



THE PATENTS RULES, 2003

Rule 19K

International Preliminary Examination Report.

- (1) Notwithstanding anything contained in the proviso to item (i) of sub-rule (2) of rule 24B, the Examining Authority shall refer the international application, in accordance with the provisions contained in the Treaty and the regulations under the Treaty, in the order in which the demand was received in the Examining Authority to an examiner or any other officer appointed under sub-section (2) of section 73 of the Act for preparing an International Preliminary Examination Report ordinarily within a period of three months but not exceeding four months from the date of such reference.
- (2) Claims relating to inventions in respect of which no International Search Report has been established shall not be the subject of international preliminary examination.
- (3) The Examining Authority, if considers that-
- (a) the international application relates to a subject matter on which the Examining Authority is not required to carry out an international preliminary examination, and, decides not to carry out such examination; or
- (b) that the description, the claims, or the drawings, are so unclear, or the claims are so inadequately supported by the description, that no meaningful opinion can be formed on the questions of novelty, inventive step (nonobviousness), or industrial applicability, the Examining Authority shall not go into these questions and shall inform the applicant of this opinion and the reasons therefor.
- (4) In a case where any situation referred to in clause (a) or clause (b) of sub-rule (3) is found to exist in connection with certain claims only, the Examining Authority shall indicate this fact in the International Preliminary Examination Report in respect of such claims, and for other claims, it shall establish the International Preliminary Examination Report.
- (5) Where the Examining Authority finds that the international application does not comply with the requirement of unity of invention, in accordance with the provisions contained in Rule 13 of the regulations under the Treaty and chooses to invite the applicant, at his option, to restrict the claims or to pay additional fees. it shall issue a notice to the applicant:
- (a) specifying at least one possibility of restriction which. in the opinion of the Examining Authority. would be in compliance with the applicable requirement;
- (b) specifying the reasons for which the international application is not considered as complying with the requirement of unity of invention;
- (c) inviting the applicant to comply with the invitation within one month from the date of such notice;
- (d) indicating the amount of the required additional fees to be paid in case the applicant so chooses; and
- (e) inviting the applicant to pay, the protest fee within one month from the date of such notice, and indicate the amount to be paid, as specified in the Fifth Schedule.
- (6) Any applicant may pay the additional fees under protest, that is, accompanied by a reasoned statement to the effect that the international application complies with the requirement of unity of invention or that the amount of the required additional fees is excessive.
- (7) The examination of the protest referred to in sub-rule (5) shall be carried out by a Review Committee constituted by the Controller.
- (8) The Review Committee constituted under sub-rule (7) shall examine the extent to which the protest is justified and shall accordingly order for the total or partial reimbursement to the applicant of the additional fee.
- (9) The protest fee shall be refunded to the applicant where the Review Committee referred to in sub-rule (6) finds that the protest was entirely justified.

[<<previous](#)[next>>](#)