or states explicitly an idea which was implicit or inherent in the disclosure of the application as filed, it is proper.[16] The disclosure includes not only whatever is explicitly shown and described in the application, but also what is fairly to be inferred from the application taken as a whole.[17] Where the application as filed refers to "any suitable mechanism" for performing a function, and such mechanism is known, the applicant will usually be permitted to insert an express disclosure of it.[18] This follows from the principle that an applicant is entitled to rely on the prior art to supplement his disclosure, as stated in Section 57. But if such insertion would add inventive matter to the substance of the original disclosure, it should not be permitted. In some cases it has been held that the suggestion that a given construction might be used does not warrant the addition of a complete disclosure of such construction.[19]

The Office, when ruling on questions of new matter, considers it immaterial that the applicant invented the feature in question prior to the filing of his application, if his application does not disclose it.[20] The fact that the new matter is presented prior to the first Office action on the application, even on the day the application is filed (§ 54 hereof), is of no consequence.[21]

There may be a fatal lack of disclosure though the device which the application has attempted to disclose is in successful operation.[22]

Drawing and description may be amended to conform to each other,[23] and the drawing may be amended to correct manifest defects or omissions,[24] but a draftsman's error or accidental showing of a feature not described cannot always be availed of to introduce corresponding descriptive matter into the application.[25] And the drawing will not be scaled to find a particular spatial relationship not mentioned in the specification,[26] although where such relationship was disclosed

16 *Marconi Wireless Telegraph Co v United States* 320 US 1, 1943 CD 781, 57 PQ 471, 556 OG 339; rehearing denied, 320 US 809. In re *Manson* 45 AppDC 563, 1917 CD 152, 238 OG 1641

17 *Wezel & Naumann Aktiengesellschaft v Morgan Lithograph Co* (CCA-2:1931) 54 F2d 235, 6 PQ 154; cert denied 285 US 545

18 *Bolin v Slingluff* 39 AppDC 134, 1912 CD 570, 182 OG 975. Ex parte *Sylvestersen* 1907 CD 228, 129 OG 3160

19 Ex parte *Chaffee* 1908 CD 281, 137 OG 1914. Ex parte *Mothes* 1904 CD 500, 113 OG 1146

20 *Dow v Converse* 1903 CD 404, 106 OG 2291

21 Ex parte *Snyder* 1882 CD 22, 22 OG 1975

22 In re *Lawson* 21 CCPA 1091, 70 F2d 373, 1934 CD 562, 21 PQ 390, 449 OG 3

23 Rules 117, 118. In re *Curtis* 23 CCPA 869, 81 F2d 236, 1936 CD 219, 28 PQ 231, 466 OG 5. Ex parte *Harrison* (18 July 1901) 13 Gour 55:26, 27. *Bloodhart v Levernier* 20 CCPA 917, 64 F2d 367, 1933 CD 260, 17 PQ 188, 433 OG 510

24 Ex parte *Wareham* 1901 CD 204, 97 OG 1600. *Seeger v Wilson* 1924 CD 148, 329 OG 265

25 In re *Alden* 23 CCPA 931, 81 F2d 875, 1936 CD 281, 28 PQ 457, 467 OG 977. In re *Finley* 22 CCPA 1090, 76 F2d 306, 1935 CD 454, 25 PQ 97, 459 OG 3. *Farnsworth v Brown* 29 CCPA 740, 124 F2d 208, 1942 CD 184, 52 PQ 71, 538 OG 242. Ex parte *Snyder* 1882 CD 22, 22 OG 1975

26 In re *Olson* 41 CCPA 871, 212 F2d 590, 1954 CD 167, 101 PQ 401, 685 OG 700. Ex parte *Sheldon* (BA:1950) 89 PQ 441