

However, where the reference does not clearly identify which subject-matter of the description and/or drawings is to be considered as included in the claim, the examiner may informally contact the applicant for clarification before the search is carried out (see GL/PCT-EPO B-VIII, 3.3). In the special case of "omnibus claims" (e.g. a claim reading "The invention substantially as herein described"), no request for informal clarification should be issued, and subsequently the search report will be designated as complete.

The procedure above should be followed regardless of whether or not the reference to the drawings and/or the description is allowable according to Rule 6.2(a).

Where the reference does not appear to be justified, the examiner should raise an objection in the written opinion.

2.3 Obvious mistakes and missing or correct parts/elements

2.3.1 General considerations

Art. 19
Rule 91.1
GL/ISPE 15.10, 15.23

Since there is no right to amend the application until after the international search has been established, the international search must be carried out on the basis of the search copy of the application as transmitted to the EPO as ISA by the RO, except that obvious mistakes or formal matters which are contrary to the PCT and are called to the applicant's attention by the RO may be corrected (see also GL/PCT-EPO H-IV).

2.3.2 Request for rectification of obvious mistakes (Rule 91)

Rule 91

An applicant can request authorisation to rectify obvious mistakes in the international application (see GL/PCT-EPO H-IV, 2). The examiner (if the request relates to the description, claims or drawings) will have to assess whether such a request can be authorised according to the criteria set out in Rule 91 – see GL/ISPE 8.07-8.08. If RO has erroneously authorised such rectification, this may affect the search (see GL/PCT-EPO H-IV, 2.1).

Art. 19
GL/ISPE 15.10

If the changes requested by the applicant before the receipt of the ISR are not rectifications, but rather amendments, the examiner must refuse them, because there is no right to amend the application until after the international search report has been established. This applies even if the applicant refers to them as rectifications and even if they would be allowable amendments not adding subject-matter to the application as originally filed. For example, reformulation of claims, deletion of technical terms, deletion or limitation of claims and the taking of subject-matter from the description into the claims must all be refused at this stage regardless of whether or not they might be allowable, since they are not rectifications, but rather substantive amendments.

2.3.3 Incorporating missing parts or elements, or correct parts or elements, completely contained in the priority document

Rule 20.5

If applicants omit to file part(s) of the application and/or (an) entire element(s) thereof (i.e. all of the description and/or all of the claims), they may still furnish it (them) at a later date without affecting the international filing date, subject to the requirements of Rule 4.18 and Rule 20.6(a) and