the features contained in the European application with the exception of the use of saddle-shaped coils; however, the latter were already known and used frequently. In the board's opinion, the question to be answered was **whether the use** of saddle-shaped coils **had been disclosed** in the earlier US application, and **not whether it was obvious** to use such coils in place of the magnets disclosed in the earlier application. The board concluded that the inventions claimed in the US applications were different and priority had rightly been claimed from the later application because, according to the teaching of the earlier application, coils of any shape could be used, whereas according to the teaching of the priority document saddle-shaped coils had to be used.

In **T 184/84** the Japanese application from which priority was claimed in the European patent application but also an earlier Japanese application claimed a method of producing a single crystal of ferrite. The starting materials were defined differently in the two Japanese applications. The method disclosed in the later application and the European application was clearly more advantageous than that forming the subject-matter of the earlier one. The board held that the **significant differences in properties** were indicative of the presence of different materials and therefore found that the earlier Japanese application was not the first filing of the invention claimed in the European patent application. It based its finding on **T 205/83** (OJ 1985, 363), which stated that the novelty of products prepared using a modified process could be established by the fact that according to an empirical principle in chemistry, a product's properties were determined by its structure, so that differences in the properties of products indicated a structural modification.

The subject-matter of the patent in case **T 107/96** contained the feature "angle of contact greater than 120°", which feature was disclosed in P2, the later of two previous US applications. In P2 a particular advantageous effect was also attributed to the large extent of the said "angle of contact". The earlier previous US application P1 was totally silent about the aforementioned feature "angle of contact" and its advantageous effect. However, the figures of P1 represented **diagrammatic** and schematic drawings. The board concluded that therefore, and in line with the established jurisprudence of the boards of appeal, they could not serve as a basis for determining the extent of a minimum "angle of contact" because dimensions obtained merely by measuring a diagrammatic representation of a document did not form part of the disclosure. Hence, the said feature "angle of contact greater than 120 ", was not disclosed in P1 but only in P2.

In **T 449/04** the board referred to the Enlarged Board's narrow or strict interpretation in **G 2/98** (OJ 2001, 413) of the concept of the "same invention" in Art. 87(1) EPC 1973 and concluded that the invention disclosed in the applicant's earlier application D1 was not the "same invention" as that disclosed in the priority application PR. With regard to a **comparative example** in D1, the composition of which fell within the elemental ranges claimed in the application-in-suit as well as in application PR, the board emphasised that the "same invention" considered in Art. 87(1) EPC 1973 did not encompass the comparative example(s), which were clearly and definitely **excluded** from the scope of the invention in D1. Having regard to the strict and narrow interpretation of the term "the same invention", this term was focused on what constituted the elements of the invention.