

using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the documents of the earlier application as filed, then the correct information belonged to the content of the earlier application and might be used to decide whether a divisional application extends beyond the content of the earlier application as filed (Art. 76(1) EPC). In the case before it, the board concluded that the range mentioned in the divisional application did not introduce subject-matter extending beyond the earlier application as filed.

1.13. Disclosure in drawings

1.13.1 General

When examining whether there is support for a feature in a drawing the exact same standards must be applied as for the description: the crucial point is what the skilled person would derive directly and unambiguously from the drawing using common general knowledge (T 2537/10).

The case law according to T 169/83 (OJ 1985, 193) - which has been frequently cited -, T 523/88 and T 818/93 shows that the EPC does not prohibit the amendment of claims to include **features from drawings**, provided the structure and the function of such features were clearly, unmistakably and fully derivable from the drawings by the skilled person and not at odds with the other parts of the disclosure. Nor could any element be dropped.

Indeed, in T 169/83 (OJ 1985, 193), T 465/88 and T 308/90 it was pointed out that where drawings existed they were to be regarded as an integral part of the documents disclosing the invention. Drawings were to be **treated on an equal footing with the other parts of the application** (see also chapter II.E.1.2.1 "Description, claims and drawings"). Further, the fact that features were disclosed solely in the drawings did not preclude these features from becoming essential in the course of the proceedings (T 818/93). The features for which a skilled person could clearly derive the structure and function from the drawings could be used to define more precisely the subject-matter for which protection was sought (T 372/90).

In T 676/90 the board underlined that a drawing could never be interpreted in isolation from the overall content of the application but only in that general context. The content of an application was defined not only by features mentioned or shown therein but also by their relationship to each other.

In T 191/93 amendments were based exclusively on the original drawings and introduced only some of the features disclosed in the drawings. The board held that the subject-matter of the patent had been extended compared to the application as filed because it was not derivable from the drawings that the two newly introduced features could be **isolated from the other features** shown in the drawings. For further cases where the isolation of features from a drawing amounted to an unallowable intermediate generalisation, see T 1408/04 and T 983/12.