

Leaflet Utility Model in Germany

No examination of Preconditions for Protectability

For a utility model application, there is no examination as to novelty, inventiveness, or industrial applicability (hereinafter referred to as “preconditions for protectability”). The examination focuses solely on form and registrability. However, if any of the preconditions for protectability are not met, the utility model does not confer any entitlement of protection.

Optionally, a novelty report can be requested from the German Patent and Trade Mark Office. This report, which includes a list of prior art references relevant to the protectability of the utility model’s subject matter, can be requested by the applicant or any third party. We strongly recommend requesting a novelty report and carefully analysing the cited references, especially if you plan to take action against a potential infringer.

Duration

The initial term of a German utility model is 3 years, starting from the day after the filing date. This duration can be extended by payment of renewal fees: first, for an additional 3 years, and then by two further extensions of 2 years each, allowing for a maximum total duration of 10 years from the day after the filing date. If the utility model is branched off from a patent application, the filing date of the patent application is considered the filing date of the utility model.

Nullity

A request for cancellation of a utility model registration due to the lack of one or more of the preconditions for protectability may be filed with the German Patent and Trade Mark Office by third parties at any time during the entire duration of the utility model, and even after the protection period has expired.

Marking

Marking is not required. However, common markings include ‘D.B.G.M.’, ‘D.G.M.’, ‘Deutsches Bundesgebrauchsmuster’ or ‘Deutsches Gebrauchsmuster’, optionally accompanied by the registration number. If a marking is used, the registrant must provide information regarding the specific utility model (including the registration number) to any interested party upon request.

EU member countries

Germany is a member of the European Union (EU). Regarding utility models, this means that once products protected by the utility model are sold by or with the permission of the registrant in one EU member country, the shipment of these products to and from other EU member countries generally cannot be prevented.