

particular technical effect, and if no hints exist leading the skilled person to the selection, then an inventive step is accepted (this technical effect occurring within the selected range may also be the same effect as attained with the broader known range, but to an unexpected degree). The criterion of "seriously contemplating" mentioned in connection with the test for novelty of overlapping ranges should not be confused with the assessment of inventive step. For inventive step, it has to be considered whether the skilled person would have made the selection or would have chosen the overlapping range in the hope of solving the underlying technical problem or in expectation of some improvement or advantage. If the answer is negative, then the claimed matter involves an inventive step.

The unexpected technical effect must apply to the entire range as claimed. If it occurs in only part of the claimed range, the claimed subject-matter does not solve the specific problem to which the effect relates, but only the more general problem of obtaining, for example, "a further product X" or "a further process Y".

13. Dependent claims; claims in different categories

See ISPE Guidelines 13.19.

14. Examples

See ISPE Guidelines 13.14.