

that any relevant evidence must be taken into account. Rather, if it was necessary to study the **prosecution history** of the case in order to determine whether an error had been made and what the correction should be, then the criterion of immediacy in R. 139 EPC was not met.

Likewise in T. 2523/11 the error itself was not obvious, since the wording of claim 1 was clear and understandable, no inconsistency with regard to the description existed, the range fell within the range as originally disclosed and it made perfect technical sense. Hence, the skilled person would not have any reason to doubt that it was anything but the limited range which was intended to be pursued.

For further examples of cases in which it was considered doubtful that the skilled person would have thought that the feature concerned was incorrectly defined, see T. 2230/08 and T. 1946/16.

In T. 2058/18 the board held that features the applicant had presented as essential features distinguishing the invention from the closest prior art could not later be said to be obvious errors.

4.2.3 Obvious correction – immediately evident that nothing else would have been intended than what is offered as the correction

In G. 3/89 and G. 11/91 the Enlarged Board held that the parts of a European patent application as filed which relate to the disclosure must further allow a skilled person – using the common general knowledge on the date of filing – directly and unequivocally to ascertain the precise content of the information the person making the request actually meant to give, instead of the incorrect particulars, on the date of filing or when making an amendment under Art. 123 EPC, so that, for said skilled person, "it is immediately evident that nothing else would have been intended than what is offered as the correction" (R. 139, second sentence, EPC). However, if there is any doubt that nothing else would have been intended than what is offered as the correction, a correction cannot be made.

In J. 5/06 the board, referring to T. 158/89 (which had not accepted correction in case of two equally plausible alternatives for a percentage range of a component), held that establishing that a suggested set of documents was a probable and suitable replacement did not amount to establishing that nothing else would have been intended. This latter threshold implied that there was only one **single plausible** replacement – the one which the skilled person would have deduced from those parts of the application which made up the disclosure of the invention. For the case in hand the board concluded that, to the contrary, a complete exchange of the application documents would quite obviously open the door to a plethora of plausible replacements. See also J. 16/13, also relating to replacement of application documents; T. 15/09 and T. 846/16, both relating to correction of a feature in the claims at issue.

In T. 955/92 the reasons given by the appellant to show that only the requested correction could have been intended were not based on the level of general knowledge on the date of filing. In order to arrive at the conclusion that the requested correction was the only