



Congress Milan 2016

2016 – Report on Resolution

Added matter: the standard for determining adequate support for amendments

The treatment of subject matter added to patents and patent applications by way of amendment remains different among different countries of member Groups of AIPPI.

On 20 September 2016 at the AIPPI World Congress in Milan, AIPPI approved a resolution titled "Added matter: the standard for determining adequate support for amendments". The Resolution seeks to harmonize what subject matter may be added to patents and patent applications, after filing, by way of amendments. In particular, the Resolution seeks to define impermissible added matter.

More specifically, the Resolution provides guidance as to how a patent application is to be interpreted – to include subject matter explicitly disclosed in the application as filed, as well as its implicit and inherent content, as understood by a person skilled in the art. Impermissible added matter is defined as matter extending beyond this content.

Procedurally, AIPPI resolved that patent offices and courts should not allow amendments to patents or patent applications that introduce impermissible added matter.

AIPPI endorsed a generally flexible approach to amendments, and resolved that proposed amendments need not be found word-for-word in the patent application as filed. Likewise, amendments adding new claims to a patent application or patent should not, *per se*, be considered as introducing impermissible added matter.

Additionally, after spirited debate, AIPPI resolved that amendments introducing so-called "intermediate generalizations" – based on the combinations of features taken from disparate disclosed embodiments, or deletion of features from embodiments - should not by themselves be considered as introducing impermissible added matter, contrary to the existing practice of some patent offices.

Finally, AIPPI's Resolution urges that national and regional legislation be amended to achieve harmony in the treatment of added matter.

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