



# The German Patent and Trade Mark Office 德国专利商标局

- **Duties and Organisation**任务与机构
- **Patent and Utility Model Procedures**  
专利及实用新型程序
- **SPCs and IPR support**  
补充保护证书及知识产权支持

Munich慕尼黑, 06 Sep 2019年09月6日

Dr. Renate Ottmann女士

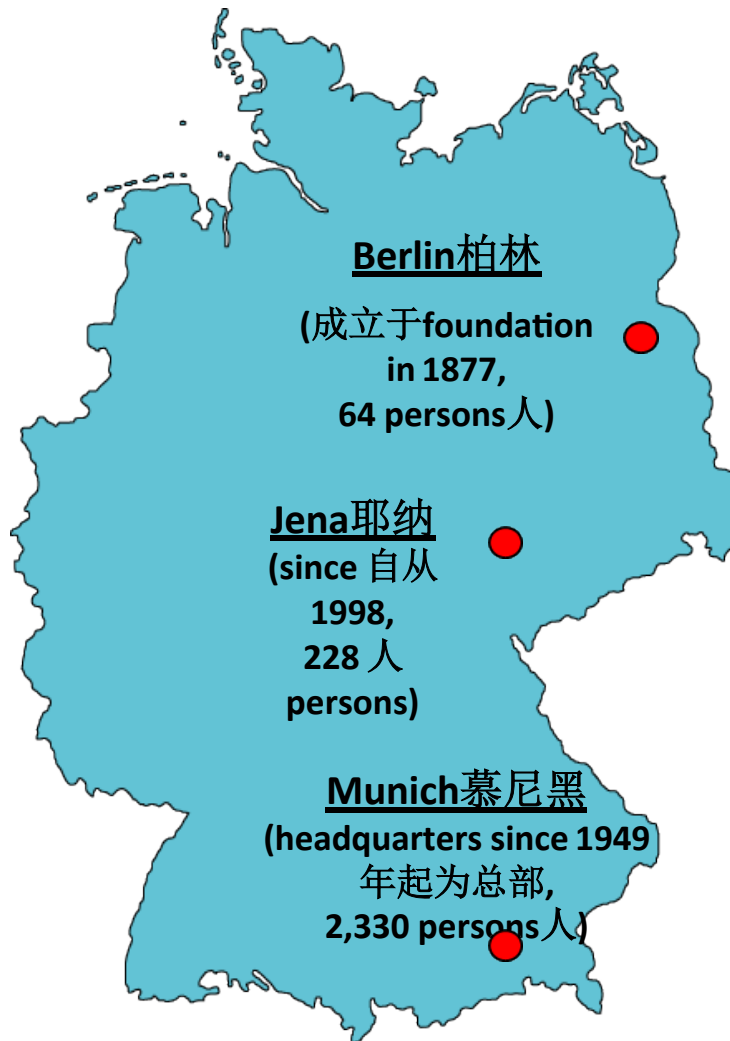
Senior Patent Examiner / Classification and Documentation Officer -  
Patent Division 1.54 (Electrophysical Devices)

Deputy Head – Central Unit International Affairs

1.54（电物理设备）专利司资深专利审查员 / 分类及文献官员  
国际事务中央部门副主任



# Offices 办事处

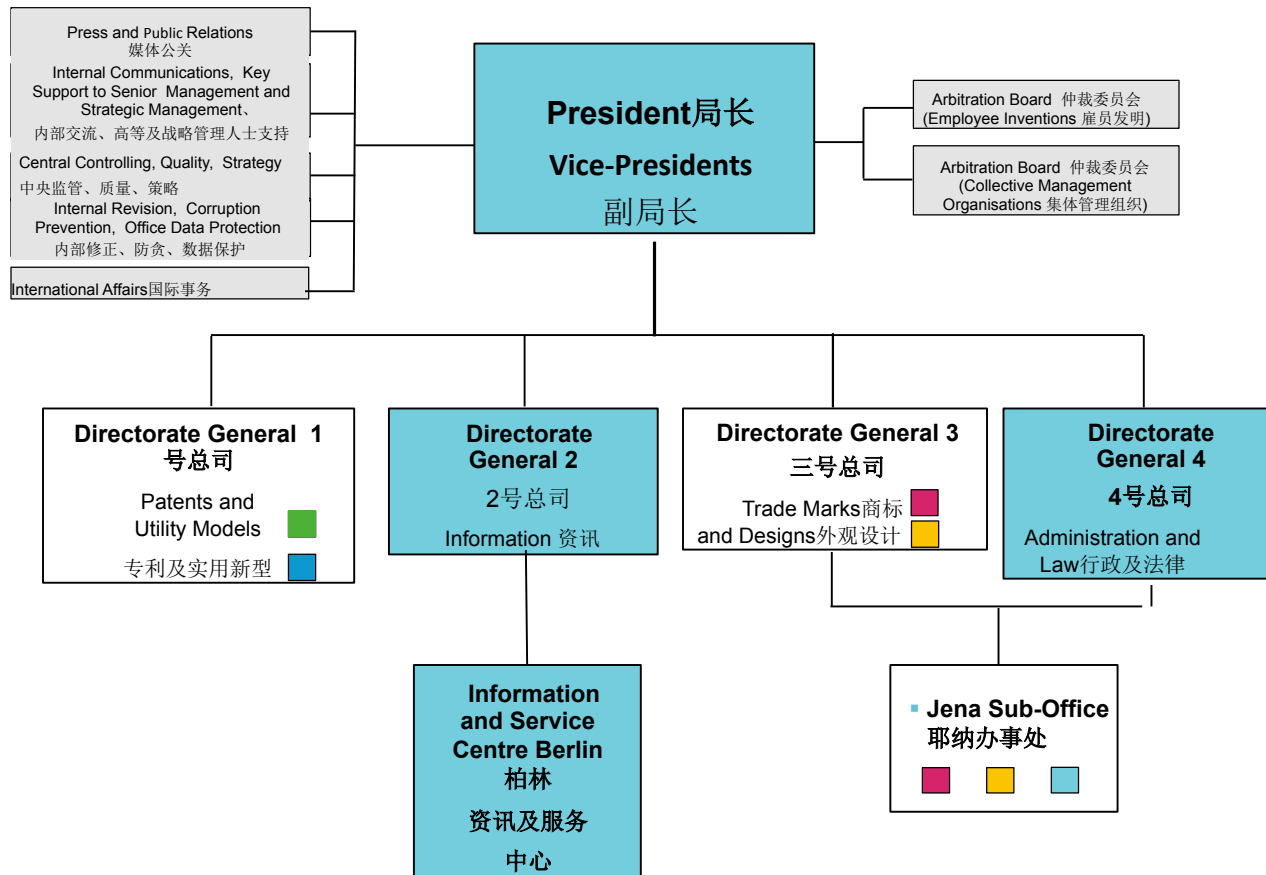


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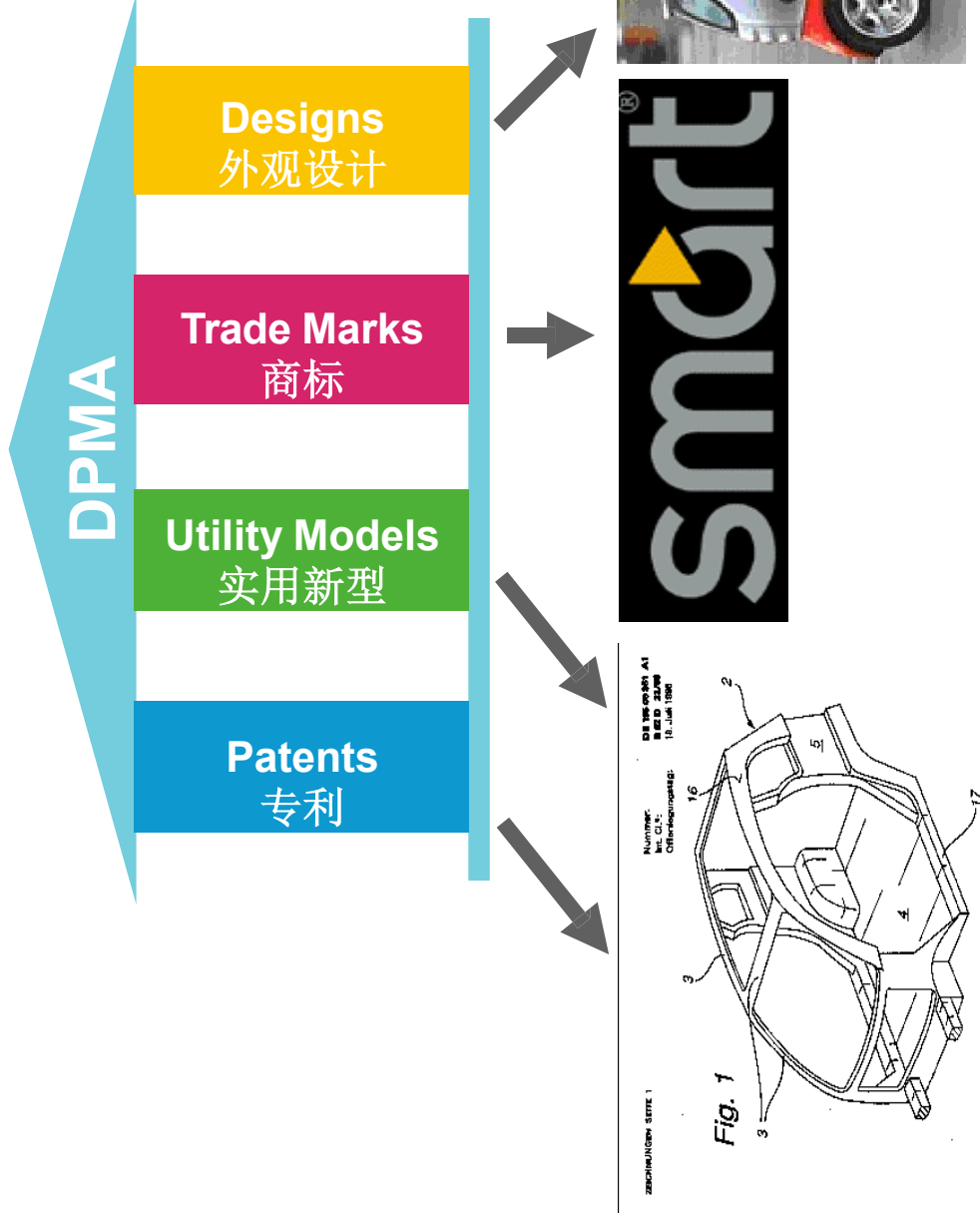
Legal form 法律形式	Higher federal authority within the portfolio of the Federal Ministry of Justice and Consumer Protection 下属联邦司法及消费者保护部的高等联邦当局
Duties 任务	<ul style="list-style-type: none"><li>■ granting and administering IP rights 批准及管理知识产权权利</li><li>■ providing information to the public about IP rights 为大众提供知识产权相关的资讯</li><li>■ supervision under the Act on the Management of Copyright and Related Rights by Collective Management Organisations (CMO Act, <i>Verwertungsgesellschaftengesetz</i>) 照 <i>Verwertungsgesellschaftengesetz</i> (CMO Act、集体管理组织) 的版权及相关权利法下负责监督</li><li>■ Training of patent attorneys 专利律师培训</li></ul>

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# Organisation chart 结构图



# All IP rights under a single roof 一站式的知识产权服务

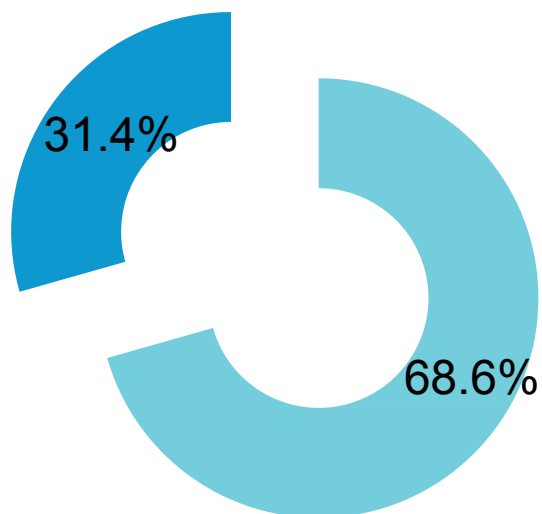


# 2018 in numbers 2018年大统计

## Applications 申请案

### Patents 专利

67,895 + 0.3%



■ Domestic 国内 ■ Foreign 国外

### Trade Marks 商标

• 75,358 -1.8%

### Designs 外观设计

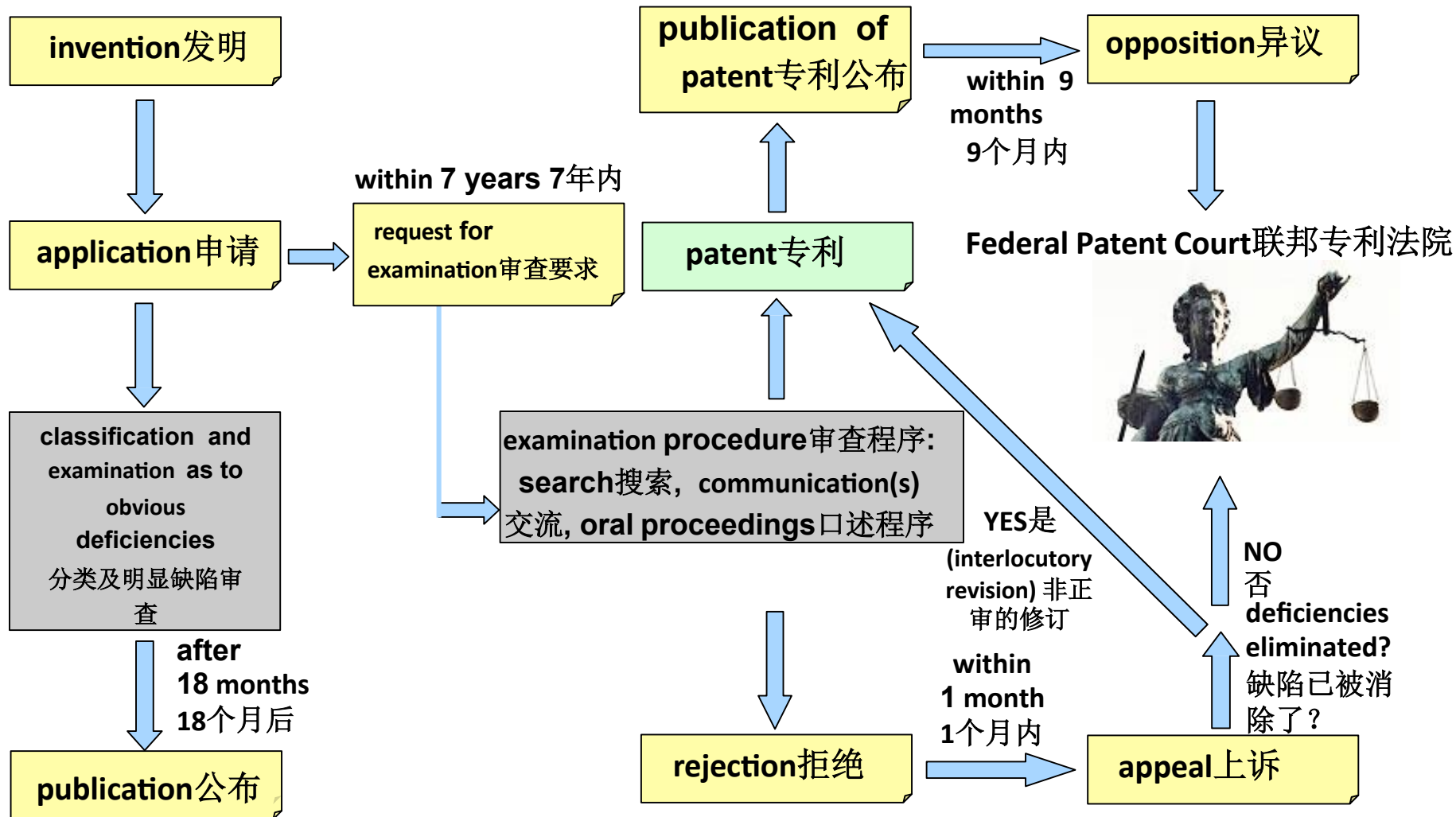
• 42,670 - 8.7%

### Utility Models 实用新型

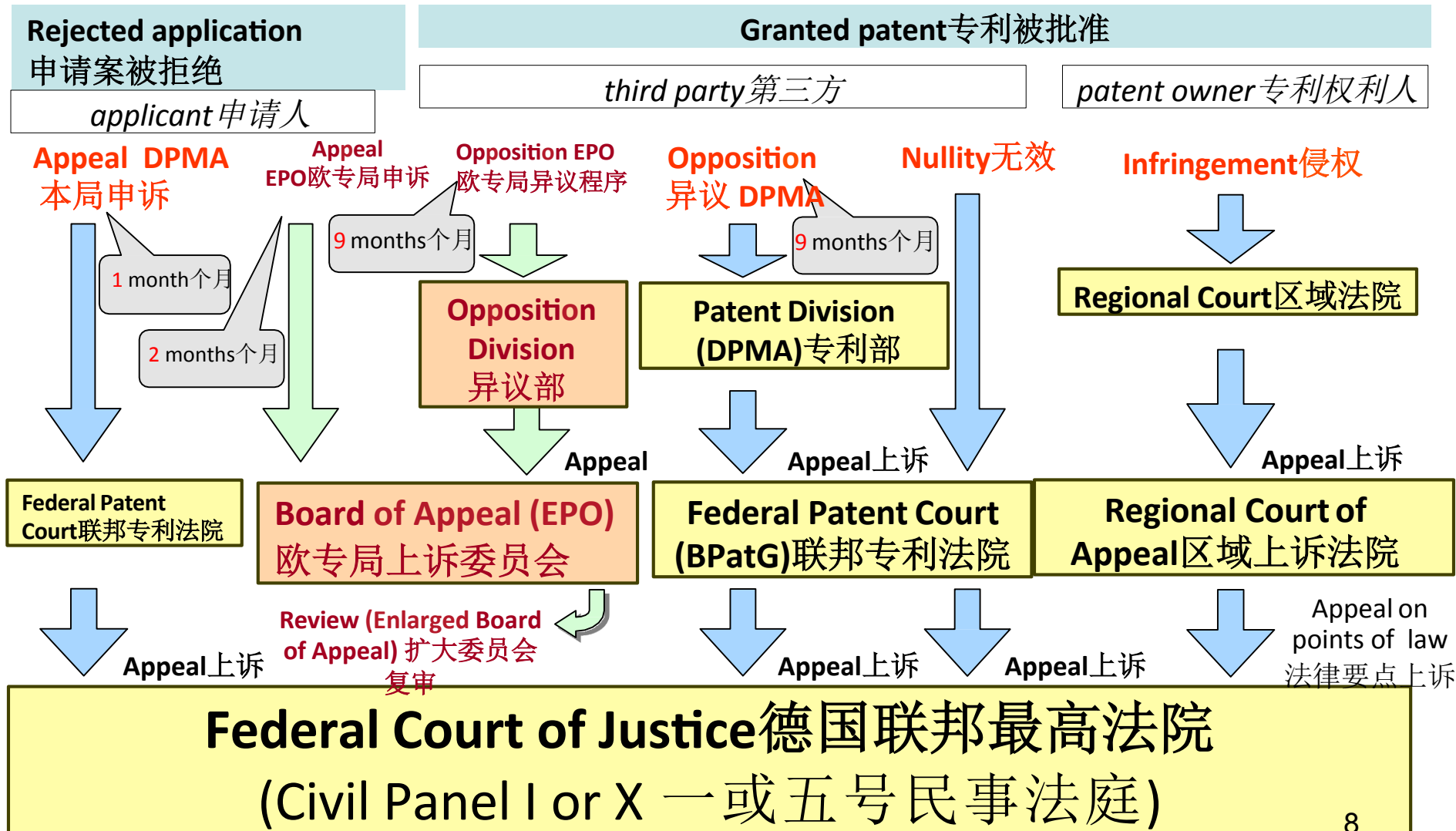
• 12,311 - 7.4%

Last updated: end of February 2019 最后更新: 2019年2月末

# Patent Procedures 专利程序



# Further Proceedings 其他程序





# Utility Model 实用新型

**Utility model application** 实用新型申请

**formal examination  
classification** 形式分类  
审查

**Search report on  
request** 应要求  
进行搜索

**Refused application**  
申请案遭拒

**applicant** 申请人

**Appeal** 上诉

**Federal Patent Court** 联邦专利法听

Legal appeal

**Registered utility model** 注册实用新型

**third party** 第三方

**Request for cancellation** 要求撤销

**Cancellation Board (DPMA)**  
注销委员会

Appeal 上诉

Legal appeal

**Federal Court of Justice** 联邦最高法院

**owner** 权利人

**Infringement** 侵权

**District Court** 地区法院

Appeal

**Regional Court of Appeal**  
区域上诉法院

Appeal on points of  
law 法律要素上诉



# Supplementary Protection Certificates (SPC's) for Pharmaceuticals 药品补充保护证书SPC

## Regulation (EC) No 469/2009 欧盟EC 2009/469号规章

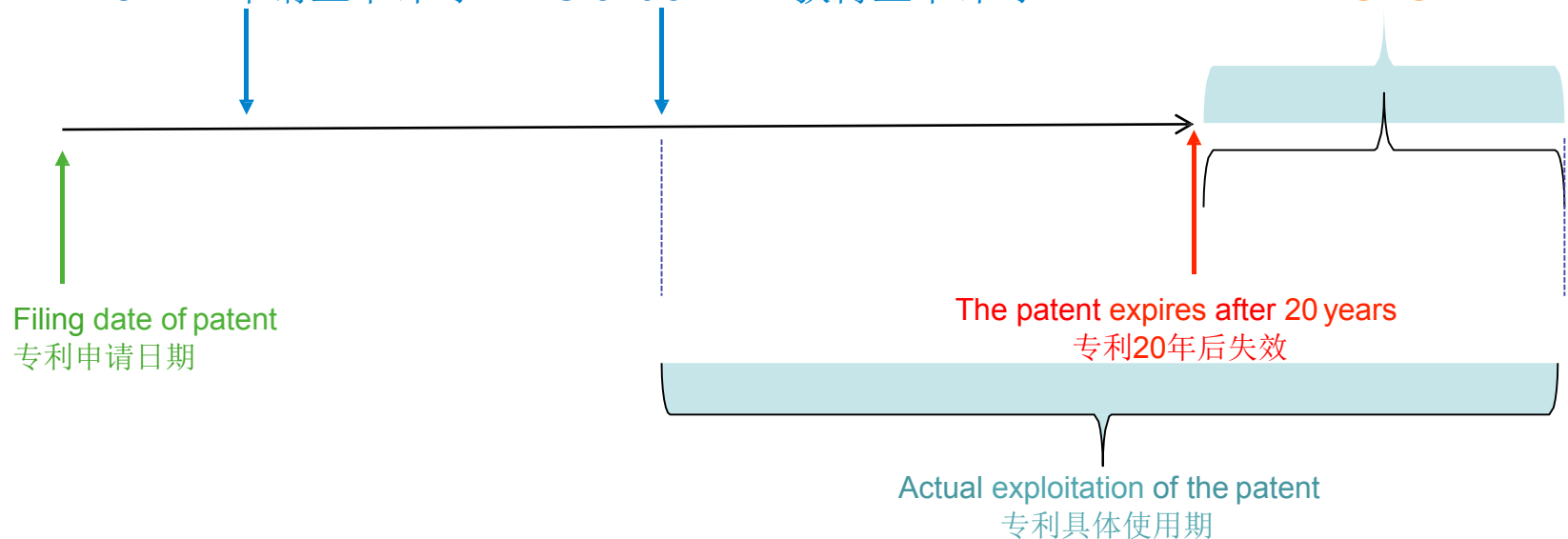
- the SPC provides up to 5 years of additional proprietary protection + (optional) 6-month paediatric extension

SPC多提供5年的专利保护+儿童药品额外6个月的保护（可选）

File M.A. 申请上市许可

Grant of M.A. 获得上市许可

SPC



- ❖ Only in respect of a product which has received an M.A. (Marketing Authorization) in the particular Member State.  
仅适用于在当地成员国获得了上市许可的产品
- ❖ An SPC does not extend the term of the patent itself. SPC并不延长专利本身的保护期
- ❖ „Product“ means the active ingredient or combination of active ingredients. ‘产品’指活性成分或活性成分的组合

By Dr. Thomas Reitingger先生, Senior Patent Examiner资深专利审查员, DPMA 10



# Supplementary Protection Certificates (SPC's) for Pharmaceuticals 药品补充保护证书 SPC

- **ART. 3 OF REGULATION (EC) NO. 469/2009 (“CONDITIONS FOR OBTAINING A CERTIFICATE”) 欧盟EC 2009/469号规章（授予证书条件）第三条**  
A certificate shall be granted if, [...]: 授予条件为
  - (a) the product is protected by a basic patent in force; 该产品已得到了有效基础专利的保护
  - (b) a valid authorization to place the product on the market as a medicinal product has been granted in accordance with Directive 2001/83/EC or Directive 2001/82/EC, as appropriate; 产品已获得按照2001/83/EC或2001/82/EC指令的有效上市许可。**Maximum 5-year term extension of protection for a medicinal product. 药品最久可获得5年的延长保护。**
  
- **PAEDIATRIC SPC EXTENSIONS 儿科SPC延长**  
**REG. (EC) 1901/2006 AND 469/2009 (ART. 8) EC1901/2006及469/2009（3）号规章**
  - (i) Request to be submitted at national offices (fee, form). 向成员国当局申请（申请费、表格）
  - (ii) Copy of statement indicating compliance with an agreed, completed Paediatric Investigation Plan (PIP) (Art. 8(1)(d)(i) of Reg. (EEC) 1768/92 and Art. 28(3) and 36(1) of Reg. 1901/2006).  
说明药品符合已同意的、完成的儿科调查计划（PIP）的声明副本（EEC1768/92号规章8（1.d.i）条、1901/2006号规章28（2）、36（1）条）
  - (iii) Paediatric Investigation Plan (PIP) shall specify the timing and the measures. 儿科调查计划必须说明时间安排及措施
  - (iv) To assess the quality, safety and efficacy of the medicinal product (MP) in all subsets of the paediatric population.  
评估药品在儿科所下属的族群中的质量、安全性及有效性**(iii) Paediatric Investigation Plan to be agreed with Paediatric Committee (PDCO) 儿童调查计划必须得到儿科委员会的同意**  
**Maximum additional 0.5-year term extension of an SPC for a medicinal product.**  
**药品SPC最久可获得0.5年的延长保护。**

# Patent law revision in 2014

## 专利相关法律2014年修订

**1st change** (Sec. 31 Patent Act/Sec. 8 Utility Model Act)  
首次修正（专利法第31条 / 实用新型法第8条）

### File inspection 申请案检查



#### Free file inspection 免费申请案检查

- granted/registered IP rights  
授予 / 注册知识产权权利
- published patent applications  
已公布的专利申请案
- if the patent applicant agrees 需专利申请人同意

#### Restricted file inspection 有限申请案检查

- secondary procedures  
次级的程序
- excluded file components  
不包括部分案件



# Patent law revision

## 专利相关法律修订

- Application can be filed in any language 可以任何语言申请
- German translation to be submitted within 3 months except for English and French → German translation to be submitted within 12 months 三个月内提交的文翻译版，除非原文为英、法语：12个月之内提交的文翻译版
- Failure to submit in due time means the application is deemed withdrawn. 若不在以上时期内提交翻译则相关申请案已被视为撤回
- certified by signature of a patent attorney or lawyer or of an authorised translator certified by a notary 需专利律师或律师或公证员批准的授权笔译的签名
- Terms within claims, description, figures must be translated (e.g. “time”); exception: sequence listing.  
除序列表外，诉求中的文字、描述及数字（如‘时间’）需要翻译



# Patent law revision

## 专利相关法律修订

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- **prohibition on patenting since 25 October 2013**  
**2013年10月25日后取消专利性**  
(Now, plants and animals from a biological production process are not patentable. 此后植物及生物生产程序形成的动物不可授予专利)
  - **opposition proceedings since 1 April 2014**  
**2014年04月01日后异议程序**  
(Time limit for filing an opposition extended from 3 to 9 months, public hearing 提交异议诉求时期由3个月延长到9个月，公开听证会)
  - **subsequent filing of documents 随后提交文件**  
(For example, subsequent filing of drawing leads to a new filing date. 例如，随后提交图纸导致新的申请日)
  - **hearing since 1 April 2014 2014年4月1日后听审**  
(On request, it will become obligatory to hold the hearing. 应要求，召开听证会将为强制性)
-

## Official publications and register database 官方文献及注册资料库



Deutsches  
Patent- und Markenamt

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The DPMAreger service provides the publications, required by law, on patents, trade marks, utility models and designs to you as well as the register data. Our service comprises the search for legal/procedural status information as well as the corresponding publication data.

#### Go directly to the Beginner's search

- ♦ [patents and utility models](#) (including topographies and supplementary protection certificates)
  - ♦ associated [mega documents](#) (sequence listings, computer programs)
- ♦ [trade marks](#) and [indications of geographical origin](#),
- ♦ [designs](#),

In addition, you can use an e-mail notification service about new register or publication events via DPMAkurier.

#### Contacts

For questions on databases and search techniques:

phone: (0 89) 21 95-34 35  
or e-mail: [datenbanken@dpma.de](mailto:datenbanken@dpma.de)

Expert information on IP rights is available from the enquiry service:

phone: (0 89) 21 95-34 02  
or e-mail: [info@dpma.de](mailto:info@dpma.de)

#### Notice for applicants and searchers

Here you will find a guide on how to perform searches for trade marks and designs

- [trade mark search](#)
- [design search](#)

#### Information on electronic file inspection of patent and utility model files

For more information see [here](#).

#### Misleading requests for payment

**Warning** against misleading requests for payment



Official publications and register database of patents,  
utility models, trade marks and designs

专利、实用新型、商标及外观设计的官方文献及注册  
资料库

- search for IP applications, and for granted and registered IP rights  
搜寻知识产权申请案及授权、注册的知识产权权利
  - register information with current legal (and procedural) status 最  
新法律（及程序）现状相关的资料库信息
  - automated procedural status monitoring 自动化程序状态监测
  - online inspection of patent/utility model case files 专利、实用新  
型案件档案在线查询
  - German and English user interface 德、英文界面
-





# 与专利资讯中心（PIZ）的合作

## Cooperation with patent information centres (PIZ)

### 21 patent information centres 21个专利资讯中心:

- long-standing cooperation partners of the DPMA (on the basis of a cooperation contract between DPMA and PIZ) （基于双方合作协议的）长期合作关系
- regional contact points (one-stop shop) for all questions relating to industrial property rights, especially for SMEs, universities, and R&D institutes 提供工业知识产权资讯尤其给中小企业、大学、研发机构的一站式的区域联络处
- members of the PATLIB Network (EPO) PATLIB网络的成员
- 10 PIZ act as point of filing for the application for patents, utility models, trade marks and designs PIZ中心也为专利、实用新型、商标及外观设计的申请地点



[www.piznet.de](http://www.piznet.de)



# 其他提供信息及支持的机构

## Other organisations providing information and support

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- [Customs](#) is the authority which, at the request of the IP holder, seizes counterfeit goods. 海关，应知识产权权利人要求负责扣押假冒商品。
- [Aktionskreis gegen Produkt- und Markenpiraterie \(APM\)](#): The German Anti- Counterfeiting Association, as a cross-industry alliance, has been actively campaigning for the protection of intellectual property since 1997. 德国反仿冒协会，设立于1997年的跨工业领域联盟，倡导维护知识产权。
- [German Chamber of Patent Attorneys](#): Electronic list of all the patent attorneys admitted to practise in Germany; you can also search by towns. 德国专利律师会：在线德国授权专利律师，可按照城市搜索
- [IPR Helpdesk](#) offers free-of-charge support on IP matters to companies that are beneficiaries of EU-funded research projects and EU SMEs involved in transnational partnership agreements. The IPR Helpdesk provides information in the form of [IP guides](#), [case studies](#) und [fact sheets](#) (e.g on copyright, domain names, etc.) 为参加欧盟资助研究项目及跨国伙伴协议的中小企业提供免费有关知识产权异议的支持；提供[指南](#)、[案例](#)及[简报](#)格式的信息。
- [VDI-Wissensforum](#): This training institute offers training courses/seminars for a fee 提供收费的培训项目的培训学院



# Funding opportunities for SME [1]

## 中小企业资助项目——上

[WIPANO – "Wissens- und Technologietransfer durch Patente und Normen"](#) (webpage in German德文网站): Funding programme of the Federal Ministry of Economic Affairs and Energy. The programme supports SMEs wishing to protect their research and development (R&D) results for the first time through IP rights or whose last IP application was filed more than five years ago. The funding aims to help develop a strategic understanding of the patent system and to contribute to raising awareness of the benefits of IP rights.

德国联邦经济部的资助项目，支持想首次以知识产权方式保护其研发成果或上次超五年前申请知识产权保护的中小企业。资助目标为培养对专利体系的战略性的理解，并且为了提高对知识产权权利好处的理解做出贡献。

[Federal Funding Advisory Service "Research and Innovation"](#): Free funding advisory service for research and innovation in the fields of high tech, materials research, nutrition, agriculture.

高科技、材料研究、饮食、农业研究创新的免费资助资讯服务

[Chambers of Industry and Commerce](#) (webpage in German德文网站): The regional chambers of industry and commerce offer SMEs general advice on innovation and guidance on funding schemes.

德国商会；德国商会的区域分会提供创新相关的大纲资讯服务及资助项目的支持给中小企业。

[Chambers of skilled crafts](#): The regional and local chambers of skilled crafts focus on businesses in all sectors of skilled crafts and offer general advisory services on innovation and funding.

手工业商会；区域及地区分会聚焦于各个领域的手工业而且提供创新及资助顾问服务。

[Horizon 2020](#): Strategic research funding programme of the European Union. EU Framework Programme for Research and Innovation with specific programme for SMEs.

地平线2020计划为欧盟战略研究资助计划，其中有特别为中小企业服务的项目。



# Funding opportunities for SME [2]

## 中小企业资助项目——中

[COSME](#): Programme for enhancing the competitiveness of enterprises and for SMEs (2014-2020) with educational programmes and guidance for young entrepreneurs.  
企业和中小企业竞争力COSME计划（2014-2020），提供教学项目及年轻企业家的指导。

[High-Tech Strategy of the German government](#): The German government's High-Tech Strategy (HTS) bundles the German government's activities on research and innovation policy and brings together all stakeholders from science, industry and society involved in the innovation process. An important focus here is on strengthening the innovative power of small and medium-sized enterprises by providing an extensive range of support. Fields of action are the digital economy, sustainable energy, innovative workplaces (new services, education and qualification), health (prevention, cure and care), mobility, civil security. 德国联邦政府高科技战略，为联合研究创新政策的大政策，使参与创新过程的科学、工业、大社会决策者尤其共同探讨如何经过一些列的支持项目加强中小企业的创新能力。主要领域为数字经济、可持续能源、创新性工作场合（新服务、教育、资格）、健康（预防、治疗、护理）、交通、民事安全。

[Förderdatenbank](#) (funding database 资助项目资料库, webpage in German 德文网站): A comprehensive and current overview by the Federal German Government of the funding programmes and grants from the Federal Government, the governments of the German *Länder* and the EU. 德国联邦政府、各个州州政府及欧盟的资助项目的全面及现时的资料库

[Nationale Kontaktstelle KMU](#) (national contact for SMEs 德国当地中小企业联络处, webpage in German 德文网站): Advisory services on EU funding in the fields of raw material efficiency, the creative industry, the construction industry, aerospace and mobility. 提供原材料效率、文化创意产业、建造业、航空航天及交通方面的欧盟资助顾问服务。



# Funding opportunities for SME [3]

## 中小企业资助项目——下

[Enterprise Europe Network Germany](#): Portal of the EU advisory network of the German *Länder*. 德国州政府欧盟顾问网络平台

[International Bureau](#): The coordination office of the research association of the German Aerospace Center (DLR) offers assistance on the following fields: giving advice on international research cooperation, developing funding concepts, funding procedures and instruments, providing tailor-made information and guidance on technical, geographical and intercultural topics, assisting in obtaining financial support and supporting projects from the start to completion. 德国航空中心（DLR）研究协会协调处在以下领域提供服务：国际研究合作、发展资助计划、资助流程及机制、量身定制的有关技术、地理、跨文化议题的资讯及指导、资助申请支持、项目全程辅导。

[Innovaccess - Intellectual Property Portal](#): Portal of the VIP4SME of the EU Commission focusing on raising awareness of the importance of intellectual property among SMEs, helping them to learn how to use IP and providing knowledge about IP. 欧盟委员会VIP4SME平台，焦点放在提高中小企业对知识产权重要性的认同，帮助他们了解如何使用知识产权且提供知识产权相关的知识。



# Law on Employee Inventions

## 雇员发明法

- Duty to report – Sec. 5 Employee Inventions Act (ArbEG)  
报告义务：雇员发明法（ArbEG）第5条
- Duty to file application – Secs. 13, 17 Employee Inventions Act (ArbEG) 提交申请的义务：雇员发明法（ArbEG）第13、17条
- Claiming the invention, passing of rights – Secs. 6, 7 Employee Inventions Act (ArbEG) 主张发明，权利转让：雇员发明法（ArbEG）第6、7条
- Application abroad – Sec. 14 Employee Inventions Act (ArbEG)  
德国境外适用：雇员发明法（ArbEG）第14条
- Abandoning the IP application or the granted IP right – Sec. 16 Employee Inventions Act (ArbEG) 放弃知识产权申请或以授予的权利：雇员发明法（ArbEG）第16条
- Mandatory application – Sec. 22 Employee Inventions Act (ArbEG) 强制性申请：雇员发明法（ArbEG）第22条
- Compensation duty – Sec. 9 Employee Inventions Act (ArbEG)  
报酬义务：雇员发明法（ArbEG）第9条



# The Arbitration Board

## 仲裁委员会

### Section 30 of the Employee Inventions Act (*Arbeitnehmererfindergesetz* – ArbEG) 雇员发明法 (ArbEG) 第30条

“The Arbitration Board shall consist of one chairman (...) and two assessors (*Beisitzer*).” 仲裁委员会由一名主席及两名审查员组成

“The chairman (...) shall possess the qualifications required for judicial office under the German Judiciary Act (*Deutsches Richtergesetz*) (...) be appointed for four years.” 主席需要有德国法官法所指定的司法职务资格 (...) 任命期为四年。

“The assessors shall possess special knowledge in the technical field to which the invention or technical improvement proposal applies. They shall be appointed by the President of the Patent Office, separately for each case, from among the staff members or assistant members (*Hilfsmitglieder*) of the Patent Office.” 审查员必须有发明或技术改进方案相关领域的专业知识。他们要由专利局局长为每一个案件特别任命，且都必须为专利局的员工或助理成员。





# Statutory mandate法定任务

- **Sec. 37 Employee Inventions Act (ArbEG) 雇员发明法 (ArbEG) 第37条**  
“Any right or legal position that is governed by this Act may be pleaded in judicial proceedings only after proceedings have been held before the Arbitration Board.”所有这则法律相关的权利或法律立场仅能仲裁委员会程序结束后才在司法程序辩护。
- **Sec. 28 Employee Inventions Act (ArbEG) 雇员发明法 (ArbEG) 第28条**  
“In all disputes between employer and employee arising as a result of this Act, petition may be made at any time to the Arbitration Board. The Arbitration Board shall seek an amicable settlement.”由这则法律所造成的雇主及雇员之间的争议中随时可以向仲裁委员会提出。仲裁委员会总该追求友好和解。
- **Sec. 36 Employee Inventions Act (ArbEG) 雇员发明法 (ArbEG) 第36条**  
“Proceedings before the Arbitration Board shall require no fees nor payment of costs.”仲裁委员会程序不需要任何费用或成本支付。



# Statutory mandate 法定任务

## ■ Principles for arbitration proceedings 仲裁程序原则

- qualified opinion of the Arbitration Board on the legal and technical questions raised in the respective arbitration proceedings



仲裁委员会在程序中提出有关法律及技术的保留意见

- search for appropriate solutions within proceedings taking into account the legitimate interests of both, employees and employers, equal opportunities for employees and employers. 探讨适合的决绝方案时顾及雇主雇员双方的合法利益及双方的平等机会



- solution proposals, regarded as appropriate, should be presented in a way that is understandable for both sides 被视为适合的解决方案要以双方可以理解的用字遣词



