

embrace values as high as could be attained above a specified minimum level, given the other parameters of the claim, then such open-ended parameters could not normally be objected to. This decision was confirmed by T 129/88 (OJ 1993, 598), T 87/84, T 92/84, T 136/84, T 297/90 and T 1018/05, although in the last two cases a role was played by the question of sufficient disclosure (see also T 989/95, in which T 487/89 was agreed with but not applied). In T 586/97, on the other hand, the board found that the absence from any independent claim of any upper limit on the amount of a particular detrimental but necessary component in the chemical composition claimed was at variance with the aim of the invention as set out in the description, namely, to decrease the percentage of the undesirable ingredient in the claimed composition. The claim was thus so broad it went beyond the scope of the invention as disclosed in the description. Therefore the requirement of Art. 84, second sentence, EPC 1973 was not met.

In T 227/91 (OJ 1994, 491) the claims comprised a coating thickness defined by a formula with two parameters (a) and (t). Parameter (a) represented the thermal diffusivity of the coating means and was therefore a feature inherent in the instrument. Parameter (t) represented the effective pulse time of the laser and was related to the laser operating conditions, not to the structure of either the laser or the instrument. The thickness defined in the claims was still connected with the mode of operation of the laser, that is, with a human factor irrelevant to the instrument per se. The extent of the protection conferred by the subject-matter of the claims was therefore regarded by the board as ambiguous and indefinite.

In T 455/92 independent claim 2 was worded as follows: "Covering [...] for a pressing [...], characterised by: (a) a length which corresponds at least to the circumference of the shell face of the pressing to be covered, (b) an overall breadth sufficient to cover the shell face and both end faces of the pressing, and (c) a fold such that [...] the breadth [...] corresponds to the breadth of the shell face of the pressing [...]". The board did not see this as a breach of Art. 84 EPC 1973, since reference had been made to a physical entity which was known; hence the range of sizes was definable in so far as it excluded packaging materials for other physical entities. Furthermore, it was self-evident to a skilled person in this field that the size of the packaging material (the covering) was dependent on the physical entity to be packed. In T 1020/13, however, the definition of a claimed entity by reference to a second entity that was not part of the claim was deemed a breach of Art. 84 EPC.

In T 860/93 (OJ 1995, 47) the board decided as follows: Where a quality is expressed in a claim as being within a given numerical range, the method for measuring that quality must either be general technical knowledge, so that no explicit description is needed, or a method of measuring that quality needs to be identified (decision T 124/85 followed). In contrast, where a claim specifies a relative quality, in this case that the products should be "water-soluble", it is not normally necessary to identify any method for its determination (for the term "soluble" see also T 785/92, T 939/98, T 125/15). In T 860/95 ("for a long period of time"), T 649/97 ("transparent"), T 1041/98 ("thin plate"), T 193/01 ("thin film"), T 545/01 ("flat"), T 378/02 ("smooth"), T 2367/16 ("overnight"), and T 2402/17 (relationship between the terms "higher" and "lower oscillation susceptibility" and "smaller values"), the boards confirmed that the use of a relative term in a claim may be accepted where the skilled person is able to understand the meaning of this term in a given context. However,