

In T. 1722/11 a claim related to a computer program resident on computer-readable media was defined by reference to a method claim. The execution of the method required co-ordinated interaction between various resources in a communication network. As these resources were at different, mutually remote locations, the board considered it unclear how the method referred to could be executed solely by a (single) computer program when run on a computer. The claim thus lacked clarity.

In decisions T. 418/92 and T. 453/90 the boards confirmed that it was possible for claims to relate to both physical activities and physical entities, in particular where the inventions concerned were fully disclosed as processes to the skilled person only if apparatus features were also included in the definition. In T. 1046/05 too the board confirmed the clarity of an apparatus feature in a process claim.

In T. 426/89 (OJ 1992, 172) the board decided that a claim relating to a "method for operating" a device was not "clear" (Art. 84 EPC 1973) if the claimed features only described how the device worked.

In T. 841/95 the board found that where a claim for an apparatus sought to define the invention by reference to features of the use to which the apparatus was to be put, a lack of clarity could result. However, if the subject-matter of the application was an apparatus and it was not viable to define the apparatus other than by reference to the said use, an apparatus claim directed to a combination of apparatus and use and defining the apparatus unambiguously could be clear.

Including in a device claim "for carrying out a process" a reference back to an earlier claim did not alter the fact that it was an independent (non-process) claim; rather, it limited the claimed device to being suitable to carry out the process referred to (T. 1017/98).

A claim in T. 952/99 contained two different aspects of a use claim: on the one hand it defined the use of a particular physical entity to achieve an 'effect', and on the other it defined its use to produce a product. Although a use claim normally falls into either one category or the other, the board found that such a clear distinction was not possible in this case. The claim contained both application and process features and there was a technical affinity between the additional process step and the 'core' of the invention. Both the application and process features were thus technical features of the invention, so that their combination did not contravene R. 29(1) EPC 1973, the relevant criterion for assessing the extent to which the combination of a 'use' claim and technical process features was allowable from the point of view of clarity. The board drew a distinction with T. 796/91, in which it had been held that the heterogeneous combination of process features and application features rendered the claim fundamentally unclear. That case had concerned the combination of a process claim and a use claim with no process claim at all. In contrast to the case before the board, the process features had apparently had no affinity to the application features, which had made it impossible to subsume the two different types of technical feature under one claim.

In T. 921/11 the board considered that the claims as a whole, construed in the light of the description, were so unclear as to the meaning of the term "system" that the skilled reader