

Information on the requirements of inventive step and sufficiency of disclosure

Inventive Step

(i) Definition of a person skilled in the art

Guidelines for patent search and examination:

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Part B – Patentability B-1; Chapter B-II. Patentability criteria; 7. 3. Inventive step

(ii) methodologies employed for evaluating the inventive step

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Part B – Patentability B-1; Chapter B-II. Patentability criteria; 7. Inventive step

7.4 Obviousness B-II:10

7.5 Combination vs. juxtaposition or aggregation B-II:11

7.6 Origin of an invention B-II:11

7.7 Problem-and-solution approach B-II:12

(iii) having regard to the prior art, the level of inventiveness to meet the inventive step requirement

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Part B – Patentability B-1; Chapter B-II. Patentability criteria; 7. Inventive step

7.8 Combining prior-art documents B-II:14

7.9 Indicators of inventive step B-II:15

7.10 Arguments and evidence submitted by the applicant B-II:15

Sufficiency of disclosure

This subject matter could be found in the Patent Act, Patent Regulation as well as in Guidelines for patent search and examination, as explained below:

Patent Act

Content of the Patent Application

Article 20

(1) The patent application shall contain:

1. a request for the grant of a patent,
2. a description of the invention,
3. one or more claims for the protection of the invention (hereinafter: claims),
4. any drawings referred to in the description or the claims, and
5. an abstract of the invention.

(2) A request for the grant of a patent shall contain: an express indication that the grant of a patent is applied for, the title of the invention expressing the essence of the invention and information concerning the applicant.

(3) In the event the inventor does not wish to be mentioned in the application, a written declaration shall be filed with the Office not later than 4 months from the filing date of the application.

(4) **The patent application must disclose the invention in a manner sufficiently clear and precise for it to be carried out by a person skilled in the art.**

(5) If the invention concerns viable biological material which **cannot be disclosed in a manner enabling it to be carried out by a person skilled in the art, the application must be accompanied by proof to the effect that a sample of such material has been deposited with the competent institution not later than on the filing date of the patent application.**

(6) The competent institution referred to in paragraph (5) of this Article shall be considered an institution which complies with the requirements prescribed by the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure of 28 April 1977 and last revised on 26 September 1980.

(7) The claims shall define the subject matter the protection of which has been applied for. **The claims shall be clear and concise and fully supported by the description.** Patent claims may be independent and dependent. Independent claims shall contain new and essential characteristics of an invention. Dependent claims shall contain specific characteristics of the invention as defined in an independent or other dependent claim.

(8) The abstract shall be a short summary of the essence of an invention serving exclusively for the purpose of technical information.

(9) The content and manner of drafting particular elements of the patent application and other details concerning the deposit of viable biological materials referred to in paragraph (5) of this Article shall be defined by the Regulations.

Patent Regulations

DESCRIPTION OF THE INVENTION

Article 5

(1) The description of the invention shall be drafted in the manner and order as prescribed by this Article.

(2) The description shall first state the title of the invention as appearing in the request and shall:

1. specify the technical field to which the invention relates (indicating the classification symbol according to the International Patent Classification, if known to the applicant);

2. indicate the technical problem for the solution of which patent protection is sought;
3. indicate the state of the art (description and analysis of known solutions to the technical problem concerned) presented in the scope known to the applicant, and necessary for the understanding of the invention and examination of the application, and, shall preferably cite the patent documents and other sources reflecting such art;
4. disclose the essence of the invention in such terms that the technical problem and its solution can be understood and state the technical novelty of the invention with reference to the prior state of the art;
5. briefly describe the drawings, if any;
6. describe in details at least one mode for carrying out the invention, with providing an example and with reference to the drawings, if any;
7. indicate, where it is not obvious from the description or nature of the invention, the way in which the invention is capable of industrial or any other application.

(3) Each of the constituent parts referred to in paragraph (2) of this Article shall preferably be preceded by an appropriate heading. In exceptional cases, a different manner and order of drafting the description shall be followed when, because of the nature of the invention, such order would afford a better understanding and a more economical presentation.

(4) The solution to the technical problem disclosed in the description of the invention:

1. shall be free of any allegations or assumptions, and all the essential characteristics of the invention shall be presented clearly and precisely so that it could be carried out by the person skilled in the art.
2. where the invention relates to a process, it shall include all its essential characteristics, so that the process feasibility is completely shown, which must be proved by providing examples;
3. where the invention relates to a design and it is shown on a drawing, it shall include a detailed description of the design solution referring to the drawing, and as the proof of its capability of being carried out, it is necessary to describe the manner of functioning of both the particular essential elements of the design and the design itself;
4. where there are several modes for carrying out the invention it shall contain their description.

PATENT CLAIMS

Article 6

(1) The patent claims shall be drafted in a manner to define the invention exclusively by its technical features.

(2) The number of the patent claims shall be reasonable in consideration of the nature of the invention claimed. If there are several patent claims, they shall be numbered consecutively in Arabic numerals.

(3) The patent claims shall, whenever possible, contain:

1. introductory part beginning with the title of the invention, followed by those technical features of the invention which are necessary for the definition of the claimed subject matter and which, in combination, form part of the prior art

2. the second, characteristic portion of the claim, preceded by the words “characterized in that” or “characterized by” indicating those technical features of the invention for which, in combination with the technical features of the prior art referred to in item 1, paragraph 3 of this Article, the patent protection is applied for.

(4) Where the requirement concerning the unity of the invention referred to in Article 18 of the Act has been complied with, and where the subject matter of the invention cannot be covered by one claim, the patent application may contain several independent claims of the same category (product, process, apparatus, application).

(5) Any claim indicating essential features of the invention may be accompanied by one or more dependent claims referring to specific features of the invention.

(6) The dependent claim shall include specific features of the invention of some other (dependent or independent) claim and, shall, if possible, in the beginning refer to the other claim or claims and shall then state the additional features claimed. All the dependent claims referring to a single previous claim, and all the dependent claims referring to several previous claims, shall be grouped together to the extent that the relation between mutually dependent claims is easily detected and that their importance in such relation is easily interpreted.

(7) Claims shall not, except where absolutely necessary, rely, in respect of the technical features of the invention, on references to the description or drawings. In particular, they shall not rely on such references as: “as described in part ... of the description”, or “as illustrated in figure ... of the drawings”.

(8) Where the patent application contains drawings, the technical features mentioned in the claims shall preferably be followed by reference signs relating to such features. When used, the reference signs shall preferably be placed between parentheses. If inclusion of reference signs does not particularly facilitate understanding of a claim, they should not be made. Reference signs shall not be interpreted as limiting the claims.

(9) A single inventive concept shall exist where several inventions are so linked that there is among those inventions a technical relationship, which involves one or more of the same or corresponding special technical features. The expression “special technical features” shall mean those technical features that define a contribution, which each of the claimed inventions, considered as a whole, makes over the state of the art. The determination whether a group of inventions is so linked as to form a single inventive concept shall be made without regard to whether the inventions are claimed in separate claims or as alternatives within a single claim.

THE DRAWINGS

Article 7

(1) On sheets containing drawings, the surface usable shall not exceed 26.2 cm x 17.0 cm and. the sheets shall not contain frames around the usable or used surface. The minimum margins shall be as follows::

- top: 2.5 cm
- left side: 2.5 cm
- right side: 1.5 cm
- bottom: 1 cm.

(2) The drawings shall be executed in a manner that:

1. the lines are uniformly thick, black, well-defined and durable, and surfaces between them without colorings or shades;
2. cross-sections are indicated by oblique hatching which shall not impede the clear reading of the leading lines and reference signs;
3. the scale of the drawings and the distinctness of their graphical execution are such that a photographic reproduction with a reduction in size would enable all the details to be distinguished without difficulty;
4. all the numbers, letters and reference signs appearing on the figures are simple and clear, brackets, circles or inverted commas are not to be used in association with numbers and letters;
5. elements in the figure must be in proportion to each other, except where the use of a different proportion is indispensable for the better clarity of the figure;
6. the height of the numbers and letters is not less than 0.32 cm; for the lettering of drawings, the Latin and, where customary, the Greek alphabets shall be used;
7. the same sheet of drawings may contain several figures; where figures drawn on two or more sheets form a single complete figure, the figures on the several sheets shall be so arranged that the whole figure can be assembled without concealing or overlapping any part of the figure appearing on different sheets; the different figures on a sheet shall be arranged one below another, clearly separated from one another, but without a larger free space between each other; the different figures shall be numbered consecutively in Arabic numerals, independently of the numbering of the sheets;
8. reference signs not mentioned in the description do not appear in the drawings, and vice versa;
9. the same features, when denoted by reference signs, are to be denoted by the same signs throughout the application;
10. if the drawings contain a large number of reference signs, it is recommended to attach a separate sheet, listing all the reference signs and the features denoted by them;
11. the drawings must not contain textual parts, except, when indispensable, simple words such as "water", "steam", "open", "closed", "section A-B" or, in the case of block schematic or flow sheet diagrams, a few short catchwords indispensable for understanding the text.

(3) The drawings shall be produced by means of instruments enabling the production of drawings in compliance with paragraph 2 of this Article.

THE ABSTRACT

Article 8

(1) The abstract shall contain the title of the invention and a brief summary of the disclosure as contained in the description, the claims, and the drawings. The summary shall indicate the technical field to which the invention relates and shall allow a clear understanding of the technical problem concerned, the gist of the solution to that problem, and the principle use or uses of the invention.

Where appropriate, the abstract shall contain the chemical formula, which, among all the formulae contained in the application, best characterizes the invention.

(2) The abstract shall not contain statements on the alleged merits or value of the invention or on its speculative application.

(3) If the patent application contains any drawings, the applicant shall indicate the figure or, exceptionally, several figures of the drawings, which he suggests, should accompany the abstract when published. The Office may decide to publish other figure or several other figures if it considers that they better characterize the invention. All the main features of the invention mentioned in the abstract and illustrated by the drawings shall be followed by reference signs placed between brackets.

(4)
The abstract shall be so drafted that it can serve as an efficient searching tool in the particular technical field, especially as assistance in formulating an opinion on whether there is a need for consulting the patent application itself.

(5)
The abstract shall not contain more than 150 words.

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