

In T.765/15 the board pointed out that claims 1 and 2 contradicted each other, although claim 2 depended on claim 1. As a consequence, the claim set was unclear according to Art. 84 EPC 1973.

In T.2574/16 the examining division had found the method of claim 1 to be unclear in view of an example disclosed in the description. The board noted that the claim did encompass elaborate simulations going beyond any of the examples disclosed in the application as filed. But this in itself was not a problem of lack of clarity (or insufficiency of disclosure). In fact, it was normal for a claim to define the scope of protection in terms that positively define the essential features of the invention. Any particular embodiment falling within the scope of the claim could have further characteristics not mentioned in the claim or disclosed in the application (and could even constitute a patentable further development).

### 3.2. Indication of all essential features

According to the established case law of the boards of appeal Art. 84 EPC has to be interpreted as meaning not only that a claim must be comprehensible from a technical point of view, but also that it must define the object of the invention clearly, that is to say indicate all the essential features thereof. An independent claim should explicitly specify all essential features needed to define the invention (G.1/04, OJ 2006, 334). All features which are necessary for solving the technical problem with which the application is concerned have to be regarded as essential features; see on this issue T.32/82, OJ 1984, 354 and T.115/83, confirmed inter alia in T.269/87; T.409/91, OJ 1994, 653; T.694/92, OJ 1997, 408; T.1055/92, OJ 1995, 214; T.61/94; T.488/96; T.203/98; T.260/01; T.813/03; T.1540/12; T.2427/13; T.1180/14; T.30/16; T.2291/15; T.874/16; T.110/21. The indication of all essential features is seen as necessary to meeting the clarity requirement.

The board's opinion in T.32/82 was also confirmed in T.622/90, where it was held that lack of clarity could be caused not only by the presence of an ambiguous feature, but also by the absence of a feature which was necessary for clarity. See also T.630/93.

The essential features should in particular comprise those which distinguish the invention from the prior art (T.1055/92, OJ 1995, 214; T.813/03). Regarding the delimitation of essential from non-essential features, see also T.61/94, T.203/98, T.141/00, T.260/01, T.1573/12, T.2131/12, T.21/16.

According to the board in T.888/07, if from the wording of an independent claim it must be concluded that a solution of the problem of the invention is achieved by not needing a step, whereas this very feature according to the description cannot be abolished, but is necessary for a workable solution, then such a feature is to be considered an essential feature of the invention. An independent claim missing this feature is therefore neither clear, nor supported by the description. See also in this chapter II.A.5.

In T.809/12 the board stated that, if an independent claim contained a feature defined by a result to be achieved which essentially corresponded to the problem underlying the application, to comply with Art. 84 EPC 1973 the remaining features of the claim had to comprise all essential features necessary for achieving that result. See also T.2427/13.