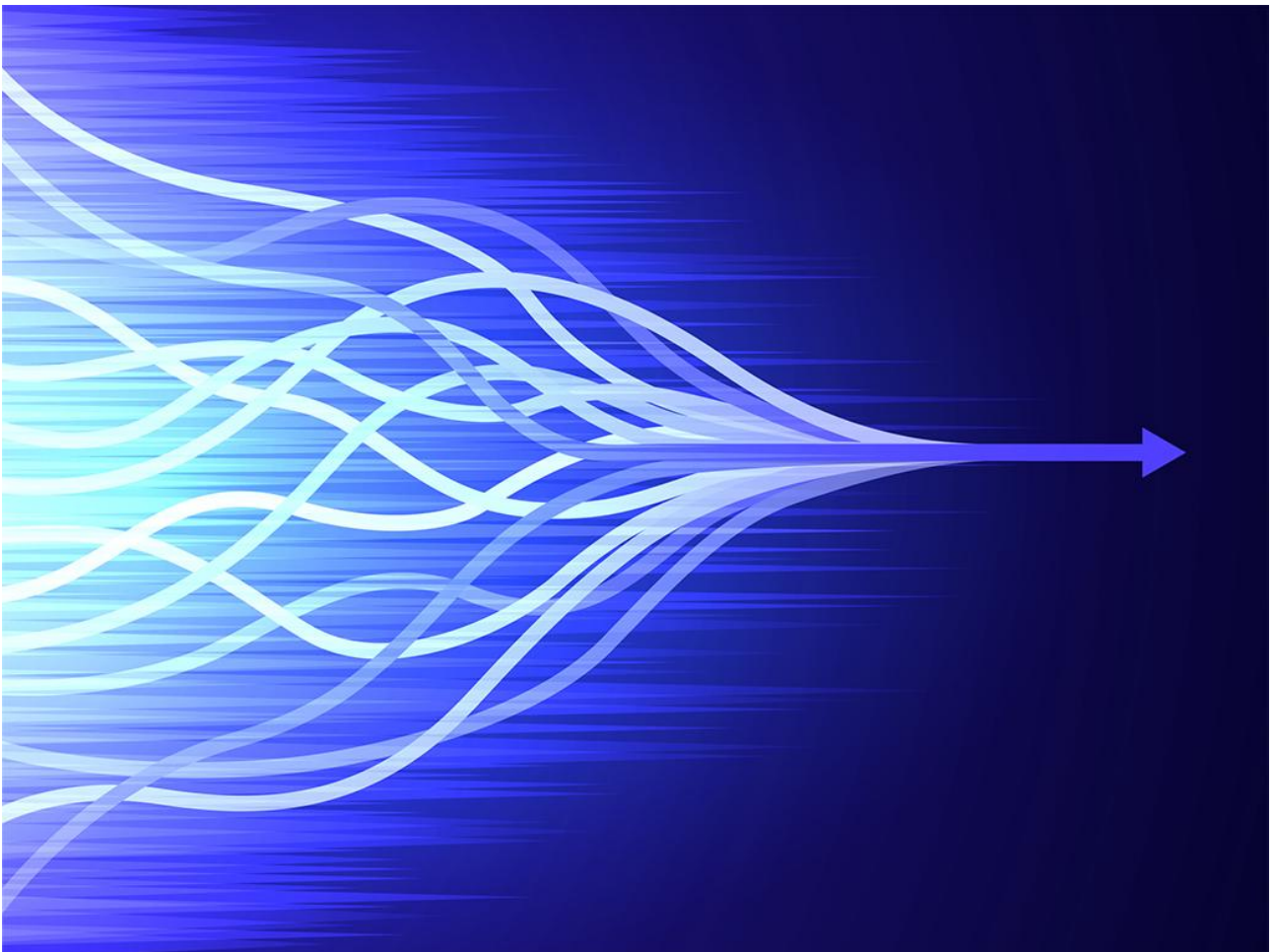


# Convergence of practice

## Common practice as regards broad claims

March 2026



## **Common practice as regards broad claims**

Considering that most claims are generalisations of one or more particular examples;

Considering the requirements that the invention be sufficiently disclosed over the entire scope claimed (Article 83 EPC; Article 5 PCT), supported by the description (Article 84 EPC; Article 6 PCT) as well as clear (Article 84 EPC, Article 6 PCT);

Having regard to the principle that the terms of a claim shall be commensurate with or justified by the invention's technical contribution to the art under national laws of the contracting states in that claims should not be so broad as to exceed the invention's contribution nor so narrow as to deprive the applicant of a fair reward for their disclosure (Articles 83 and 84 EPC; Articles 5 and 6 PCT);

Considering that broad claims are not unclear per se; at the same time, a skilled person should be able to establish the demarcation of the scope of the claim without undue burden;

Considering users' commercial interest in a search identifying the relevant prior art with regard to the invention at the core of their overly broad claims;

Considering that national patent offices carry out searches in a way that minimises the risk of overlooking complete anticipations of any claims, or other pertinent prior art;

Acknowledging the benefits, in such cases, of providing constructive feedback early in the patent grant procedure, particularly where clarification may help avoid situations where only an incomplete or no meaningful search<sup>2</sup> is possible;

Considering the advantages for users of a uniform template across offices for communication where a meaningful search<sup>3</sup> is not possible;

Considering that defining a minimum set of elements for such communications may support consistency while leaving room for national adaptation;

Noting that any common practice will be implemented on a voluntary basis;  
After consulting the Committee on Patent Law;

The Administrative Council of the European Patent Organisation at its meeting on 19<sup>th</sup> March 2026 approved the following common practice as regards broad claims:

### **Overly broad claims**

While it is natural for drafters to try to draft their claims in the broadest acceptable way, excessive degrees of generalising the invention pose a set of legal and procedural challenges:

- In some cases of overly broad claims, the underlying invention is apparent to the examiner and it is possible to identify relevant prior art in view of novelty and/or inventive step; additional objections of lack of support of the claims by the description, clarity, insufficiency of disclosure and/or conciseness may need to be raised according to national law.
- In other, more severe cases of overly broad claims, the invention might not be apparent to the examiner, at all. In such cases, the overly broad claims may prevent the examiner from carrying out a meaningful search<sup>4</sup> in relation to novelty and inventive step. (Some of the) objections of lack of support of the claims by the description, clarity, insufficiency of disclosure and/or conciseness will usually apply according to national law.

Some examples of overly broad claims indicated by Working Group members are part of the explanatory remarks

### **Examiner discretion to indicate claimed subject-matter to be searched**

Optionally, offices could allow examiners faced with overly broad claims to indicate claimed subject-matter on which the search division considers it feasible to base a meaningful search<sup>5</sup> at or before the search stage subject to the examiner's discretion.

### **Approach for handling overly broad claims during search**

When encountering overly broad claims during search, offices should adopt one or more of the following procedural options:

- **Request clarification from applicant:** applicants should be asked to clarify overly broad claims when the invention is not apparent at all, either formally or informally
- **Conduct a search on some of the claimed subject-matter:** if the examiner can conduct a meaningful search for the parts which comply with the substantive requirements of the claims being supported by the description, clarity, sufficiency of disclosure and conciseness, the search report is prepared in respect of a part of the claimed subject-matter
- **Issue a declaration of no search:** this option should only be relied upon in rare and extreme cases as the least preferred option. A communication indicating the inability to perform a meaningful search is issued after giving the applicant the opportunity to indicate the matter to be searched without success.

### **Contacting the applicant in the context of search**

Where early clarification is sought, communication with the applicant should, where possible, take place before the search, preferably in writing, or alternatively in an informal manner (e.g. phone call), according to national law and subject to each national office's choice. A standard deadline for the applicant's response applies, as defined at the national level.

To support consistency across offices, a minimum set of elements are to be included in the request for clarification at the search stage as well as an optional standard template for such communications is proposed:

#### **Minimum elements for inclusion in a request for clarification at the search stage**

- identification of the specific legal objections<sup>6</sup> under national law
- brief explanation of why a meaningful search is not possible
- statement of the purpose: to enable an effective search
- invitation to identify the subject-matter or scope
- indication of the time limit for reply (e.g. two months, defined on the national level)
- consequences of no or insufficient reply

#### **Optional Template – Invitation to Clarify Subject-Matter for Search**

"The Office considers that the current application contains claims that are drafted in such a way that a meaningful search of the state of the art cannot be carried out for all or part of the claimed subject-matter. You are therefore invited to provide a written statement clarifying the subject-matter for which a search should be performed. This will help ensure that the subsequent search is as effective and complete as possible.

Where applicable, the Office may have already identified:

- Claims that can be searched in their entirety: [insert claim numbers or description]
- Claims that can be searched only in part: [insert claim numbers or description]
- Claims that currently cannot be searched: [insert claim numbers or description]

The next action may be a partial search report due to incomplete search or a declaration indicating that a search could not be carried out for certain subject-matter.

You are invited to respond within [insert standard time limit defined at national level, e.g. two months] from the date of this communication. If your reply sufficiently clarifies the subject-matter, the Office will proceed with the search on that basis.

Failure to respond within the time limit, or failure to provide sufficient clarification, may result in [insert applicable consequences]."

#### **Appendix – Definition of "meaningful search":**

The term "meaningful search" is a search that is, within reason, complete enough to determine whether the claimed invention complies with the substantive requirements, i.e. the novelty, inventive step, industrial applicability, sufficiency of disclosure, support of claims by the description, conciseness and clarity requirements.

## 1. Introduction

The Convergence of practice programme is a key part of the EPO's Strategic Plan 2028 (see CA/13/24). It aims to simplify the patent system, making it more accessible and efficient for users by reducing discrepancies in administrative procedures among different jurisdictions, with a particular emphasis on procedural harmonisation. It exemplifies the EPO's commitment to fostering a more unified and accessible patent landscape in Europe, benefiting inventors and businesses alike. In 2025, the final pair of topics of the second cycle (see CA/73/22 Rev. 1) was addressed by the Working Groups on “Broad Claims” (WG11) and “Double Patenting” (WG12). The six new topics for the forthcoming third cycle of the programme and their prioritisation have been agreed upon by the Administrative Council (see CA/66/25 Rev.1).

A call for interest in participating in Working Group 11 on “Broad Claims” was launched in December 2024. In response, 28 EPC contracting states and one extension state indicated their willingness to join the discussions. BusinessEurope, epi and WIPO each nominated one representative as an observer in the discussions of the Working Group. The composition of Working Group 11 was as follows: Albania, Austria, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, the Netherlands, North Macedonia, Norway, Poland, Portugal, Romania, San Marino, Serbia, Spain, Sweden, Türkiye, United Kingdom, BusinessEurope, epi, WIPO and the EPO.

In February 2025, the chairperson of the Working Group (a representative from the EPO), issued a comprehensive questionnaire with a view to identifying the practices concerning broad claims and to analysing the differences and commonalities among them. The replies received from the participants were compiled in a summary document which provided the basis for the subsequent discussions within the Working Group.

The Working Group held four virtual meetings (4 April 2025, 23 May 2025, 4 July 2025, 26 September 2025). Drawing from the discussions in these meetings, the Working Group developed a draft common practice which draft common practice contains a description of the everyday phenomenon of broad claims accompanied by practical examples from the Working Group members and emphasises the value of early feedback to applicants giving examiner's discretion to indicate claimed subject-matter to be searched. In addition, an approach for handling overly broad claims during search is laid out. Finally, minimum elements of a communication and an optional template inviting applicant to clarify the subject-matter to be searched are proposed.

In parallel to the discussions in the Working Group and in accordance with the methodology agreed by the Committee on Patent Law (see CA/PL 14/19, point 21), users were consulted and updated on the progress of the work via the SACEPO Working Party on Rules on 12 March 2025 and 7 October 2025. In order to further broaden the scope of the consultation process, on 20 October 2025 the EPO organised the sixth virtual platform on convergence of practice and informed users and offices of the results achieved within Working Groups 11 and 12 until then.

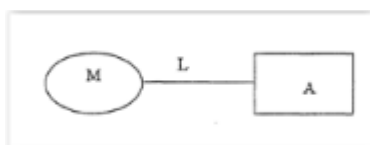
At its fourth meeting on 26 September 2025, the Working Group agreed upon a draft common practice as regards broad claims (see Annex 1). The Working Group also agreed upon associated explanatory remarks which are reflected below.

## 2. Explanatory remarks

### 2.1 Overly broad claims - examples

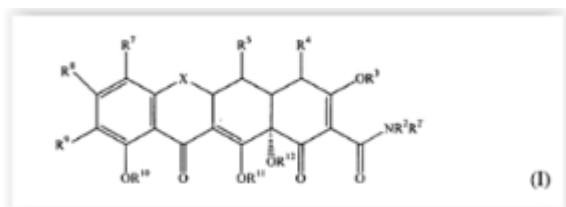
The following claims were provided by Working Group members as examples to further illustrate the phenomenon of overly broad claims:

- "Sunflower meal flour characterised by the fact that as a result of an analysis is found that the flour contains proteins, carbohydrates, fats and fibres."
- "Noodles and rice pasta food for dogs and cats, characterised by containing in their composition mastic or mastic oil, or flour from dehydrated powder of birds and other meats and vegetables, fish, crustaceans, flour from cooked food in dry form and containing in its composition raw materials for human nutrition that are suitable for the diet and body of dogs and cats by the method of simply mixing the individual ingredients and the known method of preparing pasta."
- "The use of greaseproof paper, greaseproof paper, baking paper, during the production of meat dishes, poultry and meat in general, as well as individual pieces of meat, but also in combination with other materials, in the form of (fillings) or coatings (e.g. breaded products), in the meat products industry. In other words, ready-to-bake products, wrapped on the outside with greaseproof paper - greaseproof paper - baking paper."
- "Compounds, their salts and solvates represented by the structure I



characterised in that M represents a macrolide subunit possessing the property of accumulation in inflammatory cells, A represents an anti-inflammatory subunit that can be steroid or non-steroid and L represents a chain linking M and A, and improved therapeutic effect of these compounds in the treatment of inflammation diseases and conditions."

- The following very broad Markush formula: "A 7,9-substituted tetracycline compound wherein: X is CHC (R<sup>3</sup>Y<sup>2</sup>Y), CR<sup>3</sup>R, S, NR<sup>6</sup>, or O; ... etc."



- The following unusual parameter: "A process for the production of a cold-pressed mat of a lignocellulosic material having a Push Off Test extension equal to at least 85% of that of a mat made with the same lignocellulosic material and a urea-formaldehyde resin comprising ..."

## **2.2 Examiner discretion to indicate claimed subject-matter to be searched**

During the first two Working Group meetings, some offices stressed that they avoid proposing a specific wording for searchable claims to applicants. Other offices underlined the value of proposing some manner of suggestion as to potentially searchable subject-matter to applicants, particularly in cases involving applicants less experienced with the patent system including unrepresented applicants.

They expressed it is felt it can be beneficial for applicants to receive constructive feedback early on in the patent grant process, i.e. during or even before the search stage. This can benefit both procedural efficiency as well as applicant's commercial interest in a targeted search identifying the relevant prior art with regard to the invention at the core of their overly broad claims.

This common practice does not create an obligation to propose subject-matter or to assist in claim drafting. Instead, it provides the possibility – at the examiner's discretion – to indicate which elements appear suitable for search in cases where the invention is not readily identifiable, i.e. when the invention is not apparent at all. Such indications are particularly relevant when a meaningful search<sup>1</sup> would otherwise not be possible.

## **2.3 Approach for handling overly broad claims during search**

The results of the questionnaire have shown that a majority of the participating offices' examiners would either contact the applicant or carry out a limited search when faced with overly broad claims. However, exchanges during the first Working Group meetings revealed that offices' practices differ as regards the degree of examiner interaction with applicants before and at the search stage:

Some offices favour early clarification with applicants when faced with overly broad claims. This is especially true in the case of unrepresented individual applicants not familiar with the patent grant procedure frequently applying with national offices for their first filings. Other offices' approach is to carry out a search whenever possible based on the available claims without prior contact. This benefits procedural speed and minimises applicant's cost for patent counsel at the search stage. Consequently, the common practice aims to strike a balance between both national practices tending to favour early interaction with applicants to focus the search and those prioritising a swift search without the need to respond to enquiries from an examiner.

In addition to these preferences, different degrees of broad claims may be found in practice. For some individual cases of broad claims, it might be apparent to the examiner which underlying invention is at the heart of the broad claims when interpreting the claims in light of the description. Therefore, an office might rely on both the first and second option and leave it to examiner discretion whether to seek early clarification from the applicant or rather to carry out an incomplete search without contacting the applicant.

The third option will only apply in rare and extreme cases where the claims as a whole do not allow the examiner to conduct any search at all due to being overly broad. For instance, at the EPO, examiners only issued a declaration of "no search" instead of a search report in 0,06 % of applications searched in 2024. Under this option, the applicant is informed either formally or informally that no search can be provided and is asked for clarification. If the applicant's reaction clarifies the matter in an appropriate manner, the examiner will prepare a search report.

## **2.4 Contacting the applicant in the context of search**

When an office chooses to implement the option of contacting the applicant under the first option, it is in the interest of users to receive a uniform minimum amount of information from offices and/or to be faced with a standard template. Consequently, a set of minimum elements of information and, if

offices choose to contact the applicant formally, a standard template is proposed for office's optional use.