

**constraint** on the total amount of compounds belonging to the broader class or list. See also T 514/14 and T 1063/15.

In T 491/13 the board distinguished the case at issue from the above cited cases, since it did not relate to a restriction from a list of compounds comprising one or more of said compounds (here the solvent) or a mixture thereof, or to a list defined broadly as a general chemical class or a broad chemical formula. In addition, the situation also did not apply to the case at issue, since the protection conferred by claim 1 as granted extended to compositions containing the selected component in amounts inside the defined range and potentially one or more supplementary unselected compounds in any range.

In T 306/14 the board considered that possible ways out of the situation were a sequential drafting of the claim (formulation "en cascade" as in T 999/10) or a "double condition" (as in T 1360/11). In the case in hand, the appellant had chosen the second possibility and amended the claim by including a further limitation of the total amount of the milled filler. The board agreed with the respondent/opponent that the claims were not identical to the claims in decision T 1360/11, wherein the added condition also specified the amount of the specific components, but the idea was exactly the same. Adding the second condition ensured that the total amount of milled filler remained within the scope of the granted claims.

However, see also T 2447/18, which illustrates that such claim formulations may contravene Art. 123(2) EPC.

## 2.5. Additions

### 2.5.1 Addition of technical features defining the invention more narrowly

In the case of a change in the technical features of the invention, if the technical features of the claimed invention after amendment are more narrowly defined, the extent of the protection conferred is less (G 2/88, OJ 1990, 93, point 4.1 of the Reasons).

In T 970/17 claim 1 of the third auxiliary request included all the features of claim 1 as granted but also several additional technical features. Both claims were product claims. The board concluded that claim 1 of the third auxiliary request had a narrower scope of protection than claim 1 as granted (see G 2/88, point 4.1 of the Reasons). The opponent had argued that it was not allowable under Art. 123(3) EPC to claim a physical entity which was different from the physical entity claimed in the patent as granted (here: claim 1 of the third auxiliary request was directed to a vascular access port comprising the septum according to claim 1 as granted). The board, however, held that what mattered was not what the first technical feature in a claim was, but rather what technical features the claims included in their totality. In the board's view, the opponent's arguments relating to possible differences in the German patent law on contributory infringement did not change the above assessment. There was a difference between the "extent of the protection conferred" by a patent under Art. 69 EPC and the "rights conferred" by a patent under Art. 64 EPC.