

GERMANY

Utility Model Regulations

Utility Model Ordinance (GebrMV)

As last amended on 14.06.2022

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Chapter 1 General Provision

Section 1 Scope of Application

(1) In addition to the provisions of the Utility Model Act (Gebrauchsmustergesetz) and the DPMA Ordinance (DPMA-Verordnung), the provisions of this ordinance shall apply to procedures before the German Patent and Trade Mark Office (utility model matters), prescribed in the Utility Model Act.

(2) German industrial standards, referred to in this ordinance, have been published by Beuth-Verlag GmbH, Berlin and Cologne, and securely stored in an archive at the German Patent and Trade Mark Office.

Chapter 2 Utility Model Applications

Section 2 Format of the application

An application in writing or electronically shall be filed with the German Patent and Trade Mark Office in respect of any invention for which protection as a utility model is sought (Sec. 1(1) Utility Model Act). The Ordinance on Electronic Legal Transactions with the German Patent and Trade Mark Office (Verordnung über den elektronischen Rechtsverkehr beim Deutschen Patent- und Markenamt) shall apply to electronic filing.

Section 3 Utility model application

(1) For the written utility model application, the form issued by the German Patent and Trade Mark Office shall be used to provide the information specified below, unless otherwise provided in this Ordinance.

(2) The application shall contain:

1. the following information on the applicant:

a) if the applicant is a natural person: the given names and names or, if registration is sought under the trade name of the applicant, the trade name as recorded in the Commercial Register as well as the address of the residence or the principal place of business indicating the street, house number, postcode and town,

b) if the applicant is a legal entity or a partnership:

aa) name or the trade name, legal form as well as address indicating the street, house number, postcode and town where the principal place of business is located; the usual abbreviation of the legal form can be used; if the legal entity or partnership is registered in a register, the details shall correspond to the register entry;

bb) in case of a partnership under the Civil Code (Gesellschaft bürgerlichen Rechts) in addition, the name and address indicating the street, house number, postcode and town of at least one partner entitled to act as representative;

2. a short, precise technical title of the subject matter of the utility model, but no trademarks or fancy titles;

3. a statement that the registration of a utility model is requested for the invention;

4. if applicable, information on the representative;

5. the signatures of all applicants or their representative;

6. if the application relates to a division of a utility model

application (Sec. 4(6) Utility Model Act) (voluntary or due to lack of unity), the file number and the date of filing of the original application;

7. if the applicant has already sought, at an earlier date, a patent with effect in the Federal Republic of Germany for the same invention and wishes to claim its date of filing, a declaration to this effect (Sec. 5(1) Utility Model Act).

(3) If the residence or principal place of business of the applicant is not in Germany, the country in addition to the town shall be indicated when indicating the address under subsection (2) no.1. Further information on the district, county or state where they have their residence or principal place of business or to whose legal order, they are subject to is optional.

(4) If the German Patent and Trade Mark Office has assigned a code number to the applicant, this number should be indicated in the application. In the application, a postal address differing from the applicant's address may also be provided as well as a P.O. box address, telephone numbers, fax numbers and e-mail addresses.

(5) If the application is filed by several persons or partnerships, subsection (2) no. 1 and subsections (3) and (4) shall apply to all persons or partnerships filing the application.

(6) Where a representative has been appointed, subsection (2) no. 1 and the subsections (3) and (4), second sentence, shall apply mutatis mutandis to the information on the representative. If the German Patent and Trade Mark Office has assigned a code number or the number of a general power of attorney to the representative, this number should also be indicated.

(7) In the event of employees signing on behalf of their employer who files an application, the authority to sign shall be proved to the office upon request. Reference shall be made to any employee's authority deposited for the signatories with the German Patent and Trademark Office, indicating the identification number communicated for this purpose.

Section 4 Application Documents

(1) The claims, the description and the drawings shall be filed on

separate sheets.

(2) The documents making up the application shall clearly show to which application they pertain. Following communication of the official file number, this shall be quoted on all subsequent communications.

(3) The application documents shall not contain any communication referring to other applications.

(4) The documents shall meet the following requirements:

1. The size of the sheets shall exclusively be 210mm x 297mm (DIN A4). The sheets shall be used in upright position. Only one side of the sheets shall be used; the typing shall be 1½ spaced. For the drawing, the sheets may, if appropriate, also be used sideways.

2. The margins of the sheets containing the request, the claims and the description must be blank. The minimum margins shall be as follows:

top 20mm

left side 25mm

right side 20mm

bottom 20mm

The minimum margins may contain the name, the trade name or other designation of the applicant as well as the file number of the application.

3. Only typing, printing or other technical methods shall be used. Symbols not existing on the keyboard may be written by hand.

4. The strong and non-transparent paper shall not be folded and be free from creases, tears, alterations, erasures and the like.

5. Black, clean and well-defined characters and strokes with sufficient contrast shall be used uniformly throughout all application documents. The letters of the type used shall be clearly separated and must not touch.

Section 5 Claims

(1) What is to be protected by the utility model (Sec. 4 (3)No. 3 Utility Model Act) may be specified in one part or in two parts, i.e. divided in a generic and a characterising portion. In both cases, the version may be arranged according to the features.

(2) If the two-part version is chosen, the features of the invention

on which the invention is based as state of the art shall be included in the generic part; the characterising portion shall include the features of the invention for which protection is sought in connection with the features of the generic part. The characterising portion shall be preceded by words such as "characterised in that" or "characterised by" or any other expression to this effect.

(3) If the claims are arranged according to features or groups of features, this arrangement shall be set off by starting a new line for each feature or group of features. The features or groups of features shall be preceded by subdivision signs clearly set off against the text matter.

(4) The essential features of the invention shall be indicated in the first claim (principal claim).

(5) An application may contain several independent claims (secondary claims) provided the principle of unity is respected (Sec. 4 (1), second sentence, Utility Model Act). Subsection 4 shall apply mutatis mutandis.

(6) Any principal or secondary claim may be followed by one or more dependent claims concerning particular embodiments of the invention. Dependent claims shall contain a reference to at least one of the preceding claims. They shall be grouped together to the extent possible and in the most appropriate way.

(7) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(8) Except where absolutely necessary, the claims shall not, in respect of the technical features of the invention, rely on references to the description or drawings, such as "as described in part ... of the description", or "as illustrated in figure ... of the drawing".

(9) If the application contains drawings, the features indicated in the claims shall preferably be followed by reference signs.

Section 6 Description

(1) The description according to Section 4 (3) No. 4 of the Utility Model Act shall first state the title of the subject matter of the utility model as appearing in the request (Sec. 3 (2) No. 2).

(2) The description shall further:

1. specify the technical field to which the invention relates unless it results from the claims or the indications concerning the state of the art;
2. indicate the prior art known to the applicant which maybe considered for the understanding of the invention and its protectability by indicating the documents known to the applicant;
3. disclose the technical problem underlying the invention unless it results from the indicated solution or the indications made under No. 6, in particular, if it is indispensable for the understanding of the invention or the detailed specification of its contents;
4. indicate the invention for which protection is sought in the claims;
5. indicate, when it is not obvious from the description or the nature of the invention, the way in which the invention is capable of exploitation in industry;
6. state any advantageous effects of the invention with reference to the prior art indicated in the application;
7. describe in detail at least one way of carrying out the invention claimed, using, where appropriate, examples and the drawings, indicating the respective reference signs.

(3) The description shall not include trade marks, fancy designations or indications that are not necessary for explaining the invention. Repetitions of claims or parts of claims may be replaced by corresponding references.

(4) If nucleotide or amino acid sequences are disclosed in the utility model application, from Section 11 to Section 11b of the Patent Ordinance shall apply mutatis mutandis.

Section 7 Drawings

(1) The drawings shall be executed on sheets with the following minimum margins:

top 25mm

left side 25mm

right side 15mm

bottom 10mm

The area used for drawings shall not exceed 262mm x 170mm.

(2) The same sheet of drawings may contain several figures. They shall be arranged without wasting space, clearly separated from one another, preferably in an upright position, and be numbered consecutively in Arabic numerals. Drawings concerning the state of the art are admissible if they help to understand the invention; however, they shall be clearly marked as "Stand der Technik" (state of the art).

(3) For the representation of the invention, perspective views and exploded views may be used in addition to views and sectional views. Cross-sections shall be indicated by hatching which should not impede the clear reading of the reference signs and leading lines.

(4) The lines in the drawings should be drawn with the aid of drafting instruments rather than offhand. The height of the numbers and letters used in drawings shall not be less than 3.2 mm. For the lettering of drawings, the Latin and, where customary in technology, other alphabets shall be used.

(5) The drawings should contain reference signs explained in the description and/or claims. The same features shall be denoted in all figures by the same reference signs corresponding to those used in the description and claims.

(6) The drawings shall not contain text matter, except, when absolutely indispensable, a single word or words such as "water", "steam", "open", "closed", "section on AB", and, in the case of electric circuits and block schematic diagrams, a few short catchwords indispensable for understanding.

Section 8 Branch off

In the event of branch off of a utility model from a patent application (§ 5 of the Utility Model Act), a German translation must be attached to the copy of the foreign-language patent application. This is not necessary if the application documents for the utility model already represent the translation of the foreign-language patent application or if the translation has already been

filed with the German Patent and Trade Mark Office as a part of the patent application.

Section 9 Foreign-language documents

(1) German translations of foreign-language documents shall be certified by a lawyer or patent attorney or be done by an officially authorised translator.

(2) German translations of foreign-language priority documents and copies of earlier applications (Sec. 6(2) Utility Model Act in conjunction with Sec. 41(1) Patent Act [Patentgesetz]) shall be furnished only upon invitation by the German Patent and Trade Mark Office. The German Patent and Trade Mark Office will fix a reasonable time limit for the subsequent filing.

(3) German translations of other documents

1. not forming part of the documentation relating to the application and

2. filed in English, French, Italian or Spanish, shall be subsequently furnished only upon invitation by the German Patent and Trade Mark Office. The German Patent and Trade Mark Office will fix a reasonable time limit for the subsequent filing.

(4) If other documents not forming part of the documentation relating to the application are filed in languages not mentioned in subsection (3) No. 2, German translations shall be filed subsequently within one month after receipt of the documents.

(5) If the translation within the meaning of subsections (2) to (4) is filed after expiry of the time limit, the foreign-language document shall be deemed to have been received on the date of receipt of the translation. If no translation is submitted, the foreign-language document shall be deemed not to have been received.

Chapter 3 Final Provisions

Section 10 Transitory Provision on Occasion of the Entry into Force of this Ordinance

For utility model applications filed before the entry into force of this ordinance, the provisions of the Order Concerning Utility Model Applications of 12 November 1986 (Federal Law Gazette I p. 1739), last amended by Article 22 of the Law of 13 December 2001 (Federal Law Gazette I p. 3656), shall apply.

Section 11 Transitory Provision for Future Amendments

For utility model applications filed before the entry into force of amendments to this ordinance, the provisions of this ordinance in the version applicable until that date shall apply.

Section 12 Entry into Force; Abrogation

This ordinance shall enter into force on 1 June 2004. At the same date

1. the Ordinance Concerning Utility Model Applications of 12 November 1986 (Federal Law Gazette I p. 1739), last amended by Article 22 of the act of 13 December 2001 (Federal Law Gazette I p. 3656), and
2. the Fourth Ordinance Amending the Ordinance Concerning Utility Model Applications of 10 June 1996 (Federal Law Gazette I p. 846) shall be abrogated.