

T 1984/15 the board held that both single and repeated arbitrary choices were part of the skilled person's routine approach to providing an alternative solution.

In T 1862/15 the board held that in a case involving an arbitrary selection, the prior art did not need to contain an incentive for the skilled person to select the particular solution claimed. Instead, all possible solutions had to be regarded as being equally suitable and obvious candidates for solving the objective technical problem; therefore, they all had to be considered to be suggested to the skilled person.

In T 588/99 the board stated that in the particular situation where a document explicitly defined any compound having a certain activity as a suitable component of a detergent composition, and urged the skilled person to look for such compounds in publications of other technical fields such as biochemistry and medicine, it required no inventive activity to solve the technical problem of providing an alternative to the compositions disclosed in such prior art by replacing the explicitly specified compounds having the given activity with any other such compounds which may be found by exploring the other technical fields.

In T 1941/12 the board stated inter alia that an arbitrary selection of strains, **by the very fact of it being arbitrary**, did not involve any inventive step. This was even more so since the two specific strains chosen were known from the prior art as commercially available.

In T 892/08 the board referred to the established case law whereby, when the technical problem is simply that of providing a further composition of matter or a further method, i.e. an alternative to the prior art, any feature or combination of features already conventional for that sort of composition of matter or method represented an equally suggested or obvious solution to the posed problem. The boards have repeatedly established that the simple act of arbitrarily selecting one among equally obvious alternative variations is devoid of any inventive character. See also T 311/95, T 89/16.

In T 816/16 the board held that the further addition of components well known for their activity in the technical field concerned was considered an arbitrary choice among components which the skilled person would have had at their disposal.

b) Selection from obvious alternatives

In T 190/03 of 29 March 2006 the board stated that in connection with the obviousness of a solution chosen from various possibilities, it was sufficient that the one chosen was obvious and not necessarily relevant that there were several other possible solutions (see also T 214/01, T 688/14).

In T 357/02 the board found it followed from the minimalist character of the technical problem objectively arising from the closest prior art, which could only be formulated as a modification of that state of the art, that regardless of a success or failure of the measures applied, almost any modification of the latter process might be regarded as a feasible alternative by the person skilled in the relevant art, and therefore obvious, since each corresponding solution would be equally useful (or useless).