whether it shows correctly formed HPV 16 particles or not". The board did not see full proof of such facts as a requirement within the framework of the EPC and could not see any serious doubts of the examining division substantiated by verifiable facts.

In **T 903/05** the board, in applying **G 2/98** (OJ 2001, 413), saw no legal basis for imposing additional criteria such as the presence of experimental data in the priority document which made it plausible that the invention would work. The board was furthermore convinced that the experimental data which were present in the patent and not in the priority document did not change the nature of the invention disclosed. See also **T 1834/09**.

According to the board in **T 107/09**, the antibody MR1 was indispensable in order to reproduce the invention of claim 1. The "written" disclosure in the earlier US application from which priority was claimed, even if supplemented by common general knowledge, would not enable the skilled person to carry out the invention. The hybridoma cell line producing the antibody MR1 had been deposited with the ATCC (American Type Culture Collection) only after the filing date of the earlier application. In view of the absence of explicit provisions in the EPC as to when a deposit of biological material had to be made in relation to an earlier application (R. 28 EPC 1973 being concerned with European applications), the board referred in particular to decision **G 1/03**, according to which the requirement of sufficiency of disclosure had to be complied with – in relation to an earlier application from which priority was claimed – at the date of filing of that application. Thus, the board reasoned, if the deposit of biological material was necessary for the requirement of sufficiency of disclosure to be fulfilled for a "priority application", the deposit of this material had to have been made no later than the date of filing of that earlier application. This was not the case here.

3.1.7 Error margins and definitions of limits

Prior to **G 2/98** (OJ 2001, 413), it was sometimes possible to claim error margins or definitions of limits which differed in the subsequent application from the original one (see **T 212/88**, OJ 1992, 28; **T 957/91**; **T 65/92**; **T 131/92** and "Case Law of the Boards of Appeal of the EPO", 3rd ed. 1998, p. 231 et seq.). Since the facts are only comparable up to a certain point, it is not possible to say unequivocally to what extent the principles laid down earlier still apply. In the decisions below, **G 2/98** was applied.

In **T 201/99** claim 1 referred to a **mean residence time** of "1-10 minutes", whereas both priority applications disclosed the range "from about 1-6 minutes" (claim 1) or, for all the examples, a specific residence time of "about 3 minutes". The board found that the features disclosed in the priority applications provided no explicit or implicit disclosure of a process wherein the second step lasted "10 minutes". Therefore it was apparent that they were insufficient to render directly and unambiguously disclosed therein also the whole range of "1-10 minutes". The board did not accept the appellant's argument that the upper limit of "6 minutes" for the time length of the second step was not disclosed in the priorities as a cut-off value (i.e. as possibly related to the function of the invention and its effect) and thus constituted a feature which might be modified without changing the nature of the invention.