

Dear Madam or Sir,

As a part of public consultation on patents and standards, we have some specific points regarding technical issues with patents, based on our experience of interaction with the European Patent Office (EPO).

1. The EPO misuses comments regarding clarity of expressions fields in claims located under article 84 (Guidelines for Examination in the European Patent Office). The expert who makes these type of comments does not think about whether or not the claims were made by a specialist in the field, despite the signs being unambiguously clear. The excessive use of these types of comments can be easily overcome through proper arguments. However, when this is not possible, it is necessary to “inflate” the claims with unnecessary details from the description relating to the disclosure of this trait. In a worst case scenario, this kind of observation cannot be overcome, because the originator of the application did not give a definition of one of the terms used based on explicit evidence found in the description. In this case, the application is considered withdrawn. Unfortunately it must be mentioned that this kind of problem only appears in the European Patent Office, while in other patent offices (including the USPTO) such situations do not arise.

2. Preparation of European applications, as opposed to applications made in other countries, requires a special approach to provide guidance on the relationship between a specific embodiment of the disclosure, even in cases where it is obvious that the embodiments disclosed herein are only modifications of the basic idea disclosed in the invention. However, if the description is not explicit on this relationship between the individual modifications, the experts consider the description of these modifications as separate and independent from the other embodiments of the invention. As a result, the applicant is limited only to those portions of the description which relate to only one specific modification.

3. Sometimes there is a problem with the addition of distinguishing features of the claim following an administrative decision, thereby excluding any changes from the technical features, and therefore they are not taken into account when compared with the prior art.

If you have any questions regarding this feedback, please do not hesitate to contact me.

Kind regards,

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