



German Patent
and Trade Mark Office

Annual Report 2009



At a glance

Budget	2008	2009		Changes in %
German Patent and Trade Mark Office and Federal Patent Court per million €				
Income	300.7	293.3	↙	-2.5
Expenditure	229.1	244.6	↗	+6.8
of which for personnel	126.6	133.1	↗	+5.1

Personnel	2008	2009		Changes in %
of the German Patent and Trade Mark Office				
Staff	2,500	2,609	↗	+4.4

Industrial property rights		2008	2009		Changes in %
Patents	Applications ¹	62,417	59,583	⬇️	- 4.5
	Concluded examination procedures (final)	33,193	32,074	⬇️	- 3.4
	- with patent grant ²	17,584	14,431	⬇️	- 17.9
	Stock ³	135,309	133,613	⬇️	- 1.3
Trade marks	Applications (national and international)	80,772	74,822	⬇️	- 7.4
National marks	Applications	73,903	69,069	⬇️	- 6.5
	Concluded registration procedures	72,223	73,054	⬆️	+ 1.2
	- with registration	50,259	49,817	⬇️	- 0.9
	Stock	776,628	778,008	⬆️	+ 0.2
International marks	Requests for grant of protection in Germany	6,869	5,753	⬇️	- 16.2
	Grants of protection	6,243	5,796	⬇️	- 7.2
Utility models	Applications	17,067	17,306	⬆️	+ 1.4
	Concluded registration procedures	17,263	16,568	⬇️	- 4.0
	- with registration	14,347	13,916	⬇️	- 3.0
	Stock	100,093	96,909	⬇️	- 3.2
Designs	Designs applied for	48,238	44,714	⬇️	- 7.3
	Concluded registration procedures	51,468	37,311	⬇️	- 27.5
	- with registration	49,146	35,431	⬇️	- 27.9
	Stock	297,206	279,916	⬇️	- 5.8

1 Domestic and foreign patent applications at the DPMA and PCT patent applications upon their entry into the national phase

2 Including patents in respect of which an opposition was filed under Section 59 Patent Law

3 Including patents granted by the European Patent Office with effect in the Federal Republic of Germany, a total of 534,081 patents were valid in Germany in 2008

Contents	page
■ Preface	2
■ Patents	4
■ Utility models	16
■ Trade marks	20
■ Indications of geographical origin	30
■ Designs	32
■ Supervision of collecting societies	40
■ Patent attorneys and representatives	42
■ Arbitration Boards at the German Patent and Trade Mark Office	52
■ Information services	56
■ Information technology	60
■ Staff	66
■ Finances	72
■ International cooperation	74
■ Events in 2009	86
■ A glance at 2010	96
■ Statistics	100
■ Service	112

A reliable partner for creative minds

Creative people and inventors shape our everyday world. They develop environmentally friendlier cars, ever smaller and at the same time more efficient telephones and create designs that add beauty to our everyday items. As rewards they receive industrial property rights that means patents, trade marks, utility models and registered designs.

We grant, register and administer these IP rights. We also provide information to the public about the advantages offered by IP rights and about ideas and inventions that are protected.

The ‘we’ refers to the approximately 2,600 staff of the German Patent and Trade Mark Office (DPMA) in Munich, Jena and Berlin.

The DPMA is divided into five departments (see organisation chart on the back cover):

Patents (Departments 1/I and 1/II)

The patent area covers a large field of work and is organised into two departments: Department 1/I (mechanical engineering and mechanical technology) and Department 1/II (electrical engineering, chemistry and physics). About 800 patent examiners examine the patentability of inventions described in the applications received, grant patents and deal with oppositions.

Information (Department 2)

The staff of Department 2 provide information to the public on industrial property rights and the individual steps of applications. They manage and update our databases and provide search support to users.

Trade Marks, Utility Models and Designs (Department 3)

The staff of Department 3 examine applications for trade marks, utility models, designs and topographies. They enter these registrations, deal with third party oppositions and decide on the cancellation of individual registrations.

Central Administration, Legal Division (Department 4)

The staff of Department 4, above all, manage the various administrative tasks necessary for running an organisation including, for example, personnel, budget and legal affairs, administration and facilities maintenance and the organisation of administrative processes.

More information about us and our work is available at www.dpma.de and in this annual report.



Dear Reader,

My first year as President of the German Patent and Trade Mark Office was an eventful time for me and my staff: At first, it was difficult for us to predict what impact the financial and economic crisis would have on our customers and ultimately on us as well.

Fortunately, we found that many enterprises were able to confidently cope with the challenges posed by the crisis. Research and development are two key pillars for the future of their companies. It is true that the number of applications fell markedly but less dramatically than expected. In 2009 there was no lack of work for us.

As national intellectual property centre of excellence we are assisting companies that invest in innovation and think ahead by using industrial property rights to ensure their economic well-being and that of others.

Part of that assistance is to develop a strong international presence. In the interest of our customers we are committed to promoting the appreciation of intellectual property and advocate the effective protection of innovation at a global level. In 2009 for example, we started cooperation with the US Patent and Trademark Office and further expanded our cooperation with our partner offices in China, Japan and Brazil.

We also set high standards for our own work. To further improve quality and performance, while at the same time reducing processing times, we embarked on a major recruitment drive last year to attract junior staff to join the patent examination divisions. More than 100 new highly skilled staff were recruited to work at our organisation. Our internal business processes will be further optimised and shortened by introducing end-to-end electronic file processing in the coming years.

By the way, in 2009 we also celebrated the 60th anniversary of our office in Munich. In this annual report you will discover what other events characterised the past year.

I hope you enjoy reading this annual report.

Yours sincerely,

A handwritten signature in black ink that reads "Cornelia Rudloff-Schäffer". The signature is written in a cursive, flowing style.

Cornelia Rudloff-Schäffer
President of the German Patent and Trade Mark Office

Patents

... add value to technical inventions

The main purpose of a patent is to protect products and processes against copying. The patent owner has the exclusive right to offer his/her products. For a limited period – up to 20 years from the filing date – competitors are excluded from utilising the invention without the patent owner's consent.

The basic idea underlying the patent is to create an incentive for technical development and to provide protection against misuse of inventions. As a reward for disclosing the invention to the public the patent owner receives a temporary IP right. Any other person is prohibited from using the invention. This concept aims at promoting innovation and increasing knowledge and benefits developers and consumers alike.

A patent is granted for a technical invention which is new, involves a sufficiently inventive step and is industrially applicable.

Novelty:

An invention is new if it does not form part of the state of the art. The state of the art comprises all knowledge made available to the public by means of a written or oral description anywhere in the world before the date of filing.

Inventive step:

Even an invention that is new cannot be patented if it is obvious to a person skilled in the art. Thus the invention must differ sufficiently from the state of the art.

Industrial applicability:

The requirement of industrial applicability is basically met by all inventions that can be carried out in any field of industry. Ideas which cannot be carried out must not be patented, for example, a perpetual motion machine which deviates from currently recognised physical laws.



Development in patent application numbers

In 2009, 59,583 patent applications were filed at our office. Compared to the previous year, when we had received 62,417 applications, the number of applications decreased by 4.5% (Figure 1).

The number of patent applications comprises 55,938 applications, filed directly at our office, and 3,645 applications under the international Patent Cooperation Treaty (PCT) which entered the national phase at our office.

Due to the PCT revision in 2004, strictly speaking, it is not possible to directly compare the current figures with those prior to the year 2004. Nevertheless, to show the development, the effects of the PCT revision were eliminated in Figure 1. Consequently, the data reflect the actual application conditions since 2003. For more data on patent applications, please refer to Table 1.1 in the annex “Statistics” on page 101.

Origin of patent applications

Table 1 shows the countries of origin of the patent applications received at the DPMA. The figures comprise direct applications at the German Patent and Trade Mark Office and PCT applications which entered the national phase at the DPMA. Compared to the previous year, there was a more pronounced fall in applications filed by applicants residing abroad (by 1,453 to 11,724 applications) than in applications filed by applicants located in Germany (by 1,381 to 47,859 applications). Table 1.6 in the annex “Statistics” on page 103 provides an overview.

Figure 1: Patent applications at the German Patent and Trade Mark Office. Consolidated figures for the year 2003 (see also text for explanations)

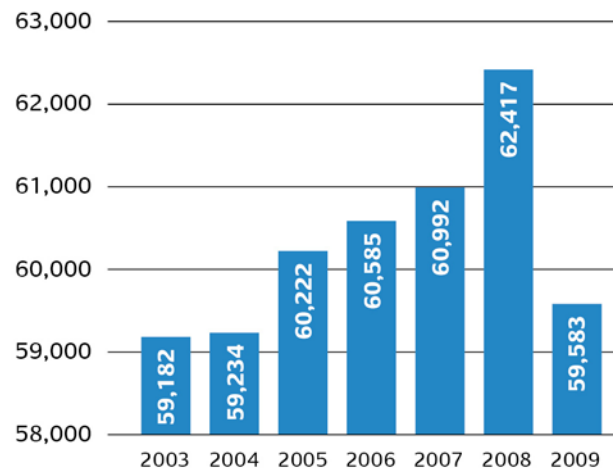


Table 1: Patent applications at the German Patent and Trade Mark Office in 2009 by countries of origin (patent applications filed at the DPMA and PCT patent applications that entered the national phase at the DPMA)

	Applications at the DPMA	Percentage
Germany	47,859	80.3
USA	3,648	6.1
Japan	3,157	5.3
Switzerland	973	1.6
Republic of Korea	615	1.0
France	195	0.3
Netherlands	87	0.1
United Kingdom	87	0.1
Others	2,962	5.2
Total	59,583	100

Patent applications by German Länder

In the year 2009, German companies and inventors filed 47,859 patent applications.

The breakdown of applications by German Länder is based on the place of residence or seat of the applicant: With 15,532 patent applications (32.5%), Baden-Württemberg again came top and was able to extend its overall lead.

It is followed by Bavaria – that had occupied the top position from 1996 to 2006 – with 12,641 (26.4%) and North-Rhine/Westphalia with 7,408 patent applications (15.5%).

Consequently, nearly three-quarters (74.4%) of all national applications came from these three Länder (see Figure 2 and Table 2). With 1,167 applications, Saxony clearly increased its filing activity by almost 17% compared to 2008 and thus experienced a more marked rise in patent applications than any of the other German Länder. For time series covering the preceding years, please refer to Table 1.5 in the annex “Statistics”.

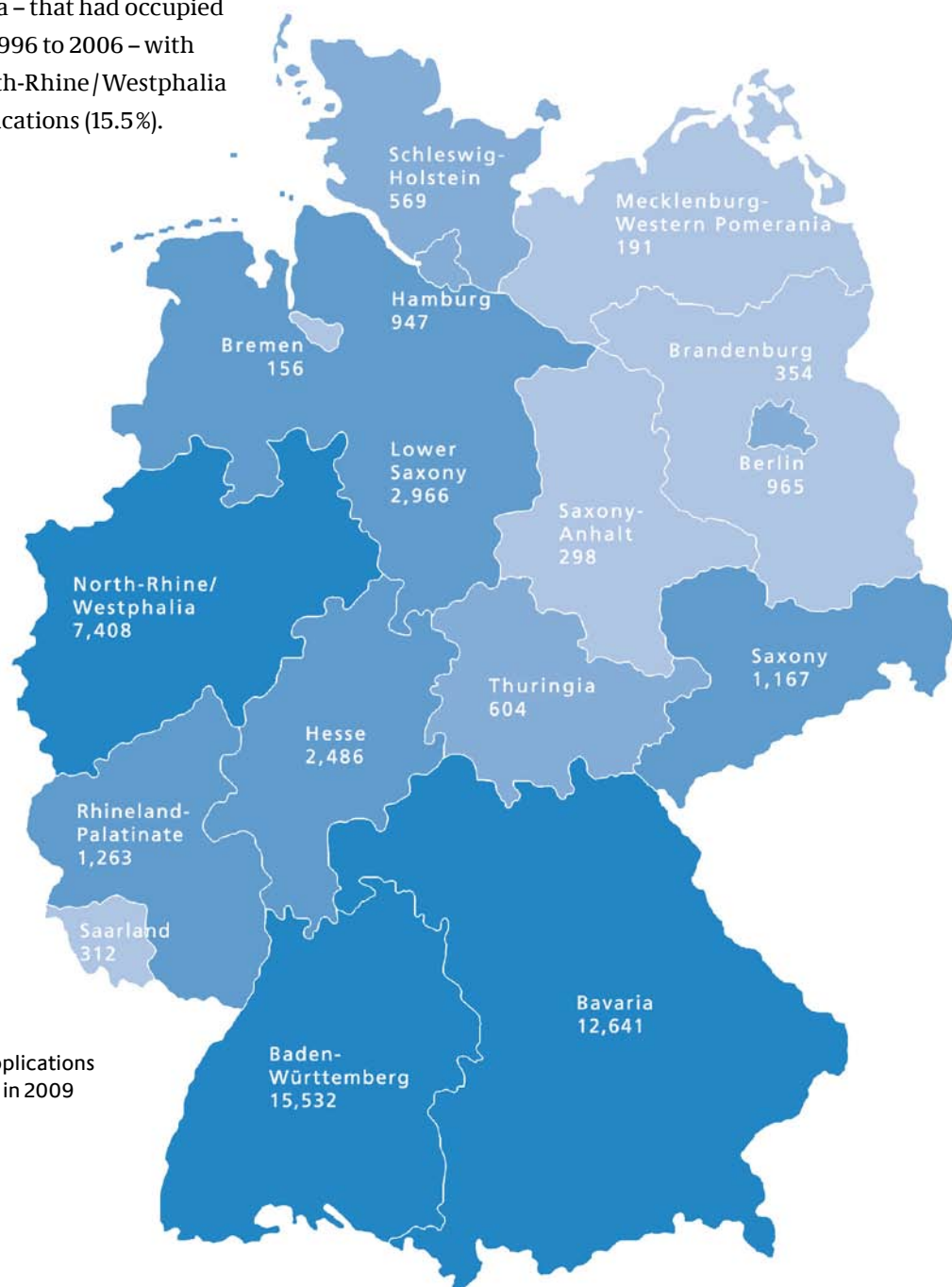


Figure 2: Patent applications by German Länder in 2009

However, the filing figures in real terms provide little information on how innovative the inhabitants of the individual German Länder of different sizes really are. It is more informative to analyse the number of applications in relation to the size of the population of each German Land: In 2009,

58 patent applications on average were filed per 100,000 inhabitants in Germany. With 144 and 101 applications per 100,000 inhabitants, respectively, Baden-Württemberg and Bavaria are in the lead; all other German Länder are below the average (see Table 2).

Table 2: Patent applications, percentages and number of applications per 100,000 inhabitants by German Länder

German Länder	2008			2009		
	Applications	Proportional share in %	Applications per 100,000 inhabitants	Applications	Proportional share in %	Applications per 100,000 inhabitants
Baden-Württemberg	15,081	30.6	140	15,532	32.5	144
Bavaria	13,528	27.5	108	12,641	26.4	101
North-Rhine/Westphalia	7,797	15.8	43	7,408	15.5	41
Lower Saxony	3,351	6.8	42	2,966	6.2	37
Hesse	2,678	5.4	44	2,486	5.2	41
Rhineland-Palatinate	1,274	2.6	31	1,263	2.6	31
Saxony	998	2.0	24	1,167	2.4	28
Berlin	891	1.8	26	965	2.0	28
Hamburg	1,100	2.2	62	947	2.0	53
Thuringia	605	1.2	26	604	1.3	27
Schleswig-Holstein	590	1.2	21	569	1.2	20
Brandenburg	366	0.7	14	354	0.7	14
Saarland	295	0.6	28	312	0.7	30
Saxony-Anhalt	356	0.7	15	298	0.6	13
Mecklenburg-Western Pomerania	186	0.4	11	191	0.4	11
Bremen	144	0.3	22	156	0.3	24
Total	49,240	100	Ø 60	47,859	100	Ø 58

The most active patent applicants

The list of the 50 most active patent applicants (see Table 3) shows how active applicants from Germany and abroad are on the German patent market. The list contains patent documents published by the German Patent and Trade Mark Office in 2009 (published patent applications and patent specifications, if the patent application has not been published before). Since the documents are published 18 months after the filing date due to the legally prescribed period for publication the ranking shows the application period between July 2007 and June 2008.

The individual firms are recorded here in their capacity as patent applicants. This means that the patent applications of the individual applicants are listed separately, irrespective of possible interlinking of business enterprises.

With 3,213 applications – an increase of 21.5%, Robert Bosch GmbH again takes top position in the ranking further consolidating its lead. Daimler AG replaced Siemens AG in second place. GM Global Technology Operations Inc., Volkswagen AG and BSH Bosch und Siemens Hausgeräte GmbH also filed markedly more applications at the DPMA in this period, while Toyota Jidosha K.K. was no longer among the 50 most active applicants.

Table 3: The 50 most active patent applicants at the German Patent and Trade Mark Office. Patent documents published by the DPMA in 2009 (published patent applications filed between July 2007 and June 2008, and patent specifications, if the patent application has not been published before; irrespective of any possible interlinking of business enterprises).

	Applicants	Seat	Applications
1	Robert Bosch GmbH	DE	3,213
2	Daimler AG	DE	1,756
3	Siemens AG	DE	1,750
4	GM Global Technology Operations Inc.	US	1,347
5	Volkswagen AG	DE	891
6	Schaeffler Technologies GmbH & Co. KG	DE	747
7	BSH Bosch und Siemens Hausgeräte GmbH	DE	701
8	ZF Friedrichshafen AG	DE	689
9	Continental Automotive GmbH	DE	671
10	Bayerische Motoren Werke AG	DE	650
11	Denso Corp.	JP	636
12	Infineon Technologies AG	DE	480
13	Fraunhofer-Gesellschaft e.V.	DE	403
13	Voith Patent GmbH	DE	403
15	LuK Lamellen und Kupplungsbau Beteiligungs KG	DE	399
16	Dr.Ing.h.c.F. Porsche AG	DE	394
17	General Electric Co.	US	387
18	Audi AG	DE	365
19	Henkel AG & Co. KGaA	DE	306
20	OSRAM Opto Semiconductors GmbH	DE	252
21	Manroland AG	DE	251
22	Airbus Deutschland GmbH	DE	236
23	Hyundai Motor Co.	KR	233
24	Ford Global Technologies LLC	US	217
25	Continental Teves AG & Co. oHG	DE	215
26	Koenig & Bauer AG	DE	192
27	Behr GmbH & Co. KG	DE	188
28	Deutsches Zentrum für Luft- und Raumfahrt e.V.	DE	172
28	Qimonda AG i. In.	DE	172
30	Knorr-Bremse Systeme für Nutzfahrzeuge GmbH	DE	168
31	Krones AG	DE	154
32	Continental AG	DE	152
33	Heidelberger Druckmaschinen AG	DE	147
34	Giesecke & Devrient GmbH	DE	145
35	Osram GmbH	DE	142
36	Linde AG	DE	141
37	Evonik Degussa GmbH	DE	140
38	Hella KGaA Hueck & Co.	DE	134
39	Bayer MaterialScience AG	DE	129
40	Carl Zeiss SMT AG	DE	124
41	Mitsubishi Electric Co.	JP	122
42	Hilti AG	LI	117
43	MTU Aero Engines GmbH	DE	116
43	Siemens Medical Instruments Pte. Ltd.	SG	116
45	EADS Deutschland GmbH	DE	115
46	KIA Motors Corp.	KR	114
47	SEW-Eurodrive GmbH & Co. KG	DE	109
48	Wilhelm Karmann GmbH	DE	108
49	ZF Lenksysteme GmbH	DE	105
50	Miele & Cie. KG	DE	103

Inventors and applicants

In 2009, just under 60% of the applications received by us were filed by a small group of applicants with more than ten patent applications each – mostly large enterprises (see Table 1.8 in the annex “Statistics”, page 104). This concentration process in favour of large patent applicants has become ever more pronounced in recent years.

The inventor must also be named in a patent application in addition to the applicant. Thus it is possible to find out the number of cases where the applicant and inventor are identical or not. Applicant and inventor are not identical, for example, 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 or employee with a released invention. In 2009, 9.1% of the patent applications were filed by the respective inventor himself/herself – a slight increase over the previous year. For applications from Germany it was 10.1%, and for foreign applications 3.9% (see Table 4).

Patent applications filed by universities

In 2009, German universities applied for patents for 672 inventions in their own name. This represents a 12.4% increase from the previous year's figure of 598 patent applications. Table 1.7 in the annex “Statistics”, page 103, shows the patent activity of the universities of the individual German Länder.

Main technical areas of patent activity

The International Patent Classification (IPC) with its letter and number code is a hierarchical system that organises all technological fields in more than 70,000 units. On this basis, our patent examiners attribute every patent application, and the invention described in it, to one or more classes.

For many years, most of the applications have been attributed to the IPC area B60 “Vehicles in general”. In 2009, 5,343 patent applications were filed in this class. The next positions are occupied by the following classes: F16 “Engineering elements or units” with 4,692 applications and H01 “Basic electric elements” with 3,681 applications (compare Table 5). Compared to the previous year, the area H 04 “Electric communication technique” suffered a particularly huge drop of more than 12%. Table 1.9 on page 105 shows the development in recent years.

Table 4: Patent applications of the category “applicant is inventor” by place of residence or seat of applicant (in %)

	2003	2004	2005	2006	2007	2008	2009
National	10.7	10.9	10.7	10.6	10.8	9.6	10.1
Foreign	4.4	3.7	3.5	3.7	3.7	3.1	3.9
Total	9.6	9.7	9.4	9.3	9.5	8.4	9.1

Table 5: Patent applications by classes of the International Patent Classification (IPC) that account for the majority of applications

IPC class	Applications in 2009	Percentage	Differences between 2008 and 2009 in %
B60 Vehicles in general	5,343	9.6	- 6.4
F16 Engineering elements or units	4,692	8.4	- 8.1
H01 Basic electric elements	3,681	6.6	- 8.7
G01 Measuring, testing	3,603	6.4	- 4.4
A61 Medical or veterinary science; hygiene	2,682	4.8	- 2.5
F02 Combustion engines	2,123	3.8	- 7.8
H02 Generation, conversion or distribution of electric power	1,832	3.3	0.8
B65 Conveying, packing, storing, handling thin material	1,514	2.7	- 6.3
H04 Electric communication technique	1,434	2.6	- 12.8
F01 Machines or engines in general	1,378	2.5	- 9.0
G06 Computing, calculating, counting	1,227	2.2	- 2.0
B62 Land vehicles for travelling otherwise than on rails	1,174	2.1	- 3.7

Data on patent examination

The demand for patents has remained at a consistently high level. That is why it was not possible to cope with the workload under the current staff situation despite extensive organisational measures, a large number of newly recruited staff (see also page 66) and the high commitment of our examiners. Detailed data on applications received and concluded procedures are provided in Table 6 and Tables 1.2 and 1.3 on page 101.

Table 6: Data on patent procedures

	2003	2004	2005	2006	2007	2008	2009
Requests for examination	37,071	36,575	37,387	38,696	39,228	38,470	35,694
– including requests filed together with application	25,479	25,444	25,082	25,452	24,972	24,714	22,666
Search requests ¹	12,708	12,800	13,352	13,238	13,394	14,176	13,250
Examination procedures concluded (final)	33,515	33,862	36,064	38,140	34,297	33,193	32,074
Requests not yet concluded in the patent divisions at end of year	116,766	118,184	114,826	116,857	121,386	128,777	132,412 ²

¹ under Sec. 43 (1) Patent Law and Sec. 7 (1) Utility Model Law

² examination procedures not yet concluded in the patent divisions at the end of 2009

Important amendments of IP procedures under the law for streamlining and modernising patent law

On 1 October 2009, the law for streamlining and modernising patent law entered into force. This resulted in some essential amendments: On the one hand, the fees for the electronic filing of patent applications were reduced – on the other hand, extensive patent applications became more expensive. Furthermore, participating in our procedures is now easier for individuals and enterprises that reside or are located in a foreign country. In addition, oppositions to registered trade marks may now also be based on the existence of non-registered trade marks or of other signs. Other amendments streamline and expedite the procedures in the patent area and trade mark area, the proceedings before the Federal Patent Court and the Federal Court of Justice and with regard to employees' inventions.

Changes in application fees for patents

The application fee for a patent application that is filed electronically and includes up to ten patent claims was reduced from € 50 to € 40. The fee for a corresponding application on paper remains at € 60.

For patent applications comprising more than ten claims, the application fee is € 20 for each additional claim of an electronic application and € 30 for each additional claim of an application on paper. This fee policy takes into account that it requires considerably more time and effort to process patent applications with many claims. It also helps avoiding unduly long applications. This reduces our workload allowing us to speed up the procedure as a whole.

The new German fee policy corresponds to the fee policy of the European Patent Office and those of many national patent offices, which also specify that the amount of the fee depends on the number of patent claims.

Simplified requirements for people and enterprises abroad

As a rule, individuals or enterprises that reside or are located in a foreign country must appoint a German patent attorney or an attorney-at-law, or a comparable agent from certain countries of the European Union or the European Economic Area to represent them in procedures before the DPMA. In the latter case, however, it was formerly necessary to also authorise an attorney in Germany to receive service of official communications. This requirement was repealed. The German Patent and Trade Mark Office is now able to serve communications in a simpler way to foreign countries.

Extended grounds for opposition to registered trade marks

Oppositions to registered trade marks may now also be based on the existence of non-registered trade marks or of other signs. More information on this issue is available on page 29.

IN FOCUS

Green Technologies

Renewable energy

Applications concerning environmentally relevant inventions can be found in almost all fields of technology. The innovative enthusiasm of industry regarding renewable energy is shown in Table 7. In the field of solar technology, the number of applications have continued to increase steeply despite a largely mature technology. The current increase in patent applications effective in Germany is caused by German as well as foreign applicants. Many of the applications received by the German Patent and Trade Mark Office (DPMA) relate to semiconductor components, the simplified

production of photovoltaic modules, tracking systems and the mounting of solar panels on roofs. The number of applications in the field of wind generators, wave and tidal power generators and submerged units have also greatly increased. The applications were filed, above all, by big companies from Germany and the USA. Many applications focus on integrating wind generators and wind farms into the grid. Furthermore, other renewable energy sources such as geothermal energy or biogas plants have meanwhile shown significant and growing numbers of applications.

Table 7: Patent applications effective in the Federal Republic of Germany in selected fields of renewable energy. Applications published by the DPMA and the European Patent Office (EPO), avoiding double-counts, by publication year and the applicant's place of residence.

	2003		2004		2005		2006		2007		2008		2009	
	Ga ¹	fa ²	Ga ¹	fa ²	Ga ¹	fa ²	Ga ¹	fa ²	Ga ¹	fa ²	Ga ¹	fa ²	Ga ¹	fa ²
Solar technology ³	90	64	82	94	85	80	101	108	149	98	143	224	240	350
Wind generators ⁴	72	54	82	67	89	75	92	100	91	72	123	151	191	291
Hydro power / wave and tidal power ⁵	10	13	9	15	14	12	11	21	13	1	19	29	20	55
Geothermal energy, biogas, other energy sources ⁶	25	11	29	22	25	19	26	17	59	13	78	33	86	51
Sum	197	142	202	198	213	186	230	246	312	184	363	437	537	747

1 German applicants

2 foreign applicants

3 IPC: F24J2, F03G6, H02N6, E04D13/18, C02F1/14, H01L31/04 to H01L31/078

4 IPC: F03D

5 IPC: F03B13/10 to F03B13/26; F03B7

6 IPC: F24J3, F03G4, F03G3, F03G7/00 to F03G7/08; C12M1/107, C12M1/113

Environmental technology: fuel cells

Hydrogen is an environmentally friendly energy carrier that allows to make energy, produced in an environmentally sound manner, available anytime and anywhere. The fuel cell is the key technology of an energy system based on hydrogen.

Fuel cells convert chemical energy into electrical energy. Due to increased development activities, application figures for such energy converters had continuously been on the rise in recent years. In 2009, there was a slight drop of patent applications first published by the DPMA and the EPO. The majority of patent applications originate from companies of the car industry and the corresponding car parts suppliers in Germany, Japan and the USA. Many big German research institutions and German medium enterprises,

among them also comparatively young and small enterprises specialising in fuel cells, have been active in this field of technology, too. In addition, there is a very high number of international applications (PCT applications) that have entered the national phase. These applications are not reflected in Table 8. Fuel cells have many different applications, from portable mini fuel cells replacing batteries in small appliances to the fuel cell powered district heating plants. The majority of applications relate to mobile utilisation, i.e. the integration of fuel cells in vehicles equipped with electric motors. Developers have focused on improving efficiency, designing universally usable modular components, miniaturising components and storing and producing hydrogen on board.

Table 8: Patent applications effective in the Federal Republic of Germany in the fields of fuel cell technology. Applications published by the DPMA and the EPO, avoiding double-counts, by publication year.

	2003	2004	2005	2006	2007	2008	2009
Fuel cells ¹	641	728	694	682	780	946	827

¹ IPC: H01M4/86 to H01M4/98, H01M8, H01M12/04 to H01M12/08, B60L11/18

Automotive technology: exhaust technology and hybrid electric vehicles

The number of patent applications in the field of motor vehicle exhaust technology showed a strong increase in 2009. In addition to the demand for cars with low fuel consumption, this is also due to ever lower emission limits and the sensor systems that have to be installed in every vehicle to monitor emissions and control emission compliance (on-board diagnostic system). Germany based companies were more active in filing patent applications than non-German applicants. The latest generation of vehicles meet the future legal standards. The focus is now on system optimisation.

Applications on the different aspects of hybrid electric cars again increased steeply – from simple start/stop systems, which means that when the car is stationary the combustion engine automatically cuts out and restarts, to full hybrid electric vehicles, which can even run on electric power alone for a certain time. Formerly, Japanese applicants had been clearly in the lead in this field, but now they have to share this market with their American and, above all, European competitors: Since 2004, the percentage of applications from Japan has declined, while applications from Germany have further increased. The majority of applicants are big international

car manufacturers and component suppliers. They do not only place importance on good fuel economy and a low emission drive, but also work on improving driving dynamics and the driving comfort of their hybrid electric vehicles.

The European Patent Office (EPO) and the DPMA received only few applications in the field of exhaust technology and hybrid electric vehicles from France and Korea, two countries with large car industries.

Table 9: Patent applications effective in the Federal Republic of Germany in selected fields of automotive technology. Applications published by the DPMA and the EPO, avoiding double-counts, by publication year and the applicant's place of residence.

Motor vehicle exhaust technology ^{1,2}							
Country of origin / publication year	2003	2004	2005	2006	2007	2008	2009
Total	847	1,117	1,052	1,139	1,314	1,297	1,540
DE	330	471	458	495	563	535	667
US	145	168	134	158	178	247	274
JP	284	381	338	367	463	401	433
KR	6	3	10	6	5	2	9
FR	24	39	58	71	60	57	72

Hybrid electric vehicles ^{2,3}							
Country of origin / publication year	2003	2004	2005	2006	2007	2008	2009
Total	376	414	429	474	562	887	1,295
DE	104	95	92	131	219	337	537
US	53	40	94	101	110	193	323
JP	200	248	223	213	203	304	346
KR	0	4	5	11	20	16	23
FR	10	13	5	7	8	11	37

1 IPC: F01N3, F01N5, F01N9, F01N11, F02D41 to F02D45

2 Applications filed by applicants having several seats are counted for each country

3 Data collected with a specified search profile due to the 2006 IPC reform

IN FOCUS

Training of patent examiners

Newly recruited patent examiners will be instructed by experienced examiners. The coaches use actual files to be processed, that means “real-life cases”, to teach the required skills – from the search to the final assessment of patentability, in particular. In addition to IT skills, examiners need legal knowledge, above all, to adequately attribute, assess and evaluate the technological and legal facts.

Hands-on training at the workplace is accompanied by training courses: at the very beginning of the training, the new recruits are introduced to the in-office IT applications, that means searches within DEPATIS and other databases and the handling of the electronic case file. Courses on patent law are of particular importance. Since our patent examiners are also involved in utility model cancellation proceedings and arbitration proceedings under the law on employee inventions, training includes courses on these two fields of law, too. In addition, there are courses on the German Basic Law, the Civil Code and the Code of Civil Procedure.

The training courses present and discuss fairly straightforward technical cases. At their workplaces, the examiners-in-training can then apply their acquired knowledge to more complex technical matters in their and their coaches’ respective fields of technology. This dual training system creates an enhanced understanding and yields high-quality results. Our new recruits

undergo this dual training programme for the first 18 months of their employment. Under the supervision of their coaches they perform the full range of tasks related to patent examination, including the processing of notices of opposition and the reestablishment of rights in respect of the time limit for appeals. The big advantage of this system is that the junior examiner receives training in the relevant field of technology. This enables him or her to subsequently work as a largely independent and fully responsible examiner in this field and to efficiently produce high-quality results.

After this workplace-related training, the junior examiners are expected to assume their duties and responsibilities autonomously. At first, they will be closely coached by group leaders.

Our patent examiners continuously update and expand their knowledge: they do not only keep updated in their respective technical fields through their searches relating to patent and utility model applications but also by studying technical literature, visiting enterprises or business fairs. Furthermore, there is an ongoing training on patent law and topical legal issues.

We have recruited an above-average number of new examiners in 2009 in order to cope with the growing workload. For more information on the recruitment initiative, please see page 66.

Utility models

... easy, low-cost and fast protection for inventions

Did you know that you can also apply for a utility model for any technical invention and that it has the same protective effect as a patent?

It is fast and low cost:

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

The IP right becomes effective upon registration and – provided the unexamined substantive requirements for protection are fulfilled – it confers the same rights as a patent.

Low cost, because apart from the application fee of € 40 no other fees are due for the registration procedure and the first three years after filing the application. The utility model can last for up to ten years, if the respective fees are paid after three, six and eight years.

For technical inventions the “little brother” of the patent is indeed a good alternative or complement to the patent application. However, unlike patents, utility models cannot be used to protect processes and biotechnological inventions.



Development in utility model application numbers

In 2009, the falling trend in applications in the utility model area was not only halted but reversed; compared to the previous year there was even a slight increase in application figures. 17,306 new utility model applications were filed; 13,916 utility models were entered in the register. 2,652 applications were withdrawn, rejected or did not lead to registration for other reasons.

Within the course of 2009, 21,821 utility model registrations were renewed, 17,100 utility models lapsed, for example, due to non-renewal or abandonment. At the end of the year, 96,909 utility models were in force.

Origin of utility model applications

17.7% of the applicants were based in foreign countries in 2009. The majority of the foreign applications originated from Taiwan (6.8%), followed by Austria (2.1%) and Switzerland (1.6%) (see Table 10).

Figure 3: Utility model applications at the German Patent and Trade Mark Office

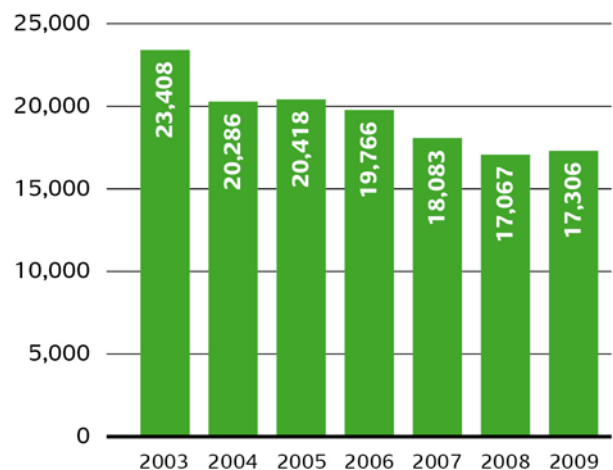


Table 10: Utility model applications at the German Patent and Trade Mark Office in 2009 by countries of origin

	Applications filed at the DPMA	Percentage
Germany	14,242	82.3
Taiwan (Province of China)	1,175	6.8
Austria	369	2.1
Switzerland	273	1.6
USA	196	1.1
Others	1,051	6.1
Total	17,306	100

Utility model applications by German Länder

In 2009, 14,242 of the 17,306 utility model applications filed came from Germany. The comparison of German Länder shows that North-Rhine/Westphalia comes top with 3,681 applications (25.8%), followed by Bavaria with 3,084 (21.7%) and Baden-Württemberg with 2,627 applications (18.4%). Consequently, 65.9% of all national applications come from these three Länder (see Figure 4).

For more statistical data please refer to the annex “Statistics” on page 100.

Split-off option

In 2009, 1,412 utility model applications were so-called split-off applications.

A split-off declaration allows the applicant to claim the filing date of an earlier patent application for the utility model application. That day is then deemed the filing date of both applications, even if the utility model application was actually filed later. A registered utility model confers protection to an invention during the otherwise almost unprotected period of time between the patent application and the patent grant. This flanking measure may be used, for example, to provide protection against unauthorised copying before a patent is granted.



Figure 4: Utility model applications by German Länder in 2009

Search pursuant to Section 7 of the Utility Model Law

The most important difference to the patent is that the utility model is registered without substantive examination. We merely examine whether the formal requirements are complied with. If that is the case, the applicant very quickly receives a utility model. However, since we do not examine whether the requirements for valid protection are met, we recommend that the applicant conduct a search (prior art search) to find out whether a comparable invention has already been made.

It is only possible to claim rights to the invention if

- the invention is new,
- involves an inventive step and
- is industrially applicable.

Upon request and for a fee of € 250 our patent examiners will conduct a prior art search. They will establish a search report listing the publications and documents identified that are relevant for assessing protectability of the utility model. This will make it easier to assess whether your own claims will be enforceable against others or if an attack on your IP right could be successful.

In 2009, 3,114 search requests were filed.

Utility model cancellation

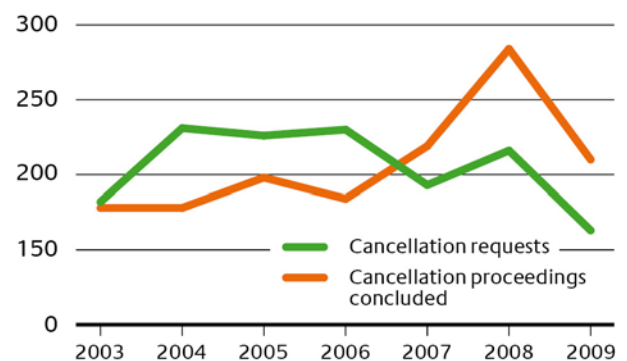
The utility model can only be cancelled upon filing a corresponding request. Any person may file a cancellation request. There is no need for that person to have an economic interest. However, the request is also subject to a fee of € 300 and must contain a sufficient statement of reasons, particularly, citing the relevant prior art. Cancellation proceedings are handled by the utility model cancellation division. This division will examine whether the invention can be protected

at all by a utility model and assess whether the invention is new, involves an inventive step and is industrially applicable. The cancellation proceedings are indeed an important and effective instrument for clarifying the protectability of a utility model.

In 2009, 163 utility model cancellation requests were filed and 210 cancellation proceedings were concluded.

In contrast to patents, it is possible to go to the regular courts to clarify whether any rights may be derived from the utility model at all, precisely because for utility models there is no substantive examination before registration.

Figure 5: Cancellation requests and concluded proceedings in utility model cancellation proceedings



Topographies

Topography applications and utility model applications are handled by the same organisational unit at the DPMA. Three-dimensional structures of microelectronic semiconductor products are known as topographies. The registration procedure corresponds to that of utility models. While the number of applications were initially high when the Semiconductor Protection Law was introduced in 1987, very few topography applications were filed at the DPMA in the past few years, just four in 2009.

Trade marks

... badges of origin, labels of quality, advertising signs

Trade marks give products a name. This enables customers to distinguish basically identical products made by different manufacturers, for example fabric softeners. Suppliers of such products can register the name chosen for their product as a trade mark at the German Patent and Trade Mark Office. A registered trade mark confers the right to prohibit others from using a confusingly similar name on identical or similar products. Customers can be sure to always get a product of one and the same supplier if they purchase a certain brand.

Trade marks consist of words, symbols, images or a combination of these elements. Under certain circumstances, three-dimensional shapes, colours, combination of colours or jingles can be registered as trade marks. Words required to describe product features cannot be protected as trade marks. For example, the word “sturdy” cannot be registered as a trade mark for bicycles. Likewise, it is not possible to register signs which, for some reason, will not be perceived as trade marks. However, it does not matter if a similar trade mark has already been registered.

Three systems of trade mark protection are co-existing in Germany. These are the national trade marks, which are examined, registered, and administered by the German Patent and Trade Mark Office. Secondly, international marks, which have previously been registered abroad, can request protection in Germany through the World Intellectual Property Organization (WIPO). These trade marks, too, are examined by the German Patent and Trade Mark Office for compliance with requirements for protection. Community trade marks are the third pillar of trade mark protection in Germany. These trade marks are examined by the Office for Harmonization in the Internal Market (OHIM) and valid throughout the European Union. The three trade mark systems are of equal rank. The respective trade marks confer the same protection. The principle of seniority applies to all trade marks, i.e. the earlier trade mark takes precedence over the later one, irrespective of the system of origin.



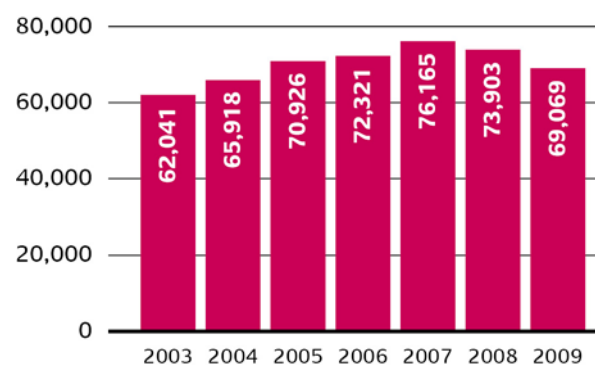
Development in trade mark application numbers

The number of trade mark applications declined by 6.5% in 2009 (from 73,903 in 2008 to 69,069 in 2009). In light of the most severe financial and economic crisis since World War II, this is a moderate decrease. The question nevertheless arises whether the causes of the decrease are cyclical or structural: a comparison of the monthly filing figures in 2008 and 2009 (Table 13, page 23) shows that the applications fell markedly in the first half of 2009, in particular. Then, however, the trend reversed over the following months, and near the end of the second half of 2009 the figures of the preceding year were even surpassed. This development corresponds approximately to the assessment of economic prospects as reflected in the business climate index of the IFO Institute for Economic Research. This suggests that the financial and economic crisis was the main cause of the decline in trade mark applications.

A comparison of German filing figures with those of the Office for Harmonization in the Internal Market (OHIM), however, shows that trade mark applications at the OHIM went up by 0.24% (from 87,984 applications in 2008 [status: 31 December 2009] to 88,191 in 2009). If we take a look at the applications originating from Germany, there were 15,506 applications filed in 2008 and 16,296 applications in 2009. Despite the crisis, German applicants filed more Community trade marks in 2009, but fewer national trade marks. The Community trade mark system seems to have become more attractive for German applicants. We can only speculate about their reasons: a stronger orientation of many German businesses towards the European market might have played a role, or the OHIM's fee reduction at the beginning of the year.

The structural shifts of filing behaviour – slight as they may be – constitute a challenge for the German Patent and Trade Mark Office. We wish to provide services that are well received by persons for whom a national trade mark is the appropriate IP right.

Figure 6: National trade mark applications at the German Patent and Trade Mark Office



Origin of trade mark applications

In 2009, the proportional share of applicants based in foreign countries amounted to 4.9%. The majority of foreign applications originated from Switzerland, the USA and Bulgaria (compare Table 11).

Table 11: Trade mark applications at the German Patent and Trade Mark Office by countries of origin

	Applications filed at the DPMA	Proportional share in %
Germany	65,714	95.1
Switzerland	513	0.7
USA	491	0.7
Bulgaria	347	0.5
Austria	253	0.4
United Kingdom	251	0.4
China	249	0.4
Netherlands	154	0.2
Others	1,097	1.6
Total	69,069	100

Trade mark applications by German Länder

In 2009, we received 65,714 trade mark applications from Germany. North-Rhine/Westphalia came top with 15,450 applications (23.5%), followed by Bavaria with 11,836 applications (18%) and Baden-Württemberg with 8,234 applications (12.5%), see Figure 7 and Table 12.

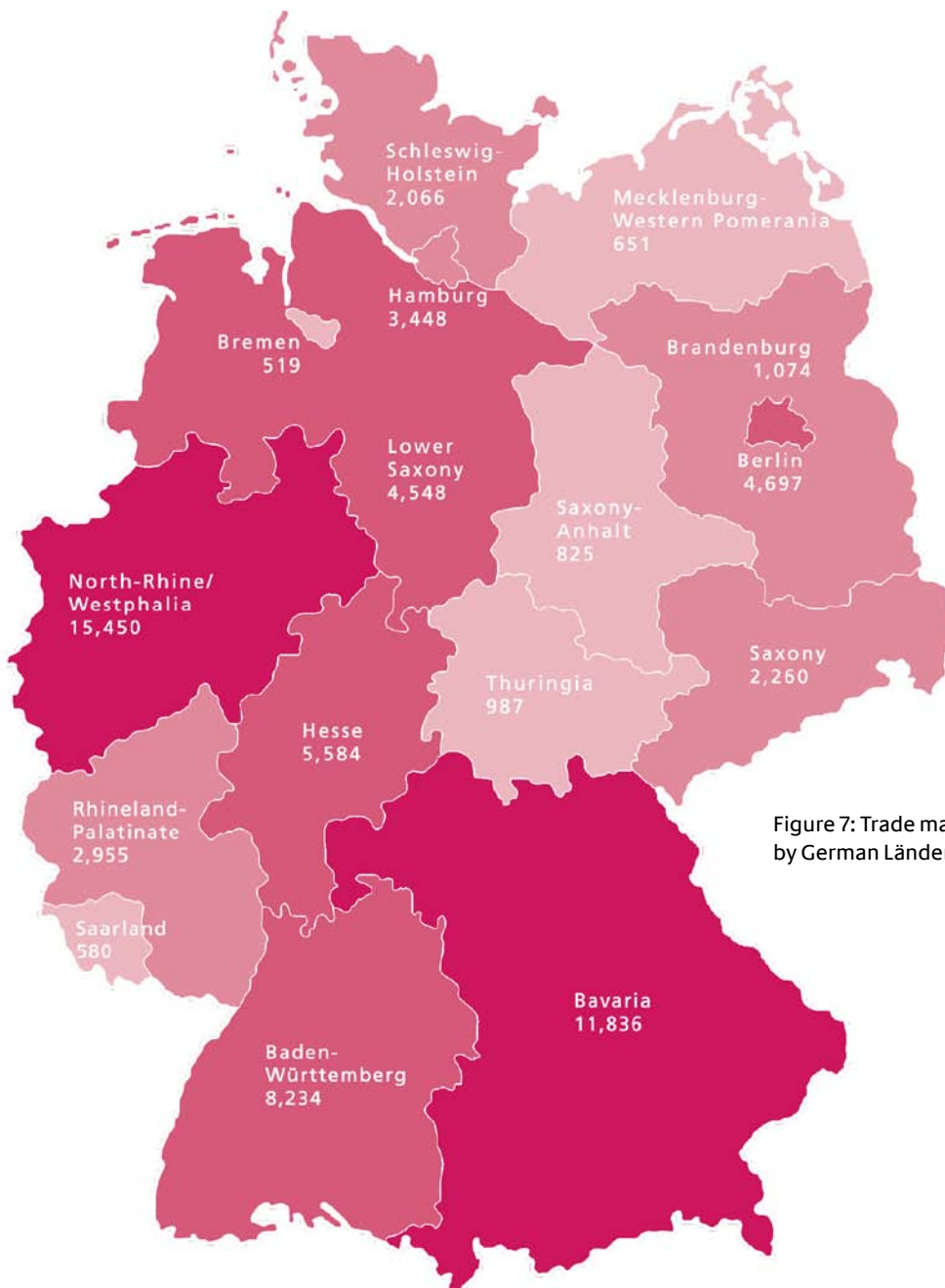


Figure 7: Trade mark applications by German Länder in 2009

Table 12: Trade mark applications, percentages and number of applications per 100,000 inhabitants by German Länder

German Länder	2008			2009		
	Applications	Proportional share in %	Applications per 100,000 inhabitants	Applications	Proportional share in %	Applications per 100,000 inhabitants
North-Rhine/Westphalia	15,767	22.5	88	15,450	23.5	86
Bavaria	13,003	18.6	104	11,836	18.0	95
Baden-Württemberg	9,145	13.1	85	8,234	12.5	77
Hesse	5,628	8.0	93	5,584	8.5	92
Berlin	5,087	7.3	149	4,697	7.1	137
Lower Saxony	4,822	6.9	60	4,548	6.9	57
Hamburg	3,869	5.5	219	3,448	5.2	195
Rhineland-Palatinate	3,230	4.6	80	2,955	4.5	73
Saxony	2,546	3.6	60	2,260	3.4	54
Schleswig-Holstein	2,213	3.2	78	2,066	3.1	73
Brandenburg	1,010	1.4	40	1,074	1.6	43
Thuringia	910	1.3	40	987	1.5	44
Saxony-Anhalt	999	1.4	41	825	1.3	35
Mecklenburg-Western Pomerania	644	0.9	38	651	1.0	39
Saarland	601	0.9	58	580	0.9	56
Bremen	600	0.9	90	519	0.8	78
Total	70,074	100	Ø 85	65,714	100	Ø 80

Table 13: Development of new national trade mark applications in 2009 – month-by-month comparison

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec
2008	5,797	6,769	6,492	7,032	5,899	6,274	6,820	5,733	6,005	5,815	5,629	5,638
2009	5,002	5,814	6,676	5,708	5,426	5,709	6,456	5,526	5,733	5,707	5,543	5,769

Trade mark procedures

The figures relating to trade mark procedures show that the large majority of trade marks applied for were in fact registered. The long-term refusal rate is only about 10%. These are trade marks which are not admitted to registration due to a decision rendered by the DPMA. The difference between applications and refusals is explained by withdrawals, that means cases where the applicants have abandoned the application, and by trade marks that were still in the processing phase at the end of the year.

Trade mark applications by classes of goods and services

If we compare the goods to services ratio of trade mark applications we find that there has been no change in the long-term trend. In 2009, 49.3% of trade mark applications related to service classes (2008: 47.8%). The development of trade mark applications backs the assumption that Germany is shifting towards a service society.

Table 14: Data on trade mark procedures

	2003	2004	2005	2006	2007	2008	2009
New applications	62,041	65,918	70,926	72,321	76,165	73,903	69,069
Registrations	51,295	48,401	50,798	51,124	54,534	50,259	49,817
Refusals	5,626	7,885	6,141	6,538	7,039	7,410	8,379

Did you know that ...

... the Trade Mark Law is the first piece of legislation in Germany dealing with industrial property protection?

The first law on the protection of trade marks entered into force on 1 May 1875.

It enabled business people to apply at the competent court for registration of signs in the commercial register kept at the town of their principal place of business. The registration was published in "Deutscher Reichs-Anzeiger". All trade marks of German and foreign tradesmen, ordered in groups by categories of goods, were published annually in the journal "Der Markenschutz".

Trade mark applications by leading classes

Class 41 (education, sporting and cultural activities) is now the strongest class (by leading classes), followed by class 35 (advertising, business management). These classes have switched their ranks. Class 9 (electrical apparatus and instruments) is the unchanged third ranking class, followed by classes 42 (scientific and technological services) and 36 (insurance). In line with the overall trend, slight drops in filing figures were registered in nearly all

classes (see Table 3.5 on page 109). Among the high volume classes, classes 25 (clothing, footwear), 29 (food of animal origin) and 30 (food of plant origin), 38 (telecommunications) and 44 (medical services) have maintained their ranks. Classes 37 (building construction, repair) and 43 (providing food and drink, temporary accommodation) have shown a marked increase.

Table 15: The top ten leading classes

Class	Class headings	Applications in 2009	Proportional share in %	Differences between 2008 and 2009 in %
41	Education, sporting and cultural activities	7,645	11.1	- 5.5
35	Advertising, business management	7,476	10.8	- 10.3
9	Electrical apparatus and instruments	4,121	6.0	- 8.1
42	Scientific and technological services	3,743	5.4	- 6.6
36	Insurance	3,072	4.4	- 7.5
44	Medical services	3,028	4.4	0.4
25	Clothing, footwear	2,952	4.3	1.1
5	Pharmaceutical preparations	2,523	3.7	- 13.9
16	Office requisites, stationery	2,468	3.6	- 14.0
30	Food of plant origin	2,200	3.2	- 3.3

Top trade mark proprietors in terms of registrations

Henkel AG & Co. KGaA headed the ranking of trade mark proprietors listed by numbers of registrations in 2009. The company had 135 trade marks registered in 2009. It was followed by Deutsche Telekom AG (113 registrations) and BSH Bosch und Siemens Haushaltsgeräte GmbH (71 registrations).

Table 16: Top trade mark proprietors in terms of registrations in 2009 (registration of trade marks under Sec. 41 of the Trade Mark Law)

	Proprietor	Seat	Number
1	Henkel AG & Co. KGaA	DE	135
2	Deutsche Telekom AG	DE	113
3	BSH Bosch und Siemens Hausgeräte GmbH	DE	71
4	MIP METRO Group Intellectual Property GmbH & Co. KG	DE	67
5	REWE-Zentral AG	DE	64
5	Vodafone D2 GmbH	DE	64
7	Bayer AG	DE	60
7	Mibe GmbH Arzneimittel	DE	60
9	Boehringer Ingelheim International GmbH	DE	56
10	Bristol-Myers Squibb Co.	US	54
11	Artec GmbH	DE	42
12	AUDI AG	DE	40
12	Intel Corporation	US	40
14	Heinrich Bauer Zeitschriften Verlag KG	DE	38
15	Merz Pharma GmbH & Co. KGaA	DE	37
16	biomo pharma GmbH	DE	36
16	Katjes Fassin GmbH & Co. KG	DE	36
18	dm-drogerie markt GmbH + Co. KG	DE	35
19	medi GmbH & Co. KG	DE	34
19	Merck KGaA	DE	34
19	Nycomed GmbH	DE	34
22	Hubert Burda Media Holding GmbH & Co. KG	DE	33
22	Kaufland Warenhandel GmbH & Co. KG	DE	33
22	O2 Holdings Ltd.	GB	33
25	Boehringer Ingelheim Vetmedica GmbH	DE	32
26	Siemens AG	DE	31
26	ZF Friedrichshafen AG	DE	31
28	Eckes-Granini Deutschland GmbH	DE	30

Trade marks of the year 2009

We cannot yet tell whether a “trade mark of the century” was registered in 2009. On the other hand, the slogan “Yes we can” had been filed four times at the end of 2008 and five more times in 2009. “Abwrackprämie” (“scrapping bonus”) trailed behind with just two applications. The champion of already famous trade mark applications - although with a tragic aftertaste - is “Michael Jackson”, filed 19 times. This shows that the trade mark is the IP right most closely connected to news and headlines. Trends and events are mirrored in trade mark applications nearly without delay. Trade marks are meant to be used in market competition. It is our duty to ensure the functioning of this competition. If it is possible to use a trade mark solely as a blockading instrument, trade mark protection will be denied or annulled – of course within the scope of the legal provisions. With this in mind, trade mark applications like those mentioned above are to be viewed critically. Trade marks do not offer the option to give a single person or business a monopoly on a common word as such.

Consideration of prior registrations

The discussion on the significance of prior registrations came to an end in 2009 upon the decision of the European Court of Justice (ECJ) in the Schwabenpost case (reference for a preliminary ruling). The discussion had been prompted by several decisions of the German Patent and Trade Mark Office to reject trade mark applications. In these cases, the applicants felt that the office’s decisions were not in line with similar cases where the trade marks applied for had been registered. The 29th Senate of the Bundespatentgericht (Federal Patent Court) had been seized with appeals to the refusals of trade marks and had referred several questions to the European Court of Justice.

The main issue was whether the German Patent and Trade Mark Office was bound by its previous decisions. The European Court of Justice denied a binding effect of previous registrations and emphasised that each case must be examined individually in light of the applicable legal provisions. Prior registrations should be considered but had no binding effect.

We explicitly welcome this decision. It reflects the legal situation in the way in which the DPMA has always understood it. Prior registrations are taken into account, but they are not binding. The standard examination of a trade mark application always includes a search for similar cases (prior registrations or refusals) and allows our examiners to consider and take into account all relevant aspects before taking a decision on the protectability of a sign. If they feel that they must take a decision which is not in line with previous cases, they are not bound by those decisions, which might be wrong.

Although prior registrations are not binding, this does not release us from the duty of providing consistent decisions, to the largest possible extent, in order to make the registration practice predictable. It is very important for applicants to be able to assess the prospects of a trade mark application. Trade marks are often part of a complex marketing concept. The development of such a concept involves considerable costs so that many companies cannot afford a failure due to the refusal of an application. For this reason, it has been an important goal of our work for quite some time to make the registration practice predictable. We focus in particular on the training of staff members, intensive discussions of examiners on current questions of trade mark law, and on optimised IT equipment. Consistency of the registration

practice of the German Patent and Trade Mark Office, which is making good progress, is only one aspect for the applicants. The decision practice of the trade mark senates of the Bundespatentgericht and a harmonisation with the decision practice of the Office for Harmonization in the Internal Market (OHIM) and the European courts are equally important. In this field, exchanges of experience and dialogues of experts, above all, will allow to harmonise views. For this reason, management staff of the trade mark department attended an international symposium of the Bundespatentgericht entitled “From harmonised trade mark law to harmonised proceedings” in 2009. Presiding judges of the Bundespatentgericht gave two lectures on trade mark law topics at the DPMA for all examiners of the trade mark area. Furthermore, examiners of the German Patent and Trade Mark Office regularly attend meetings with specialists from other national IP offices, organised by the OHIM, and OHIM seminars on harmonised trade mark law.

Harmonised classification database

Many applicants find it difficult to draw up lists of goods and services. When we examine the applications filed, the lists are the part where the need for clarification is highest. This involves much additional work for our staff. On the other hand, applicants frequently filing trade mark applications with us, at the Office for Harmonization in the Internal Market (OHIM) or foreign offices, find it difficult to understand why one and the same list is approved in one application and disapproved in another. This is the starting point of the project for a harmonised classification database, carried out by the OHIM, certain national trade mark offices and the World Intellectual Property Organization (WIPO). The aim is to establish a common database of terms of goods and services and keep it updated. The United Kingdom, Sweden and Germany were

the first countries to join the project. Other IP offices will follow shortly.

The terms included in the database are accepted and classified in a uniform way by the participating offices. The entire database is based on the Nice Classification and supplements the terms of goods and services contained in this classification. The database will contain about 100,000 previously approved basic terms in English. This enlarges the number of available terms significantly – our search engine currently contains about 11,000 terms. It is intended to offer the largest possible choice of admissible variations using linguistic methods and lists of synonyms.

The about 100,000 English basic terms, on which the OHIM and the UK Intellectual Property Office had previously agreed, will be translated and checked by the DPMA with regard to German classification practice, in particular. In a second step, we will identify differences in the classification of English-language basic terms, and we will try to reach a consensus on how to classify those terms. All offices participating in the project have agreed that WIPO will act as an arbiter in case of disagreement.

The database will be available at the end of 2010 or in early 2011. It is meant to be applied

- as a search engine
- in the e-filing process
- when completing the application form online
- in our internal IT system.

The terms of goods and services submitted will then be checked automatically against the database. If all chosen terms are contained in the database, a further examination of the list of goods and services will not be required and the application can be further processed immediately. These terms will also be accepted in case of further applications in “participating countries”. It will still be admissible to file terms which are not included in the database.

Legal changes

The law for streamlining and modernising patent law (Gesetz zur Vereinfachung und Modernisierung des Patentrechts) entered into force on 1 October 2009. It has brought about important legal changes in trade mark law, too: for example, additional opposition grounds are now acceptable in opposition proceedings. Up to now, a notice of opposition was only admissible if it was based on a registered trade mark. In future, oppositions can be based as well on so-called “trade marks acquired by use”, business identifiers and trade marks having a reputation. This means that earlier rights, which previously had to be asserted before the courts, can now be invoked in opposition proceedings before the German Patent and Trade Mark Office. There is an important transitional provision: The new opposition grounds can only be invoked against trade marks filed on or after 1 October 2009. The majority of these trade marks will probably be registered and published only in the course of 2010.

The choice between objection and appeal is new, too. Previously, the objection was the only admissible legal remedy to a decision issued by staff of the higher intermediate service (examiners having graduated from universities of applied sciences). An appeal to the Bundespatentgericht was only admissible to a decision rendered in an objection case. From now on, parties can waive legal protection under objection proceedings and directly file an appeal with the Bundespatentgericht.

Did you know that ...

... the word “Handy”, the colloquial term for mobile phones in Germany, had been registered as a trade mark as early as in the 30s of the last century?

In 1937, the trade mark Daimon Handy was registered for torches (class 4) under the number 490740. Elektrotechnische Fabrik Schmidt & Co, a company in Berlin, had applied for the trade mark.

Indications of geographical origin

... protection of regional products

Products that have acquired a reputation beyond the borders of their region of origin frequently attract imitators who offer lower quality products under the same name and pretend that these products are authentic. In order to protect producers of foodstuffs from this kind of unfair competition and consumers from being misled, the European Communities introduced the labels “protected geographical indication” (PGI) and “protected designation of origin” (PDO) in 1992. The legal basis is now provided by Regulation (EC) 510/2006.

Contrary to trade marks, the use of an indication of geographical origin is not reserved to a specific enterprise or association. Rather, it can be used by any producer based in the region who manufactures the product in the traditional, customary way, as set out in a product specification.

It depends on the degree of connection with the region of origin whether a regional specialty product will be entered in the register of the European Commission as “protected designation of origin” or as “protected geographical indication”. The registration provides for protection against copying throughout the European Union. The requirements for a product to qualify for the label “protected designation of origin” (PDO) are stricter than for protected geographical indications. In this case, all manufacturing steps must be performed in the region of origin. In addition, the product characteristics must be largely based on the geographical origin.



There are 44 German products currently registered in Brussels, including Allgäuer Emmentaler (cheese), Nürnberger Rostbratwurst (sausage) and Lübecker Marzipan. In addition, 24 mineral waters have protected designations of origin. So far, about 850 foodstuffs and agricultural products from 21 EU member states have been protected. The range of protected products includes cheese, meat and meat products, fish and shellfish, fruit, vegetables, olives, vinegar and oil, as well as pastries and beer.

Registration as “protected geographical indication” or “protected designation of origin” is subject to a favourable decision on the application by both the competent national authority (in Germany: the German Patent and Trade Mark Office) and the European Commission. The application will be published under both the national and the European assessment procedures. This enables persons to lodge objections if their legitimate interests are affected, such as other manufacturers of the relevant product, in particular.

In 2009 we received six (2008: 14) applications for registration, namely for “Allgäuer Weißlacker”

(cheese), “Weideochse vom Limpurger Rind” (beef), “Stromberger Pflaume” (plum), “Niederrheinisches Gänse-Ei” (egg), “Nordhessische Ahle Wursch” (sausage) and “Lammfleisch vom Pommernschaf” (lamb).

The applications for the registration of “Schwäbische Spätzle / Schwäbische Knöpfle” (pasta) and “Eichsfelder Feldgieker” (sausage) were forwarded to the European Commission upon a positive conclusion of the national examination.

The designations “Schwäbische (Suppen-) Maultaschen” (pasta) and “Bremer Klaben” (cake) were registered as protected geographical indications in 2009.

In its decision of 2 October 2009 in the “Thüringer Klöße” appeal case, the Bundespatentgericht (Federal Patent Court) held that the name was not protectable as a geographical indication on the grounds that it was merely a generic name. An appeal on a point of law has been lodged with the Bundesgerichtshof (Federal Court of Justice) against this decision.

Designs

... protection of the visual features of a product

Modern design plays an important, sometimes even decisive role in the commercial success of today's products. As objects of daily use have few functional differences and the life cycles of products have become shorter, the visual appearance is often the only distinctive feature. The combination of colours/shapes and the functional purpose merge to form a unity.

Trade and industry use the product design as an image carrier for advertising purposes. Attractive colours and shapes are fascinating, emotionally appealing and strengthen consumer ties. An original design is a must for today's objects of daily use and even for purely technical appliances.

The design right protects the outward appearance of a product and grants a monopoly right on the result of a creative achievement for a limited period of time. Basically, the shapes and colours of any product can be protected – provided the appearance is new and has individual character. A design is new if no identical design was published before the application date. It has individual character if the overall impression differs from previously known designs. Designs are protected from the date of registration in the designs register. The maximum term of protection is 25 years from the application date. The visual representation of the design, that means all reproductions filed in relation to the design, determines the subject-matter and scope of the design right and is therefore of prime importance.

A product design is meant to evoke emotions, create a feeling of identification and influence purchasing decisions. Designs contain know-how, time and money. An application for the registration of a design confers protection. Fast, competent, low-cost and easy.

Design registration confers the exclusive right to use the design and is an important tool when it comes to fighting counterfeiting. As soon as a design has been entered in the designs register of the German Patent and Trade Mark Office, the right holder can take action against any design that produces the same overall impression on the informed user.



Development in design application figures

The Designs Unit is in charge of receiving and processing applications for the registration of designs and type faces and of registering and managing the IP rights.

In 2009, 5,760 applications were filed, covering 44,714 designs. In the preceding year we had received 5,702 applications comprising 48,238 designs. This is a drop of 7.3% regarding designs and an increase of 1.0% regarding applications.

We conclusively dealt with requests for the registration of 37,311 designs (2008: 51,468). 35,431 designs (2008: 49,146) were entered in the designs register.

57.5% of the applicants opted for grouping up to 100 designs in one multiple application (2008: 59.1%). On the average, 13 designs were filed per multiple application (2008: 14 designs).

Upon request, publication of the images of a design will be deferred for up to 30 months (deferment of publication of the representation). Deferred publication was requested for 42.5% of the designs applied for, a slight decrease against 2008 (45.1%).

Origin of design applications

The proportional share of designs filed by applicants based in foreign countries dropped slightly to 21.4% (2008: 23.8%). The majority of the designs applied for by foreign applicants originated again from Austria (15.2%), followed by Italy (3.3%) and Switzerland (0.9%) (see Table 17).

Figure 8: Design applications at the German Patent and Trade Mark Office

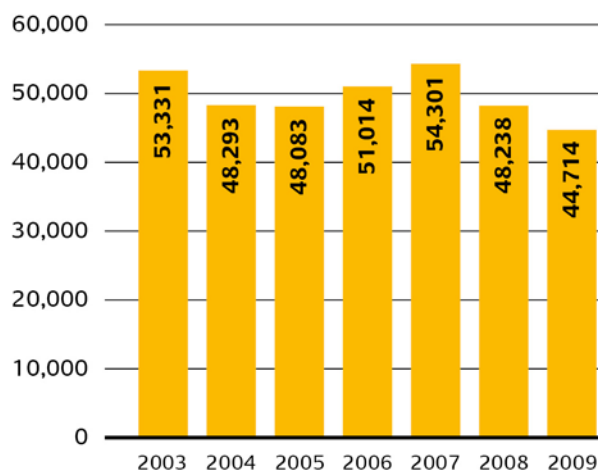


Table 17: Design applications at the German Patent and Trade Mark Office in 2009 by countries of origin

	Applications filed at the DPMA	Percentage
Germany	35,164	78.6
Austria	6,807	15.2
Italy	1,470	3.3
Switzerland	398	0.9
USA	147	0.3
Taiwan (Province of China)	121	0.3
Bulgaria	100	0.2
Japan	64	0.1
Others	443	1.0
Total	44,714	100

Design applications by German Länder

27.2% of the domestic registered designs had been filed by applicants from North-Rhine/Westphalia (2008: 26.3%), 21.8% by applicants from Bavaria (2008: 23.9%) and 15.8% by applicants from Baden-Württemberg (2008: 15.4%). These figures clearly show once again that there is a close connection between the economic power of a specific region and the filing activity of enterprises based in this region (see Figure 9 and Table 18).



Figure 9: Design applications by German Länder in 2009

Table 18: Design applications, percentages and number of applications per 100,000 inhabitants by German Länder

German Länder	2008			2009		
	Applications	Proportional share in %	Applications per 100,000 inhabitants	Applications	Proportional share in %	Applications per 100,000 inhabitants
North-Rhine/Westphalia	9,648	26.3	54	9,565	27.2	53
Bavaria	8,750	23.9	70	7,668	21.8	61
Baden-Württemberg	5,633	15.4	52	5,561	15.8	52
Rhineland-Palatinate	1,968	5.4	49	2,638	7.5	65
Lower Saxony	3,258	8.9	41	2,520	7.2	32
Hesse	1,267	3.5	21	1,468	4.2	24
Berlin	1,245	3.4	36	1,369	3.9	40
Hamburg	1,030	2.8	58	1,188	3.4	67
Saxony	1,156	3.2	27	1,036	2.9	25
Schleswig-Holstein	846	2.3	30	773	2.2	27
Saarland	409	1.1	39	313	0.9	30
Saxony-Anhalt	374	1.0	16	272	0.8	11
Thuringia	373	1.0	16	241	0.7	11
Brandenburg	254	0.7	10	220	0.6	9
Bremen	201	0.5	30	194	0.6	29
Mecklenburg-Western Pomerania	247	0.7	15	138	0.4	8
Total	36,659	100	Ø 45	35,164	100	Ø 43

Design applications by classes of goods

The 35,431 registered designs were registered in 65,968 classes of goods in total (2008: 93,728). The distribution of the designs to the classes of goods in 2009 shows that the largest number of designs (23.5%) were again filed in class of goods 02 (articles of clothing and haberdashery). Class of goods 06 (furniture) ranked second (15.7%), followed by class of goods 05 (textile piecegoods, artificial and natural sheet material) with a share of 12.7%.

Table 19: Designs applied for by classes of goods

Class	Class headings	Registrations of classes of goods in 2009	Percentage	Differences between 2008 and 2009 in %
02	Clothing	15,474	23.5	- 24.8
06	Furniture	10,341	15.7	- 22.6
05	Textile piecegoods, artificial and natural sheet material	8,377	12.7	- 51.0
11	Articles of adornment	4,773	7.2	- 28.1
19	Stationery and office equipment, artists' and teaching materials	4,536	6.9	- 37.5
25	Building units and construction elements	2,819	4.3	- 22.1
26	Light apparatus	2,197	3.3	- 29.1
21	Games, toys, tents, sports goods	1,885	2.9	- 33.2
32	Graphic symbols and logos ¹	1,881	2.9	
12	Means of transport or hoisting	1,819	2.8	+ 7.6
09	Packages and containers	1,726	2.6	- 20.8
	Others	10,140	15.4	- 34.1

¹ Class 32-00 is applied since the entry into force of the 9th edition of the Locarno Classification on 1 January 2009.

Data on designs procedures

Table 20 shows the development of procedures after registration in the designs register (number of renewals, cancellations, extensions and assignments). The extension rate has stayed at a low level. This is due to the fact that applications requesting deferment of publication of the representation are filed, above all, by textiles manufacturers who refrain from extending designs protection in view of the fast pace of changes in their trade sector. The number of designs renewed (14,529) dropped by 11.8% in comparison to the preceding year (16,478 designs). However, this can also be explained by the drop in designs filed in 1999 and 2004 (a decrease of about 10% each in comparison to the preceding year). Consequently, fewer designs were potentially eligible for renewal in 2009. 17,130 designs were assigned in 2009, 11.0% less than in the preceding year (19,258 assignments). Despite this decrease, the number of assignments has remained at a comparatively high level.

Table 20: Data on designs procedures

	2003	2004	2005	2006	2007	2008	2009
Cancellations	66,197	61,233	53,154	55,054	54,022	56,328	52,721
Renewals	14,136	15,329	18,541	15,720	18,136	16,478	14,529
Extensions	3,962	3,021	1,440	1,983	2,260	2,541	1,793
Assignments	7,256	12,447	20,664	14,019	22,949	19,258	17,130

Designs gazette and elimination of the costs of publication

The designs gazette (Geschmacksmusterblatt) had been produced by an external service provider in previous years, just like the patent gazette (Patentblatt) and the trade mark journal (Markenblatt). Since 2007, we scanned the reproductions, submitted on paper, and supplied them to the service provider in a digital format. At the same time we considered taking over the entire production process ourselves. We prepared and tested this in-house production of the designs gazette in 2008 and 2009 and then produced the first issue, for the first publication week of 2010, in December 2009.

The costs of the external service provider had previously been charged to the designs applicants. We can now waive this fee of € 12 per design (publication fee) due to the in-house production of the designs gazette.

Ratification of the Geneva Act

The German parliament (Bundestag) passed two laws relating to international designs protection in 2009. They brought designs law in line with the current international status and prepared the ground for the ratification of the Geneva Act. The Geneva Act is the most recent Act under the Hague Agreement Concerning the International Registration of Industrial Designs.

The effects for the German Patent and Trade Mark Office are the following:

1. We will in future accept international designs applications for transmittal to the World Intellectual Property Organization (WIPO) in

Geneva, too. This service has been in place since 2003 concerning applications for the registration of Community designs, which are transmitted to the Office for Harmonization in the Internal Market (OHIM) in Alicante.

2. We get a clear legal basis enabling us to refuse protection of international designs registrations in Germany. Protection of an international registration that is to become effective in Germany can now be refused if the design is not eligible for protection under German law. An international design registration must be examined by us within six months from the registration, and protection must be refused, where applicable.

Locarno Classification

The international classification for designs has been updated. The so-called “Locarno Agreement Establishing an International Classification for Industrial Designs” now contains a new list of classes and an amended alphabetical list of goods. The new (ninth) edition of the Locarno Classification entered into force on 1 January 2009.

Modifications include the establishment of a new class 32 for “graphic symbols and logos, surface patterns, ornamentation” and the deletion of class 99 “Miscellaneous”.

Filing reproductions on electronic data carriers

Since November 2008 it has been admissible to file reproductions of designs, for which protection is sought, as JPEG files on CDs or DVDs. This convenient method facilitates the application

process for our customers and for us. The new option was accepted very quickly: 15.2% of the designs applications filed in 2009 contained electronic data carriers.

The new procedure has become possible due to an amendment of the designs ordinance (Geschmacksmusterverordnung).

Supervision of Collecting Societies

On principle, anybody who intends to copy a text or to perform a musical work in public ought to seek the permission of the respective author and pay for it. As this is virtually impossible, collecting societies manage the rights of creative people collectively. Collecting societies are associations under private law whose members are, for example, composers, lyricists, writers, visual artists, photographers, screen actors, producers of phonograms and film producers.

The collecting societies grant licences authorising the utilisation of the works and collect royalties in return. The revenues are subsequently distributed to the right holders according to a distribution scheme.

As the collecting societies perform their tasks in a fiduciary capacity and consequently often have a monopoly position, they are subject to government supervision. This supervision is exercised by the German Patent and Trade Mark Office (Section 18 et seq. Copyright Administration Law).



As supervisory authority we grant the authorisation to conduct business to a collecting society, in agreement with the Federal Cartel Office.

We constantly examine whether the relevant conditions for granting authorisation continue to exist and make sure that the collecting societies fulfil their duties. For this purpose we are entitled to demand ample information and to attend the meetings of the various boards of the collecting societies.

Presently, 13 collecting societies have the authorisation to conduct business. In 2008, these collecting societies had a total income of roughly € 1.27 bn (the 2009 figures were not yet available at the copy deadline). The income of each individual collecting society may be seen from Table 21.

Register of anonymous and pseudonymous works

Authors who published their works anonymously or under a pseudonym may have them registered under their real name in the “Register of Anonymous and Pseudonymous Works”. For works that were published anonymously or under a pseudonym copyright expires 70 years after publication or 70 years after creation of the work if the work was never published during this period of time. If the true name of the author is recorded 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 total, 727 works by 392 authors are recorded in the register (status: 31 December 2009). Further statistical data are provided in Table 5 in the annex “Statistics” on page 111.

Table 21: Income of the collecting societies in 2008

Collecting Societies		Total Budget ¹ 2008 in million €
GEMA	Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte, rechtsfähiger Verein kraft Verleihung	823.007
GVL	Gesellschaft zur Verwertung von Leistungsschutzrechten mbH	155.638
VG Wort	Verwertungsgesellschaft WORT, rechtsfähiger Verein kraft Verleihung	124.702
VG Musikedition	Verwertungsgesellschaft Musikedition, rechtsfähiger Verein kraft Verleihung	3.071
VG Bild-Kunst	Verwertungsgesellschaft Bild-Kunst, rechtsfähiger Verein kraft Verleihung	61.372
GÜFA	Gesellschaft zur Übernahme und Wahrnehmung von Filmaufführungsrechten mbH	8.277
VFF	Verwertungsgesellschaft der Film- und Fernsehproduzenten mbH	13.392
VGf	Verwertungsgesellschaft für Nutzungsrechte an Filmwerken mbH	10.600
GWFF	Gesellschaft zur Wahrnehmung von Film- und Fernsehrechten mbH	36.469
AGICOA GmbH	AGICOA Urheberrechtsschutz-Gesellschaft mbH	4.932
VG Media	VG Media Gesellschaft zur Verwertung der Urheber- und Leistungsschutzrechte von Medienunternehmen mbH	31.715
VG Werbung	VG Werbung + Musik mbH	0
VG TWF	Verwertungsgesellschaft Treuhand-Gesellschaft Werbefilm mbH	1
Total		1,273.176

¹ The total budget includes income from licenses and claims to remuneration, income from interest and securities as well as other operation revenues.

INTERVIEW

At the interface between technology, marketing and law

IP specialists work at the intersection of technology, marketing and law. They advise inventors and enterprises who wish to obtain protection for their latest developments or their know-how, or to register a trade mark or a design. They have a decisive role in paving the way for the success of an innovation, a design or a trade mark.

Interview with Ms. Dellmeier-Beschorner

Alexandra Dellmeier-Beschorner is an attorney at law, specializing in the field of intellectual property law (IP). In 2009 she founded the law firm LexDellmeier in cooperation with patent attorneys in Munich, Germany. She gives a professional insight regarding the role of an IP attorney as an intermediary between clients, IP offices, customs offices and courts, current challenges and prospects of creativity, R&D and innovation as well as future trends in the field of IP.



Alexandra Dellmeier-Beschorner, attorney at law specializing in the field of intellectual property law (IP)

Ms. Dellmeier, what was your first contact with IP?

Coincidence. Curiosity. Luck. On my first day as a legal intern at a Munich IP firm in 1997, I discovered a gigantic shelf of adidas t-shirts, shorts and jogging suits in the office. I was deeply impressed and immediately ran to one of the partners and proclaimed: "I would like to join the firm's soccer team!" The managing partner looked bewildered and told me that the firm did not have a soccer team. I persisted: "But, I saw the full shelf of sports clothing ..." – I still remember his loud and hilarious laugh. After a moment, he finally explained that the sportswear was counterfeited and confiscated by German Customs from a ship coming from Turkey into Hamburg harbor.

So, trademark infringement, counterfeits and border seizures were my first contacts to IP. I will never forget that first day, which sparked my interest in intellectual property.

What exactly does an IP attorney do?

As an IP attorney, it is our job to help protect and defend our clients' intellectual property. We strategically advise the clients, e.g., inventors, advertising agencies, marketing and R&D departments, small and medium-size businesses (SMEs) and large corporations, to successfully protect their IP by means of trademark, design, utility model and patent law.

This is an important factor in order to compete successfully. Fact is, that our clients – small, medium or large – invest a lot of time and money in coming up with ideas and supporting R&D in order to develop innovative products. An idea is “born”! Already at that very early stage, the IP attorney gets together with the client and discusses the following questions: Does the innovation incorporate a novel technical invention? Does it incorporate a new and distinctive design? What can we do to discourage competitors from copying? How can we successfully brand the product and receive trademark protection? Where are the client's core markets located and what countries need to be protected? How long will it take to receive protection in each country? And essential as well: How much will it cost?

Besides being a client's strategic partner at the “birth” of a brand name or an innovation, the role of the IP attorney is also that of an intermediary between the applicants and the German Patent and Trade Mark Office (DPMA). In this role, the IP attorney explains the nature of objections the DPMA

may have against an application, discusses them with the client, and advises the client in overcoming such office actions. Once the trademark, design, utility model or patent is protected, it is then up to the IP attorney to represent the client in enforcing these rights before courts, for example when they are infringed by third parties.

How has your career developed in the field of IP?

Prior to starting my firm, which closely cooperates with a well-established, nearly 100-year old patent firm, I was an equity partner at another renowned German IP firm. There, I was responsible for the prosecution and litigation of large trademark and design portfolios for a number of well-known brands. During those years, I also had the opportunity to work on incredibly interesting and prestigious patent and utility model litigation cases. That is where I made the link between non-technical and technical protection and I became a “true” IP attorney.

Another milestone at the very beginning of my career was my in-house position at Merchandising Media GmbH/ProSiebenSat.1 AG, a German TV station and merchandising company. Heading the art licensing and IP department at a multi-national company significantly broadened my horizon and understanding – especially with respect to business issues on a global basis.

However, what to a large extent supported my career and makes it possible to work on an international basis are probably my language skills. In this respect I was quite fortunate. My father was a chemist and exchange scientist in the United States for a total of six years. As my parents always valued education very highly, they encouraged me to grow up bilingual, in German and English.

Overall, mastering foreign languages, including being fluent in English and German, understanding French and learning a little bit of Japanese and Chinese and speaking at and attending conferences (e.g. GRUR/AIPPI, INTA, AIPLA, IPO, ABA IP-Section), is an important aspect for working in the IP field. It is essential in working with clients, colleagues, offices and customs around the world.

What attributes and qualification are needed to be a good IP attorney?

Expert legal knowledge in the IP field, enthusiasm, creativity, understanding business issues and a passion for trademarks, branding, designs, technology and innovation are attributes that are needed. The ability to listen to clients' needs, strong communication and language skills as well as "thinking out of the box" are talents I believe are important, too.

A good IP attorney works with clients proactively – not just when problems arise. The "real" work is done beforehand. The number one focus should be on building excellent client relationships by visiting the client, being an integral part of their plans, developing strategies in respect of new ideas. The client does not want to hear from the attorney: "That does not work". The client wants solutions: What are the options? What will work? And, to openly advise the client on potential risks.

It is all about the client – their ideas, their needs and their business – that should be the focus of the attorney's attention. Knowledge is power and

the basis of success, but knowledge needs to be established and communicated proactively so the client can make educated business decisions in the IP field.

How did the financial economic crisis of 2008/2009 affect you and your clients?

My clients (and admittedly we too) were shocked at first and saw the global financial crisis as something life-threatening and frightening. Not knowing what the future would bring was a crucial experience personally and with respect to my clients' businesses. The whole issue and the magnitude of the impact took us all by surprise.

The core question was: How do you tackle such a global crisis? As an optimist you will realize that a crisis creates opportunities. Whether it is the opportunity to gain market share, to renegotiate contracts or buy a competitor – or start your own IP law firm as I did. Being proactive, flexible and creative is vital in such a situation. Clients with good financial controls and management were able to take advantage of some of these previously unknown and unforeseen opportunities.

All of my clients reviewed or needed to review their expenses – none of them cut budgets in the areas of technology, innovation, product development, branding or design protection as IP is vital for their business. However, I encouraged my clients to take the time to invest in IP counseling with the goal to improve their overall IP portfolio – strategically better aligned and more cost effective.

What future trends do you anticipate in the field of IP?

Albert Einstein once said: “Logic will get you from A to B. Imagination will take you everywhere”. From an economic point of view and with the increasing importance of knowledge as a driving force for innovation, IP rights are becoming more and more important. In the 21st century the challenges do not just include mastering economic recessions. Some of the main challenges include finding innovative solutions to significantly improve environmental protection and the use of natural resources, to secure food and health for a growing number of inhabitants on earth, et cetera. In all of these areas, human creativity, imagination and inventiveness will be essential to finding solutions for a sustainable future. I believe that IP rights are an important tool for stimulating and rewarding creativity as well as innovation and will help master these challenges in the next decades.

Of course, the trend of globalization also has an impact on IP rights. Just imagine having a “world patent”, a “world trademark” or a “world IP court”. Years ago this scenario was unthinkable! But, the unthinkable is very slowly but surely turning into reality. Due to globalization it is the long-term trend to reduce costs for IP seekers within a unitary legal framework. A bundle of measures has been taken to meet this aim, for example, the implementation of the Community Trademark and Design systems, the preparation work regarding the implementation of a Community Patent system including common courts, projects such as the Patent Prosecution Highway (PPH), treaties such as the Patent Law

Treaty (PLT), the Substantive Patent Law Treaty (SPLT), the accession of further countries to the Madrid System et cetera.

“Global IP rights” are forming. So the bottom line is as Richard Wagner, the famous German composer, once put it: “Imagination creates reality”.

Interview with Mr. Ahrens

Thomas Ahrens is working as a patent attorney and mediator in Braunschweig. He held various managing functions as a patent attorney and European patent attorney in different international groups for many years before he established himself as a free-lance patent attorney and mediator in 2009. Today he advises enterprises and individuals in contract negotiations and in all matters pertaining to industrial property protection.

What qualities do you need to be a good patent attorney?

Patent attorneys are special in that they have both a technical-scientific and a legal understanding and the relevant knowledge, based on their education and the additional patent attorney training.

A freelance patent attorney will typically represent innovative clients from totally different fields of technology who proudly present their inventions to him. Clients often use their own language that sometimes describes a very specific form of the invention proper. The patent attorney's task and aim is to obtain the broadest possible protection for the invention. To achieve this goal, he must be able

to understand technical concepts, which are at first new to him, and to abstract and draft them anew, having regard to the state of the art. He will only be successful in this task if he actively listens to the inventor and precisely asks the right questions. It is often better to ask too many questions than too few.

If you want to be a good patent attorney you must always be eager to learn new things in both technical and legal fields, and be able to communicate with people in an open-minded and goal-oriented way.

Tell us about your education and career.

After graduating in physics, my first job was with a car parts supplier, where I worked as a process engineer in the electronic semiconductor components manufacturing department. After three years I moved to the company's patent department.

Then I worked for some years with an entertainment electronics company. During that time I took the German patent attorney examination and the examination for European patent attorneys.

In this company I got the opportunity to advise inventors in Japan and Singapore and to take part in international licence negotiations. At that time, the standard for DVDs was adopted and it was very exciting to take part in such "pioneering negotiations".



Thomas Ahrens, patent attorney and mediator

After another job change I took over the management of the “patents, trade marks, licences” department with a car manufacturer for more than 11 years.

In the course of my professional activities I have become convinced that negotiations are more sensible than litigation in court. This holds true for disputes concerning patents or employee inventions, too. Sometimes, however, negotiations are difficult, not only for technical reasons but frequently for interpersonal reasons as well.

When I realised this, I took up a mediator training.

For some time now I have been working as a freelance “patent attorney & mediator” and try to solve disputes by mediation, in the field of IP, in particular.

Who are your typical clients and what matters to them?

I have represented small and medium enterprises, referred to as SMEs, but also individual inventors, ever since I started working as a freelancer.

In contrast to large companies, these clients typically do not have a patent portfolio comprising hundreds or even thousands of IP rights. Rather, each individual invention is something very special to them, and the relative costs of each IP right, seen in relation to turnover and profit, are much higher for them than for large companies. For this reason, fundamental advice on patent strategy is very important. This means, on the one hand, that not any invention made should be filed for patenting all over the world; on the other hand – and this is the real challenge in counselling – you have to make it clear to your client that the time and money spent on research and development have to be secured.

It is quite obvious to many business leaders that they need security personnel to protect their research area from possible copycats. This, however, does not help anymore when an innovative product has been put on the market. Important inventions can then be identified and might be copied, if facility protection is not replaced in time by IP protection.

Furthermore, SMEs are being increasingly faced with third party IP rights at the national and international levels, so that these firms need a kind of protective wall, built up by a patent portfolio of their own.

Does the national system of IP protection work well?

Based on my previous experience gained at large companies and as an advisor of SMEs and individual inventors, I am of the opinion that the current system of IP protection works fairly well. I would like to briefly explain this using patent protection as an example.

If you file a national patent application in Germany, the DPMA offers the option to carry out a high-quality substantive search. However – and I regret to have to mention this – the result, that means the search report, is not always available before the expiry of the priority year. I usually carry out a search on behalf of my client before drawing up and filing a patent application. The official search, however, is very important for the client to help him decide in which other countries he should apply for a patent as well.

On the other hand, I think that it is an excellent thing for a patent applicant to be able to defer the examination by filing the request for examination near the end of the specified time limit of seven years. This allows him to explore the technical

implementation and the economic prospects of the invention after filing the patent application and to only incur the costs of patent examination if this is worthwhile.

I think that the DPMA examination procedure provides good results, and I also feel that the inventive step threshold should be high enough to prevent trivial patents. In my view it is very useful that patent examiners regularly take the opportunity to visit R&D departments and manufacturing plants at enterprises in order to better get to know the importance of certain technologies.

Regarding processing speed I think that there is a potential for improvement, and I suppose that the DPMA's recruitment initiative, started in 2009, will be helpful.

The patent procedures under the EPC and the PCT are, in my view, a good complement to, but no substitute for, the procedures before the DPMA. This applies to individual inventors, SMEs and the branches of industry in which I worked.

Do you use the online services of the DPMA?

The online services of the DPMA have been well developed in recent years and offer a large variety of options. I specifically like to use the search facilities available under DEPATIS and DPINFO.

I think it is a really good thing that many documents are now available online such as fact sheets, examination guidelines and forms which can be completed at the screen and then be printed. I do not yet use the e-filing system.

What changes do you expect in the future?

At the end of last year, I was somewhat surprised by the political developments regarding the EU patent, previously referred to as the Community patent, and regarding the European judiciary.

My wish for the future European system is that it will take the interests of enterprises and individual inventors adequately into account. This includes, in particular, that judges having a relevant technical-scientific background will continue to participate in decisions about the nullity of patents.

Whether and to what extent the EU patent will be a really interesting option for SMEs and individual inventors will depend on the framework conditions that have not yet been established.

Interview with Dr. Walter

Dr. Walter is head of the patent attorneys and representatives section of the German Patent and Trade Mark Office. She presents and explains the organisational changes and the new challenges experienced by the section in 2009.

Dr. Walter, the responsibilities of the German Patent and Trade Mark Office regarding patent attorneys were transferred to the German chamber of patent attorneys (Patentanwaltskammer) in 2009. How did this reorganisation come about?

The reorganisation resulted from the law on modernising the procedures under the law governing the profession of patent attorneys (Gesetz zur Modernisierung von Verfahren im patentanwaltlichen Berufsrecht) of 14 August 2009. This piece of legislation aims at strengthening self-governance of the patent attorney profession, particularly by transferring state duties to the chamber of patent attorneys, the self-governing body of that profession. This transfer of duties synchronises the law governing the profession of lawyers with the law governing the profession of patent attorneys - because self-governance of the former profession was introduced as early as 2007.

Which duties were transferred to the chamber of patent attorneys?

Now, the chamber of patent attorneys is in charge of the admission of patent attorneys to practise their profession including the swearing-in of patent attorneys. A request for professional admission must now be filed directly at the chamber. Now, the chamber must also be notified if a patent attorney renounces the right to practise his/her profession. Furthermore, the chamber is in charge of appointing a liquidator, if required, in case of death.

Those who intend to establish their law office exclusively outside Germany, must also request the chamber to release them from the obligation to have a law office in Germany. Conclusively, it can be said that all direct matters concerning patent attorneys were transferred to the chamber of patent attorneys in September 2009.

Which duties remained at your office? Do you and your staff have to deal with new duties or face new challenges?

We, that means the German Patent and Trade Mark Office, continue to be in charge of all matters in connection with the training and examination of prospective patent attorneys. For instance, we decide above all what (German or foreign) university degrees are required for entering the three-year patent attorney training. The Bologna Process with the new multi-tier Bachelor-Master-PhD degree programmes aims to harmonise the university system and to create the European Higher Education Area. This presents major new challenges to us. The same applies to the increasingly multidisciplinary study courses and degree programmes, which result from this process. As we are aware of our responsibility to ensure the fundamental right to free occupational choice, prescribed in Art. 12 of the Basic Law, we keep close contact with the Federal Ministry of Justice when fulfilling our duties.

It goes without saying that the chamber of patent attorneys is also involved in the process of re-orientation of our admission requirements.

We continue to organise the eight-month training at the German Patent and Trade Mark Office and the Federal Patent Court (Bundespatentgericht), the so-called “office year”. Between 1966 and 1998, that office year did indeed last twelve months, so the catchy name is still used today. We have always organised the patent attorney qualifying examination, held three times a year, and continue to do so. Any person wishing to pass this examination, either after the three-year training or as a long-time patent practitioner, must apply for admission to the examination at our office. Any patent attorney of another EU member state intending to obtain admission to practise as a German patent attorney and wishing to sit a special qualifying examination under the provisions of European law, must also contact us with regard to the qualifying examination. Finally, the matters concerning holders of licences and patent agents remain in our profile of duties.

What kind of training do patent attorneys have?

In order to meet their future challenges, prospective patent attorneys must have a degree in a science, engineering or technical subject. Furthermore, they must prove that they worked for at least one year in a practical technical job either before, during or after their university studies. In a post-degree supplementary training of about three years at a patent law firm or patent department of an enterprise, the patent attorney trainees gain the required qualification in the field of law. Part of the three-year training – the so-called office year, mentioned above – takes place at the DPMA and the Federal Patent Court. The three-year training is accompanied by a law course, usually at Fernuniversität Hagen (a distance learning university), and by work groups.

At the end of their training, the candidates are required to sit a qualifying examination, consisting of a two-day written part and a one-hour oral

part, to prove their knowledge and expertise. In 2009, 163 out of 168 candidates gained a pass in this qualifying examination for patent attorneys. The pass rate at this challenging examination is markedly high and reflects the high quality of the training for German patent attorneys, the extraordinary commitment of the supervisors and the hard work and dedication of the candidates.

Can successful candidates immediately work as patent attorneys after passing the qualifying examination?

Not immediately. Any candidate wishing to work as a patent attorney must pass the qualifying examination for patent attorneys and be granted explicit admission to practise as a patent attorney by the chamber of patent attorneys, and be sworn in. In 2009, 156 patent attorneys were newly admitted - some of them were still admitted by us and some by the chamber of patent attorneys. This means that the number of patent attorneys registered at the end of the year amounted to 2,838. The chamber of patent attorneys keeps a daily updated, electronic directory at www.patentanwaltsregister.org listing the contact details of all admitted patent attorneys, which is accessible to the public.

Do successful candidates have other professional alternatives apart from working as a patent attorney after passing the qualifying examination?

Indeed, there are other options. Successful candidates may bear the title ‘Patentassessor’ or ‘Patentassessorin’ (patent agent). Usually, patent agents are employed in an industrial enterprise. Under the legal services law (Rechtsdienstleistungsgesetz), they can without further requirements, just like any other employee of an enterprise, attend to all matters concerning their employer or, even beyond that, act for

companies within the corporate group of their employer.

In the field of industrial property protection, patent agents have a power of representation that goes well beyond that of regular employees of a company. These powers are derived directly from the law on patent attorneys (Patentanwaltsordnung), clearly exceeding the general powers under the legal services law. Patent agents may be appointed as domestic representatives by applicants located abroad under Sec. 25 Patent Law or Sec. 96 Trade Mark Law (and the corresponding provisions of other IP laws). However, this applies only to a limited group of applicants, namely foreign-based companies that are linked with the employer of the patent agent (usually as corporate group) or have appointed the employer of the patent agent to attend to their interests in the field of industrial property (a company with friendly business relations to the employer). In these special circumstances, the foreign-based applicant does not need to appoint a patent attorney or attorney at law as domestic representative, but may use the services of the patent agent employed in the same corporate group or in the company with friendly business relations to the employer.

Detailed statistical data on patent attorneys and representatives are available on page 111 of this annual report, further information on this subject at www.patentanwalt.de and www.dpma.de.

Arbitration Boards at the German Patent and Trade Mark Office

At the German Patent and Trade Mark Office there are two arbitration boards that constitute independent bodies although they are integrated in the organisation of the DPMA.

The proceedings before the arbitration boards aim at preventing litigation before the courts. The arbitration boards submit 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.

One of the two arbitration boards is the **Arbitration Board under the Law on Employees' Inventions**. It deals with disputes between employees who have made an invention within the scope of their employment and their employers.

The **Arbitration Board under the Copyright Administration Law**, too, is integrated in the organisation of the DPMA, although it is an independent entity.

It mediates disputes between copyright collecting societies and users of copyrighted works. The Board submits settlement proposals to the parties. The effects of these proposals can be similar to court judgements.



The Arbitration Board under the Law on Employees' Inventions

In contrast to widespread opinion, employers in Germany are not automatically entitled to use the inventions of their employees: Initially the employee acquires all rights to the service invention by operation of law (inventor principle), but he has the duty to report this invention to the employer. The rights will pass to the employer if he makes a written statement, addressed to the employee, claiming the invention within four months from the report. In return for the forfeiture of rights, the employee inventor has a right to reasonable compensation. Disputes before the Arbitration Board mainly deal with the equitability of that compensation.

In 2009, the Arbitration Board received 65 requests for performing arbitration proceedings. The Arbitration Board concluded 67 proceedings. The number of proceedings concluded by the Arbitration Board was higher than in the previous years.

Modernisation of employees' inventions law

In 2009, the Law on Employees' Inventions was modernised by the law for streamlining and modernising patent law (PatRModG), after a previous attempt at a fundamental law revision had failed.

Some unnecessary and unsuitable rules were repealed, thus making employees' inventions law less bureaucratic. In future, the rights to the invention are deemed to have passed to the employer, by fiction of law, after the employee has reported the invention. This guarantees that a service invention made within the scope of employment is attributed to the employer and that the employee is entitled to reasonable compensation in return. This means that it is only in case that the employer wishes to prevent the transfer of the rights to the invention that he has to respond to the report by the employee.

Through this legal amendment the legislator responded to a ruling by the Federal Court of Justice (decision of 4 April 2006 – X ZR 155/03), which had not been followed by the Arbitration Board (settlement proposal of 6 November 2008, Arb.Erf. 39/07, confirmed by the settlement proposal of 1 October 2009, Arb.Erf. 36/06).

Furthermore, the requirement of the written form for reporting the invention was replaced by the text form. So now, the reporting of the invention is not only valid on paper but also, for example, by e-mail or fax. Moreover, the limited claiming of an invention, irrelevant in practice, was abolished.

The new provisions apply to inventions that were reported on or after 1 October 2009.

Copyright Arbitration Board

The authors of musical, literary, artistic or similar works are entitled to a royalty when other people use their works. In most cases the authors elect to be represented by collecting societies that enforce this right on their behalf. The societies then collect royalties for the use of the works.

The Copyright Arbitration Board mainly mediates disputes about royalty rates. These disputes frequently concern so-called inclusive contracts. Inclusive contracts are concluded between a collecting society and users of works that have joined in an association.

191 disputes were brought before the Arbitration Board in 2009. 59 proceedings were concluded, including one inclusive contract case. In 202 cases, a decision is yet to be taken. Among these are nine inclusive contract proceedings.

The number of new requests received more than tripled in comparison to the preceding year (61 requests received). The majority of the new

proceedings are disputes between cable network operators and broadcasting corporations and concern the conclusion of agreements for the retransmission of TV and radio programmes to end users via cable networks.

New tariff amounts based on empirical surveys

Some inclusive contract proceedings were of particular importance among the disputes handled, since the Arbitration Board had, for the first time, commissioned empirical surveys. These surveys had become necessary due to the so-called “second basket” of the copyright reform. The amount of the tariff now depends on the extent to which protected rights are in fact being utilised by means of the respective devices or storage media. This question can only be answered by means of complex and in most cases costly empirical surveys, conducted by recognised opinion research institutes. Up to now, the Arbitration Board has commissioned three such surveys for a large number of devices and storage media. Another survey concerning the use of PCs, relevant under copyright, will be conducted shortly.

An inclusive contract case of two associations of concert organisers vs. GEMA was of specific importance. GEMA had intended to raise the tariff applicable to concert organisers considerably – the Arbitration Board cut the increase by half. The parties concluded a settlement in November 2009, which was based on the settlement proposal of the Arbitration Board and deviated only partly from this proposal. Depending on the total number of attendees, concert organisers now have to pay 7.2% and 7.65%, respectively, of the proceeds including turnover tax to GEMA. Inclusive contract or quantity discounts might additionally apply.

The case of a collecting society against three big cable network operators was of great interest, too: the dispute related to the equitable royalty for the retransmission of TV and radio programmes in cable networks. As desired by the parties, the previously paid flat rate was replaced by a licence rate on a percentage basis, depending on the cable network operator’s turnover. Furthermore it was stated that the change from analogue to digital cable retransmission did not justify higher licence rates.

Table 22: Arbitration Board under the Law on Employees' Inventions at the DPMA

Year	Requests received	Settlement proposals accepted and compromises	Cases concluded			Total proceedings concluded	Arbitration proceedings pending at the end of the year
			Objections to settlement proposals	Refusals to participate in arbitration proceedings	Proceedings concluded in other ways		
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
2007	59	10	6	6	16	38	89
2008	66	24	18	12	4	58	97
2009	65	19	25	15	8	67	95

Table 23: Copyright Arbitration Board at the DPMA

Year	Requests received	Inclusive contracts under Section 14 (1) no. 1 (c) Copyright Administration Law	Cases concluded			Total	Requests pending at the end of the year
			Settlement proposals of the Arbitration Board	Conciliations after proposal by the Board	Discontinued proceedings and other decisions		
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
2007	83	2	64	1	30	95	106
2008	61	6	83	1	13	97	70
2009	191	4	45	0	14	59	202

We keep you informed ...

The interest in information on IP rights has remained at an unchanged high level. The enquiry units and search rooms of the DPMA registered more than 171,000 customer contacts in 2009, with more than 13,000 visitors using the two search rooms in Munich and Berlin. In 2009, the DPMA participated in 33 fairs and events – an all-time high.

... through our enquiry units' services

You wish to apply for a patent, a utility model, a trade mark or a design? The three enquiry units at our Munich, Jena and Berlin offices are the first contact points for small and medium enterprises and individual inventors, in particular, regarding questions on industrial property rights and the related procedures – also in connection with the national, European and international procedures. We have prepared fact sheets and forms which can be downloaded anytime from the DPMA website. In addition, we dispatched more than 58,000 sets of forms by post in 2009. The enquiry unit in Berlin supplies information material to patent information centres, chambers of commerce, and law firms. Thanks to the close cooperation of the enquiry units it was possible to further enhance the quality of the information provided.



... by counselling inventors

You seek legal advice? Under the Legal Services Act (Rechtsdienstleistungsgesetz), only patent attorneys and attorneys-at-law are entitled to offer legal counselling. We arrange free initial consultations of about 30 minutes for inventors where patent attorneys advise clients on all kinds of matters relating to intellectual property. This service is offered in cooperation with the Chamber of Patent Attorneys. Since the interviews are much requested we recommend to make appointments well in advance.

... in the search rooms

More than 13,000 visitors used the facilities of the two search rooms in Munich and Berlin in 2009. The options available cover a whole range of services from online searches to file inspection. You can access more than 68 million patent documents contained in different collections to determine the state of the art for a patent application, for example, by means of the in-office DEPATIS database. In addition, the Technical Information Centre (TIZ) in Berlin has archived historical patents and patents from Eastern Europe and the URSS/Russia. In addition to carrying out searches, our customers frequently request legal status information under DPINFO or under DPMAregister, available for trade marks since April 2009 (see page 62). The option to inspect case files on the spot is mostly used by attorneys or patent search firms.

There is no need to worry about how to carry out searches: our search room teams explain the many information options in the field of industrial property protection, assist you in your searches or provide advice free of charge. You can contact the "Search Support" service by phone at +49 (0) 89 2195-3435 or by e-mail at datenbanken@dpma.de.

... by training courses

The DPMA offers workshops on patent searches in Munich and Berlin at a moderate fee. In 2009, we carried out 19 search workshops which were attended by 185 external participants. Three workshops were organised in cooperation with the chambers of industry and commerce (IHK) of Passau and Regensburg.

We currently offer the following workshops:

- Patent searches within DEPATISnet (beginner and advanced levels),
- Online searches for trade marks,
- Online searches for registered designs.

You wish to attend a workshop? Course dates are published at www.dpma.de, in the DPMA-Newsletter and on the notice boards in the patent information centres.

... at trade fairs

The main objective of our trade fair activities is to provide information on industrial property rights and registration procedures to the public and to raise awareness on IP matters. The Office for Harmonization in the Internal Market (OHIM) provides assistance in this field.

In the year 2009, the DPMA participated in 33 expert conferences and trade fairs in Germany and abroad (see page 59). The number of events attended was again markedly higher than in the preceding year.

The efficient cooperation schemes with Kölnmesse GmbH under the "No Copy!" initiative, with Messe Frankfurt GmbH under the "Messe Frankfurt against Copying" initiative and with Messe München GmbH were again very satisfactory. Furthermore, we have successfully worked together for several years with

the industrial property rights department of the customs authorities concerning the issue of product piracy and counterfeiting. We started cooperation with Messe Düsseldorf GmbH at the “Medica” fair. Furthermore, project activities were taken up with Museum Plagiarius in Solingen.

... online at www.dpma.de

Browse our new accessible website to find out everything about patents, trade marks and the like. In 2009, our web pages provided again up to date information on the latest developments in patent, trade mark and designs law, in addition to useful information about the DPMA, our web services, interesting events, conferences, fairs und much more. Visit us at www.dpma.de!

We welcome your comments and suggestions about our website (e-mail: internetredaktion@dpma.de).

Patents take you to the stars – a contribution of the DPMA to the International Year of Astronomy 2009

An online presentation drawn up to pay tribute to UNESCO's International Year of Astronomy went live in March 2009. A team of DPMA patent examiners had assembled many patents from the fields of astronomy, astrophysics and astronautics to show the particular innovative capacity of researchers and developers in these fields.

It will be still be worth while to travel to the stars using patents in 2010. Board at <http://www.dpma.de/service/galerie/index.html> and discover the past and the future of space travel.

... with the help of the regional patent information centres

There are 24 patent information centres (PIZ) in Germany which cooperate with the German Patent and Trade Mark Office. Our Technical Information Centre in Berlin (TIZ Berlin) assumes the role of the central cooperation partner.

The patent information centres are the contacts at Länder level for questions concerning industrial property rights. The most important target groups are small and medium enterprises (SMEs), universities and representatives of research institutions. In addition, the centres provide information on industrial property protection to the public and thus raise awareness for intellectual property in Germany. Applications for all types of industrial property rights may be filed at twelve centres, among them the PIZ Aachen since 2009, for transmittal to the DPMA and securing a date of filing.

2009 trade fair calendar

Trade fair	
January	
14.01.–17.01.	Heimtextil (Frankfurt/Main)
19.01.–25.01.	imm cologne (Cologne)
30.01.–03.02.	Christmasworld (Frankfurt/Main)
31.01.–03.02.	Beautyworld (Frankfurt/Main)
31.01.–03.02.	Paperworld (Frankfurt/Main)
February	
01.02.–04.02.	ispo (Munich)
13.02.–17.02.	Ambiente (Frankfurt/Main)
March	
01.03.–03.03.	Asia-Pacific Sourcing (Cologne)
10.03.–13.03.	Anuga Foodtec (Cologne)
10.03.–14.03.	ISH – Weltleitmesse Bad, Gebäude-, Energie-, Klimatechnik, Erneuerbare Energien (Frankfurt/Main)
20.03.–21.03.	Degut (Berlin)
April	
01.04.–04.04.	Musikmesse / Prolight + Sound (Frankfurt/Main)
01.04.–05.04.	Erfindersalon – Internationale Messe für Erfindungen (Geneva (CH))
20.04.–24.04.	Hannovermesse Industrie (Hanover)

Trade fair	
May	
13.05.–16.05.	Interzum (Cologne)
14.05.–16.05.	Intertech (Dornbirn [AT])
19.05.	Tag der Wirtschaft 2009 (Bochum)
27.05.–29.05.	Intersolar (Munich)
June	
16.06.–18.06.	Avantex + Techtexil (Frankfurt/Main)
July	
03.07.–07.07.	Tendence (Frankfurt/Main)
September	
14.09.–19.09.	Drinktec (Munich)
October	
13.10.–15.10.	Materialica (Munich)
November	
05.11.–08.11.	iENA (Nuremberg)
13.11.–14.11.	START-Messe (Essen)
18.11.–21.11.	Medica (Düsseldorf)
December	
08.12.	Innovationstag Thüringen (Erfurt)

Modern information technology for you and us

Electronic case file – our investment in future oriented workplaces

Our “electronic case file” project establishes a unique system that allows us to process all steps of IPR procedures – from the application to the publication – fully electronically without discontinuity of media. This will enable us to carry out procedures even faster and with enhanced efficiency in the future.

The applications and communications received will no longer be filed and distributed on paper. Rather, they will immediately be scanned and stored in a document management system. The record will then be displayed as a task in the job list of the staff member in charge, who can proceed to further processing directly at the screen. As requests and communications, too, will no longer be kept in paper files, they can be processed in parallel, i.e. simultaneously, by several staff members. The former storing of kilometres of paper files will be reduced significantly. This will lower our staff’s workload, enhance the quality of our work and shorten the work processes while increasing efficiency.

Online file inspection will be provided to our customers from 2012 onwards under our DPMAregister service.

We will introduce the electronic case file in mid-2011 for patents and utility models, and subsequently for trade marks and designs. For more information please see page 64.



DPMAmarken – electronic processing and registration of trade marks

The DPMAmarken system has been operational since May 2006. All trade mark procedures are IT supported and carried out exclusively by electronic means using this system. This has made DPMAmarken an indispensable tool for the more than 400 staff members working in the trade mark area.

Our publication and recording duties are met automatically by means of this system. Furthermore, standardised processing increases the consistency of work results and enhances the data quality significantly. At the same time, trade mark applications are being registered and managed faster and with increased efficiency, in the interest of our customers. This also increases legal certainty and clarity of decisions for our clients.

Trade mark law is in a permanent state of flux so that we continually need to adapt DPMAmarken to the latest legal and organisational outline conditions.

We have been working on integrating the area of international registrations of trade marks (IR) into DPMAmarken since 2006. This extension of DPMAmarken will become operational in February 2010. We will then be able to integrate documents transmitted electronically by the World Intellectual Property Organization (WIPO) into the data pool of DPMAmarken and process the relevant procedures with IT support.

It should be mentioned in particular that the trade mark was the first type of IP right to be integrated successfully into DPMAregister in spring 2009 (see also page 62).

DPMAdirekt – online filing of IP applications

E-filing IP applications is becoming more and more popular. In 2009 we received more than 18,000 applications online. This means that online applications more than tripled in comparison to 2008.

DPMAdirekt – patent form editor

We improved several functions of DPMAdirekt in 2009, in a dialogue with our applicants:

- A new form editor organises the application for a patent in five clear steps: applicant, representative, address for service, IP right and payment. This editor performs a plausibility check when data are entered. If mandatory information is missing, the relevant field or item shows a red sign. A fee calculator running in the background automatically calculates the filing fees after each entry. The new editor will be introduced for all processes.
- In the multi-user version, the address book is now being managed centrally on the server. All local address books established within an organisation are merged automatically to create a central address book, accessible to all users.

Test DPMAdirekt! You can draw up demo applications even without an enhanced signature card. The software and further information on DPMAdirekt are available at www.dpma.de.

DPMAregister – our new online service

DPMAregister was launched on 28 April 2009. This new free online service enables users to conduct searches for IP applications and registered or granted IP rights. Furthermore, they can track the status of applications. Anybody can find out online whether, for example, a certain trade mark has been registered or a granted patent has been opposed.

The site <http://register.dpma.de> provides access to:

- publications of the German Patent and Trade Mark Office prescribed by law
- register data

- patent, trade mark and design gazettes/journals
- legal and procedural status information
- systematic information, at regular intervals, on new IP rights published (within the scope of a monitoring service).

The service DPMAregister combines the functions of the former DPINFO and DPMApublikationen databases. These two databases will be shut down after integration of all types of IP rights into DPMAregister.

In a first stage, DPMAregister has been available for trade marks and indications of geographical origin. Patents, utility models, designs and Community trade marks and international registrations of marks with effect in Germany will be integrated in the course of 2010.

For more information on DPMAregister please see http://www.dpma.de/service/e_dienstleistungen/dpmaregister/index.html.

DEPATIS – search patent documents from all over the world

Right on time for the 10th anniversary of our electronic search system of DEPATIS, we launched an updated version of the system in 2009. The new DEPATIS is a powerful and highly specialised tool enabling our patent examiners to access patent documents of the major patent offices worldwide. The system architecture has been redesigned, the user interface has got a completely new look and many new functionalities have been implemented in the new version. Users can now customise the new DEPATIS to suit their individual needs.

German Chancellor impressed by DEPATIS search system

Our presentation of DEPATIS to the public was a great success at the 4th national IT summit of the Federal government in Stuttgart. It was attended by Federal Chancellor Dr. Angela Merkel, Federal Minister of Justice Sabine Leutheusser-Schnarrenberger, Federal Minister of Economics and Technology Rainer Brüderle and other high ranking representatives from politics, science, business and industry.

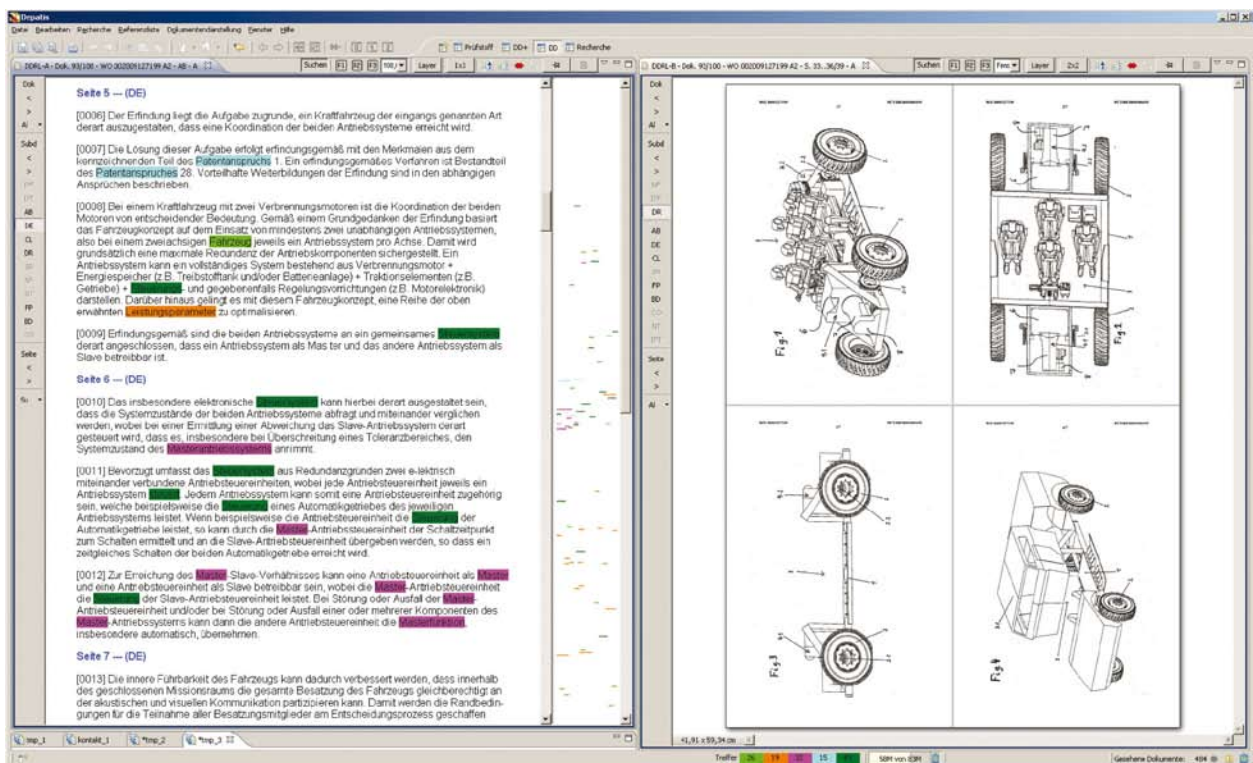


Federal Chancellor Dr. Angela Merkel, Federal Minister of Justice Sabine Leutheusser-Schnarrenberger and Federal Minister of Economics and Technology Rainer Brüderle at the DEPATIS presentation

Customer version to be updated in 2010

We are developing a customer version of the new DEPATIS system that is to become operational by mid-2010. Our customers will then be able to use the system in non-DPMA networks, for example

at the Federal Patent Court, universities, research institutions, patent information centres and other national and international patent offices.



Redesigned document display in DEPATIS

IN FOCUS

The electronic case file for patents, utility models, topographies and supplementary protection certificates

The introduction of the electronic case file will enable us to process several ten thousands of patent and utility model applications fully electronically. In addition, we will use the system to manage about 4.5 million data records of IP rights in force.

Preparations of the introduction of the electronic case file for patents and utility models started in 2006. In a first step, we harmonised the infrastructure in all areas of our organisation and established horizontal function services used by all areas.

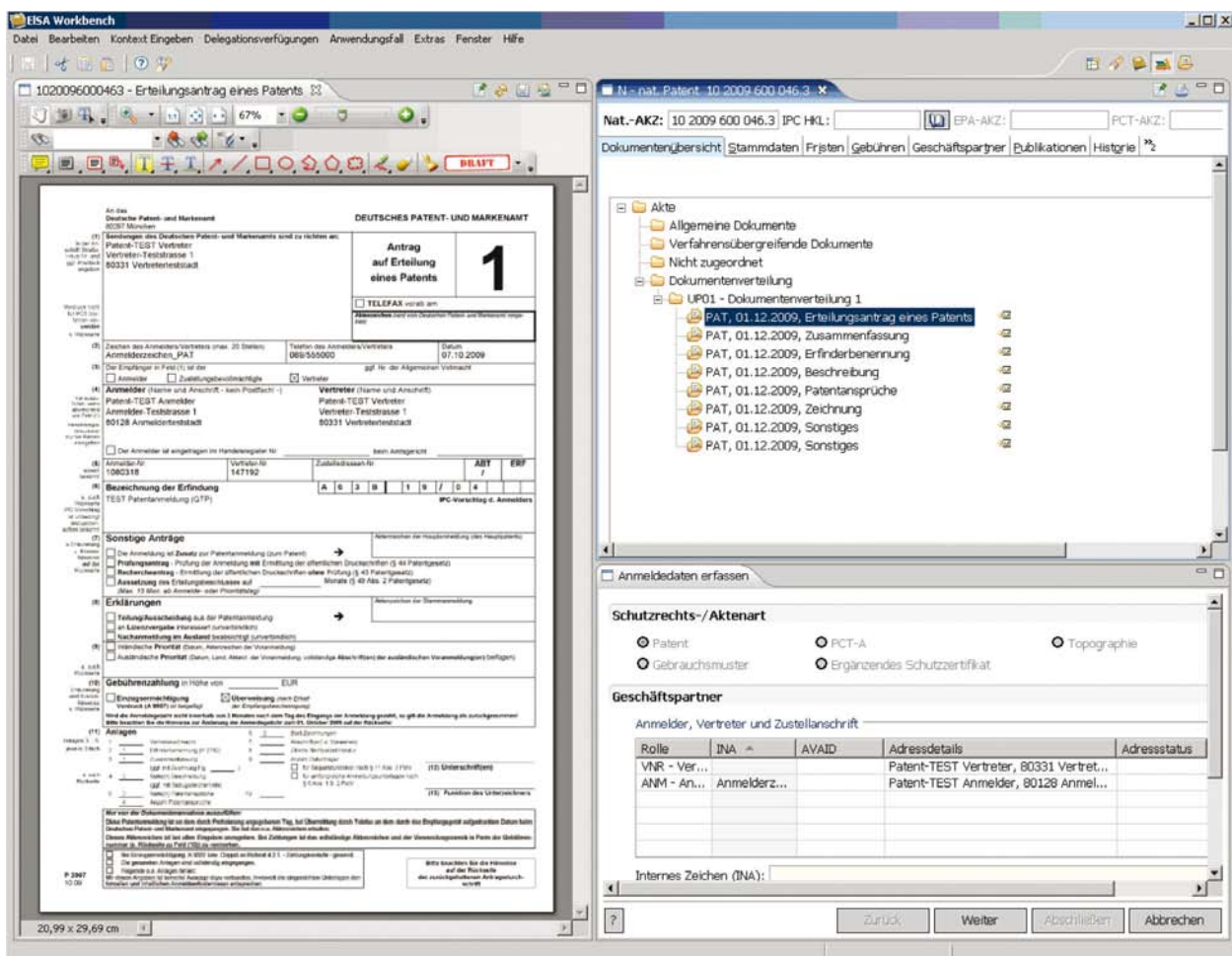


Figure 10: The screen document view

These include, for example

- the new system for the fee payment management
- the new address management
- the central user directory for authentication
- the document view (see Figure 10).

Furthermore, we have established interfaces to internal and external business partners such as the European Patent Office and the World Intellectual Property Organization (WIPO).

In December 2008 we started scanning about 140,000 paper files for further electronic processing, which relate to applications in the examination stage. About 50,000 files had been scanned at the end of 2009.

The introduction of electronic file processing involves significant changes in our work processes and work contents. For example, the incoming applications for patents and utility models are being analysed by means of an electronic system that establishes proposals on how to classify the applications according to the International Patent Classification (IPC). This will enhance speed and efficiency of further processing. Furthermore, the documents which we establish under the full electronic processing system need not be signed. Office orders and the like will be provided with an electronic signature.

More than 1,000 staff members in the patent and utility model area and further 200 administration staff will use the new system. A project team accompanies our personnel through the change processes and provides active support. For more information please see pages 67 and 97.

A strong team

Our staff

In 2009, 2,609 staff worked at the German Patent and Trade Mark Office (DPMA). 2,297 staff worked in Munich and 312 in the Jena Sub-Office and in the Technical Information Centre Berlin. This means that for the first time in years the overall headcount was higher than in the previous year having increased by 109. The gender ratio of DPMA staff was again almost balanced: 1,288 of the staff were women and 1,321 men.

Successful recruitment initiative

Our 2009 recruitment drive was a great success. In this context, we focused particularly on the recruitment of patent examiners in order to cope with the constantly increasing workload in this area. Following a large number of selection procedures more than 100 qualified new recruits were hired to work in the field of patent examination at the DPMA. 82 of them already started their new jobs in 2009.

Flexible working patterns

To allow staff to better balance work and family life the DPMA offers many flexible working options to its staff. In 2009, about one eighth of our staff were working part time. Alternating telework is a scheme that allows staff to work from home for up to 60% of their working hours. 344 staff, that is also about one eighth of the total staff, took part in the teleworking scheme.

Staff incentive scheme

In 2009, incentive bonuses paid to civil servants totalled € 294,900. A total of 262 very committed and high-performing civil servants received incentive bonuses.



Active health promotion

Since its foundation in 2004, “Forum Gesundheit” has promoted the well-being and the motivation of staff through a large number of activities and information events. The staff are actively involved in choosing the topics and running the health-promoting initiatives. Sports activities are an essential component of health promotion. Since 2007 we have offered a weekly fitness class under the title “Fit for the office” for the staff during the lunch period. Furthermore, several workforce groups meet regularly for running to keep fit.

Creating a healthy worksite

In 2009 we developed a catalogue of criteria for a work environment that promotes personal development and health. This catalogue will be used as an assessment and decision-making basis and to identify the goals to be achieved, when re-designing, re-organising or newly developing work structures and workplaces. This will help to manage upcoming changes in a manner that complies with requirements of health promotion at the workplace, since it is in the interest of all parties involved to ensure a healthy work environment.

Change management

With regard to the introduction of the electronic case file, business processes will change considerably. Such changes may cause conflicts which are meant to be addressed by in-house conflict prevention or conflict management mechanisms. In 2009, we introduced coaching sessions: These have focused on conflict management and mediation as well as on team development measures. Purposeful counselling and goal-oriented training of staff help to promote open and respectful interaction between staff even in conflict situations, prevent conflict and create a supportive working atmosphere.

Training at the DPMA

Training and further training that are oriented towards future requirements will enable trainees and staff of the DPMA to also fulfil their future working duties at a high quality level.

In 2009, we offered training for 78 young people in the following skilled occupations:

- electricians for power and building services engineering
- office communication clerks
- media and information services clerks
- IT specialists
- carpenters
- administrative employees

In 2009, we again offered (at first, temporary) employment at the DPMA to all successful trainees after completion of their qualifying training.

In addition, 33 pupils had the opportunity to gain an initial insight into the world of work during pre-vocational training placements at the German Patent and Trade Mark Office.

A large number of our staff used the great variety of training measures offered. The training measures again focused in particular on the training of staff at management level besides introductory courses, advanced courses as well as subject-specific or interdisciplinary seminars and training courses. The DPMA continues to be a local partner of the Federal Academy of Public Administration, the central training institution of the federal authorities. This means that all events to be held in Munich take place at the DPMA and our staff take care of the organisational aspects of those events.

INTERVIEW

At the innovative heart of Thuringia: Our Jena Sub-Office

In 2009, we celebrated the 20th anniversary of German unification, which also had a particular impact on our organisation: Our branch in Jena has been in operation since 1998. Markus Ortlieb, Head of the Jena Sub-Office, explains how it all came about and what is special about Jena.

Mr. Ortlieb, how did it come about that the Jena Sub-Office became one of the three DPMA locations to be established?

The Jena Sub-Office owes its foundation to German unification, the Unification Treaty and the political decision taken by the Commission on Federalism, which is composed of an equal number



Markus Ortlieb

of representatives from the Federal Government and the German Länder. The decision of the German Bundestag to make Berlin the capital of Germany and the main seat of the Federal Government was followed in May 1992 by the decision of the Commission on Federalism to move the Berlin Sub-Office of the German Patent Office to Thuringia. When, after many years, the subsequent negotiations finally came to a close it was decided that the new sub-office of the German Patent and Trade Mark Office would be located in Jena and that the Berlin Sub-Office would continue to exist, although reduced by those fields of activity that were to be moved to Jena.

What were your personal experiences with the move from Berlin to Jena and the set-up phase of the Jena Sub-Office?

As I had started my career in the Berlin Sub-Office in 1990, it was easy for me to understand the feelings of the staff affected by the move, despite my temporary employment at the Federal Ministry of Justice. After the very turbulent and busy years in the Berlin Sub-Office after German unification including the merger of the former Office for Inventions and Patents of the GDR and the Berlin Sub-Office of the German Patent Office, which was

no easy task, the Berlin Sub-Office and its staff had to face the next fundamental change. Looking back, I would not have wanted to miss out on the personal, professional and private experiences, even though those were very stressful years. I am glad that I participated in shaping those initial phases that had such a decisive impact on the Berlin and Jena Sub-Offices.

Looking back, what were the main difficulties and the greatest successes when establishing the Jena Sub-Office?

As often happens in life, the main difficulties that we had to overcome, in retrospect, have proved to be the key to the success achieved later in setting up the new Jena Sub-Office. The move from Berlin to Jena was the first move of a federal authority from Berlin to the new German Länder. Furthermore, in contrast to the moves from Bonn to Berlin there was no job exchange scheme available for staff to avoid having to move. Within the framework of the general duty to follow, all staff affected after a selection process based on social criteria had to move from Berlin to Jena, irrespectively of their functions and their statuses, or had to put up with commuting between Jena and Berlin for a longer time. Since some of the staff stayed back in Berlin on the basis of the selection according to social criteria, many vacant positions had to be filled again resulting in a corresponding demand for re-training. It was only the extremely intensive communication and trustful cooperation with the staff council and the affected staff, and also the unequalled commitment of all colleagues that enabled the enormous organisational and personnel transformations.

After the move to Jena in 1998 and 1999, more than 80% of the staff from Berlin were replaced by new

recruits from Thuringia and neighbouring German Länder within two years time. One after the other, the former Berlin colleagues were able to move back to Berlin to newly created jobs, above all, in federal ministries and federal authorities. The new Jena colleagues were able to compensate for their lack of job experience by demonstrating high levels of motivation and a high degree of professional expertise. In the end, the move was completed without significant disruptions and backlogs of work in the IP areas concerned, i.e. trade marks and designs. After a short start-up period, high workloads caused by files assigned to the Sub-Office were reduced to normal levels and the quality of work was considerably enhanced. This success has been confirmed by a large amount of positive feedback from applicants and their representatives.

How have the IP areas and the administrative areas changed during the last 11 years?

It should be generally noted, and not just for the Jena Sub-Office, but for the entire German Patent and Trade Mark Office, that the IP divisions have clearly improved their customer and service focus. The biggest IP division in Jena, the trade mark division, has been further extended in the last 11 years. Further classes of goods and services were added so that, meanwhile, Jena's share of the trade mark applications examined amounts to roughly 40% of the total. In addition, Jena manages the extensive renewal procedures, recording of changes and cancellation procedures concerning also trade marks that were examined in the Munich office. The designs unit, which had been moved completely from Berlin to Jena, has been modernised in the last 11 years, just like the DPMA as a whole, particularly by using advanced information technology, and competes with other national offices, but above all, with the OHIM, our European counterpart.

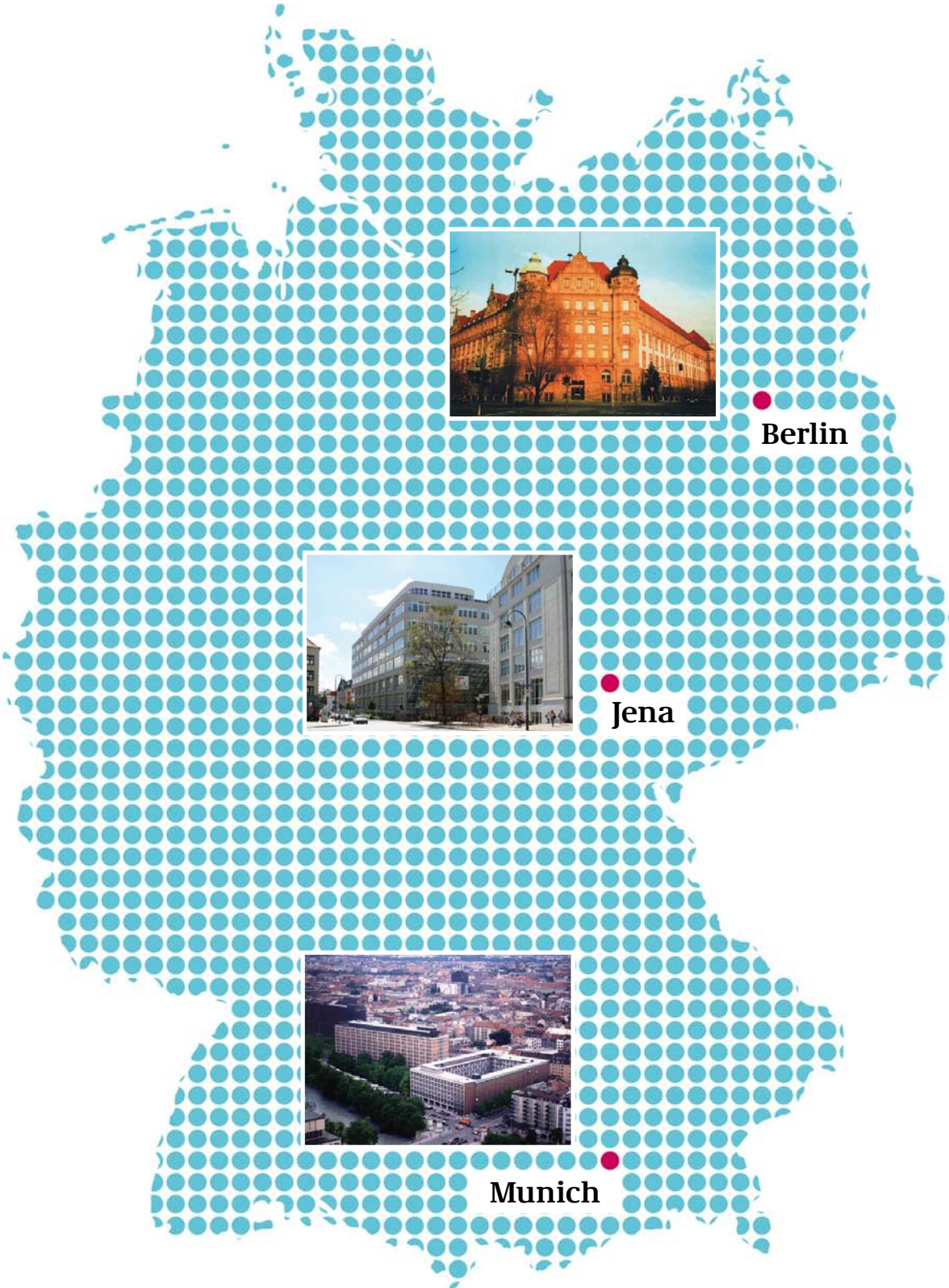
What is special about the Jena Sub-Office as part of the German Patent and Trade Mark Office?

Since we had to establish the Jena Sub-Office to a large extent with new recruits, as I have explained earlier, we seized the opportunity to establish a young, highly qualified and, in particular, very customer focused and service based office. In addition, the Jena Sub-Office is very active in public relations for the DPMA in Jena and Thuringia and has meanwhile become a recognised part of cooperation between industry and science, which is particularly well established in Jena (see also page 86 and following). Anyway, Jena is also a very attractive, dynamic and family-friendly town.



Jena Sub-Office

Our locations



Positive financial situation despite economic crisis

Our finances 2009

Despite the worldwide financial and economic crisis the overall income of the German Patent and Trade Mark Office (DPMA) again by far exceeded the expenditures in budget year 2009. It is true that we could not reach last year's record income of € 300.7 m, but we achieved an income of € 293.3 m, a result which was not necessarily to be expected. The overall expenditures amounted to € 244.6 m.

In budget year 2009, the Federal Ministry of Justice, the Federal Ministry of Finance and the parliament again recognised our importance and performance by a large allocation of funds above all for personnel, construction measures and IT projects.

Table 24: Income and expenditure of the German Patent and Trade Mark Office and the Federal Patent Court (in million Euro)

	2008	2009	Change (in %)
Income	300.7	293.3	- 2.5
Expenditure	229.1	244.6	+ 6.8
including personnel	126.6	133.1	+ 5.1



Economic stimulus package enables additional projects

The allocation of budgetary funds under the second economic stimulus package (KP II) of the Federal Government allowed us to finance additional IT measures and to modernise the equipment in several areas of the DPMA.

Since the electronic case file project is very important for the future of our office, we received additional budgetary funds under the partial programme “IT investment programme” of KP II for supplementary functionalities. Furthermore, funds were provided for the replacement of the existing screens to improve the ergonomic design of computer workstations. The measure was completed as early as 2009 and has clearly improved the working conditions of many staff members.

We received funds under the partial programme “fundamental reconstruction and energy-efficient renovation of buildings” of KP II for installing a geothermal system, combined with equipment to harness solar power. The planning process regarding design and approvals was already completed in 2009 so that the necessary construction measures can start on time and will be completed by the end of 2011. 60% of the energy demand of the DPMA main building will then be met by renewable energy, thanks to the combined use of geothermal and solar energy.

In addition to KP II further funds were available to the Federal Ministry of Justice which it passed on to its subordinate authorities. These funds will be applied to

- supplement our audio visual equipment,
- modernise our lifts,
- acquire new furniture,
- install energy-saving ceiling lights in the main building.

International Cooperation and International Legal Developments



i As the fifth biggest national patent office in the world, the German Patent and Trade Mark Office (DPMA) attaches great importance to international cooperation in the field of industrial property protection. We give new impulses to the worldwide development of the patent system and pursue common strategic goals together with our cooperation partners.

Bilateral cooperation

Within the scope of bilateral cooperation two cooperation projects played a particular role in 2009: the so-called Patent Prosecution Highway (PPH) and the exchange of examiners.

Patent Prosecution Highway (PPH)

The aim of the Patent Prosecution Highway (PPH) is to avoid duplication of work by patent offices through mutual utilisation of work results and to enhance efficiency of the patent examination process. By that means, applicants who file essentially identical applications in at least two patent offices in the world will obtain faster patent protection in a more efficient way. The PPH allows applicants to request accelerated examination with the DPMA and the respective foreign patent authority provided that the patent application was previously filed at the respective other office and at least one patent claim was determined to be patentable by that office. In this case, the two offices will exchange and mutually use work results. Neither the DPMA nor our partner office are bound by the decisions of the respective other authority.

Up till now, we have launched PPH pilots with the Japan Patent Office and the US Patent and Trademark Office.

Exchange of patent examiners

The exchange of examiners between two offices is a very important and effective instrument to gain an insight into the working practices of a partner office. It is an opportunity for the participating examiners to exchange experiences. In the framework of the examiner exchange, essentially identical patent applications pending at two different offices

within the scope of priority applications are jointly discussed by the competent patent examiners at the offices concerned. In this way the two offices gain information on the patent examination procedure and the examination environment of the partner office. This enables both partner offices to learn from each other and to identify the best practices. Usually, two to four patent examiners per office participate in the exchange programme. The DPMA has regular patent examiner exchanges with the patent offices of Japan and South Korea as well as patent examiner exchange programmes with the partner offices in China and the USA.

Brazil

Since 2005, we have closely worked together with the Brazilian patent authority (Instituto Nacional da Propriedade Industrial (INPI)).

In the margins of the WIPO General Assembly in September 2009, President Rudloff-Schäffer met for talks with INPI President Jorge de Paula Costa Ávila. On this occasion, the presidents of the two offices agreed to continue the successful cooperation programme in the coming years.

China

We have cooperated with the State Intellectual Property Office of the People's Republic of China (SIPO) for almost 30 years. Presently, we are implementing the 2007 partnership agreement. For 2008 to 2010, it includes some well-established elements, for example, the exchange of examiners and symposia. Within the scope of the examiner exchange we welcomed four SIPO patent examiners to the DPMA in 2009.

On 18 December 2009, we held a symposium on the new Chinese patent law at the DPMA in cooperation with the European Patent Office and the Federal Patent Court. Experts of the Chinese patent office explained the effects of the third patent law revision, which entered into force on 1 October 2009, on patent applicants. More than 100 representatives of business, industry, science and the legal profession attended the event. The symposium was organised in the framework of the EU's "IPR II" project.

Furthermore, the German Patent and Trade Mark Office plays an active part in a project on the protection of intellectual property rights in China (IPR II), set up jointly by the European Union and the

People's Republic of China. The project is carried out by the European Patent Office (EPO) in cooperation with the Office for Harmonization in the Internal Market (OHIM) and the contracting states of the European Patent Organisation. The aim is to foster a smooth integration of China in the world trade system and to support the country's transition to a market economy.

The project is specifically intended to take concerns of business and industry in Europe into account. One of the main project targets is "to improve the effectiveness of IPR enforcement in China". The German Patent and Trade Mark Office is the coordinating body for the contracting state Germany and represented in the project committee.



Participants of the "Symposium on the new Chinese patent law" in December 2009



Heads meeting: Ms. Rudloff-Schäffer and her Indian counterpart, Mr. P. H. Kurian, and delegation

India

Cooperation between the offices of India and Germany is a positive signal for international protection of intellectual property. In September 2009, a meeting of the heads of the patent authorities of India and Germany took place in Munich. The presidents of both offices emphasised their intention to continue cooperation and the exchange of opinions in the future.



Ms. Rudloff-Schäffer, President of the DPMA and her counterpart from Japan, Mr. Tetsuhiro Hosono (centre)

Japan

In 2009, three meetings of the DPMA and the Japan Patent Office (JPO) at senior management level took place in Munich. The presidents of both offices confirmed their intention to continue the intensive cooperation between both offices in the future.

Furthermore, we run a Patent Prosecution Highway (PPH) pilot programme with the JPO.

Romania

In 2008, the presidents of the DPMA and the State Office for Inventions and Trademarks of Romania (OSIM) signed a memorandum of understanding on bilateral cooperation in Bucharest. Within the framework of this cooperation agreement, further training measures were implemented in Munich in 2009.

Republic of Korea

Bilateral talks at senior management level with the Commissioner of the Korean Intellectual Property Office (KIPO), Dr. Jung-Sik Koh, took place in the margins of the WIPO General Assemblies, in September 2009. The presidents of the two offices agreed on further intensive cooperation and on a Patent Prosecution Highway (PPH) pilot programme.

United States of America

In 2009, the DPMA and the US Patent and Trademark Office (USPTO) began intensive cooperation in the field of intellectual property, in particular, by participating in the above mentioned bilateral Patent Prosecution Highway (PPH) pilot (start at the end of April 2009) and an exchange of examiners (June 2009). Furthermore, a DPMA patent examiner attended a five-month training programme at the Patent Training Academy of the USPTO in 2009. The highlight of the intensive cooperation of the two offices was the joint symposium at the DPMA on 7 December 2009. 70 experts from science and industry as well as lawyers and patent attorneys met with Commissioner for Patents Robert Stoll and colleagues from the USPTO and the DPMA to discuss aspects of patent quality, alternative schemes of international cooperation, the protection of biotechnological inventions as well as the inventive step as a precondition for the grant of a patent.



Participants of the “German-American Symposium” in December 2009

Developments in the European patent system

Enhanced patent system in Europe

In December 2009, the Council of Ministers of the European Union (EU) adopted the key elements of an enhanced patent system in Europe. The political agreement comprises the main pillars for the creation of an EU patent and the establishment of a European patent litigation system.

The ministers approved the draft regulation establishing the EU patent that is now pending further discussion in the European Parliament under the Lisbon Treaty. According to this regulation, inventions for which a patent is granted will enjoy direct protection in the EU as a whole. The conclusions adopted by the Council of Ministers also include initial provisions on the distribution key for the allocation of patent fees among member states and on cooperation between patent offices. The creation of the EU patent still requires agreement on the so-called language regime, which has to be accepted with unanimity by the Council.

The agreement of the Council of Ministers also reflects the political will to create a unified patent litigation system in Europe to facilitate the enforcement of patents and to avoid conflicting decisions of national courts in future. The European and EU Patents Court (EEUPC) will be based on the established national court structures and be located close to the parties. A court of appeal will ensure consistency of patent decisions. In 2010, further negotiations on the details of the new court structure will follow. Furthermore, an opinion of the European Court of Justice on the creation of a European and EU Patents Court is still pending.

At present, it is not possible to predict when the EU patent and the unified European and EU Patents Court will become reality, because intensive negotiations are still necessary before the adoption of the entire package of measures including those for the accession of the EU to the European Patent Convention.

European Patent Network

Close cooperation between the national patent offices and the European Patent Office (EPO) is necessary to fully achieve the current European patent system's objective to promote economic growth. Based on these considerations, the Administrative Council of the European Patent Organisation created the European Patent Network (EPN). One of the key elements of the European Patent Network is a project on the utilisation of work results (Utilisation Project – UP). A pilot project was carried out which explored to what extent the European Patent Office as office of second filing was able to utilise the results of the work previously done by national patent offices of the contracting states of the European Patent Organisation on the first filings of national applications. The pilot showed that the utilisation of work results of national patent offices by the European Patent Office helped to avoid duplication of work and enhance the efficiency of the European patent grant procedure. For this reason, the Administrative Council of the European Patent Organisation approved to expand utilisation in a phased approach and started implementation in 2009.

IPeuropAware – exemplary commitment of the DPMA at the European level

Since November 2007 we have been actively involved in the IPeuropAware project, funded by the European Commission under the competitiveness and innovation framework programme. This programme aims at raising awareness of IP rights among small and medium enterprises (SMEs), in particular. It is specifically important for these enterprises to actively utilise and, above all, enforce IP rights. The TIZ Berlin coordinates the project cooperation.

National patent and trade mark offices of 20 countries and several research institutes participate in the project. They achieved substantial work results in the first two project years.

For example, the following products were drawn up under the work package coordinated by us:

- a Europe wide systematic for questions in the area of enforcing industrial property rights;
- a uniform catalogue of services of the enquiry units of national patent and trade mark offices that can serve as benchmark for the efficiency of the enquiry units throughout Europe.

In cooperation with various stakeholders of IP protection at the national level we implemented the work results into the in-office structures towards the end of project year 2009 (see also page 92).

World Intellectual Property Organization (WIPO) in Geneva

WIPO is a specialized agency of the United Nations and an umbrella organisation responsible for the administration of several worldwide treaties on the protection of intellectual property. Its headquarters are in Geneva. At present, WIPO has 184 members. We again actively participated in the decision-making processes in various WIPO committees in 2009.

Did you know that ...

... 2009 was the “International Year of Astronomy”?

In 1609, Galileo Galilei observed the stars in the night sky with a telescope and made discoveries that opened up a new era of astronomy. The UNESCO Year of Astronomy marks the 400th anniversary of these discoveries. The online exhibition “Mit Patenten auf der Reise zu den Sternen” (On a journey to the stars with patents) was our contribution to this global initiative. It is available at www.dpma.de.

INTERVIEW

Examiner exchanges with the USPTO

In 2009, four DPMA patent examiners visited the United States Patent and Trademark Office (USPTO): Dr. Weidinger, patent examiner in the area of material analysis, participated in a five-month training programme of the USPTO for foreign patent examiners. Dr. Werner, patent examiner in the fields of biotechnology and medical technology, analysed the German and US patent examination procedures in a comparative study, together with his colleagues Dr. Perard and Dr. R uger, and patent examiners of the USPTO, within the scope of a two-week exchange programme.

Ms. Weidinger, the USPTO runs its own training centre, the Global Intellectual Property Academy (GIPA). What is the purpose of this academy?

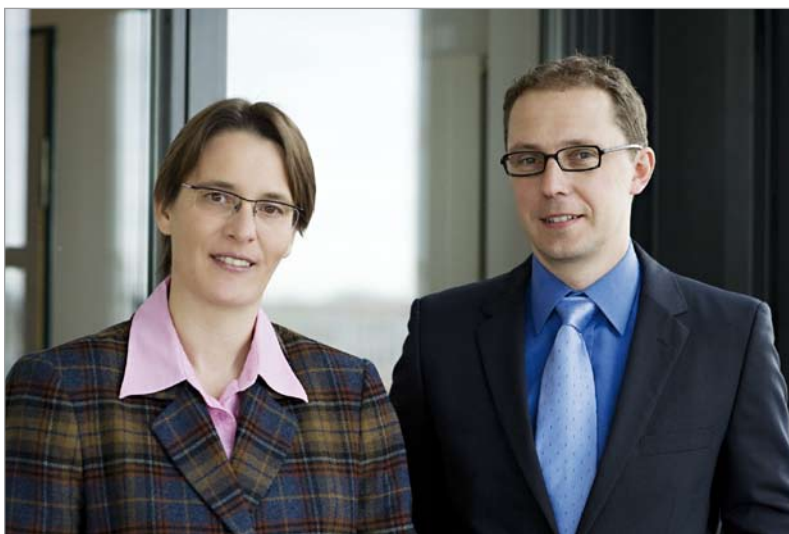
BW: The mission of the USPTO is to continue advocating improved intellectual property protection and enforcement domestically and abroad. For this purpose, the USPTO provides training and education on all IP issues to foreign and US government officials. An additional goal is to develop unified standards for international IP practice through multilateral efforts.

Domestically, the USPTO is giving policy guidance and works closely with other US government agencies, for example, to fight piracy and

counterfeiting. In terms of these goals GIPA delivers specific training programmes for officials from patent, trademark and copyright offices, as well as for judges, prosecutors, police and custom officials, foreign policy makers, patent examiners (like me) and IP rights owners.

The training programme for foreign patent examiners comprised participation in the following activities:

- new examiner training of the USPTO, in order to learn and apply US patent law,
- lectures on other IP rights, on piracy and counterfeiting, on the intended US Patent Reform Act and the international cooperation of patent offices,
- information visits to the House of Representatives, to hearings at the USPTO's Board of Appeals and Federal courts.



Dr. Birgit Weidinger and Dr. Oliver Werner

Eight patent examiners took part in this programme in 2009, five of them from South Korea, and one each from China, Saudi Arabia and Germany.

Just like all big patent offices across the world, the USPTO has a large volume of pending patent applications. How does the USPTO manage this growing workload?

BW: Basically, the USPTO has responded by large scale hiring of new examiners since 2006. In addition, it has lately taken up many programmes: a modified assessment of the individual examiner's performance should shorten processing times and enhance the quality of work. Furthermore, examiners' overtime will be paid again in fiscal year 2010.

Moreover, applicants can request an accelerated examination under the *Green Tech Patent Pilot Program*, if the application pertains to green technologies such as environmental quality, energy conservation, development of renewable energy resources or greenhouse gas emission reduction, or under the *Patent Application Backlog Reduction Stimulus Plan*, if another unexamined copending application is expressly being abandoned.

Furthermore, the USPTO expects that worksharing with other patent offices under the so-called Patent Prosecution Highway (PPH) programmes will significantly contribute to reducing the backlog of pending applications. The USPTO is running this cooperation scheme for accelerated processing at the office of second filing with the offices of Australia, Canada, Denmark, Finland, Germany, Japan, Korea, Singapore, the United Kingdom and with the European Patent Office.

Ms. Weidinger, you mentioned that the USPTO is hiring a large number of new staff. How do you become a patent examiner at the USPTO?

BW: You need to have at least a four-year bachelor degree in engineering or science from a college or university. Working experience is not required. All new hires receive an eight-month training at the Patent Training Academy. In contrast to their German colleagues they have only little contact with their future division, the so-called Technology Center, during this period.

The first two-month training phase covers theoretical fundamentals. These include lectures and lab exercises on patent law, examining practice and IT applications. In the second phase, the new hires examine applications in their future fields of technology. In parallel, there are lectures on general patent law alternating with individual training activities relating to technology-specific legal questions of relevance for certain groups of examiners. The third phase is dedicated to preparing for the exam and to studying specific questions of patent law in more detail, using the very extensive Manual of Patent Examining Procedure¹.

At the end of the training, the participants sit the *Proficiency Exam*. In the following three years they take more exams to progress to *Primary Patent Examiner*.

¹ Manual of Patent Examining Procedure (MPEP) –These very detailed examination guidelines are available at <http://www.uspto.gov/web/offices/pac/mpep/mpep.htm>.

Mr. Werner, you have given several lectures. Which topics were the US colleagues most interested in?

OW: With regard to the mutual utilisation of work results under the PPH, the focus was on comparing the US and German patent grant procedures. Both sides gave detailed presentations on the structure of their respective offices, the examining procedures and formal and substantive questions of patentability. On this basis, we subsequently processed some selected files together. The US colleagues were particularly interested in the German interpretation of the law relating to novelty, non-obviousness and judicial exceptions to patentability. We also had intensive discussions on questions of quality management, the concrete working situation of German examiners and the dual system of patent granting by the European Patent Office and the national offices.

How is the examining procedure carried out at the USPTO?

OW: At the USPTO, the examining procedure is composed of an initial examination comprising the examination of formal requirements and the classification, and a substantive examining

procedure performed by patent examiners. It can take a relatively long time until the USPTO takes up the first examination: in 2009, average pendency was 25.8 months from filing to first office action. Once examination has started, it is governed by a strict time schedule. During this time, applicants can, for example, “buy” extensions of time limits up to a maximum of just six months. However, applicants have a lot of options to counteract a final rejection by the patent examiner, such as divisional and continuation applications or requests for continued examination. Based on an e-filing rate of currently 82%, the entire internal file management process is run fully electronically. This includes file distribution, issuing office actions and quality control. In addition, online file inspection is available for applicants and the public.

Which databases are available to patent examiners?

OW: USPTO examiners have access to the full-text databases of US applications and patents, and abstract databases of foreign applications and patents. In contrast to the German office and the EPO, there is no direct access provided to full-text databases of foreign patent documents.

This can lead to diverging search results in inter-office comparisons. However the applicant of a US application is under the strict obligation to cite the entire prior art of which he is aware, so that the US examiner can at least partly obtain the respective documents via this detour.

	USPTO (based in Alexandria, Virginia)	DPMA (based in Munich, Jena, Berlin)
Staff, total	9,716 ¹	2,609 ²
Patent examiners	6,243 ¹	764 ²
Budget, total	1.982 bn US \$ ¹	244.6 m Euro ³
Patent applications (utility)	457,966 ¹	59,583 ³
Patents issued (utility)	165,212 ¹	14,431 ³
Patent applications pending	1,207,794 ^{1,4}	132,412 ⁵

1 Fiscal year 2009, starting 01/10/2008

2 Status: 31 December 2009

3 Fiscal year 2009, starting 01/01/2009

4 The figure reflects the sum of utility (approx. 94%), plant, reissue, and design Source: USPTO – Performance and Accountability Reports: <http://www.uspto.gov/about/stratplan/ar/index.jsp>; Statistics: <http://www.uspto.gov/patents/stats> (date of search: 23 April 2010)

5 Examination procedures not yet concluded in the patent divisions at end of 2009

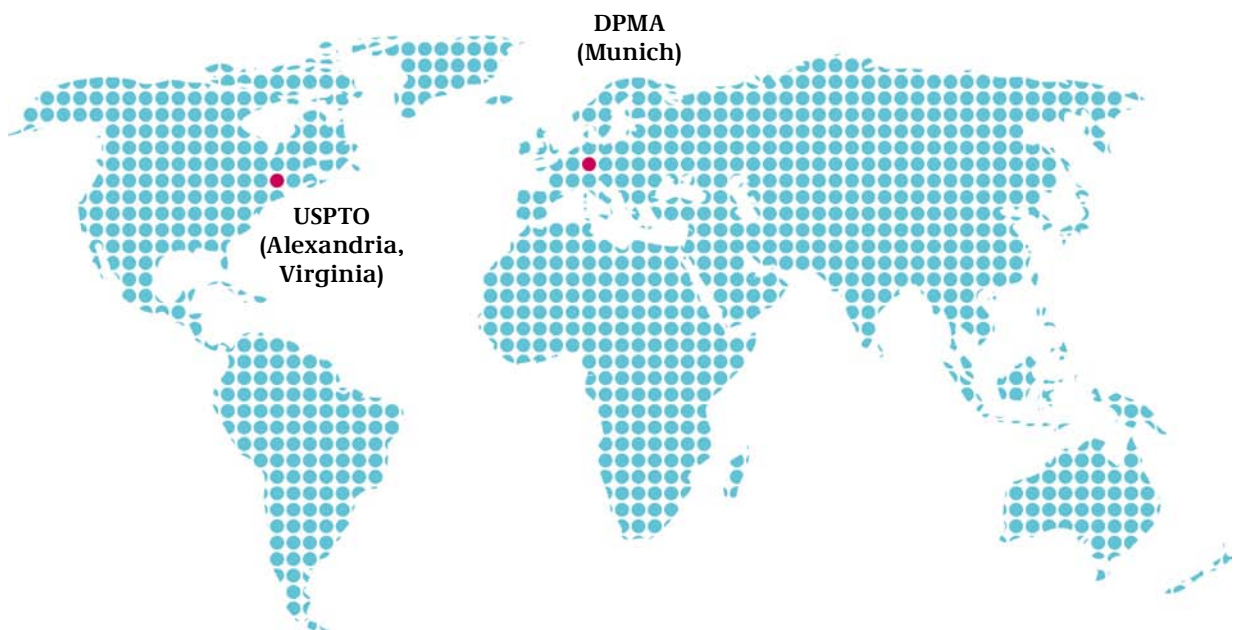
Mr. Werner, Ms. Weidinger, please provide a brief conclusion of your experience.

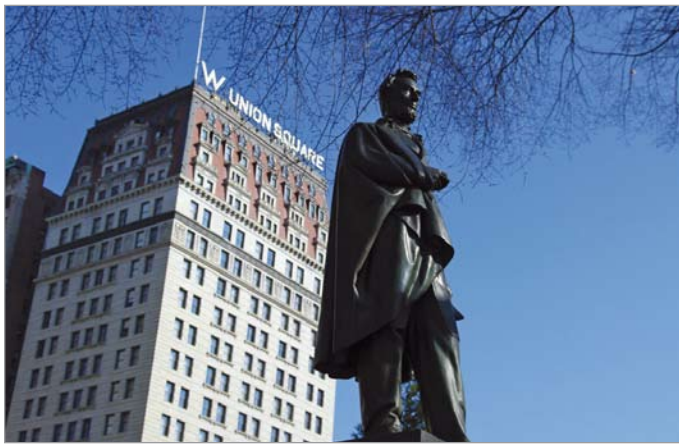
OW: We enjoyed a very communicative and cooperative working atmosphere throughout our stay. Despite partly marked differences in patent law, the assessment of patentability of jointly processed files was very similar, provided that it was based on identical prior art. This high degree of correspondence of examination results is very encouraging for international work-sharing projects and the mutual utilisation of work results. Due to the high number of applicants from the respective other country, the cooperation between the USPTO and the DPMA is being considered by both offices to be of great importance.

BW: Hopefully, such activities will take place again and maybe get a wider attendance in a more concise format. They help to intensify international cooperation and – through a joint study of US law as reference system – to enhance the understanding of other patent law systems.



USPTO in Alexandria, Virginia





Impressions of patent examiner Dr. Weidinger and her Korean colleague Sungwon Jang during their stay in the USA

A look back – events in 2009



25 February 2009 / 28 May 2009 Jena Talks

In 2001, a lecture series on industrial property and copyright was launched by the senior management of the Jena Sub-Office of the German Patent and Trade Mark Office in cooperation with Prof. Dr. Volker Michael Jänich (Gerd Bucerius Chair of Civil Law with German and International Industrial Property Protection, Friedrich-Schiller-Universität, Jena). Since then, experts have explored intellectual property in lectures several times a year. The centre-east district group of GRUR (German Association for Industrial Property and Copyright) and the Association of Intellectual Property Experts (VPP) supported the lectures as co-organisers.

In 2009, the lectures held dealt with the following topics: the implementation of the EU enforcement directive in Germany as well as patent law and the design as an effective weapon against counterfeiting and piracy.

If you wish to attend future Jena lectures please contact Ms. Lüders (phone: +49 (0) 3641 40-5501; e-mail: carmen.lueders@dpma.de).

23 April 2009 Girls' Day at the DPMA

In 2009, we again offered an interesting programme on Girls' Day.

This annual nationwide action day aims at giving young girls an insight into technical jobs to spark their interest in later qualifying for a career in traditionally male-dominated fields.

34 girls in the seventh and eighth grades of secondary schools participated in the Girls' Day at the DPMA in 2009.

After an initial welcome and an introductory lecture on industrial property rights, the girls had a guided tour of the document receiving service and a patent file administration unit. Afterwards, they had the opportunity to invent a technical novelty and to immediately put it to a practical test.

In the afternoon, the girls visited staff working in technological, technical and craft occupations at their workplaces. This provided a unique opportunity for them to gain information on the spot about those job profiles and the training positions offered, and to learn, through practical examples, about what happens at the workplace of a patent examiner, IT specialist, bookbinder, printer or at our computer centre.



Girls' Day: Bookbinding

24 April 2009 **Intellectual Property Day:** **the “Ideenliebe” awards ceremony**

The competition “Ideenliebe” (love for ideas) for pupils organised by Bundesverband der Deutschen Industrie (BDI) (German industry association) is designed to show how important it is to protect ideas. The prize was awarded for contributions that creatively address the value and protection of intellectual property. The then Federal Minister of Justice, Ms. Brigitte Zypries, was the patron of the award in 2009. Dr. Oetker (Vice-President of the BDI) and Ms. Rudloff-Schäffer, the President of the German Patent and Trade Mark Office, who deputised for the Minister of Justice, presented the awards to the winners at the awards ceremony which took place on Intellectual Property Day.

23 May 2009 **Basic Law celebrates 60 years**

The citizens were invited to join the celebrations marking the 60th anniversary of the Basic Law (the German constitution) that took place at the Brandenburger Tor in Berlin. Celebrations included a broad variety of information, entertainment, cultural and musical performances.



Basic Law celebrates 60 years: Workshops featuring experiments with flying-egg machines and magnets

The federal ministries, Bundestag, Bundesrat, the Federal Constitutional Court, all 16 German Länder, European neighbouring countries and social organisations presented themselves at the celebrations, along the festive mile on Straße des 17. Juni. The German Patent and Trade Mark Office too shared a stand with the Federal Ministry of Justice there.

At our exhibition site children had the opportunity to slip into the roles of inventors and discoverers. The inventor workshop offered them age-appropriate experiments to explore the world of technology and an opportunity to express their own ideas through painting and crafting. Colleagues from Berlin, Jena and Munich looked after the little guests and provided information on industrial property rights to adult visitors.

18 and 19 June 2009 **5th Jena Trade Mark Law Day**

In June 2009, FORUM Institute for Management GmbH held the 5th Jena Trade Mark Law Day in cooperation with Friedrich-Schiller-Universität, Jena and the DPMA. Ms. Cornelia Rudloff-Schäffer, the President of the German Patent and Trade Mark Office, opened the event with the topic: “The IP

right trade mark – a review of the current situation”. The lecture was followed by other papers on trade mark law and workshops, some of which were run by staff of our office, that covered a broad range of topics, for example, national and international trade mark procedures, the current court rulings of the Federal Patent Court and trade mark strategies.

30 July to 20 August 2009 Exhibition “The DPMA – centre for innovation – how it has changed over time”

From 30 July to 20 August 2009 we hosted a varied exhibition documenting the changing history of our office. Diverse exhibits illustrated the fast-paced development of communication and office technology, and of the IT equipment at the DPMA, indispensable for today’s business processes.

The history of many German enterprises is also closely linked with the DPMA. The exhibition featured selected examples of success stories of businesses whose success partly also resulted from intellectual property protection in the form of patents and trade marks.

On the guided tour “Kunst am Bau” participants were shown the artistic features both outside and inside of the building and received a lot of background information on the history of the building and the artistic decoration of the headquarters on Zweibrückenstraße.

22 and 23 August 2009 State visit

The Federal Government in Berlin rolled out the red carpet and invited the citizens to a state visit. They had the opportunity to have a glimpse behind the scenes at the Federal Chancellery, the Federal Press Office and the federal ministries.

The Federal Ministry of Justice (BMJ) too opened its gates and had invited the German Patent and Trade Mark Office (DPMA) to run an information and entertainment stand. Our inventor workshop offered various attractions for children: face painting, “Willi wills wissen” – a children’s programme about how inventors actually invent, painting and crafting. Colleagues from Berlin, Jena and Munich looked after the little “state guests” and provided information on industrial property rights to adult visitors.



State visit: The then Federal Minister of Justice, Brigitte Zypries, also visited our stand.

29 September 2009

Talks with representatives from business and industry

In autumn, nearly 100 guests from business and industry, the legal profession and professional associations came to our office for a meeting called “Industriebesprechung”. We provided information about current developments at our office, our financial situation and current legal developments in the field of industrial property protection. Furthermore, we presented information on electronic filing of IP applications (DPMAdirekt) and e-services.

The subsequent discussion focused on the current law for streamlining and modernising patent law, the European Community patent, the European patent litigation system, the filing activity in the present economic and financial crisis, the electronic case file and online filing of applications.

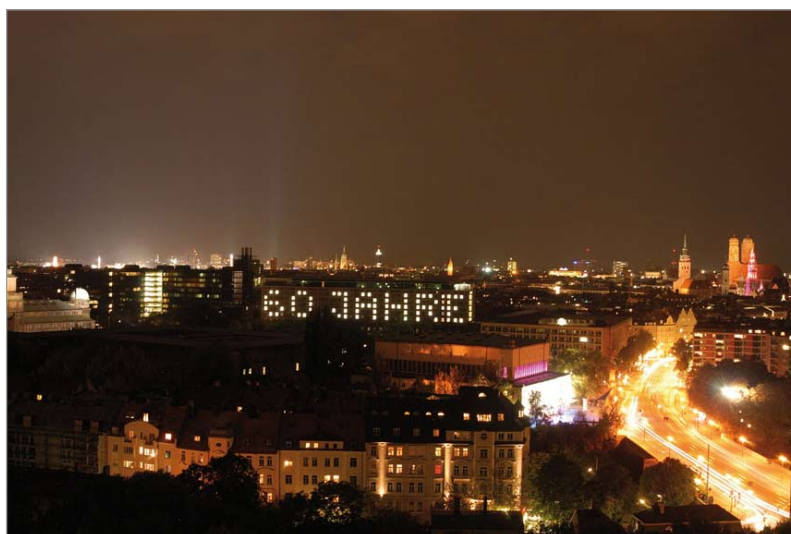
If you too deal with IP aspects in your company or law firm and wish to attend the next “Industriebesprechung” meeting or other events organised by our office please contact us (presse@dpma.de, phone: +49 (0) 89 2195-3222). More information on “Industriebesprechung” is available at: <http://presse.dpma.de>.

1 October 2009

The German Patent and Trade Mark Office in Munich shines

Illuminations marked the 60th anniversary of the German Patent and Trade Mark Office in Munich.

Originally, the German Patent Office was located in Berlin: Kaiserliches Patentamt (imperial patent office) started to operate there in 1877. Until 1945, the office – re-named ‘Reichspatentamt’ in 1919 – remained on Gitschiner Straße in Berlin. After the end of the Second World War, Reichspatentamt – like all other state authorities – had to cease business. In October 1948 temporary receiving centres were set up in Berlin and Darmstadt. The period after 1945, when no patent office existed, came to an end on 1 October 1949: the German Patent Office was re-opened in Munich as the successor of Kaiserliches Patentamt and Reichspatentamt. Initially, the 423 staff worked in the library wing of Deutsches Museum and, between 1954 and 1959, moved to the building on Zweibrückenstraße specifically built for this purpose.



60 years of the German Patent and Trade Mark Office in Munich: Our illuminated office building on Zweibrückenstraße

19 October 2009

5th German Day at the Office for Harmonization in the Internal Market in Alicante (OHIM)

Many representatives of German enterprises, of the German Patent and Trade Mark Office, patent attorneys and lawyers as well as representatives of the host organisation (OHIM) attended the 5th German Day in Alicante. Wubbo de Boer, the President of the Office for Harmonization in the Internal Market in Alicante, welcomed Dr. Popp, the President of the patent attorney association, and Mr. Scholz, the Deputy Executive Director of the trade mark association, a.o.

First, President de Boer explained the current business situation of the office. Afterwards, a variety of issues were discussed, including the service standards of the office, particularly with regard to opposition proceedings. The OHIM plans to issue 8,500 to 8,800 decisions on oppositions in 2010. To achieve this aim, staff from other divisions of the office will receive an intensive about two-week training in opposition proceedings to qualify

them to work as opposition examiners under the guidance of an experienced examiner.

The short training periods for examiners, specifically for the future opposition examiners, were viewed rather critically by the German attendees within the course of the discussions. Further controversial subjects of discussion included the frequent use of text modules and the fact that the examiners will in future be able to make use of existing compilations of search results for drafting decisions in registration procedures.

With regard to the fact that 93% of the applications at the OHIM are filed online, the German attendees were agreed that they would also like to file more applications online at the DPMA. However, the electronic signature was regarded as a significant obstacle by the attendees.



5th German Day in Alicante: The participants in front of the Office for Harmonization in the Internal Market (OHIM)

9 November 2009

IPeuropAware – exemplary commitment of the DPMA at the European level

We assist the patent information centres in organising and carrying out information events on industrial property protection. In 2009, 22 information events, attended by 400 participants, were organised at the Technical Information Centre in Berlin and the patent information centres. The main topics were electronic filing of IP applications, online patent databases and trade mark protection.

In addition to a large variety of other activities we organised a very successful “enforcement conference” on 9 November 2009, in cooperation with the patent information centre of Stuttgart (see also page 80 “International Cooperation”).

The conference addressed the following issues:

- strategic actions in case of patent and trade mark infringements in China, a.o.;
- technical strategies to avoid infringement, and
- advantages of the unregistered Community design.

The majority of speakers came from industrial enterprises. They answered the about 170 attendees’ questions in discussion rounds. The conference intensified the cooperation of the DPMA with industrial enterprises, the customs authorities and the partners of the Enterprise Europe Network (EEN).



Regional Commissioner Schmalzl (Stuttgart district) opening the Enforcement conference in Stuttgart.



Enforcement conference in Stuttgart

13 November 2009 Science Night in Jena

The Science Night in Jena, which took place on 13 November 2009, was the third of its kind, after similar events in 2005 and 2007.

Why do ants cultivate fungi? What does the human body look like on the inside? How can I measure the speed of light with a chocolate bar in a microwave? How do robots learn to play football? These and similar questions were addressed in more than 230 events run by roughly 30 participating institutions. Over 10,000 visitors were attracted to the events where these topics were presented in an illustrative way.

Under the motto “Copies need originals” the staff of the Jena Sub-Office of the DPMA organised their own information stand, presented exhibits from the museum of the Plagiarius initiative in Solingen and presented videos and a slideshow on the topic of counterfeiting and piracy. At the stand, interested visitors received information on all questions concerning industrial property rights and also had the opportunity to directly search the DPMA databases on the Internet with regard to their current questions. The 4th Science Night is expected to take place in 2011.

24 November 2009 First Trade Mark User Day in the Jena Sub-Office

On 24 November 2009, the first Trade Mark User Day took place in the Jena Sub-Office of the DPMA on the initiative of the then Federal Minister of Justice, Brigitte Zypries. Small and medium enterprises, in particular, and their representatives had the opportunity to discuss questions, problems and suggestions directly with the representatives of the DPMA.

A general introduction to trade marks and the DPMA was followed by a presentation on the recent developments in trade mark registration procedure, particularly on the new application form and the extended search engine for goods and services. Afterwards the focus was on opposition and cancellation procedures. In a plenary session that followed, the participants openly discussed the current development after the ruling of the European Court of Justice on the lack of binding effect of prior registrations and the differences of the registration practices of the DPMA and the OHIM, among other topics.

The feedback received during and after the event was positive. A second Trade Mark User Day is planned for 2010.

8 December 2009 Innovation Day and 2009 Thuringian Innovation Award

Within the framework of the Innovation Day and the presentation of the 2009 Thuringian Innovation Award, the annual Thuringian innovation fair took place in Erfurt, on 8 December 2009. In total prize money of € 100,000 was on offer. The German Patent and Trade Mark Office also had an information stand manned by staff of the Jena Sub-Office. More than 130 exhibitors attended the innovation fair.

Innovation awards

“Germany must develop greater innovative activity than formerly to master the challenges of increasingly tougher international competition. Germany can only maintain its traditional pioneering role with regard to high-quality technologies if further large investments in innovation will be made in the car industry, the chemical industry, the electrical and mechanical engineering industries in the future.” Thus reads the introduction to a report on research, innovation and Germany’s technological performance (http://www.e-fi.de/fileadmin/Gutachten/EFI_2010.pdf, retrieved on 8 March 2010).

Innovation awards are an incentive for innovative activity in enterprises. Ms. Rudloff-Schäffer, the President of the German Patent and Trade Mark Office, was a member of the selection boards and juries, involved in the selection processes of the winners of numerous innovation awards in 2009. Our staff gave her qualified assistance in fulfilling these duties by providing technical assessments of the projects.

The German Patent and Trade Mark Office was involved in the following innovation awards in 2009:

Deutscher Zukunftspreis – The Federal President’s Award for Technology and Innovation

<http://www.deutscher-zukunftspreis.de>

Deutscher Zukunftspreis is awarded in a national benchmarking to outstanding innovations in the areas of technology, science and engineering. Deutscher Zukunftspreis is awarded by the Federal President and was referred to by him as the “innovation Oscar in our



country”. The German Patent and Trade Mark Office is one of the institutions entitled to make proposals, by recommending projects to the jury. Furthermore, the President of the German Patent and Trade Mark Office, Ms. Rudloff-Schäffer, is a member of the Board of Trustees that determines the final criteria for the selective process.

European Inventor Award

<http://www.epo.org/topics/innovation-and-economy/european-inventor.html>

Since 2006, the European Patent Office has honoured inventors with the European Inventor Award. The award is presented annually to inventors with a European patent in the categories Industry, SMEs / Research, Non-European Countries, and Lifetime Achievement. The award-winning inventions are in keeping with the spirit of the award, which symbolises the force of human innovation as the basis for technical, economic and social progress. At the request of the European Patent Office, the examiners of the German Patent and Trade Mark Office have put forward nominations.

Innovation award of Berlin-Brandenburg

<http://www.innovationspreis-bb.de>

The prestigious business award is jointly presented by the German Länder of Berlin and Brandenburg and the business enterprises of the greater Berlin area. The award aims at supporting enterprises and innovators in the regions of Berlin and Brandenburg. The President of the German Patent and Trade Mark Office, Ms. Rudloff-Schäffer, is a member of the jury and significantly contributes to the technical assessment of the projects with the assistance of the examiners.

Innovation award of the Bavarian Volks- und Raiffeisenbanken

The innovation award of the Bavarian Volks- und Raiffeisenbanken is a tribute to medium-sized enterprises in Bavaria that have achieved outstanding technological innovations. For many years the President of the German Patent and Trade Mark Office has chaired the jury.

Jugend forscht

<https://www.jugend-forscht.de/>

The German Patent and Trade Mark Office is involved in the regional research competition of “Jugend forscht” in Bavaria. “Jugend forscht” is the biggest European youth competition in the fields of science and technology. As a member of the jury in the category “working environment” the German Patent and Trade Mark Office supports patent-relevant ideas and projects. Furthermore, our staff hold lectures on the topic “patent and trade mark law” for contestants.

Focus competition for pupils

<http://www.focus.de/schuelerwettbewerb>

“Mobility – what will get us moving tomorrow? Vision, sustainability, responsibility” was the motto of the 13th competition for pupils of the Focus news magazine in 2009. The competition teaches young contestants to recognise and understand technical, scientific, social and political developments. We again supported the competition by participating in the jury.

A glance at 2010

German Patent and Trade Mark Office to introduce a new corporate design

In 2010, we will present our products with a new graphic design. We will adopt the corporate design of the Federal government and introduce the below logo:



The new logo immediately identifies the German Patent and Trade Mark Office as a Federal agency since it features the Federal eagle and the national colours. It meets the styling requirements of our official letters by incorporating an emblem of State and will allow us to adopt a uniform design for all office documents.



We will host a “Talk about Intellectual Property” meeting

We will present our new corporate design in summer 2010 within the scope of a “Talk about Intellectual Property” meeting. This meeting series addresses current topics of industrial property protection, which we discuss with renowned specialists.

Inauguration of our DPMAforum conference centre

The event in summer 2010 will also celebrate the inauguration of our new conference centre – DPMAforum – after a two-year renovation period.

For dates and topics of other events in 2010 please see http://www.dpma.de/service/seminare_veranstaltungen/index.html.

International cooperation to provide fast and reliable protection of intellectual property

In the interest of our customers, we advocate for reliable, fast and easily available protection of intellectual property at the international level, too.

For this purpose we exchange, for example, work results with other national patent authorities for mutual use. Such cooperation schemes, referred to as “Patent Prosecution Highway (PPH)”, have been established with the Japan Patent Office and the United States Patent and Trademark Office. In 2010 we will extend the agreement, on which the cooperation scheme with the Japan Patent Office is based, for further two years. Furthermore, we will establish a Patent Prosecution Highway (PPH) scheme with the Korean Intellectual Property Office (KIPO) in summer 2010.

We have had a close relationship with the Chinese authorities for industrial property protection for many years. We will sign a first-time Memorandum of Understanding with China’s State Administration for Industry and Commerce (SAIC) in 2010 to strengthen cooperation in the trade mark area.

The electronic case file: Personnel measures and organisational implementation

After intensive development work the electronic case file will be introduced in the patent and utility model areas by mid-2011. Tailored specifically to meet the needs of the DPMA, this IT system will help us to safeguard the future and the competitiveness of the German Patent and Trade Mark Office. In 2009, we launched the DPMAelsa / Personal project to plan and implement the personnel and organisational measures in connection with the introduction of the system.

The introduction of the electronic case file affects all areas of our organisation. The electronic case file will provide a new, modern working tool for all staff in the patent and utility model area that is a case file that allows end-to-end electronic processing. In the next few months, it will be important to prepare staff for the new system. It will be a predominantly computer-based or computer-supported work, involving the daily use of the PC. Consequently, training and qualifying courses will focus on developing appropriate computer usage skills.

Furthermore, some jobs in their current form will no longer be needed and, on the other hand, new jobs will be created by introducing the electronic case file. We at the DPMAelsa / Personal project are committed to offering all permanent staff affected by the introduction of the system new jobs in our organisation that will suit their individual skills.

We pay particular attention to the transition phase in the months before the introduction of the system. During that time, the new workplaces will be established to give staff the required on-the-job training for their new duties. At the same time, the day-to-day operations of the existing structures must be maintained until the electronic case file goes live. Coping with the increased workload requires a high level of commitment of all staff.

For several months an interdisciplinary project team has worked with great dedication on the planning and implementation of the project to fulfil these multifaceted and complex tasks. The introduction of the electronic case file will present great challenges for us in the next few months. Together we can meet these challenges.

New office building for the German Patent and Trade Mark Office

The 2009 recruitment initiative resulted in a shortage of office space at the Munich headquarters. With the support of the Federal Ministry of Justice we have rented a new building (“Einstein III” on Grillparzerstraße in Munich) since October 2009. From February 2010, the new office building will host six patent divisions.

2010 trade fair calendar

	Trade fair	Location	Hall/stand	
January				
14.01.–16.01.	Heimtextil	Frankfurt	Foyer of hall 4.1	http://heimtextil.messefrankfurt.com
18.01.–24.01.	imm cologne	Cologne	Counter no. 16/17, between halls 10 and 11	http://www.imm-cologne.de
February				
04.02.–09.02.	Spielwarenmesse	Nuremberg	H 11.1/E02	http://www.spielwarenmesse.de
12.02.–16.02.	Ambiente	Frankfurt	Foyer of hall 4.1.	http://www.ambiente.messefrankfurt.com
March				
19.03.–20.03.	azubi & studentage München 2010	M,O,C Munich	Stand no. 196	http://www.azubitage.de
24.03.–27.03.	Musikmesse	Frankfurt	Foyer of hall 4.1.	http://musik.messefrankfurt.com/frankfurt/de/besucher/willkommen.html
23.03.–26.03.	analytica	Munich	Hall B2, stand 240	http://www.analytica.de
April				
11.04.–16.04.	Light + Building	Frankfurt	Foyer of hall 4.1.	http://www.light-building.messefrankfurt.com
19.04.–25.04.	bauma	Munich	Hall: EW, stand: 28	http://www.bauma.de
19.04.–23.04.	Hannovermesse	Hanover	Hall 002/stand C28/1	http://www.hannovermesse.de
21.04.–25.04.	Erfindermesse Genf	Geneva (CH)		http://www.inventions-geneva.ch
June				
09.06.–11.06.	Intersolar	Munich	C3.654	http://www.intersolar.de
10.06.–11.06.	PATINFO	Ilmenau		http://www.tu-ilmenau.de/unirz/Veranstaltungen.835.0.html
July				
08.07.	Tag der gewerblichen Schutzrechte	Stuttgart		
August				
27.08.–31.08.	Tendence	Frankfurt	Foyer of hall 4.1.	http://tendence.messefrankfurt.com/global/de/home.html
September				
14.09.–19.09.	Automechanika	Frankfurt	Foyer of hall 4.1.	http://www.automechanika.messefrankfurt.com/frankfurt/de/besucher
15.09.–18.09.	GRUR-Jahrestagung	Hamburg		http://www.grur.de
24.09.–25.09.	Start Messe	Essen		http://www.start-messe.de
October				
06.10.–10.10.	Intermot	Cologne		http://www.ifma-cologne.de
26.10.–30.10.	Orgatec	Cologne		http://www.orgatec.de
28.10.–31.10.	iENA	Nuremberg		http://www.iena.de
November				
09.11.–12.11.	electronica	Munich		http://www.electronica.de
17.11.–20.11.	MEDICA	Düsseldorf		http://www.medica.de

The trade fairs in Frankfurt are part of the „Messe Frankfurt against Copying“ initiative. The trade fairs in Cologne are part of the „No Copy!“ initiative.

Statistics



More detailed statistics are available in the respective March edition of the gazette “Blatt für Patent-, Muster- und Zeichenwesen” (Blatt für PMZ), published by Carl Heymanns Verlag (www.heymanns.com).

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 (DPMA direct applications) ¹			International applications which entered the national phase at the DPMA (DPMA PCT national phase) ²			Applications DPMA direct applications and DPMA PCT national phase ²		
	National	Foreign	Total	National	Foreign	Total	National	Foreign	Total
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
2007	47,012	10,382	57,394	841	2,757	3,598	47,853	13,139	60,992
2008	48,348	10,407	58,755	892	2,770	3,662	49,240	13,177	62,417
2009	46,844	9,094	55,938	1,015	2,630	3,645	47,859	11,724	59,583

1 Applications for a German patent filed with the DPMA

2 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 procedure¹

Year	Total applications received ²	Procedures concluded before filing of examination request	Patent applications before entry into the examination procedure	
			Total	including applications for which formal examination was concluded
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
2007	58,177	21,685	131,488	116,621
2008	59,383	21,263	135,382	121,253
2009	56,506	21,271	133,783	125,096

1 DPMA direct application

2 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 ¹
	Total	together with applications		
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
2007	39,228	24,972	34,297	17,739
2008	38,470	24,714	33,193	17,308
2009	35,694	22,666	32,074	14,435

1 Patents granted without opposition and patents maintained after opposition

1.4 Patents in force (granted by the DPMA)

Year	New grants	Lapsed patents ¹	Patents in force at the end of the year
2003	17,911	16,433	117,463
2004	17,016	16,075	118,404
2005	17,377	14,877	120,904
2006	21,193	14,661	127,436
2007	17,884	13,958	131,362
2008	17,421	13,474	135,309
2009	14,577	16,273	133,613

¹ Lapsed patents due to abandonment, non-payment of annual fees, expiry of the term of protection and declaration of nullity

1.5 Patent applications (DPMA direct applications and DPMA PCT national phase)¹ by German Länder (seat of applicant)

German Länder	2003	2004	2005	2006	2007	2008	2009
Baden-Württemberg	13,888	12,856	12,828	13,347	13,638	15,081	15,532
Bavaria	14,279	13,449	13,688	14,010	13,616	13,528	12,641
Berlin	1,101	905	866	943	992	891	965
Brandenburg	386	347	311	428	389	366	354
Bremen	164	172	173	142	178	144	156
Hamburg	998	994	919	946	973	1,100	947
Hesse	3,981	3,783	3,402	3,202	2,963	2,678	2,486
Mecklenburg-W. Pomerania	231	205	197	183	170	186	191
Lower Saxony	2,983	2,813	2,738	2,603	2,715	3,351	2,966
North-Rhine/Westphalia	8,796	7,830	8,151	8,195	8,190	7,797	7,408
Rhineland-Palatinate	2,531	2,139	2,218	1,311	1,235	1,274	1,263
Saarland	330	347	360	318	331	295	312
Saxony	824	834	847	810	923	998	1,167
Saxony-Anhalt	455	398	366	343	327	356	298
Schleswig-Holstein	647	624	600	585	615	590	569
Thuringia	831	752	703	646	598	605	604
Total	52,425	48,448	48,367	48,012	47,853	49,240	47,859

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

1.6 Patent applications by countries of origin (direct applications and PCT applications in the national phase)

	Applications filed at the DPMA ¹						
	2003	2004	2005	2006	2007	2008	2009
Germany	52,425	48,448	48,367	48,012	47,853	49,240	47,859
USA	2,955	2,702	3,245	3,283	3,835	4,279	3,648
Japan	3,422	3,407	3,449	3,618	3,782	3,511	3,157
France	289	280	312	268	272	210	195
Netherlands	107	118	104	142	82	97	87
Switzerland	1,543	976	943	1,157	1,127	1,103	973
Republic of Korea	603	726	777	915	723	904	615
United Kingdom	190	100	120	116	150	76	87
Italy	122	89	85	97	121	104	58
Sweden	314	313	338	285	267	261	281
Others	2,548	2,075	2,482	2,692	2,780	2,632	2,623
Total	64,518	59,234	60,222	60,585	60,992	62,417	59,583

1 Due to the 2004 PCT revision, the figures since 2004 cannot be directly compared with those of the previous years

1.7 Patent applications filed by universities by German Länder
(Applications from some Länder had to be combined for anonymisation purposes)

German Länder	2003	2004	2005	2006	2007	2008	2009
Schleswig-Holstein, Hamburg	33	39	32	32	32	28	28
Lower Saxony, Bremen	43	27	51	58	52	58	59
North-Rhine/Westphalia	49	55	71	82	79	67	97
Hesse	35	31	49	35	46	44	44
Rhineland-Palatinate, Saarland	27	21	26	27	13	18	10
Baden-Württemberg	101	75	114	81	77	77	72
Bavaria	56	36	46	67	61	68	72
Berlin	36	26	25	27	40	34	29
Brandenburg, Mecklenburg-W. Pomerania	43	26	34	51	34	28	44
Saxony	83	114	89	106	111	97	138
Saxony-Anhalt	21	18	23	25	20	27	25
Thuringia	45	51	44	54	51	52	54
Total	572	519	604	645	616	598	672

1.9 Classes of the International Patent Classification (IPC) with the largest number of patent applications in 2009

	2003	2004	2005	2006	2007	2008	2009	IPC class
1	4,953	5,118	5,276	5,415	5,522	5,709	5,343	B 60 Vehicles in general
2	3,784	3,829	4,007	4,566	4,519	5,103	4,692	F 16 Engineering elements or units
3	3,568	3,663	3,916	3,920	3,843	4,032	3,681	H 01 Basic electric elements
4	3,500	3,612	3,425	3,520	3,709	3,767	3,603	G 01 Measuring, testing
5	2,594	2,760	3,063	2,928	2,791	2,750	2,682	A 61 Medical or veterinary science; hygiene
6	2,166	2,157	2,163	2,069	1,933	2,302	2,123	F 02 Combustion engines
7	1,853	1,851	1,787	1,834	1,836	1,818	1,832	H 02 Generation, conversion or distribution of electric power
8	1,696	1,737	1,759	1,770	1,711	1,644	1,514	B 65 Conveying, packing, storing, handling thin material
9	1,674	1,672	1,538	1,743	1,569	1,616	1,434	H 04 Electric communication technique
10	1,479	1,521	1,506	1,429	1,281	1,515	1,378	F 01 Machines or engines in general
11	1,184 ¹	1,125 ¹	1,087	1,130	1,088	1,252	1,227	G 06 Computing, calculating, counting
12	1,114	1,108	1,058	1,109	1,067	1,219	1,174	B 62 Land vehicles for travelling otherwise than on rails
13	1,072	1,070	1,035 ¹	1,039	998	1,044	1,141	A 47 Furniture, domestic articles or appliances
14	1,043	1,021	1,027	994	992	1,030	1,085	B 23 Machine tools; metal-working

1 C07 Organic Chemistry

2. Utility models and topographies

2.1 Utility models

Year	Filings				Procedures concluded		
	New applications ¹	Applications from Germany	Others ²	Total	by registration	without registration	Total
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
2007	18,083	14,834	82	18,165	15,469	2,928	18,397
2008	17,067	14,047	86	17,153	14,347	2,916	17,263
2009	17,306	14,242	70	17,376	13,916	2,652	16,568

1 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

2 Remissions 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	Cancellations
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
2007	7,037	102,559	22,604	17,027
2008	6,927	100,093	22,839	16,813
2009	7,735	96,909	21,821	17,100

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			
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
2007	2	1	0	1	11	59	109
2008	1	5	0	5	7	59	55
2009	4	0	1	1	3	62	81

3. National trade marks

3.1 Applications and registrations

Year	Filings				Total	Registrations under Section 41 Trade Mark Law
	Total	New applications Applications from Germany	for service marks	Others ¹		
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
2007	76,165	72,788	36,082	817	76,982	54,534
2008	73,903	70,074	35,349	777	74,680	50,259
2009	69,069	65,714	34,071	626	69,695	49,817

¹ 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
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
2007	5,132	7,642	3,477	920	1,200
2008	4,784	7,612	3,691	1,008	1,271
2009	4,011	8,482	3,553	903	1,150

3.3 Cancellations, renewals, trade marks in force

Year	Cancellations and other disposals	Renewals	Trade marks in force at the end of the year
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
2007	34,899	26,614	764,472
2008	38,173	31,113	776,628
2009	48,510	33,943	778,008

3.4 Procedures for the international registration of marks

Year	Requests for international registration of marks originating from the Federal Republic of Germany			
	Requests received	Procedures concluded		Cases pending at the end of the year
		Requests transmitted to WIPO ¹	Requests withdrawn	
2003 ²	5,586	5,515	49	414
2004	5,581	5,472	58	465
2005	5,734	5,639	36	524
2006	5,735	5,712	38	509
2007	6,153	6,136	35	491
2008	5,997	6,122	44	322
2009	4,896	4,819	72	327

1 Not including requests for the extension of protection under Art. 3ter(2) of the Madrid Agreement Concerning the International Registration of Marks; 1,856 requests for the extension of protection were received in 2009, and 1,858 requests were transmitted to the World Intellectual Property Organization (WIPO).

2 Figure corrected in column "Cases pending at the end of the year"

Year	Requests for the grant of protection in the Federal Republic of Germany relating to international registrations of marks originating from Madrid Union countries						
	Requests received ¹	Procedures concluded			Cases pending at the end of the year	Oppositions received	Appeals received
		Full grant of protection	Grant of protection in part	Refusal, withdrawal or cancellation in the International Register			
2003	8,685	8,287	366	1,138	3,527	1,065	152
2004	8,015	7,302	396	996	2,836	857	124
2005	9,306	7,176	311	948	3,785	749	49
2006	7,998	7,273	301	931	3,316	805	34
2007	7,508	7,015	331	1,094	2,414	778	40
2008	6,869	5,933	310	898	2,171	617	35
2009	5,753	5,374	422	1,049	1,095	442	30

1 Not including other requests and not including renewals; in 2009, we received 9,523 requests for renewal, including 1,039 requests under the Extension Law

3.5 National trade mark applications by classes

Class	Class headings	2008	2009	+/- in %
0	not classifiable	214	218	1.9
1	Chemicals	967	883	- 8.7
2	Paints, varnishes, lacquers	223	210	- 5.8
3	Cleaning preparations	2,005	1,700	- 15.2
4	Industrial oils and greases, fuels	323	247	- 23.5
5	Pharmaceutical preparations	2,932	2,523	- 13.9
6	Common metals and goods of common metal	924	802	- 13.2
7	Machines, motors and engines	1,833	1,514	- 17.4
8	Hand tools	214	259	21.0
9	Electrical apparatus and instruments	4,482	4,121	- 8.1
10	Medical apparatus and instruments	1,099	915	- 16.7
11	Heating, ventilation, sanitary installations	1,358	1,276	- 6.0
12	Vehicles	1,582	1,286	- 18.7
13	Firearms	104	66	- 36.5
14	Jewellery, clocks and watches	805	754	- 6.3
15	Musical instruments	149	95	- 36.2
16	Office requisites, stationery	2,871	2,468	- 14.0
17	Insulating materials, semi-finished goods	405	312	- 23.0
18	Goods made of leather	689	583	- 15.4
19	Building materials (non-metallic)	926	782	- 15.6
20	Furniture	1,261	1,109	- 12.1
21	Household or kitchen utensils	584	616	5.5
22	Ropes, string, sails	84	59	- 29.8
23	Yarns and threads	43	20	- 53.5
24	Textiles, bed and table covers	394	380	- 3.6
25	Clothing, footwear	2,920	2,952	1.1
26	Lace, ribbon, buttons, trimmings	76	61	- 19.7
27	Materials for covering floors, wall hangings	77	83	7.8
28	Games, sporting articles	1,383	1,274	- 7.9
29	Food of animal origin	1,917	1,918	0.1
30	Food of plant origin	2,274	2,200	- 3.3
31	Agricultural and forestry products	751	692	- 7.9
32	Beers, non-alcoholic drinks	1,346	1,203	- 10.6
33	Alcoholic beverages	1,231	1,273	3.4
34	Tobacco, smokers' articles	108	144	33.3
35	Advertising, business management	8,339	7,476	- 10.3
36	Insurance	3,322	3,072	- 7.5
37	Building construction, repair	1,247	1,972	58.1
38	Telecommunications	2,034	2,102	3.3
39	Transport	1,720	1,554	- 9.7
40	Treatment of materials	483	428	- 11.4
41	Education; sporting and cultural activities	8,088	7,645	- 5.5
42	Scientific and technological services	4,006	3,743	- 6.6
43	Providing food & drink, temp. accommodation	1,952	2,017	3.3
44	Medical services	3,017	3,028	0.4
45	Legal services, security services	1,141	1,034	- 9.4

4. Designs

4.1 Designs filed for registration and design procedures concluded

Year	Applications filed				Procedures concluded			
	Designs in multiple applications	Applications with one design	Total	including national applications	by registration	including national applications	without registration	Total
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
2007	51,974	2,327	54,301	38,834	56,208	41,478	3,549	59,757
2008	45,909	2,329	48,238	36,659	49,146	36,130	2,322	51,468
2009	42,267	2,447	44,714	35,164	35,341	28,983	1,880	37,311

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

Year	Pending designs (applied for) at the end of the year	Extensions of registered designs	Designs maintained/renewed	Cancellations	Registered and in force at the end of the year
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
2007	13,730	2,260	18,136	54,022	304,388
2008	10,500	2,541	16,478	56,328	297,206
2009	17,903	1,793	14,529	52,721	279,916

4.3 Designs (applied for) by German Länder

German Länder	2003	2004	2005	2006	2007	2008	2009
Baden-Württemberg	8,133	8,525	7,094	7,623	7,503	5,633	5,561
Bavaria	12,822	11,779	10,074	8,864	9,993	8,750	7,668
Berlin	1,004	997	992	1,233	1,266	1,245	1,369
Brandenburg	438	193	147	342	203	254	220
Bremen	121	123	63	172	297	201	194
Hamburg	1,126	983	268	763	783	1,030	1,188
Hesse	2,482	1,499	2,277	1,855	1,659	1,267	1,468
Mecklenburg-W. Pomerania	79	458	101	127	95	247	138
Lower Saxony	2,528	1,804	2,648	2,631	2,787	3,258	2,520
North-Rhine/Westphalia	10,584	9,787	8,614	11,637	9,690	9,648	9,565
Rhineland-Palatinate	1,535	1,068	1,725	1,033	1,629	1,968	2,638
Saarland	212	226	176	302	246	409	313
Saxony	919	1,232	1,039	845	1,358	1,156	1,036
Saxony-Anhalt	345	126	248	395	299	374	272
Schleswig-Holstein	1,390	463	896	826	700	846	773
Thuringia	654	302	627	559	326	373	241
Total	44,372	39,565	36,989	39,207	38,834	36,659	35,164

5. Register of anonymous and pseudonymous works

Year	Works in respect of which the author's true name was filed for registration	Applicants ¹	Works in respect of which the author's true name		Works in respect of which an application procedure was still pending at the end of the year
			was registered	was not registered	
2003	31	11	5	19	20
2004	29	8	12	23	14
2005	17	8	7	9	16
2006	18	15	7	8	19
2007	12	12	1	13	20
2008	18	11	9	26	3
2009	8	7	6	4	1

1 Some applicants furnished several works so that the number of applicants is smaller than the number of works submitted.

6. Patent attorneys and representatives

Year	Patent attorneys		Qualifying examination		General powers of attorney		
	Entered in register	Registered at the end of the year	Number of candidates	Successful candidates	Entered in the register	Cancelled	Registered at the end of the year
2003	141	2,151	168	157	1,106	445	24,541
2004	147	2,255	165	163	1,014	464	25,091
2005	178	2,389	162	151	971	150	25,912
2006	131	2,477	186	171	904	150	26,666
2007	162	2,576	179	169	993	102	27,557
2008	159	2,693	158	154	914	187	28,284
2009	156	2,838	168	163	963	155	29,092

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