

Important IPRs in Germany - overview

	Patent	Utility Model	Copyright
Subject of Protection	inventions in all fields of technology, provided that they are new, involve an inventive step and are susceptible to industrial application	Technical inventions, that are new (not: invention of a process or designs)	Personal intellectual creations (literary, scientific and artistic works) – how it is presented – computer programs – databases
Formal Requirements	a) <u>registration in Germany</u> : application and registration at the German Patent and Trademark Office (DPMA) b) <u>European Patent</u> : European Patent Office (EPO)	<u>registration in Germany</u> : application and registration at the German Patent and Trademark Office (DPMA)	none; automatic formation by creation of the work
Substantive Requirements	a) and b) novelty and inventive step <u>novelty</u> = not part of the state of the art <u>inventive Step</u> = having regard to the state of the art, it is not obvious to a person skilled in the art.	novelty and inventive step <u>novelty</u> = no printed publication <u>inventive Step</u> (lower requirements compared to a patent)	personal intellectual creation with an individual shape
Term of Protection	a) and b) 20 years	3 years, renewable to a maximum of 10 years	70 years after death of creator
Legal Texts	a) German Patent Law b) European Patent Convention (EPC)	German Utility Model Law	German Copyright Law
Examples	Machines, fertilizer, medicine, antilock braking systems	„everyday inventions“, e.g. football shirt with predetermined rupture	novels, works of art (designer furniture), drawings, plans, tables, software, music, movies

	Designs	Trademarks
Subject of Protection	Protection of the appearance of a product resulting from the features of lines, contours, colours, shape, texture, and/or materials of the product itself and/or its ornamentation.	Protection of any signs, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings.
Formal Requirements	<p>a) <u>registered design in Germany</u>: application and registration at the German Patent and Trademark Office (DPMA)</p> <p>b) <u>registered community design</u>: application at the Office for Harmonization in the Internal Market (OHIM)</p> <p>c) <u>unregistered community design</u>: none: made available to the public</p>	<p>a) <u>registered trademark in Germany</u>: application and registration at the German Patent and Trademark Office (DPMA)</p> <p>b) <u>unregistered trademark in Germany</u>: none: existence due to usage or public recognition</p> <p>c) <u>registered community trademark</u>: application and registration at the Office for Harmonization in the Internal Market (OHIM)</p>
Substantive Requirements	<p>a) to c) new and individual character</p> <p><u>new</u> = no identical design has been made available to the public</p> <p><u>individual character</u> = overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public</p>	<p>a) to c) use of any signs capable of being represented graphically capable of distinguishing the goods or services. (indication of origin)</p>
Term of Protection	<p>a) and b) 5 years, renewable to a maximum of 25 years</p> <p>c) 3 years</p>	<p>a) and c) 10 years, renewable without any limit</p> <p>b) unlimited</p>
Legal Texts	<p>a) German Design Law</p> <p>b) and c) Council Regulation (EC) No 6/2002 on Community Designs</p>	<p>a) and b) German Trademark Law</p> <p>c) Council Regulation (EC) No 207/2009 on Community Trademarks</p>
Examples	home furnishings, textile patterns	Nivea, adidas, BMW, 4711