

depend on how the skilled person would construe the amended claim and whether, on the basis of the common general knowledge in the art, they would consider the application to disclose the subject-matter at least implicitly; this would need to be assessed depending on the specific facts of each case. In the case in hand, the disputed amendment had been taken from a passage of the description as originally filed, with the particularly preferred lower value having been combined with the especially preferred higher value. The board found the amendment to be directly and unambiguously derivable from the original application, noting that it amounted to a limitation of a parameter that had been implicitly present in the original claims, not a selection from alternative embodiments set out in the original disclosure.

The board in T 193/17 distinguished the case from T 925/98. It underlined that in T 925/98 the general and the preferred ranges were disclosed in combination, since independent claim 1 as originally filed disclosed a basic range of 30 to 60%, while claim 2 as originally filed, which depended on claim 1, disclosed a preferred range of 35 to 50%. By contrast, in the case underlying T 193/17 the end points of the two ranges claimed (regarding thickness of the surface coating and particle size) were disclosed in four different dependent claims as originally filed, which each depended exclusively on claim^o1. Moreover, T 925/98 dealt with the range of a single parameter, whereas present claim 1 related to the introduction of two parameters.

In T 516/18 the application as filed disclosed two alternative values for each one of the upper and lower limits of the range at stake. The board considered that the person skilled in the art was directly and unambiguously provided with the information that any one of the upper and lower limits proposed could be combined in order to select a suitable range, irrespective of the fact that they were presented as "preferable" or "more preferable" values. The board also noted that, in line with established case law (see e.g. T 925/98), when a disclosure of a general and a preferred, narrower range was provided in the originally filed application, a combination of the narrower range with one of the partial ranges lying within the disclosed general range and located on either side of the narrower range would be considered directly and unambiguously derivable from the originally disclosed ranges.

- b) Combination of the lower limit of the general range with the lower limit of the preferred range

In T 1170/02 the board held that the combination of the lower limit of the general range with the lower limit of the preferred range, thus **excluding the preferred range**, did not fall under the principles developed in decision T 2/81 (OJ 1982, 394). In such a case, it might be useful to ask whether the skilled reader of the parent application would **seriously contemplate** working in the range referred in the divisional application or alternatively whether there was anything in the parent application as filed or his common general knowledge which would cause him to exclude the possibility of working in that range (with reference to T 187/91, OJ 1994, 572). To the board, the skilled person would, in view of the data in the parent application, seriously consider working beyond the lower limit of the preferred range as well. Under these circumstances, the range could be directly and