

BR/GT I/61 e/70

Travaux Préparatoires EPC 1973

Comment:

The collection represents purely an internal research tool for the purpose of Directorate Patent Law of the European Patent Office. No guarantee can be given for its completeness or correctness.

The documents produced before 1969 cannot be provided in English as this was not an official language in the period before that date. These documents therefore are provided in French and German.

- Secretariat -

"Implementing Regulations" Sub-Committee
of Working Party I

WORKING DOCUMENT

Article 66 No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9,
No. 10 and No. 11

Article 69 No. 1 and
Article 70 No. 1

(Text drawn up by the Drafting Committee)

Re. Article 66
(former Article 68)

Number 3

Form and contents of claims

(1) Claims shall be clear and concise. They (the claims) shall be fully supported by the description.

Note:

It should be examined whether paragraph 1 should be transferred to the Convention.

(2) The definition of the matter for which protection is sought shall be in terms of the technical features of the invention. Wherever appropriate, claims shall contain:

- (a) a statement indicating the title of the invention and those technical features of the invention which are necessary for the definition of the claimed subject matter but which, in combination, are part of the prior art;
- (b) a characterising portion - preceded by the expression "characterised in that" or "characterised by" - stating the technical features which, in combination with the features stated in sub-paragraph (a), it is desired to protect.

(3) Any claim stating the essential features of an invention may be followed by one or more claims concerning particular embodiments of that invention.

(-)

/(a) Any claim which includes all the features of one or more other claims ("dependent claims") shall contain, if possible at the beginning, a reference to the other claim or claims and shall then state the additional features claimed. A dependent claim may only refer to more than one other claim in the form of an alternative ("multiple dependent claim"). No multiple dependent claim may be based on another multiple dependent claim.7

Note:

The Sub-Committee decided to postpone the discussion of the provision in sub-paragraph (a).

(b) All dependent claims referring back to a single previous claim, and all dependent claims referring back to several previous claims, shall be grouped together to the extent and in the most appropriate way possible.

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

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.../...

(6) 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."

(7) If the European patent application contains drawings, the technical features mentioned in the claims shall preferably, if the intelligibility of the claim can thereby be increased, be followed by reference signs relating to these features and placed between parentheses. These reference signs shall not be construed as limiting the claim.

Re. Article 66
(former Article 68)

Number 4

Form of the drawings

- No change -

Re. Article 66

Number 5

Form and content of the abstract

Re. Article 66
(former Article 68)

Number 6

Prohibited matter

The European patent application shall not contain:

- (a) expressions or drawings contrary to public order or morality;
- (b) statements disparaging the products or processes of any particular person other than the applicant, or the merits or validity of applications or patents of any such person. Mere comparisons with the prior art shall not be considered disparaging per se;
- (c) any statement or other matter obviously irrelevant or unnecessary under the circumstances.

Re. Article 66
(former Article 68)

Number 7

General provisions governing the presentation of the
application documents

(1) Translations mentioned in Article 34, paragraph 2, second sentence, of the Convention, shall be considered to be included in the term "documents making up the European applications".

(2) The documents making up the European patent application shall be filed in three copies. This shall not apply to the request for the grant of a European patent nor to those documents filed under the first sentence of Article 34, paragraph 2, of the Convention.

(3) The documents making up the European patent application shall be so presented as to admit of direct reproduction by photography, electrostatic processes, photo offset and microfilming, in an unlimited number of copies. All sheets shall be free from cracks, creases, and folds. Only one side of the sheet shall be used.

(4) The documents making up the European patent application shall be on A4 paper (29.7 cm x 21 cm), which shall be pliable, strong, white, smooth, matt and durable. Subject to the provisions of Article ..., paragraph 2, re Article 66; No. 4 (h), each sheet shall be used with its short sides at the top and bottom (upright position).

(5) Each of the documents making up the European patent application (request, description, claims, drawings and abstract) shall commence on a new sheet. The sheets shall be connected in such a way that they can easily be turned over, separated and joined together again.

(6) Subject to Article ... (re Article 66 No. 4) paragraph 1, the minimum margins shall be as follows:

top of first sheet, except that of the request:	8 cm
top of other sheets:	2 cm
left side:	2.5 cm
right side:	2 cm
bottom:	2 cm

The recommended maximum for the margins quoted above is as follows:

top of first sheet, except that of the request	9 cm
top of other sheets:	4 cm
left side:	4 cm
right side:	3 cm
bottom:	3 cm

(7) The margins of the European patent application, when submitted, must be completely blank.

(8) All the sheets contained in the European patent application shall be numbered in consecutive arabic numerals. They shall be placed at the top of the sheet, in the middle, but not in the margin.

(9) The lines of each sheet of the description and of the claims shall preferably be numbered in sets of five, the numbers appearing on the left side, to the right of the margin.

(10) The request for the grant of a European patent, the description, the claims and the abstract shall be typed or printed. Only graphic symbols and characters and chemical or mathematical formulae may, if necessary, be written by hand or drawn. The typing shall be 1 1/2-spaced. All text matter shall be in characters the capital letters of which are not less than 0.21 cm high, and shall be in a dark, indelible colour.

(11) The request for the grant of a European patent, the description, the claims and the abstract shall not contain drawings. The description, the claims and the abstract may contain chemical or mathematical formulae. The description and the abstract may contain tables. The claims may contain tables only if their subject matter makes the use of tables desirable.

Note:

It should be examined whether the words between brackets should be included here.

(12) Units of weights and measures shall be expressed in terms of the metric system. If a different system is used, they shall also be expressed in terms of the metric system. Temperatures shall be expressed in degrees centigrade. If a different system is used they shall also be expressed in degrees centigrade. Densities shall be expressed in metric units. For the other physical values, the units recognised in international practice shall be used, for mathematical formulae the symbols and layout in general use, and for chemical formulae the symbols, atomic weights and molecular formulae in general use shall be employed. In general, use should be made of technical terms, signs and symbols generally accepted in the field in question.

(13) The terminology and the signs shall be consistent throughout the European patent application.

(14) Each sheet shall be reasonably free from erasures and shall be free from alterations, overwritings, and interlineations. Non-compliance with this Rule may be authorised if the authenticity of the content is not in question and the requirements for good reproduction are not in jeopardy.

Re. Article 66
(former Article 68)

Number 8

Documents filed subsequently

The provisions of Article ... (re Article 66 Nos. 2 to 6) shall apply to documents replacing documents making up the European patent application.

Re. Article 66
(former Article 68)

Number 9

Form and number of copies of documents furnished
during proceedings

(1) Subject to the provisions of Article(Re. Article 66 No. 7 and 8) documents furnished during the course of proceedings before the European Patent Office shall normally be type-written or printed. There must be a margin of about 2.5 cms. on the left-hand side of each page.

(2) Such documents as must be transmitted to other persons or as relate to several applications or patents, must be furnished in a sufficient number of copies. If the party concerned does not comply with this obligation in spite of the request by the European Patent Office, the missing copies shall be provided at the expense of the party concerned.

Re. Article 66
(former Article 68)

Number 10

Signing of documents

(1) All documents, with the exception of annexed documents, furnished during the course of proceedings before the European Patent Office must be signed.

(2) Where the provisions of paragraph 1 have not been observed, the European Patent Office shall invite the party concerned to comply therewith within a time limit to be laid down by that Office.

(3) If the party concerned complies with the behest of the European Patent Office in good time, he shall retain the benefit of the date of submission of the invalid document. Failing this, the document shall be deemed not to have been received; this sanction, however, shall not apply to the request for the grant of a European patent.

Re. Article 66
(former Article 68)

Number 11

Telegraphic and telex communications during the
course of proceedings

(1) Documents furnished during the course of proceedings before the European Patent Office may, by way of exception to the provisions of Articles ... (Nos. 9 and 10 Re. Article 66) be sent to the European Patent Office by telegram or telex. However, a document reproducing the contents of such telegram or telex and complying with the requirements of these Regulations must be produced within 2 weeks as from the receipt of the said telegram or telex.

(2) In the event of failure to produce the document referred to in the preceding paragraph in good time, the telegram or telex shall be deemed not to have been received.

(3) The provisions of this Article shall not be applicable in respect of the documents making up European patent applications.

Re. Article 69

Number 1

Notification sent to the applicant informing him that
his patent application is deemed to be withdrawn

/If the European patent application is deemed to
be withdrawn, the European Patent Office shall record
this and shall so inform the applicant./

Notes:

- /1. See Note on Article 69 of the First Preliminary
Draft.
2. This provision shall be applicable in all cases
in which the European patent application is
deemed to be withdrawn. For this reason it
contains no reference to Article 69, which refers
to particular cases only. It is only attached to
this Article for the record./

Note:

The Sub-Committee decided to re-examine this provision
at a later date.

Re. Article 70
(former Article 69)

Number 1

Claims in different categories

Article 70 of the Convention shall be construed as permitting, in particular, that one and the same European patent application may include:

- (a) in addition to an independent claim for a product, at least one independent claim for a process specially adapted for the manufacture of that product,
- (b) in addition to an independent claim for a product, at least one independent claim for a use of that product, and,
- (c) in addition to an independent claim for a process, at least one independent claim for a device or means specifically designed for carrying out that process.

Note:

The fact that this proposal differs from the corresponding provision in the ECT Regulations does not preclude the application of more liberal rules.
