

In T 614/12 the board found that the drawing did not show any measurements or scale or give any other indication that it was an exact engineering drawing reproducing the construction elements to scale. It was thus no more than a schematic illustration of the kind commonly found in patent documentation. The imprecision of such an illustration made it impossible to measure angle sizes.

In T 398/00 the appellant sought to derive a feature (concerning the positioning of an engine) from the drawings. Referring to T 169/83 (OJ 1985, 193) the board explained that what would be required was that the person skilled in the art would clearly unmistakably recognise from the drawings, in the context of the description as a whole, that locating the engine according to this feature was the deliberate result of technical considerations directed to the solution of the technical problem involved. Given in particular the schematic nature of the illustration of the engine, this was however not the case. Cited in T 886/15.

1.13.3 Negative features

In T 170/87 (OJ 1989, 441) the board held that a figure which served only to give a schematic explanation of the principle of the subject-matter of the patent and not to represent it in every detail did not allow the sure conclusion to be drawn that the disclosed teaching purposively excluded a feature not represented. Such a "negative" feature (in this case, "with no internal fittings") could not subsequently be incorporated into the claim (see also T 410/91, T 1120/05, T 474/15 and T 621/15). Regarding the absence of a feature in a figure which served only to give a schematic explanation of the principle of the invention, see also T 264/99, in which the board found the circumstances to be different from those in T 170/87.

In T 1120/05 the invention concerned an "arrangement for and a method of managing a herd of freely walking animals" and the amendment introduced a negative feature namely "but not to the milking station". This negative feature was not expressly disclosed in the description and in the claims of the patent application as filed. Features could be taken from the drawings if their structure and function were clearly, unmistakably and fully derivable from the drawings. It was not possible to derive a negative or missing feature on its own, i.e. without the context of the other, existing features of the claim. Moreover, **arbitrarily** choosing one of many possible negative features was not permitted (see also T 777/07), because the skilled person not only had to realise the possible negative features, but – because they were derived from the drawings – he also had to establish which one of the features was essential to the invention and which ones were not. The board found that in the absence of a teaching from the description, the skilled person would be unable to establish the essential nature of a single negative feature, seen against a background of a multitude of potentially essential features, even if this selected single negative feature in the drawings could be recognised by the skilled person in the drawings.