

Chapter V – Unity of invention

1. General remarks

The international application must relate to one invention only or to a group of inventions so linked as to form a single general inventive concept.

Art. 17(3)(a)
Rule 13.1

When determining unity of invention, a finding of lack of clarity of the claims is on its own not sufficient grounds for a finding of lack of unity.

Art. 6

Normally, too, the sequence of the claims should not have an impact on the determination of unity of invention. However, it will have an impact on which invention is to be considered the first invention mentioned in the claims (see GL/PCT-EPO F-V, 8.2).

Moreover, the fact that the claimed separate inventions belong to different groups of the classification is not in itself a reason for a finding of lack of unity.

An application may contain claims of different categories, or several independent claims of the same category. This is not in itself a reason for an objection of lack of unity of invention if the requirements of Rules 13.1 to 13.3 are otherwise met.

With regard to substantive criteria, unity of invention is examined in search and substantive examination in both European and PCT procedures according to the same principles. This does not apply to the respective procedures themselves, where significant differences exist (see also GL/PCT-EPO B-VII).

Art. 150(2) EPC

2. Special technical features

See ISPE Guidelines 10.01 and 10.12-10.16.

Rule 13.2

See also GL/PCT-EPO F-IV, 3.2 with regard to potential clarity and conciseness issues for plural independent claims in one category complying with the requirement of unity of invention.

3. Intermediate and final products

See ISPE Guidelines 10.18.

4. Alternatives

See ISPE Guidelines 10.09.

5. Markush grouping

See ISPE Guidelines 10.17.

There is no need for the significant structural element to be novel in absolute terms (i.e. novel per se). Rather, this expression means that in relation to the common property or activity there must be a common part of the chemical structure which distinguishes the claimed compounds from any known compounds having the same property or activity. However, if it can be shown that at least one Markush alternative is not novel, unity of