

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

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

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

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

No refund is due

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

- (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

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

*Rule 40.2(c) and (e)*

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

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

*Rule 45bis.3(e)*  
*Agreement EPO-*  
*WIPO, Annex D-II,*  
*OJ EPO 2017, A115*  
*OJ EPO 2020, A68*

- 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- before it has started the supplementary search, the international application or the supplementary search request is withdrawn.