

was very common, but not exclusive, in the technical field concerned), but instead that a broad term should be interpreted with regard to all technically logical interpretations thereof. Based on this understanding of the limiting terms introduced into the claim the board came to the conclusion that the amendment to claim 1 as granted resulted in an intermediate generalisation.

In T 241/13 the board held that the description did not give a precise definition of the meaning of the expression "minimum intensity level"; the patentee's interpretation of this expression was not clearly excluded. However, that such an ambiguous expression as filed might be interpreted in a particular way was not sufficient to ensure the compliance of an amendment, based on that interpretation, with Art. 100(c) EPC which required a direct and unambiguous disclosure in the application as filed.

In T 1791/16 the board held that, in the interest of legal certainty, all technically reasonable interpretations of an ambiguous claim had to be considered. If one of those interpretations contained matter that extended beyond the content of the application as originally filed, it had to be concluded that there was added subject-matter.

#### f) Possible but undefined embodiments in dependent claim

According to the board in T 1688/12, the mere fact that a dependent claim encompassed a host of possible but undefined embodiments did not mean that the claim on which it depended had to be interpreted as compatible with all those embodiments.

### 1.4. Removal or replacement of features from a claim

#### 1.4.1 Broadening of claim – permissible within the limits of the original disclosure

The deletion of a feature in a claim as filed may lead to a broadening of the claim. According to G 1/05 (OJ 2008, 271, referring to G 1/93, OJ 1994, 541), the applicant has a right to amend the claims so as to direct them to subject-matter not encompassed by the claims as filed. It is only after grant that the interests of third parties are further protected by Art. 123(3) EPC and the patentee's right to amend the claims is limited by the scope of the granted patent.

In T 133/85 (OJ 1988, 441) the board held that it was possible to broaden a claim (i.e. to extend the protection conferred by it) without contravening Art. 123(2) EPC, provided that the subject-matter which was within the claims for the first time as a result of the amendment was already disclosed within the content of the original application as filed (confirmed e.g. in T 732/00, T 273/04, T 1211/05).

In T 66/85 (OJ 1989, 167) it was pointed out that if a technical feature was deleted from a claim in order not to exclude from protection certain embodiments of the invention, the broadening of the claim did not contravene Art. 123(2) EPC 1973 as long as there was a **basis for a claim lacking this feature** in the application as originally filed (see also T 228/98).