

temperatures used in the examples. In the case at issue, this was the case so that the range claimed complied with Art. 123(2) EPC.

For a further decision, where the board considered that the values taken from the examples and used as the end points of the claimed range could not be seen only in the context of all the other parameters given there, see T 343/90, in which the relevant amendment complied with Art. 123(2) EPC.

c) Amendment not allowed

In T 526/92 the board held that if values of a parameter are only given in the examples (as single, punctate values), without the significance of this parameter becoming evident from the original specification, no range must be arbitrarily formed, which is open ended at one side and has one limit selected from the examples.

Similarly in T 1004/01, according to the board, the exemplified laminates and the peel strength thereof were disclosed only in a concrete technical context, without providing any preference for the claimed open ended range taking the exemplified parameter value as lower limit (peel strength "of at least 24 grams").

Decision T 526/92 was approved and cited by T 931/00 – also referring to T 201/83 (OJ 1984, 481) – which concerned the creation of a new parameter range by defining its upper limit by selecting a single value from an example. The board in T 931/00 stated that although figures in examples might, under specific conditions, be used to limit a range which was already present in the original application, they could not be used to define an **entirely new relationship between parameters** which had never been linked before. Such arbitrary new links between existing parameters introduced new matter, contrary to the requirements of Art. 123(2) and Art. 100(c) EPC 1973.

The board in T 1146/01 had to answer the question of whether one measurement of a selected characteristic or property of a sample disclosed only in an individual example could be relevant to the generality of the claimed subject-matter, separately from and irrespectively of the other parameters inherent to the same sample. The board distinguished this case from T 201/83. Formulating a new range on the basis of individual values taken from selected examples, which were **not at all directly related to each other**, meant that the reader was confronted with new information not directly derivable from the text of the application as originally filed.

In T 184/05 the board held that an impurity concentration value of a product obtained under specific process conditions could not be taken in strict isolation from the examples unless it had been demonstrated that this value was not so closely associated via the applied process with specific (undisclosed) maximum values of all other impurities comprised in the product. In the case in hand this was not the case.

In T 570/05 the proposed amendment was that the coating layer had a "thickness of from 220 to 500 nm", for which the only literal basis in the application as originally filed for the lower value of 220 nm was to be found in three examples; nowhere in the documents