Europäisches Patentamt
European Patent Office
Office européen des brevets

Learning path for patent examiners

Amendments:
Advanced level

Version: July 2026



Introduction

This publication, "Amendments, Advanced level", is part of the "Learning path for patent examiners" series edited and published by the European Patent Academy. The series is intended for patent examiners at national patent offices who are taking part in training organised by the European Patent Office (EPO). It is also freely available to the public for independent learning.

Topics covered include novelty, inventive step, clarity, unity of invention, sufficiency of disclosure, amendments and search. Also addressed are patenting issues specific to certain technical fields:

- patentability exceptions and exclusions in biotechnology
- assessment of novelty, inventive step, clarity, sufficiency of disclosure and unity of invention for chemical inventions
- the patentability of computer-implemented inventions, business methods, game rules, mathematics and its applications, presentations of information, graphical user interfaces and programs for computers
- claim formulation for computer-implemented inventions

Each publication focuses on one topic at entry, intermediate or advanced level. The explanations and examples are based on the European Patent Convention, the Guidelines for Examination in the EPO and selected decisions of the EPO's boards of appeal. References are made to the Patent Cooperation Treaty and its Regulations whenever appropriate.

The series will be revised annually to ensure it remains up to date.

Disclaimer

This publication is for training and information purposes only. Although it has been prepared with great care, it cannot be guaranteed that the information it contains is accurate and up to date; nor is it meant to be a comprehensive study or a source of legal advice. The EPO is not liable for any losses, damages, costs, third-party liabilities or expenses arising from any error in data or other information provided in this publication.

The opinions expressed in this publication are not necessarily those of the EPO.

This publication may be used and reproduced for non-commercial purposes, provided that the EPO and the contributors are appropriately acknowledged. Reproduction for commercial purposes is not permitted.

All references to natural persons are to be understood as applying to all genders.

Contents

1. Learning objectives 4

2. Examining division's consent for amendments 4

3. Amendments related to unsearched matter 5

4. Amendments derived from the drawings 6

5. Amendment of ranges 8

6. Selections from lists 9

7. Late-filed requests for amendments 10

8. Clear allowability requirement 11

9. The Article 123(2)/123(3) EPC trap 12

10. Amendments in limitation proceedings 12

11. Correcting errors 14

12. Beyond the course 16

Legal references

R. 137(3) EPC, GL C-IV, GL H-II, 2.3 5

R. 137(5) EPC, GL H-II, 6 6

GL H-V, 6 7

GL H-V, 3.5 9

GL H-V, 3.2.1 10

R. 116 EPC, GL E-VI, 2.1, GL E-VI, 2.2, GL H-II, 3.5, GL E-III, 8.6 11

GL H-II, 2.7.1 11

Art. 123 (2), (3) EPC, GL H-IV, 3.5, G 1/93 12

R. 95(2) EPC, GL D-X, 4 14

R. 139 EPC, Art. 140 EPC, GL H-VI 16

1. Learning objectives

Participants to this course will learn:

- How to evaluate admissibility and allowability of amendments in complex cases
- The criteria for amendments of ranges
- The principles of the inescapable trap linked to Articles 123(2) and 123(3) EPC
- What are the requirements for amendments in limitation proceedings at the EPO
- The conditions to allow correction of errors

2. Examining division's consent for amendments

After receiving the European search report and the search opinion, applicants must respond to the search opinion and may amend the description, claims and drawings of their own volition, provided that the amendment and their reply are filed within the time limit for response.

In specific cases, after receiving the first communication from the examining division in examination proceedings, applicants may, "of their own volition, amend once the description, claims and drawings, provided that the amendment and the reply are filed within the time limit for replying to that communication" (see Guidelines, H-II, 2.2).

After this, the prosecution of further amendments proposed by the applicant is within the **discretion** of the examining division (Rule 137(3) EPC). Giving the examining division this discretion is intended to ensure that the examination procedure is brought to a close in as few actions as possible.

In exercising its discretion, the examining division must consider all relevant factors; in particular, it must **balance the applicant's interest in obtaining a patent which is legally valid and the EPO's interest in bringing the examination procedure to a close in an effective way**.

The exercise of discretion to refuse amendments under Rule 137(3) EPC must be reasoned.

If an amendment is admitted, subsequent proceedings are based on the description, claims and drawings as amended. Admitting an amendment does not necessarily imply that the application as amended is allowable, i.e. free from any objection under the EPC.

In exercising its discretion under Rule 137(3) EPC, the examining division will take into account the circumstances of each individual case and the stage of the proceedings which the application has reached to date. A further important element is whether the applicant has already had sufficient opportunity to make amendments. In particular, amendments re-introducing deficiencies previously pointed out by the examining division and removed by the applicant are not admitted.

If amendments clearly remedy a deficiency in response to the preceding communication, they are always admitted, provided they do not give rise to some new deficiency.

Auxiliary requests

The discretion of the examining division to admit amendments also applies to auxiliary requests. The examining division must, when exercising its discretion under Rule 137(3) EPC not to admit one or more auxiliary requests, balance the interests of the applicant and procedural efficiency. Thus, an auxiliary request which contains minor deficiencies but otherwise complies with the requirements of the EPC is normally admitted into the procedure.

When deciding on the admissibility of auxiliary requests, the discretion is exercised for each of the requests since each request is in fact a set of amended claims.

Auxiliary requests re-introducing subject-matter which has already been considered unallowable and has been removed by the applicant will not be admitted. The same may apply to auxiliary requests introducing new deficiencies.

Opposition proceedings

Rule 137(3) EPC is not applicable in opposition proceedings; it refers only to the examining division. In opposition proceedings, Article 114 and Rule 116 EPC are applicable in relation to the division's discretion to accept (late-filed) amendments.

Examples

The examining division has raised an objection under Article 123(2) EPC indicating that a feature introduced into the claims extends the subject-matter of the application as filed.

Unless the applicant is able to demonstrate, to the examining division's satisfaction, that the application as filed disclosed this feature directly and unambiguously, the examining division will normally not admit any further set of claims containing the feature in question (Rule 137(3) EPC).

Legal references:

R. 137(3) EPC, GL C-IV, GL H-II, 2.3

3. Amendments related to unsearched matter

Under Rule 137(5) EPC, amended claims may not relate to **unsearched** subject-matter which **does not combine** with the originally claimed invention or group of inventions to form a single general inventive concept. Nor may they relate to subject-matter not searched in accordance with Rule 62a or Rule 63 EPC.

Rule 137(5), first sentence, EPC

Within the framework of Article 123(2) and Article 82 EPC, Rule 137(5), first sentence, EPC should be construed as permitting any limitation of searched subject-matter which is unitary with the originally claimed subject-matter, irrespective of whether the technical feature(s) used for the limitation has/have been actually searched.

In order to assess whether or not amended claims fulfil the requirements of Rule 137(5), first sentence, EPC, the examining division needs to establish:

1. whether or not the subject-matter to which they relate has or should have been searched
2. whether or not an objection of lack of unity would have been raised if the amended claims had been present in the set of claims on file at the time of the search

Thus, the addition to a claim of a technical feature which further defines an element that was already a feature of the original main claim or makes a contribution to the effect(s) of the features of the originally claimed invention(s) and which was expressly not searched but was disclosed in the context of the invention in the application as filed (usually in the description) will not result in an

amended claim lacking a single general inventive concept with respect to the originally claimed invention(s).

If amended claims are directed to subject-matter which has not been searched because it only appeared in the description (and the search division did not find it appropriate to extend the search to this subject-matter) and which does not combine with the originally claimed and searched invention or group of inventions to form a single general inventive concept, such amendments are not admissible.

Rule 137(5), second sentence, EPC

Amended claims may not relate to subject-matter not searched in accordance with Rule 62a (plurality of independent claims) or Rule 63 (incomplete search) EPC. Consequently, the presence of this subject-matter in the description cannot be used as a basis for its re-introduction into the claims.

Legal references:
R. 137(5) EPC, GL H-II, 6

4. Amendments derived from the drawings

Amendments may be based on the drawings. However, care needs to be taken when amendments are based on details which may only be derived from the schematic drawings of the original application.

The skilled person must be able to clearly and unmistakably recognise from the drawings, in the context of the whole description, that the added feature is the **deliberate result of the technical considerations** directed to the solution of the technical problem involved.

Examples

Example 1

Application as originally filed:

The drawings depict a vehicle in which approximately two-thirds of the height of the engine are located below a plane tangent to the top of the wheels.

After amendment:

An amendment specifies that the majority of the engine is located below a plane tangent to the top of the wheels.

This amendment would be compliant with Article 123(2) EPC if the skilled person recognised that this spatial arrangement of the engine with respect to the wheels was in fact a deliberate measure directed to the solution of the technical problem.

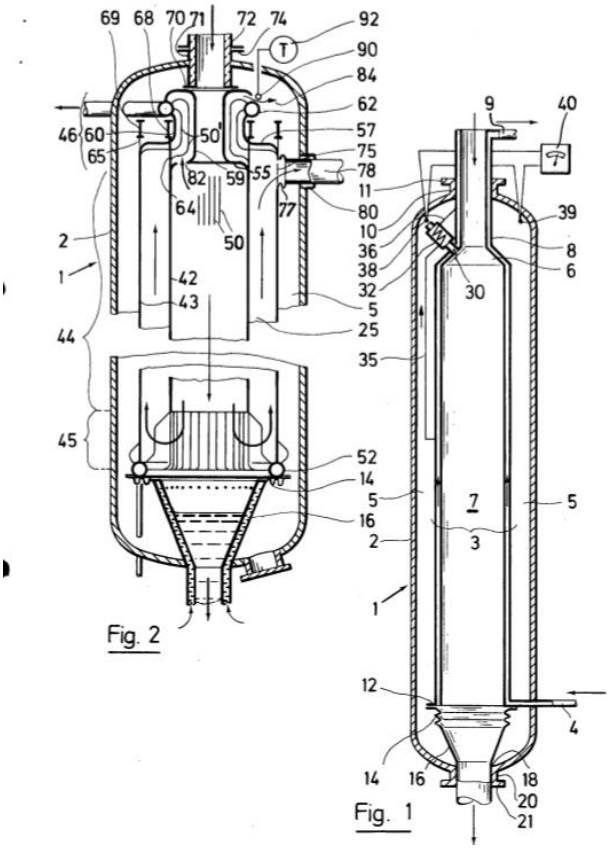
Example 2

Application as originally filed:

Claim 1: hot-gas cooler

The drawings show the cooler with a particular device. In the drawings, the device is shown without internal fittings.

The description also discloses that a pressure-equalisation connection (30) is located in the area of a conical surface (6).



After amendment:

Claim 1: hot-gas cooler comprising a device with no internal fittings

Claim 2: hot-gas cooler comprising a pressure-equalisation connection (30) located near the top end of the conical surface (6)

The amendment to claim 1 is not allowable under Article 123(2) EPC because the mere fact that a feature is missing from the figure does not mean it is directly and unambiguously derivable that that feature is to be excluded.

The amendment to claim 2 is allowable under Article 123(2) EPC because the feature of the pressure-equalisation connection being near the top end of the conical surface (6) is unequivocally inferable from Figure 1. This added feature is the deliberate result of the technical considerations directed to the solution of the technical problem involved.

(Example inspired by T 0170/87.)

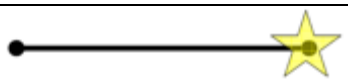
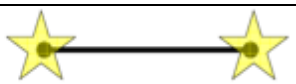
Legal references:
GL H-V, 6

5. Amendment of ranges

A range can either be a continuous range without specified members between endpoints (e.g. "1-7 cm") or a range of discrete elements (e.g. "metals of the first to third main groups of the periodic table").

Where both a general and a preferred range are disclosed, a combination of the preferred disclosed narrower range and one of the part-ranges lying within the disclosed overall range on either side of the narrower range may be derivable from the original disclosure of the application.

End-points of a broad general range and end-points of preferred sub-ranges can be combined:

Application as filed	
Preferred sub-range	
Amended claim	

Creating a new range from a value disclosed in an example and an end-point of a general range is an intermediate generalisation.

Examples

Example 1

Application as originally filed:

Claim 1: device comprising an arm

The description discloses a device with an arm having a length between 1 and 9 cm, preferably between 3 and 7 cm.

After amendment:

Claim 1: device comprising an arm having a length between 3 and 9 cm

This amendment is allowable under Article 123(2) EPC. The end-points of both the broad and the preferred range (3 and 9) are disclosed as such and can be combined.

Example 2

Application as originally filed:

Claim 1: a coating composition […] comprising glycerine in an amount of about 50.00-90.00 wt.% ...

After amendment:

Claim 1: a coating composition […] comprising glycerine in an amount of 50-90 wt.% …

Is this amendment to claim 1 allowable?

Answer:

Rounding rules apply. A claim presenting a numerical value has to be taken to represent that value under the conventional rounding rules (unless specified otherwise in the description).

Therefore, the value "50.00" represents "49.995-50.004"; the value "50" represents "49.5-50.4".

By opting for a less precise digit, the claimed range is in fact extended.

"About" is unclear and cannot be used to give the value a different meaning.

(Board of appeal decision T 1986/14.)

Legal references:
GL H-V, 3.5

6. Selections from lists

The content of an application must not be considered as a reservoir from which features pertaining to separate embodiments of the application could be combined in order to artificially create a new embodiment (see Guidelines H-V, 3.2.1).

A combination of features may be considered as originally disclosed if the original application contained a "pointer" towards this combination. The fact that a feature is mentioned in the original description as "preferred" may act as a pointer that combinations of this feature should be considered as disclosed.

According to the "two-lists principle", a combination of single entries from each of two or more lists in the original disclosure is generally not originally disclosed itself in the absence of a pointer towards this particular combination (unallowable "singling out"; see e.g. Board of Appeal decision T 3035/19).

A mere shrinking of lists is not objectionable if the remaining subject-matter still consists of generic lists of alternative entries and there is no singling out of a particular combination of specific entries.

Examples

Example 1

Application as originally filed:

Claim 1: A toothpaste comprising an abrasive and a detergent.

Claim 2: A toothpaste according to claim 1, wherein the abrasive is selected from the group consisting of aluminium hydroxide, calcium carbonate and a zeolite.

Claim 3: A toothpaste according to claim 1 or 2, wherein the detergent is selected from the group consisting of sodium lauryl sulfate, a poloxamer and cocamidopropyl betaine.

The original application does not provide the information that any of the abrasives or any of the detergents is preferred over the respective alternatives.

After amendment:

Claim 1: A toothpaste comprising an abrasive and a detergent, wherein the abrasive is calcium carbonate and the detergent is cocamidopropyl betaine.

Is this amendment to claim 1 allowable?

Answer:

A selection from two lists in the original disclosure has occurred, namely from the list of abrasives and the list of detergents. The amendment is thus only allowable if the original application contained a pointer towards it. In the absence of the information that either calcium carbonate is the most preferred abrasive or cocamidopropyl betaine is the most preferred detergent, no such pointer is present. The amendment is not allowable.

Example 2

The case is identical to Example 1 with the exception that the original description contains the sentence: "In the most preferred embodiment, the used abrasive is calcium carbonate". As in Example 1, no preferences between the detergents are derivable from the original application.

Is the amendment to claim 1 allowable?

Answer:

The indication of calcium carbonate as the most preferred abrasive in the original description acts as a pointer that combinations of this feature should be considered as disclosed. In order to arrive at the subject-matter of amended claim 1, only a single selection from a list of equally preferred alternatives, namely from the list of detergents, is necessary. This does not amount to a singling out. The amendment is allowable.

Legal references:
GL H-V, 3.2.1

7. Late-filed requests for amendments

As per Article 114(2) EPC, the EPO may disregard facts or evidence which are not submitted in due time by the parties. In addition, under Rule 116(1) EPC, new facts and evidence filed after the final date set for making written submissions in preparation for oral proceedings need not be considered unless the subject of the proceedings has changed.

In the written examination phase, a request for amendment is rarely "late-filed". The issue of late filing becomes relevant particularly at oral proceedings and in opposition proceedings.

Requests for amendment filed after the deadline set by Rule 116(2) EPC (in general one month before oral proceedings in examination; two months before oral proceedings in opposition proceedings) are late-filed and there is no obligation to accept amendments after that date.

The examining division will first consider the requests before deciding on their admissibility. The mere fact that they are filed late is not per se a reason for not admitting them.

The division needs to take into account whether the applicant has good reasons for filing the request late. In the absence of such reasons, and if the applicant has already had sufficient opportunity to address the reasoned objections, when balancing the relevant interests the division may give more weight to bringing the procedure to a close.

It is not only application documents that can be filed late – facts, evidence, alleged prior uses, experimental results and witness testimony can be too.

An amendment request filed in response to a change in the course of the proceedings and filed at the earliest reasonable time is not deemed late-filed. If the summons to oral proceedings was issued as the examining division's first action, the request for amendments is not deemed late-filed in that case either.

The applicant has to bear in mind that it is easier to secure an amendment at an earlier stage: the later amendments are filed, the more important the aspect of procedural economy becomes.

On the other hand, amendments limiting a claim which is already considered allowable are normally admitted. The same applies to amendments improving the clarity of the description or claims in a clearly desirable manner.

Legal references:
R. 116 EPC, GL E-VI, 2.1, GL E-VI, 2.2, GL H-II, 3.5, GL E-III, 8.6

8. Clear allowability requirement

The examining division will apply the criterion of "clear allowability" in exercising its discretion under Rule 137(3) EPC for treating requests filed after the final date set in accordance with Rule 116(2) EPC without proper justification.

These late-filed claims will only be admitted into the proceedings if they are clearly allowable. This means that it must be immediately apparent to the examining division that the amendments successfully overcome the objections without giving rise to new ones (***prima facie*** assessment).

For ascertaining whether or not the claims are clearly allowable, the examining division must take into account the reasons given by the applicant which explain why the amendments have been made and how they are intended to overcome the objections raised.

The "clear allowability" criterion is generally also applied to patent proprietors' late-filed requests in opposition proceedings.

Legal references:
GL H-II, 2.7.1

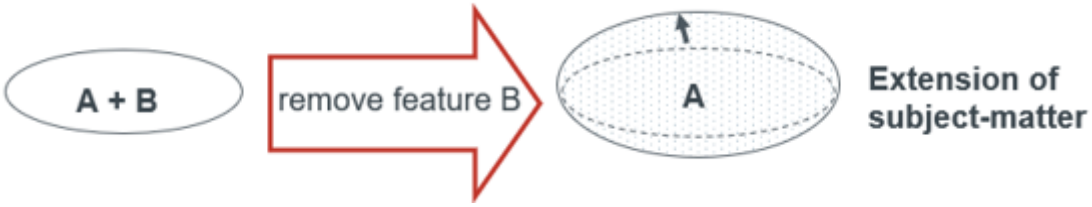
9. The Article 123(2)/123(3) EPC trap

Under Article 123(2) EPC, the European patent application or European patent may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed.

Under Article 123(3) EPC, the European patent may not be amended in such a way as to extend the protection it confers.

A granted patent may find itself in an "inescapable trap" that prevents the patentee from maintaining its patent if an unallowable amendment under Article 123(2) EPC cannot be removed without violating Article 123(3) EPC. This would happen if removing an unallowable feature would extend the scope of protection.

For example, feature "B" has no basis in a granted patent. Amending the patent by removing the unallowable feature "B" would enlarge the scope of protection, and this would contravene the requirement of Article 123(3) EPC that "the European patent may not be amended in such a way as to extend the protection it confers".



If the patentee requests A, the patent will have to be revoked under Article 123(3) EPC.

If the patentee requests A+B (no amendment), the patent will have to be revoked under Article 100(c) EPC.

However, where this feature can be replaced with a feature for which there is a basis in the application as filed and which does not extend the protection conferred by the patent as granted, maintenance in this amended form can be allowed. If the added feature, without providing a technical contribution to the subject-matter of the claimed invention, merely limits the protection conferred by the patent as granted by excluding protection for part of the subject-matter of the claimed invention as covered by the application as originally filed, this feature may be maintained (see G 1/93). The technical significance of a feature in a claim is governed by its contribution to the technical definition of the claimed subject-matter, and that contribution is to be assessed by the skilled person in the light of the original disclosure.

Legal references:
Art. 123 (2), (3) EPC, GL H-IV, 3.5, G 1/93

10. Amendments in limitation proceedings

Under Article 105a(1) EPC, at the request of the proprietor, the European patent may be revoked or be **limited by an amendment of the claims**.

The limitation and revocation procedures are centralised *ex parte* procedures at the level of the EPO which allow the patent proprietor either to have the claims of the granted patent limited or to have the whole patent revoked for all the designated states. More particularly, the limitation procedure offers an opportunity to obtain a limitation of a European patent in a short and straightforward procedure.

Unlike in the opposition procedure, there is no restriction on the period between the grant of the patent and the filing of the request. Accordingly, the request can be filed at any time after grant, after opposition proceedings, or even after expiry of the patent. The examining division is competent to decide on requests for limitation and revocation.

Under Rule 95(2) EPC, if a request for limitation is admissible, the examining division must examine whether the amended claims constitute a **limitation** vis-à-vis the claims as granted or amended in opposition or limitation proceedings and comply with **Article 84 and Article 123(2) and (3) EPC**.

The examining division must give the requester **one opportunity** to correct any deficiencies noted, and to amend the claims and, where appropriate, the description and drawings, within a period to be specified. There is therefore only one opportunity to make amendments during limitation.

However, if the response to the communication under Rule 95(2) EPC overcomes the objections raised in that communication but gives rise to new objections, the fundamental principle of the right to be heard under Article 113(1) EPC will normally make a further communication necessary in order to communicate the new objections to the requester before the decision to reject the request for limitation is issued. Normally, no further amendments may be made in reply to that communication.

Any request for oral proceedings under Article 116 EPC will be granted if the division does not consider the request for limitation to be allowable. No further amendments may be submitted during oral proceedings if the opportunity to make amendments has already been taken.

The term "**limitation**" is to be interpreted as meaning a reduction in the extent of protection conferred by the claims. Mere clarifications or changes made to protect a different subject ("*aliud*") are not to be considered limitations.

More particularly, the limitation of a dependent claim only, without any independent claim being limited, is acceptable. However, it is not permissible to introduce non-limiting amendments in the description or in the claims that are not a consequence of the limitation of the claims (for example tidying up unclear claims, making amendments to improve the patent or cosmetic changes). Likewise, adding dependent claims in limitation is not permissible if not directly caused by the limitation introduced in the claims.

The requester is invited to correct any deficiencies within a period generally set to two months.

Amendments in a claim leading to a scope of protection which is smaller but falls partly outside the extent of protection conferred by the claim previously on file must be dealt with cautiously. Even if the amendment constitutes a limitation, any such claim would generally contravene Article 123(3) EPC.

Once the requester has received the communication under Rule 95(3) EPC, it can only pay the fee and file the translations or have its request rejected for failure to do so. Therefore, the examining division may not, with the communication under Rule 95(3) EPC, make amendments of its own

motion to the claims of a request for limitation in order to render them allowable or adapt the description of its own motion to the limited claim(s). The provisions of Article 113 EPC would not be met since the requester would not have an opportunity to contest or comment on the amendments made.

Legal references:
R. 95(2) EPC, GL D-X, 4

11. Correcting errors

Documents filed with the EPO may contain errors, e.g. in the bibliographic data, the description, the claims or the drawings. Errors may also occur in the decision to grant or other decisions of the EPO, as well as in printing the specification.

Corrections under Rule 139 EPC concern linguistic errors, errors of transcription and other mistakes in documents filed with the EPO, especially in application documents.

Requests for correction under Rule 139 EPC are dealt with by the department responsible for the proceedings. The correction of such documents is admissible only as long as proceedings are pending.

Correcting errors in documents filed with the EPO

Where the mistake is in the description, claims or drawings, both the error and the correction must be such that it is immediately evident (i) that an error has occurred and (ii) what the correction should be.

Regarding (i), the incorrect information must be objectively recognisable for a skilled person, using common general knowledge, from the originally filed application documents (description, claims and drawings) taken by themselves.

Regarding (ii), the correction needs to be within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the originally filed application documents.

In other words, the requirements of Article 123(2) EPC apply *mutatis mutandis*.

Rule 140 EPC is not available to correct errors in documents filed by a patent applicant or proprietor (G 1/10).

In opposition proceedings, the submission by the proprietor of an amended specification containing the correction of an obvious error will be admitted if the correction is part of an amendment going beyond the mere removal of an error, namely an amendment occasioned by a ground for opposition (Rule 80 EPC). The request for correction under Rule 139 EPC will be dealt with by the opposition division.

In limitation proceedings, the submission by the proprietor of an amended specification containing the correction of an obvious error will be admitted if the correction is part of an amendment going beyond the mere removal of an error, namely an amendment constituting a limitation vis-à-vis the claims as granted or amended, and complies with Article 84 and Article 123 EPC.

Once the decision to grant is handed over to the EPO's internal postal service for transmittal to the applicant, the examining division is bound by it and can only amend it to the limited extent provided for in Rule 140 EPC. In the examination procedure, this corresponds to the date on which the centrally generated form "Decision to grant a European patent pursuant to Article 97(1) EPC" is forwarded to the postal service. This date is shown in the bottom right-hand corner of the form. The examining division is no longer competent to decide on a request for amendments or corrections under Rule 139 EPC if the filing of the request and the completion of the proceedings occur on the same date.

Correcting formatting/editing errors

Formatting/editing errors which were already contained in the text approved by the applicant may be corrected by the EPO of its own motion or at the request of the patent proprietor.

Correcting errors in publication

Errors in publication occur where the content of the printed specification differs from the documents transmitted to the applicant with the communication under Rule 71(3) EPC if these documents form the basis of the decision to grant.

The above errors in publication can be corrected at any time. The same applies *mutatis mutandis* to errors in the process for publication of the application and of the amended patent specification following a decision to maintain the patent as amended.

The competence to correct errors in publication lies with the body before which proceedings are or were last pending.

Correcting errors in decisions

Correction of errors in decisions can be made under Rule 140 EPC and must be clearly distinguished from correction of errors in documents filed by the applicant (or patentee) pursuant to Rule 139 EPC. The sole reason for allowing linguistic errors, errors of transcription and obvious mistakes to be corrected in decisions is to ensure that the decision says what the division actually intended at the time the decision was issued.

Correction of a decision is allowable only if the text of the decision is manifestly other than intended by the department concerned. Therefore, only linguistic errors, errors of transcription and obvious mistakes in decisions can be corrected. The correction of a mistake in a decision under Rule 140 EPC has a retrospective effect. Therefore, when the decision to be corrected is the refusal of the application or the revocation of the patent, the time limit for filing notice of opposition or an appeal is not changed by the publication or the notification of the corrected decision.

The competence to correct errors under Rule 140 EPC lies with the body which took the decision.

Correcting priority claims

With regard to correction of priority claims, specific provisions apply with a view to protecting the interests of third parties. These provisions allow the applicant to correct priority claims, laying down a time limit for doing so (see Rule 52(3) EPC). This ensures that corrected priority information is available when the application is published. The applicant can only correct the priority claim later

than this date, in particular after publication of the application, under certain limited circumstances, where it is apparent on the face of the published application that a mistake has been made.

Examples

Example 1

Application as originally filed:

Claim 1: a racing bike […] wherein the spokes have a length of 28 m

After amendment:

Claim 1: a racing bike […] wherein the spokes have a length of 28 **cm**

The error in specifying the length of the spoke in metres instead of centimetres is self-evident. Moreover, the correction is obvious for a bike.

Correcting this error is therefore allowable under Rule 139 EPC.

Example 2

Application as originally filed:

Claim 1: a process […] wherein 2x + 2x equals 5x

Depending on the context, the correction may not be obvious because the source of the error is not entirely clear. For example, possible corrections could be 3x + 2x = 5x or 2x + 2x = 4x.

Consequently, even if there is obviously an error, the correction may not be obvious depending on the context.

Legal references:

R. 139 EPC, Art. 140 EPC, GL H-VI

12. Beyond the course

You can deepen what you have learned during this course with the following further readings:

- Guidelines for Examination in the European Patent Office, part H- I to VI
- Case Law Book of the Boards of Appeal of the European Patent Office, part II-E

European Patent Academy
European Patent Office
Munich
Germany
© EPO 2026

Responsible for the content
European Patent Academy
academy@epo.org