

embodiments that had been combined to artificially construct a new embodiment. Instead, they were a limitation of both the definition and the amount of the base salt stated in original claim 2.

#### 1.6.2 Selections from two lists – singling out a combination of features

##### a) Principles

In T.727/00 the board held that the combination – unsupported in the application as filed – of one item from each of **two lists** of features meant that although the application might conceptually comprise the claimed subject-matter, it did not disclose it in that particular individual form. For that reason alone, claim 1 of the main request was not supported by the description and contravened Art. 123(2) EPC. See also T.714/08, T.1267/11 and T.3035/19.

According to T.1621/16 it is established case law that, under certain circumstances, amendments based on multiple arbitrary selections from lists represent an extension of the content of the application as filed under Art. 123(2) EPC. However the board noted that most decisions following this well-established approach related to amendments based on lists of non-converging alternatives. The board considered that selections from lists of converging alternatives should not be treated in the same way as selections from lists of non-converging alternatives (see the summary of this decision in point d) below).

In T.1937/17 the board held that, other than for the purposes envisaged in G.1/93 (OJ 1994, 541), a "technical contribution" was of no relevance when deciding on the allowability of amendments under Art. 123(2) EPC. Instead, the gold standard set out in G.2/10 (OJ 2012, 376) was the only criterion that had to be applied.

The board in T.1511/07 held that although the selection of explicitly disclosed borderline values defining several (sub)ranges, in order to form a new (narrower) sub-range, was not contestable under Art. 123(2) EPC when the ranges belong to the same list, the combination of an individual range from this list with another individual range emerging from a second list of ranges and relating to a different feature was not considered to be disclosed in the application as filed, unless there was a **clear pointer to such a combination**. According to T.1149/20 it is established case law that a combination of features originally disclosed separately or selected from several lists may still be directly and unambiguously derivable from the original application in the presence therein of explicit or implicit pointers to said specific combination. For decisions applying this criterion, see in this chapter II.E.1.6.2 c) below.

In T.783/09 the board considered that in the case in hand the skilled person would directly and unambiguously recognise forty-four individual combinations, among them the three "basic" combinations referred to in claim 1. The board referred to the statement in decision T.12/81 (OJ 1982, 296, in which this criterion was used in the context of novelty; see also above chapter I.C.6.2) that if "two classes of starting substances are required to prepare end products and examples of individual entities in each class are given in two lists of some length, then a substance resulting from the reaction of a specific pair from the two