



A Service of the Chamber of Patent Attorneys



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Training: From a degree to practical experience and on to the Federal Patent Court.

Patent attorneys are just as familiar with the law governing the protection of inventions, trade marks, designs, software and plant variety rights as they are with science and technology. In order to live up to such expectations, the roughly 3,900 patent attorneys in Germany have undergone one of the longest periods of training there is. To begin with, patent attorneys will first have taken a degree in a technical or scientific at an academic institution (university) and then have spent at least a year engaged in practical work in a technical field, followed by a course on intellectual property law lasting almost three years, at the end of which they must pass the examination for patent attorneys.

First a diploma in engineering or science.

The way to becoming a patent attorney presupposes the furnishing of evidence of technical qualifications under section 6 of the Regulations Governing Patent Attorneys. It is necessary to have successfully completed a course of technical or scientific studies at an academic institution (university). Studies abroad and the degrees earned there are recognised provided that they are equivalent to the studies and final examination at a German university. In addition, the applicant needs to have spent at least one year doing practical work in a technical field. This is understood to mean manual or experimental work. Recognition is given for professional activities in a scientific or field, or also for practical internships as a student, provided they take place outside the university, and times spent on experiments for a doctoral thesis. In exceptional cases, the applicant can be exempted from the requirement of practical technical activity if he can show that he has acquired the practical technical experience necessary for the profession of a patent attorney in some other way. More information, especially on which activities are usually recognised as practical technical activities, can be found in a leaflet published by the German Patent and Trade Mark Office.

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Graduates from scientific or technical courses at universities of applied sciences cannot be admitted to training in the field of intellectual property right law. They can nevertheless become patent attorneys if they have worked as persons handling patent matters in a constant employment relationship for at least ten years. The possibility for a person handling patent matters to be admitted to the examination for patent attorneys is explained later in the text.

Training in the field of industrial property right law.

After acquiring the technical qualifications, the applicant (candidate) must undergo practical and theoretical training in the field of industrial property protection law (section 7 of the Regulations Governing Patent Attorneys). That training lasts at least 34 months, at least 26 months of which must be served with a patent attorney or Patentassessor in the patent department of an enterprise, two months at the German Patent and Trade Mark Office and six months at the Federal Patent Court. The applicant may optionally undergo training at a court for patent litigation for a period of up to two months. It is also possible to be trained with a patent attorney or Patentassessor abroad, and to be credited with up to twelve months of the 26-month period of training with a patent attorney or Patentassessor. An application for this must, however, be made to the President of the German Patent and Trade Mark Office before the training in the foreign country begins.

The purpose of the training is to provide the applicant with comprehensive knowledge in the field of industrial property right law and the requisite general knowledge of the law on the basis of his technical skills and to familiarise him with the practical work to be performed by a patent attorney or Patentassessor. The focus of the training is therefore on acquiring comprehensive knowledge in the field of German industrial property right law, especially patent, utility model, design and trade mark law and the law relating to employee inventions. In addition, knowledge of other fields of the law which are important for patent attorneys must be provided, such as European Union law and the content of international agreements in the area of industrial property right law, the Regulations Governing Patent Attorneys and the Professional Code for Patent Attorneys. The candidate should also be made aware of the basic



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elements of foreign patent, utility model, trade mark and design law. In addition, candidates must acquire a knowledge of the basic elements of other areas of law in so far as they are relevant for the activity of the patent attorney or Patentassessor (e.g. principles of civil law, labour law, commercial law, company law, competition law, including anti-trust law, court procedural law, general administrative law, constitutional law and the law of the European Union).

Working parties. The practical training is supplemented by working parties in which the candidates are provided with theoretical knowledge. Attendance at the working parties is obligatory.

At the end of each stage of training, the candidate's achievements are evaluated by the trainer in a final assessment. If a candidate does not achieve the goal of the second or third stage of training, the President of the German Patent and Trade Mark Office can extend that training stage once for a period of up to two or six months.

Studies of general law. The applicant (candidate) must supplement his training at a patent attorney's or Patentassessor's with a course of studies in general law at a university. For this purpose, the FernUniversität Hagen (Hagen Open University), in co-operation with the Patentanwaltskammer, has set up a special course on "Law for Patent Attorneys".

Context of Industrial Property Right Law. This course aims at providing a basic knowledge of the law as relevant for a patent attorney's later professional career. In the context of the basic courses (e.g. civil law, procedural law, public law) the connection with industrial property right law is made clear. The course offered also covers some subjects specific to patent law, such as the law of licence agreements and procedural law in patent cases, patent infringement and the law applicable to patent attorneys.

Scheme of the course. The two-year course is based on distance learning and can be completed parallel to the training with a patent attorney or Patentassessor. After admission to training, the candidate is invited by the Patentanwaltskammer to the next possible commencement of a course. The course begins with a one-week initial face-to-face phase, which provides an introduction. After a year, there is a one-week event to cover material in more depth, and at the end of the course there is a short two-day seminar. During the entire course of studies, the candidate in the distance-learning course must send in tutor-marked assessments on all the modules offered, and write examinations. The course concludes with an examination consisting of a written and an oral part.



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Admission to training. The applicant (candidate) needs to be admitted to training in the field of industrial property right law. Responsibility for this lies with the German Patent and Trade Mark Office. The application for admission must be accompanied inter alia by a declaration by a patent attorney that he is willing to take on the training. Every two months, the Patentanwaltskammer sends out a circular in which offers and requests for candidacies are published.

Examination for patent attorneys. After training in the field of industrial property right law, the applicant must furnish evidence of his knowledge of the law by passing an examination before an examining board formed at the German Patent and Trade Mark Office. He is admitted to the examination upon application once he has attained the training goal in all training stages. The examination consists of four papers written under invigilation, and an oral examination. When he has passed the examination, he is entitled to call himself a "Patentassessor" (or "Patentassessorin" in the case of female candidates).

Person handling patent matters. Admission to the examination for patent attorneys is also open to anyone with a scientific or technical degree from a university or who has passed a technical training course at a public or state-recognised private engineering school or a comparable technical training institution, has, as his or her primary occupation, carried out activities of an advisory or representative nature in the field of intellectual property protection for an employer, on the basis of a permanent service relationship or similar employment relationship, for a period of at least ten years and still performs such activities, the nature and extent of which are significant, within the territory of the Regulations Governing Patent Attorneys at the time of the application for admission to the examination (section 158 of the Regulations Governing Patent Attorneys). This route to becoming a patent attorney is also open to graduates of technical or scientific courses at universities of applied sciences. The ten-year period is reduced to eight years if the applicant has passed the European qualifying examination for authorised representatives before the European Patent Office. The application for admission to the examination must be made to the German Patent and Trade Mark Office. What documents need to be presented with the application can be found in a leaflet issued by the German Patent and Trade Mark Office.

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Successfully passing the course on "Law for Patent Attorneys" is also a condition for simplified admission to the examination for a person handling patent matters under section 158 of the Regulations Governing Patent Attorneys (PAO). Persons handling patent matters who meet the requirements of PAO section 158 can be admitted to the course if they can show that they have worked for at least five years as persons handling patent matters. The application for admission to the course must be made to the Patentanwaltskammer.

Admission to the patent bar. In order to be able to advise and represent third parties as a patent attorney after passing the examination for patent attorneys, the Patentassessor must be called to the patent bar. In addition to passing the examination for patent attorneys, a condition for admission is that the applicant has worked for at least six months in the office of a free-lance patent attorney. In the case of applicants for admission who have been trained in a free-lance attorney's firm, the training period is set off against this period. It is not possible to set off the training period with a company, not even if it was served with an employed patent attorney.

European qualifying examination. In order also to be able to appear in proceedings before the European Patent Office, it is necessary to pass the European qualifying examination. The European qualifying examination consists of four written examinations, which can be taken in two modules. Admittance to the examination is via the Examination Secretariat of the European Patent Office.

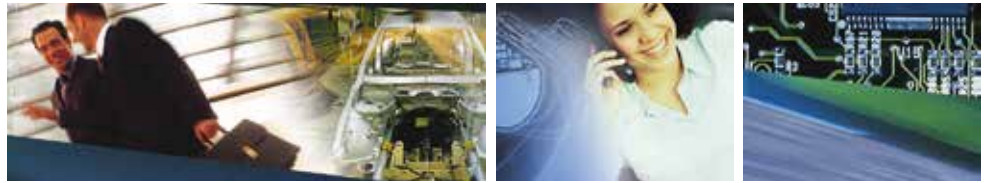
Link to www.epo.org

Remuneration and costs. During his training with a patent attorney or Patentassessor in the patent department of an enterprise, the candidate usually receives payment for his work as a trainee, the amount of which can be freely negotiated between the applicant and the trainer. The Patentanwaltskammer cannot provide any details about standard salaries for candidates.

Costs are incurred for participating in the distance-learning course "Law for Patent Attorneys" at the FernUniversität Hagen. They currently amount to 1,300 euros for



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applicants undergoing training in the field of intellectual property protection law under PAO section 7, and 3,200 euros for persons handling patent matters and preparing for the examination for patent attorneys under PAO section 158. An examination fee of 650 euros is payable for taking the examination for patent attorneys before the German Patent and Trade Mark Office.

During the period of training with the German Patent and Trade Mark Office and at the Federal Patent Court or a patent litigation court, the candidate may, subject to certain conditions, receive a subsistence allowance in the form of a loan upon application.

Legal basis. The training requirements for those wishing to become patent attorneys are laid down in sections 6 ff. of the Regulations Governing Patent Attorneys (PAO), and in the training and examination ordinance for patent attorneys (PatAnwAPrV).

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