

concerning a particular embodiment of an invention (R. 43(3) and (4) EPC). R. 43(5) EPC provides that the number of claims shall be reasonable with regard to the nature of the invention claimed.

Pursuant to Art. 84 EPC claims must not only be clear, but also concise. In a number of cases this has been interpreted as requiring claims to be concise both individually and in their entirety (see e.g. T 79/91, T 246/91). The examination of these requirements depends on the specific facts of the case (see also T 596/97, T 993/07).

A Markush formula is the most concise means of defining a class of chemical compounds in a claim (T 1020/98). The examining division had held that "formulating claims in a style that makes routine tasks in substantive examination unnecessarily difficult" was a contravention of Art. 84 EPC 1973. However, there is no legal basis in the EPC for a request to restrict the content of an independent claim so that substantive examination can be carried out with greater ease and less effort.

Regarding lack of conciseness because of a superfluous claim, see e.g. T 988/02.

In T 1882/12 the board pointed out that R. 43(3) EPC neither prohibited including optional features in a claim nor made it mandatory to draft a separate dependent claim for each particular embodiment to be cited in the claims.

#### **2.4. Reference to the description or drawings: Rule 43(6) EPC**

Pursuant to R. 43(6) EPC claims shall not rely, "except where absolutely necessary", on references to the description or drawings in specifying the technical features of the invention. Expressions such as "as described in part...of the description", or "as illustrated in figure...of the drawings" are to be avoided.

In T 150/82 (OJ 1984, 309) the board ruled that claims relying on references to the description in the specification in respect of all their technical features (so called "omnibus claims") were unallowable as contrary to R. 29(4) and R. 29(6) EPC 1973 (R. 43(4) and (6) EPC), unless absolutely necessary, e.g. when a plurality of conditions would not lend themselves to verbal expression without such a reference. Examples of such exceptions included inventions containing features or limitations which could only be expressed by means of drawings or graphs defining a particular shape or a plurality of conditions. In T 271/88 the board upheld T 150/82 and decided that it was not possible to base claims on an appendix showing structural chemical formulae designated as "chemical formulae incorporated within claims". The board held that it was quite evident that the terms "description" and "drawing" in R. 29(6) EPC 1973 were meant to cover structural chemical formulae. See also T 752/94.

In T 1156/01 the board considered that, if the invention was characterised by parameters, the method of and means for measurement should appear completely in the claim itself, whenever this was reasonable, or by reference to the description in accordance with R. 29(6) EPC 1973, if the method was so long that it would impair the conciseness of the claim (confirmed in T 796/01).