

Chapter IV – Examination of the WO-ISA and replies

1. General procedure

Under Chapter II, the reply to the WO-ISA, WO-IPEA (Form 408) or telephone minutes with possible amendments will be examined.

The final result of this examination under Chapter II is the issuance of the IPER (see GL/PCT-EPO C-VIII).

The examiner will first consider whether the objections raised in the WO-ISA have been overcome by the submitted arguments and/or amendments. If this is the case, the IPER will be issued directly, provided that the top-up search does not yield any pertinent prior art (see GL/PCT-EPO C-IV, 5.4). If objections have not been overcome or if pertinent prior art is found in the top-up search (see GL/PCT-EPO C-IV, 5.3 and 5.4), a further WO-IPEA or telephone minutes should be issued as set out in GL/PCT-EPO C-IV, 2.2.

If a further WO-IPEA or telephone minutes setting a time limit for reply are issued, the examiner will examine any reply from the applicant and will then as a Rule draft the IPER directly even if objections still occur, unless there is an outstanding request for a telephone consultation (see GL/PCT-EPO C-IV, 2.2, and C-VII, 1). An exception could be if it is clear that minor amendments could be suggested during e.g. a short telephone consultation which would result in a positive IPER, so that it would appear procedurally expedient to solve these problems in the Chapter II phase.

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2. Despatch of a further written opinion (Form 408)

2.1 Procedure when the EPO was not the ISA

Where the ISR and WO-ISA were established by another European International Searching Authority (at present SE, ES, AT, FI, TR, NPI (XN) and VPI (XV)), the WO-ISA is not considered as the first written opinion for the procedure under Chapter II PCT and the examiner will examine the file, taking into account the WO-ISA and any reply from the applicant on file. If there are objections as to novelty, inventive step and/or industrial applicability, he will send a WO-IPEA with a time limit for the applicant to reply as laid down in Rule 66.2(d), which is normally two months.

*Rule 66.1bis
GL/ISPE 3.19*

If, despite the applicant's timely and substantive reply (in the form of amendments and/or arguments) to this WO-IPEA, there are still objections outstanding, possibly resulting from the top-up search in Chapter II (see GL/PCT-EPO C-IV, 5), a further written opinion or telephone minutes are issued as set out under GL/PCT-EPO C-IV, 2.2.

2.2 Procedure when the EPO was the ISA

The applicant must be given a further opportunity for interaction in Chapter II before a negative IPER is established, on condition that he has filed in due time a substantive reply to the WO-ISA in the form of amendments and/or arguments.

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