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# Information for Design Applicants

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This leaflet provides detailed information if you wish to file a design application.

All forms and official leaflets are available from the German Patent and Trade Mark Office (DPMA) or can be downloaded from the Internet at: <http://www.dpma.de/english/designs/forms/index.html>.

On that Internet page you can also find [a request form](#) for the registration of a design with detailed **guidance on how to fill it in** (in German).

## I. The Legal Requirements

The legal requirements for design applications are set forth

- in the **Designs Act** (*Geschmacksmustergesetz*) ([http://www.gesetze-im-internet.de/geschmng\\_2004/index.html](http://www.gesetze-im-internet.de/geschmng_2004/index.html)),
- in the **Designs Ordinance** (*Geschmacksmusterverordnung*) (<http://www.gesetze-im-internet.de/geschmrv/index.html>)
- in the Ordinance Concerning the German Patent and Trade Mark Office (*DPMA-Verordnung*) ([http://www.gesetze-im-internet.de/dpmav\\_2004/index.html](http://www.gesetze-im-internet.de/dpmav_2004/index.html))
- in the **Patent Costs Act** (*Patentkostengesetz*) (<http://www.gesetze-im-internet.de/patkostg/index.html>)
- in the Ordinance Concerning the Administrative Costs at the German Patent and Trade Mark Office (*DPMA-Verwaltungskostenverordnung*) ([http://www.gesetze-im-internet.de/dpmavkostv\\_2006/index.html](http://www.gesetze-im-internet.de/dpmavkostv_2006/index.html)) and
- in the Patent Costs Payment Ordinance (*Patentkostenzahlungsverordnung*) ([http://www.gesetze-im-internet.de/patkostzv\\_2004/index.html](http://www.gesetze-im-internet.de/patkostzv_2004/index.html)).

## II. What Can Be Protected?

Design protection may be established, if the following requirements are complied with:

### 1. Objects eligible for design protection

Under Sec. 1, No. 1, Designs Act a design is the two-dimensional or three-dimensional appearance of the whole or a part of a product. The design of a flat surface - for example, a textile or wallpaper - or the appearance of a three-dimensional object is protected by a registered design. Here, the following features play a role: the lines, contours, colours, shape and the texture of the product. In this context, a product is any industrial or handicraft item, including packaging, get-up, graphic symbols and typographic typefaces, as well as parts intended to be assembled into a complex product. A computer program is not regarded as a product.

### 2. Novelty

Design protection can only be obtained for a design that is new on the date of filing the application. A design shall be considered new, pursuant to Sec. 2 (2) of the Designs Act, if no identical design has been disclosed before the date of filing the application. Designs are deemed to be identical if their features differ only in immaterial details. This means that at the said date the design for which protection is sought has not been known nor could have reasonably become known to the circles specialised in the sector concerned, operating within the European Union. Please note that you must also take into consideration publications outside the EU.

Before requesting registration of a design you should gain information on existing designs. **Search options** for registered designs are available here:

- Designs with effect in Germany: <https://register.dpma.de/DPMAregister/gsm/einsteiger> (DPMAregister)
- Designs with effect in the EU: <http://oami.europa.eu/RCOnline/RequestManager?language=en> (RCD-Online)
- (international) industrial designs with effect in the member states of the Hague Agreement: <http://www.wipo.int/ipdl/en/hague/search-struct.jsp> (Hague Express Designs Search)

### 3. Individual character

Under Sec. 2 (3) of the Designs Act a design must also have individual character. To fulfil this requirement its overall impression must differ from that of already existing designs. In this context, neither the view of a layman nor the opinion of a product designer is decisive. Rather it is the overall impression produced by the design on the so-called "informed user" that is relevant. The more designs in a class of goods the lower the level of originality required and vice versa.

### 4. Novelty grace period

For assessing novelty and individual character a disclosure will not be taken into consideration if a design has been made available to the public by the designer, or his successor in title, or a third person as a result of information provided or action taken by the designer, or his successor in title, during a 12-month period preceding the date of filing the application (so-called **novelty grace period**).

### 5. Scope of examination

The Designs Unit of the DPMA examines the compliance of the application with the **formal requirements** (cf. particularly item VI.) as prerequisite for registration. This includes also the assessment of whether the subject-matter of the application is a design within the meaning of Sec. 1, No. 1, Designs Act, and whether the design is not contrary to public policy or accepted principles of morality, or whether the design constitutes an improper use of any of the items, emblems etc. listed in Article 6<sup>ter</sup> of the Paris Convention for the Protection of Industrial Property. However, compliance of the design with the **substantive requirements for protection** is not examined ([novelty](#) and [individual character](#) a.o.). The latter requirements are examined by the civil courts in the case of litigation.

Consequently, a design will be registered even in the absence of one or several of the stated requirements for protection. In this case, however, no IP right is created from which any rights might be derived.

### 6. Subject-matter of design protection

The representation (illustration) of the design determines the subject-matter and scope of protection, and is therefore of prime importance. The subject-matter of protection is restricted to the visible features. Please note item IV.3 and, in particular, IV.3(a)(2).

## 7. Type faces

Type faces are eligible for design protection as products within the meaning of the Designs Act. They shall be assigned to the class of goods 18-03. Use the term "type faces" as indication of products. The representation of the design must comprise all letters of the alphabet in upper and lower case letters, all Arabic numerals and five lines of text in font size 16.

## III. How to Submit an Application

In order to obtain design protection in Germany an application for the registration of the design in the Designs Register must be filed with the DPMA.

You may file design applications

- in writing [by mail](#),
- electronically via the **DPMAdirekt** online service, or
- by submitting it in person at the [German Patent and Trade Mark Office in Munich](#), the [Jena Sub-Office](#) or the [Technical Information Centre in Berlin](#).

Please do not file your application by fax due to the loss of quality associated with this method of transmission (cf. text relating to the field "[Telefax vorab](#)").

Some patent information centres also accept design applications.

## IV. Documents to Submit

The application must contain:

- a request for registration;
- details of the applicant;
- an indication of products;
- a representation of the design suitable for publication; and
- possibly, an attachment sheet for a multiple application of designs.

Under the following conditions we can speed up processing of your application:

- Pay the application fee by [direct debit mandate](#) provided to us when filing the application.
- Use our [search engine](#) to draw up the indication of products. Here you will find fast and comprehensive information on all accepted expressions of goods.

We can also process online applications (**DPMAdirekt**) faster. In that case reduced fees apply. More information is available at: <http://www.dpma.de/english/service/e-services/dpmadirekt/index.html>. Use of **DPMAdirekt** requires an enhanced signature card.

### 1. Request for registration

Please use form [R 5703](#) (in German), issued by the DPMA, for filing an application for the registration of a design. If you want to register several designs by filing one request (multiple application), submit attachment sheet ([R 5703.2](#)) together with the request for registration. For better readability of the forms please type.

The illustrations must be printed or glued onto the [representation form](#). In case of multiple applications, please use a separate form for each design. If you prefer, you can file the representation (illustrations) on [electronic data carriers](#) instead of using the form.

All required forms are available on the website of the German Patent and Trade Mark Office at <http://www.dpma.de/english/designs/forms/index.html>. You can also call the enquiry unit of the DPMA (+49 89 2195 3402) to request forms and information brochures.

Please read the following instructions carefully before completing the boxes (1) to (11) of the request form and the boxes (A) to (G) of the attachment sheet.

### Line 1 Address for service

Please specify to whom any correspondence of the DPMA should be sent. Please indicate the

- name,
- first name,
- street,
- house number,
- company,
- Post Office Box (if applicable),
- town with postal code/ country (in case of foreign towns); district, county or state may also be indicated.

The address for service may be your address, the address of a person authorised to accept service of official communications, or the address of an appointed representative. If you jointly file an application for the registration of the design with other applicants and if you have not appointed a common representative, you must indicate here the address of a person authorised to accept service of official communications. You should inform the DPMA immediately of any change of address.

### Box next to "Telefax vorab" (fax in advance)

If you transmit your application by fax to the DPMA before sending it by mail, please check this box. Please also enter the date of the fax here. This will help us to identify the documents pertaining to your application and avoid assigning several file numbers to the same application.

**For this reason, we generally advise against filing design applications by fax.** The fax technology is not suitable for the transmission of images. When the application is transmitted by fax the design illustration is often of such poor quality (particularly if photographs are used) that the filing date has to be altered in a rather time-consuming procedure after receipt of the original application. Colours cannot be reproduced at all on a fax document.

### Line 2 Reference of the applicant/telephone/fax/ date

Please give your internal reference (if any), your telephone number(s), fax number and the current date.

### Line 3 Applicant/representative

If you have entered a person authorised to accept service of official communications or a representative in line 1, please indicate here the name and address of the **applicant**. Please indicate your street address (no post office box) here. This is necessary in case of deliveries that cannot be sent to a post office box.

The applicant may be

- a natural person,
- a legal entity, or
- a partnership having legal capacity.

If a representative has been appointed to act in the application procedure, please also indicate the name and the street address (no post office box) of the representative.

#### Please note

**In any case**, the name and address of the person to be recorded as owner in the register, must be indicated in the form. Otherwise the application is not effective and will not be accorded a filing date to ensure priority. The filing date of the application becomes relevant when several applicants, independently of each other, have filed applications for the registration of the same design.

Where design registration is sought for

- a company, you must indicate the name of the company as recorded in the Commercial Register;
- a partnership under the Civil Code, you must indicate the trade name as stated in the trade license. In addition, you must indicate the name and address of at least one partner authorised to represent;
- a legal entity, recorded in a register, you must indicate the name as stated in the register entry;
- several persons, you must indicate the names and personal addresses of all persons or legal entities or partnerships.

#### Mention of the designer

Designers have the right to be mentioned in the procedure before the DPMA and in the Designs Register. The designer himself does not have the right to file a request, this request must be filed by the right holder. **Only natural persons** can be mentioned as designers. The details required include each designers' given name, family name and personal address (street, house number, postal code, town). Alternatively, the office address of the designer can be indicated here.

Please use the official form [R 5707](#) (in German) and attach it to the request for registration. If you intend to mention one designer for several designs, you can list the relevant designs in the right-hand box on the form.

### Line 4 Indication of products

Please indicate at least one product for the design in this field. The indication of products must appear **consistent** with the submitted representation of the design, that means correct as regards content, in order to ensure that the design is searchable. This is only possible when you select suitable expressions of goods. Ultimately, the decisive factor for the

selection is which suitable and common words the public would use for searching. Where the representation, for example, shows a logo, the indication of products is "logos" or "graphic symbols" (class of goods 32-00) but not "t-shirts" or "cups", even though the logo is to be affixed to these articles.

One product must be indicated for each design of a multiple application on the attachment sheet ([R 5703.2](#) - in German). You can also declare in box (C) of the attachment sheet that the indication of products is applicable to all designs of the application.

The indication of products is one of the minimum requirements for an application; without it no filing date will be accorded to the application. It has no influence on the scope of protection. A database search at <http://www.dpma.de/english/service/classifications/locarnoklassifikation/suche/suchen.html> may help you to find terms that can be used to indicate products.

### Line 4 Classification/classes of goods

The classification is based on the products indicated. Since the products should be chosen from the database "*Erzeugnisangabe*" (indication of products), the classification usually results from the results list. If you do not indicate the class of goods, it will be determined by the Designs Section of the DPMA – on the basis of the indicated products and the submitted representations of the design. You must categorise each product into precisely one class of goods. For multiple applications, there must be at least one class of goods that can be attributed to all designs. In this context, compliance of the main class is sufficient.

### Lines 5 to 7 Other requests

#### Multiple application

You can file up to 100 designs in a multiple application provided that the designs can be attributed to at least one common class of goods.

Please check the first box and indicate in the next box how many designs the application comprises. You must always use attachment sheet [R 5703.2](#) (in German) when filing multiple applications.

#### Deferment of publication

Please check the second box, if you wish to defer the publication of the representation (illustration) of the design. The publication of the representation in the Designs Gazette will then be "deferred" by up to 30 months from the date of filing the application. If a priority has been claimed, the 30-month deferment period begins on the priority date.

If the publication of the representation of the design is deferred, only the bibliographic data will be published at first. This allows you to save costs, since the procedural fees will be reduced in this respect (compare Sec. 21 (1) Designs Act and the information concerning costs on the back of the last sheet of the request form for more details).

**Please note, however:** During the deferment period, you do not yet enjoy an exclusive right (monopoly) to use the design, but only protection against copying (cf. VII.2).

The term of protection ends upon expiry of the deferment period, unless you extend protection to the 25-year protection period by payment of the extension fee within the deferment period.

If you have filed a [two-dimensional specimen](#) instead of the representation and wish to extend protection, please also submit a photograph or other graphic representation of the design within the deferment period.

### Interest to grant licences

You can declare that you are **interested in granting licences**. This information serves to inform potential licensees. It is entered in the Designs Register and published. The declaration is not binding, it does not oblige you to grant licences.

### Line 8 Priority

The filing date of an application is determined by the date of its receipt at the DPMA provided that the minimum requirements for according a filing date are met. The priority of the applicant's own earlier foreign application dating back no more than six months (12 months in case of a previous patent application) may be claimed for a later application.

If you wish to claim any of these priorities, the following must be indicated:

#### - Foreign priority (Sec. 14 Designs Act)

Indicate the date, country and file number of the earlier foreign application in this box and submit a copy of the earlier application. Within six months you must file the application at the German Patent and Trade Mark Office, claiming priority of the earlier application. The indications must be submitted before the expiry of 16 months after the priority date of the earlier foreign application. Since time limits have to be observed in respect of these declarations and indications, it is advisable to file them together with the application.

It is not possible to claim a domestic priority (earlier application in Germany) for design applications.

#### - Exhibition priority (Sec. 15 Designs Act)

If you have displayed the design at a domestic or foreign exhibition, you may claim a priority right from that day provided that you file the application within six months from the first display. You can claim an exhibition priority only for those exhibitions that were designated individually by the Federal Ministry of Justice in a notification on exhibition protection in the Federal Law Gazette (*Bundesgesetzblatt*).

A **confirmation** ([R 5708](#) - in German) must be furnished to prove the display at the exhibition. The **confirmation must be issued during the exhibition** by the agency in charge of protection of intellectual property at that exhibition. You can prepare the confirmation in advance. It is important that you display your product on the exhibition exactly as it is shown in the illustrations (reproductions) on the confirmation.

Priorities are only recognised for such exhibitions which have been previously mentioned in the Federal Law Gazette.

If you present your product exclusively to selected business partners, this presentation does not constitute a display which would qualify for an exhibition priority.

If you do not claim priority for all designs of a multiple application, please match the priority data to the designs concerned.

### Line 9 Payment of fees

The individual fees to be paid as well as the methods of payment are listed in the leaflet *Merkblatt über Gebühren und Auslagen für Geschmacksmuster* ([R 5706](#): information concerning fees and expenses for designs, in German). The **application fee** is 7 EUR per individual design, the minimum fee is 70 EUR per application. In case of more than 10 designs, an extra 7 EUR must be paid for the 11th design and for each additional design. For electronic filing, the application fee is 6 EUR for each design, the minimum fee is 60 EUR per application. With regard to the payment of costs, see [Information on Payment](#).

We recommend you pay the fees by **direct debit** as this speeds up processing. On the due date, we will automatically collect the fees from the bank account which you indicated, thus avoiding a loss of rights or a surcharge for late payment. Please use form [A 9507](#) for this purpose. The day of receipt of the debiting advice mandate by the DPMA is considered the date of payment.

The application fee must be paid to the German Patent and Trade Mark Office within three months after filing the application. Otherwise, the application is deemed to be withdrawn.

### Line 10 Annexes

Please indicate the number of the enclosures.

#### Description

You can file a description to explain the representation of the design. This description will be registered and published. The description must be filed on a separate sheet and may not exceed 100 words. You can draft an individual description for each design. It must be furnished as a continuous text without graphic elements, formulae or formatting. The description must relate exclusively to those features contained in the representation or in the two-dimensional specimen.

If you submit the representation on a digital data carrier, the description can be stored on the data carrier in '\*.txt' format. In case of multiple applications you may file the descriptions in a single document, provided that they are in the order of the design numbers.

### Line 11 Signature

Please sign the request with your real name (civil name). In the case of several applicants without a common representative, the request must be signed **by all applicants**.

If the application is not filed by a natural person using his/her civil name, indicate the function of the signatory (e.g.

managing director, authorised officer) to prove the signature power.

Please repeat the name of the signatory in block letters in the space provided.

## 2. Attachment sheet to the request for registration

Please use the attachment sheet ([R 5703.2](#) - in German) for a multiple application of designs. Where the attachment sheet provides for indications to be entered in specific columns, such entries need not be made in the registration request. Where an attachment sheet is not sufficient for the entry of the indications, please use further sheets and number them consecutively.

### Box (A) Reference number of the applicant

In order to any time allow identification of the attachment sheet to the request for registration, please enter the indications of box (2) of the registration request here.

### Box (B) Class of goods

Please enter the class of goods applicable to **all** designs here.

### Box (C) Indication of products

Please tick the box if the indication of products in the registration request is meant to be applicable to **all** designs. Otherwise enter an individual indication of products for each design in box (G).

### Box (D) Serial number

Please enter a consecutive number for each design.

### Box (E) Number of reproductions (illustrations)

Please indicate here the number of reproductions filed with the respective design (the maximum number of reproductions per design is 10).

### Box (F) Indication of the class of goods

In this box you can indicate the other classes of goods for the respective design in addition to the indication in box (B).

### Box (G) Indication of products

Please indicate at least one product for each design of a multiple application, unless you declare in box (C) that the indication of products shall be applicable to all designs of the application.

## 3. Representation of the design and specimen of a two-dimensional design

The features of the design for which protection is sought under the Designs Act must be clearly and fully disclosed. The representation of the design that means all reproductions of the design submitted or the specimen of a two-dimensional design (for example, a textile pattern) determine the subject-matter and scope of protection and therefore are of key importance. It is your responsibility to make sure that the representation clearly shows those

components of the design for which you seek protection. The subject-matter of protection is limited to the features visible in the representation or the two-dimensional specimen, that means only those items are protected that can be clearly seen in the design representation (illustration) or the two-dimensional specimen.

Please file the representation of the design or the specimen together with the request for registration. The subsequent filing even of mere supplementing matter is not admissible or will lead to the postponement of the date of filing, as the case may be.

### (a) Representation of the design

#### (1) Content of the representation

The representation of the design consists of **at least one** colour or black and white photographic or other graphic reproduction (e.g. line drawing) of the design.

You can furnish **up to ten** reproductions (illustrations) for the representation of the design. Any further reproduction will not be considered. All admissible reproductions of the design will be published by the DPMA (except where deferment of publication of the representation has been requested in the registration request).

#### (2) Representation requirements

The reproductions must, on the one hand, clearly and fully represent the design and, at the same time, be suitable as a master copy for the publication in the Designs Gazette.

If you seek protection for a certain colour scheme of your design we recommend colour illustrations. If you do not yet wish to decide on a specific colour scheme you should prefer black and white illustrations. Avoid mixing colour images and black and white images within one representation of a design otherwise it will be unclear whether the colour is meant to be part of the subject-matter of protection. In that case it is preferable to file two designs. Each different colour scheme has to be protected as a separate design.

However, mixing photographs and line drawings within the representation of a design may be useful if particular details cannot be photographically reproduced.

Make sure that the design is photographed against a neutral background. Be careful that the reproduction shows the design for which protection is sought without accessories (elements that are not part of the design) and does not contain any explanation, numbering or measurements.

#### (3) Use of the representation form

For the reproductions please use the form ([R 5703.1](#) - in German) issued by the DPMA. Copy and paste the reproductions on that form or apply suitable glue over its entire surface to affix them to the form, using one side of the paper only. Please leave a space of at least 1 cm between the reproductions. In case of multiple applications, use a separate form for each design. Make sure that the forms do not contain any explanatory text matter, explanatory designations, symbols or measurements.

Please number the reproductions consecutively in Arabic numerals, using decimal notation (for example, 1.1, 1.2, 1.3, 2.1, 2.2). The number left of the decimal point corresponds to the number of the design and the number right of the decimal point corresponds to the number of the reproduction. Place the numbers next to the reproductions on the forms. Make sure that a single reproduction does not show more than one view.

#### **(4) Use of data carriers**

You may also file the reproductions in electronic format on a data carrier (**CD or DVD**). In this case, store the individual image files in JPEG format (\*.jpg) in the login directory of the blank data carrier (no sub-directories). Make sure that each file only contains one reproduction and that the minimum resolution is 300 dpi and the minimum image size 3 cm x 3 cm. The size of a single file may not exceed two megabytes. Choose the file names of the individual reproductions in analogy to the numbering of paper reproductions (1.1.jpg, 1.2.jpg etc). Do not store any other files on the data carrier except for the image files and the descriptions of the designs.

#### **(b) Specimens of two-dimensional designs**

Only when you file a request for deferment of publication of the representation, you can submit a specimen of a two-dimensional design instead of the representation. Those may be, for instance, textile and wallpaper samples. This specimen must comply with the following requirements:

Please furnish two identical copies of the two-dimensional specimen. Number each specimen consecutively by affixing the serial number of the design on the back of the two-dimensional specimen. Make sure that the specimen does not exceed 50 cm x 100 cm x 2.5 cm or 75 cm x 100 cm x 1.5 cm, allowing it to be folded to A4 size. The specimens furnished in one application shall weigh not more than 15 kg including packaging.

When you request registration of a design which consists of a repetitive two-dimensional surface pattern, make sure that the specimen shows the complete pattern and a sufficiently long and wide portion of the surface with the repetitive pattern.

## **V. Professional Advice**

As a rule, you may yourself file a design application. Only if you do not have a seat in Germany you must appoint an agent. The following details should be observed:

### **1. Voluntary representation**

For filing a design application you may appoint an advisor authorised to provide legal services, for example, an attorney-at-law or patent attorney. It is also permissible to authorise an association of representatives, indicating the name of this association.

### **2. Compulsory representation**

If you do not have a residence, seat or establishment in the Federal Republic of Germany you must appoint a patent

attorney or an attorney-at-law in Germany as your representative. This representative may also be a national of a member state of the European Union or of another state party to the Agreement on the European Economic Area.

### **3. Power-of-attorney**

A **written authorisation** must only be submitted to the DPMA if the representative is neither a patent attorney nor an attorney-at-law.

A company may grant a **general power of attorney** to an employee authorising him to represent the company in all IP affairs before the DPMA. The DPMA registers the general power of attorney, allocating a reference number.

## **VI. Procedure after Filing**

After filing a design application, you or your representative will receive an **acknowledgement of receipt** issued by the receiving office of the DPMA. The receiving office only confirms the date of receipt of the application at the DPMA. Your application will be examined later – also checked for completeness - during processing at the Designs Section of the DPMA.

**The Designs Section can only begin processing of an application after fee payment. It is in your own interest to pay the application fee as early as possible.**

### **1. Correction of defects**

If certain requirements concerning the application documents have not been complied with, the legal consequences differ depending on the type of defect:

When filing the registration request (cf. item IV.1) and the representation of the design (cf. item IV, 3(a)) certain basic requirements must be fulfilled, otherwise it is not possible to grant a date of filing to the defective application. Where the defect is remedied after a respective communication by the DPMA, the date of remedying the defect (receipt at the DPMA) is accorded as date of filing.

In addition, the application must comply with certain other requirements, resulting from the Designs Act and the Designs Ordinance. If this is not the case, the Designs Section will send you a notice of defects. If you do not remedy the defects in due time, the Designs Section will issue a decision to reject the application.

### **2. Registration and publication**

If all requirements are fulfilled, the Designs Section will record your application in the electronic Designs Register. The registration of the design is published on the **DPMA register** publication platform and in the electronic Designs Gazette (*Geschmacksmusterblatt*) at: <http://register.dpma.de>.

Design protection arises upon registration of the design in the Designs Register.

### **3. Legal aid**

If you furnish proof that your **personal and economic circumstances** are such that you cannot pay the fee or can only pay part of the fee, or pay by instalments, you may be

granted legal aid for the registration procedure. The condition is that there are **sufficient prospects that the design will be registered**. Legal aid comprises the application fees.

For the declaration concerning the personal and economic circumstances, you must complete and sign a special form ([A 9541](#)). You must furnish sufficient evidence to support the declaration. More information is available in the *Merkblatt über Verfahrenskostenhilfe* ([A 9540](#) - information on legal aid, in German only).

You can also request legal aid for the extension and renewal procedures.

#### 4. Extension of protection

In case of deferment of the publication of the representation of the design (cf. page 4), you can decide within 30 months from the filing date (or the priority date) whether to "extend" protection to the maximum term of protection of 25 years. For this purpose it is sufficient for you to pay the extension fee within the deferment period.

If you have submitted a two-dimensional specimen when filing your application, you must additionally submit a [representation](#) of the design within the deferment period. After extension, design protection is exclusively defined by the reproductions of the representation. The Design Section of the DPMA **does not** produce the reproductions on which design protection is based.

For multiple applications you can limit the extension to selected registered designs (e.g. meanwhile having become successful in the market). Please specify exactly those designs to which the extension fee relates on a separate written request (file number, consecutive number of the relevant registered design).

Provided that the extension was effective, the representation will as a rule be published after expiry of the 30-month deferment period. However, you can also request an earlier publication date.

#### 5. Renewal of protection

The term of protection of your registered design starts upon entry of the design in the Designs Register and ends 25 years after the date of filing. To reach the maximum life of the registered design, you must renew your registered design before the end of each protection period (every five years) by payment of the renewal fee. For a multiple application you must pay the renewal fee for each individual design. At present, the renewal fee, for example, for the first renewal period (6th to the 10th year) is 90 EUR (fee No. 342 100). Please indicate the complete file number on the payment slip.

For multiple applications you can limit renewal to selected designs. In that case, you must furnish a written request, listing all the registered designs to be renewed.

If you do not renew protection, the term of protection ends and the design registration is cancelled from the Designs Register.

## VII. Rights conferred by Protection

### 1. Principle: Exclusive protection

The design registered at the German Patent and Trade Mark Office confers on you the exclusive right to use it and to prevent any third party not having your consent from using it. That means that you alone are entitled to "put the registered design on the market", grant licences and transfer the IP right.

Any third party not having your consent is prohibited from using the design; the use covers in particular, the making, offering, putting on the market, importing, exporting, or using or possessing the design for any of these purposes. Consequently, your registered design provides exclusive (monopoly) protection within its scope of protection.

You may take action against independent parallel creations provided that there is no right based on prior use. In case of violating acts, it is not relevant if the infringer has had knowledge of your protected design. This means that it is not only prohibited to copy your registered design but also to produce and distribute independently developed objects.

### 2. Protection in case of deferment of publication

During the period of deferment of the publication of the representation (cf. page 4), the design is only protected against deliberate copying. You can only take legal action against designs which another person has produced with the intention of distributing them, although that person had knowledge of your registered design. In case of infringement you must demonstrate and provide evidence that the design which you are challenging is the result of deliberate copying of your design. In that case, you cannot challenge independent parallel creations. Upon subsequent publication of the representation, protection against copying is transformed into exclusive (monopoly) protection.

As a rule, the designer has the right to the design that he/she has created. If the design was created within the scope of an employment relationship or while executing an order, the employer or customer is deemed to be the person entitled to the IP right.

## VIII. Exploitation of Designs

The DPMA is neither in charge of expert opinions on designs, nor the exploitation of designs, nor the prosecution of design infringement. In this context, persons and companies dealing with the exploitation of inventions may be of assistance. The DPMA cannot provide any information or references in this matter.

## IX. Information on Payment

### 1. Fees may be paid as follows:

- a) cash at the paying offices of the German Patent and Trade Mark Office (in Munich, Jena and at the Technical Information Centre in Berlin);

- b) by transfer to the above indicated account of Bundeskasse Weiden;
  - c) cash payment to the above indicated account of Bundeskasse Weiden at a national or foreign financial institution;
  - d) by direct debiting mandate for an account in Germany.
2. The following day is considered the date of payment pursuant to Sec. 2 of the Patent Costs Payment Ordinance
- a) for cash payment: the day of paying the amount,
  - b) for payment by transfer: the day when the amount is credited to the account of Bundeskasse Weiden,
  - c) for cash payment into the account of Bundeskasse Weiden: the day of paying the amount. Since Bundeskasse Weiden cannot distinguish between the payment (in cash) and the transfer under item b) in its accounting documents, you should, when paying in cash, immediately submit the paying-in slip to the DPMA, if you wish to claim the earlier date of payment applicable to cash payment;
  - d) for debiting advice mandate: the day of receipt of the debiting advice mandate at the German Patent and Trade Mark Office, or at the Federal Patent Court; for fees due in the future, the date the fee falls due, provided Bundeskasse Weiden is the beneficiary of the debiting transaction.
3. Debiting advice mandates can also be transmitted effectively by fax.

4. All payments must indicate the complete file number, the exact name of the applicant (right holder) and the purpose of the payment. A fee number can be indicated instead of the purpose of payment.

The official fee numbers are provided in the schedule of fees of the Patent Costs Act and the schedule of costs of the Ordinance Concerning the Administrative Costs at the German Patent and Trade Mark Office (*DPMA-Verwaltungskostenverordnung*). Both schedules are available on the information leaflet [A 9510.1](#) at the German Patent and Trade Mark Office or on the Internet at

<http://www.dpma.de/>

[http://www.dpma.de/english/service/forms\\_brochures/forms/index.html](http://www.dpma.de/english/service/forms_brochures/forms/index.html).

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

Beneficiary: Bundeskasse Weiden

Name of the bank: BBk 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.

**Please direct enquiries to the**

Enquiry Unit of the German Patent and Trade Mark Office

phone: (49 - 89) 21 95 - 34 02

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The offers, requests for payment, invoices or transfer forms of these companies sometimes have the look of official forms. These communications as such do not have any legal effect. They do not establish any obligation to pay.

Further information and a (non-exhaustive) list of enterprises which are not connected with the duties and services of the German Patent and Trade Mark Office is available on the website of the German Patent and Trade Mark Office at <http://www.dpma.de/english/service/warning/index.html>.

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