

explicitly enshrined in Art. 52(2)(a) EPC. This should not be confused with the invention of a drug, which would represent a technical purpose.

In T 1789/13 the board held that the "weather" was not a technical system that the skilled person could improve, or even simulate with the purpose of trying to improve it. It was a physical system that could be modelled in the sense of showing how it worked. This kind of modelling was held to be rather a discovery or a scientific theory, which are excluded under Art. 52(2)(a) EPC and thus do not contribute to the technical character of the invention.

9.2.13 Human Perception

In T 619/12 the board held that the perceptual processes taking place in the mind of a test person presented with odours in an odour selection test did not constitute mental acts within the meaning of Art. 52(2)(c) EPC. Nonetheless, human perception phenomena could not be qualified as being of a technical nature.

In T 339/13 the application was concerned with a virtual pet that was capable of giving "haptic feedback". Noting that the owner of a toy had to be willing to accept the toy's behaviour as real, the board accepted that achieving a reliable and reproducible perception of a physical interaction was a technical problem and found that the invention solved this problem by technical means, namely a reciprocating cursor movement and haptic feedback.

9.2.14 Games

In T 1023/06 the invention related to a method of operating an electronic video poker machine. Following the approach of T 49/04 the board held that an improvement in readability, which related to how "cognitive content" was presented, constituted a technical contribution.

In T 717/05, T 42/10 and T 1281/10 the boards had to examine whether the amusement of the player could be a technical problem. In T 717/05 the board held that amusement was the psychological purpose of a gaming apparatus and thus was the relevant objective technical problem to the extent that the enhanced amusement was achieved by technical features of the claim. In T 42/10 and T 1281/10 the boards denied this.

In T 336/07 the board held that the mere fact that subject-matter (here rules for playing games), which is excluded per se under Art. 52(2)(c) EPC 1973, is technically implemented could not form the basis for inventive step (see also in this chapter I.D.9.2.3). Inventive step can be based only on the particular manner of implementation of such subject matter. To this end it is therefore necessary to ask how the per se excluded subject matter was implemented. A consideration of the particular manner of implementation has to focus on **any further technical advantages** or effects associated with the specific features of implementation over and above the effects and advantages inherent in the excluded subject-matter (see also T 1543/06). In T 337/07 the board concluded that the subject-matter of the claims did not involve an inventive step. In T 1782/09 where the