

limited with respect to those of the earlier application, this limitation being due to

- (a) the deletion of alternative features from an independent claim or
- (b) the introduction of one or more limiting features into one or more of the independent claims of the later application where the limiting feature(s) was/were all contained in a dependent claim referring back to said independent claim(s) in the earlier application.

#### **9.2.1.2 Partial refund**

*OJ EPO 2009, 99, 2.2*  
*OJ EPO 2019, A5*

The "partial refund" level applies where the EPO can make partial use of the earlier search report for drawing up the international search report.

This occurs, in particular, where

- (a) the claims of the later application are broader than those of the earlier application and this broadening represents a further generalisation of the same invention as that searched in the earlier application, or
- (b) the claims of the later application are limited with respect to those of the earlier application, due to a limiting feature not disclosed in the earlier application but relating to the same invention as that searched in the earlier application.

#### **9.2.1.3 No refund**

*OJ EPO 2009, 99, 2.3*  
*OJ EPO 2019, A5*

No refund is due

- (a) where the subject-matter claimed in the later application represents an invention different from that searched in the earlier application, or
- (b) the legal requirements for a refund are not fulfilled, for example where the priority of the earlier application is not validly claimed.

### **9.3 Refund of additional search fees and, where applicable, the protest fee**

*Rule 40.2(c) and (e)*

If the Review Panel finds that a protest was entirely justified, the additional search fees and the protest fee will be refunded.

If it finds that the protest was justified only in part, the corresponding additional search fees will be refunded, but not the protest fee (see GL/PCT-EPO B-VII, 7.2).

### **9.4 Refund of the supplementary search fee**

*Rule 45bis 3(e)*  
*Agreement EPO-*  
*WIPO, Annex D-II,*  
*OJ EPO 2017, A115*  
*OJ EPO 2018, A35*

The EPO as SISA will refund the supplementary search fee where,

- before it has started the supplementary search, the supplementary search request is considered not to have been submitted; or
- before it has started the supplementary search, the international application or the supplementary search request is withdrawn.