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Guide to Intellectual Property

How to protect and
exploit your invention/your development!



UNIVERSITÉ DE LA
GRANDE RÉGION
UNIVERSITÄT DER
GROSSREGION

Preliminary remark

This guide is aimed in particular at scientists and students at the institutions of higher education in the “University of the Greater Region” network, in other words members from Saarland University, the Universities of Liège, Lorraine, Luxembourg, Kaiserslautern and Trier, as well as the associated partner Hochschule für Technik und Wirtschaft des Saarlandes. The guide should raise awareness among researchers about the protection of their intellectual creations and about the possibility of technology transfer. The guide also provides information about local and national patent information offices.

This is how the guide works:

In the first section you will find answers to the most frequently asked questions about intellectual property. The arrows indicate which terms are explained in the third section. The second section contains practical information on contact points and research opportunities, overviews of national patent laws, competent authorities, a check list and example cases. In the third section you can search through an alphabetised list of definitions for the most important technical terms. In the fourth section you will find a glossary.

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I. FAQs

1 What is a property right and which property rights are there?

Property rights protect your intellectual property from misuse. In addition to → *patents* or (in Germany) → *utility models* or (in France and Luxembourg) → *certificats d'utilité* for technical → *inventions/developments*, other → *industrial property rights* such as → *trade marks*, → *protected designs* and → *plant variety protections* can also be registered. There is a fee for all registrations. There are also non-commercial property rights such as → *copyright* that applies to software, and there are separate database rights (in Europe).

2 Why is it sensible to register property rights?

By registering an industrial property right, you are protecting your intellectual property and ensuring that you have sole → *use*. This means you can reclaim your research and development costs. Registrations of technical → *inventions/developments* (→ *patents*, → *utility models*, → *certificats d'utilité*)

are published after 18 months at the latest. In turn, this publication can serve as inspiration for new inventions, and technical advancement is promoted. Note: The → *inventor/developer* does not always have to be the applicant (→ *employee invention*)! Database rights and copyright for software cannot be registered in Europe, they exist automatically.

3 How can I find out which property rights I can get for my invention/development?

An → *invention/development* can often lead to various industrial property right applications. For example with cars: A → *patent* application can be made for the technology (e.g. engine, undercarriage, electronics etc.). The name of the car or the model can be registered as a → *trade mark*. Appearance, shape and colour, in other words the optical features (design), can be registered as a → *protected design* (see II.1, example case). A computer programme can be a computer-implemented invention as well as a copyright.

4

When does an invention/development count as novel and how can I check the novelty?

“Novel” means that your → *invention/development* is not yet part of the state of the art and has not been published in property rights or other documents, at trade fairs, in lectures or by similar verbal transfer (not even by you!). Patent literature is the most important source of information on the state of the art. This means that in addition to checking the technical literature, you should also always carry out → *patent research*.

5

I have an invention/development, what do I need to do now if I want to patent it?

If you as a scientist or student have an employment contract with an institution of higher education, then you must report your → *invention/development* to your employer (→ *employee invention/development*). The institutions of higher education have a pre-prepared reporting form for → *inventions/developments*. The institution of higher education will then check within a defined period of time whether it will register your → *invention/development* itself (→ *service invention/development*) or will release it for use by the → *inventor/developer* (→ *released service invention/development*).

If the institution of higher education takes on the → *invention/development*, it is obliged to submit a → *patent* application (in Belgium, in France and in Luxemburg the university is not obliged but does have the right to do so) and to bear all costs. However, you are named in the application as the → *inventor/developer*.

Those with no employment contract can register their → *inventions/developments* themselves. You are recommended, in any case, to seek advice from the contact point of your institution of higher education beforehand.

There is a charge for the → *patent* application. Copyright for software is free of fee, but it is important to keep track of the different versions and authors.

6

Why do I have to report my invention/development to my employer?

Usually, an → *invention/a development* is only possible due to your work activities and the knowledge you gain from them. Thus, your employer has a right of use for your intellectual property. The same goes for software, designs and databases.

7

Are there exceptions to this rule?

In Germany, inventors/developers do not have to report their → *invention/development* to their institution of higher education if they keep it confidential and deems this sensible for their teaching and research activities. However, they may not publish their → *invention/development* under any circumstances (lectures, technical articles etc.) If they don't want to publish their → *invention/development* later, they must report it to their employer in advance.

8

Which inventions/developments do I have to report to my employer?

You must inform your employer of all technical → *inventions/development* (→ *patents*, → *utility*



models, → *certificats d'utilité*). The → *invention/development* remains the property of the institution of higher education unless it is released (→ *released service invention/development*). The same goes for software, designs and databases.

9 Who can I ask if I have questions about inventions/developments?

You can find information on → *inventions/developments*, → *industrial property rights* and their → *use* from your contact point (see II.3). Your contact point (see II.3) will provide you with information on → *inventions/developments*, → *industrial property rights* and their → *use*.

10 Can software be patented?

Software is generally protected by → *copyright*. For software with a technical character, an additional application can be made for → *patent protection* if it either solves a technical problem or has a technical effect. Examples: Software for effective data compression, for the control of machines and equipment.

11 How/where do I report an invention/a development?

Your institution of higher education will provide you with a form to report an → *invention/a development*. For additional information, please consult your contact point (see II.3).

12 **Where do I report my invention/development if I have employment contracts with several institutions of higher education?**

If you as the → *inventor/developer* have employment contracts with several employers, you have to report the → *invention/development* to each one of your employers.

13 **What happens to me as the inventor/developer if my invention/development is used by my employer? Will I be remunerated?**

As the → *inventor/developer*, you retain the right to be named expressly in the patent application as the → *inventor/developer*. If there are any financial returns, remuneration from the employer is handled differently by the institution of higher education in the Greater Region in different countries. At German institutions of higher education, the → *inventor/developer* is given 30% of the revenue. The University of Luxembourg has agreed 50%, and the same procedure is followed in France. At the franco-phone universities in Belgium, the → *inventor/developer* is remunerated with 33% of the revenue after all costs have been deducted.

14 **If an invention/development results from a third party funded project, who does it belong to?**

There are generally contractual agreements with the third party funder and, where applicable, cooperation partners involved. It is

important that you always report the → *invention/development* to your employer and, where applicable, name the third party funder and/or cooperation partner.

15 **When can I publish my invention/development?**

You can generally only publish an → *invention/a development* when the → *patent* application has been successful. Any prior written or verbal publication (lectures, oral report, article, design of scientific articles for inspection etc.) is prejudicial to novelty and can, in certain circumstances, lead to consequences related to labour law in the case of a → *service invention/development*. Please consult your contact point about any additional special regulations (see II.3).

16 **I have already written about my invention/development in an academic journal. Can I still patent it in Europe?**

No. Any publication before a → *patent* application is prejudicial to novelty (see question 15).

17 **I have sent an article about my invention/development to an academic journal, but it has not yet been published. Can I still patent it?**

As long as your article has not yet been published then this is still possible, provided the editorial team of the academic journal is bound by a confidentiality agreement. However, you must prevent the publication

of the article until the → *inventor/developer* or the employer has submitted the patent application.

18 Can I still file a patent application if my invention/development was described in an academic thesis (BA, Diploma, PhD) and is available in the library?

No. Even pieces of work which are accessible in the library are prejudicial to novelty (see question 15).

19 I have already told somebody else about my invention/development. Does that count as publication?

Generally yes, unless the person you have told is bound by a confidentiality agreement. In any case, you should complete a → *non-disclosure agreement* (NDA) before you pass on any information. If you have any doubts, please speak to the contact point at your institution of higher education (see II.3).

20 I have reported my invention/development and am waiting for a response from my employer, but I do not want to hold off on the publication of my invention/development any longer. What can I do?

You have to wait until your employer has made an application or released the → *invention/development*. You may not publish the → *invention/development* before this under any circumstances. As soon as publication is planned, you must inform your employer of the deadline. You

generally submit the intention to publish along with the → *invention/development* report.

21 Which options for use do I have if the institution of higher education uses my invention/development?

If the institution of higher education uses your → *invention/development*, you will be remunerated if there are financial returns. Any further → *use* of the → *invention/development* is at the discretion of the institution of higher education (see question 13).

22 Which options for use do I have if the institution of higher education releases my invention/development?

If the institution of higher education releases your → *invention/development*, you have free control over it and can use it as necessary. You can find information on the existing options for → *use* at the contact point of your institution of higher education (see II.3).

23 How do I file a patent application if my invention/development is released?

If your → *invention/development* has been released (→ *released service invention/development*), you can make the → *patent* application yourself. The → *invention/development* must be published completely (area of application, detailed description of the problem and the solution, diagram). Submitting the application documents and paying the application fee secures the date of application; further → *inventions/developments* (particularly

improvements and/or additions to the old → *invention/development*) have to be registered again.

24 Do I need a patent lawyer?

In principle, anybody can submit a → *patent* without the help of a patent lawyer. This also applies to registering other property rights. However, the legal formulation of the → *patent* claims is a particularly complex area, especially for applicants who have no or little experience. The costs for a patent lawyer can be several thousand euros and have to be borne by the applicant or applying institution in addition to other costs and fees arising as a result of the application. If you have any questions, please speak to the contact point at your institution of higher education (see II.3). Many of these contact points work with patent lawyers and offer a free initial consultation (except in Belgium).

25 What do I do if I want to register a trade mark or a protected design?

→ *Trade mark* and → *protected design* applications are not technical property rights and do not have to be reported to your employer unless you have a special agreement. Before you file a → *trade mark* application, you should research whether identical or similar sounding → *trade mark* applications already exist. From the date of registration the → *trade mark* is ensured, but you may only advertise the “registered trade mark” once you have been entered into the → *trade mark* register. Before making a → *protected design* application you should also

research whether there are identical or similar → *protected designs* (see II.4). The contact points at your institution of higher education will be able to help you with this (see II.3). You can submit the application form at the → *patent* and → *trade mark* office or an authorised patent information centre.

However, in Luxembourg, the employer is the legal owner of a design elaborated by one of their employees.

26 What to do if I have developed a software or database?

In Luxembourg, a computer programme, including its preparatory documents, as well as any user manuals, belongs to the employer. The same goes for a database that was developed using the means and funding of the institution of higher education.

Therefore, in principle, these two creations need to be reported to the institution of higher education, in analogy with patentable inventions. However, each institution may provide its own rules as to whether all software and database need to be reported (including ones falling into open-source, respectively creative commons), or only those for which a commercial interest may exist.

In Germany, the rights of use to copyrighted material are usually granted to the employer according to the employment contract.

II. Practical information

1. Example case of an invention/development and resulting technical property rights

a) A group of scientists and technicians develops a number of technical safety features for a passenger vehicle. If there is a crash (collision), sensors determine the negative acceleration of the vehicle. The on-board computer receives the signals and starts controlling the electric motors, which adjust the front edge of the seat cushion and the headrest into vertical positions.

b) There are also additional air slots on the body of the car to provide additional cooling to the electronic components, and air slots for decoration which give the car a characteristic appearance.

c) The intention is for the car to take part in commercial races under the name "WhatSafety?" The vehicle is financed by a number of sponsors.

Which property rights are affected?

For a) All features in section a) are technical → *inventions/developments*. Applications for → *patents* and/or → *utility models* can be made on the basis of these.

During extensive testing, data from the acceleration sensors is collected in a database in order to determine optimum seat belt and headrest adjustment. Copyright and database rights may be applicable.

For b) Section b) includes a technical feature: air slots which are used for cooling. Applications for → *patents* and/or → *utility models* can also be made on the basis of these. In addition to this, a → *protected design* can be registered to protect the visual feature (air slots for decoration).

For c) A → *trade mark* can be registered to identify the item or the product and prevent the competition from using this name.

2. Checklist

what do I do if I have an invention/a development?

Fill in the → *declaration of invention* of your institution of higher education. The form will include the following questions:

- Has an invention/development been made?**
Yes → A → *patent* application can be made for the → *invention/development*.
No → It is not possible to apply for a → *patent* or → *utility model*.

- Has a software/computer programme been written?**
Yes → copyright applies automatically.
No → copyright does not apply.

- Has data been collected in a database?**
Yes → database rights applies automatically (and maybe copyright).
No → database rights does not apply.

- Is the invention/development described in the patent literature (see II.4) or in other documents?**
Yes → It is no longer novel and is part of the state of the art. It is not possible to file a → *patent* application.
No → A → *patent* application can be made for the → *invention/development*.

- Has open-source software been used?**
Yes → check for compliance with open-source licences.
No → a check for compliance with open-source licences is not necessary.

- Does anybody know about your invention/development yet?**
(see question 15 et. seq.)
Yes, essential parts of it have already been published → Prejudicial to novelty! It is no longer possible to file a → *patent* application. For additional information, please speak to your contact point (see II.3).
Yes, my colleagues know about it → If they are bound by non-disclosure then this is not prejudicial to novelty. A → *patent* application can be made for the → *invention/development*.
Yes, other third parties know about it → If they have signed a → *non-disclosure agreement* then they are obliged to maintain confidentiality. If this is not the case then this situation should be viewed as prejudicial to novelty. It is no longer possible to make a → *patent* application.

This has no incidence on copyright protection, which applies automatically.

No → A → *patent* application can be made for the → *invention/development*.

- ☑ **Is the invention/development the result of cooperation (with third party funders)?**
Yes, it is the result of a cooperation → please speak to the contact point at your institution of higher education (see II.3).

- ☑ **Do I have an employment contract with the institution of higher education (including a part time contract)?**
Yes → The → *invention/development* has to be reported to the employer. The employer will specify any further steps.
No → Please speak to the relevant contact point at your institution of higher education (see II.3) for more detailed information about the exact → *patent* application process.

- ☑ **Are other inventors/developers involved?**
Yes → The → *inventors/developers* have to be named in the → *patent* application. If the → *inventors/developers* are employees, then the → *inventors/developers* should be named in the original declaration to the employer.

- ☑ **Do I intend to control the way in which the software or data shall be either redistributed, or copied, or modified?**
Yes → Without my employer's permission, no person is allowed to do anything with the software. Therefore my employer needs to choose an appropriate licence agreement.

3. Contact points of institutions of higher education

The contact points at the institutions of higher education in the Greater Region are of course available to you at all times for information and advice. This information is provided free of charge for inventors of the respective institutions of higher education.

Technische Universität Kaiserslautern

Referat Technologie und Innovation
Patent- und Informationszentrum
Rheinland-Pfalz
Paul-Ehrlich-Straße, Building 32
D-67663 Kaiserslautern
Phone: +49 (0)631 205 2172
piz@rti.uni-kl.de
www.rti.uni-kl.de/piz/

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Phone: +32 (0)4 349 85 23
ip@uliege.be
[www.recherche.uliege.be/cms/c_9115695/
fr/portail-recherche-innovation-entreprise](http://www.recherche.uliege.be/cms/c_9115695/fr/portail-recherche-innovation-entreprise)

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Sous-direction valorisation
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2, Avenue de l'Université
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Saarland University

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Technologietransfer
Campus A1.1, Starterzentrum
D-66123 Saarbrücken
Phone: +49 (0)681 302 2656
patentverwertungagentur@uni-saarland.de
www.kwt-uni-saarland.de

University of Trier

Kontaktstelle für Wissens- und
Technologietransfer
Im Treff 23
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Phone: +49 (0)681 302 2656
info@pva-saarland.de
www.kwt-uni-saarland.de

4. Research database

When carrying out independent research in the databases, please be aware that searching for keywords (sometimes a charge is payable) often provides insufficient results, particularly when researching the state of the art. Only the relevant area of work should be researched. Please speak to the contact point at your institution of higher education for professional research. Here you will be able to find competent staff members to help you (see II.3).

Database of the German Patent Office for Patent Research
(national and international)

<http://depatisnet.dpma.de> (de + en)

Database of the German Patent Office for Trade mark Research
(national and international)

<http://register.dpma.de/DPMAregister/marke/uebersicht> (de + en)

Database of the German Patent and Trade mark Office for Research on Protected Designs
(national)

<http://register.dpma.de/DPMAregister/gsm/uebersicht> (de + en)

Database of the European Patent Office for Patent Research
(international)

<http://worldwide.espacenet.com> (de + en + fr)

Database of the French Patent Office for Patent Research
(national and international)

<http://fr.espacenet.com/> (fr)

Database of the French Patent Office for Trade mark Research
(national and international)

<http://bases-marques.inpi.fr/> (fr)

Database of the French Patent Office for Research on Protected Designs
(national)

<https://bases-modeles.inpi.fr/> (fr)

Database of the Benelux Office for Intellectual Property for Research on Trade marks
(Benelux and international) *

<https://www.boip.int/fr> (nl + fr + en)

Database of the Office of Harmonisation in the Internal Market for Research on Trade marks
(community trade marks)

<http://oami.europa.eu/ohimportal/en/trade-marks> (en + de + fr + es + it)

Database of the Office for Harmonisation in the Internal Market for Research on Protected Designs
(community designs)

<http://oami.europa.eu/ohimportal/en/designs> (en + de + fr + es + it)

Database of the World Intellectual Property Organisation for Research on Trade marks
<http://www.wipo.int/romarin> (en + fr + es)

* database subject to a fee

5. Table overview on property rights, laws and competent authorities

Table 1: Overview of industrial property rights

	Patent	Utility model (Germany)	Certificat d'utilité (France/Luxembourg)	Database (copyright)	Database (database)
Protected subject matter	Technical products and processes	Technical products	Technical products and processes	Structure of a database	Content of a database
Duration of protection	20 years For pharmaceutical products + max. 5 years	10 years	10 years	until 70 years after the author dies	15 years
Examination procedure	Examination for novelty, inventive step and industrial applicability Belgium and Luxembourg: only a formal examination	Formal examination. No examination of novelty, inventive step and industrial applicability	Formal examination. Same application form as for a patent. If the research fee is not paid within 18 months, the application reverts to a certificat d'utilité	No examination, the mere creation of the structure is sufficient	No examination, the mere compilation of the content is sufficient
Examples	Wankel motors, production techniques of nylon	Writing implement, safe children's scissors	–	a self-organising data structure (empty)	any data compilation, but no the data itself

*Software
(copyright)*

Trade mark

Protected design

*Plant variety
protection*

Computer programme and its documentation

Goods and services

Design

Plant breeding

until 70 years after the author dies

10 years
Can often be extended for an additional 10 years

25 years

25-30 years
(depending on the plant variety)

No examination, the mere writing of the computer code is sufficient

Formal examination for absolute grounds for refusal.
No examination of whether there are any trade marks which would be obstacles.

Formal examination.
No examination of novelty and characteristic features

Examination of novelty, homogeneity, resistance and distinctness

any computer program

word sign (Peugeot), graphical sign (Mercedes star)

Patterns and wallpaper patterns, bottle and car shapes (body)

Varieties of potatoes and cereals

Table 2: Competent authorities for national property right applications

	Belgium	Saarland/ Rhineland Palatinate	Lorraine	Luxembourg
Patent	Belgian Office for Intellectual Property, Brussels	German Patent and Trade mark Office, Munich Patent and trademark center Saarland Patent and Information Center Rhineland-Palatinate (PIZ KL)	French Patent Office, Paris Regional Office in Nancy	Office for Intellectual Property, Luxembourg
Utility model	–	German Patent and Trade mark Office, Munich Patent and trademark center Saar Patent and Information Center Rhineland-Palatinate (PIZ KL)	–	–
Certificat d'utilité	–	–	French Patent Office, Paris Regional Office in Nancy	Office for Intellectual Property, Luxembourg
Trade mark	Benelux Intellectual Property Office, Den Haag	German Patent and Trade mark Office, Munich Patent and trademark center Saar Patent and Information Center Rhineland-Palatinate (PIZ KL)	French Patent Office, Paris Regional Office in Nancy	Benelux Intellectual Property Office, Den Haag
Protected design	Benelux Intellectual Property Office, Den Haag	German Patent and Trade mark Office, Munich Patent and trademark center Saar Patent and Information Center Rhineland-Palatinate (PIZ KL)	French Patent Office, Paris Regional Office in Nancy	Benelux Intellectual Property Office, Den Haag
Plant varieties	Belgian Office for Intellectual Property, Brussels	Federal Plant Variety Office, Hannover	Plant Variety Protection Office, Paris	Community Plant Variety Office, Angers

Table 3: National laws

	Belgium	Germany	France	Luxembourg
Patent	<p>Belgian Patent Law</p> <p>http://justice.belgium.be</p>	<p>German Patent Law</p> <p>www.gesetze-im-internet.de/patg/index.html</p>	<p>French Laws on Intellectual Property</p> <p>www.legifrance.gouv.fr</p>	<p>Loi modifiée du 20 juillet 1992 portant modification du régime des brevets d'invention</p> <p>www.mj.public.lu/</p>
Copyright	<p>Code de droit économique, Livre XI, Titre 6 Programmes d'ordinateur, XI.294 à XI.304</p> <p>https://www.ejustice.just.fgov.be/cgi/welcome.pl</p>	<p>Gesetz über Urheberrecht und verwandte Schutzrechte (Urheberrechtsgesetz)</p> <p>https://www.gesetze-im-internet.de/urhg/</p>	<p>Code de la Propriété Intellectuelle</p> <p>http://www.legifrance.gouv.fr</p>	<p>Loi modifiée du 18 avril sur les droits d'auteur, les droits voisins et les bases de données, articles 1 – 30</p> <p>http://legilux.public.lu</p>
Utility model	–	<p>German Utility Model Law</p> <p>www.gesetze-im-internet.de/gebrmg/index.html</p>	–	<p>Loi modifiée du 20 juillet 1992 portant modification du régime des brevets d'invention</p> <p>http://legilux.public.lu</p>
Certificat d'utilité	–	–	<p>French Laws on Intellectual Property</p> <p>www.legifrance.gouv.fr</p>	<p>Loi modifiée du 20 juillet 1992 portant modification du régime des brevets d'invention</p> <p>www.mj.public.lu/gouv.fr</p>
Trade mark	<p>Belgian Trade mark Law</p> <p>www.boip.int</p>	<p>German Trade mark Law</p> <p>www.gesetze-im-internet.de/markeng/index.html</p>	<p>French Laws on Intellectual Property</p> <p>www.legifrance.gouv.fr</p>	<p>Luxembourg Trade mark Law</p> <p>www.boip.int</p>
Protected designs	<p>Belgian Protected Design Law</p> <p>www.boip.int</p>	<p>German Protected Design Law</p> <p>www.gesetze-im-internet.de/geschmng_2004/index.html</p>	<p>French Laws on Intellectual Property</p> <p>www.legifrance.gouv.fr</p>	<p>Luxembourg Protected Design Law</p> <p>www.boip.int</p>
Database	<p>Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases</p> <p>https://eur-lex.europa.eu</p>	<p>Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases</p> <p>https://eur-lex.europa.eu</p>	<p>Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases</p> <p>https://eur-lex.europa.eu</p>	<p>Loi modifiée du 18 avril 2001 sur les droits d'auteur, les droits voisins et les bases de données, articles 67 – 70</p> <p>http://legilux.public.lu</p>

	Belgium	Germany	France	Luxembourg
Software	Code de droit économique, Livre XI, Titre 6 Programmes d'ordinateur, XI.294 à XI.304 https://www.ejustice.just.fgov.be/cgi/welcome.pl	Gesetz über Urheberrecht und verwandte Schutzrechte (Urheberrechtsgesetz) https://www.gesetze-im-internet.de/urhg/	Code de la Propriété Intellectuelle http://www.legifrance.gouv.fr	Loi modifiée du 18 avril 2001 sur les droits d'auteur, les droits voisins et les bases de données, articles 31 – 39 http://legilux.public.lu

Table 4: Competent authorities for European property right applications

	Authorities	Area of protection
Patent	European Patent Office, Munich	The individual European states must be named. European states which are not members of the EU can also be named.
Trade mark	Office of Harmonization for the Internal Market, Alicante	All states of the European Union
Protected designs	Office of Harmonization for the Internal Market, Alicante Benelux Intellectual Property Office, Den Haag	All states of the European Union Benelux states
Plant varieties	Community Plant Variety Office, Angers	Community Plant Variety Office, Angers



6. Offices and patent authorities

(see also www.innovaccess.eu)

6.1. National

Benelux Office for Intellectual Property = BOIP (Trade mark and protected design applications in Benelux)

Bordewijklaan 15
NL-2591 XR Den Haag
Phone: +32 (0)70 244 242 (Belgium)
+352 8002 5383 (Luxembourg)
www.boip.int

Federal Plant Variety Office

Osterfelddamm 80
D-30627 Hannover
Phone: +49 (0)511 9566-50
BSA@bundessortenamt.de
www.bundessortenamt.de

National institution –

Plant variety protection

(*INOV = Instance Nationale des
Obtentions Végétales*)
25, rue Georges Morel
CS 90024
F-49071 Beaucouzé Cedex
Tel.: +33 (0)2 41 22 86 22
www.geves.fr

German Patent and Trade mark Office

Zweibrückenstr. 12
D-80331 Munich
Phone: +49 (0)89 2195-0
info@dpma.de
www.dpma.de

French Patent Office

15, rue des Minimes
CS 50001
F-92677 Courbevoise Cedex
Tel.: +33 (0)820 210 211
contact@inpi.fr
www.inpi.fr

Regional Office in Nancy

2/4, rue du Cardinal Tisserant
CS 30749
54064 Nancy Cédex
Phone: + 33 (0)820 213 213
lorraine@inpi.fr

Belgium Office for Intellectual Property

North gate III
Boulevard du Roi Albert II, 16
B-1000 Brussels
Phone: +32 (0)2 277 90 11
piie_dir@economie.fgov.be
<https://economie.fgov.be/fr/themes/proprietee-intellectuelle/institutions-et-acteurs/office-belge-de-la-proprietee>

Office for Intellectual Property

Le Ministère de l'Economie et du
Commerce extérieur
19–21, boulevard Royal
L-2449 Luxembourg
Phone: +352 2478 4113
dpi@eco.public.lu
www.eco.public.lu

6.2. European

Community Plant Variety Office = CPVO

3, boulevard Maréchal Foch
CS 10121
F-49101 Angers Cedex 2
Tel.: +33 (0)2 41 25 64 00
cpvo@cpvo.europa.eu
www.cpvo.europa.eu

European Union Intellectual Property Office (EUIPO)

Avenida de Europa, 4
E-03008 Alicante
Phone: +34 (0)96 513 9100
information@euiipo.europa.eu
<http://euiipo.europa.eu>

European Patent Office = EPO

D-80298 Munich
Phone: +49 (0)89 2399-0
info@epo.org
www.epo.org

6.3. International

World Intellectual Property Organisation = WIPO

34, chemin des Colombettes
CH-1211 Geneva 20
Phone: +41 (0)22 338 9111
www.wipo.int



III. Definitions

Certificat d'utilité (France)

If a patent application is made in France, the examination request or research request has to be made to the French Patent Office, and the research fee has to be paid within one month of the application. The request will be entered as a *certificat d'utilité*, or it will be registered as a *certificat d'utilité* within 18 months of the submission of a written request to change the patent application. This has a shorter term (6 years) than a → *patent*.

Certificat d'utilité (Luxembourg)

If a patent application is made in Luxembourg, the research request has to be submitted to the Luxembourg Patent Office within 18 months of the application. If the request is not submitted, the application is entered as a *certificat d'utilité*. This has a shorter term (6 years) than a → *patent*.

Computer programme

A computer programme is a set of statements or instructions which when used directly or indirectly in a computer brings about a certain result. Computer programmes written by employees in Luxembourg belong to the employer.

Copyright

Copyright is a non-commercial property right. It is the result of the creation of a piece of work (art, literature, music, software etc.). There is no register for copyright, and you do not have to file an official application or request for protection. However, a date of production can be

confirmed e.g. with a notary, in a bibliography, in film credits or by witnesses or i-dépôt covers in Benelux countries. Authorisation from the copyright holder or the competent collecting authority (see → *use of non-commercial property rights*) is necessary for the reproduction of copyright protected material. There is generally a charge for reproduction.

Copyright protection lasts for 70 years after the death of the copyright holder. From this point onwards, the works are free and can be used by anybody.

Database

A database is a collection of independent works, data or other materials which is arranged in a systematic or methodical way and is individually accessible or retrievable by electronic or other means. Directive 96/9/EC on the separate legal protection of databases protects the producer against extracting and/or re-using content by others (in the EU) for 15 years. An original new structure of a database may be protectable under copyright (worldwide).

Employee invention/development/declaration of invention/development

Employee inventions /developments are technical → *inventions/developments* which are made by employees. This also means → *inventions/developments* which are made during the inventor's/developer's free time or holiday are employee inventions/developments (in Belgian and French law, this is only the case if the inventor/developer uses the employer's resources). Every employee invention/development has to be reported to the employer. The employer then decides if the inventions/developments should be categorised as a → *service invention/development* or a → *free invention/development*.

If the invention/development relates to activities and experiences which fall within the → *inventor's/developer's* area of work, then it is a → *service invention/development*. These → *service inventions/developments* are reported using a declaration of invention/development. There is generally a pre-prepared form for this.

If the invention/development does not relate to activities and experiences which fall within the → *inventor's/developer's* area of work, then it is a → *free invention/development*, but one which must also be reported to the employer.

Free invention/development

An → *invention/development* not relating to the activities and experience in the field of work of the inventor/developer is a free invention/development. Free inventions/developments also have to be reported to the employer. However, it is sufficient to only tell the employer enough about the → *invention/development* to determine whether or not it is actually a free invention/development.

Industrial application

A prerequisite for the patentability of an → *invention/development* is that the object of the → *invention/development* can be manufactured and produced as part of a commercial sector (including agriculture).

Industrial property right

An industrial property right e.g. → *patent*, → *utility model*, → *trade mark*, → *protected design* or → *plant variety* is a spatially and temporally limited monopoly on use and marketing granted by the legislator. It occurs as a result of an application to the competent patent authorities and offices which grant or register the potential protection following the application.

Property rights are spatially limited (territory principle) since they are only effective in the areas where the application was made. Property rights also have a maximum term, under the condition that this is maintained. An exception to this are → *trade marks*, which can be extended as desired.

Invention/development

An invention/development is a new teaching or solution to a technical problem. It must be novel (→ *novelty*), based on an → *inventive step* and commercially applicable (→ *industrial applicability*). Only under these conditions can an application be made for a → *patent* or a → *utility model* registered in Germany.

Inventive step

This exists if the inventive step required for the invention/development is not obvious from the state of the art for an expert in this field.

Inventor/developer

The person who makes an → *invention/a development* is the inventor/developer. Several people may be involved in an → *invention/a development*. The application of work instructions is not sufficient here. Example: Installing a prototype for a machine according to a pre-determined design is not an → *inventive step*.

Licence

A licence permits an activity that would otherwise be forbidden, e.g. due to existing intellectual property rights. The granting of a licence constitutes a contract and may require paying a fee. Open-source licences are a particular kind of licence.

Non-disclosure agreement (NDA) or Confidential Disclosure Agreement (CDA)

A non-disclosure agreement is a contractual obligation to ensure confidentiality and patentability of an → *invention/a development* or other sensitive information.

Novelty

Novelty means that the → *invention/development* is not part of the state of the art on the day the patent application is made and may also not have been published. Note: Lectures and other verbal transfer to third parties also count as publication.

Open source software

Open source software is software with source code that anyone can inspect, modify, and enhance. “Source code” is the part of software that most computer users don’t ever see; it’s the code computer programmers can manipulate to change how a piece of software—a program or application—works. The authors of Open source software make its source code available to others who would like to view that code, copy it, learn from it, alter it, or share it. As they do with proprietary software, users must accept the terms of a licence when they use open source software. [<https://opensource.com/resources/what-open-source>]

Patent

The patent is an → *industrial property right*, and application can be made for technical → *inventions/developments*. The prerequisites for this are: global → *novelty*, → *inventive step* and → *industrial applicability*. The patent holder received the spatially and temporally limited right to forbid third parties from the → *use* of their → *invention/development*. In return from this, they must publish their → *invention*.

In the states of the Greater Region, the application is made to authorised patent information centres or to the national patent office (see II.6). The examination of patentability is only carried out after an examination request is submitted (can be submitted after the application). The maximum term is 20 years. Examples of patents: Wankel motors or production techniques of nylon.

Patent exploiting companies

Patent exploiting companies are service providers for the transfer of research and technology. They can establish contacts with potential license holders, distribution partners and buyers of property rights. They can also assess the potential economic use of a patent application. There is generally a charge for these services, and the patent exploiting company has a claim to some of the profits.

Patent research

There are publicly accessible databases on the internet sites of the national patent offices and on the European Patent Office website where you can research the state of the art (see II.4). All of the documents are sorted into fields in accordance with the international patent classification. It is important that you search within a classification to obtain the most optimal research result. Searching using keywords is generally not sufficient. Assistance with researching the state of the art is provided at the contact points at your institutions of higher education (see II.3).

Patent specification

The essential parts of the → *patents* are the technical description, the claims and diagrams, where applicable. The claims are the key part of a patent application. These form the legal basis for the elements of this → *invention/development* which are novel and inventive and are to be protected. The claims also describe the scope of protection of the → *patent*.

Plant variety protection

Plant variety protection (→ *industrial property right*) protects the intellectual property of plant breeding. The maximum duration of protection is between 25 and 30 years depending on the variety. Examples: Varieties of potato and cereals.

Proprietary software

Proprietary software (“closed source”) has source code that only the person, team, or organization who created it—and maintains exclusive control over it—can modify. Only the original authors of proprietary software can legally copy, inspect, and alter that software. In order to use proprietary software, users must agree that they will not do anything with the software that the software’s authors have not expressly permitted. [<https://opensource.com/resources/what-open-source>]

Protected design

This property right protects the design of three dimensional objects or two dimensional designs with a claim to novelty or a particular feature. The maximum term is 25 years. Examples: Patterns and wallpaper patterns, bottle and car shapes.

Released service invention

An → *invention/a development* which has been reported to the employer which is released to the → *inventor/developer* for → *use* is a released service invention/development. In this case the → *inventor/developer* may dispose freely of their → *invention/development*.

Service invention

An → *invention/a development* relating to the activities and experience in the field of work of the place of employment is a service invention/development. This must be reported to the current employer. The employer will decide whether or not to use the service invention/development. For service inventions/developments which are not used, see → *released service inventions/developments*. If an → *invention/a development* is used by the employer, the → *inventor/developer* and the employer will be remunerated if there are any financial returns. Further → *use of the* → *invention/development* is then at the discretion of the employer.

Trade mark

Trade marks identify goods and services. Words, letters, numbers, figures, colours and acoustic signals can all be registered as trade marks. Trade marks differ from other → *industrial property rights* in two important ways: They have to be novel (an additional application cannot be made for expired trade marks) and they can be extended as desired. Examples: Word sign (Peugeot), graphical sign (Mercedes star).

Use of industrial property rights

Use means that protected → *inventions/developments*, → *trade marks* or designs (→ *industrial property rights*) can be used in a commercial setting. This can be achieved by either own manufacturing and distribution, or entering into a cooperation, or purchasing a licence. It is also possible to sell rights. The → *patent exploiting companies* can help you to determine the economic value of an → *invention/a development*.

Use of non-commercial property rights

Collecting societies supervise the protection of → *copyrights* on a trust basis. Works may only be reproduced if prior authorisation is granted by the copyright holder. The costs of reproduction depend on certain parameters (industrial/non-commercial, scientific purposes etc.). Examples of collecting societies in Germany are VG Wort, VG Bild-Kunst and GEMA (Gesellschaft für musikalische Aufführungs- und mechanische Vervielfältigungsrechte) (for music/radio etc.). In France and Luxembourg, SACEM (*Société des Auteurs, Compositeurs et Éditeurs de Musique*) and in Belgium SABAM (*Société Belge des Auteurs, Compositeurs et Éditeurs*) deal with the protection of → *copyrights*.

Utility model (Germany)

In Germany, this property right (as with → *patent* protection) may only be applied to technical → *inventions/developments* (known as “little → *patent*”). These are often property rights with an inventive step which are not so well established and it is not certain whether a patent application will be successful. In contrast to the → *patent*, the utility model has a six month grace period and so can be registered within six months of a publication. The maximum term is ten years. Examples: Writing implement or safe children's scissors.

IV. Glossary

English	Deutsch	Français
application	Anmeldung	demande de brevet
certificat d'utilité (France/Luxembourg)	Certificat d'utilité (Frankreich/Luxemburg)	certificat d'utilité (France/Luxembourg)
copyright	Urheberrecht	droit d'auteur
date of application	Anmeldetag	date de dépôt
employee invention/development/declaration of invention/development	Arbeitnehmererfindung/entwicklung Erfindungs/Entwicklungsmeldung	invention/développement de salarié.e/déclaration d'invention
exploitation	Verwertung	exploitation
free invention/development	freie Erfindung/Entwicklung	invention/développement libre
industrial applicability	gewerbliche Anwendbarkeit	application industrielle
industrial property right	gewerbliches Schutzrecht	droit de propriété industrielle
invention/development	Erfindung/Entwicklung	invention/développement
inventive step	erfinderische Tätigkeit (beim Patent)	activité inventive
inventive step	erfinderischer Schritt (beim Gebrauchsmuster)	activité inventive
inventor/developer	Erfinder*in	inventeur/inventrice
licence	Lizenz	licence
non-commercial property right	nicht-gewerbliches Schutzrecht	droit de propriété littéraire et artistique
non-disclosure agreement/confidential disclosure agreement	Geheimhaltungsvereinbarung	accord de confidentialité
novelty	Neuheit	nouveauté
patent	Patent	brevet
patent exploitation company	Patentverwertungsgesellschaft	société d'exploitation de brevets
patent information centre	Patentinformationszentrum	délégation régionale INPI
patent lawyer	Patentanwalt/Patentanwältin	mandataire
patent research	Patentrecherche	recherche de brevets
patent specification	Patentschrift	document de brevet
plant variety/plant variety protection	Sorte/Sortenschutz	variété/obtention végétale
proprietary software	Proprietäre Software	logiciel propriétaire
protected design	Design (früher: Geschmacksmuster)	dessins ou modèles (design)
publication	Offenlegung	(publication de) demande de brevet
released service invention	freigegebene Dienstleistungserfindung	invention/développement de mission devenue libre
service invention	Dienstleistungserfindung	invention/développement de mission
state of the art	Stand der Technik	état de l'art
trade mark	Marke	marque
utility model (Germany)	Gebrauchsmuster (Deutschland)	modèle d'utilité (Allemagne)

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