

4.18 Reference signs

See ISPE Guidelines 5.11. If there is a large number of different embodiments, only the reference signs of the most important embodiments need be incorporated in the independent claim(s).

Rule 6.2(b)

If text is added to reference signs in parentheses in the claims, lack of clarity can arise (Art. 6). Expressions such as "securing means (screw 13, nail 14)" or "valve assembly (valve seat 23, valve element 27, valve seat 28)" are not reference signs in the sense of Rule 6.2(b) but are special features. It is unclear whether the features added to the reference signs are limiting or not. Accordingly, such bracketed features are generally not permissible. However, additional references to those figures, where particular reference signs are to be found, such as "(13 - Figure 3; 14 - Figure 4)", are unobjectionable.

A lack of clarity can also arise with bracketed expressions that do not include reference signs, e.g. "(concrete) moulded brick". In contrast, bracketed expressions with a generally accepted meaning are allowable, e.g. "(meth)acrylate" which is known as an abbreviation for "acrylate and methacrylate". The use of brackets in chemical or mathematical formulae is also unobjectionable.

4.19 Negative limitations (e.g. disclaimers)

A claim's subject-matter is normally defined in terms of positive features indicating that certain technical elements are present. Exceptionally, however, the subject-matter may be restricted using a negative limitation expressly stating that particular features are absent. This may be done e.g. if the absence of a feature can be deduced from the application as filed.

GL/ISPE 5.41

Negative limitations such as disclaimers may be used only if adding positive features to the claim either would not define more clearly and concisely the subject-matter still protectable or would unduly limit the scope of the claim. It has to be clear what is excluded by means of the disclaimer. A claim containing one or more disclaimers must also fully comply with the clarity and conciseness requirements of Art. 6.

For the allowability of disclaimers excluding embodiments that were disclosed in the original application as being part of the invention, see GL/PCT-EPO H-III, 4.2. With respect to the allowability of a disclaimer not disclosed in the application as filed see GL/PCT-EPO H-III, 4.1.

The EPO applies option GL/ISPE A20.21[2] of the Appendix to Chapter 20 of the ISPE Guidelines.

4.20 "Comprising" vs. "consisting"

Section F-IV, 4.21, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.

GL/ISPE 5.24(a), (b)

4.21 Functional definition of a pathological condition

Section F-IV, 4.22, in the Guidelines for Examination in the EPO applies *mutatis mutandis*.