A Service of the Chamber of Patent Attorneys

The utility model: The “small patent”.

There are two special features about this intellectual property right: the utility model is registered within a matter of weeks after the application is filed. But: it is registered without any substantive examination.

Areas of application of the utility model

Utility models are granted for technical inventions, such as machines, apparatuses and devices, circuits and chemical products.

Exclusions

Aesthetic creations (designs), rules for games, pure computer programs (software), "methods", including use inventions.

Term

After three years, the utility model can be extended by a further three years and after that twice more by two years at a time. This therefore results in a total term of ten years, beginning on the date of filing.

Requirements for the grant of a utility model

The subject matter of an application for a utility model must be “new” and based on an “inventive step”, i.e. if the person of average skill in the art cannot easily arrive at it from the state of the art.

Application and examination

The structure of an application for a utility model corresponds largely to that of a patent application; the documents have to be filed with the German Patent and Trade Mark Office.

It is registered without any substantive examination of novelty and the presence of an inventive step. A registered utility model may therefore possibly be a “bogus right”, which cannot be enforced in the event of a conflict.

This risk can be minimised substantially if the application is produced expertly on the basis of a prior search to determine the state of the art. This results in a stronger utility model – which is less open to attack in the event of a possible dispute.