

Chapter IV – Search procedure and strategy

1. Analysis of the application prior to searching

1.1 Taking into account results of an earlier search and classification

Applicants may request the ISA to take any earlier searches into account, including searches not carried out by the EPO.

Rules 4.12, 12bis, 23bis.1 and 41.1

It may happen that the PCT application to be searched by the EPO as ISA is a "doublure" of a previous application. A later filed application is considered as a doublure when (i) the search report for the first application is issued by the EPO, (ii) the earlier application is claimed as priority, (iii) this priority claim is valid, and (iv) the later search report can at least partly be based on a search report of the earlier application.

Where the EPO can base the ISR on an earlier search that it has performed on an application whose priority is validly claimed for the international application, the international search fee paid will be refunded in part or in full depending upon the extent to which the EPO benefits from that earlier search. No refund is made if priority has not been validly claimed (see also GL/PCT-EPO A-III, 9.2).

Rules 4.12, 12bis, 16.3, 41.1
OJ EPO 2009, 99
OJ EPO 2019, A5

A request to take into account an earlier search not made by the EPO has no impact on the work of the examiner, who will do an independent full-scope international search. However, the documents cited in the earlier search report (which will be available in the file) might be useful. No refund is made for an earlier search that was not carried out by the EPO itself.

For international applications filed on or after 1 July 2017, in carrying out the international search, the EPO as ISA may take earlier search results into account where the applicant makes a request to that effect under Rule 4.12 as well as in the cases envisaged under Rule 41.2. This means that the EPO as ISA will also be able to take earlier search and classification results into account where the international application claims the priority of one or more earlier applications in respect of which an earlier search has been carried out by the EPO, or where the RO has transmitted to the EPO as ISA a copy of the results of any earlier search or of any earlier classification under Rule 23bis.2(a) or (b), or where such a copy is available to the EPO as ISA in a form and manner acceptable to it.

Rules 23bis.2 and 41.2

1.2 PCT Direct applications

Under PCT Direct, an applicant filing an international application claiming priority from an earlier national, European or international application already searched by the EPO (i.e. a "doublure"; see GL/PCT-EPO B-IV, 1.1) is able to react to any objections raised in the search opinion drawn up for the priority application. This simplifies the assessment of the international application and adds to the value of the international search report and written opinion established by the EPO.

OJ EPO 2017, A21