

the impact of such a replacement on the pharmacological activity profile of the specific (group of) compound(s) concerned (see also T 467/94, T 156/95).

In T 2402/10 the board stated that in the field of drug design, any structural modification of a pharmacologically active compound was, in the absence of an established correlation between structural features and activity, a priori expected to disturb the pharmacological activity profile of the initial structure (see T 643/96, T 548/91).

In T 930/94 the board held that knowledge of the fact that one specific member of a class of chemical compounds did not lead to the effect achieved by several other members of this class, did not, without additional indications, mean that such an effect could be attributed to all the compounds in this group. In such circumstances, the effect in point did not lead to a recognition of the existence of a technical concept that could be generalised (see also T 641/97, T 209/98, T 853/03).

In T 989/93 the board stated that, in the absence of the appropriate common general knowledge, no conclusions were possible on the basis of the known properties of one group of chemical compounds (here: benzene derivatives) regarding the properties of a different group of chemical compounds (here: naphthalene derivatives).

### 9.9.3 Broad claims

In T 694/92 (OJ 1997, 408) the board, with reference to T 939/92 (OJ 1996, 309), explained that Art. 56 EPC 1973 required the claimed invention, i.e. the proposed technical solution for a given technical problem, not to be obvious to a skilled person from the state of the art. If the inventive step of a claimed invention was based on a given technical effect, the latter should, in principle, be achievable over the whole area claimed (see also T 583/93, OJ 1996, 496).

T 939/92 (OJ 1996, 309) contained fundamental rulings on broad claims in the field of chemistry. The board held that in view of the state of the art the technical problem which the patent in suit addressed was the provision of further chemical compounds with herbicidal activity. It was necessary for all the claimed compounds to possess this activity. Moreover, the question as to whether or not such a technical effect was achieved by all the chemical compounds covered by such a claim, might properly arise under Art. 56 EPC 1973, if this technical effect turned out to be the sole reason for the alleged inventiveness of these compounds. The appellants' submission that the test results contained in the description showed that **some** of the claimed compounds were indeed herbicidally active could not be regarded as sufficient evidence to lead to the inference that substantially **all** the claimed compounds possessed this activity. In such a case the burden of proof rested with the appellants. The requirements of Art. 56 EPC 1973 had not therefore been met (T 268/00, T 1188/00, T 320/01, T 1064/01, T 924/02, T 488/16).

Following T 939/92 (OJ 1996, 309), the board stated in T 668/94 that the technical problem could only be taken into account in the assessment of inventive step if it could be accepted as having been successfully solved, i.e. if it were credible that substantially all the claimed compounds possessed the plant growth regulating activity. When only some