

**hypothetical embodiments.** The relevant question when assessing compliance with Art. 76(1) or Art. 123(2) EPC was whether an amendment added new subject-matter, i.e. new information.

A further example of a clearly recognisable functional or structural relationship between the isolated feature(s) and the other features of a set of features originally disclosed in combination can be found in T 833/16. In this case the features in question were the two characteristics defining a type of magnetic signal generated by the coil disclosed in the application. There was no disclosure, explicit or implicit, that the omitted feature was merely optional or preferred.

In T 886/15 the board examined whether the embodiments disclosed in certain figures could constitute, on their own, a sufficient basis for the features added in claim 1 of the main request. The board recalled that the selection of some features from a group of features originally disclosed in combination is allowable under Art. 123(2) EPC if the selected and omitted features are neither structurally nor functionally linked. The board held that, in the case in hand, in the absence of any indication, in the drawing and the corresponding portion of the description, as to the effects resulting from the relevant feature, it was impossible to recognise whether the above conditions for selecting a feature from its context were fulfilled. According to the board, a further consequence was that it was impossible for the skilled person to recognise what purpose was meant to be achieved by the selected features in the context of the invention. They thus could not be considered to be the deliberate result of technical considerations directed to the solution of the technical problem involved (cf. T 398/00, see chapter II.E.1.13.2 "Schematic drawings" below).

### 1.9.3 Further examples of unallowable intermediate generalisations

In T 1408/04 a specific selection had been made in amended claim 1 from the broad range of topsheet/backsheet structures within the scope of claim 1 as granted. The board considered that, to avoid an intermediate generalisation (i.e. an undisclosed combination of selected features lying somewhere between an originally broad disclosure and a more limited specific disclosure), all the necessary features of the specific selection must be included in the claim. The selection in this case came from the drawings, which, however, also showed a particular (albeit commonly used) type of topsheet/backsheet connection. This particular connection was lacking in the claim. Thus an intermediate generalisation was present. Cited e.g. in T 163/13.

In T 448/16 the board emphasised that the idea of added feature f had to be at least implicitly disclosed in the parent application as a teaching that the skilled person would immediately recognise **as distinct and separable** for it to be introduced in isolation into claim 1. The board did not consider that the skilled person, **without foreknowledge** of what they are looking for, would immediately identify the feature in question as a distinct and separable aspect of the embodiment from which it was isolated.

In T 1365/16 the board held that whether and how the skilled person would generalise the embodiment of Figure 8 was neither inherent nor implicit from the disclosure as filed, but