

## Data Protection Information for Inventors, Contact Persons and Clients

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Below you will get a detailed overview, which data about your person – as an inventor, contact person or client – we collect and how we process them. We also inform you about your privacy rights and point out to whom you can refer with questions about the data processing.

### Responsible for data processing:

terpatent  
Patentanwälte und European Patent Attorneys  
ter Smitten Eberlein-Van Hoof Daubert Weingarten  
PartGmbH  
Burgunderstr. 29  
40549 Düsseldorf  
mail@terpatent.de

Concerning questions about this Data Protection Information, processing of your data, your rights or other Data Protection themes, our Data Protection Officer (DPO) would be pleased to help you.

### Contact data of our data protection officer (DPO):

Xamit Bewertungsgesellschaft mbH  
Monschauer Str. 12  
40549 Düsseldorf  
info@xamit.de

## I. Terms and Definitions

Hereinafter it will be spoken a lot of personal data and data processing, but what lies behind these terms?

The terms “personal data” and “processing” are defined in Art. 4 GDPR as follows:

*For the purposes of this Regulation:*

- (1) *‘personal data’ means any information relating to an identified or identifiable natural person (‘data subject’); an identifiable natural person is one who can be identified, directly or indirectly, in particular*

*by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;*

- (2) *'processing' means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.*

## **II. Do I have to provide my personal data?**

As an inventor, contact person or client you are asked to provide personal data within the framework of the business relationship with our client. These data are required for the conclusion and execution of the contract with our client. Mostly we process your data in order to protect our legitimate interests based on a balance of interests (Art. 6 Para 1 Letter f GDPR).

A part of data will be processed based on legal obligations, which result for example from obligations of patent laws. Without processing your data, it is impossible for us to deliver our services completely.

Please note that, if you provide information about other (further) persons, you must have previously obtained their consent and informed them about the purpose of the disclosure, as set out in this Data Protection Information.

## **III. Which data will be processed?**

In this section, you will get information about cases in which personal data are used, and a description about the purposes of processing in association with legal bases.

Depending on the order, we receive your data directly from you or from your employer being in a client relationship with us. In several cases we also receive your data from other patent attorneys, e.g. change of mandate, or if we are engaged by them as communicating attorneys in order to provide our services to their own clients.

To obtain a better overview we structured the following information in "contact persons", "clients" and "inventors", because not all these roles require processing of the same data and for the same purposes. If you hold different roles, the relevant chapters will all be valid for you.

## **1. Processing personal data of contact persons**

### **Purposes of processing**

If you – as a contact person – support one of our clients in contract processing or attend one of our inventors, when using our services, we need your data for communication in order to fulfil the aforementioned purposes of this Data Protection Information. We then process the following data: salutation, first name, family name, contact data, company name.

### **Legal basis**

We process your data for the interests explained above, in order to fulfil the purposes mentioned in this Data Protection Information (Art. 6 Para 1 Letter f GDPR).

## **2. Processing personal data of clients**

### **a) Order registration, billing and receivables management**

#### **Purposes for processing**

We process your data in the framework of our business relationship for purposes of order registration, billing and prosecution of claims.

#### **Legal basis**

The legal basis for processing your data for the purposes mentioned above is the performance of a contract (Art. 6 Para 1 Letter b GDPR).

### **b) Providing our services**

#### **Purposes for processing**

We process your data in the framework of our business relationship in order to provide the services agreed with you (e.g. preparation, filing and further support of/with intellectual property (IP) right applications, authorisation verification for IP right applications, prevention against and investigation of IP right infringements, defending your IP rights in case of an action of annulment or patent challenges, IP related searches in Germany, Europe and worldwide, notification and administration of your IP orders and requests, etc.).

## Legal basis

The legal basis for processing your data for the purposes mentioned above is the performance of a contract (Art. 6 Para 1 Letter b GDPR).

## Overview of used data

Data	purpose 2a)	purpose 2b)
First name	X	X
Family name	X	X
Salutation	X	X
Address	X	X
Company name	X	X
E-mail address	X	X
Phone number	X	X
Fax number	X	X
Invoice address	X	
Client number	X	X
Order data	X	
Order no./ File no.	X	X
Kind of order	X	X
Invoice date	X	
Invoice position	X	
Invoice no.	X	
Service period	X	
VAT ID	X	
Bank details	X	
Contract conditions	X	
Date of report		X
Trademark, design or patent number	X	X
Status of trademark, design, patent application		X
Working documentation		X
Records of meetings		X

## **3. Processing personal data of inventors**

### **a) Typical patent attorney services**

#### **Purposes of processing**

We process your data for purpose of providing our services to our clients (e.g. preparation, filing and further support of/with IP right applications, authorisation verification for IP right applications, prevention against and investigation of IP right infringements, defending your IP rights in case of an action of annulment or patent challenges, IP related searches in Germany, Europe and worldwide, notification and administration of your IP orders and requests, etc.). This includes especially designating you as an inventor at the respective IP authorities.

#### **Legal basis**

Law defines a substantial part of the manner of providing our services. The legal basis for processing your personal data for purposes as mentioned above is to preserve the legitimate interests of our clients, regarding our service delivery, and our legitimate interest to fulfil the contract with our clients as well as the compliance with legal provisions (Art. 6 Para 1 Letter f GDPR). If law explicitly orders or allows the processing of your personal data, we process your data in the framework of these legal provisions (Art. 6 Para 1 Letter c GDPR). It depends on the country in which the property right should be registered, which provisions will take effect.

### **b) Calculation of bonuses/compensations for inventions**

#### **Purposes of processing**

You will get bonuses for the submission of inventions as well as compensations for granted IP rights from your employer. We process your data in order to calculate these bonuses and compensations.

#### **Legal basis**

The legal basis for processing your data is your employee relationship with our client (§ 26 Para 1 German Federal Data Protection Act (Bundesdatenschutzgesetz or BDSG)).

## Overview of used data

Data	purpose 3a)	purpose 3b)
First name	x	x
Family name	x	x
Salutation	x	x
Address	x	x
E-mail address	x	
Phone number	x	
Company name	x	x
Personal number		x
Invention	x	x
Date of invention	x	x
Date of patent application	x	x
Date of patent registration	x	x
Patent number	x	x
Status of patent application	x	x
Working documentation	x	
Records of meetings	x	

## 4. Processing data of inventors, contact persons and clients as communicating attorneys

### Purposes of processing

We process your data, if we receive them from your patent attorney, which attends you in your country in order to apply your IP rights in Germany or to execute other connected services representatively.

### Legal basis

Processing your data serves the purpose of protecting our legitimate interests in order to fulfil the contract with our partners, which engaged us for providing our services to you representatively (Art. 6 Para 1 Letter f GDPR).

### Origin of data

We receive your data from your attending patent attorneys.

## 5. Other purposes of processing

Additional to the purposes described up to here, the personal data mentioned above will be processed for the following purposes in order to protect our legitimate interests based on a balance of interests (Art. 6 Para 1 Letter f GDPR):

- In case of a security incident in our company concerning your data, we are obliged to inform the Data Protection Authority in charge about it (Art. 33 GDPR). As it is our legitimate interest to comply this legal obligation immediately, possibly data may be processed during clearing up of the concerned security incident. Reports to the Data Protection Authority do not contain any personal data.
- As it is our interest to ensure the security of our systems, we regularly conduct security and efficiency tests that allow us to process your above-mentioned data.
- Since it is our interest to solve legal disputes, we process your data in that specific case. It is also in our interest, in the event of litigation, to keep evidence until all relevant statutory limitation periods pursuant according to sections 195 and following of the German Civil Code have expired. For this purpose, we retain the relevant data about you in accordance with these limitation periods. The retention periods cannot be globally predicted, since they depend on the particular matter in dispute and the respective statutory limitation period, which can be up to 30 years. The regular limitation period is three years.
- In addition, it is our interest to investigate suspected cases and to hand over relevant information to law enforcement authorities in case of a specific criminal suspicion.
- For meeting our tax-law obligations, we engage tax counsellors. Thereby documents containing your personal data might be regarded. As it is our interest to fulfil tax and legal obligations, we only process data for a specific purpose in these cases.
- It is also in our interest to solve legal disputes. Thus, if a dispute occurs, the data necessary for prosecution will be processed.
- We perform (internal) audits and other control activities (e.g. data protection officer's monitoring activities), because it is our legitimate interest to comply with legal provisions, to obtain transparency about our business processes, to constantly optimise these processes and to

prevent and identify harmful acts against our business. In doing so, documents or data sets with your personal data may be processed.

- We process your data for purposes of managing our company, for identification and persecution of financial risks, for concentrating our marketing activities and for fulfilment of (contractual) obligations against our clients, respectively inventors. Therefore, the processed data will be evaluated for reports. The processing takes place for protecting our legitimate interests in company and sales management as well as for fulfilment of our obligations to our clients and the inventors.
- We process your contact data for sending you Christmas wishes - because it is our legitimate interest to thank you for your cooperation within our business relationship.
- We process your data for testing IT systems and software products and for migrations. The processing is necessary for satisfying our legitimate interest in evaluating if new products function correctly and if migrations are complete.

#### **IV. Information about automated individual decisions**

No automated individual decisions according to Art. 21 GDPR will take place.

#### **V. When will the processed data be erased?**

We process your data as long as it is necessary for the fulfilment of the mentioned purposes. Please be aware that IP right applications and the resulting IP rights can be in force for many years. For example, the maximum term of a patent in general is 20 years. The term of protection of trademarks is even unlimited.

If there are legal retention periods, the erasure will take place within 1 year after expiration of this retention period. For example, the German law on patent attorneys requires a retention period of 6 years for reference files, and the German Commercial Code (HGB) requires a retention period of 10 years for commercial files.

For the preservation of our legal positions and for the involved retention of evidence, it can be necessary to keep data until the expiration of the retention period pursuant to §§ 195ff. German Civil Code (BGB).



## **VI. Who receives your data?**

The following list shows which organisations ("data recipients") receive your data. You can read about the specific data in the corresponding sections of this data protection notice. Transfer of your data may sometimes occur due to contractual or legal requirements. In other cases, we use selected vicarious agents and service providers who work for us as commissioned data processors (in accordance with Art. 28 GDPR) and may obtain access to your data in the required scope. Commissioned data processors are subject to numerous contractual obligations and may, in particular, process your personal data only on our instructions and solely for the fulfilment of the orders received from us.

- Auditors
- Banks, payment providers
- Communicating attorneys (attorneys-at-law and patent attorneys in the home country and abroad)
- Courts of justice, opposing attorneys, authorities (especially patent and trademark offices), contract partners, consultants, business partners, opposing parties
- Data Protection Officer
- IT service providers
- Patent registers
- Police, attorneys-at-law, law enforcement agencies, public prosecutor's office, German State or Federal Criminal Police Office
- Recipient's e-mail provider
- Service providers for debt collection
- Service providers for mailing and logistics
- Service providers for mass file destruction
- Service providers for online monitoring of foreign IP rights
- Service providers for telecommunication
- Tax authorities
- Tax counsellors

## VII. Transfer of your data to a third country outside the European Union

Regarding the circumstances of an individual case, which is connected with our obligations towards clients and inventors or your role as a contact person, we may transfer your personal data into a third country (i.e. a country outside the European Union (EU) and the European Economic Area (EEA)). This is the case if it is necessary for providing our services (e.g. application of IP rights). Your data will be transferred to a third country in order to perform the contract with you if you are our client (Art. 49 Para 1 Letter b GDPR), or for performance of the contract that has been concluded in your interest between us and our client respectively (Art. 49 Para 1 Letter c GDPR) if you are an inventor or contact person.

Furthermore, our IT service providers in the EU have affiliates or subcontractors outside the EU that can access your data. The EU Commission determines which non-EU/EEA countries (third countries) have an adequate level of data protection. Our service provider is responsible for using EU standard contractual clauses in accordance with Commission Decision No. (EU) 2021/914. A model of these EU standard contractual clauses can be found on the websites of the EU Commissioner for Justice and in the Official Journal of the EU.

## VIII. Your rights

You have the legal right to:

- **Access** the personal data stored about you (Art. 15 GDPR)
- **Rectification and completion** of your data (Art. 16 GDPR)
- **Erase** (Art. 17 GDPR)
- **Restriction of processing** (Art. 18 GDPR)
- **Data portability** (Art. 20 GDPR)
- Withdrawal of your **consent** (Art. 7 GDPR) with effect for the future. The withdrawal of consent will not affect the lawfulness of processing based on consent before its withdrawal.
- Demonstration of your own point of view and refutation of an automated decision (Art. 22 GDPR).

- **Objection** to the processing of your data in order to protect our legitimate interests or the legitimate interests of third parties (Art. 21 GDPR) – You have the right, for reasons arising from your particular situation, to object to such processing at any time; this also applies to profiling based on these provisions within the meaning of Art. 4 Para 4 GDPR.
- **Objection to direct advertising:** At any time and without giving reasons you have the right to object to the processing of your data for purposes of direct advertising.

For practising these rights, you can refer to us directly by using the contact data mentioned above.

You also have the legal right to lodge a complaint with a data protection supervisory authority (Art. 77 GDPR).