

to be "completely contained", it must be identical to the corresponding text/drawing in the priority document.

Secondly, the PCT request must have contained a statement of incorporation by reference to the priority application. A statement to that effect is already provided for in Box VI of the PCT request form (PCT/RO/101).

Thirdly, the conditions for confirmation in Rules 20.6 and 20.7 must be met.

If all the conditions are met, the omission is considered to be incorporated by reference and the international filing date is unaffected.

If the description and/or claims as contained in the priority application do not qualify as missing parts on the grounds that the international application already contained a complete description and/or a complete set of claims, the EPO as receiving Office will proceed to a negative finding under GL/RO paragraph 205D and will not transmit the international application to the IB in accordance with Rule 19.4(a)(iii).

An applicant wishing to add to an international application omitted parts which have no basis in a priority application may do so under Rule 20.5. However, the filing date of the application as a whole will then be the date on which the missing parts are filed.

## **6. Correction of erroneously filed elements or parts**

If the international application contains an erroneously filed element (description or claims) or an erroneously filed part of the description, claims or drawings (including the case where all the drawings have been erroneously filed), the applicant may correct the international application by furnishing the correct element or part under Rule 20.5bis.

R. 20.5bis

According to that rule, which entered into force on 1 July 2020, the applicant may request to either

OJ EPO 2022, A71  
OJ EPO 2020, A81

- (a) correct the international application under Rule 20.5bis(b) or (c) (see GL/PCT-EPO A-II, 6.1); or
- (b) where the correct element or part is contained in a priority application, incorporate it in the international application by reference under Rule 20.5bis(d).

Until 31 October 2022, this latter option was not available at the EPO, since this procedure was incompatible with the legal framework under the EPC. The EPO as receiving Office had therefore notified the IB of this incompatibility under Rule 20.8(a-bis). However, following the withdrawal of this notification of incompatibility with Rule 20.5bis(a)(ii) and (d), the EPO as receiving Office may now also process requests for incorporation by reference of the correct element or part for international applications filed on or after 1 November 2022. See GL/PCT-EPO A-II, 6.2.