



# Annual Report 2006

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## Preface



*President Dr. Jürgen Schade in conversation with Vice-President Siegfried Dellinger*

Dear Reader,

A patent application is filed on average about every nine minutes at the German Patent and Trade Mark Office. In addition, we receive hundreds of applications for trade marks, utility models and designs daily. In my view, these figures are an indication that Germany is well placed as a location for industry.

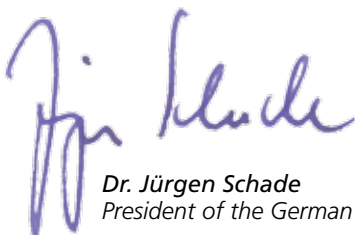
This annual report gives you a current and comprehensive overview of the performance of the German Patent and Trade Mark Office in 2006.

That year also marked the 25<sup>th</sup> anniversary of Sino-German cooperation in the field of intellectual property. That was not only a reason to celebrate for our Chinese colleagues and for us, but also an opportunity to establish a framework for future cooperation.

Furthermore, we have reached an important milestone on our road to becoming a modern service provider. The introduction of the new data processing system for trade marks means that we are now in a much better position to cope with increasing application numbers.

In order to improve our products and services we use modern business practices and control systems. We provide a high level of service and customer convenience, but we are aware that improvement of services is a continuous process and we are committed to pursue this process for the benefit of our customers and partners.

Here, I would like to seize the opportunity to express my gratitude to all the staff of the DPMA for their spirit of cooperation and personal commitment over the past year. Together we are enhancing Germany's attractiveness as a location for industry and promoting technological progress.



*Dr. Jürgen Schade*  
*President of the German Patent and Trade Mark Office (DPMA)*

## 2006 – A Review in Pictures



*State Secretary of the Federal Ministry of Justice on his first visit to the DPMA on 25 January standing, from left: Wolfgang Schmitt-Wellbrock (Fed. Min. of Justice), Klaus Ströbner, Friedrich Feuerlein, Markus Ortlieb, Siegfried Dellinger, Beate Schmidt, seated in front: Astrid Mittl-Krug explains the new electronic trade mark system to State Secretary Lutz Diwell (Fed. Min. of Justice)*



*Opening of the exhibition "Sternstunden" (stellar moments) at the Technical Information Centre in Berlin on 21 March*



*Siegfried Dellinger (right) bidding farewell to retiring President of the Federal Patent Court and former DPMA President Hans-Georg Landfermann*



*The DPMA at the Hanover Fair 2006  
from left: Stephanie Krüger, Anne Fröhlich, Dirk Groke, Bernd Antonius and Thomas Thieme*

**Talks on Intellectual Property  
Product piracy – posing a threat to  
the German economy?**

*Taking part in panel discussion (from left): Frauke Henning-Bodewig (Max Planck Institute for Intellectual Property, Competition and Tax Law), Jürgen Schade, Hubert Weis (Fed. Min. of Justice), Jochen Pagenberg (law firm Bardehle Pagenberg Dost Altenburg Geissler) and Rido Busse (Plagiarius initiative) (see also page 55)*



*Plagiarius with some copied products*

*The team of the German Patent and Trade Mark Office poses before the start of the 3<sup>rd</sup> Munich Corporate Run*





*Visit of the Head of the Saudi patent office on 10 July  
 Mohammad Al-Fawzan (left) and Jürgen Schade*



*Kick-off of the electronic case file  
 Jürgen Schade and Eberhard Armbruster (IBM Deutschland  
 GmbH) sign the development contract for the EISA  
 programme package on 27 July*



*The 2006 trainees receive their final  
 certificates from Vice President  
 Dellinger  
 from left: Julia Remlinger, Carmen  
 Walch, Herbert Menke (Head of  
 training), Gülsemin Atalar, Veronika  
 Zeheter, Siegfried Dellinger (Vice  
 President) and Janina Halling*



*Symposium „25 years of Sino-German Cooperation in the Field of Intellectual Property“  
on 21 and 22 September*



*RTL network installs weather camera on the roof of the German Patent and Trade Mark Office at the beginning of 2006  
([www.rtlaktuell.de](http://www.rtlaktuell.de))*



*Talks with industry representatives on 18 October  
Representatives of business, industry and attorneys engaged in dialogue with the DPMA management*



# At a Glance

Industrial property rights		2005	2006	Changes in %	
Patents	Applications <sup>1</sup>	60,222	60,585	+ 0.6	
	Concluded examination procedures (final)	36,064	38,140	+ 5.8	
	- with patent grant <sup>2</sup>	17,425	21,572	+ 23.8	
	Stock <sup>3</sup>	434,723	467,166	+ 7.5	
Utility models	Applications	20,418	19,766	- 3.2	
	Concluded registration procedures	20,770	19,674	- 5.3	
	- with registration	17,138	16,638	- 2.9	
	Stock	104,976	104,117	- 0.8	
Trade marks	National marks	Applications	70,926	72,321	+ 2.0
		Concluded registration procedures	70,561	71,942	+ 2.0
		- with registration	50,798	51,124	+ 0.6
		Stock	731,039	744,769	+ 1.9
	International marks	Requests for grant of protection in Germany	9,306	7,998	- 14.1
	Grants of protection	7,487	7,574	+ 1.2	
Designs	Designs applied for	48,083	51,014	+ 6.1	
	Concluded registration procedures	52,572	48,482	- 7.8	
	- with registration	50,070	46,557	- 7.0	
	Stock	310,699	302,202	- 2.7	

<sup>1</sup> Patent applications with the DPMA and PCT patent applications after entering the national phase

<sup>2</sup> including patents in respect of which an opposition was filed under Sec. 59 Patent Law

<sup>3</sup> including patents granted by the European Patent Office (EPO) with effect in the Federal Republic of Germany

## Budget

DPMA and Federal Patent Court per m €	2005	2006	Changes in %
Income	244.9	263.8	+ 7.7
Expenditure	218.1	220.9	+ 1.3
of which for personnel	125.9	124.6	- 1.0
<b>Personnel DPMA</b>			
Staff	2,599	2,556	- 1.7

# Patents – Statistics and Analyses

## Development in application numbers

In 2006, 60,585 patent applications were filed with the German Patent and Trade Mark Office as against 60,222 in 2005. Compared to the previous year, the number of applications slightly increased by 0.6%.

The 2006 number of patent applications consists of 57,577 direct applications and 3,008 applications under the international Patent Cooperation Treaty (PCT) which entered the national phase at the German Patent and Trade Mark Office.

Due to the PCT revision in 2004, it is not possible to directly compare the current figures with those prior to the year 2004. Nevertheless, to allow comparability, the effects of the PCT revision were eliminated in Fig. 1. Consequently, the data reflect the actual application

conditions since 2000. For more data on application activity, please refer to the Table 1.1 in the chapter "Statistics".

## Origin of patent applications

In order to get a complete picture of the patent applications effective in Germany, the applications – provisional for 2006 – filed with the European Patent Office, in which Germany is indicated as designated country, are added to the data of the German Patent and Trade Mark Office. Many foreign applicants use the European patent system to obtain patent protection in Germany ao. (cf. Fig. 2).

A timeline is provided in Table 1.6 in the chapter "Statistics".

In 2006 the total number of patent applications effective in the Federal Republic of Germany amounted to nearly 170,200. This figure

	Applications at the DPMA	Applications at the EPO (provisional data)
Germany	48,012	24,798
USA	3,283	34,584
Japan	3,618	21,935
France	268	7,962
Netherlands	142	7,305
Switzerland	1,157	5,390
Republic of Korea	915	4,595
United Kingdom	116	4,690
Italy	97	4,155
Sweden	285	2,543
Others	2,692	16,423
<b>Total</b>	<b>60,585</b>	<b>134,380</b>

Fig. 2: Patent applications with effect in the Federal Republic of Germany by countries of origin in 2006 (direct applications and PCT applications in the national or regional phase)

does not include the applications filed with the European Patent Office originating from the Federal Republic of Germany. These inventions are in essence contained in the applications filed with the German Patent and Trade Mark Office, since a European application is usually preceded by a patent application in Germany. Based on this method of counting, national applicants accounted for 28.2% in 2006.

Listed below are the most important countries of origin of foreign applicants active on the German patent market:

US	22.3%
Japan	15.0%
France	4.8%
Netherlands	4.4%
Switzerland	3.8%
Republic of Korea	3.2%
United Kingdom	2.8%

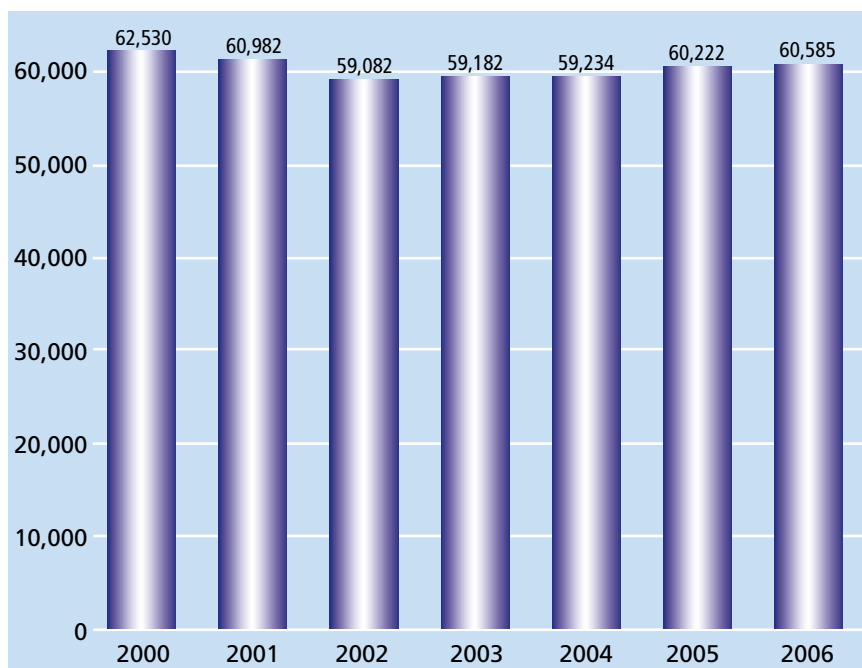


Fig. 1: Patent applications at the German Patent and Trade Mark Office. Consolidated figures for the years 2000 to 2003 (see also text for explanations)

### The most active patent applicants

The list of the 50 most active patent applicants (see Fig. 3) shows how active applicants from Germany and abroad are on the German patent market. The list contains patent applications published by the German Patent and Trade Mark Office in 2006. The PATDPA patent database served as the data source.

Irrespective of possible interlinking of business enterprises, the individual firms are recorded in their capacity as patent applicants. Among the 50 most active applicants, 39 come from Germany, four from Japan, six from the US, and one from the Republic of Korea.

Among the 20 most active applicants at the European Patent Office three come from Germany, four from other European countries, five from Japan, six from the US, and two from the Republic of Korea (see Fig. 4).

	Applicant	Seat	Applications
1	Siemens AG	DE	2,501
2	Robert Bosch GmbH	DE	2,202
3	DaimlerChrysler AG	DE	1,626
4	Infineon Technologies AG	DE	1,236
5	Volkswagen AG	DE	731
6	Denso Corp.	JP	708
7	BASF AG	DE	690
8	Bayerische Motoren Werke AG	DE	621
9	ZF Friedrichshafen AG	DE	545
10	Audi AG	DE	411
11	Fraunhofer-Gesellschaft e.V.	DE	396
12	BSH Bosch und Siemens Hausgeräte GmbH	DE	382
13	Schaeffler KG	DE	371
14	Voith Patent GmbH	DE	335
15	Henkel KGaA	DE	265
16	Samsung Electronics Co. Ltd.	KR	215
17	MAN Roland Druckmaschinen AG	DE	202
18	General Motors Corp.	US	201
19	Patent-Treuhand-Gesellschaft für elektrische Glühlampen mbH	DE	191
20	Continental Teves AG & Co. oHG	DE	187
21	Behr GmbH & Co. KG	DE	186
22	Degussa AG	DE	184
23	Linde AG	DE	183
24	LuK Lamellen und Kupplungsbau Beteiligungs KG	DE	180
25	Koenig & Bauer AG	DE	174
25	Lear Corp.	US	174
27	Schott AG	DE	171
28	Honda Motor Co. Ltd.	JP	170
29	GM Global Technology Operations Inc.	US	168
30	Dr.Ing.h.c. F. Porsche AG	DE	167
31	Deutsches Zentrum für Luft- und Raumfahrt e.V.	DE	160
32	Giesecke & Devrient GmbH	DE	152
33	Agilent Technologies Inc.	US	150
34	Airbus Deutschland GmbH	DE	148
35	Webasto AG	DE	143
36	ABB Patent GmbH	DE	141
37	Bosch Rexroth AG	DE	139
38	General Electric Co.	US	138
39	Mitsubishi Denki K.K.	JP	133
39	Toyota Jidosha K.K.	JP	133
41	Heidelberger Druckmaschinen AG	DE	128
42	Hella KGaA Hueck & Co.	DE	125
42	Merck Patent GmbH	DE	125
44	Carl Zeiss Jena GmbH	DE	124
45	Ford Global Technologies LLC	US	123
46	Wilhelm Karmann GmbH	DE	122
47	Adam Opel AG	DE	120
47	Bayer MaterialScience AG	DE	120
49	DORMA GmbH + Co. KG	DE	118
50	Continental Aktiengesellschaft	DE	113

*Fig. 3: The 50 most active patent applicants at the German Patent and Trade Mark Office (irrespective of any possible interlinking of business enterprises). Published patent applications in 2006*

	Applicant	Seat	Applications
1	Koninklijke Philips Electronics N.V.	NL	2,685
2	Samsung Electronics Co. Ltd.	KR	1,686
3	Siemens AG	DE	1,452
4	Matsushita Electric Industrial Co. Ltd.	JP	1,362
5	LG Electronics Inc.	KR	1,145
6	Robert Bosch GmbH	DE	956
7	Microsoft Corp.	US	808
8	Sony Corp.	JP	804
9	Nokia Corp.	FI	729
10	Fujitsu Ltd.	JP	657
11	BASF AG	DE	639
12	General Electric Co.	US	601
13	3M Innovative Properties Co.	US	597
14	Seiko Epson Corp.	JP	509
15	Hitachi Ltd.	JP	480
16	Alcatel	FR	477
16	Intel Corp.	US	477
18	Thomson Licensing	FR	476
19	The Procter & Gamble Co.	US	470
20	Delphi Technologies Inc.	US	460

Fig. 4: The most active patent applicants at the European Patent Office (irrespective of any possible interlinking of business enterprises). Published patent applications with effect in Germany in 2006

### Patent applications by German Laender

In the year 2006, 48,012 of the 60,585 patent applications received by the German Patent and Trade Mark Office were of domestic origin. The number of national applications has remained at the high level of previous years proving that the German patent system remains highly attractive to the national industry. These figures mirror the inventive and innovative capacity of Germany and are proof of constant research and development activities. The breakdown of national patent applications by German Laender is based on the patent applicants' place of residence. With 29.2% of all patent applications Bavaria is in the lead, followed by Baden-Württemberg with 27.8% and North-Rhine/Westphalia with 17.1%. Consequently, nearly three-fourths (74.1%) of all national applications come from these three Laender (see Fig. 5 and 6).



Fig. 5: Patent applications by German Laender in 2006

German Laender	2005			2006		
	Applications	Proportional share in %	Applications per 100,000 inhabitants	Applications	Proportional share in %	Applications per 100,000 inhabitants
Bavaria	13,688	28.3	110	14,010	29.2	113
Baden-Württemberg	12,828	26.5	120	13,347	27.8	125
North-Rhine/Westphalia	8,151	16.9	45	8,195	17.1	45
Hesse	3,402	7.0	56	3,202	6.7	53
Lower Saxony	2,738	5.7	34	2,603	5.4	33
Rhineland-Palatinate	2,218	4.6	55	1,311	2.7	32
Hamburg	919	1.9	53	946	2.0	55
Berlin	866	1.8	26	943	2.0	28
Saxony	847	1.8	20	810	1.7	19
Thuringia	703	1.5	30	646	1.3	27
Schleswig-Holstein	600	1.2	21	585	1.2	21
Brandenburg	311	0.6	12	428	0.9	17
Saxony-Anhalt	366	0.8	15	343	0.7	14
Saarland	360	0.7	34	318	0.7	30
Mecklenburg-Western Pomerania	197	0.4	11	183	0.4	11
Bremen	173	0.4	26	142	0.3	21
<b>Total</b>	<b>48,367</b>	<b>100</b>	<b>59</b>	<b>48,012</b>	<b>100</b>	<b>58</b>

Fig. 6: Patent applications, percentages and number of applications per 100,000 inhabitants by German Laender

For timelines covering the preceding years, please refer to Table 1.5 in the chapter "Statistics". Due to the different sizes of the German Laender, however, the figures can only show an incomplete picture. However, when applications are considered in relation to the size of the population, the ranking changes partly. With 125 and 113 applications, respectively, Baden-Württemberg and Bavaria are considerably above the German average of 58 patent applications per 100,000 inhabitants, while all the other Federal Laender are below the average (see Fig. 6).

### Size categories of patent applicants

Patent applicants can also be categorised according to their filing activity. This analysis is based on the number of applications filed by certain groups of applicants.

In 2006, two-thirds of the roughly 12,000 patent applicants from Germany filed only one application each, accounting for 16.7% of the total number of applications. 96.2% of all applicants filed between one and ten applications,

ie. about 40% of all applications. The remaining applications, just under 60%, were accounted for by 3.8% of all applicants (see Fig. 7). Thus, it can be concluded that more than 50% of all patent applications were filed by a small group of patent applicants – mostly large enterprises. This concentration process in favour of large patent applicants is also reflected in the category applicant = inventor (see following paragraph).

Percentage of applicants ...							Percentage of applications by applicants ...							
2000	2001	2002	2003	2004	2005	2006		2000	2001	2002	2003	2004	2005	2006
71.3	70.7	68.7	69.0	68.2	66.5	66.7	having filed one application	23.5	22.1	20.7	19.9	19.0	16.6	16.7
26.4	26.6	28.5	28.1	28.8	29.9	29.5	2-10 applications	27.4	25.6	27.3	26.2	25.0	24.3	24.5
2.1	2.4	2.5	2.6	2.7	3.3	3.4	11-100 applications	17.5	19.0	18.5	19.3	19.0	22.7	22.2
0.2	0.3	0.3	0.3	0.3	0.3	0.4	more than 100 applications	31.6	33.3	33.5	34.6	37.0	36.4	36.6
100	100	100	100	100	100	100	Sum	100	100	100	100	100	100	100

Fig. 7: Breakdown of domestic patent applicants according to filing activity (in %)

### The category applicant = inventor

Under German law the inventor must always be named in a patent application. By this means it is possible to find out the number of cases where the applicant and inventor are identical or not identical. Applicant and inventor are not identical if the patent application is filed by an enterprise.

On the other hand, the applicant is usually identical with the inventor, if the application is filed by an independent inventor, an employee with released inventions and an entrepreneurial inventor.

Since 7 February 2002, patent applications by university lecturers do no longer belong to this category, due to the amendment of employee invention law. This amendment may be an explanation for the difference between 2001 and 2002.

The applicant = inventor category accounted for 9.3% of total applications in 2006. The respective value for applications from Germany was 10.6%, and for foreign applications 3.7% (see Fig. 8).

	2000	2001	2002	2003	2004	2005	2006
<b>National</b>	13.4	13.1	11.2	10.7	10.9	10.7	10.6
<b>International</b>	5.3	5.0	4.2	4.4	3.7	3.5	3.7
<b>Total</b>	12.2	11.0	10.0	9.6	9.7	9.4	9.3

Fig. 8: Patent applications of the category applicant = inventor by origin (in %)

### Patent applications filed by German universities

In 2006, 645 inventions were filed for patenting at the German Patent and Trade Mark Office in the name of German universities. This is a 6.8% increase against last year's figure of 604 patent

applications. Figure 9 shows the applications according to German Laender taking into account the situation in 2000 and 2001, prior to the amendment of the Law on Employees' Inventions.

German Laender	2000	2001	2002	2003	2004	2005	2006
Schleswig-Holstein / Hamburg	1	4	20	33	39	32	32
Lower Saxony / Bremen	15	39	47	43	27	51	58
North-Rhine/Westphalia	9	6	16	49	55	71	82
Hesse	5	8	30	35	31	49	35
Rhineland-Palatinate / Saarland	2	1	10	27	21	26	27
Baden-Württemberg	72	56	65	101	75	114	81
Bavaria	7	15	31	56	36	46	67
Berlin	7	11	44	36	26	25	27
Brandenburg / Mecklenburg-Western Pomerania	1	3	21	43	26	34	51
Saxony	45	48	55	83	114	89	106
Saxony-Anhalt	16	9	13	21	18	23	25
Thuringia	48	49	49	45	51	44	54
Sum	228	249	401	572	519	604	645

Fig.9: Patent applications filed by universities by Laender (Applications from some Laender had to be combined for anonymisation purposes.)

## Main technical areas of patent activity

The patent applications filed are categorised in so-called IPC classes (IPC = International Patent Classification). This allows uniform international classification of patent documents. The International Patent Classification comprises roughly 70,000 entries, making it one of the most detailed technical classification systems. Fig. 10 shows the 13 IPC classes most frequently used in patent applications received at the German Patent and Trade Mark Office.

At the same time it shows the development of application numbers within the individual classes and changes in their ranking of the classes over the past year. Table 1.7 in the chapter "Statistics" provides a corresponding timeline.

The applications from the IPC area B 60 "Vehicles in general" have been in the lead for many years. In 2006, 5,415 patent applications were filed in this class. The next positions are occupied by the

following classes: F 16 „Engineering elements or units“ with 4,566 applications and G 01 „Measuring, testing“ with 3,920 applications.

IPC class	Applications in 2006	Percentage	Differences between 2005 and 2006 in %	
B60	Vehicles in general	5,415	9.4	2.6
F16	Engineering elements or units	4,566	7.9	14.0
G01	Measuring, testing	3,920	6.8	0.1
H01	Basic electric elements	3,520	6.1	2.8
A61	Medical or veterinary science; hygiene	2,928	5.1	-4.4
H04	Electric communication technique	2,069	3.6	-4.3
F02	Combustion engines	1,834	3.2	4.3
B65	Conveying, packing, storing, handling thin material	1,770	3.1	-1.0
H02	Generation, conversion or distribution of electric power	1,743	3.0	15.7
G06	Computing, calculating, counting	1,429	2.5	-7.1
B62	Land vehicles for travelling otherwise than on rails	1,130	2.0	4.0
F01	Machines or engines in general	1,109	1.9	4.8
B23	Machine tools; metal working	1,039	1.8	1.2

Fig. 10: Patent applications by IPC classes (with over 1,000 applications in 2006)

### Selected data on patent examination

The high number of patent applications of the past few years required a comprehensive concept of measures to reduce the examination procedures under processing. The measures allowed to turn the trend and, in 2006, it was again possible to conclude even more examination procedures than in the previous year, but due to the increase in newly received examination requests we have not yet succeeded in truly reducing the backlogs (see Fig. 11). For further data relating to patent procedures, please refer to the chapter "Statistics", Tables 1.2 and 1.3

### German Patent and Trade Mark Office again in charge of opposition proceedings

Since 1 July 2006, the German Patent and Trade Mark Office is again in charge of decisions on oppositions filed against granted patents. Competence for ruling on oppositions filed between January 2002 and June 2006 had been transferred to the Federal Patent Court (Bundespatentgericht) to reduce the workload of the German Patent and Trade Mark Office.

	2000	2001	2002	2003	2004	2005	2006
Requests for examination	37,804	38,376	37,561	37,071	36,575	37,387	38,696
- including requests filed together with application	26,931	27,040	25,945	25,479	25,444	25,082	25,452
Search requests	13,419	12,410	11,900	12,708	12,800	13,352	13,238
Examination procedures concluded (final)	26,923	27,443	29,971	33,515	33,862	36,064	38,140
Requests not yet concluded in the patent divisions at end of year	96,122	106,130	111,768	116,766	118,184	114,826	116,857

Fig. 11: Selected data relating to patent procedures

### Patent applications on environmental technology

Patent applications concerning „green technologies“ are not concentrated in a single class of the International Patent Classification (IPC), but can be found in all fields of technology. Environmental technology is still a growth industry as shown for some selected fields in Fig. 12 and 13. In these fields, the increase in patent applications effective in Germany is often due to foreign applicants. German applicants no longer outnumber foreign applicants in solar technology as well as in wind power and hydropower. In the field of exhaust technology, too, non-German applicants have shown more intensive application activity in

recent years than companies located in Germany.

#### Solar technology

The first example is solar technology: despite a largely mature technology the number of applications has increased further; the applications received at the DPMA deal with further optimising efficiency, reducing costs and the large-scale manufacturing of solar panels and their long-term stability.

#### Wind power and hydropower

In the race to catch up with German applicants, which is particularly obvious in the field of wind power and hydropower, foreign applicants

	2001		2002		2003		2004		2005		2006	
	German applicants	Foreign applicants	German applicants	Foreign applicants	German applicants	Foreign applicants	German applicants	Foreign applicants	German applicants	Foreign applicants	German applicants	Foreign applicants
Solar technology	91	61	108	62	90	64	82	94	85	80	101	108
Wind power and hydropower	73	39	93	40	82	67	91	82	103	87	103	121
Motor vehicle exhaust technology	354	419	362	380	330	517	471	646	458	594	495	644

Fig. 12: Patent applications effective in the Federal Republic of Germany in selected fields of environmental technology. Breakdown of applications published by the DPMA and EPO, avoiding double-counts, by publication year and the applicant's place of residence.



have stepped into the lead. The German applications show a trend towards offshore wind farms (power plants in the sea) and wind farms with large rotors.

**Motor vehicle exhaust technology**

The number of applications in the field of motor vehicle exhaust technology have been increasing further due to ever lower emission limits. Diesel and petrol cars are loaded with electronics. Applications focus on intelligent electrical control systems for combustion engines and the after-treatment of exhaust gases for which a large number of sensors is installed in the engine as well as in the exhaust pipe and the catalytic converter.

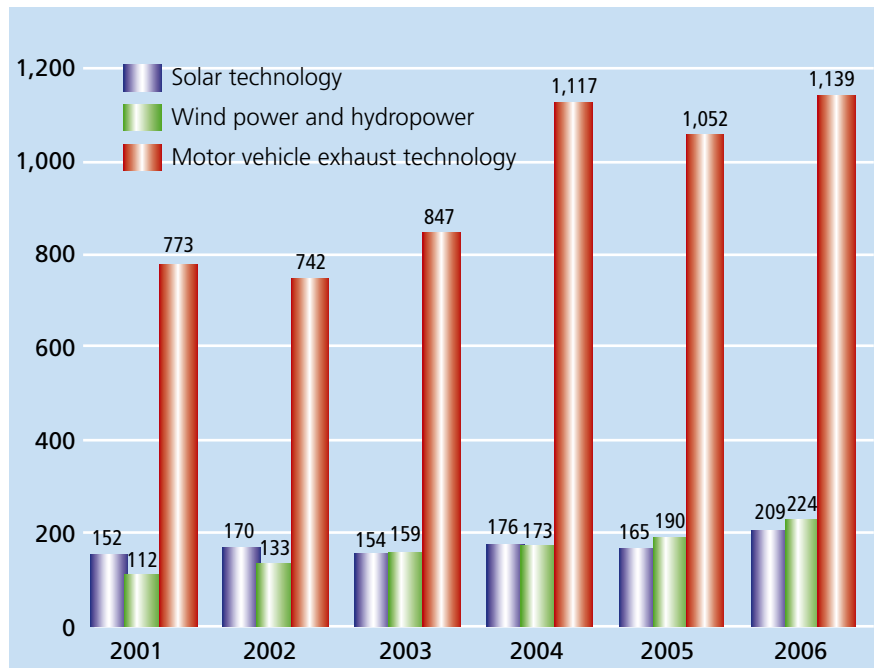


Fig. 13: Patent applications effective in the Federal Republic of Germany in selected fields of environmental technology.

# Utility Models and Topographies

## Keyword: Utility models

Utility model protection is available for technical inventions which are new, inventive and capable of industrial application. Processes and biotechnological inventions, however, are excluded from protection. The utility model is similar to the patent so that it is frequently also referred to as "petty patent" or "small patent". An important difference to the patent is that the invention applied for is not examined as to novelty and inventiveness during the utility model registration procedure. The validity of a utility model right will only be examined if a request for cancellation is filed. The maximum term of protection for utility models is 10 years, for patents it is 20 years.

In 2006, 19,766 utility model applications were filed at the German Patent and Trade Mark Office (DPMA) (2005: 20,418). In 2006, the utility models entered in the register totalled 16,638.

The applicant may split off a utility model application from a patent application concerning the same invention. Splitting-off results in the utility model application retrospectively being awarded the earlier filing date of the patent application. In 2006, the splitting-off option for utility models was requested 1,948 times. The option of splitting-off a utility model application is recommendable for an

applicant who seeks full protection for his invention already during the patent examination procedure.

17% of the utility model applications filed come from foreign countries. Many applications originate from countries which do not have the utility model as a national IP right. That is why the German utility model system provides a welcome alternative and/or supplement to patent protection.

At the end of the year 2006, a total of 104,117 German utility models were in force while 230 requests for cancellation of registered utility models were filed (2005:

226). At the end of the year, 359 cancellation proceedings were still pending at the German Patent and Trade Mark Office.

Many requests for searches to be conducted by patent examiners regarding utility model applications or registered utility models were filed in 2006. We received 2,952 search requests for applications and 445 search requests for registered utility models (previous year: 3,057 and 511, respectively). In 2006, the search reports sent out by the Utility Model Unit totalled 4,366 (previous year: 4,291).

## Keyword: Topographies

Topography protection is available for the three-dimensional structures of microelectronic semiconductor products (eg. of processors or memory chips).

The German Patent and Trade Mark Office received two topography applications in 2006 (previous year: six).

# Trade Marks

## **Keyword: Trade marks**

Trade marks have always guided consumers through the maze of many diverse products and services, and this guidance is particularly important today, when markets are changing faster and faster. There is a large variety of definitions specifying the characteristics and fascination of the trade mark.

The Brockhaus encyclopaedia defines trade marks as a means used in trade for distinguishing the goods and services of a certain enterprise from the products of another.

At its foundation, on 25 November 1903, the German Trade Mark Association (Markenverband) defined trademarked articles as "products which have a feature identifying their origin and are available, at the same price, throughout a large economic area, with the same quality, characteristic properties and get-up."

Trade marks identify and distinguish products and services. They stand for tradition and innovation, authenticity and quality. They are signals to the consumer triggering certain expectations and influencing purchasing decisions. For the trade mark owner (strong) trade marks ensure growth and recognition in the market.

## **Current developments**

After the decrease of filing figures in the years 2001 and 2002, the overall number of new national trade marks applied for has been rising significantly since 2003.

This development continued in 2006: we received 72,321 national trade mark applications. This is an increase of 2% on 2005. Regarding international registrations (IR), foreign requests for the grant of protection in Germany were slightly decreasing. The number of domestic requests for international registration stayed nearly flat.

For details on filing figures and completed procedures, please refer to the "Statistics" chapter. The ratio of goods to services applications was 54% to 46%. The balance shifted again towards service applications (2005: 57% to 43%). The absolute figure of service applications rose by 9.9% from 30,181 applications in the year 2005 to 33,164 applications in 2006.

The number of oppositions filed against registered trade marks remained unchanged, whereas the number of oppositions in total was slightly above the 2005 figure (details are presented in the "Statistics" chapter on page 62).

Due to the slight increase in new filings and because of staff leaving, vacancies, and the changeover to the new internal trade mark file management system at the end of May 2006, the number of pending procedures and processing times were slightly higher.

More than 1.1 million trade marks were protected in Germany at the end of 2006. Nearly 750,000 national trade marks are currently registered at the DPMA, and about 360,000 Community trade marks are registered at the Office for Harmonization in the Internal Market (OHIM) in Alicante, which also enjoy protection in Germany. The international registrations (IR) designating Germany must be added to these figures.

## **News from the trade mark department**

### **Entry into force of the 9<sup>th</sup> edition of the Nice Classification on 1 January 2007**

In 2006, the DPMA thoroughly prepared the entry into force of the 9<sup>th</sup> edition of the International Classification of Goods and Services for the Purposes of the Registration of Marks (Nice Classification) on 1 January 2007. The many amendments and other changes had been prepared by a committee of experts of the World Intellectual Property Organization (WIPO) in two sessions in October 2003 and October 2005.

For the German language area, the German Patent and Trade Mark Office established an English/German text edition in cooperation with the Austrian and Swiss IP offices, which has been published by Carl Heymanns Verlag. An overview on the main changes to the previous version is

Proprietor	Town	Country	Number
1 Deutsche Telekom AG	Bonn	DE	126
2 Henkel KGaA	Düsseldorf	DE	122
3 Häfele GmbH & Co KG	Nagold	DE	114
4 Volkswagen AG	Wolfsburg	DE	106
5 Beiersdorf AG	Hamburg	DE	104
6 Merz Pharma GmbH & Co. KGaA	Frankfurt	DE	99
6 TAD Pharma GmbH	Cuxhaven	DE	99
8 REWE-Zentral AG	Köln	DE	80
9 Merck KGaA	Darmstadt	DE	79
10 S&C Polymer Silicon- und Composite-Spezialitäten GmbH	Elmshorn	DE	76
11 Schering Aktiengesellschaft	Berlin	DE	65
12 MIP METRO Group Intellectual Property GmbH & Co. KG	Düsseldorf	DE	64
13 Vodafone D2 GmbH	Düsseldorf	DE	63
14 Bayer AG	Leverkusen	DE	59
15 FERRERO Deutschland GmbH	Frankfurt	DE	57
15 ZEG Zweirad-Einkaufs-Genossenschaft eG	Köln	DE	57
17 Interco Cosmetics GmbH	Wiesbaden	DE	55
18 Grünenthal GmbH	Aachen	DE	51
18 Intel Corporation	Santa Clara	US	51
20 Bristol-Myers Squibb Co.	New York	US	49
21 AUDI AG	Ingolstadt	DE	48
22 Bayerische Motoren Werke AG	München	DE	47
22 O2 (Germany) GmbH & Co. OHG	München	DE	47
24 NSM-LÖWEN ENTERTAINMENT GMBH	Bingen	DE	46
24 Plus Warenhandels-gesellschaft mbH	Mülheim	DE	46
24 Siemens AG	München	DE	46
27 Chiron Behring GmbH & Co. KG	Marburg	DE	44
28 Coty Deutschland GmbH	Mainz	DE	43
28 Kaufland Warenhandel GmbH & Co. KG	Neckarsulm	DE	43
28 Lackmann Fleisch- und Feinkostfabrik GmbH	Bühl	DE	43
28 TCHIBO GmbH	Hamburg	DE	43
28 TUI AG	Hannover	DE	43
33 Gruner + Jahr AG & Co KG	Hamburg	DE	42
34 BSH Bosch und Siemens Hausgeräte GmbH	München	DE	40
35 Société des Produits Nestlé S.A.	Vevey	CH	39
36 DaimlerChrysler AG	Stuttgart	DE	38
36 Eckes-Granini Deutschland GmbH	Nieder-Olm	DE	38
38 Fraunhofer-Gesellschaft e.V.	München	DE	37
39 The Coca-Cola Company	Atlanta	US	36
39 Unilever N.V.	Rotterdam	NL	36
41 ALTANA Pharma AG	Konstanz	DE	35
41 SolarWorld AG	Bonn	DE	35
43 Peter Planki	München	DE	34
44 Baden-Württembergische Kapitalanlagegesellschaft mbH	Stuttgart	DE	33
44 HARIBO GmbH & Co. KG	Bonn	DE	33
44 Lidl Stiftung & Co. KG	Neckarsulm	DE	33
47 Otto GmbH & Co KG	Hamburg	DE	32
47 QVC Handel GmbH	Düsseldorf	DE	32
49 Linde AG	Wiesbaden	DE	31
49 R. Seelig & Hille oHG	Düsseldorf	DE	31
49 Symrise GmbH & Co. KG	Holzminden	DE	31

Trade mark proprietors with more than 30 registrations in 2006

available at [http://www.dpma.de/veroeffentlichungen/mitteilungen/anlage\\_mittlg\\_16.pdf](http://www.dpma.de/veroeffentlichungen/mitteilungen/anlage_mittlg_16.pdf) (in German).

The annexes 1 to 3 to Sec. 19(1) of the Trade Mark Ordinance of 11 May 2004 were adapted accordingly with effect from 1 January 2007.

The 9<sup>th</sup> edition of the Nice Classification contains a large number of new terms, deletions of previous terms and many class changes.

“Legal services”, for example, were transferred from class 42 to class 45. This transfer has rounded off the composition of classes 42 to 45 that had been started with the 8<sup>th</sup> edition.

Many utilitarian objects that had been found at two places in the 8<sup>th</sup> edition, namely in a version “not of precious metal” and a second time in class 14 in a version “of precious metal” are now classified exclusively in the class covering the function, without reference to the material. This concerns mainly many objects in class 21, such as “containers for household or kitchen use”, “pepper pots” or “vases”, but also “cigarette holders” and “tobacco jars” (class 34).

The new wording of the explanatory notes to class 35 should be understood to mean that “retail services” are admissible, but also “wholesale services” or “mail order services”.

The German Patent and Trade Mark Office had anticipated this legal situation as early as in October 2005. As before, applicants are required to specify the goods or types of goods to which these services relate.

## **Establishing frequently used lists of goods and services**

The wording of the list of goods and services is of specific importance for a prompt processing of the application. The individual terms must be presented in a clear and comprehensible manner and must be attributed to the appropriate classes of goods or services of the Nice Classification. Lists using the terms recommended by the Office (available at <http://www.dpma.de/suche/wdsuche/suchen.html>) make the procedure easier for both sides and contribute to speeding up processing. The presentation in a grouped form makes the lists of goods and services clearer. It is easier to search for individual terms.

Since 2006 the German Patent and Trade Mark Office offers a new service to large applicants: they can draw up frequently used lists of goods and services once in advance in cooperation with our classification unit and later utilise these lists, unchanged, for future applications. The proposed lists should be based mainly on the generic terms and/or the alphabetical list of the Nice Classification. If lists are established jointly, in advance, the work involved in drawing up/processing new applications is greatly reduced for both, the applicant and the Office, since the list of goods and services is already available in an approved version and need not be further specified or corrected by the examiner in charge.

Approved lists of goods and services get an identification code, such as "XY, A15830757 of 28 August 2006". The approved lists are communicated to the competent trade mark examiners.

## **Quality assurance**

The trade mark divisions have the objective to deliver examination results and decisions with a high level of consistency. To achieve this goal, the DPMA issued a revised edition of the examination guidelines for trade mark applications in 2005. They are also useful for applicants to whom they provide concise and clear information on the current practice of the DPMA relating to procedures and examination. This information helps applicants to draw up trade mark applications that comply with the requirements of the trade mark units and to better assess the perspectives for success of an application. The guidelines (German title: "Richtlinie für die Prüfung von Markenmeldungen") are available at [www.dpma.de](http://www.dpma.de) and have been published in the official gazette Blatt für Patent-, Muster- und Zeichenwesen 7/2005, p. 245.

The guidelines for trade mark opposition proceedings will be revised in 2007.

The extensive manual "Handbuch für den Markenprüfer im nationalen Bereich", 2<sup>nd</sup> edition of 2005, is a valuable tool for trade mark examiners, available for internal use only. Senior examiners have offered valuable advice on current procedural issues and court decisions, hints for processing and other information on trade mark examination that have been compiled in this compendium.

## **New electronic trade mark file management system**

The new internal data processing system, which went live on 29 May 2006, will also contribute significantly to ensuring quality. It

replaced the former IT application from the year 1995.

The new system is a tailor-made integrated solution for all tasks occurring in (national) trade mark matters. It is the first overall IT system at the DPMA that supports full electronic processing of trade mark data.

It allows to process all procedural steps relating to trade marks fully electronically, from the capture of the application to examination and registration, to the administration of registered trade marks. This makes it easier to archive and harmonise data stocks. At the same time the new system contributes to harmonising the examination and decision practice of the DPMA. It also enhances the quality of data contained in publicly accessible databases, publications in the electronic trade mark journal and data supplied to third parties.

The integration of the "international registrations" field in the new system is another large project in the trade mark area. It was started in October 2006. First results are expected in 2008. It will allow to process and search files fully electronically. Just like for patents and utility models, the ultimate goal is to introduce an end-to-end electronic file system.

More information on the IT system is provided under "Information services and IT developments" (see page 34).

## **Current registration and cancellation practice**

### **Football world cup 2006**

The International Federation of Association Football (FIFA) had filed two applications at the end of 2005

and had tried again to register the term "WM 2006" as trade mark for the organisation and conducting of a football world cup and for a large variety of different goods and services, before the opening of the football world cup 2006.

As on previous occasions, FIFA disregarded trade mark law requirements for protectability and claimed that the term was perceived by the public, interested in football, as their trade mark because of their wide notoriety for services as tournament organisers (so-called acquired distinctiveness). As evidence for this public perception, FIFA produced two recent public-opinion surveys of June 2005 and June 2006. The second survey had even been conducted during the period of the world cup.

The degree of recognition of the term "WM 2006", documented in the surveys, and the identification of the term with FIFA rose significantly with the cup approaching, and specifically after the kick-off.

However, FIFA failed to prove that this was due to trade mark use of the term, ie. a use designating the origin, and not due to the extensive media coverage of the tournament.

The DPMA did not register the sign as a trade mark. The Office's decision had regard to a decision of the Federal Court of Justice (BGH) that had denied, in April 2006, distinctiveness of the mark "FUSSBALL WM 2006" for all goods and services claimed. The DPMA was also of the view that the conditions for effective acquired distinctiveness had not been met.

After rejection of one of the two applications, FIFA withdrew the other application.

### **Pope Benedict XVI**

Not only this world-renowned sports event, but also the new Head of the catholic church left their marks on the trade mark scene of 2006, the latter even without being involved in person.

When Benedict XVI, German by birth, was elected pope in spring 2005, the DPMA immediately received more than 60 trade mark applications containing his name or an allusion to him.

It goes without saying that none of these applications were filed by the pope himself, but rather by other persons who obviously wanted to make use of the advertising effect of this famous name.

Applications included ao. the official designation, "Papst Benedikt XVI.", in German, English and Latin, and all imaginable variations, as well as his civil name "Ratzinger", "Papst-Benedikt-Torte" (cake), "Benedikt-Brot" (bread), "Papstweizen" (beer), "Papstbier" (beer) and "Marktler Papstbier" (beer), "Original Marktler Papstbrand" (liquor), and the slogans "Habemus Papam" and "Wir sind Papst!".

However, in most cases the filing fee was not paid so that the files were closed very quickly. The remaining applications were very carefully examined as to those absolute grounds for refusal that were fairly obvious, ie. lack of distinctive character, bad faith in filing the application, or breach of ordre public and morality. Most applications were refused.

### **Yellow pages**

The cancellations of the trade marks "Gelbe Seiten" [Yellow Pages

in German] and "Yellow Pages", and the "POST" and "DIE POST" proceedings hit the headlines. These cases had been processed by the trade mark cancellation division of the German Patent and Trade Mark Office.

Concerning the "Gelbe Seiten" mark and in the "Yellow Pages" proceedings, the cancellation division held that the absolute grounds for refusal "lack of distinctiveness" and "need of the term to remain available for general use since the indication of the goods and services claimed was purely descriptive", above all, applied to the goods and services claimed at the time of filing and when the decision was taken.

The division is of the opinion that both expressions are being regarded as indications referring to business directories.

### **DIE POST**

The same grounds for refusal – "lack of distinctiveness" and "need of the term to remain available for general use since the indication of the goods and services claimed was purely descriptive" – applied to the term "POST".

The conditions for acquired distinctiveness, which had been claimed, had not been met at the time of filing.

The "DIE POST" case was different. In this case, a public opinion poll had shown that the trade mark had a reputation and was attributed to a business source. The cancellation division therefore recognised acquired distinctiveness. It had to be taken into account that the definite article "DIE" made the term more specific since it went beyond the general language term "Post".

The "Gelbe Seiten", "Yellow Pages", "POST" and "DIE POST" cases are now pending at the Federal Patent Court (BPatG) in the appeal stage.

### Domain names

The introduction of European Internet domain names with the top level domain ".eu" in December 2005 had soon a direct effect on the examination practice of the DPMA. In the first four months, the "sunrise period", only holders of earlier rights in the desired names, such as proprietors of registered trade marks, were entitled to apply for a ".eu" domain. The establishment of such domains is typically governed by non-distinctive key generic terms used in the relevant business areas. The types of goods or services for which a domain is intended to be used are not of relevance for the registration.

This is probably why the DPMA received whole series of trade mark applications requesting trade mark protection for generic terms, frequently consisting of a single word, such as "Spiele" (games), "Filme" (movies), "Kredit" (loan), "Reisen" (travel); sometimes the ".eu" country domain had already been added: "musik.eu", "fussball.eu", "nachrichten.eu", "immobilien.eu", "reisen.eu", or "kredit.eu".

Such functional designations are very suitable for Internet addresses, since they are advertising catchwords and provide quick orientation, similar to the product-related catchwords of business directories. Trade mark protection, however, is governed by other principles: descriptive indications or non-distinctive generic terms in combination with a country domain such as .de, .eu or a generic domain

such as .com cannot be registered, since the public concerned does not recognise them as trade marks, ie. as signs identifying the business origin of the goods or services. For this reason, the trade mark divisions rejected many of these applications.

### Recent trade mark case law

In 2006, one of the focuses of European and supreme German court rulings concerned again the protectability of signs in the category of unconventional marks. The relevant decisions of the European Court of Justice (ECJ) and of the Federal Court of Justice (BGH) provide guidance for the decision practice of the DPMA.

### Undelineated colour combination mark green/yellow



In an eagerly awaited decision on the undelineated colour combination mark green/yellow (case I ZB 86/05, Farbmarke grün/gelb II) the BGH, following an ECJ ruling (C-49/02), now considers such colour combinations to be capable of graphic representation only if the application contains indications concerning a systematic arrangement of the colours. The trade mark application which claims any arrangement of the colours does not meet this requirement. The BGH also excludes a subsequent limitation of the claimed mark to a certain arrangement of the two colours. Such modification of the subject-matter of protection is contrary to the principle that trade marks must not be modified.

### Smell of ripe strawberries

In the decision "Smell of ripe strawberries" (T 305/04) the Court of First Instance of the European Communities (CFI) considers the olfactory sign, which is not perceived visually, and which is described by the words 'smell of ripe strawberries' and accompanied by a colour picture, not to be suitable of graphic representation and therefore not to be registrable.



The description in words cannot exclude that smells are perceived subjectively; moreover, it is neither precise nor clear since the smell of strawberries varies from one variety to another. Finally, there is no generally accepted international classification of smells (comparable to the colour codes for colour marks and the musical notation for sound marks).

The accompanying picture of a strawberry does not constitute a graphic representation of the smell as such but only of the fruit emitting the smell. It does not contain any information other than the description in words. Since none of the elements satisfies all requirements of graphic representation, their combination cannot be regarded as a valid graphic representation. The CFI stresses that the requirements relating to the validity of a graphic

representation may not be modified or relaxed in order to facilitate the registration of smell marks.

### Registration of product packagings as trade marks

The ECJ maintained its established case-law regarding the trade mark registration of product packaging in 2006. According to this practice, distinctiveness is assessed by the general criteria. However, it must be taken into consideration that consumers normally do not perceive the form and packaging of goods as an indication to the specific commercial origin and that the public's perception is not necessarily the same as it is in the case of signs unrelated to the appearance of the products. Distinctiveness can only be created by shapes which depart significantly from the norm or customs of the sector.

The ECJ does not recognise such significant differences, compared to the relevant known shapes, in relation to a series of three-dimensional marks featuring various shapes of stand-up pouches for fruit drinks and fruit juices (C-173/04) nor in relation to a two-dimensional representation in perspective of a sweet in a gold-coloured wrapper with twisted ends (C-25/05). Since the consumers addressed do not usually have detailed knowledge of the market, the comparison of shapes need not necessarily be limited to the sector of the specifically claimed goods. It may also include related



products and products offered in similar packaging (for example, not exclusively fruit drinks and fruit juices, but the sector of liquids for human consumption in general).

### Registration of a covering of a vehicle seat as a tactile mark

In its decision on the part of a covering of a vehicle seat, applied for as a tactile mark, the BGH (case I ZB 73/05) recognises that a sign perceived via the tactile sense can, on principle, constitute a trade mark. The court considers the requirements of graphic representation to be met if the characterising properties of the object perceived by tactile means can be specified sufficiently



objectively in a precise and clear manner. A mere reproduction of the object is not sufficient. Rather, concrete and sufficiently specified indications are required on the main features of the object, which can be perceived via the tactile sense. In that case it is not necessary to designate the sensory perceptions that are triggered by the tactile sense.

Consumers should get an indication as to the origin of goods or services from a certain company by perceiving concretely described properties. In the specific case, there was no sufficiently detailed and thus precise description of the properties or impressions to be perceived by tactile means. Since the applicant merely made reference to the submitted pictures, which mainly allowed to recognise the outer shape of a vehicle seat as a three-dimensional appearance, the appeal was dismissed.

### Diplomatic conference of WIPO for the adoption of a revised Trademark Law Treaty

A diplomatic conference of WIPO for the adoption of a revised version of the Trademark Law Treaty (TLT) of 1994 was held in Singapore from 13 to 28 March 2006 at the invitation of the Singapore government. A representative of the German Patent and Trade Mark Office participated in the conference.

The revised Singapore Treaty has extended the provisions of the TLT currently in force, to which the Federal Republic of Germany had adhered in 2004. It aims to further harmonise the formal trade mark application procedures world-wide. This harmonisation should allow applicants to obtain trade mark



protection more easily in foreign jurisdictions. New rules provide for wider acceptance of non-traditional types of marks and the introduction of electronic communications by national offices. The new provisions are in line with German trade mark law.

The "Final Act" of the conference was signed by 119 member states of WIPO, including the Federal Republic of Germany. At the same time 41 member states signed the new Treaty, which, however, has not yet entered into force. The entry into force is subject to the ratification by at least 10 member states or intergovernmental organisations having a regional trade mark office.

### **INTA 128<sup>th</sup> Annual Meeting**

The annual conference of the International Trademark Association (INTA), attracting more than 7,000 attendees, is the largest meeting world-wide of company representatives and trade mark and IP practitioners.

For the third year running, the DPMA participated in the yearly conference that took place in Toronto from 6 to 10 May 2006. The national trade mark offices of Denmark, France, Germany, Ireland, Lithuania, Portugal, Sweden and the United Kingdom shared a joint stand, set up by the UK Patent Office. Staff members provided information on national systems of trade mark protection to the many visitors from Canada, the US, Europe and Asia. The presence of the national offices was well received. It provided a networking forum and triggered many lively discussions on the advantages of national, European and international systems of IP protection.

Berlin will be the first German town to host INTA's 130<sup>th</sup> annual conference in May 2008.

### **2<sup>nd</sup> German Day at the Office for Harmonization in the Internal Market**

After the positive response to the first event in April 2005, the Office for Harmonization in the Internal Market (OHIM) organised the 2<sup>nd</sup> German Day in Alicante on 16 October 2006. Many members of German IP organisations such as the German Association of Industrial Property and Copyright (GRUR), the German Trade Mark Association (Markenverband), the Association of Intellectual Property Experts (VPP) and patent and trade mark attorneys met for an exchange of views on current issues.

The Heads of the DPMA, the Chamber of Patent Attorneys and the OHIM took part in the talks and discussions.

The open and beneficial discussions focused on general questions of the trade mark procedure. The participants highly welcomed the OHIM's efforts to enhance the quality of decisions and to foster uniform registration practice of Community marks.

Other discussions concerned the newly rising filing figures, the current state of e-filing systems and the measures of the OHIM to reduce pendency times. Community design issues were also addressed.

At the end of the 2<sup>nd</sup> German Day at the OHIM, DPMA President Dr. Jürgen Schade thanked OHIM President Wubbo de Boer and his Office for listening to the problems and suggestions of German users.

This cooperation helped to avoid and eliminate misunderstandings. In his farewell remarks, the OHIM President pointed out that the OHIM wishes to continue this close cooperation: "Goodbye – see you at the 3<sup>rd</sup> German Day".

### **Trade Mark Forum**

The programme of the Trade Mark Forum 2006, which took place from 15 to 17 November 2006 in Munich, covered many different topics and was again well received by several hundred attendees from the "trade mark family". At the invitation of the Trade Mark Association (Markenverband), which had again organised the meeting together with the German Patent and Trade Mark Office and the Federal Patent Court, specialised attorneys-at-law and patent attorneys, representatives of manufacturers of branded products, DPMA staff and judges of the Federal Court of Justice (BGH) and the Federal Patent Court (BPatG) discussed current issues in the field of trade mark and competition law.

In her opening remarks, Federal Minister of Justice Brigitte Zypries emphasised the high value which the Federal government placed on the protection of intellectual property in Germany, Europe and at world level. She announced strong initiatives of the Federal government for Germany's EU Council and G 8 presidencies in 2007. In addition, she presented the government's draft law for improved enforcement of intellectual property rights to an interested specialist audience.

Dr. Wolfgang Hübner (OECD), attorney Jan Wrede and Jack Chang (Chairman of the Quality Brands Protection Committee) then



*The participants of the 2<sup>nd</sup> German day at the Office for Harmonization in the Internal Market in Alicante*

presented papers on "Product and trade mark piracy".

The afternoon session covered "Trade mark law in the EU". Ms. Beate Schmidt (OHIM) provided insights into the work and examination practice of the Office for Harmonization in the Internal Market. Attorney Prof. Dr. Rohnke analysed recent trends of the ECJ's case law relating to trade marks. Other lectures discussed filing and enforcement strategies in the EU member states (attorneys Dr.

Hans Peter Kunz-Hallstein and Dr. Matthias Koch).

On the second day, the Trade Mark Forum outlined many different "Perspectives for the development of trade mark and competition law". Prof. Dr. Joachim Bornkamm (Presiding Judge at the BGH) analysed the impact of recent decisions on procedural competition law. Attorney Dr. Thomas Schulte-Beckhausen defended the so-called "desk drawer interim injunctions". Prof. Dr. Karl-Heinz Fezer (university

of Konstanz) presented a paper on the scope of application of misleading marketing of products under the "Unfair Commercial Practices Directive". Attorney Dr. Andreas Lubberger discussed IP infringement by eBay and similar services, responsibilities and defensive strategies. The conference, which had covered a wide range of topics, ended with a discussion on the lecture of attorney Thomas Raab on the eligibility of big sports events for trade mark registration.

# Designs

## Keyword: Designs

The success of products on the market depends not only on the price and the quality but also on an attractive design which appeals to the emotions of customers. Together with a trade mark and the company image, product design can become an important asset whose value may grow over the years.

Product design can create a visual identity promoting and advertising the company image. For example, the high demand for iPods shows that the commercial success of a product can be due, in particular, to its design. Meanwhile, iPods account for about 40% of Apple's annual sales. Experience also shows that anything that is successfully established and sold on the market will be copied within a very short time. According to information provided by the German Association of Chambers of Commerce and Industry (DIHK) the damage caused in Germany by product counterfeiting and trade mark piracy amounts to 30 bn EUR per year.

The registered design right is the appropriate IP right to fight



Apple iPod U2

imitators and to prevent or at least effectively prosecute copying. After registration, action against imitators can be taken under civil law (ao. claim for damages) and criminal law (prison sentence). Registration of a design confers to its owner the exclusive right to use the design. Designs protection thus allows to cover development costs and to earn profits. Designs protection is also a basis for the market participants' willingness to invest and innovate.

### Facts, figures, data

The Designs Unit of the German Patent and Trade Mark Office in Jena is in charge of central processing of designs applications, and the registration and administration of these IP rights. In 2006, 51,014 designs were filed for registration. This is a marked

increase of 6.1% over the 48,083 designs filed in 2005.

Requests for the registration of a total of 48,482 designs (2005: 52,572) were conclusively processed, and 46,557 designs (2005: 50,070) were entered in the designs register (cf. Fig. 1).

### Individual statistical analyses

57.3% of the applicants opted for grouping up to 100 designs in one multiple application (2005: 56.3%). On the average, 14 designs were filed per multiple application (2005: 13 designs).

Deferred publication was requested for 46.3% of the designs applied for (2005: 47.7%).

The proportional share of designs filed by foreign applicants stayed

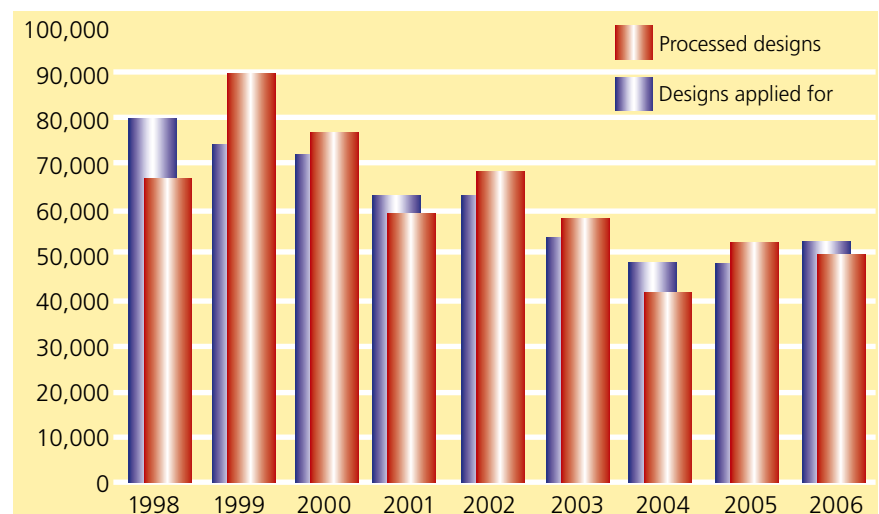


Fig. 1: Designs applied for and processed designs

flat at 23.1%. This means that 76.9% of the designs were again filed by applicants from Germany.

57% of the foreign designs applied for came from Austria, 19.8% from Italy and 9.2% from the US (cf. Fig. 2.1).

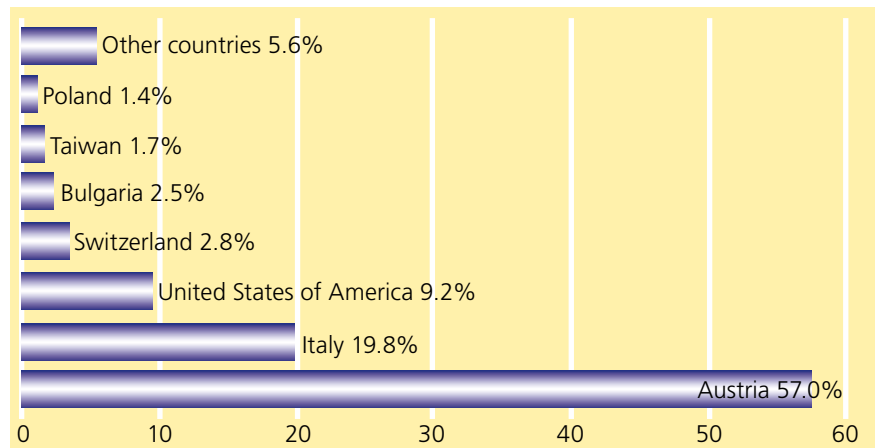


Fig. 2.1 Distribution of designs filed by foreign applicants

29.7% of the domestic designs applied for were filed by applicants from North-Rhine/Westphalia (2005: 23.3%), followed by 22.6% from Bavaria (2005: 27.2%) and 19.4% from Baden-Württemberg (2005:19.2%) (cf. Fig. 2.2).

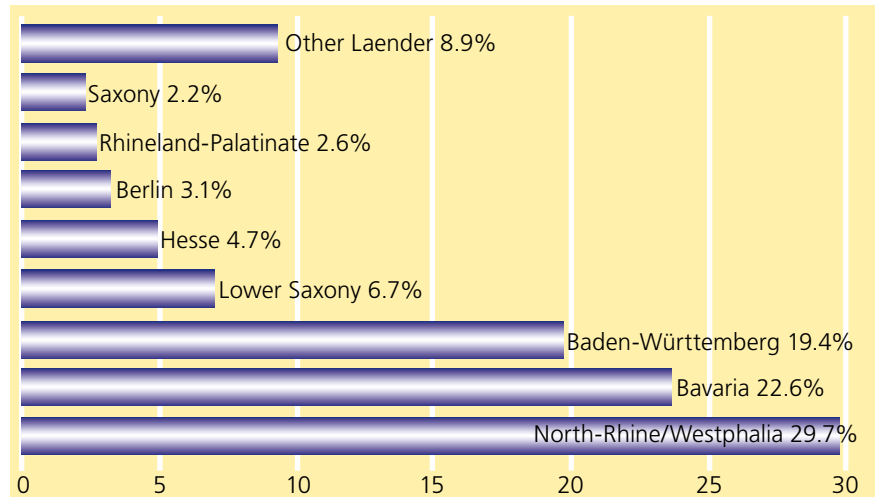


Fig. 2.2 Distribution of designs filed by domestic applicants

If more than one product is indicated in relation to a design, it may be necessary to classify the design several times. The 46,557 designs (2005: 50,070) registered in 2006 resulted in 81,642 class entries (2005: 87,326). The percentages of the registrations in the various classes of goods are shown in Figure 3.

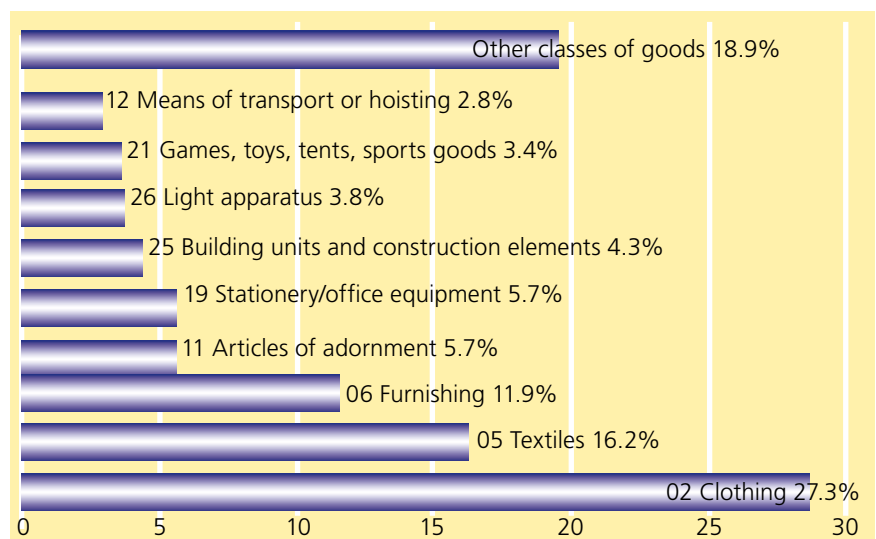


Fig. 3 Distribution of classes of goods

The 2006 development of the figures for procedures after registration in the designs register (eg. renewals and cancellations, but also extensions of protection and assignments) is shown in Figure 4.

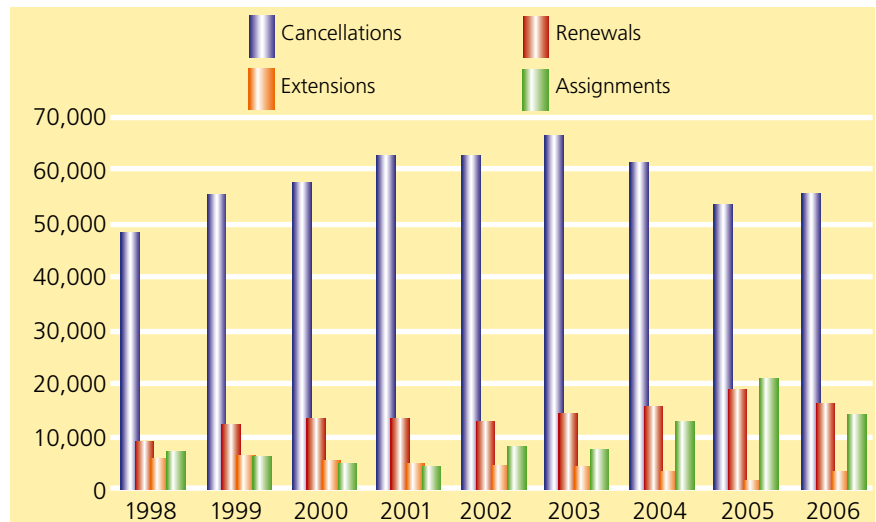


Fig. 4 Development of renewals, cancellations, extensions, assignments

### Messe Frankfurt against copying

In the year 2006 the Designs Unit of the German Patent and Trade Mark Office took part in the initiative "Messe Frankfurt against copying". The Office for Harmonization in the Internal Market (OHIM), Aktionskreis Deutsche Wirtschaft gegen Produktpiraterie e.V., Aktion

Plagiarius e.V. and the central unit for IP protection of the customs services also joined in the campaign.

The initiative "Messe Frankfurt against copying" has been targeted at exhibitors and the public at fairs held in Frankfurt. Visitors came

to the initiative's stand to enquire about general options to protect intellectual property and to discuss concrete problems with copied products. Staff of the partner organisations provided first hand information on early protection of products and designs and on efficient enforcement of rights. The campaign was very popular and will be continued in 2007, once again with the participation of the German Patent and Trade Mark Office.



Information stand of the initiative "Messe Frankfurt against copying"

# Copyright

## Supervision of collecting societies

Collecting societies are associations of authors and owners of related rights, organised under private law (eg. composers, writers, authors, artists, photographers, film performers, producers of sound recordings, film producers). The rightholders assign their user and licensing rights relating to the copyrighted works as well as their claims to remuneration to the collecting society in charge by concluding an administration and authorisation contract.

In the age of mass use of copyrighted works it would be nearly impossible for authors or owners of related rights to enforce their rights of use and claims to remuneration individually. This is why rightholders conclude so-called administration or authorisation contracts with collecting societies and assign their rights and claims to these societies.

The collecting society holds the rights in trust, administering them on a collective basis. It grants licences, ie. it authorises the use of works and requests an equitable remuneration according to tariff groups set up in advance. The distribution of the income to rightholders is governed by fixed rules, the so-called distribution scheme.

Collecting societies are subject to government supervision. The German Patent and Trade Mark Office acts as the supervisory authority and grants authorisations to conduct business in agreement with the Federal cartel office. In 2006, 12 collecting societies had this authorisation.

Collecting Societies		Total Budget <sup>1</sup> 2005
GEMA	Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte, rechtsfähiger Verein kraft Verleihung	852,223,733.32 €
GVL	Gesellschaft zur Verwertung von Leistungsschutzrechten mbH	154,217,241.13 €
VG WORT	Verwertungsgesellschaft WORT, rechtsfähiger Verein kraft Verleihung	94,839,248.48 €
VG Musik-edition	Verwertungsgesellschaft Musik-edition, rechtsfähiger Verein kraft Verleihung	2,462,583.87 €
VG Bild-Kunst	Verwertungsgesellschaft Bild-Kunst, rechtsfähiger Verein kraft Verleihung	39,605,112.61 €
GÜFA	Gesellschaft zur Übernahme und Wahrnehmung von Filmaufführungsrechten mbH	9,189,358.50 €
VFF	Verwertungsgesellschaft der Film- und Fernsehproduzenten mbH	14,551,567.98 €
VGf	Verwertungsgesellschaft für Nutzungsrechte an Filmwerken mbH	14,047,043.44 €
GWFF	Gesellschaft zur Wahrnehmung von Film- und Fernsehrechten mbH	33,161,953.80 €
AGICOA GmbH	AGICOA Urheberrechtsschutz-Gesellschaft mbH	16,504,092.46 €
VG Media	VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH	33,847,355.68 €
VG Werbung	VG Werbung + Musik mbH	0 €
<b>Total</b>		<b>1,246,649,291.27 €</b>

<sup>1</sup> The total budget includes income from licences and claims to remuneration, income from interests and securities as well as other operating revenues.

The DPMA is constantly examining whether the relevant conditions for granting authorisation continue to exist and ensures that the collecting societies fulfil their other duties under the Copyright Administration Law. To comply with its responsibilities the DPMA is entitled to demand ample information and to attend the meetings of the various boards of the collecting societies.

The DPMA can prohibit a collecting society that exercises its activity without the required authorisation from continuing to conduct business. Furthermore, all necessary measures can be adopted to ensure that a collecting society fulfils its obligations.

In 2005, the authorised collecting societies had a total income of

roughly € 1.247 bn (the 2006 figures were not yet available at the copy deadline). The income of each individual collecting society may be seen from the chart "Collecting Societies".

### **Register of anonymous and pseudonymous works**

Authors who previously published their works anonymously or under a pseudonym may have them registered under their real name in the "Register of Anonymous and Pseudonymous Works". The copyright expires 70 years after publication for works that were published anonymously or under a pseudonym. Copyright expires 70 years after creation of the work if the work was never published during this period

of time. If a request is filed for recording the true name of the author in the register kept at the DPMA, copyright expires 70 years after the death of the author. The register does not constitute a documentation of all works protected by copyright, but is only relevant for the term of protection of works published anonymously or pseudonymously.

In 2006, the true name of the author was submitted for registration in respect of 18 works; registrations were entered in seven cases. In total, 711 works by 381 authors are recorded in the register (31 December 2006). Further statistical data for 2006 are provided in the table "Register of Anonymous and Pseudonymous Works" (see chapter "Statistics").

# Copyright Arbitration Board

The Arbitration Board under the Law on the Administration of Copyright and Neighboring Rights (Copyright Administration Law) mainly mediates disputes between collecting societies and users of copyright works and performances. For example, the Board deals with disagreements between Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte (GEMA) and concert organisers, discotheque operators, broadcasting organisations or producers of phonograms. Since 1998, the Board also deals with disputes between broadcasting organisations and cable network operators. Proceedings frequently relate to individual applicability and equitability of tariffs set up by collecting societies.

The Arbitration Board strives to reach amicable arrangements over pending disputes. Where this goal is not achieved in the course of the proceedings, for example by way of an amicable settlement, the Arbitration Board submits a settlement proposal to the parties. If this proposal is not contested, its effect is similar to a court judgement. The Arbitration Board is constituted at the German Patent and Trade Mark Office (Sec. 14 Copyright Administration Law). Yet it is an independent institution, ie. not identical with the DPMA as supervisory authority of the collecting societies (Sec. 18 Copyright Administration Law).

In the year 2006, the Board received 75 new requests and concluded 68 proceedings (including six inclusive contract proceedings). The number of proceedings pending at the end of the year amounted to 118. This figure includes only two inclusive contract proceedings. In one of these inclusive contract proceedings it seems possible, after the discussions at the hearing, that the parties will reach an agreement and that the Board need not issue a decision.

An inclusive contract is a contract between a collecting society and an association whose members exploit works or performances in a way that is relevant under copyright law.

The Arbitration Board cleared processing backlogs. The average duration of proceedings is currently about one year. The conciliation and settlement proposals of the Board were accepted in nearly 60% of the cases. The actual settlement rate is likely to be even higher since

parties sometimes formally object to settlement proposals. These settlement proposals are often the basis for settlements under civil law concluded outside arbitration proceedings.

Two inclusive contract proceedings were of particular importance. They concerned the capacity of an association for online use of music and ringtones to conclude an inclusive contract. In the first case it had to be clarified, in the area of "music-on-demand" services, who was to be considered as the user within the meaning of Sec. 11(1) Copyright Administration Law and thus the person obliged to take a licence. The second case concerned the submission of an inclusive contract on the licensing of ringtones.

The Board also examined whether GEMA's tariff for so-called content providers was equitable. Content providers offer musical works to end-users for downloading over the

Internet and storage to PCs. The decision of the Arbitration Board is probably the first decision – at least in Germany – dealing with an equitable licence fee rate for the use of musical works over the Internet.

Furthermore, the Arbitration Board has developed guidelines that allow to fix uniform and equitable remunerations for the use of music at town and street festivals, applicable all over Germany.

Due to the Arbitration Board's mediation, several antenna associations committed themselves towards VG Media to pay an equitable remuneration for cable retransmission of TV and radio broadcasts according to Sec. 20b(1) Copyright Law.

In addition, an association and VG Wort concluded a settlement before the Arbitration Board concerning the distribution of press reviews.



# Arbitration Board under the Law on Employees' Inventions

The Arbitration Board deals with disputes between employers and employees who have made an invention within the scope of their employment. The subject of such proceedings is, above all, to fix an equitable compensation for the employee, if the employer has filed a patent or utility model application for the employee's invention and exploits the invention.

In many cases, the parties to a dispute on compensation for the inventor must appeal to the Arbitration Board before bringing the case before the court. The Board submits settlement proposals to the parties. The parties may accept them as binding, but they may also object to the proposals or conclude a settlement outside the office. The Arbitration Board consists of a three-member panel: a legal expert, who is the chairman, and two DPMA patent examiners specialised in the relevant technological field.

In 2006, the Arbitration Board received 52 requests. The Arbitration Board was again very successful: the settlement proposals submitted were accepted in far more than half of the cases. The actual settlement rate is even higher. Employers sometimes formally object to settlement proposals for general business reasons, but later conclude settlements outside the arbitration proceedings which are based on the settlement proposal.

The Arbitration Board dealt again with a large variety of legal problems of employee invention law. Difficult questions arose in particular with regard to the equitable compensation to be awarded to the employee for a patent used by several branches of a multinational corporate group.

The Board also had to determine the reasonable amount of remuneration to be awarded to an inventor where the employee

invention was incorporated into a patent pool held by several companies.

It is also difficult to determine the inventive value of a patent for an employee invention which is sold together with many other IP rights and assets as part of the sale of an entire business unit.

# Patent Attorneys and Representatives

## Keyword: Patent attorneys

Under the German law on legal counselling (Rechtsberatungsgesetz), only members of the legal profession are authorised to give advice in legal matters. This principle shall be maintained under the new law on legal services (Rechtsdienstleistungsgesetz) which is scheduled to come into force in 2007.

Whereas attorneys-at-law are entitled to give advice in all fields of law, patent attorneys specialise in matters relating to industrial property protection. Patent attorneys hold a university degree in natural sciences or engineering and must complete a one-year technical training before starting a three-year training under a patent attorney, at the DPMA and the Federal Patent Court (Bundespatentgericht) to gain the required qualification in the field of law. The DPMA admits candidates to the training and organises the training and the examination. Furthermore, it decides on the admission to the profession or the revocation of the admission. The DPMA is thus the central admission authority for patent attorneys.

In 2006, the number of new trainees remained at the high level of the preceding years. Likewise, the number of examination candidates and newly admitted patent attorneys remained unchanged. 131 new patent attorneys gained admission to the profession in 2006. The apparent decrease on the preceding year, when 178 patent attorneys had gained admission, is easily explained. A new provision concerning an insurance and pension system for patent attorneys entered into force at the beginning of 2006. As a consequence, many candidates opted for early admission in 2005. This distorts the 2005 and 2006 figures. The average value of these years is 154 and very close to the

average of 142 admissions of the years 2000 to 2006.

As in the previous years, the number of cancellations from the register, amounting to 43, was markedly lower than the number of new admissions. The number of patent attorneys registered at the end of the year reached an all time high of 2,477, an increase of approx. 30% on the year 2000 (1,892 patent attorneys).

171 out of 186 candidates gained a pass in the 2006 examination. In 2005, 151 of 162 candidates were successful. Due to the continuing high number of candidates it will be necessary to set up four examination boards instead of the currently

three boards. The training and examination ordinance for patent attorneys was modified accordingly.

The DPMA provides another important service relating to patent attorneys and representatives. We register general powers of attorney and employees' powers of attorney for the applicants and their representatives. 904 new general powers of attorney were registered in 2006.

New provisions on the registration procedure entered into force on 1 June 2006. They simplify and modernise the former procedure considerably. You will find the new rules (in German) on our website at [www.dpma.de](http://www.dpma.de).

# Information Services and IT Developments

## Electronic case file

The DPMA aims at introducing electronic case files for all types of industrial property rights. As a first step to achieve this aim, we contracted IBM Deutschland GmbH in 2006 to develop a new user system for the patent and utility model areas and to assist the DPMA in introducing the system. A new system for managing the addresses of applicants and representatives (DPMAadressen system) will also be developed. By this means, it will be possible to replace the administration mainframe (ZVR) by 2010.

As early as in 2004, we gained IBM Deutschland GmbH as a strategic partner for the introduction of electronic case file processing. A frame contract was concluded to ensure long-term cooperation.

To establish the new system, focus was placed on business processes in the patent and utility model areas. The necessary preparations, such as analysis of business processes, were concluded in the conceptual phase in 2005.

In 2006, we prepared the development and implementation of the new user system. In this context, we optimised 57 business processes (some very complex), which had been modelled in the conceptual phase. The results of the optimisation of business processes and of the documented conceptual phase form the basis of the development and implementation contract awarded on 27 July 2006. At the same time, we began to prepare the detailed concepts.

## Preparations

Since the new user system is very complex and in order to minimise risks, the "electronic case file patent/ utility model (EISA Pat/ Gbm)" will be implemented in individual stages building on each other, the so-called releases.

Before work began, new hardware was installed for development, testing and live operation. EISA was provided with new servers and a central storage system.

The individual releases implement the following program parts:

- **Release DPMAadressen**  
First we will implement a new system for managing the addresses of applicants and representatives (DPMAadressen). Developments will presumably be concluded in early 2007.

Work for Release 1 for patents/ utility models was launched in parallel with Release DPMAadressen.

- **Release 1**  
The internal DPMA information system will be developed in the first evolution stage. It comprises search and display functions of master file records. In addition, we integrate the function to print out a hardcopy of the screen content.

Furthermore, the document management system (DMS), a filing system for electronic files, will be integrated.

To test the automated receipt of documents at an early stage, test scanning facilities will be

established during Release 1. By this means, newly filed applications will be test scanned.

The functions of Release 1 will most likely be available by the end of February 2008.

- **Release 2**  
Release 2 introduces the initial entry of data to the new system. In addition, the internal information system will be completed and the central printing component will be developed.

External systems will also be incorporated in Release 2. This applies to, for example, the publication platform or data imported from WIPO (World Intellectual Property Organization).

Furthermore, we will begin to implement business processes which predominantly fulfil horizontal functions. Horizontal functions comprise services requested in several business processes, for example, distribution of documents, cancellation of file numbers, division or appeal.

The establishment of the scanning facilities (suitable for live operation) will be concluded in Release 2 so that it will be possible to scan old files.

Completion of Release 2 is scheduled for February 2009.

- **Release 3**  
Release 3 will replace the administration mainframe (ZVR). The processes concerning the key duties of the DPMA

will be implemented, for example, examination and search procedures, or formal and substantive examination procedures for the IP rights: patents, utility models and topographies.

### DPMAzahlungsverkehr

In 2006, the development of the new payment transaction system (DPMAzahlungsverkehr) was completed, and the new system was successfully tested and passed acceptance tests. The new system allows to manage fees in an easy way and to assign them to the individual IP applications. It is also possible to exchange fee information and payment information over a new bidirectional interface between the SAP system and the specific sub-systems. By this means, it is not longer necessary to make a detour via the administration mainframe (ZVR) for the trade mark and design areas. The new payment transaction system (DPMAzahlungsverkehr) will replace the old system in the first quarter of 2007.

### Central indexing service DPMANutzerverzeichnis

The users of the IT systems of the DPMA will be authenticated and authorised by a central indexing service (DPMANutzerverzeichnis). Central administration of the user data will reduce the necessary data maintenance.

The adjacent figure shows the project status and gives a general overview of the planned “electronic case file” project timescale.

### The new electronic trade mark file management system

The more than 400 staff members of the trade mark area use a new IT system, launched on 29 May 2006.

This very complex and integrated “umbrella” system reproduces all processes relevant under trade mark law and allows to manage documents established within the system and to publish trade mark data according to legal requirements.

### Changeover to the new system

The new electronic trade mark file management system has replaced several programmes used since 1995.

Staff received training on how to work with the new system, and data were migrated from the old to the new system.

The project to develop and implement a new IT system for the

trade mark area, started in 2003, was now successfully completed, thanks to the targeted and effective cooperation of all people involved.

### Operation of the new electronic trade mark file management system

Staff use the new system to process trade mark applications, renewals and similar procedures. The system reproduces the specific processes in an overall framework and has built-in safety mechanisms (plausibility checks). This creates a comfortable working environment, complying with the current legal and organisational outline conditions.

The programme proposes procedural steps and document templates according to the current state of procedure and carries out certain steps automatically, if possible and useful. For example, if due fees have been paid, the term of protection of the trade mark will be extended automatically by the system. If a proprietor of many

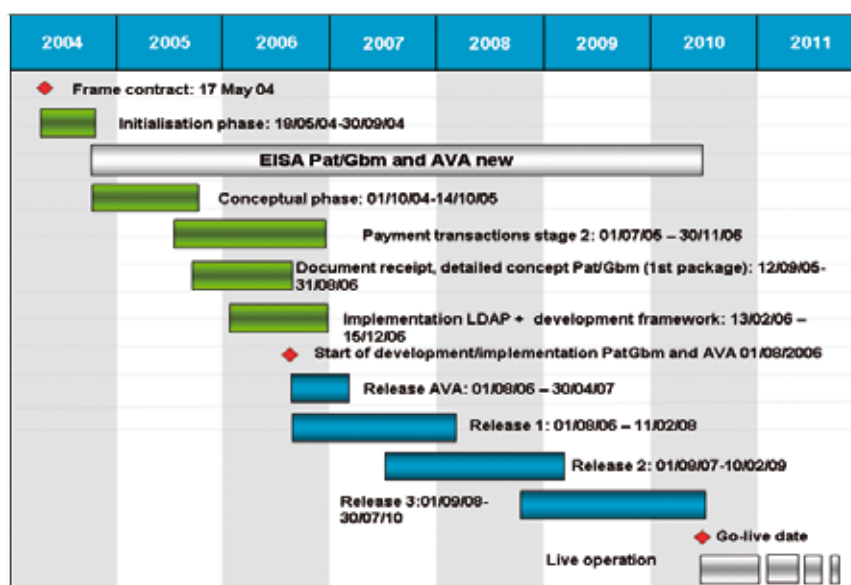


Figure 1: Project timescale from 2004 to 2011 of the “Electronic case file patent/utility model (EISA)”

trade marks changes his address, this can be recorded via a so-called "leading file". This avoids carrying out many identical processing steps for affiliated cases.

Other wide-ranging functionalities are available, above all, for quality assurance purposes. For example, it can be checked automatically whether a list of goods and services complies with the official classification list.

### Cooperation with the developer

Hewlett Packard, who developed the new IT system, will be involved for a post-introduction period of one year. During this period, the system will be further improved and adapted according to the staff's proposals and wishes.

### Outlook

The future integration of the "international registrations" (IR) area will considerably extend the current system. The IR area of the DPMA transmits requests for the international registration of trade marks applied for or registered in Germany to WIPO (World Intellectual Property Organization) in Geneva and receives requests for the grant of protection in Germany from the IB. It is not yet possible to process such requests using the new system.

International registrations, which have been granted protection in Germany, are an integral component of our trade mark landscape. For this reason, we are very interested in integrating the IR area into the new electronic trade mark file management system. The development and implementation of

the required system extensions will constitute one of the main project tasks of the next three years.

### Electronic filing of IP applications

Since 4 October 2006 the PaTrAS 2.1 Software (Patent and Trade Mark Application System) has been available for the electronic filing of IP applications according to schedule. PaTrAS was completely revised and now offers additional functions. The following documents can be submitted online via the integrated virtual mail office (VPS) of the federal German administration:

- German and European patent applications
- PCT applications
- Trade mark applications
- Utility model applications
- Appeals concerning patent and trade mark matters
- Oppositions concerning patent matters
- Direct debiting mandates

A so-called integrated forms editor guides users through the application forms. The description of patent and utility model applications can be prepared with a description editor, which is also supplied. The editors will assist the applicants in filling in their applications in a simple and easy manner.

In order to be able to accept all mentioned requests and documents electronically, the creation of the legal framework ran in parallel with the development of the software.

The electronic IP application is essentially compatible with the epoline® software of the European Patent Office (EPO). This means that a national application (DE), a

European application (EP) and an international application (PCT) can be filed at both offices, the DPMA and the EPO, using PaTrAS. An XML description generated for the national application can also be used for a European or an international application.

To make sure that the IP law firm software of the applicants is compatible with the PaTrAS system the DPMA has concluded partnership agreements with producers of these software products. The producers can integrate e-filing of IP applications into their systems. Furthermore, producers can use the "PaTrAS-Partner" logo on their software products. A list of the partner companies is available at [www.dpma.de](http://www.dpma.de).



The software orders and download figures of PaTrAS 2.1 confirm the great interest of the applicants in online filing. The electronic trade mark application and the direct debiting mandate are the favourites.

### Enquiry units in Munich, Jena and Berlin

Our enquiry units in Munich, at the Jena Sub-Office and at the Technical Information Centre in Berlin are the first contact points for our applicants, particularly for small and medium enterprises and individual

inventors. The enquiry units are in charge of providing information on the filing routes, procedures and requirements. The enquiry units are not authorised to provide legal advice for individuals. Only patent attorneys and attorneys-at-law are entitled to offer individual legal counselling, under the Law on Legal Advice and Assistance.

The enquiry units can be contacted on the central phone number +49 89/2195-3402. We are also pleased to promptly answer your written enquiries (by mail, fax or e-mail). You can also visit the enquiry units (in person) to gather information

- in Munich:  
Monday through Thursday from 8:00 to 16:00, Friday until 14:00
- in Berlin:  
Monday through Thursday from 7:30 to 15:30, Friday until 14:00
- in Jena:  
Monday through Thursday from 9:00 to 15:30, Friday until 14:00 (addresses see service part, p. 65).

Fact sheets and forms for the various IP procedures can be downloaded from the DPMA Internet portal at [www.dpma.de](http://www.dpma.de). We will be pleased to send you the documents by mail.

In 2006, the staff of the three enquiry units answered almost 113,000 calls, just under 17,000 e-mail enquiries and about 5,500 enquiries received by mail, and provided information to roughly 12,000 visitors at the three locations in Munich, Berlin and Jena.

### **Counselling for inventors in Munich and Berlin**

In cooperation with patent attorney associations in Munich and Berlin, the enquiry units organise and

arrange free initial consultations for inventors, which take place at the DPMA premises. Patent attorneys give free advice to first-time applicants on patents, utility models, trade marks and designs. Appointments can be made with the enquiry units either in writing or by telephone.

The patent information centres, many Chambers of Commerce and comparable service institutions also offer free initial consultations for inventors. The enquiry units will be able to advise you whether there is a consultation service local to you.

### **Public search rooms of the DPMA in Munich and Berlin**

At the public search rooms of the Office in Munich and Berlin, expert staff provide information on the large variety of search options in the field of industrial property protection to visitors. They

- explain the search options in the extensive collections of patent documents. These collections are available on the Office's internal database DEPATIS and via the Internet in DEPATISnet, on CD-ROM or in conventional form (paper or microfilm);
- explain the various classifications (International Patent Classification IPC, Nice Classification, International Classification of the Figurative Elements of Marks under the Vienna Agreement, Locarno Classification) and determine in cooperation with the visitors the relevant classes for the search;
- enable visitors access to the Internet portals of the DPMA, the European Patent Office, WIPO and other national patent offices via PCs available in the public search rooms;

- provide information from the DPINFO legal status register and provide access to foreign registers on the Internet;
- assist you in your searches for trade marks and designs;
- provide the patent gazette, trade mark journal and designs gazette;
- enable on-the-spot file inspection.

The collections from Eastern Europe and the USSR/Russia (since 1924) in the public search room of the Technical Information Centre in Berlin are also worth mentioning. Those documents are usually not included in DEPATIS. In addition the Technical Information Centre in Berlin has numerous information means dating from before 1945 for historical patent searches.

In addition to the collection of patent documents, visitors of the public search rooms may also use the extensive DPMA library collection of technical-scientific literature and literature on industrial property protection. Everybody can also use the interlibrary lending service of German libraries.

In 2006, about 19,000 visitors came to the public search rooms in Munich and Berlin. Just over 3,200 visitors attended training courses or guided tours of the information facilities of the DPMA. The number of people contacting the enquiry units, search rooms and database support totalled almost 170,000. This total number also includes visitors who contacted the DPMA information stand on various fairs.

### **Search workshops**

In 2006, for the first time, the staff of the public search room in Munich offered five semi-

day fee-based workshops on searches in DEPATISnet, DPINFO and DPMApublikationen, which attracted 51 attendees. Since experiences were good, the new training concept will be continued.

The training in Munich is targeted at interested people of small and medium enterprises from the Munich area. Current training dates are published on the Internet site of the DPMA, in the DPMA-Newsletter or on the notice board in the information centre.

#### Database hotline

The service team "search support" is pleased to answer your questions on choosing the most appropriate database, search strategy and deals with error messages. The service is available on +49 (0) 89/2195-3435 or by e-mail at [datenbanken@dpma.de](mailto:datenbanken@dpma.de).

#### Patent information centres and Technical Information Centre Berlin

22 regional patent information centres in the Federal Republic of Germany closely cooperate with the German Patent and Trade Mark Office. Since 2004, the Technical Information Centre in Berlin manages relations with the patent information centres.

The patent information centres are the regional contacts in all IP matters. The most important target groups are small and medium enterprises (SMEs), universities and research institutions. Eleven centres accept applications of all types of industrial property rights and transmit them to the DPMA.

The DPMA assists the patent information centres in organising and carrying out special information events on industrial property protection. In 2006, the number of attendees to these events increased again compared to the previous years. For example, the Technical Information Centre in Berlin and some regional patent information centres held information courses on the spot: about 300 people attended lectures and 90 attended computer-assisted workshops. The main topics were patent databases on the Internet and electronic filing routes for IP applications. It is planned to provide further training offers and workshops – in cooperation with the European Patent Office – with an extended range of topics in 2007.

The close proximity of the Technical Information Centre to the Berlin Sub-Office of the European Patent Office – the two institutions are located in the same building – suggests joint public relations activities. Within the framework of the German Polish Year, the exhibition "*SternStunden: Innovationen rund ums Universum - Czas Gwiazd: Innowacje w Królestwie Wszechswiata*" (Stellar moments: innovations about the universe) at the Technical Information Centre Berlin featured contributions to astronomy, astrophysics and space flight by discoverers and inventors of the two countries.

#### Homepage

Current and important information about the German Patent and Trade Mark Office and the different types of IP rights is available on the DPMA homepage. The e-services (particularly, DEPATISnet, DPINFO

and DPMApublikationen) allow users to perform searches on their own.

For some years the DPMA website has provided the inventor's gallery. "Football and Technology", the contribution of the DPMA, on occasion of the FIFA World Cup in Germany, was added in 2006. "Football and Technology" gives an interesting overview of the technological development of football, illustrated by a selection of relevant patent documents (see page 56).

Statistics have proved that disabled people are above average users of the Internet. Barrier-free Internet pages ensure unlimited accessibility. The DPMA will essentially change its Internet presence not only by implementing barrier-free pages but also by re-structuring the contents. The respective re-designed Internet pages will presumably go online within the course of 2007.

#### Further development of Internet services

The functions and contents of our Internet services are being improved continually for the benefit of our users. The following developments are particularly worth mentioning:

#### DEPATISnet

- Complete documents can be printed or downloaded, instead of the former page-by-page printing and downloading.
- Documents cited in patent and utility model procedures (patent literature and non-patent literature) are also included on the bibliographic data screen.

## DPMApublikationen

- In co-operation with the Office for Harmonization in the Internal Market (OHIM), the Community marks were integrated and are available for a comprehensive search of German trade marks and Community marks.
- The daily updated display of the register data for trade marks and designs can now be opened in the DPMApublikationen application.
- Searchable patent data were extended to include the past 20 years.
- The cited documents in PDF format can be opened in the bibliographic data screen (link to the DEPATIS archive).

## International Patent Classification

The International Patent Classification (IPC) and the IPC catchword index have been available as searchable databases since 2006. The text of the IPC can be searched and displayed in English, French and German. The application can be accessed from DEPATISnet as well as from DPMApublikationen. In addition, it can be used as an independent service.

## DPINFO

- DPINFO is now accessible without user registration, that means that registration is no longer necessary for this service.

## XML – not just a new standard

Many patent offices are committed to foster the dissemination of information on IP rights (IPR) and the usability of these data.

The DPMA makes information on IP rights and IP classifications available ao. via the **DEPATISnet**, **DPMApublikationen**, **DPMAkurier** and **DPINFO** Internet services and the **DPMA datenabgabe** and **DEPATISconnect** data supply services.

Above all, data must be clearly structured to make IPR data easily searchable for users. The World Intellectual Property Organization (WIPO) adopted a new Standard ST.36 to ensure a uniform design and structure of patent documents using XML (Extensible Markup Language). XML is a universal data format for publishing and exchanging structured documents on the Internet.

Since the XML format was also introduced for trade mark data in 2006, the DPMA now offers all IPR data in XML format.

Recipients of quality assured IPR data in XML format can integrate these data easily and automatically into their own databases or IPR management systems. Users of the free search services of the DPMA benefit from the XML format too, since searches within the bibliographic data and full text documents will return the desired patent documents faster and more easily. Various data elements such as classification symbols or citations are linked to facilitate the search.

## Classification systems

### Trade marks

In November 2006, the 9<sup>th</sup> edition of the International Classification of Goods and Services for the



Re-designed start screen of the DPMApublikationen Internet service



Purposes of the Registration of Marks under the Nice Agreement (Nice Classification) was published. It entered into force on 1 January 2007. In order to keep up to date with social and technical developments, the Nice Classification is continuously revised and a new edition is published every five years. The edition completed in 2006 involves the work of several sessions of the working group as well as the Committee of Experts of the contracting states at WIPO in Geneva. At these session amendments of and additions to the existing classification were discussed and adopted. After the expert sessions the adopted amendments of the classification were translated into German by staff of the DPMA, Austrian Patent Office and the Swiss Federal Institute of Intellectual Property.

The Nice Classification is the basis for specifying the claimed areas (goods or services) for a trade mark application. The Classification is used in more than 140 countries around the world. It contains the list of goods and services in two parts: all goods and services in alphabetical order, and the goods or services ordered according to classes. It contains roughly 10,500 indications. The new edition comprises a large number of new terms of goods and services, but also changes of some familiar categorisations, for example, the transfer of the now so-called “legal services” from class 42 to class 45.

The German edition of the printed trade mark classification can be obtained from Carl Heymanns Verlag ([www.heymanns.com](http://www.heymanns.com)). An online version with additional information and search options is available at [www.dpma.de/suche/klassifikationen.html](http://www.dpma.de/suche/klassifikationen.html).



### Patents and utility models

On 1 January 2006 the revised 8<sup>th</sup> edition of the International Patent Classification (IPC8 (2006)) entered into force. The DPMA also translated this edition into German in cooperation with the Austrian Patent Office and the Swiss Federal Institute of Intellectual Property.

Since the beginning of 2006, the IPC has been made available in a new layout at <http://depatisnet.dpma.de/ipc/>. It provides the basic functions “IPC index” and “IPC search” (in three languages:

German, English and French) including the refined German classification DEKLA.

In addition, it provides a catchword index with roughly 130,000 German and English terms. Furthermore, the function “IPC concordance” helps to trace changes in the IPC resulting from revisions.

By this means, the DPMA offers a unique opportunity to perform comprehensive searches in the IPC.

# Personnel and Budget

## Personnel

In 2006, 2,556 staff worked at the German Patent and Trade Mark Office (DPMA). 2,221 staff worked at the Munich location and 335 in Jena and in Berlin. Economy measures led to another slight reduction of staff compared to previous years.

## Teleworking – working at home

The extension of teleworking has developed very positively. The DPMA is a pioneer in the field of teleworking in the public service. 223 staff had a teleworking place at the end of 2006. In order to achieve the planned number of 300 teleworkers, additional places were offered in 2006. In the first quarter of 2007, for the first time, this programme will allow nearly 300 staff to better

reconcile family life and work life. It has proved most effective to work at least two days at the office and the other days at home. On the one hand, this working pattern allows teleworkers to communicate personally with customers, co-workers, supervisors and employees at the office, and on the other hand, young parents, in particular, can further employ their skills and fulfil their potential. Teleworking enables them to have flexible working hours so that they can still actively participate in working life.

## Training at the DPMA

The German Patent and Trade Mark Office was able to increase the number of trainees to 81. This means that the DPMA exceeded the 7% target fixed in the training initiative of the Federal German

government. Vocational training is offered for administrators and for office communication clerks, media and information services clerks and IT specialists.

In addition, 41 students and pupils completed internships at the DPMA in the year under review.

We place great importance on the thorough qualification of the DPMA staff. We offered general PC courses, database courses for examiners, special training courses in the field of information services and courses tailored to the specific needs of particular staff groups. Altogether this amounted to 2,800 days of training.

Furthermore, we offer numerous training courses for newly recruited examiners and 19 weekly language courses in English and French.

In 2006, four staff members had the opportunity to attend qualifying courses for employees at the Bavarian School for Administration. At the beginning of the year, two employees passed the examination II.

### **Equal opportunity**

The DPMA takes very seriously the concerns of people with disabilities. The share of disabled staff again significantly exceeded the legal quota in 2006.

In 2006, 1,249 of the staff of the DPMA were women and 1,307 men. It is the declared aim of the DPMA to provide equal opportunity in employment at all working levels – not simply as regards numbers – regardless of gender. The equal opportunity scheme for the period from July 2005 to June 2009 was completed and published in 2006. It

constitutes an essential instrument of personnel planning and development with corresponding objectives.

### **Health programme**

The DPMA wishes to enhance motivation and well-being of the staff by a preventive and active health programme. Under the auspices of the President, measures will be developed and implemented to meet the needs of the staff.

### **Implementation of the collective labour agreement**

Within the scope of the collective labour agreement for the public service (TVÖD) 1,300 employees had to be moved to the new salary brackets. This work was fast and promptly concluded in the spring of 2006.

### **Budget**

In the year 2006, the DPMA achieved a record income of 263.8 million Euro. Expenditure amounted to 220.9 million Euro. The DPMA was again self-supporting.

Despite the long-lasting provisional budgeting, it was possible to make the necessary investments, for instance, to begin the future-oriented IT projects.

This was also made possible by special funds, made available particularly for the ELSA project (electronic IPR file).

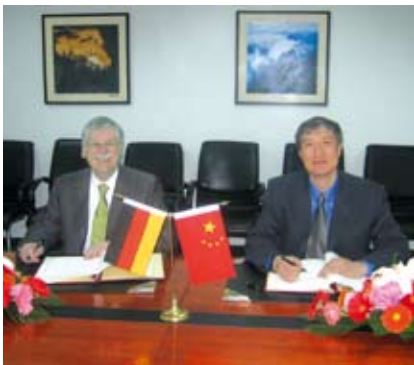
In addition, it was possible to implement urgent personnel measures.

# International Cooperation

Due to the ongoing globalisation of markets, international cooperation in the field of industrial property protection has become indispensable. As the Asian economic area is growing in importance, the German Patent and Trade Mark Office has become strongly involved in cooperation with its Asian cooperation partners in 2006.

## Asia

The close and good cooperation with Asian patent authorities established in the past few years has been developed further.



*Dr. Schade and Commissioner Tian at SIPO*

In the spring of 2006, President Dr. Schade had intensive bilateral discussions for this purpose with the Commissioners of the Chinese, Japanese and South Korean patent offices on his journey to Asia.

25 years of outstanding cooperation between the State Intellectual Property Office of the People's Republic of China (SIPO) and the DPMA were celebrated at the symposium on "25 years of Sino-German cooperation in the field of intellectual property" in Munich, in September 2006.



*The plenary members (left to right): Markus Hössle, Dr. Christof Keussen, Dr. Jürgen Schade, Prof. Tian Lipu and Christopher Scholz*

On the basis of expert lectures on the development and future of intellectual property in China, several workshops took place on the protection of biotechnological and computer-implemented inventions as well as on the enforcement of trade mark rights. About 60 invited IP professionals from science, industry and business, as well as lawyers and patent attorneys discussed with German and Chinese experts current intellectual property issues.

In Berlin, as early as on 14 September 2006, President Dr. Schade and Professor Tian signed an agreement on future cooperation of the two offices in the presence of the Federal German Chancellor Angela Merkel, Federal Minister of Justice Brigitte Zypries and Chinese Prime Minister Wen Jiabao, an event that attracted much media coverage.

For some years the DPMA has maintained an exchange of opinions



*Signing of the agreement on future cooperation between the SIPO and the DPMA in Berlin*

at management level and in international committees as well as an exchange of examiners with the Japan Patent Office (JPO).



*Dr. Schade and Commissioner Nakajima in Tokyo*

In their discussions in Tokyo in April 2006, Dr. Schade and Commissioner Nakajima agreed to also continue the dialogue at management level on the questions of harmonisation of international patent law and to further explore the mutual utilisation of search results.

On occasion of the fourth meeting of Heads of the two offices, Dr. Schade and the Commissioner of the Korean Intellectual Property Office (KIPO) Mr. Jun, agreed to start an exchange of patent examiners.



*Dr. Schade and Commissioner Jun at KIPO*

### **World Intellectual Property Organization (WIPO) in Geneva**

The further development of the system of industrial property protection at European and international levels is intensively promoted by an intergovernmental exchange of experience and international cooperation. Cooperation with the World Intellectual Property Organization (WIPO) is of great importance in this context. The DPMA again actively participated in the decision-making processes in various WIPO committees in Geneva in 2006. After the accession of Montenegro (on 3 June 2006) WIPO has 184 members.

### **International harmonisation of patent law**

In 2006, the work being done to internationally harmonise substantive patent law was driven on by a series of formal and informal consultations in Geneva, Brussels, Munich and Tokyo, again focusing on questions of substantive patent law from the "first package" of the Draft Substantive Patent Law Treaty (SPLT). On the basis of a first-to-file system, the participants discussed questions of novelty, inventive step, grace period and prior art. However, despite intensive efforts, it has not been possible so far, even among EU member states, to adopt a common negotiation guideline on all key points. Consequently, no significant progress can be expected in the short or medium term.

### **Reform of the Patent Cooperation Treaty**

In 2006 some further countries have signed the Patent Cooperation

Treaty (PCT). The following member states were welcomed:

- Montenegro (since 3 June 2006)
- Laos (since 14 June 2006)
- Honduras (since 20 June 2006)
- Malaysia (since 16 August 2006)
- El Salvador (since 17 August 2006)
- Guatemala (since 14 September 2006)

Hence, 134 countries are party to the PCT.

The extensive PCT reform process, which started in 2001, was again pushed forward in 2006. The revised Regulations will enter into force on 1 April 2007. It concerns rules on the following issues ao.:

- Restoration of the right of priority
- Rectification of obvious mistakes of an application
- Minimum requirements for international search authorities (ISA) and international preliminary examination authorities (IPEA)
- Provisions on the outer form of an international application

The Assembly agreed to convene another session of the Working Group on Reform of the PCT in the spring of 2007, which will probably complete the current reform process.

### **European cooperation**

In 2006 the European Patent Organisation had 31 member states. Malta deposited its instrument of accession on 1 December 2006 and will become the 32<sup>nd</sup> member state on 1 March 2007. As member of the German delegation at the Administrative Council and other bodies and working groups of the European Patent Organisation

the DPMA plays a decisive role in shaping the European patent system.

## **EPC 2000**

The next milestone in the development of the European patent system is the entry into force of the EPC 2000 (European Patent Convention) in 2007. It will change several existing procedures, but also introduce new approaches. Part of it will be the introduction of a new central limitation procedure before the European Patent Office and the option of filing a petition for limited review of decisions of the Board of Appeal by the Enlarged Board of Appeal. These changes require modifications of the former Implementing Regulations and fee system. The corresponding revision of the Implementing Regulations and Rules relating to Fees of the EPC were completed at the end of 2006.

## **European quality system**

The member states of the European Patent Organisation plan to introduce a European quality system to provide a foundation for participating offices to achieve continuous improvement of the quality of their products and services. A working group was created to investigate the existing standards for quality management and to define common minimum requirements. The German Patent and Trade Mark Office is actively participating in this working group.

## **Utilisation Pilot Project**

Within the scope of the strategy discussion on closer cooperation between the European Patent Office and the national offices

within the European patent network, the Administrative Council of the European Patent Organisation approved the launch of the "Utilisation Pilot Project (UPP)". It investigates whether the work of national patent offices can be utilised for a later European application claiming a national priority. This would improve efficiency and quality of the patent system in Europe, particularly by avoiding duplication of work. The project is temporary and limited to a maximum of 1,500 applications. The applications come from the countries taking part in the project, Austria, Denmark, Germany and the United Kingdom of Great Britain and Northern Ireland, and are randomly chosen. The project is scheduled to begin in the spring of 2007. Presumably, the first intermediate results are expected in the autumn of 2007.

## **Community patent**

The creation of a Community patent has been and still is a long-term objective. However, there is still no consensus on its concrete shape. The European industry, science and almost all member states have meanwhile opposed the introduction of a Community patent according to the former common political approach. In this context, the main objections were the establishment of a central court of first instance for patent litigation and the intended expensive language regime. Instead, they are in favour of a judicial system with regional first instance courts and a lower-cost language regime (see Development of the EPC system). In 2006, the European Commission conducted an extensive survey to find out the expectations of the interested circles with regard to

the legal framework and possible measures in the field of industrial property protection. The questions concerned the views on the European patent system and the necessary changes, if any, to foster innovation, competitiveness, growth and employment in a knowledge-based economy. The Commission has announced to explain its view on the future patent policy in Europe after completion of the consultation process.

## **Development of the EPC system**

The Federal Republic of Germany will attend to the further development of the European patent system within the scope of the German EU Council Presidency. In this context, it will presumably deal with the creation of a Community patent and the further development of the existing EPC system (European Patent Convention). The cornerstones are the implementation of the European Patent Litigation Agreement (EPLA) and of the London Agreement.

The EPLA is designed as an independent international agreement to set up a new organisation, the European Patent Judiciary (EPJ), comprising regional divisions of the court of first instance and a central court of appeal. In this way the EPLA allows to integrate the different judicial systems for national and European patents and also for future Community patents. The European Commission, the member states, business, industry and science also favour and support the EPLA.

The London Agreement on the application of Article 65 EPC provides for the creation of appropriate translation requirements for European patents. The parties to the Agreement undertake to waive,

entirely or largely, the requirement for translations of European patents to be filed in their national languages. This will significantly reduce the cost of European patents. To enter into force the agreement must be ratified by at least eight EPC contracting states, including France, Germany and the United Kingdom. While Germany and the United Kingdom have already deposited their instruments of ratification, France has not yet made a decision.

### **International technical cooperation**

#### **Bilateral cooperation with Brazil**

The memorandum of understanding on bilateral cooperation between the German Patent and Trade Mark Office (DPMA) and the Instituto Nacional da Propriedade Industrial (INPI) Brazil, signed on 2 December 2005, entered the implementation phase. As an initial step of the cooperation project a two-week workshop took place in Rio de Janeiro in July, which was held by three experienced staff members of the patent and trade mark areas of the DPMA. At first, lectures on patent law, search and training of new examiners at the DPMA were part of the programme in the patent area. In the following workshops, the participants performed searches separately in the respective technical fields and discussed special problems relating to the examination of applications in the field of electrical engineering and chemistry/pharmacy.

Presentations dealt with the following trade mark topics:

- Overview of trade mark law in Germany (national and international legislation)

- The structure of trade mark law in Germany
- Three-dimensional trade marks
- Collective marks
- Geographical indications of origin
- International registration
- The new German electronic file management and processing system

The cooperation project intended to last for two years will be continued in 2007.

#### **Guests at the DPMA**

In 2006 the DPMA welcomed a number of visitors to study visits of several days' duration. For two days a Chinese delegation from the State Intellectual Property Office (SIPO) was given an insight into the organisation structure, the budget management, the DEPATIS document archive and the information services of the DPMA and the patent examination procedure in Germany. Furthermore, on the request by WIPO, six participants from Armenia, China, Lithuania, Serbia, and Singapore received a two-week training at the trade mark department by DPMA experts. The DPMA arranged for participants to visit also other industrial property institutions in Munich. Additionally, the DPMA assisted the European Patent Office in the training of Croatian colleagues from the State Intellectual Property Office of Croatia (SIPO) within the scope of the CARDS project (CARDS: Commission Assistance for Reconstruction, Development and Stabilisation). The nine participants received "on the job training" for two weeks at the DPMA supervised by their German co-workers, with whom they jointly processed files.

Furthermore, numerous other delegations of various industrial property institutions and industrial enterprises, above all, from Asia visited the DPMA in 2006. The area "International Technical Cooperation" welcomed 18 foreign delegations to the DPMA. The visitors came from the African Intellectual Property Organisation (OAPI), China, Japan, Lebanon, South Korea, Taiwan and the USA.

After an introduction to the structure and organisation of the DPMA, the delegations received an insight into the information services of the Office and the patent examination procedure in Germany.

#### **International exchange of patent examiners in 2006**

In 2006, patent examiners of the German Patent and Trade Mark Office (DPMA) had the opportunity to exchange experiences with their colleagues from Japan, the United Kingdom and Korea in Germany and abroad. Staff have shown considerable interest in the programme.

#### **Exchange with the Japan Patent Office (JPO)**

Eight examiners took part in the 2006 exchange programme with the Japanese office (JPO). Together they handled and discussed patent applications which have been filed in Germany and Japan (so-called parallel applications). These applications concerned the patent classes: cranes (B66C), medical technology (A61B), material testing (C22C) and static stores (G11C). The examiners who visited the DPMA in March 2006 gained an insight into different areas, such as the DEPATIS



Participants of the examiner exchange programme with Japan

system (electronic patent archive), the “stock exchange” (preliminary classification of patent applications according to their technical fields), the information services on industrial property rights and the mainframe area. Furthermore, the Japanese guests and their German contacts visited some industrial enterprises active in their specific fields.

During the return visit to the Japan Patent Office, patent examiners of the DPMA processed selected examination files and intensified their knowledge of the Japanese classification and search systems.

They also attended a session of the Japanese Intellectual Property High Court and visited a patent attorneys

firm and industrial enterprises active in the respective examiner’s field of expertise, in the wider Tokyo area.

In 2007, the examiner exchange programme will be continued.

#### Exchange with the UK Patent Office (UKPO)

The patent examiner exchange programme with the UK Patent Office was continued in 2006 when two DPMA patent examiners visited the UKPO for one week.

The British and German patent examiners jointly processed parallel applications and discussed the patentability of computer implemented inventions in the field of business activities, software (patent class G06F) and biotechnology (A61K, C12Q). In the field of biotechnology the discussions focused on the implementation of the EU directive 98/44 on the legal protection of biotechnological inventions.



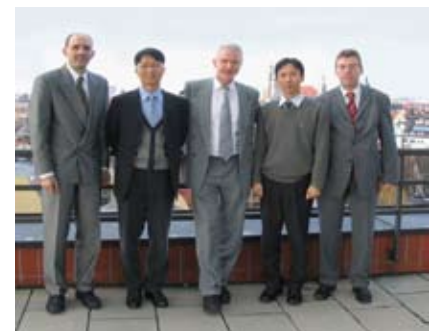
Participants of the examiner exchange programme with the United Kingdom

In presentations, the UK examiners explained to their German colleagues special aspects of their work. These included:

- formal examination,
- development opportunities of patent examiners at the UKPO,
- electronic file management system,
- online filing,
- special information services at the UKPO.

#### Exchange with the Korean Intellectual Property Office (KIPO)

The first exchange programme for patent examiners with the South Korean office (KIPO) took place in 2006. It started in October 2006 when two South Korean patent examiners visited the DPMA. The two examiners are in charge of processing applications in the field of electric digital data processing (patent class G06F) and control of indicating devices (G09G). Both, the South Korean side and the German side, are very much interested in the exchange programme, which will be continued with the visit of two German patent examiners to KIPO in Daejeon, in May 2007.



Participants of the examiner exchange programme with Korea and coordinator Dr. Wolfgang Block (centre)



## Lecture tour China

On 16 and 17 October 2006, patent examiner Dr. Reiner Spieker presented the formation of the German patent system, which ran in parallel with the rise of the German pharmaceutical industry, on the forum "Use of Intellectual Property to Encourage Pharmaceutical Innovation" in Beijing.



*Gong Baomin (left) of the Chinese office (SIPO) and Dr. Reiner Spieker*

Strong patent protection was essential for the development of the German pharmaceutical industry between 1880 and 1900, and this will also be the case for the establishment of the Chinese pharmaceutical industry.

## **Exchange of trade mark examiners with the Office for Harmonization in the Internal Market (OHIM) in Alicante**

The exchange of trade mark examiners between the OHIM and the DPMA, which started 2004, was continued in 2006. Three colleagues from Munich and Jena work at the OHIM in Alicante, Spain, for three years and use that time for an intensive exchange of experiences with their co-workers at the OHIM. The examiners from

Munich and Jena are appreciated by the OHIM for their high expertise and effective work. The examiners handle German language trade mark applications and oppositions, in particular. Another colleague from Jena worked in the area in charge of classification and absolute grounds objections. During that two-month internship, she got an impression of what the two offices had in common and where their practices differed.

The German Patent and Trade Mark Office plans to continue the exchange, on the one hand, to contribute to the establishment of "best practices" in European trade mark examination and, on the other hand, to gain new insights into how to improve business processes at the DPMA.

# Inventors' and Innovation Awards

Germany – “Land of Ideas”, this is the motto of an initiative of the Federal German government and German industry. However, these ideas must be put into practice. People have many good ideas waiting to be implemented.

Inventors' and innovation awards show how good ideas are turned into successful products. They distinguish scientific achievements which have led to outstanding technical innovations. They recognise researchers and developers, who do not only have good ideas, but also the courage and perseverance to put them into practice.

Fortunately, for a long time, many national and regional inventors' and innovation awards have been established in Germany. Some of the prizes awarded comprise considerable prize monies which constitute an additional incentive for intensifying research and development activities, turning the results into innovative products. The awards ceremonies, which have gained wide media coverage, provide information to the public at large on the scientific, technological and innovative potential of Germany.

As a member of the selection boards and committees, entitled to propose candidates, Dr. Jürgen Schade, the President of the German Patent and Trade Mark Office, was again involved in the selection processes of innovation awards in 2006. For fulfilling these duties he relies on the expertise and technical knowledge of the DPMA staff, who give him competent assistance in assessing the projects.

The “German Future Award” and the “Innovation Award of German

Industry” are among the most prestigious national awards of this type.

## The German Future Award 2006

On 14 September 2006, the Head of the Office of the German President, State Secretary Dr. Gert Haller, presented the four teams shortlisted for the German Future Award 2006 to the public.

The following teams and projects were nominated for the German Future Award 2006:

**Prof. Dr. Stefan Hell, Max Planck Institute for Biophysical Chemistry, Göttingen:**  
Light microscopy with unprecedented resolution

**Dr. Karin Schütze, Dr. Carsten Hoyer, Dr. Yilmaz Niyaz, P.A.L.M. Microlaser Technologies GmbH, Bernried:**  
Focused laser light for the transport of cells – non-contact generation of biological samples for research and diagnosis

**Dr. Jürgen Seekircher, Prof. Dr. Peter Knoll, Manfred Meißner, DaimlerChrysler AG, Sindelfingen; Robert Bosch GmbH, Leonberg:**  
The night vision assistant – infrared technology for improved driving safety at night

**Prof. Dr. Dr. Peter Tass, Prof. Dr. Volker Sturm, Jülich Research Centre of Helmholtz-Gemeinschaft, Jülich; University of Cologne:**  
Development of a new brain pacemaker using methods of statistical physics and non-linear mathematics

On 23 November 2006, in presence

of many guests from science, industry and politics, the 10<sup>th</sup> German Future Award 2006 was presented by German President Prof. Dr. Horst Köhler to the prize winners.

Prof. Dr. Stefan Hell of Max Planck Institute for Biophysical Chemistry, Göttingen, was awarded the € 250,000 award for technology and innovation for his project “Light microscopy with unprecedented resolution”.

Professor Stefan Hell was the first to discover a way to break the 130-year old Abbe's diffraction barrier in fluorescence microscopy. His technique is new insofar as resolution is no longer limited by the wavelength of light.

Hell and his co-workers achieved resolutions of 20 nanometres, improving the resolution of Abbe's barrier by a factor of ten. This method makes individual molecules visible allowing, for example, to gain essential understanding in cancer research.

“The future of our country relies upon ideas such as these: because we can only exist in global competition if we invest in knowledge and enable innovation”, said the President at the award ceremony.

With the German Future Award the German President wants to help promote an innovation-friendly culture in Germany and encourage young people to follow the example of the award winners.

This is also the objective of the new permanent exhibition on the German Future Award, opened by Federal President Horst Köhler at Deutsches Museum in Munich, on 19 December 2006. “Turn ideas

into success. For the people. For the country." This is the title and motto of the exhibition. The exhibition presents the award, explains the importance of the award projects and, at the same time, is a Hall of Fame of the award winners.

### **Innovation Award of German Industry**

On 20 January 2007, the 27<sup>th</sup> Innovation Award of German Industry 2006 was conferred once again to one candidate each from the categories "major enterprises", "medium enterprises" and "start-ups" by Federal Minister of Economics and Technology Michael Glos at a great gala night at Alte Oper in Frankfurt/ Main. The three prize winners, chosen from the nominated five finalists for each category, were announced at the gala night.

The following finalists were nominated in the three categories:

#### **In the major enterprises category:**

- **Carl Zeiss SMT AG**, Oberkochen: Immersion optics for chip fabrication
- **BASF AG**, Ludwigshafen: In-situ colouring process for medium density fibreboards (MDF)
- **EnBW Energie Baden-Württemberg AG**, Karlsruhe: "EnBW EnyCity" - the energy city of the future
- **SAP AG**, Walldorf: Duet software for Microsoft Office and SAP
- **ThyssenKrupp Marine Systems AG**, Hamburg: Fuel cells for submarines

#### **In the medium enterprise category:**

- **CLAAS KGaA mbH**, Gütersloh: Combine harvester with environmentally-friendly rubber track assembly and straw management
- **Jungtec GmbH & Co. KG**, Pulheim: Angular ring gasket made of 0.1mm stainless sheet steel
- **Schneider GmbH & Co. KG**, Steffenberg: Industrially produced – individual spectacle lenses
- **Varta Microbattery GmbH**, Ellwangen: Ultra-slim PoLiFlex battery for the new nano MP3 player
- **Vietz GmbH**, Hannover: VPL – Vietz pipeline laser system – a revolution in pipeline construction

#### **In the start-up category:**

- **attocube systeme AG**, München: Nanopositioning and nanoscopy
- **Cytonet GmbH & Co. KG**, Weinheim: Innovative liver therapy – liver cells save lives
- **EnOcean GmbH**, Oberhaching: Self-powered RF switches and sensors
- **InnoTeamS GmbH**, Darmstadt: Portable augmented showcase (PAS) – creates added value
- **SkySails GmbH & Co. KG**, Hamburg: Wind propulsion system for ships based on towing kites

Carl Zeiss SMT AG, Oberkochen won the Innovation Award 2006 in the major enterprises category for the project: "Starlith 1700i – immersion optics for chip fabrication". The Starlith® 1700i lens is a technology developed for photo lithography used in chip fabrication that makes use of a revolutionary principle of optics: immersion. Together with the new optical design incorporating lenses and mirrors, a film of water between the lens and the wafer improves the resolution and leads to an increase in the packing density of microchips of almost 30%.

VARTA Microbattery GmbH, Ellwangen received the award in the medium enterprises category for developing the "ultra-slim PoLiFlex battery for the new nano MP3 player". Reducing weight and size to a minimum is extremely important for the new generation of portable MP3 players. On the other hand, the time the battery lasts must be maximised. These, at first, contradictory requirements are fulfilled by the newly developed VARTA PoLiFlex® battery, a rechargeable ultra-thin battery, developed on the basis of polymer plastics. It has an ultra-high energy density and an extremely long life; it is flexible in size and can be recharged more than 1,000 times. It is designed for use in many modern electronic devices (notebooks, mobile phones and MP3 players). These batteries are manufactured in modern production facilities using cutting-edge manufacturing technology.

Cytonet GmbH & Co. KG, Weinheim, was the winner of this year's innovation award in the start-up category. In Germany thousands of patients with severe liver disease are waiting for life-

saving transplantation. The biotech company Cytonet in Weinheim developed a revolutionary medical product that offers fresh hope to patients. The Cytonet liver cell therapy uses living human liver cells for the first ever “pharmaceutical” worldwide to treat severe liver diseases. This is done by isolating human liver cells from non-transplantable donor livers. The cells are refined and gently preserved. A standard procedure is applied

to infuse living liver cells via a catheter into the bloodstream of the patient’s liver. In the liver, the cells restore the production and detoxicating functions of the dysfunctional liver so that the damaged organ can recover.

This year, 238 innovations were submitted to the jury. This is an increase of over 10%. In the major enterprises category the increase even exceeded 100%.

## Events in 2006

### Unprecedented demand for patent knowledge from practice

The DPMA offers an extended workshop programme "From the Invention to the Patent" to participants from business, industry, universities and schools. Beginners, advanced learners and prospective experts get an opportunity to gain hands-on knowledge on patents.

In recent years, innovation has become an important topic in business life. It is very important to protect inventions that are being developed in an innovation process by IP rights. The patent plays a key role in this context.

### Information demand

With the growing importance of the patent there is an increase in the demand for competent information on the patent system among the public. Some years ago, the workshop "From the Invention to the Patent" was launched by patent examiners of the DPMA in cooperation with Ludwig Maximilian University (LMU) Munich to enable easy access to the patent system for those new to the field of patent law.



*Working on an exercise*



*Performing an online search*

The many hands-on exercises helped to illustrate the complex issues of patent law and procedural flow.

In addition, the participants found the insight into the examining practice at the office particularly valuable.

### Extended concept

Based on these aspects, the original workshop concept was developed further and adapted to suit the specific interests of attendees from universities, business and industry. Special programmes were developed for advanced learners and prospective experts. These

programmes focused on first-hand information about the patent examination practice directly from the DPMA.

The feedback by participants of the past workshops was very positive.

### Increase in demand

There is a constant increase in demand for the workshops. In 2006, ten workshops were held for more than 185 participants. The Technical Information Centre in Berlin assisted in organising many workshops which were held at regional patent information centres.

The knowledge about patent law issues and practical processes acquired in the workshops makes it easier for the participants to gain legal protection for inventions resulting from an innovation process.

### Jena Talks on Industrial Property Protection and Copyright

Since 2001 the Jena Sub-Office of the DPMA has organised a lecture series on intellectual property in cooperation with Prof. Dr. Volker Michael Jänich (Gerd Bucerius Chair of Civil Law with German and International Industrial Property Protection, Friedrich Schiller University Jena). In 2006, the lecture series was continued with two events. The centre-east district group of GRUR (German

Association for Industrial Property and Copyright) supported the lectures as co-organiser.

In March 2006, Prof. Christian Klawitter, lawyer, held a lecture on "R&D cooperation between universities and customers from industry". In November 2006, Prof. Dr. Volker Michael Jänich presented a paper on the topic: "The planned law on legal services and its effects on legal counselling in the field of intellectual property".

## 2<sup>nd</sup> Jena Trade Mark Law Day

On 30 and 31 March 2006, FORUM Institute for Management held the 2<sup>nd</sup> Jena Trade Mark Law Day in cooperation with Friedrich Schiller University Jena, and the Jena Sub-Office of the German Patent and Trade Mark Office (DPMA).

On the first day, Mr. Sascha Saijzun, lawyer, presented a paper on "The current decision practice for the use of trade marks in a right-preserving way". Mr. Jörg Portmann, long-time Head of a trade mark team of the DPMA and presently Head of the Arbitration Board under the Copyright Administration Law, described "The current practice in cancellation proceedings before the DPMA".

After the lectures, the attendees had the opportunity to join a guided tour of the Jena Sub-Office of the DPMA to visit the archives of trade marks and designs, the trade mark register and the trade mark library. On the tour, visitors received information on the work of the DPMA in Jena, based on historical trade mark files and materials as well as current applications and IP rights.

On the second day, Dr. Paul Ströbele, presiding judge of the Federal Patent Court held a lecture on "Recent rulings on questions of trade mark registration". This was followed by a paper by Mr. Philipp von Kapff, Office for Harmonization in the Internal Market (OHIM), on "The current practice with regard to the Community trade mark taking into consideration the rulings of the ECJ, CFI and the OHIM Boards of Appeal". The two lectures aroused much interest.

The 3<sup>rd</sup> Jena Trade Mark Law Day will take place on 12 and 13 July 2007.



*Conference room in the JENTOWER overlooking Jena*



*Tour of the Jena Sub-Office*

## 10<sup>th</sup> Thuringia Day in Jena – "Innovative Thuringia" exhibition

In July 2006, the DPMA participated in the "Innovative Thuringia" exhibition with an information stand. The reaction of the technically interested visitors, in particular, was very positive compared to former Thuringia Days and comparable exhibitions and fairs. About 25,000 of the estimated 300,000 visitors went to see the innovation exhibition of companies and institutions based in Thuringia and Jena. The information stand of the DPMA was manned by staff of the Jena Sub-Office, particularly the enquiry unit, from 14 to 16 July 2006.

Mr. Markus Ortlieb, Head of the Jena Sub-Office, and Mr. Willi Muhsfeld, Head of the law and patents division of Carl ZEISS Jena GmbH, jointly held a lecture on "Ideas from Thuringia – Patents for the World", presented by the radio station "Antenne Thüringen".

Prime Minister of the Free State of Thuringia Dieter Althaus and the recently elected mayor of Jena, Dr. Albrecht Schröter, visited the stand



*Mrs. Silke Rother, Head of the Jena enquiry unit, at the DPMA stand on Thuringia Day 2006*



*Mr. Markus Ortlieb (left) and Mr. Willi Muhsfeld presenting their paper "Ideas from Thuringia – Patents for the World"*



*Trainees of the Jena Sub-Office of the DPMA preparing the festival for children and families*

of the DPMA. Staff and trainees of the Jena Sub-Office helped in the preparation and organisation of the festival for children and families that took place on occasion of the Thuringia Day.

### **Lutz Diwell visits the Jena Sub-Office**

On 21 June 2006, Mr. Lutz Diwell, State Secretary in the Federal Ministry of Justice, visited the Jena Sub-Office of the German Patent and Trade Mark Office (DPMA).

After a welcome address by President Dr. Jürgen Schade und Mrs. Beate Schmidt (former Head of the department: trade marks, utility models, designs), Mr. Markus Ortlieb (Head of the Jena Sub-Office) briefly explained the duties and organisational integration of the Jena Sub-Office in the DPMA. The lecture was followed by a tour of the file administration office of a trade mark team, the historical trade mark register and the trade mark archive. At the trade mark administration, staff of the Jena Sub-Office presented the new electronic trade mark file management system. An insight into the design unit and design archive completed Mr. Diwell's visit.



*State Secretary Lutz Diwell visiting the historical trade mark register*



*The trade mark file administration in Jena*



*Presentation of the new electronic trade mark file management system*



*Lutz Diwell at the archive of the designs unit*

## Talks on Intellectual Property

### Product piracy – posing a threat to the German economy?

“The sentence is correct, but not the question mark at the end. In my opinion it should be replaced by an exclamation mark – in bold”, stated Federal Minister for Justice Brigitte Zypries. On 6 July 2006, the Minister gave a widely noticed speech on product piracy at the DPMA. She pointed out that this topic was ranking at the top of the agenda of the Ministry and the Federal government.

Representatives from business and industry, science and politics participated in the subsequent panel discussion, chaired by President Dr. Jürgen Schade. The participants were:

- Dr. Frauke Henning-Bodewig (Max Planck Institute for Intellectual Property, Competition and Tax Law)
- Dr. Hubert Weis (Federal Ministry of Justice)
- Prof. Rido Busse (“Plagiarius” initiative)
- Josef Dirscherl (BMW AG)
- Klaus Hoffmeister (central industrial property unit ZGR)
- Dr. Jochen Pagenberg (attorney)

Mr. Hoffmeister presented the successes of the customs administration in fighting product piracy. The value of goods seized in 2005 amounted to 213 m Euro. The number of secured products rose from 4.8 to 11.5 m. Professor Busse had brought some items and explained how brazenly some imitators copied original products.

Experts agreed that German legal framework generally offered good protection against product piracy, but that some details should be improved. It was necessary to emphasise the importance of industrial property rights and copyright in order to raise and alter awareness among the general public. Theft of intellectual property had to be recognised as an offence just like eg. shoplifting.

## Girls’ Day

On 27 April 2006 the DPMA participated for the first time in the nationwide action day “Girls’ Day – Mädchen-Zukunftstag” in Germany. Girls’ Day aims at encouraging girls’ career decisions at an early age and is particularly designed to spark their interest in careers in science and engineering.

30 school girls in the seventh and eighth grades of secondary schools got a practical insight into the work at the DPMA. At the beginning, some of our female patent examiners explained industrial property rights through easily understandable examples. Afterwards, the girls were given a guided tour of the computer centre. Later that day they developed and presented their own inventions in an “inventors’ workshop” co-organised by Ludwig Maximilian University, Munich.

In the afternoon, the examiners provided an in-depth introduction to the work of patent examiners at different workplaces to a group of girls. Another group of students were able to learn about the jobs of IT specialists and electricians. Both, the girls and the female DPMA staff, very much enjoyed Girls’ Day. They certainly look forward to the next Girls’ Day.



## Football and Technology

According to the motto "A time to make friends" of the 2006 FIFA World Cup in Germany, the DPMA released an online presentation exploring the historical and latest technical developments of this popular sport and organised an exhibition showing exhibits of all IPR areas.

In January 2006, the Internet presentation "Football and Technology" went online. It was initiated and compiled by staff of the Office on occasion of the 2006 FIFA World Cup. In individual chapters it describes the football history, subdivided into specific topics and illustrated by the relevant patent documents. By this means the user learns about the development from the wobbly, hand-sewn leather ball to the sensor-equipped, fully synthetic football.

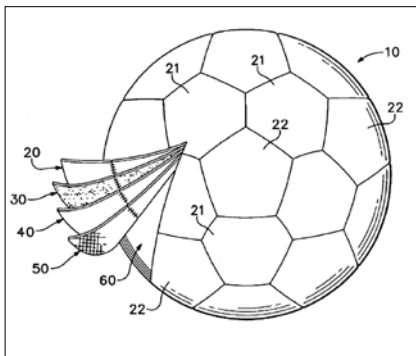


Figure 1: Laminated football - patent application US 2004 / 0213984 A1

The presentation focuses on the following points:

- History of football
- The football (soccer ball)
- The pitch
- The football goal
- Football footwear
- The player's protective gear
- Referee equipment

Oddities like the "Tipp-Kick" and the goal board are presented in a separate chapter.

For those particularly interested, the presentation contains a database with the patent documents, discussed in the individual chapters, and also many more documents.

The interested users may enjoy browsing in the documents that can be viewed in PDF format.

The glossary of legal terms of the patent system facilitates access to the vocabulary of industrial property rights for readers.

The extensive technical information gained from patents offered a good opportunity to emphasise the practical aspect of the work of the DPMA and to present the office as a place where innovative ideas are collected.

In July 2006, an accompanying exhibition was organised in the foyer of the DPMA, with the assistance of manufacturers of sports goods and Munich sports shops. The exhibits illustrated the whole range of IP rights managed by the DPMA, i.e. patents, trade marks and designs. The exhibition was opened on occasion of the summer festival of the Office and stayed open for four weeks.

We have had an overall positive response to the Internet presentation and exhibition. Particularly, the presentation received wide international media coverage, including radio and print media, and online papers.

Due to the great interest, which naturally reached its culminating point in the run-up to the FIFA World Cup, the presentation will be available online to the public also in the future and it will certainly be again at the centre of interest during future major football events.

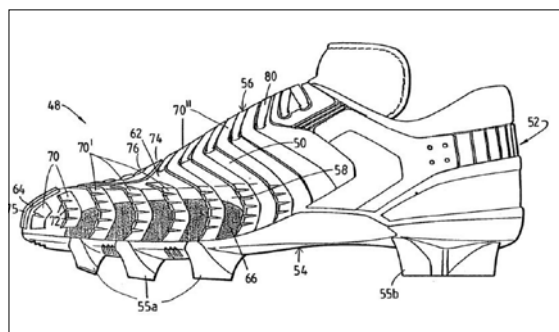


Figure 2: Football shoe - patent application WO 92 / 22224 A1

You will find "Football and Technology" on the Internet at: [www.dpma.de/infos/fussball/wm2006](http://www.dpma.de/infos/fussball/wm2006).

# Statistics

## 1. Patent applications and patents

### 1.1 National patent applications and international patent applications with effect in the Federal Republic of Germany

Year	National applications <sup>1</sup> (DPMA-direct)			International applications which entered the national phase at the DPMA (DPMA-PCT national phase) <sup>2</sup>			Applications DPMA-direct and DPMA-PCT national phase <sup>2</sup>		
	National	Foreign	Total	National	Foreign	Total	National	Foreign	Total
2000	51,414	9,620	61,034	2,107	1,721	3,828	53,521	11,341	64,862
2001	49,502	9,465	58,967	3,148	2,036	5,184	52,650	11,501	64,151
2002	47,352	9,557	56,909	4,161	2,374	6,535	51,513	11,931	63,444
2003	47,328	9,610	56,938	5,097	2,483	7,580	52,425	12,093	64,518
2004	48,329	9,455	57,784	119	1,331	1,450	48,448	10,786	59,234
2005	47,537	10,214	57,751	830	1,641	2,471	48,367	11,855	60,222
2006	47,213	10,364	57,577	799	2,209	3,008	48,012	12,573	60,585

<sup>1</sup> Applications for a German patent filed with the DPMA (DPMA-direct)

<sup>2</sup> Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years.

### 1.2 Patent applications before entry into the examination procedure<sup>1</sup>

Year	Total applications received <sup>2</sup>	Procedures concluded before filing of examination request	Patent applications before entry into the examination procedure	
			Total	including applications for which formal examination was concluded
2000	61,622	20,202	119,660	99,541
2001	59,753	20,594	122,499	104,019
2002	58,594	23,759	120,984	104,722
2003	58,602	22,316	122,104	108,843
2004	59,223	23,303	124,169	110,387
2005	58,720	22,006	126,540	113,491
2006	58,251	21,227	129,938	115,078

<sup>1</sup> DPMA-direct

<sup>2</sup> including remissions by the Federal Patent Court, allowed appeals, reinstatements

### 1.3 Patent applications in the examination procedure

Year	Examination requests received		Concluded in the examination procedure, total	Patents granted by the DPMA <sup>1</sup>
	Total	together with applications		
2000	37,804	26,931	26,923	14,707
2001	38,376	27,040	27,443	14,351
2002	37,561	25,945	29,971	14,887
2003	37,071	25,479	33,515	17,432
2004	36,575	25,444	33,862	16,661
2005	37,387	25,082	36,064	17,063
2006	38,696	25,452	38,140	21,034

<sup>1</sup> patents granted without opposition and patents maintained after opposition

## 1.4 Patents in force

### 1.4.1 granted by the DPMA

### 1.4.2 granted by the EPO

### 1.4.3 Total

Year	New grants	Registrations cancelled	Patents in force at the end of the year	New grants <sup>1</sup>	Registrations cancelled	Patents in force at the end of the year	Patents in force at the end of the year
2000	14,914	17,376	121,698	31,082	23,435	255,303	377,001
2001	14,542	17,168	119,072	20,911	23,383	252,831	371,903
2002	15,180	18,267	115,985	32,481	24,553	260,759	376,744
2003	17,911	16,433	117,463	43,052	31,370	272,441	389,904
2004	17,016	16,075	118,404	54,306	33,336	293,411	411,815
2005	17,377	14,877	120,904	52,325	31,917	313,819	434,723
2006	21,193	14,661	127,436	56,918	31,007	339,730	467,166

<sup>1</sup> Correction of data for 2003 and 2004

## 1.5 Patent applications (DPMA-direct and DPMA-PCT national phase)<sup>1</sup> by German Laender (seat of applicant)

German Laender	2000	2001	2002	2003	2004	2005	2006
Baden-Württemberg	12,486	11,884	12,822	13,888	12,856	12,828	13,347
Bavaria	13,301	14,511	14,144	14,279	13,449	13,688	14,010
Berlin	1,265	1,197	1,146	1,101	905	866	943
Brandenburg	396	384	367	386	347	311	428
Bremen	166	197	150	164	172	173	142
Hamburg	1,222	1,459	1,213	998	994	919	946
Hesse	4,818	4,176	4,133	3,981	3,783	3,402	3,202
Mecklenburg-W.Pomerania	212	179	190	231	205	197	183
Lower Saxony	3,529	3,234	2,959	2,983	2,813	2,738	2,603
North-Rhine/Westphalia	10,330	9,880	9,025	8,796	7,830	8,151	8,195
Rhineland-Palatinate	2,504	2,440	2,459	2,531	2,139	2,218	1,311
Saarland	363	357	340	330	347	360	318
Saxony	1,021	902	848	824	834	847	810
Saxony-Anhalt	466	397	361	455	398	366	343
Schleswig-Holstein	680	661	629	647	624	600	585
Thuringia	762	792	727	831	752	703	646
<b>Total</b>	<b>53,521</b>	<b>52,650</b>	<b>51,513</b>	<b>52,425</b>	<b>48,448</b>	<b>48,367</b>	<b>48,012</b>

<sup>1</sup> Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years.

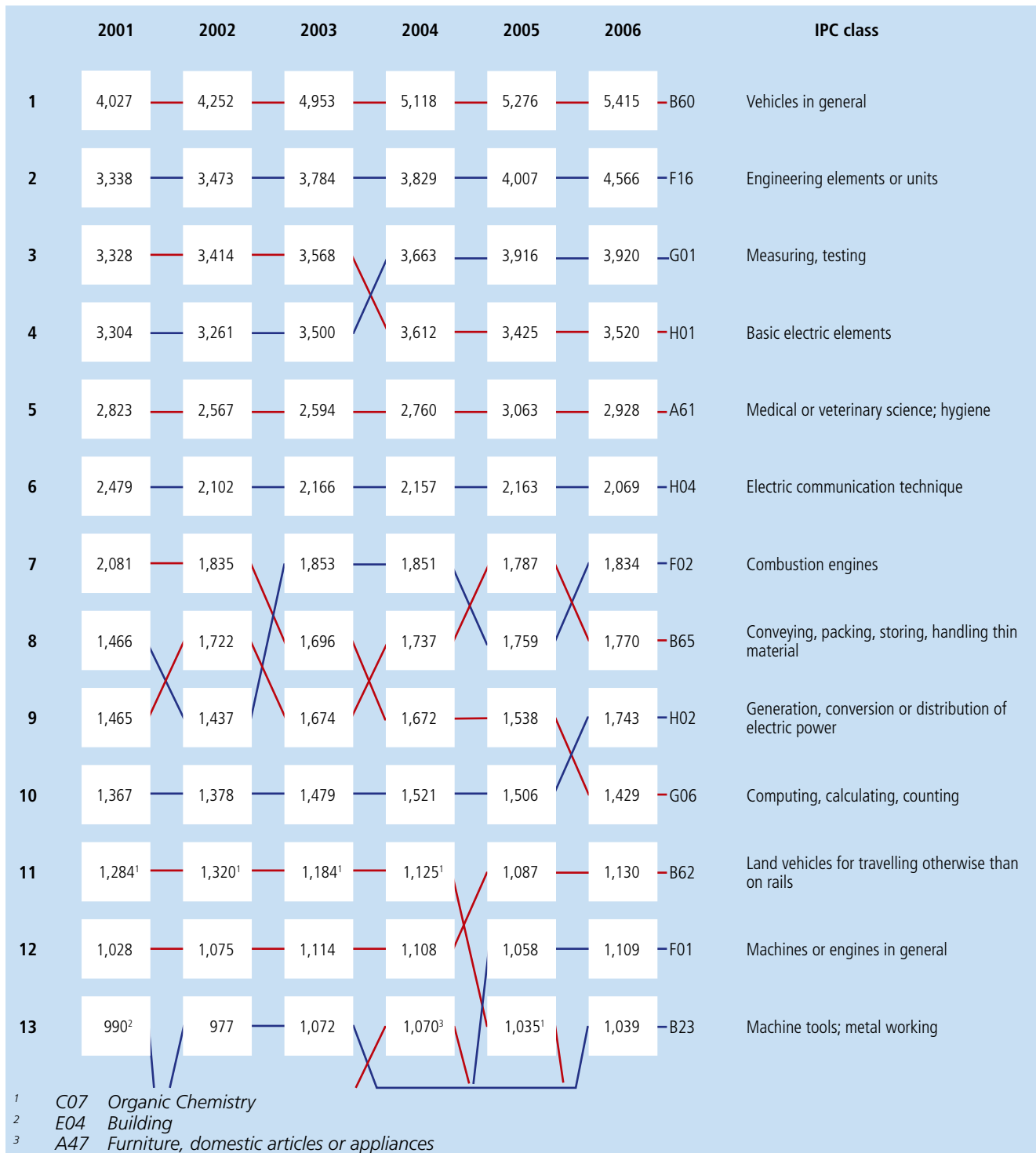
**1.6 Patent applications with effect in the Federal Republic of Germany by countries of origin**  
*(Direct applications and PCT applications in the national or regional phase)*

	Applications filed with the DPMA <sup>1</sup>							Applications filed with the EPO						
	2000	2001	2002	2003	2004	2005	2006	2000	2001	2002	2003	2004	2005	2006 <sup>2</sup>
Germany	53,521	52,650	51,513	52,425	48,448	48,367	48,012	19,847	21,258	20,974	22,616	22,968	23,709	24,798
USA	2,391	2,580	2,829	2,955	2,702	3,245	3,283	28,214	30,394	29,970	31,718	32,481	32,598	34,584
Japan	3,699	3,551	3,426	3,422	3,407	3,449	3,618	17,033	19,796	15,838	18,402	20,392	21,298	21,935
France	530	382	299	289	280	312	268	6,726	6,784	6,824	7,390	8,039	8,004	7,962
Netherlands	257	256	154	107	118	104	142	4,406	5,369	5,033	6,449	6,957	7,789	7,305
Switzerland	1,290	1,405	1,505	1,543	976	943	1,157	3,544	3,803	3,876	4,175	4,655	5,019	5,390
Republic of Korea	517	482	590	603	726	777	915	959	1,165	1,408	2,075	2,871	3,853	4,595
United Kingdom	172	107	114	190	100	120	116	4,311	4,846	4,696	4,832	4,775	4,641	4,690
Italy	135	158	148	122	89	85	97	3,192	3,327	3,327	3,673	3,991	4,196	4,155
Sweden	203	216	255	314	313	338	285	2,229	2,542	2,554	2,554	2,425	2,483	2,543
Others	2,147	2,364	2,611	2,548	2,075	2,482	2,692	9,233	10,508	11,315	12,232	13,580	14,574	16,423
<b>Total</b>	<b>64,862</b>	<b>64,151</b>	<b>63,444</b>	<b>64,518</b>	<b>59,234</b>	<b>60,222</b>	<b>60,585</b>	<b>99,694</b>	<b>109,792</b>	<b>105,815</b>	<b>116,116</b>	<b>123,134</b>	<b>128,164</b>	<b>134,380</b>

<sup>1</sup> Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years.

<sup>2</sup> provisional data

### 1.7 Patent applications by IPC classes (with over 1,000 applications in 2006)



## 2. Utility models and topographies

### 2.1 Utility models

Year	Filings				Procedures concluded		
	New applications <sup>1</sup>	Applications from Germany	Others <sup>2</sup>	Total	by registration	without registration	Total
2000	22,310	18,899	130	22,440	18,914	3,589	22,503
2001	20,285	17,126	90	20,375	18,556	3,389	21,945
2002	23,428	17,363	182	23,610	17,188	3,898	21,086
2003	23,408	16,945	151	23,559	17,114	4,324	21,438
2004	20,286	17,053	144	20,430	17,357	7,898	25,255
2005	20,418	17,021	85	20,503	17,138	3,632	20,770
2006	19,766	16,406	80	19,846	16,638	3,036	19,674

<sup>1</sup> including PCT applications: in the international phase until 2003, since 2004 in the national phase; the figures since 2004 cannot be directly compared with those of the previous years.

<sup>2</sup> remission by the Federal Patent Court, allowed appeals, reinstatements

Year	Pending applications at the end of the year	Utility models in force at the end of the year	Renewals	Utility models lapsed
2000	9,112	115,535	23,160	16,103
2001	7,542	115,196	22,542	18,895
2002	10,068	110,962	24,592	21,422
2003	12,189	108,175	22,233	19,901
2004	7,364	106,096	20,428	19,436
2005	7,097	104,976	25,108	18,258
2006	7,269	104,117	22,333	17,497

### 2.2 Topographies under the Semiconductor Protection Law

Year	New applications received	Procedures concluded			Pending applications at the end of the year	Lapse due to expiry of time	Registrations in force at the end of the year
		by registration	without registration	Total			
2000	62	39	0	39	34	105	801
2001	59	58	0	58	35	216	643
2002	41	69	1	70	6	152	560
2003	12	0	1	1	17	116	444
2004	4	8	1	9	12	120	332
2005	6	0	0	0	18	99	233
2006	2	10	0	10	10	76	167

### 3. National trade marks\*

#### 3.1 Applications and registrations

Year	Filings					Registrations under Sec. 41 Trade Mark Law
	Total	New applications		Others <sup>1</sup>	Total	
		Applications from Germany	for service marks			
2000	86,983	81,969	41,990	856	87,839	60,727
2001	67,361	63,645	29,744	752	68,113	59,274
2002	57,416	53,817	23,923	718	58,134	51,730
2003	62,041	58,731	25,728	1,097	63,138	51,295
2004	65,918	62,576	27,650	998	66,916	48,401
2005	70,926	67,208	30,181	1,019	71,945	50,798
2006	72,321	68,810	33,164	896	73,217	51,124

<sup>1</sup> in particular, cases returned by the Federal Patent Court

#### 3.2 Oppositions

Year	Oppositions received		Opposition procedures concluded		
	trade marks challenged by oppositions	number of oppositions	without affecting the trade mark	cancellation in full or in part	surrender by the proprietor
2000	8,830	13,081	5,963	1,148	914
2001	7,837	11,416	5,415	1,042	965
2002	6,407	9,538	5,822	1,449	951
2003	5,377	7,365	6,393	1,931	888
2004	5,290	7,301	5,294	1,712	781
2005	4,697	6,873	4,124	1,255	500
2006	4,679	6,965	3,215	929	698

#### 3.3 Cancellations, renewals, trade marks in force

Year	Cancellations and other disposals	Renewals	Trade marks in force at the end of the year
2000	23,723	26,175	638,024
2001	32,319	24,040	665,000
2002	36,876	23,559	680,027
2003	36,356	23,840	695,060
2004	27,425	26,335	716,123
2005	35,955	29,104	731,039
2006	37,458	26,131	744,769

\* The updating of the chapter on national marks in 2002, in particular enhanced harmonisation with the procedures under the Trade Mark Law, has resulted in modifications of quantity and quality in comparison to previous publications.

## 4. Designs

### 4.1 Designs filed for registration and design procedures concluded

Year	Designs filed				Procedures concluded			
	Designs in multiple applications	Applications with one design	Total	including national applications	by registration	including national applications	without registration	Total
2000	65,536	5,839	71,375	58,244	73,617	58,937	2,931	76,548
2001	58,110	5,234	63,344	52,834	55,621	46,003	2,315	57,936
2002	57,723	4,944	62,677	50,567	65,068	52,358	3,194	68,262
2003	49,985	3,346	53,331	44,372	54,669	45,106	2,794	57,463
2004	45,272	3,021	48,293	39,565	39,982	31,756	1,585	41,567
2005	45,459	2,624	48,083	36,989	50,070	38,502	2,502	52,572
2006	48,460	2,554	51,014	39,207	46,557	35,619	1,925	48,482

### 4.2 Pending designs (applied for) and registered designs in force

Year	Pending designs (applied for) at the end of the year	Extension of registered designs	Designs maintained/renewed	Cancellations	Registered and in force at the end of the year
2000	18,703	4,815	13,072	57,606	351,161
2001	24,111	4,423	12,788	62,601	344,181
2002	18,516	3,986	12,628	62,697	346,562
2003	14,384	3,962	14,136	66,197	335,034
2004	21,143	3,021	15,329	61,233	313,783
2005	16,654	1,163	18,541	53,154	310,699
2006	19,186	1,983	15,720	55,054	302,202

### 4.3 Designs (applied for) by Federal German Laender

German Laender	2000	2001	2002	2003	2004	2005	2006
Baden-Württemberg	10,923	9,289	8,229	8,133	8,525	7,094	7,623
Bavaria	14,632	14,543	14,252	12,822	11,779	10,074	8,864
Berlin	1,988	1,589	953	1,004	997	992	1,233
Brandenburg	333	136	189	438	193	147	342
Bremen	258	325	164	121	123	63	172
Hamburg	793	872	730	1,126	983	268	763
Hesse	4,418	3,590	4,173	2,482	1,499	2,277	1,855
Mecklenburg-W.Pomerania	171	67	183	79	458	101	127
Lower Saxony	4,117	3,256	2,360	2,528	1,804	2,648	2,631
North-Rhine/Westphalia	15,213	13,514	14,199	10,584	9,787	8,614	11,637
Rhineland-Palatinate	1,725	1,829	1,545	1,535	1,068	1,725	1,033
Saarland	248	264	208	212	226	176	302
Saxony	1,088	1,334	1,031	919	1,232	1,039	845
Saxony-Anhalt	221	283	141	345	126	248	395
Schleswig-Holstein	1,439	1,494	1,568	1,390	463	896	826
Thuringia	677	449	642	654	302	627	559
<b>Total</b>	<b>58,244</b>	<b>52,834</b>	<b>50,567</b>	<b>44,372</b>	<b>39,565</b>	<b>36,989</b>	<b>39,207</b>



## 5. Register of anonymous and pseudonymous works

Year	Number of works in respect of which the author's true name was filed for registration	Number of applicants <sup>1</sup>	Number of works in respect of which the author's true name		Number of works in respect of which an application procedure was pending at the end of the year
			was registered	was not registered	
2000	47	31	43	46	19
2001	23	18	8	14	20
2002	18	13	15	18	5
2003	31	11	5	19	20
2004	29	8	12	23	14
2005	17	8	7	9	16
2006	18	15	7	8	19

<sup>1</sup> Several requests or requests relating to several works may be attributed to one applicant.

## 6. Copyright Arbitration Board at the DPMA

Year	Requests received	Inclusive contracts under Sec. 14(1) no. 2 Copyright Administration Law	Requests handled				Requests pending at the end of the year
			Settlement proposals of the Arbitration Board	Conciliations after proposal by the Board <sup>1</sup>	Discontinued proceedings	Total	
2000	29	2	16		3	19	46
2001	28	1	6		4	10	63
2002	40	3	21	6	6	33	70
2003	67	6	18	0	8	26	111
2004	53	0	57	1	26	84	80
2005	87	4	32	4	20	56	111
2006	75	1	43	1	24	68	118

<sup>1</sup> not recorded separately before 2001

## 7. Arbitration Board under the Law on Employees' Inventions at the DPMA

Year	Requests received	Settlement proposals accepted and conciliations	Objections to settlement proposals	Refusals to participate in the arbitration proceedings	Proceedings concluded in other ways	Total proceedings concluded	Arbitration proceedings pending at the end of the year
2000	95	6	1	17	13	37	182
2001	81	38	27	17	33	115	148
2002	87	27	35	18	16	96	139
2003	102	43	28	19	21	111	130
2004	98	27	16	10	24	77	151
2005	61	43	24	10	17	94	118
2006	52	25	21	13	8	67	68

## 8. Patent attorneys and representatives

Year	Patent attorneys		Qualifying examination		Permit holders	Patent agents	General powers of attorney
	Entered in register	Registered at the end of the year	Number of candidates	Successful candidates			
2000	133	1,892	167	162	390	1,100	22,040
2001	140	1,996	111	103	291	1,069	23,024
2002	125	2,073	168	163	288	1,107	23,880
2003	141	2,151	168	157	284	1,123	24,541
2004	147	2,255	165	163	284	1,136	25,091
2005	178	2,389	162	151	283	1,054	25,912
2006	131	2,477	186	171	277	1,081	26,666

# 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](http://www.dpma.de).

## Addresses and Telephone Numbers

Deutsches Patent- und Markenamt  
Zweibrückenstraße 12  
80331 München  
Germany  
Phone: +49 (0) 89/21 95-0  
Fax: +49 (0) 89/21 95-22 21

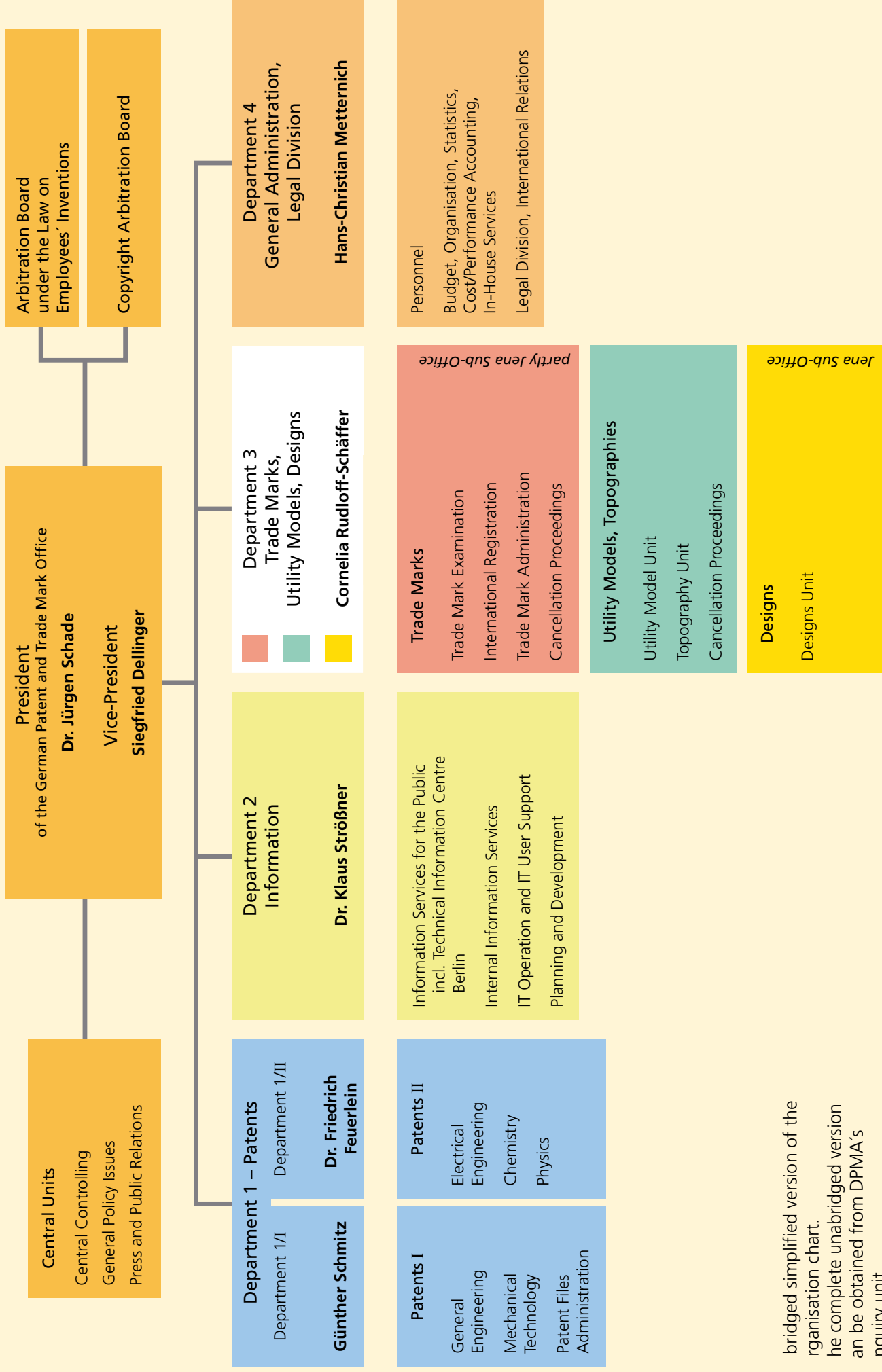
Dienststelle Jena  
Goethestraße 1  
07743 Jena  
Germany  
Phone: +49 (0) 36 41/40-54  
Fax: +49 (0) 36 41/40-56 90

Technisches Informationszentrum Berlin  
Gitschiner Straße 97  
10969 Berlin  
Germany  
Phone: +49 (0) 30/2 5992-0  
Fax: +49 (0) 30/2 5992-4 04

Enquiry unit +49 (0) 89/21 95-34 02  
[info@dpma.de](mailto:info@dpma.de)  
Press service +49 (0) 89/21 95-32 22  
[presse@dpma.de](mailto:presse@dpma.de)  
  
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**Gender Mainstreaming**

For convenience the male pronoun has been used throughout this report. It shall be interpreted as meaning the female pronoun also.

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