

Leaflet European Patent in Germany

National patent number

The German part of the European patent will be assigned a national patent number.

Duration

Provided that the annual national renewal fees are paid, the patent has a duration of 20 years from the European filing date.

Marking

Marking is no requirement in Germany. In proceedings for infringement of a patent the question of marking has no influence whatsoever on the possibility to claim damages for past infringements. If marking is desired for other reasons the term "Patent" or the abbreviation "DBP" with or without the German serial number of the European patent can be used.

Use requirement

The Federal Patent Court may grant a non-exclusive compulsory license under a patent upon request of a party who has tried to obtain from the proprietor of the patent the consent to use the patented invention on reasonable commercial conditions, and who has not succeeded to obtain such consent within a reasonable period of time, if the grant of a compulsory license is in the public interest. If the proprietor of the patent does not, or does not sufficiently, work the patented invention in Germany, under the same conditions compulsory licenses may be granted in order to secure a sufficient supply of the local market with the patented product. In this context, importation into Germany is considered equal to working of the patent in Germany. Grant of a compulsory license is possible only after grant of the patent.

EU member countries

Germany is a member of the European Union (EU). As far as patents are concerned, this has the consequence that once products protected by the patent are sold by or with the permission of the patentee in one EU member country, shipment of these products into and out of other EU member countries basically cannot be prevented. Please do not hesitate to contact us if you have any questions on this issue.