ingredient, constituted an unallowable selection from two lists. The board considered that FIE was selected from a list of six particularly preferred active ingredients and combined monotherapy (as the sole active ingredient), which constituted de facto the only administration form envisaged in the original application. Under these circumstances, the feature was not the result of two selections from different lists, as basically only one selection, i.e. the selection of FIE, had to be made in order to arrive at the feature. As a consequence, the requirements of Art. 123(2) EPC were met.

In **T 236/08** the feature "suitable for administration by inhalation" in claim 1 was not present in the claims as originally filed. A basis for this feature could however be found as part of a list in the description, where it was one way among different possible ways of administration. A consequence was however that the combination of the subject-matter of claim 1 with the subject-matter of any dependent claim which also resulted from a selection among different possibilities would constitute an unallowable selection from multiple lists.

In case **T 209/10** the appellant (patent proprietor) alleged that claim 1 did not concern an unallowable selection but merely the deletion of some option(s) from one list. The board however, considered that the application as originally filed disclosed the technical effect of prevention of bone loss, which was not identical to the prevention of post-menopausal osteoporosis in a post-menopausal woman as described in claim 1 as granted. Post-menopausal women were selected from a list of several possible options for the patients to be treated. A further selection also took place in claim 1, namely that concerning the form of the medicament as a tablet or capsule. The oral route did not equate with the selection of tablets and capsules since other forms such as solutions and suspensions might also be possible. Moreover, the patient was identified as an aging human and there was no preference for post-menopausal women to be linked to a particular dosage form. The board concluded that claim 1 singled out subject-matter which was not disclosed in an individualised manner in the application as originally filed.

According to the board in **T 2134/10**, there was no combination of independent features from two lists. The board found that a specific **degree of sequence identity** (in claim 1(d): "at least 95%") is not a property that, in combination with a particular molecule selected from Table 1 (disclosing 113 open reading frames encoding potentially antigenic peptides of S. pneumoniae), could single out a particular molecule or confer properties to the claimed subject matter not directly and unambiguously derivable from the application as filed.

In **T 1581/12** claim 1 was directed to a combination of sequences SEQ ID NO 4, 6 with fragment length of "20 or more consecutive amino acids", and a selection of those fragments containing an epitope of these sequences. In the parent application, sequences SEQ ID NO 4, 6 were disclosed as members of a list of several hundred sequences. Likewise, the fragment length indicated in claim 1 was disclosed in the parent application within a long list of lengths to be selected "depending on the particular sequence". Distinguishing its case from **T 583/09** and **T 2134/10** the board observed that the values of the fragment length disclosed in the parent application would be understood by a skilled person to apply to each and every member of the list of disclosed amino acid sequences (SEQ ID NOs), wherein the upper length of these fragments varied "depending on the