

Abstract:
“History of Patent Law in the Federal Republic of Germany 1949–1990”

The presentation will be about the history of the patent law in the Federal Republic of Germany from 1949–1990.

The establishment of a new Federal Patent Office in Munich in 1949 marked the end of the “time without patent office” (“patentamtslose Zeit”) in the year one of the Federal Republic of Germany.

Legislature and judiciary at this time still had to deal with the issue of the validity of remaining German patents from wartime. The rapid growth of the West German economy (“Wirtschaftswunder”) called for a modernisation of the Patents Act. A first attempt in this regard took place in 1953. The “Grundgesetz” (Federal Constitution of 1949) established several other legal requirements. The constitutional state and its division of powers necessitated a Federal Patent Court, founded in 1961.

The Bundestag passed a new reform of the Patent Law in 1967. Even though it originally was planned to be nothing more than a “preliminary law” (“Vorabgesetz”), many parts of it are valid to this day. A planned “Federal Patent Law” was never enacted. However, international treaties and the growing influence of the European Law meant massive changes for the West German Patent Laws in the years to come. The most important changes were the establishment of the European Patent Organisation and the European Patent Office in Munich in 1977. The Federal Constitutional Court and the European Commission dictated some minor legal guidelines.

The ever growing legal field of study of intellectual property in Germany has served as an important counsel and proponent of enlightenment in all those years.

The history of the German patent law is also a history of growing internationalisation, the reactions to the challenges of technical progress, the needs of a modern industrial society and the struggle for “one right” which is still ongoing.

This presentation is meant to be a humble attempt to illustrate this important chapter of German legal history.