

BR/GT I/72 e/70

Travaux Préparatoires EPC 1973

Comment:

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INTER-GOVERNMENTAL CONFERENCE
FOR THE SETTING UP OF A EUROPEAN
SYSTEM FOR THE GRANT OF PATENTS

Brussels, 30 October 1970
BR/GT I/72/70

- Secretariat -

"IMPLEMENTING REGULATIONS" SUB-COMMITTEE
OF WORKING PARTY I

WORKING DOCUMENT
put forward by
the General Rapporteur

BR/GT I/72 e/70 ght/KM/prk

Reference of claims to more than one other claim in accordance with Re. Article 66, No. 3, paragraph 4(a) of the proposals for Preliminary Draft Implementing Regulations.

As general rapporteur, I was given the task, at the last meeting of the sub-Committee, of clarifying Re. Article 66, No. 3, paragraph 4(a) by means of an example. This provision is to be discussed again at the next meeting of the sub-Committee.

Since the proposed provision is closely based on Rule 6.4 of the Regulations under the PCT, I discussed the example and my interpretation of these provisions with representatives of BIRPI and found that we were in complete agreement on the matter.

The proposed text appears correct and unambiguous to both the representatives of BIRPI and myself. As compared with current practice in many patent offices, for example in the British and German patent offices, the information of the proposed provisions will place restrictions on the present freedom which the applicant has, in principle, to refer back to as many previous claims as he wishes.

In my opinion, claims will gain in clarity as a result of this restriction placed on their wording. This is particularly desirable since the European patent application will as a rule be published in its original form after 18 months; this first publication is the most important one for the public and it ought, therefore, to be made as clear as possible.

There follows an example of permissible and prohibited references back to previous claims in accordance with Re. Article 66, No. 3, paragraph 4(a). The example contains only one independent claim, with the dependent claims thereto (Re. Article 66, No. 3, paragraph 3) and no further independent claims.

Example of reference to more than one previous claim

1. Electric hair-cutting machine, characterised by ...

2. Electric hair-cutting machine as claimed in claim 1, characterised by ...

Note: This claim complies with Re. Article 66, No. 3, paragraph 4(a) and is therefore admissible.

3. as claimed in claim 2, characterised by ...

Note: This claim complies with Re. Article 66, No. 3, paragraph 4(a) and is therefore admissible.

4. as claimed in claim 1 or 2 [1, 2 or 3], characterised by ...

Note: This wording is admissible, as is that in square brackets. This is a case of alternative reference for which provision is made in Re. Article 66, No. 3, paragraph 4(a), second sentence.

5. as claimed in claims 1 and 2, characterised by ...

Note: This wording is not admissible. The reference here is cumulative, not alternative.

6. as claimed in claim 4, characterised by ...

Note: This wording is admissible. Although the reference to claim 4 is to a claim which refers to more than one previous claim in the form of an alternative, claim 6 itself is nevertheless not a multiple-dependent claim within the meaning of the proposed provision.

7. as claimed in claim 6, characterised by ...

Note: This wording is admissible. See Note to claim 6.

8. as claimed in claim 1 or 4, characterised by ...

Note: This wording is not admissible. Re. Article 66, No. 3, paragraph 4(a), last sentence, expressly excludes the reference of multiple dependent claims to other multiple dependent claims.
