

method. The board stressed again that no specific degree of soft touch was required according to the claimed subject-matter (a crucial difference from T.225/93). The board concluded that there was no evidence on file that showed that the absolute thickness of the coating and thus the selection of a method for measuring the thickness was critical for carrying out the invention, i.e. for producing a coating having a thickness in the claimed range and a certain degree of soft touch.

In T.1064/15 the person skilled in the art was faced with the undefined parameter "diameter (SD)" and did not know how to choose the cross-section in order to obtain the desired technical effect. For the conditions of sufficiency of disclosure to be fulfilled it is not enough to be able to manufacture an object falling under the wording of a claim. That object must also exhibit the alleged or desired technical effect obtained with that invention (T.815/07). The field of non-circular cross-sections is far wider than that of circular ones, since it encompasses an enormous variety of shapes. This made it even more important to know how the key parameter of such shapes, namely the diameter, was determined.

In T.875/16 (optical control of hair growth), the board stated that the concept of duration of the pulse, as it appeared in claim 1, was vague and its use affected the claim's clarity. While the presence of this unclear parameter in the claim was not, in itself, sufficient to show that the skilled person could not reproduce the claimed device without undue burden, its presence was not without consequences for the issue of sufficiency, since the skilled person would not be able to rely on a clear definition of the parameter when attempting to reproduce the invention over the whole ambit of the claim. As to the discussion in relation to the whole ambit of the claim, the board found, in particular, that the effect – a degree of reduction in growth – was not specified and there was no indication as to how it was to be measured. This lack of any indication of how the claimed effect was measured was particularly problematic since it constituted the technical contribution of the invention over known devices.

In T.417/13 (PVC particles) the size of the PVC particles was an important feature of the invention. A skilled person needed to be capable of establishing which PVC particles had the appropriate size, as defined in the claims. The results for the particle size might vary to a large extent depending on the method of measurement. The description of the application provided only very limited information that could lead to the selection of a particular method of measurement. The person skilled in the art had thus to rely on his common general knowledge for the selection of an appropriate method of measurement. A person skilled in the art would be aware of the existence of the ISO standards. Thus, contrary to the situation in T.225/93 (no indication of suitable method), the skilled person in T.417/13 would have chosen a particular method (no evidence supplied by opponent on file as to the effect of measurement conditions on whether Art. 83 EPC requirements met).

In T.1900/17 the board decided after detailed reasoning that the ambiguity, due to the lack of definition of the method of calculation of the claimed parameter (calculated ClogP value for a nonionic surfactant), had not been shown to lead to an insufficiency, not even by following the rationale of T.1845/14.