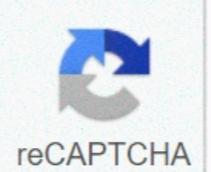




I'm not a robot



I am not a robot!

Guidelines epo intermediate generalisation

Extracting a specific feature in isolation from an originally disclosed combination of features and using it to delimit claimed subject-matter may be allowed only if there is no structural and functional relationship between the features. When evaluating whether the limitation of a claim by a feature extracted from a combination of features fulfils the requirements of Art. 123(2), the content of the application as filed must not be considered to be a reservoir from which individual features pertaining to separate embodiments can be combined in order to artificially create a particular combination. When a feature is taken from a particular embodiment and added to the claim, it has to be established that: - the feature is not inextricably linked to the other features of that embodiment and - the overall disclosure justifies the generalising isolation of the feature and its introduction into the claim. These conditions are to be understood as an aid to assessing, in the particular case of an intermediate generalisation, if the amendment fulfils the requirements of Art. 123(2). In any case it has to be ensured that the skilled person is not presented with information which is not directly and unambiguously derivable from the originally filed application, even when account is taken of matter which is implicit to a person skilled in the art using the common general knowledge. Example 1 The amended claim relates to a method for preparing of a coating composition comprising the mixing of at least one rosin compound, at least one polymer and an antifoulant. The only basis for the method is the examples. The board observed that for some solutions the amount of added rosin was extremely low whereas for others it was extremely high. The subject-matter of the amended claim was considered to be an unallowable generalisation of the examples, since nothing in the description indicated to the person skilled in the art that the observed variations were not essential to make a coating composition (T 200/04). Example 4 Original claim 1 relates to a multi-processing system comprising a shared memory, a directory and a serialisation point. The serialisation point is defined in functional terms. Claim 1 was amended by adding features that were addressed in the description as part of the cache coherence strategy. The board held that the incorporated features, albeit disclosed as such, had been isolated in an arbitrary manner from the overall disclosure of the cache coherent memory access architecture. Therefore amended claim 1 was not directly and unambiguously derivable from the original application (T 166/04). For US patent attorneys seeking patent protection via the European Patent Office (EPO), European amendment practice and so called 'added matter' objections can be a real headache. One particular added matter issue arises from so called 'intermediate generalisation'. This may occur when a feature is isolated from an embodiment and added to a claim without other features of that embodiment. It is often the case that, in practice, the UK Intellectual Property Office (UK IPO) and the English courts approach the question of added matter and intermediate generalisations more flexibly than the EPO. The recent decision of the High Court in Philip Morris v British American Tobacco (BAT) [2021] EWHC 537 (Pat) does not seem to follow this trend. 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18th ICA Workshop on Generalisation and Multiple Representation, Rio, Brazil, August 2015

Automated Generalisation of Intermediate Levels in a Multi-Scale Pyramid

Marion Dumont¹, Guillaume Touya¹, Cécile Duchêne¹

1. Motivations

For planning some trip or localising an area of interest, people can use mapping applications such as GoogleMaps, OpenStreetMap or the governmental Geoportals. These tasks involve navigating through data by panning, zooming in a scale range or switching between different types of geographic information (topographical map, satellite imagery, thematic data, etc.). It uses a large set of data, from various sources and with different representations or resolutions.

A mapping application displays a multi-scale map (or pyramid), where each scale (or level) represents a specific level of detail. These levels can present large differences in terms of content and representation (Figure 1), owed to the data heterogeneity, the generalisation processes or the symbolization choices. These gaps may disturb or even lose the user while zooming in and out, making sometimes the map navigation cognitively difficult.

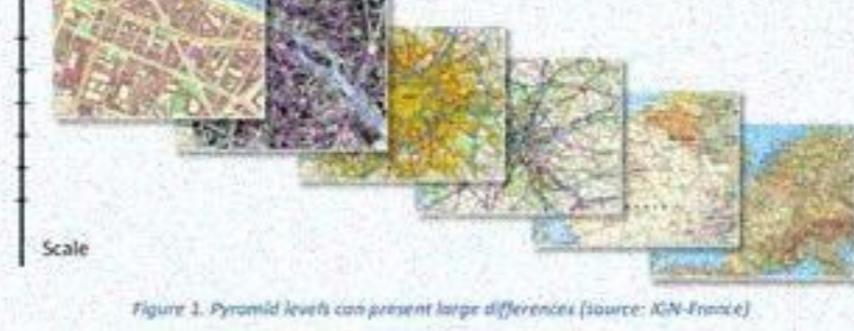


Figure 1. Pyramid levels can present large differences (source: IGN-France)

In this context, adding intermediate levels to the multi-scale pyramid could be one way to reduce these gaps and to improve the smooth zooming. This paper introduces a starting research project that seeks to validate this hypothesis and to develop methods for the automated derivation of such intermediate levels.

This problem is connected with various issues, some of which are presented in this paper. Based on examples stemming from existing web maps pyramids, section 2 presents two kinds of gaps that can disturb the navigation in a multi-scale map. Then, section 3 highlights some related work existing in the literature. Finally, section 4 concludes the presentation with perspectives and future researches.

2. Problems in Multi-Scale Navigation

The use of mapping applications, such as GoogleMaps, OpenStreetMap, but also some National Mapping Agencies geoportals (IGN-France, SwissTopo-Switzerland, IGC-Catalonia, BEV-Austria) allows us to notice potential sources of user disorientation. We distinguish two different kinds of issues: discontinuities and inconsistencies. Discontinuities are defined between two levels, where representation or content changes from one scale to another. Inconsistencies can be found between three levels, for instance where representations are similar in the first and the last level but different in the middle level.

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Example 2 Claim 1 relates to a water dispersible and flushable absorbent article. Amended claim 1 specifies that each of the first and second fibrous assemblies is a wet laid tissue. The application as filed referred, in connection with the first fibrous assembly, to a wet laid tissue in combination with other features (tissue is apertured; tissue is provided with fibrils or sufficient inherent porosity). Since the first fibrous assembly is disclosed in the application as filed as being a wet laid tissue only in combination with other features which are not present in claim 1, the amendments made constitute a generalisation of the originally disclosed technical information and thereby introduce subject-matter extending beyond the content of the application as filed (T 1164/04). Example 3 Original claim 1 relates to a coating composition comprising at least one rosin compound, at least one polymer and an antifoulant. The only basis for the method is the examples. The board observed that for some solutions the amount of added rosin was extremely low whereas for others it was extremely high. The subject-matter of the amended claim was considered to be an unallowable generalisation of the examples, since nothing in the description indicated to the person skilled in the art that the observed variations were not essential to make a coating composition (T 200/04). Example 4 Original claim 1 relates to a multi-processing system comprising a shared memory, a directory and a serialisation point. The serialisation point is defined in functional terms. Claim 1 was amended by adding features that were addressed in the description as part of the cache coherence strategy. The board held that the incorporated features, albeit disclosed as such, had been isolated in an arbitrary manner from the overall disclosure of the cache coherent memory access architecture. Therefore amended claim 1 was not directly and unambiguously derivable from the original application (T 166/04). For US patent attorneys seeking patent protection via the European Patent Office (EPO), European amendment practice and so called 'added matter' objections can be a real headache. One particular added matter issue arises from so called 'intermediate generalisation'. This may occur when a feature is isolated from an embodiment and added to a claim without other features of that embodiment. It is often the case that, in practice, the UK Intellectual Property Office (UK IPO) and the English courts approach the question of added matter and intermediate generalisations more flexibly than the EPO. The recent decision of the High Court in Philip Morris v British American Tobacco (BAT) [2021] EWHC 537 (Pat) does not seem to follow this trend. The EPO Guidelines state that it is only permissible to isolate a feature from an embodiment and add it to a claim if: (i) the feature is not related or inextricably linked to the other features of that embodiment; and, (ii) the overall disclosure justifies the generalising isolation of the feature and its introduction into the claim. Although the UK Manual of Patent Practice (see 76.15.5 in link) defines a similar approach to that set out in the EPO guidelines, in practice the application of standards at the UK IPO is less rigid. This might be because the manual explains a number of real-life practical examples of claim amendments which do not find verbatim basis in an application, but which are not to be objected to as added matter. There are also some significant decisions of the English courts which appear to follow a more liberal approach from that which we see applied by the EPO. In the High Court judgment Philip Morris v BAT [2021] EWHC 537 (Pat), [4] the patent in suit included a claim which had been amended based on an embodiment. A cigarette (150) for use with a powered aerosol generating device (10) comprising ... at least one electrical resistance heating unit (72) ... and a controller mechanism (50) including a sensor (60) that is capable of selectively powering the electrical resistance heating element (72) at least during periods of use... "In attacking validity, Philip Morris argued that this claim added matter because it didn't recite a puff activated sensor which, in the application as filed, was functionally related to the electrical resistance heating unit. In the judgment, the judge stated: "It is not enough that the skilled reader would think that they might be, or were likely to be independent, or that the skilled reader would know, or would not think about it." The patentee, BAT, argued that the original application taught that certain features were optional.



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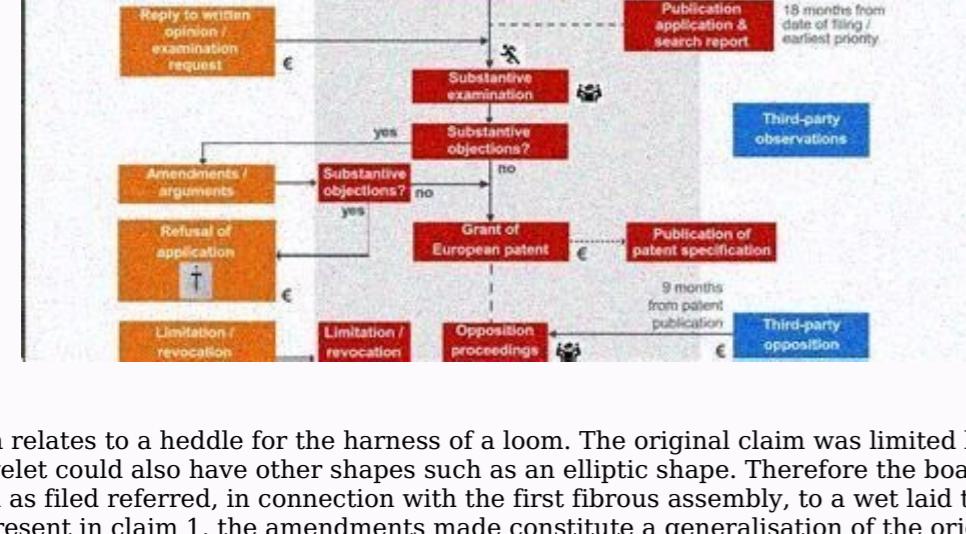


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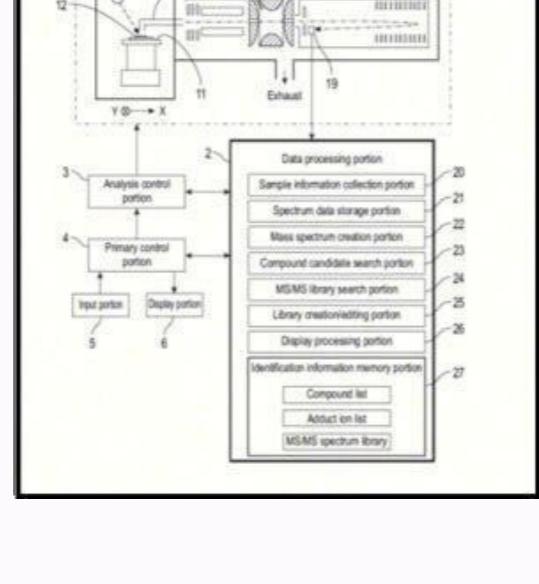
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Example 1. The amended claim relates to a heddle for the harness of a loom. The original claim was limited by introducing features that were disclosed only in connection with a specific embodiment in which the eyelet of the heddle had the shape of a spindle. This shape was not included in the amended claim. In the general part of the description it was also mentioned that the eyelet could also have other shapes such as an elliptic shape. Therefore the board concluded that the amendment was allowable under Art. 123(2) (T 300/06). Example 2. Claim 1 relates to a water dispersible and flushable absorbent article. Amended claim 1 specifies that each of the first and second fibrous assemblies is a wet laid tissue. The application as filed referred, in connection with the first fibrous assembly, to a wet laid tissue in combination with other features (tissue is apertured; tissue is provided with fibrils or sufficient inherent porosity). Since the first fibrous assembly is disclosed in the application as filed as being a wet laid tissue only in combination with other features which are not present in claim 1, the amendments made constitute a generalisation of the originally disclosed technical information and thereby introduce subject-matter extending beyond the content of the application as filed (T 1164/04). Example 3. Original claim 1 relates to a coating composition comprising at least one rosin compound, at least one polymer and an antifoulant.



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