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Germany- Intellectual Property

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Germany- Intellectual Property

1. What is the current legal landscape for Intellectual Property in your jurisdiction?

The legal landscape for Intellectual Property (IP) in Germany and Europe remains robust. Germany and Europe provide a comprehensive and harmonised legal framework for IP protection, covering patents, trade marks, designs and copyright. Patent holders benefit from the European Patent Convention (EPC) and from the Unitary Patent (UP) and Unified Patent Court (UPC), which streamline patent protection and enforcement across the participating EU states. Trade mark and design rights can be secured nationally or EU-wide, with consistent standards ensured by harmonised legislation. Copyright law is aligned with EU directives, offering strong protection for creators and adapting to digital challenges. Germany is recognised for efficient IP enforcement, supported by specialised courts and robust remedies. Ongoing legal reforms address emerging issues such as digitalisation and artificial intelligence, keeping the IP landscape modern and effective for innovators and businesses.

Patents

Germany is a key member of the EPC, allowing inventors to obtain patent protection through the European Patent Office (EPO) with effect in multiple European countries. In June 2023, the UPC and the UP system were launched, providing a single patent right and a centralised litigation forum for the participating EU member states, including Germany. This streamlines enforcement, reduces validation costs and provides additional means to protect technical inventions and litigate patents in Europe. The courts involved in IP disputes are highly experienced, and Germany remains the main venue for IP litigation in Europe. This has not changed under the UPC, before which most cases are handled by the German local divisions. UPC caseloads have grown faster than anticipated, alongside a high and rising share of European patents being registered with unitary effect. The UPC adds a new dimension to patent disputes, enabling cross-border enforcement in a single action. The opportunities for companies to protect and litigate their IP in Europe have thus increased since 2023.

Despite these additional opportunities at European level, the well-established German national patent system remains a viable option. The German Patent and Trade Mark Office (DPMA) continues to see substantial filing volumes, with growth concentrated in emerging technologies such as artificial intelligence. Although the number of patent litigation cases in Germany has declined as use of the UPC grows, the German courts remain highly regarded for cost-efficient and reliable IP enforcement, supported by specialised chambers and a strong tradition of granting injunctive relief.

Trade Marks

Germany offers a well-established and efficient trade mark system, governed by the German Trade Mark Act (MarkenG) and harmonised with EU law. Protection can be secured nationally through the DPMA, or at EU level via the European Union Intellectual Property Office (EUIPO), granting rights across all EU member states. The framework is harmonised under the EU Trade Mark Regulation and Directive, ensuring consistent standards and procedures. Both national and EU trade marks can be enforced before German courts, which are known for their speed and expertise. The system provides robust protection, including

preliminary injunctions, making Germany an attractive venue for brand enforcement.

Designs

Design protection in Germany is based on the Design Act (DesignG) and complemented by the directly applicable EU design legislation, which has recently been modernised, including a shift in terminology to registered and unregistered EU designs. Unregistered EU designs offer quick and effective protection, while registered designs can be enforced efficiently in specialised German courts. Injunctive relief is widely available, and the courts are receptive to protecting innovative product appearances.

Copyright

German copyright law, rooted in the Copyright Act (UrhG), grants automatic protection to original works without any need for registration. Authors enjoy strong moral and economic rights, and the courts have traditionally upheld broad protection across the creative industries, including software, media and art. Enforcement is effective, with preliminary measures available, and the system is closely aligned with EU directives, including the digital single market reforms governing online content and platform liability.

Recent Trends

Digitalisation, artificial intelligence and data-driven innovation increasingly shape IP law in Germany, with ongoing reforms at national and EU level addressing challenges such as data regulation, platform liability and AI-generated inventions. German courts and legislators are also focusing on copyright in the digital environment, the protection of non-traditional trade marks and the enforcement of design rights on online marketplaces. At the same time, the UPC is reshaping the patent litigation landscape, while discussion continues on how best to adapt IP frameworks to ensure legal certainty and innovation incentives in a rapidly evolving technological environment.

Summary

Germany and Europe offer a comprehensive, harmonised and increasingly modernised IP environment, facilitating effective protection and enforcement for innovators and businesses from any country.

2. What three essential pieces of advice would you give to clients involved in Intellectual Property matters?

Given the current IP landscape in Germany and Europe, we would give the following three pieces of advice.

a. Strategically leverage harmonised IP protection systems to protect your investments

Clients should treat IP rights as an integral part of their business strategy; only then can the benefits of IP be fully harvested. Clients should identify the unique selling points of their products and services and protect them with suitable IP rights.

Protection should be obtained at least for the main sales markets and for the countries where production takes place. In this context, clients should take full advantage of the harmonised IP systems available in Europe. For patents, the EPC and the UP system allow broad protection to be secured efficiently. Clients

should, however, mix and match with national patent applications to bolster their portfolio and to retain access to national as well as European IP courts: if a UP is lost in the participating EU states through a central nullity attack before the UPC, a parallel German or other national patent survives.

For trade marks and designs, clients should assess whether national or EU-wide registration through the EUIPO best suits their business needs. This approach not only maximises protection but also streamlines enforcement and reduces administrative burden.

b. Protect your business against attacks by third parties

Before bringing a product or service to market, clients should monitor third-party IP rights and carry out a freedom-to-operate analysis. Infringement can lead to costly destruction of goods, redesign of products or trade marks, damages and injunctions. Where potentially relevant third-party rights are identified, clients should consider adjusting their products or services before market entry, taking timely action against those rights, or obtaining a licence. In that context, clients should not overlook the risk of EU-wide customs seizures or of preliminary injunctions in Germany or before the UPC, particularly around trade fairs.

Own IP rights also give clients leverage in negotiations with competitors or partners and may secure freedom to operate in some situations.

c. Use IP rights to secure your market position

Effective enforcement is crucial to maintaining market share and price levels. Germany offers efficient and robust enforcement mechanisms, including specialised IP courts and strong injunctive relief. The UPC is now firmly established in practice, allowing cross-border patent disputes to be resolved efficiently. Clients should actively monitor the market for infringements and be prepared to act swiftly, leveraging both national and EU-level remedies, including preliminary injunctions and customs seizures.

The coexistence of the UPC and the German system requires careful portfolio management and litigation planning. Claimants must weigh the advantage of broader reach before the UPC against the risk of central revocation. Defendants, in turn, must be prepared for faster, front-loaded UPC proceedings, requiring more extensive preparatory work than German-only litigation. In practice, dual strategies combining national rights with unitary rights have become the new norm for many companies.

Clients should also remember the opportunity, unique to Germany, of branching off a German utility model from a German, European or international patent application. Such a utility model is registered within days or weeks, because it is not substantively examined by the DPMA, and is immediately enforceable against infringers in Germany.

Summary

By strategically using harmonised protection systems, prioritising IP monitoring and enforcing rights efficiently at national or EU level, clients can effectively safeguard their innovations and businesses in Germany and Europe. Proactive IP management as an integral part of the business strategy, together with expert guidance, is key to harvesting the benefits of IP and securing long-term business success.

3. What are the greatest threats and opportunities in Intellectual Property law in the next 12 months?

The UP and the UPC present a major opportunity for businesses. They streamline patent protection and enforcement across multiple EU states and enable efficient cross-border litigation, so that companies can protect and enforce their inventions more broadly and effectively. The benefits of IP rights can now be realised in more European countries, and with greater efficiency. While litigation before the UPC requires more preparation and greater financial resources than national proceedings, the ability to litigate for several countries in a single action generally outweighs these burdens.

Innovation trends are further expanding the scope of IP protection. Ongoing digitalisation and the rise of artificial intelligence (AI) are driving innovation, particularly in emerging technologies, which is reflected in increased patent filings in these sectors. Germany complements this development with its robust national system, renowned for efficient enforcement, specialised courts and the unique option of quickly obtaining and enforcing utility models alongside patents.

Beyond patents, businesses benefit from strong and harmonised protection of other rights. The EU frameworks for trade marks, designs and copyright are already harmonised, offering consistent and efficient protection across the member states, so that companies can safeguard their brands, designs and creative works throughout the European market.

These opportunities come with new challenges. A central attack before the UPC may result in loss of protection across all participating states for a UP, or across all UPC contracting states in which a European patent is in force, increasing the importance of strategic portfolio management and of a considered mix of national and unitary rights. The rapid pace of technological change, especially in AI and data-driven innovation, also raises questions about how existing IP frameworks apply to AI-generated inventions. Legal reform is under way, but businesses must remain vigilant and adapt their strategies.

Finally, enforcement itself is becoming more complex. Harmonised EU-wide mechanisms – UPC preliminary injunctions, customs seizures and other rapid enforcement tools – strengthen rightsholders' positions, but they equally increase the exposure of competitors. Monitoring third-party rights and securing freedom to operate are therefore more important than ever.

In summary, the next 12 months will be shaped primarily by the opportunities of broader and more efficient protection and enforcement in Europe, especially through the UP and UPC, while also requiring businesses to manage new risks through proactive and strategic IP management.

4. How do you ensure high client satisfaction levels are maintained by your practice?

To maintain high client satisfaction, our practice focuses on the following key principles.

Understanding and Tailored Advice

The starting point of any legal advice is listening and understanding. We take the time needed to understand each client's technology, business and commercial objectives; without that understanding, the benefits of IP rights cannot be fully harvested. Our advice is then tailored to the client's specific needs,

ensuring that IP strategies align with their business goals. We take our clients' needs seriously and choose our actions accordingly.

Broad Technical and Legal Expertise

Our mixed teams of attorneys at law and patent attorneys combine deep legal knowledge of all areas of IP with technical expertise in all fields of technology, usually obtained through a PhD, including complex and emerging fields such as photonics, semiconductors, AI, quantum computing, health tech and life sciences. Our litigators are highly experienced and frequently coordinate international patent disputes, ensuring consistency and strategic alignment across jurisdictions. Continuous professional development keeps us at the forefront of legal and technological developments, and we do not shy away from developing creative solutions.

Responsiveness and Accessibility

Clients have direct access to their attorney and support team. We prioritise quick turnaround times and make ourselves available for urgent matters, recognising that IP issues are often time-sensitive.

Clear and Proactive Communication

We keep clients informed at every stage of their IP matters, with regular updates, clear explanations of the legal options and timely responses to queries. We treat our clients' IP rights with great care and choose our communications accordingly.

Cost Transparency and Value

We provide clear, upfront cost estimates and offer flexible fee arrangements where possible. Our focus is on delivering value, not merely legal services, and we regularly review our processes to ensure efficiency and cost-effectiveness. Our goal is to meet client needs with effective use of the available budget.

Proactive Risk Management

We help clients anticipate and mitigate risks — through comprehensive IP audits, monitoring of competitor activity and advice on enforcement and defence strategies.

Client Feedback and Improvement

We actively seek client feedback through surveys and direct conversations, using this input to refine our services and address any concerns promptly.

International Perspective

For clients with cross-border interests, we offer coordinated advice across jurisdictions, leveraging our network of trusted foreign associates and our expertise in German and European IP law.

By combining these elements, we build long-term relationships based on trust, reliability, understanding and a deep commitment to our clients' success — an approach confirmed by the positive feedback we receive.

5. What technological advancements are reshaping Intellectual Property law and how can clients benefit from them?

Technological innovation is fundamentally reshaping how intellectual property is created, protected and enforced.

AI, Machine Learning and Data Regulation

AI and machine learning are transforming both the creation and the management of IP. AI-generated inventions and works challenge traditional concepts of inventorship and authorship, prompting legal reform and new case law, while the training of models on protected content raises unresolved questions of copyright, text and data mining exceptions, and transparency. At the same time, AI is used to automate prior art searches, patent analytics and trade mark clearance, making IP processes more efficient and accurate while freeing resources for the more complex aspects of IP matters and proceedings. A parallel layer of European regulation of AI systems and of access to and sharing of data now sits alongside classical IP rights, so that clients increasingly need to manage patents, trade secrets, licence terms and regulatory compliance as a single, coherent strategy rather than in isolation. Distributed-ledger tools retain a role in rights management, provenance tracking and the automation of royalty and licence payments.

Big Data, Advanced Analytics, Digital Platforms and Online Enforcement Tools

Big data and advanced analytics enable more effective monitoring of IP landscapes, competitor activity and infringement risks, and help clients make better decisions on portfolio management, enforcement strategy and market opportunities. At the same time, the proliferation of digital marketplaces and social media has increased the risk of online infringement, but new enforcement tools – automated takedown systems, image recognition and online brand monitoring – allow faster and more effective protection.

3D Printing, Additive Manufacturing, IoT and Connectivity

3D printing and additive manufacturing raise new challenges for design and patent protection, while also offering opportunities to innovate and develop new business models where IP strategies are adapted accordingly. The growth of the Internet of Things and connected devices generates vast amounts of data and new types of invention, requiring careful consideration of protection through patents, copyright and trade secrets.

Life Sciences

In the life sciences, developments such as gene editing, personalised medicine, biologics, mRNA vaccines, synthetic biology and the integration of AI and digital health tools are driving new discoveries and treatments while reshaping how IP is created, protected and enforced. This is leading to increasingly complex and valuable IP landscapes for companies in the sector.

How Clients Benefit

For clients, these changes translate into significant benefits. AI, advanced analytics and big data tools provide actionable insights, enabling faster and better-informed decisions, early identification of valuable

assets and infringement risks, and optimised IP strategies. Automating routine tasks such as prior art searches and document analysis reduces costs and accelerates processes, allowing resources to be redirected to complex legal questions, innovation and business development.

Advances in areas such as semiconductors, photonics, AI, health tech and life sciences also allow clients to secure stronger and broader protection for groundbreaking innovations, to participate in new business opportunities, to maximise commercial value, to manage risk and to safeguard competitiveness – while navigating increasingly complex legal, regulatory and ethical challenges. Strategic IP management, tailored to the latest scientific and legal trends, is essential to maximise value and maintain a competitive edge.

Summary

Technological advancement is reshaping the entire landscape of IP law. Clients who embrace these changes – by adopting new tools, updating their knowledge and IP strategies, and seeking expert legal and technical advice – can better protect their assets, reduce risks and unlock new commercial opportunities in a world in which all areas of technology are becoming increasingly digital and connected.

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