyboard is also energy-saving and less tiring since the turned-down front panel serves as a rest for the hands.

An advantageous embodiment of the invention is presented in claim 3. "Well"-shaped depressions enable untrained users to recover the standard position of the hands.

An embodiment of the invention is explained by means of figures 1 to 3. The figures show the following:

Fig. 1 - the drawer slid in;

Fig. 2 - the drawer pulled out with turned-down front panel;

Fig. 3 - a lateral partial view of the pulled-out drawer.

In the figures the drawer is represented with front panel (1), base plate (8) and back side (5). Front panel (1) closes the housing with side piece (2) and upper piece (3) in front. The drawer can be secured with lock (4).

When the drawer is pulled out (Fig. 2), the front panel (1) is turned down inside until it rests on base plate (8). Back side (5) leaves an upper gap for connecting cables. The depressions (6) are arranged centrally for easy finding of the standard position of the hands.

Fig. 3 shows hinge (7) by which front panel (1) is fastened to base plate (8).

Claims

Example

1. Lockable drawer, designed to store keyboards, contained in a housing and showing a front panel,
characterised in that
front panel (1) of drawer (8) with at least partially pulled-out drawer (8) is turned down inside and that the front plate (1) is broad enough for the drawer (8) not to be slid in if front panel (1) is turned down.
2. Drawer according to claim 1
characterised in that
the front panel (1) has a minimum thickness of 1.5 cm, a maximum thickness of 3 cm, the preferable value being 2 cm.
3. Drawer according to one of the previous claims
characterised in that
the upper side of front panel (1) has at least one "well"-shaped depression (6) at the interior face of the drawer and that the depression(s) is/are located centrally.
4. Drawer according to one of the previous claims
characterised in that
the backside (5) of the drawer leaves an upper gap, eg. for connecting cables.
5. Drawer according to one of the previous claims
characterised in that
a hinge (7) is provided for connecting the front panel (1) and the base plate (8).
6. Drawer according to one of the previous claims
characterised in that
a lock (4) is provided, preferably at the side piece (2).

Drawing

Example

