

Leaflet Trademarks in Germany

Duration

The term of protection for the trademark is 10 years, starting from the filing date. The term of protection can indefinitely be renewed for further ten-year periods by timely payment of the renewal fee.

Compulsory use

The trademark has to be used within 5 years from the date when the trademark could no longer be opposed or 5 years from the conclusion of any opposition proceedings. After that, the use of the trademark must not be interrupted for more than 5 consecutive years; otherwise, the validity of the trademark may be challenged.

Opposition

Proprietors of prior marks have 3 months from the date of publication of the registered trademark to file an opposition with the German Patent and Trade Mark Office. After the 3-month period, the trademark can be opposed only by means of legal proceedings.

Marking

Once the trademark is registered, you may indicate the protection by using the internationally recognised ® symbol after the trademark. However, marking is not compulsory, and marked products have no implications for awarding compensation in case of past infringement.

Monitoring New Applications

If someone else files an application for a trademark identical or similar to yours, the German Patent and Trade Mark Office will not consider your earlier trademark under German law and may register the new mark for the other applicant. However, you have the right to file an opposition against such a registration within a 3-month period.

Since the German Patent and Trade Mark Office neither notifies you of new applications nor examines them against existing trademark rights, we recommend implementing a trademark watch. This service evaluates published marks using specific search criteria. If a potential conflict is identified, we will notify you and, if necessary, file an opposition against the registration. Successfully opposing a newly registered mark before the German Patent and Trade Mark Office is significantly more cost-effective than pursuing cancellation through legal proceedings.

Additionally, a trademark watch can be instrumental in detecting potential infringements. If you are interested in such trademark watch, feel free to contact us.

European Union and European Economic Area

Germany is a member of the European Union (EU). As far as trademarks are concerned, this has the consequence that once products protected by the trademark are sold by or with the permission of the trademark owner in one EU member state or a contracting state of the agreement on the European Economic Area (EEA), shipment of these products into and out of other EU member countries and EEA contracting countries basically cannot be prevented.