

As a rule, there are no restrictions as to where, how or in what language the relevant information must have been made available to the public; nor is any limit stipulated as to how old the documents or other sources of the information may be.

## 2.2. Applications with same filing or priority date

An application with the same filing or priority date as the application to be examined is not part of the state of the art (see T 123/82).

## 2.3. Relevant date of documents

For the purposes of determining novelty, a prior document should be read as it would have been read by a person skilled in the art on its "relevant date". The relevant date of a previously published document is its publication date, and that of a document within the meaning of Art. 54(3) EPC its date of filing (or, as the case may be, priority date) (Guidelines G-VI, 3 – November 2018 version).

According to the boards' established case law, for ascertaining the disclosure of a document forming part of the state of the art within the meaning of Art. 54(2) EPC, the relevant date is that of publication (see T 205/91, T 737/00, T 1162/07). The date is conveniently taken as the publication date of the document, because in normal situations, the meaning to be attributed to the various technical terms of the document does not vary until its publication so that its content can be analysed as if it had been written on the date it was made available to the public. In the particular situation in the case in hand, however, where a technical term such as a trade name was known to have been abandoned between the filing or priority date and the publication date, this circumstance is to be taken into account (T 2020/13).

For the purposes of examining novelty, a document is to be assessed from the perspective of the skilled person on the publication date, T 305/94. Interpreting a document using knowledge which only became available to the relevant experts between the publication date of the cited prior art and the filing or priority date of the application to be examined or the patent in dispute is an issue relating to **inventive step, not novelty** (see T 205/91).

## 2.4. Prior rights – Article 54(3) EPC

### 2.4.1 European prior rights

Pursuant to Art. 54(3) EPC the content of European patent applications as filed, the dates of filing of which are prior to the date referred to in Art. 54(2) EPC and which were published on or after that date, shall be considered as comprised in the state of the art. However, such earlier applications are part of the state of the art only when considering novelty and **not when considering inventive step**. The "date of filing" referred to in Art. 54(2) and (3) is thus to be interpreted as meaning the date of priority in appropriate cases (see also Guidelines G-IV, 5.1 – March 2022 version).