

used to demonstrate that the error was obvious. Even if it was apparent from the filed description, claims and drawings that they did not belong together, it was not immediately clear from the divisional application itself which of these parts was incorrect.

In T 2058/18 the board held that the disclosure of a family member of a document cited in an application could not be used to dispel doubts as to the meaning of an ambiguous part of the application.

4.2.2 Obvious error – incorrect information objectively recognisable

In G 3/89 (OJ 1993, 117) and G 11/91 (OJ 1993, 125) the Enlarged Board of Appeal specified that, for a correction under R 88, second sentence, EPC 1973 to be allowed, the respective part of the European patent application or patent had to contain such an obvious error that a skilled person was in no doubt that the information was not correct and could not be meant to read as such. The skilled person must be in a position objectively and unambiguously to recognise the incorrect information using common general knowledge. If, on the other hand, it was **doubtful** whether any information at all was incorrect, then a correction was ruled out. The same applies if incorrect information only becomes apparent in the light of the proposed correction.

In T 664/03 the board held that the feature concerned was comprehensible in its literal sense and a different interpretation did not impose itself in view of the description and/or the common general knowledge. Hence it was at least doubtful that the skilled person would come to the conclusion that the feature in question was incorrectly defined in that claim.

In T 829/05 the board held that, even if the skilled person were aware of an inconsistency between the claim and the drawing, he would have no cause to believe that the claim was incorrect. The drawing was stated to be diagrammatic and, in the absence of any evident technical reason to suspect that the claim was incorrect, the skilled person would simply accept the inconsistency as being characteristic of a schematic drawing.

In T 1436/12 the applicant sought the correction of a reference to a document (a US patent application identified by its docket number) incorporated by reference in the European application. Given that the incorporation by reference of features from a cross-referenced document fell under a different regime before the EPO than before the USPTO, the board deemed it to be conceivable that the incorporation of the reference was meant only for the prosecution before the USPTO and was, therefore, deliberately not amended when the International application was filed at the EPO. Thus the board was not convinced that the reference to a docket number in an application filed at the EPO must generally be considered to have been made in error.

In T 1702/12 the board held that the skilled person had no reason to doubt the value of 500 when reading granted claim 1 at face value, since this value **made technical sense**. Even when taking the description and dependent claims of the granted patent into account, the skilled person could not be sure that the value of 500 was erroneous, or whether an error occurred in the description or said dependent claims. The board rejected the argument