

COMMENTS ON CONSULTATION ON IP5 PHEP Written Description/Sufficiency of Disclosure Case Studies

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- Do the claimed inventions meet the clarity requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 4	Yes	Yes	Yes	Yes	Yes
Case 5	No	Yes	Yes	No	Yes
Case 6	No	No	No	Yes	No

- Do the claimed inventions meet the support requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 4	Yes	Yes	Yes	Yes	Yes
Case 5	Yes	Yes	Yes	Yes	No
Case 6	No	No	Yes	No	No

- [Claims] 1. A device for performing character input by touching a keyboard layout displayed on a touch screen, comprising:
a memory (34) for storing a plurality of different types of keyboard layouts,
touch detection means (31) for determining whether or not a touch has occurred in a predetermined area where no keys of the keyboard layout (15) are displayed on the touch screen (12); and
keyboard changing means (33) for changing a keyboard layout (15) displayed on the touch screen to another keyboard layout (15) stored in the memory (34) when the touch detection means (31) determines that a touch has occurred in the predetermined area.
- Do the claimed inventions meet the clarity requirements

	EPO	JPO	KIPO	SIPO	USPTO
Case 4	Yes	Yes	Yes	Yes	Yes

- Do the claimed inventions meet the support requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 4	Yes	Yes	Yes	Yes	Yes

Case 4-observations

- Case 4, the results of the IP5 Offices were the same.
- All the Offices made room for common general knowledge, but the US was the most restricted.

- [Claims] 1. A method for approximating the amount of net coulomb charge charged/discharged in a rechargeable battery, the method comprising the steps of:

calculating the zero-current state potential (V_{zero}) from the potential across the terminals of the rechargeable battery when a selected current condition or a selected voltage condition is maintained for a predetermined period of time during the use of such rechargeable battery; and

calculating the net coulomb charge charged/discharged (ΔQ_{ap}) of the rechargeable battery based on the amount of change (ΔV_{zero}) of the said zero-current state voltage (V_{zero}).

- Do the claimed inventions meet the clarity requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 5	No	Yes	Yes	No	Yes

- Do the claimed inventions meet the support requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 5	Yes	Yes	Yes	Yes	No

- This showed how overly rigid an EPO analysis can be. The EPO analysis of the word “approximating” showed a lack of understanding of the context in which it was used. It was apparent to a US reader that approximating meant estimating. The EPO seemed biased to finding it unclear because the word “approximately” when an adjective, e.g., “approximately 1 to 10” is typically held unclear.
- KIPO/JPO gave considerable credit to common knowledge.
- EPO and SIPO found lack of clarity but found support.
- USPTO found clarity but found lack of support.
- The Offices should revisit this and compare their standards. This case showed the most differences in analysis.

- [Claims] 1. A stamping device comprising:
stamp blocks having stamps on upper surfaces thereof;
stamp units for stamping a date;
grooves;
a case; and
a base.
- Do the claimed inventions meet the clarity requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 6	No	No	No	Yes	No

- Do the claimed inventions meet the support requirements?

	EPO	JPO	KIPO	SIPO	USPTO
Case 6	No	No	Yes	No	No

- Case 6, all the IP5 offices determined the claimed invention of Case 6 does not meet at least one of the clarity requirements and the support requirements.
- This highlighted the different clarity analyses of SIPO and the USPTO. SIPO said there was clarity because one of ordinary skill would know how to attach the parts, but lack of support because it also read on inoperative embodiments.

- Does the invention of Claim 1 meet the clarity requirement?

Yes

REDACTED

No

Both Yes and No

- Does the invention of Claim 1 meet the support requirement?

Yes

REDACTED

No

Both Yes and No

- Does the invention of Claim 1 meet the clarity requirement?
 - Yes **REDACTED**
 - No **REDACTED**
 - Both Yes and No
- Does the invention of Claim 1 meet the support requirement?
 - Yes **REDACTED**
 - No **REDACTED**
 - Both Yes and No **REDACTED**

- Does the invention of Claim 1 meet the clarity requirement?
 - Yes **REDACTED**
 - No **REDACTED**
 - Both Yes and No
- Does the invention of Claim 1 meet the support requirement?
 - Yes **REDACTED**
 - No **REDACTED**
 - Both Yes and No **REDACTED**

Note-Different AIPLA members read different things into the claims thus causing a variety of answers.

1. Artificial clarity / sufficiency of disclosure restrictions unnecessarily cause applicants to lose rights but provide little public benefit.
2. We recommend the support topic be separated into written description and enablement prongs for easier comparison with the USPTO.
3. We need a common standard of what is common general knowledge of one of ordinary skill and how much common general knowledge may be used to compliment the claims and disclosure for clarity and support.

4. We recommend the IP5 Offices eventually move to studying these cases with an eye towards applying best practices rather than current local law. This should balance what is fair and reasonable for applicants with what provides adequate notice to the public.

5. We recommend the Offices examine each others standards for what is common general knowledge and determine the most realistic standard. Then the Offices should provide rules, regulations and / or guidance on what is understood to be common general knowledge of one skilled in the art and how to uniformly apply it in a clarity and support analysis..



Thank you

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