

sequence was not disclosed per se. The board made reference to T.301/87 (OJ 1990, 335), in which it had been decided that if an entity itself was disclosed to the skilled person, this did not necessarily mean that a component part was also disclosed for the purpose of priority if this could not be envisaged directly and unambiguously as such and required considerable investigation to reveal its identity. The board in T.1228/01 held that these findings were also applicable to amendments. It stated that the disclosure in the application as originally filed of the deposition of the recombinant bacteriophage Lgt11-P3 was not considered to be a basis within the requirements of Art. 123(2) EPC 1973 for the disclosure of a DNA sequence designated as "the P3 coding sequence" which was allegedly contained in that bacteriophage, but which as such was not disclosed in the application as originally filed. Thus, the requirements of Art. 123(2) EPC 1973 were not met.

#### 1.10.3 Restricting a generic definition of a substituent to a specific (individual) one

In T.288/92 the board held that it was not permissible to amend a generic formula defining a class of chemical compounds by restricting an originally disclosed generic definition of a substituent to a specific (individual) one which was arbitrarily selected from chemical entities, such as in the examples, without some support for such restriction in the general part of the description (see also T.1537/14).

#### 1.10.4 Multiple arbitrary selection

In T.1919/11 the board considered that the subject-matter of amended claim 1 of the main request (method for producing taxanes) resulted from a **multiple arbitrary selection** of three features (selection of one particular species and of a specific range of silver concentration and a restriction of "auxin-related growth regulator" to "auxin" for the enhancement agent). The board observed that the subject-matter of amended claim 1 related to *Taxus chinensis* only. In contrast, the summarising text of the parent application described the subject-matter as relating to a plurality of *Taxus* species. In addition, any particular mention of *Taxus chinensis* was followed by an endorsement that *Taxus chinensis* might be the best in many issues, but that the important subject-matter of the application equally was the teaching to use any member of the list of *Taxus* species. Some of the examples related to different *Taxus* species and some used *Taxus chinensis* as a model substance to show particular effects of the cultivation conditions. The board concluded that, on this basis, there was no direct and unambiguous disclosure that the subject-matter of the overall content of the application related to nothing else than a method using *Taxus chinensis*.

On unallowable multiple selection, see also above in this chapter II.E.1.6. "Combination of features pertaining to separate embodiments or lists".