

1.2. Content of the application as filed: Parts of the application which determine the disclosure of the invention

1.2.1 Description, claims and drawings

Regarding the concept of the content of the application as filed, G 3/89 (OJ 1993, 117) and G 11/91 (OJ 1993, 125) laid down that it related to the parts of the European patent application which determined the disclosure of the invention, namely the description, the claims and the drawings. Note however that since the revision of the EPC, when determining the application documents "as filed", account has to be taken of R 40 and 56(3) EPC.

Amendments can only be made within the limits of what a skilled person would derive from the **whole** of these documents as filed (G 2/10, OJ 2012, 376). In T 676/90 the board considered that the content of an application was defined not only by features mentioned or shown therein but also by their relationship to each other. Accordingly, it found that a figure could never be interpreted in isolation from the overall content of the application but only in that general context.

In T 1544/08 the board held that, if the **drawings** of the originally filed application were in **colour**, it was these figures which must be used as the basis for determining whether subsequently filed figures contained added subject-matter within the meaning of Art. 123(2) EPC.

1.2.2 Abstracts, titles, priority documents, parallel applications

In T 246/86 (OJ 1989, 199) the board decided that as the **abstract** was intended solely for documentation purposes and did not form part of the disclosure of the invention, it could not be used to interpret the content of the application for the purposes of Art. 123(2) EPC 1973 (confirmed in T 735/03, T 606/06, see also G 3/89, OJ 1993, 117, G 11/91, OJ 1993, 125 and T 735/03). The same applies to the **title** on the cover sheet (T 1437/07).

For the purpose of Art. 123(2) EPC, "the content of the application as filed" also does not include any **priority documents**, even if they are filed on the same day as the European patent application (see T 260/85, OJ 1989, 105; G 3/89, OJ 1993, 117; G 11/91, OJ 1993, 125; and e.g. T 1937/17); the same is true for parallel applications (see, e.g. J 16/13, T 1197/13, concerning a German utility model application claiming the same priority). Concerning priority documents, see however R 56(3) EPC and chapter IV.A.5.4 below.

1.2.3 Language issues

Before the EPC 2000, a European patent application could only be filed in one of the official languages of the EPO (Art. 14(1) EPC 1973) or, by persons benefiting from the "language privilege", in an "admissible non-EPO language" with a translation into one of the official languages to be filed (Art. 14(2) EPC 1973). In line with Art. 5 PLT,