

In T.1188/15 the skilled person had no requirement to interpret the claim in a more limited sense in the light of a specific embodiment of the description to which the claim was not limited, the claim itself imparting a clear and credible technical teaching to the skilled reader.

In T.1691/11 claim 1 of all requests included the features of "at least two independent programmable motors" and "at least one of the transferring devices being coupled to each of the programmable motors". These features were clear and unambiguous. The clear linguistic structure of the claim did not allow for any different interpretation. Additionally, a discrepancy between the claims and the description was not a valid reason to ignore the clear linguistic structure of a claim and thus to interpret the claim differently (see also T.431/03). When the wording of a claim is perfectly clear it needs to be considered under Art. 83 EPC, rather than undertaking another speculative interpretation of the claim.

T.2182/11 concerned the second aspect of the appellant's (opponent's) objection relating to the alleged impossibility of carrying out the claimed invention over the whole range claimed because of the vague claim language. The board had in particular stated in its preliminary opinion that the expression "register with" was very broad. The board stated that breadth of an expression was really a matter concerning the clarity requirement of Art. 84 EPC rather than a ground for opposition. In as far as the objection was to be considered under Art. 83 EPC, the mere fact that a **term is broad** does not prevent a skilled person from carrying out the invention.

## 8.2. Article 83 EPC and clarity of claims

If it is argued that insufficiency arises from a lack of clarity, it is generally not sufficient to establish a lack of clarity of the claims in order to establish lack of compliance with Art. 83 EPC 1973. Rather, it is necessary to show that the patent as a whole (i.e. not only the claims) does not enable the skilled person – who can avail himself of the description and his common general knowledge – to carry out the invention (see T.1811/13, T.646/13).

There is now a clearly predominant opinion among the boards that the definition of the "forbidden area" of a claim should not be considered as a matter related to Art. 83 and 100(b) EPC (T.1811/13, T.646/13). Decision T.626/14 does not call this into question, according to the board in T.250/15.

When undefined parameters are used in the claims and no details of the measuring methods are supplied, the question arises whether there is a problem with respect to Art. 83 or Art. 84 EPC. The answer to this question is important because in opposition proceedings the patent can be examined for its compliance with Art. 83 EPC without any restriction. Compliance with Art. 84 EPC is however examined only in cases where there has been an amendment. In its decision G.3/14 (OJ 2015, A102) the Enlarged Board reiterated the principles governing the extent to which patents amended in opposition proceedings can be examined for compliance with Art. 84 EPC. A more detailed account of its decision can be found in chapter II.A.1.4.