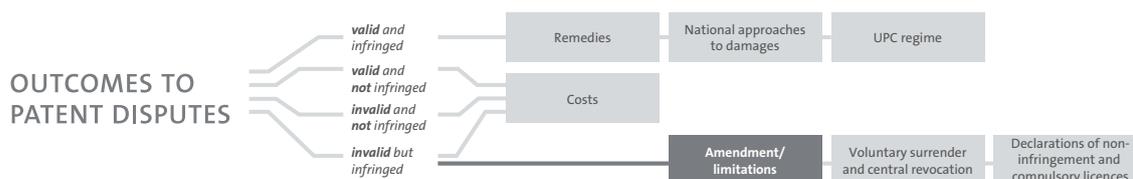


Amendment/limitation of patents

Essentials



Introduction

This module deals with amendments to patents after grant (often known as limitation or reducing the scope of the patent). It does not cover amendments made to patent applications in the course of prosecution before the relevant patent office, nor amendments made in opposition proceedings by auxiliary requests before the European Patent Office (EPO), or before the national offices in countries where opposition is possible, such as Germany.

It focuses on how patents can be amended before the EPO and in the three countries of Germany, the UK¹⁷ and France.

Reasons for making amendments

After grant, if new relevant prior art is discovered (e.g. in the patentee's preparations for litigation) or is raised by an actual or prospective defendant, or if other attacks on validity are identified or raised, it may be useful to amend the patent. Although patentees will concentrate on defending their patents against these attacks, they will also consider whether the claims can be amended to avoid the attack.

Sometimes, when a claim is poorly drafted or is very broad, the patentee may want to amend it so that it focuses more precisely on commercially important aspects of the invention or makes proof of infringement

¹⁷ The EPC and the UK Patents Act 1977 (as amended) apply equally to all parts of the United Kingdom. Jurisdictionally, however, the United Kingdom is divided into three parts: England and Wales, Scotland, and Northern Ireland. Proceedings in the Scottish courts differ markedly from those in the other jurisdictions.

more straightforward. Such amendments are permitted in patent office limitation applications, but not in legal proceedings (including EPO oppositions), where they are only permitted in response to actual or expected invalidity arguments.

Main types of procedure

The main types of procedure are as follows:

- The simplest one is the limitation procedure before a patent office. The limitation procedure before the EPO was introduced by the Act of 29 November 2000 revising the European Patent Convention (EPC). This type of procedure also exists in Germany, the UK and (since 2009) France.
- Other limitation procedures involve a court, either on its own or together with a patent office. Such procedures exist in Germany, the UK and France.

Limitation/amendment always takes effect *erga omnes*, whether ordered by the EPO or a national office, or by a court in Germany, the UK or France, even where the amendment is in the context of *inter partes* proceedings.

The two main types of amendment are as follows:

- “Dependent claim” or “validating” amendments: the features of a subsidiary claim are incorporated into the main claim. They usually arise where the main claim is (or is alleged to be) invalid, but the subsidiary claim is (or the patentee argues that it is) valid. The new claim is in substance the same as the old subsidiary claim, and is part of the set of claims considered by the patent office. Such amendments are granted on a routine basis. They are sometimes referred to as “deleting claim 1” or “amending down to subsidiary claim number X”.
- “Rewriting” amendments: a new claim is proposed which does not have an exact counterpart in the existing claim set, but incorporates an additional feature disclosed in the specification as part of the invention (in Germany, such a feature may be disclosed in the drawings only).

Example

Claim 1 might be “Product comprising feature A plus feature B”, and claim 2 “Product of claim 1 plus feature C”. The amended claim is “Feature A plus feature B plus feature C”.

Example

The claim in the example above might be amended to “Feature A plus feature B having specific characteristic D”, where characteristic D is disclosed in the specification, but this combination of elements is not the subject of an existing claim.

Legal provisions

The EPC sets out certain requirements for amendments before and after grant. These are contained in Article 123(2) EPC (no added matter) and Article 123(3) EPC (no claim broadening in any amendment after grant). Any amended claim must also satisfy the requirements of Article 84 EPC (conciseness, clarity and support).

National limitation is governed by national laws, which embody all or parts of the above concepts, sometimes with a slightly different interpretation.

Amendable titles

The limitation procedure before the EPO is, of course, reserved for European patents. It takes effect for all national designations.

Amendments through national procedures, either before the national office or a national court, are possible not only for national patents but also for the national designation of European patents.

Correction of errors

In most jurisdictions, it is possible to correct errors in patent specifications under provisions separate from the provisions relating to the amendment of patents. Errors can only be corrected if it is manifest that there is an error, and what the correction should be.

Example

Limitation of the French designation of a European patent by the French Patent Office was admitted by the Paris *Cour d'appel* (CA) (Court of Appeal), division 5, chamber 2, in a decision of 1 July 2011, *Teva v INPI and Eli Lilly*.

Procedure: limitation before the patent office

Limitation before the EPO is governed by Articles 105a to 105c EPC.

Limitation/amendment before a national office is possible in all three countries which are the subject of this module: Germany, the UK and (following an Act of 4 August 2008) France.

The applicant

Requests for limitation may only be made by the patent proprietor (in practice, the duly authorised representative). If the patent is jointly owned, all the owners must join in the application. In France, registered rights owners, such as licensees, must consent to any amendment.

Types of amendment authorised

For limitation before the EPO, Rule 95(2) EPC states that the amendments brought to a claim must entail a limitation.

The Guidelines for Examination in the EPO expressly authorise the limitation of a dependent claim without limiting any independent claim. This also applies in France and the UK (in the UK, it is in theory possible to amend the specification or drawings only). In Germany, the limitation must be brought to the scope of the patent itself (i.e. at least one main claim must be limited).

Guidelines for Examination Scope of the examination

In all these systems, the limitation may comprise a “dependent claim” or “rewriting” amendment. Consequential amendments to the body of the specification are permitted (and may be required in the interests of clarity). In Germany, the specification must also be amended to identify any prior art that triggered the amendment.

The possibility of rewriting amendments in France was stated by the *Cour de Cassation* (CCass) (Ch. Com.), French Supreme Court, in its decision of 9 March 2013, *Syngenta v INPI*.

Formal requirements regarding the request

Limitation requests must include the limited claims requested and, where appropriate, the amended description and drawings. A fee is payable.

In Germany and the UK, the patentee must explain the reasons for the amendment and indicate why the amended claims are sufficiently disclosed in the description.

At the EPO and in France, the provision of reasons is optional.

Requirements checked by the patent office

In all these procedures, the patent office examines whether the amended claims satisfy the requirements for conciseness, clarity and support in the description, according to the EPC (at the EPO) or the relevant national law. It also examines compliance with the requirements set out above.

The patent office examines compliance with Article 123 (2) EPC (no added matter) (or equivalent provisions in national law), except in France, where added matter is a ground for revocation considered by the court.

The power to invalidate a limited patent for added matter belongs to the court within the framework of a claim or counterclaim for revocation (decision of the CCass, (Ch. Com.) of 30 May 2012, *Teisseire v Routin*).

In all these systems, the patent office examines “claim broadening” (Article 123(3) EPC or equivalent provisions in national law).

In none of the procedures discussed does the relevant patent office consider whether the amended claims satisfy the requirements of novelty, inventive step and sufficiency. These requirements can only be raised before a court in a counterclaim for revocation.

Exchanges between applicant and patent office

All the systems considered here allow the patent office to issue objections, to which the applicant may answer within a specified time limit.

Role of third parties

In all these systems, requests for limitation are, under certain circumstances, made available to third parties.

At the EPO and in France, third parties can submit observations, but in doing so they do not become parties to the procedure.

In Germany, if the amended patent does not mention any new prior art, third parties can file a request for file inspection to enable them to understand the reasons for the limitation.

In the UK, third parties may file a notice of opposition setting out why the amendment should not be allowed (the only possible grounds are lack of conciseness, clarity or support, added matter and claim broadening). Such an opposition can lead to a fully contested procedure, with statements

from witnesses, and a hearing at which the witnesses may be cross-examined.

When can limitation be requested?

Patentees can submit a request for limitation at any time. They can do so as soon as the patent has been granted, or even after it has expired. However, it is not possible to file a limitation request with the EPO while opposition proceedings are pending. In the UK, if proceedings for infringement or validity of the patent are pending, an amendment application must be made as part of these proceedings, so that the amendment is considered at the same time as the validity of the patent.

In Germany and France, requests for limitation may be submitted to the patent office while revocation or infringement proceedings are pending, regardless of the stage they have reached (first instance, appeal or the highest civil courts – the *Bundesgerichtshof* (German Federal Supreme Court) (BGH) and the *Cour de Cassation* (French Supreme Court) (CCass)).

Effect of limitation

In all these systems, the patent is amended *ab initio*, which means that the effect of limitation is retroactive (*ex tunc*).

The date on which the limitation becomes effective is the date when the decision is made public, although the way in which this is done varies from system to system.

Publication of a new patent specification

A new patent specification is published in all of the systems except France, where only the limited claims and the amended parts are recorded in the French patent register. This means that third parties can be aware of the amendment only by ordering an extract from the French national register relating to the patent concerned.

How many times?

There is no limit as to the number of times a limitation can be requested.

However, in France, patentees who make several limitations of their patents in a dilatory or abusive manner may be liable to damages or even a civil fine of up to EUR 3 000.

Appeal proceedings

Recourse against decisions of the patent office is available in all the systems discussed in this module. Appeals may be lodged either before the patent office or directly before a court, depending on the system concerned.

At the EPO, decisions refusing a request for limitation can be appealed before the boards of appeal within two months from notification of the decision.

In Germany, if the requested amendment is refused, the applicant can lodge an appeal before the *Deutsches Patent- und Markenamt* (German Patent and Trade Mark Office) (DPMA), which reviews the decision and has the power to amend it in full or in part. If it stands by its decision, it transfers the case to the *Bundespatentgericht* (German Federal Patent Court) (BPatG).

In the UK, appeals are lodged before a single judge of the Patents Court and, from there, with leave, with the Court of Appeal. Then there is still the possibility, rarely used, of an appeal, with leave, to the UK Supreme Court on a matter of law.

In France, an appeal seeking the invalidation of the decision of the Director of the *Institut national de la propriété industrielle* (French National Industrial Property Institute) (INPI) may be lodged before the *Cour d'appel de Paris* (Paris Court of Appeal) (CA), within one month of the decision's publication date in the *Bulletin officielle de la propriété industrielle* (French Official Bulletin of Industrial Property) (BOPI). There is also the possibility of appeal, rare in practice, before the *Cour de Cassation*, on a matter of law, against the decision of the CA.

Procedure: limitation procedures involving a court

Germany

Due to the bifurcated system in Germany, limitation must be done in either nullity or opposition proceedings. Basically, the same provisions apply as stated above. There is no requirement to file for (separate) limitation proceedings besides the legal proceedings either before the DPMA (opposition) or the BPatG (nullity proceedings).

In nullity or opposition proceedings the patentee usually defends the patent with auxiliary requests. These limited claims take prior art that was discovered during the litigation into account and try to change the scope of the patent with regard to that newly discovered prior art.

In contrast to office actions before the DPMA in opposition or nullity proceedings, the amended claims will not only be reviewed for their admissibility but also to ascertain if they are new and inventive.

UK

If a patent proprietor wishes to apply to amend a patent which is the subject of proceedings, either in the court or in the UK Intellectual Property Office (UK IPO) (revocation proceedings can be brought in the UK IPO as well as in the court), the application is made to the court (or UK IPO, where appropriate). If the application is made to the court, a copy must be served on the UK IPO, which will inform the court if it has any concerns in relation to the requirements for conciseness, clarity and support, or as to added matter or claim broadening.

The subsequent procedure is in essence the same as in a standalone application to the UK IPO, the timetable being aligned to the timetable in the existing proceedings.

An amendment in the course of proceedings is almost always sought as a response to an attack on the validity of the patent. The application to amend can be unconditional, or it can be conditional on the original claims being held invalid. Unlike the position in a standalone amendment proceeding, the application to amend can be refused if the amended claims are invalid.

Timing in the UK – “rewriting” amendments

If a patentee proposes a “rewriting” amendment, the court will need to consider whether it complies with the requirements for conciseness, clarity and support, and for no added matter or claim broadening. It will also need to decide whether the claims as proposed to be amended are valid.

The UK court considers the validity of the proposed amended claims at the same time as it considers the validity of the claims as originally granted, since it will be hearing the same witnesses and arguments about the same prior art and other grounds for invalidity.

The patent proprietor must therefore make the application to amend in sufficient time to permit the other party to prepare its evidence and arguments regarding the proposed new claims. The amount of time will depend on the complexity of the proposed amendments, but an amendment application filed less than one month before trial is likely to be too late.

For these reasons, a patent proprietor may not apply to make a “rewriting” amendment after the first instance judgment.

Timing in the UK – “dependent claim” amendments

In an action in the UK, before the parties start to prepare their evidence, the patent proprietor is required to identify which dependent claims of

the patent have “independent validity”, that is, which claims it contends are valid even if all the claims upon which they depend were invalid. The other party will then prepare evidence and arguments dealing with the alleged invalidity of these claims.

A “dependent claim” amendment in essence “amends down” to one (or more) of the claims which are asserted to be independently valid. Since the opposing party will in any event prepare its evidence and arguments to attack these claims, it does not need to be given as much advance notice of the proposed amendments as is the case with “rewriting” amendments.

Indeed, the court may decide that the patent is “partially valid”, that is, that the main claim is invalid, but that certain of the subsidiary claims, which the patent proprietor asserted to have independent validity, are indeed valid. In such a case, the court can grant relief in respect of the claims held to be valid, but it normally requires that a “dependent claim” amendment be made so that the claims held to have been invalid are removed. The court may also require (in the case of a European patent (UK)) that a corresponding limitation be made at the EPO.

Restrictions on remedies in the UK

If a patent is amended, the proprietor will not be awarded a pecuniary remedy in respect of infringements committed before the decision to allow the amendment unless it establishes (a) that the infringer knew or had reasonable grounds to know that he was infringing the patent (as amended, since the amendments take effect retrospectively from the date of grant); (b) that the patent as originally granted was framed in good faith and with reasonable skill and knowledge; and (c) that the proceedings were brought in good faith.

In a case of partial validity, the same things must be established before the patent proprietor can be awarded not only damages or an account of profits, but also costs.

France

Until the introduction in France, in 2008, of an *ex parte* limitation procedure before the INPI, the only possibility for an amendment of a granted patent was a court decision finding one or several claims partially invalid and ordering a claim amendment.

This possibility still exists, although it is rarely applied.

For French patents, Article L. 613-27 last paragraph of the *Code de la propriété intellectuelle* (French Intellectual Property Code) states that the

patent owner is referred to the INPI in order to submit an amended claim drafted in accordance with the judgment, and that the Director of the INPI has the power to reject the requested amendment for lack of compliance with the judgment.

For European patents, Article L. 614-12 does not mention any referral to the INPI: the limitation involves the court only.

Although French provisions still allow the court to find a claim partially invalid and to order its amendment, this option is almost never used.

Claim limitation within the framework of revocation or infringement proceedings does not call for special comments.

In contrast with limitation proceedings before the patent office:

- Debate in court makes it possible for the party challenging the validity of the patent to raise all grounds of nullity, against both the granted claims and the limited claims requested by the patentee.
- The court has jurisdiction to decide upon all nullity grounds.

Co-pending proceedings

Impact on revocation/infringement proceedings of an amendment procedure pending before a patent office

In Germany and France, if there are pending revocation or infringement proceedings (either at first instance or on appeal) and an amendment procedure is brought before a patent office (the EPO or national office) in respect of the same patent, one of the parties may ask the court to stay the revocation or infringement action until the outcome of the amendment procedure is known.

In Germany, the likelihood of a stay depends on the type of amendment. If the amendment is a “dependant claim” amendment, the infringement court will not usually stay the proceedings. If the amendment is a “rewriting” amendment, the courts may be inclined to stay the proceedings, as the wording of the claim has not yet been reviewed by any technical authority. The Düsseldorf *Landsgericht* (District Court) (LG) will be more reluctant to stay proceedings, as there the judges evaluate amended claims in detail. In contrast, the Mannheim LG is more likely to do so.

In France, the court will stay the proceedings in most cases, so that, at the main hearing, it does not have to consider claims subject to amendments which the patent office may not allow, unless the balance of interest is found in favour of the party resisting the stay.

Kühnen, Patent Litigation Proceedings in Germany, 7th edition, No. 1870

LG Mannheim, decision of 23.05.2006, 2 O 150/05; *Oberlandsgericht* (OLG), Higher Regional Court, Karlsruhe, decision of 13.7.2006, 6 W 52/06

The balance of interests is illustrated by the judgment of the Paris *Tribunal de Grande Instance* (TGI) (Regional Court), 3rd chamber, 3rd section, of 16 December 2011, *Routin v Teisseire*.

In the UK, the solution is quite different. The tribunal (court or patent office) which is dealing with the infringement/revocation proceedings must also decide the amendment application. If the amendment procedure is pending before the patent office when the infringement or revocation proceedings are started, it will be transferred accordingly.

If the amendment procedure is before the EPO, the UK court will stay first instance proceedings pending the decision of the EPO, or require the patentee to apply for the same amendment in the UK proceedings, depending on which will cause least delay.

If the EPO limitation is filed when an appeal is pending against a revocation decision, a “dependent claim” amendment can be made in the appeal proceedings. However, there is a problem if the EPO limitation is a “rewriting” amendment, since it is too late for such an amendment to be made in the UK proceedings. The case law indicates that if the evidence from the first instance trial covers the matters which the court would need to consider when assessing the limited claims, the appeal can be stayed until the EPO decision, and then proceed on the basis of the limited claims.

However, if to do this would cause too much delay, or if the evidence is insufficient, the court will proceed with the appeal on the basis of the original claims. In such a case, if the appeal upholds the original claims, then the claims as limited by the EPO will take effect. If the appeal fails, the patent will be revoked.

For European patents, is limitation possible while an opposition is pending before the EPO?

At the EPO, limitation applications may not be made if there is an EPO opposition pending.

In Germany, if a European patent is subject to national limitation proceedings as well as an EPO opposition, the scope of protection is limited to the common scope of the claims granted under each of the proceedings. There is no legal provision covering the situation in which this case happens. However, as both decisions will be rightfully handed down, they both need to be taken into account. Therefore, only that scope of protection which is granted in both decisions is valid. This is done in order to prevent misleading and contradicting decisions in the future.

BGH, 20.03.2001 – X ZR 177/98
“Trigonellin”

There is no reported case law in France relating to this scenario, but the solution adopted in Germany would be logical.

In the UK, a national amendment can be sought while an EPO opposition is pending. The result of the EPO opposition (claims amended pursuant to

auxiliary request, or patent revoked) will take effect in the UK unless the amended UK claims are narrower in scope, in which case the amended UK claims will continue to have effect. There is no reported case where the EPO and the UK IPO have allowed inconsistent amendments. If such a situation arose, the UK IPO would probably require the patentee to amend the claims so that they are not broader than either the EPO or the UK amended claims.

These scenarios may lead to a European patent having different claims for the various contracting states. However, this is a natural consequence of the European patent taking effect following grant as a bundle of independent national patents.

Is national limitation possible while an opposition or revocation claim is pending before the national patent office?

In Germany, both opposition and limitation procedures are handled by the DPMA. Processed independently, neither may be stayed to await the outcome of the other. However, if both proceedings are ready for decision at the same time, the DPMA may choose which to decide first, depending on how the proceedings can be resolved most simply.

In the UK, if there is a revocation claim pending in the UK IPO, an amendment application can only be made in the revocation proceedings; a separate amendment application is not permitted.

In France, the situation does not arise because oppositions or revocation claims at the INPI are not possible.

Amendment under the Unified Patent Court (UPC)

The UPC Agreement (UPCA¹⁸) does not specifically provide for the amendment or limitation of claims, but **Article 65**, which deals with the decision on the validity of the patent, stipulates that if the grounds for revocation only affect the patent in parts, the patent will be limited by a corresponding amendment of the claims.

Article 65 UPCA
Decision on the validity of a patent

The UPC will in any case decide on the amended version of the patent claims. It will decide not only on the admissibility of the request but also on the patentability (including novelty, inventive step and sufficiency) of the amended claims, and (if relevant) whether they are infringed.

¹⁸ You can consult all the texts of the UPC Agreement articles mentioned in this text at: www.unified-patent-court.org/sites/default/files/upc-agreement.pdf

Main applicable provisions

Limitation procedure before the EPO

Article 105a EPC

- (1) At the request of the proprietor, the European patent may be revoked or be limited by an amendment of the claims. The request shall be filed with the European Patent Office in accordance with the Implementing Regulations. It shall not be deemed to have been filed until the limitation or revocation fee has been paid.
- (2) The request may not be filed while opposition proceedings in respect of the European patent are pending.

Article 105b EPC

- (1) The European Patent Office shall examine whether the requirements laid down in the Implementing Regulations for limiting or revoking the European patent have been met.
- (2) If the European Patent Office considers that the request for limitation or revocation of the European patent meets these requirements, it shall decide to limit or revoke the European patent in accordance with the Implementing Regulations. Otherwise, it shall reject the request.
- (3) The decision to limit or revoke the European patent shall apply to the European patent in all the Contracting States in respect of which it has been granted. It shall take effect on the date on which the mention of the decision is published in the European Patent Bulletin.

Article 105c EPC

If the European patent is limited under Article 105b, paragraph 2, the European Patent Office shall publish the amended specification of the European patent as soon as possible after the mention of the limitation has been published in the European Patent Bulletin.

Germany

Section 64 *Patentgesetz* (German Patent Act) (PatG)

- (1) The patent can upon a request of the patentee be revoked or by change of the patent claims be limited with retroactive effect.
- (2) The request has to be made in writing and needs to be substantiated.
- (3) The request is dealt with by the patent division. Section 44(1) and Sections 45-48 are applicable. If the patent is revoked, this will be published in the Patent Office Journal. If the patent is limited, the order granting the request needs to modify the patent document according to the limitation; the modified patent document must be published.

UK

UK Patents Act 1977 (as amended)

General power to amend specification after grant

Section 27

- (1) Subject to the following provisions of this section and to section 76 below, the comptroller may, on an application made by the proprietor of a patent, allow the specification of the patent to be amended subject to such conditions, if any, as he thinks fit.
- (2) No such amendment shall be allowed under this section where there are pending before the court or the comptroller proceedings in which the validity of the patent may be put in issue.
- (3) An amendment of a specification of a patent under this section shall have effect and be deemed always to have had effect from the grant of the patent.
- (4) The comptroller may, without an application being made to him for the purpose, amend the specification of a patent so as to acknowledge a registered trade-mark.
- (5) A person may give notice to the comptroller of his opposition to an application under this section by the proprietor of a patent, and if he does so the comptroller shall notify the proprietor and consider the opposition in deciding whether to grant the application.
- (6) In considering whether or not to allow an application under this section, the comptroller shall have regard to any relevant principles under the European Patent Convention.

Amendment of patent in infringement or revocation proceedings

Section 75

- (1) In any proceedings before the court or the comptroller in which the validity of a patent may be put in issue the court or, as the case may be, the comptroller may, subject to section 76 below, allow the proprietor of the patent to amend the specification of the patent in such manner, and subject to such terms as to advertising the proposed amendment and as to costs, expenses or otherwise, as the court or comptroller thinks fit.
- (2) A person may give notice to the court or the comptroller of his opposition to an amendment proposed by the proprietor of the patent under this section, and if he does so the court or the comptroller shall notify the proprietor and consider the opposition in deciding whether the amendment or any amendment should be allowed.
- (3) An amendment of a specification of a patent under this section shall have effect and be deemed always to have had effect from the grant of the patent.

- (4) Where an application for an order under this section is made to the court, the applicant shall notify the comptroller, who shall be entitled to appear and be heard and shall appear if so directed by the court.
- (5) In considering whether or not to allow an amendment proposed under this section, the court or the comptroller shall have regard to any relevant principles applicable under the European Patent Convention.

Amendment of applications and patents not to include added matter

Section 76(3)

No amendment of the specification of a patent shall be allowed under section 27(1), 73 or 75 if it –

- (a) results in the specification disclosing additional matter, or
(b) extends the protection conferred by the patent.

France

Article L. 613-24 of the *Code de la propriété intellectuelle*

The owner of a patent may at any time surrender either the entire patent or one or more claims, or limit the scope of the patent by amending one or more claims.

The request for surrender or limitation shall be submitted to the National Institute of Industrial Property in accordance with the conditions laid down by regulation.

The Director of the National Institute of Industrial Property shall examine the request for its compliance with the regulations referred to in the foregoing paragraph.

The effect of the surrender or limitation shall be retroactive from the filing date of the patent application. (...)

Article R 613-45 of the *Code de la propriété intellectuelle*

(Decree No. 2008-1471 of 30 Dec. 2008, Art. 3)

The request for surrender or limitation shall be made in writing.

To be admissible, the request shall be:

1. Issued by the holder of the patent entered in the National Patent Register at the date of the request, or by its representative, which shall enclose with the request a special power of surrender or limitation, unless the representative is a patent attorney or an attorney-at-law.
If the patent belongs to several coowners, the surrender or limitation may only be effected if requested by all of them;
2. Accompanied by evidence of payment of the prescribed royalty fees;
3. Directed to only one patent;

4. Accompanied, where property rights, pledges or licences have been entered in the National Patent Register, by the consent of the holders of these rights;
5. Accompanied, when the limitation is requested, by the full text of the amended claims and, as the case may be, by the description and the drawings as amended.

If, when the limitation is requested, the amended claims do not constitute a limitation in relation to the previous claims of the patent or if they do not comply with the provisions laid down in Article L. 612-6, a reasoned notification is made to the requester.

A time limit shall be specified within which it may amend its request or submit observations. If the requester fails to amend its request or to make observations permitting to lift the objection, the request is rejected by decision of the Director General of the National Institute of Industrial Property.

Surrenders and limitations are entered in the National Patent Register. An entry notice is addressed to the requester of the surrender or limitation.