

Chapter III – Sufficiency of disclosure

1. Sufficiency of disclosure

A detailed description of at least one way of carrying out the invention must be given. Since the application is addressed to the person skilled in the art, it is neither necessary nor desirable that details of well-known ancillary features should be given, but the description must disclose any feature essential for carrying out the invention in sufficient detail to render it apparent to the skilled person how to put the invention into practice. A single example may suffice, but where the claims cover a broad field, the application should not usually be regarded as satisfying the requirements of Art. 5 unless the description gives a number of examples or describes alternative embodiments or variations extending over the area protected by the claims. However, regard must be had to the facts and evidence of the particular case. There are some instances where even a very broad field is sufficiently exemplified by a limited number of examples or even one example (see also GL/PCT-EPO F-IV, 6.3). In these latter cases the application must contain, in addition to the examples, sufficient information to allow the person skilled in the art, using his common general knowledge, to perform the invention over the whole area claimed without undue burden and without needing inventive skill. In this context, the "whole area claimed" is to be understood as substantially any embodiment falling within the ambit of a claim, even though a limited amount of trial and error may be permissible, e.g. in an unexplored field or when there are many technical difficulties.

GL/ISPE 5.45-5.51

With regard to Art. 5, an objection of lack of sufficient disclosure presupposes that there are serious doubts, substantiated by verifiable facts. See also GL/PCT-EPO F-III, 4.

For the requirements of Art. 5 and of Rule 5.1(a)(iii) and (a)(v) to be fully satisfied, it is necessary that the invention is described not only in terms of its structure but also in terms of its function, unless the functions of the various parts are immediately apparent. Indeed in some technical fields (e.g. computers), a clear description of function may be much more appropriate than an over-detailed description of structure.

Art. 5
Rule 5.1(a)(iii) and (v)

In cases where it is found that an application is sufficiently disclosed according to Art. 5 only in respect of a part of the claimed subject-matter, it may be appropriate for the examiner to first invite the applicant to provide informal clarification before the search is carried out (see GL/PCT-EPO B-VIII, 3.3-3.6).

2. Sufficiency vs. additional subject-matter

See ISPE Guidelines 4.12.

Art. 5
Art. 34(2)(b)

3. Insufficient disclosure

See ISPE Guidelines 4.13.

Art. 5

If the claims for a perpetual motion machine are directed to its function, and not merely to its structure, an objection arises not only under Art. 5 but also