

DE P nnnnnnnn yymmdd 8171 AUSSCHIEDUNGS- ODER TEILUNGSANMELDUNG AUS: DE
 P nnnnnnnn'

published in the
 "Patentblatt"
 under section

Teil 1 : OFFENGELEGTE PATENTANMELDUNGEN

i) Verschiedenes

Ausscheidungs- oder Teilungsanmeldungen

(Part 1 : Patent applications laid open
 i) Miscellaneous
 Divisions due to lack of unity or free divisions)

legal basis

Sect. 4 German Patent Law of 1968 (until 31 December 1980)
 Sect. 39, 60 German Patent Law of 1980 (from 1 January 1981)

data in PRS for

All entries in the Patentblatt since number 1/78 from 5 January 1978
 first document affected DE 1775510; first entry in PRS on 13 May 1982

field meaning

yymmdd

Date of issue of the Patentblatt in which the notice is published.

nnnnnnn'

Serial number of the parent application origin of the present divisional application.

code meaning

There are two possible reasons for dividing an application :

- part of the application is divided out at the DPA's request on the grounds of lack of unity ("Ausscheidung")
- the application or the patent is divided during the opposition proceedings on the initiative of the applicant/patent proprietor exercising his freedom to do as he thinks fit (free division - "Teilung").

1. Division on the grounds of lack of unity

This is a process for which there is no provision in the Patent Law, and which is dealt with according to the rules of the *Zivilprozeßrecht* (Code of Civil Procedure) (Section 145 ZPO). Up to 1980 the procedure and time limits were set in accordance with the DPA's guidelines determined by decisions of the courts. Since 1981 the DPA has dealt with division in accordance with the new Section 39 of the Patent Law (see point 2 below). A Federal High Court decision of 10 July 1986 (X ZB 29/84) found that Section 39 was not applicable. The applicant consequently has to meet all the requirements as to form and fee payments within an appropriate time limit to be fixed by the DPA, for the divisional application to be valid. In the event of non-compliance, the divisional application is deemed to have been withdrawn or is rejected. The valid divisional application is accorded the same procedural status as the initial application.

2. Free division

Up to 1980 only foreign applicants were entitled to free division in accordance with Article 4G(2) of the Paris Convention. Domestic applicants were not granted the right of free division. This came about only with the new Patent Law (Section 39) which entered into force on 1 January 1981.

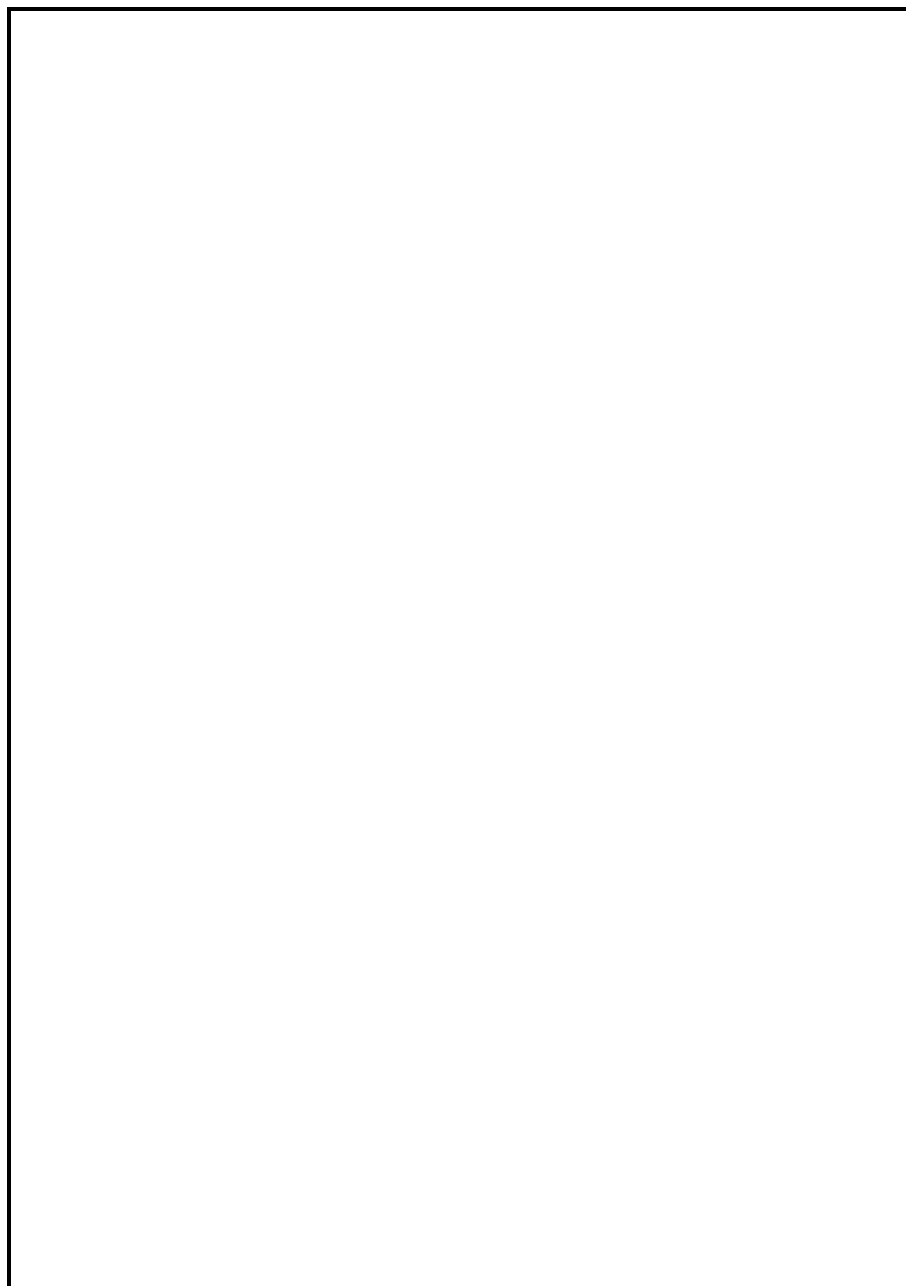
Continued on next sheet ...

see related codes

DE P

example

text in the "Patentblatt"



INPADOC screen or printout

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Your question
DE          4390935
Information about legal status
CC TP DOC.NO. PRSDAT
DE P      4390935 940217 OP8 + PRUEFUNGSANTRAG GEM. PAR. 44 PATG. IST GESTELLT
           -''- RET + PCT-UEBERSETZUNG (ABSCHNITT 6B) WO 940217 P 9318387
           941117 R172 AUSGESCHIEDEN ODER ABGETEILT VON (NACHTRAG): DE P 4345212
           -''- 8171 AUSSCHIEDUNGS- ODER TEILUNGSANMELDUNG AUS: DE P 4345212
           950105 R172 AUSGESCHIEDEN ODER ABGETEILT VON (NACHTRAG): DE P 4345211
           -''- 8171 AUSSCHIEDUNGS- ODER TEILUNGSANMELDUNG AUS: DE P 4345211
WO P      9318387 920304 AA JP 920304 A 92 46897 PRIORITY (PATENT)
           920817 AA JP 920817 A 92 217069 PRIORITY (PATENT)
           930304 AE WO 930304 A 93 JP 9300277 APPL. DATA
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code meaning

... Continued from preceding sheet

The division becomes valid through a declaration by the applicant to the DPA. No action is required on the part of the DPA. One of the divisional applications is continued under the existing file number, while the other (there may of course be more than one) enters separate proceedings in which it is processed as if it had been filed *ab initio*. Procedural steps effected prior to division (laying open for public inspection, request for examination; up to 1980 also publication, etc.) are not repeated. However, the same fees which were paid for the original application (filing and renewal fee; if applicable, examination request and publication fee) are payable within three months of receipt by the DPA of the declaration. Any new application documents must be filed within three months. If the time limit is not observed, the declaration of division is deemed not to have been made. If the declaration of division relates to a patent which is the subject of opposition proceedings (published in Part 3 of the patent bulletin (Patentblatt)), the part divided out reverts to the status of an application for which examination has been requested. Grant is deemed not to have become effective for the part divided out.

No distinction is made in the patent bulletin (Patentblatt) between division on grounds of lack of unity ("Ausscheidung") and division on the applicant's or proprietor's initiative ("Teilung").

Both a forward and backward reference are usually published in the patent bulletin (Patentblatt). As the original application does not necessarily have to have been published, it is possible that there will be no forward reference in the patent bulletin (Patentblatt). In order to ensure that PRS users will always be aware of the connection, INPADOC therefore automatically generates a backward reference (eg DE R171) from each forward reference (eg DE P 8171) and vice versa (eg DE P 8172/ DE P R172) as a precaution. This means that divisions are ordinarily indicated twice in PRS (eg with the forward reference DE P 8171 and DE P R172).

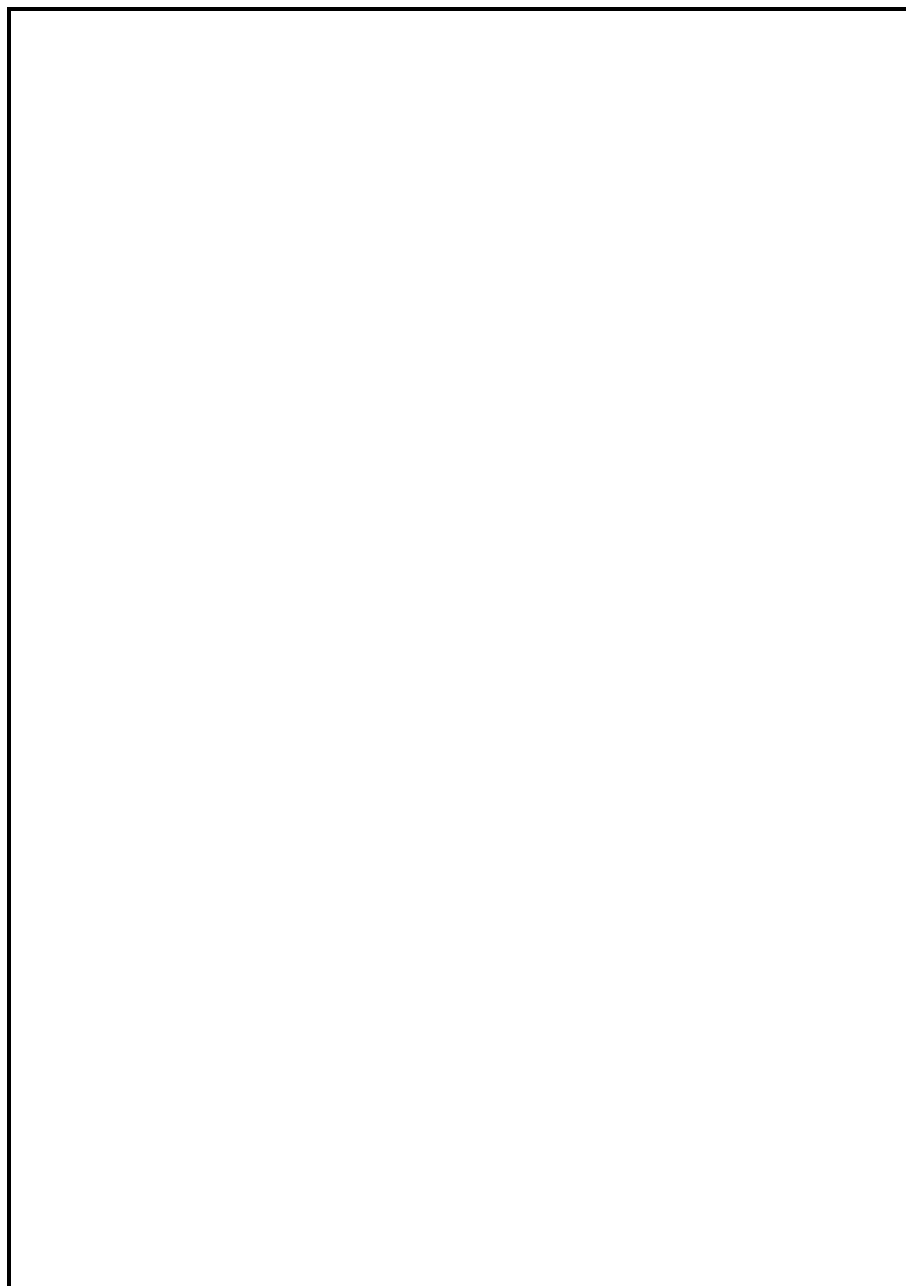
Invalidity of the declaration of division : see code 8142.

see related codes

DE P

example

text in the "Patentblatt"



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