

interpretation was eliminated by taking the position of the skilled person. Thus it could objectively be concluded that the claim as amended was not clear. The meaning, in terms of the limiting effect, of features introduced into a claim must be clear in order that the claim as a whole was clear.

## 1.5. Clarity of claims and Article 83 EPC

Art. 83 EPC requires that the European patent application discloses the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art. In certain circumstances, for example when undefined parameters are used in the claims and no details of the measuring methods are supplied, the question arises whether there is a problem with respect to Art. 83 or Art. 84 EPC. The answer is important, because Art. 83 EPC is a ground for opposition, whereas Art. 84 EPC is not. See chapter II.C.8. "The relationship between Article 83 and Article 84".

## 2. Form, content and conciseness of claims

R. 43 EPC concerns the form and content of claims. Apart from the requirement that the claims define the matter for which protection is sought in terms of the technical features of the invention, it concerns the following issues which are the subject of this sub-chapter: the two-part form of claims, the exceptions to the general rule that the application may contain no more than one independent claim in the same category, the reasonable number of claims and the provision that claims should normally not rely on references to the description and drawings in specifying the technical features of the invention. R. 43 EPC has also been discussed in the context of clarity of claims (see in this chapter II.A.3.7.).

### 2.1. Form of claims: Rule 43(1) EPC

R. 43(1)(a) and (b) EPC (like R. 29(1)(a) and (b) EPC 1973) define the two-part form which a claim is to have where this is appropriate. Such claims must contain a statement indicating the designation of the subject-matter of the invention and those technical features which are necessary for the definition of the claimed subject-matter but which, in combination, form part of the prior art ("preamble"), and a characterising portion stating the technical features for which, in combination with the features stated in the first part, protection is sought. See also Guidelines F-IV, 2 – March 2022 version.

#### 2.1.1 One-part or two-part claim

In T 13/84 (OJ 1986, 253), the board ruled that a claim in two-part form had to be regarded as appropriate if a clearly defined state of the art existed from which the claimed subject-matter distinguished itself by further technical features (likewise T 181/95). This was confirmed by T 162/82 (OJ 1987, 533), where the board added that the extent to which prior art was cited in the description could not determine whether the one-part or the two-part form of a claim was appropriate in a given case.

In T 170/84 (OJ 1986, 400) it was pointed out that where a two-part claim would lead to a complex formulation it was no longer appropriate. In a one-part claim, the features required