essential parameter was disclosed and, thus, the skilled person was not able to make any measurement of the relevant essential parameter (decision cited in **T 206/08** (detergent compositions) but found inapplicable to the case in hand).

6.6.4 Forbidden area of the claims

As today there is a clearly predominant opinion among the boards that the definition of the "forbidden area" of a claim should not be considered as a matter related to Art. 83 and 100(b) EPC (**T 1811/13**, **T 647/15**, **T 646/13**).

In other words, according to established case law of the boards of appeal, the question of whether a skilled person is working or not within the claimed scope ("forbidden area" of a claim) is related to the definition of the scope of protection sought (Art. 84 EPC) and not to the sufficiency of disclosure of the invention (Art. 83 EPC) (as summed up in **T 1673/15**). See also Case Law of the Board of Appeal, 9th edition, 2019, for an overview of the earlier – or now at least minority – case law taking a different view.

See also chapter II.C.8.2. "Article 83 EPC and clarity of claims".

6.6.5 Non-disclosed steps

There is no requirement in the EPC that the claimed invention may be carried out with the aid of only a few additional non-disclosed steps. The only essential requirement is that each of those additional steps be so apparent to the skilled person that, in the light of his common general knowledge, a detailed description of them is superfluous (**T 721/89**).

6.6.6 Machine not available

In **T 1293/13** the claims limited the determination of air permeability of the garment to a particular method and to a particular machine ("Frazier 750"). However, the machine "Frazier 750" no longer existed, such that this machine could not be used for determination of the claimed values. The insertion of a feature defined as determinable by a specific machine which possibly was not – but certainly is no longer – publicly available, leads in this case to the invention not being disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art.

In **T 1714/15** the board noted that the DROP-WEIGHT TESTER RTD-5000, as described in claim 1, was uncontestedly never available. Rather, the known apparatus was a DROP-WEIGHT TESTER RDT-5000 (emphasis by the board). The respondent (patent proprietor) argued that it had provided evidence that the apparatus with the correct designation was available at the priority date and at the date of filing of the patent in suit. Thus the invention as defined in claim 1 was enabled at that point in time, which the board accepted. However, the board stated that an invention had to be enabled throughout the **whole lifetime** of a patent (**T 1293/13**). This was not the case here. The respondent stated that there was no proof that the apparatus recited in claim 1, with the correct designation, did not exist somewhere in the world. However, the respondent had stated in its reply to the grounds of appeal that the contentious apparatus had become unavailable. In such a case,