

place, and for the presence of which not even the patent in suit provided conclusive evidence.

in T 1273/09 the board had serious doubts that the claimed **homeopathic treatment** of hypertension could be reliably and reproducibly achieved by the mixture claimed for the following reasons, namely (i) because on the standards of "conventional" medicine and science it was inconceivable that a homeopathic medicament which did not contain any active substance achieved specific therapeutic effects and (ii) because on the standards of homeopathic medicine it was inconceivable that a homeopathic medicament that was not applied according to homeopathic principles could achieve **specific therapeutic effects**. The board could not conclude that the disclosure in the application – and this was the only source of information in the case at issue – put the skilled person in a position to achieve the claimed treatment of hypertension in a reliable and reproducible manner. The reason was **not**, as suggested by the appellants, a mere, **unsubstantiated "disbelief"**. Rather, the conclusion was drawn by taking into account the quality and quantity of available evidence.

#### **9.7. Miscellaneous – argument based on potential effects on competition rejected by the board**

In ex parte case T 416/14 the application documents did not contain any experimental data which could be used to verify the claims, and the appellant (applicant) had not submitted any such data as evidence. The appellant was right that Art. 83 EPC did not per se require experimental data for sufficient disclosure. However, in the absence of any supporting evidence and in light of the evidence to the contrary, the board was not convinced that the appellant was actually able to fabricate a switch that could withstand the claimed field strength without breakdown. Nor could the board accept the argument that a patent on an invention which could not be carried out would be of no harm; Art. 83 EPC was a requirement of the Convention that had to be fulfilled, irrespective of what **potential effects on competitors** a patent might or might not have.

See chapter III.G.5.1.2c) "Sufficiency of disclosure".