

In T.1064/15, the invention related to barbed suture-needle combinations useful for connecting body tissue in various surgical contexts. Claim 1's requirements could be implemented for circular cross-sections, but the question of sufficiency of disclosure arose for non-circular cross-sections. The respondent (patent proprietor) himself intended the teaching of the patent to be applicable to both circular and non-circular cross-sections and specifically sought protection for both types of embodiment. It would be insufficient and disproportionate if the sole disclosed possibility of carrying out the invention with circular cross-section elongated bodies were enough to satisfy the requirements of sufficiency of disclosure. Such an approach could not have been intended by the legislator, because in the board's view this would go against the general principle that the protection obtained with the patent had to be commensurate with the disclosed teaching. When it came to non-circular cross-sections, this was not the case for the patent in suit. On the basis of the patent disclosure as a whole, taking common general knowledge into account, the person skilled in the art was not able to determine which dimension was meant by the diameter (SD) for an essential part of the claim, or in other words, with a needle having a given diameter, he did not know how to select the cross-section dimension of a non-circular suture in order to improve the closure strength, which was supposed to be an essential part of the teaching of the patent in suit (T.1064/15, which is cited and summarised in T.1756/16).

In T.713/15 the patent related to a novel preventive and/or therapeutic agent (anti IL-6 receptor antibody) for vasculitis in general and did not distinguish between various types of vasculitis. There was no teaching in the application as filed on how to treat vasculitis in all its forms (like Behçet's disease). The subject-matter of claim 1 of the main request was therefore not sufficiently disclosed over the whole scope of the claim. The patent proprietor had filed an expert declaration based on clinical data, but it did not address D(49) and D(50) submitted by the opponent and so could not provide crucial input.

In T.553/10, the board stated that the passages cited by the appellant disclosed a method for producing lithium nickel manganese cobalt oxides which fell either within or outside the ambit of claim 1. An additional process step required when seeking to prepare oxides falling within the ambit of claim 1 was missing. The application lacked guidance, and this could not be overcome by drawing on common general knowledge. A declaration written by **an employee** of the appellant was therefore of little probative value for establishing what was common general knowledge in the art.

In T.239/13 of 5 July 2017, claim 1 as granted did not require the "granules" to be acidic. The board considered that a solution of the claimed granules per se might have an alkaline pH despite the presence of some acidic component. As regards acidic granules, the description – which dealt exclusively with acidic granules – provided the skilled person with technical information and guidance sufficient to enable him to prepare, without undue burden, acidic granules having "improved storage properties" across the whole ambit of claim 1. As regards alkaline granules, in the absence of a concrete teaching the skilled person would have to start a research programme. The board concluded that the skilled person, following the teaching of the description, was not provided with technical information and guidance sufficient to enable him to prepare granules as claimed without undue burden and across the whole ambit of claim 1.