

3.3 Mathematical theories

Rule 39.1(i),
Rule 67.1(i)
OJ EPO 2017, A115
OJ EPO 2018, A24

See ISPE Guidelines 9.05. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 52(2)(a) and Art. 52(3) EPC. Section G-II, 3.3, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

3.4 Aesthetic creations

OJ EPO 2017, A115
OJ EPO 2018, A24

Rules 39.1 and 67.1 do not explicitly exclude an international search or international preliminary examination on aesthetic creations from being carried out by the ISA or IPEA, respectively. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 52(2)(b) and Art. 52(3) EPC. Section G-II, 3.4, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

3.5 Schemes, rules and methods of doing business, performing purely mental acts or playing games

Rule 39.1(iii),
Rule 67.1(iii)
OJ EPO 2017, A115
OJ EPO 2018, A24

See ISPE Guidelines 9.07, ISPE Guidelines A9.07 and ISPE Guidelines A9.07[2]. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 52(2)(c) and Art. 52(3) EPC. Section G-II, 3.5, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

3.6 Programs for computers

Rule 39.1(vi),
Rule 67.1(vi)
OJ EPO 2017, A115
OJ EPO 2018, A24

See ISPE Guidelines 9.15, ISPE Guidelines A9.15 and ISPE Guidelines A9.15[2]. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 52(2)(c) and Art. 52(3) EPC. Section G-II, 3.6, in the Guidelines for Examination in the EPO applies *mutatis mutandis* (cf. GL/PCT-EPO B-VIII, 2.2).

3.7 Presentations of information

Rule 39.1(v),
Rule 67.1(v)
OJ EPO 2017, A115
OJ EPO 2018, A24

See ISPE Guidelines 9.11 to ISPE Guidelines 9.14. However, under the Agreement between the EPO and WIPO these fall within the EPO's discretion to exclude matter which would be excluded under Art. 52(2)(d) and Art. 52(3) EPC. Section G-II, 3.7, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

4. Exceptions to patentability

4.1 Matter contrary to public order or morality

Art. 21(6)
Rule 9
PCT AG I 5.175
OJ EPO 2017, A115
OJ EPO 2018, A24

Unlike the EPC, the PCT does not explicitly rule out the patentability of subject-matter for reasons of public order or morality. However, according to Rule 9, the application must not contain any expressions contrary to public order or morality, and under the Agreement between the EPO and WIPO the EPO may exclude matter which would be excluded under Art. 53(a) EPC. Generally, no search or preliminary examination is carried out on such matter by the EPO as ISA/IPEA. Section G-II, 4.1, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.