



Casablanca, 27/02/2015

Subject: reply to C.8403
Enclosures: 1

Dear Sir,

In response to your letter, C.8403, please find attached information on the criteria for inventive step and sufficiency of disclosure.

Inventive step

i) Definition of a “person skilled in the art”

Article 28 of Law 17-97 as amended and supplemented by Law 23-13 (annexed hereto) stipulates that an invention shall be considered to involve an inventive step provided that it is not obvious to a person skilled in the art from the state of the art.

A "person skilled in the art" is defined* as a practitioner in the relevant technical field, possessing average knowledge and ability and general knowledge of the field on a given date. He should also be presumed to have had access to all of the prior art, in particular the documents cited in the search report, and to have had at his disposal the means and capacity for routine work and experimentation which are normal for the field of technology in question. If the problem prompts the person skilled in the art to seek a solution in another technical field, the specialist in that field is the person qualified to solve the problem. The skilled person is involved in constant development in his technical field. He may be expected to look for suggestions in neighboring and general technical fields or even in remote technical fields, if prompted to do so. Assessment of whether the solution involves an inventive step must therefore be based on that specialist's knowledge and ability. There may be instances where it is more appropriate to approach a group of persons, e.g. a research or production team, rather than a single person. It should be borne in mind that the skilled person has the same level of skill for assessing inventive step and sufficiency of disclosure.

*definition adapted from EPO Guidelines

ii) Evaluating the inventive step

To assess the inventive step, OMPIC uses a problem-solution approach, as outlined in the following steps:

- a. Identify the most relevant state of the art;
- b. Identify the difference from the state of the art;

- c. Isolate the technical effect in relation to the difference;
- d. Establish the “objective technical problem” to be resolved;
- e. Examine whether the invention would have been obvious for a person skilled in the art taking into account the technical problem and the most relevant prior art.

iii) Level of inventiveness (obviousness) required for fulfilling the inventive step criteria for a given state of the art

The state of the art is defined by Article 26 as consisting of everything made available to the public by means of a written or oral description, use or any other means before the filing date of the patent application in Morocco and, where a priority has been claimed, before the priority date.

The term “obviousness” refers to the extent of the normal progress of technology, in that it merely follows plainly or logically from the prior art, i.e., the invention does not involve the exercise of any skill or ability beyond what is expected of a person skilled in the art.

Sufficiency of disclosure

i) Requirement for sufficiency of disclosure

Article 34 of Law 17-97 as amended and supplemented by Law 23-13 provides that the description must disclose the invention in a sufficiently clear and complete manner, supplying sufficient detail for a person skilled in the art to execute the invention understood by the inventor at the date of filing without undue experimentation.

ii) Requirement for claims to be based on the description

Pursuant to Article 35 of Law 17-97 as amended and supplemented by Law 23-13, a claim may not, unless absolutely necessary, rely on mere references to the description or drawings to express the technical features of the invention. A claimed invention is sufficiently substantiated by disclosed information where that information reasonably demonstrates to a person skilled in the art that the applicant was in possession of the claimed invention on the filing date of the patent application.

iii) Requirements for the written description

Pursuant to Article 34 of Law 23-13 amending and supplementing Law 17-97, the description must disclose the invention in a sufficiently clear and complete manner and include:

- an indication of the relevant technical field;
- an indication of the prior art known to the applicant and regarded as potentially of use in understanding the invention;
- a statement presenting the invention, as characterized in the claims, to enable an understanding of the technical problem and the solution provided by the invention; its advantages in relation to the prior art, where applicable;

- a brief description of the drawings, where applicable;
- a detailed statement containing at least one embodiment of the invention; the statement should, in principle, contain examples and references to the drawings, where applicable;
- an indication of the industrial applicability of the invention, where such applicability is not obvious from the description or the nature of the invention.

Yours sincerely,

Annex:

Articles of Law 17-97 as amended and supplemented by Law 23-13

Article 26

An invention shall be considered to be new if it does not form part of the state of the art.

The state of the art shall consist of everything made available to the public by means of a written or oral description, by use or in any other way before the date of filing of the patent application in Morocco, where a priority has been claimed, before the priority date.

The content of patent applications filed in Morocco on a date earlier than that mentioned in the second paragraph hereof and only published on that date or later shall also be considered as forming part of the prior art.

The second and third paragraphs above shall not exclude the patentability of a substance or composition included in the prior art for implementing a method covered by Article 24(1)(b) above, provided that its use for any one of these methods does not form part of the prior art.

Nor shall the second and third paragraphs above exclude the patentability of a substance or composition covered by the fourth paragraph for any specific use in a method provided for in Article 24(b), provided that such use does not form part of the prior art.

Article 28

An invention shall be considered to involve an inventive step if it is not obvious to a person skilled in the art from the state of the art.

Where the state of the art also contains documents covered by the third paragraph of Article 26, above, those documents shall not be taken into account when assessing the inventive step.

Article 34

The description shall include:

- 1) an indication of the relevant technical field;
- 2) an indication of the prior art known to the applicant and regarded as potentially of use in understanding the invention;
- 3) a statement presenting the invention, as described in the claims, to enable an understanding of the technical problem and the solution provided by the invention; its advantages in relation to the prior art, where applicable;
- 4) a brief description of the drawings, where applicable;
- 5) a detailed statement containing at least one embodiment of the invention; the statement should, in principle, contain examples and references to the drawings, where applicable;
- 6) an indication of the industrial applicability of the invention, where such applicability is not obvious from the description or the nature of the invention.

The description shall disclose the invention in a sufficiently clear and complete manner, supplying sufficient detail for a person skilled in the art to produce without undue experimentation the invention understood by the inventor on the filing date.

Where an invention relates to the use of a microorganism to which the public has not had access and which cannot be described in a way that would allow a person skilled in the art to produce the invention, the description shall be deemed insufficient except where the microorganism has been the subject of a filing with a competent institution. The application of this paragraph shall be established by regulation.

Article 35

The claims shall define the subject of the protection requested by indicating the technical characteristics of the invention. Unless absolutely necessary, a claim may not rely on mere references to the description or drawings to express the technical features of the invention.

Claims must be clear and concise and be based on the description.

A claimed invention is sufficiently substantiated by disclosed information where that information reasonably demonstrates to a person skilled in the art that the applicant was in possession of the claimed invention on the date of filing of the patent application.