

excluded protection of part of the invention described in the application, thus not giving any unwarranted advantage to the applicant.

In T.592/99 the board observed that in the case of a product claim concerning a composition defined by its components and their relative amounts given in terms of ranges, it could not be accepted that such ranges, which constituted essential features, did not provide a technical contribution to the subject-matter of the claimed invention, as suggested by the appellant. Any amendment to the ranges had to have the effect of modifying the claimed subject-matter, and thus also provided a technical contribution. If the newly claimed limited range were allowed even though unsupported, any subsequent selection invention based on the new range would have to be refused as not novel, which would otherwise not necessarily be the case. To allow this would, of course, give an unwarranted advantage to the patentee, contrary to the purpose of Art. 123(2) EPC 1973. In the board's view, that was exactly what was meant in the "typical example" given in point 16 of G 1/93, "where the limiting feature is creating an inventive selection not disclosed in the application as filed or otherwise derivable therefrom". Therefore the new feature constituted added subject-matter.

The invention in T.2230/08 concerned a method of regenerating a catalyst/absorber. The undisclosed modification contained in claim 1 as granted and still present in claim 1 of the auxiliary request would be prejudicial to third parties relying on the invention as described in the application as originally filed, as that undisclosed modification which was technically sensible might possibly be the basis for a valuable invention. Claim 1 of the auxiliary request was not restricted to any specific method which would deprive the definition of the temperature of the regenerating gas of all technical contribution within the context of that claim. In the absence of any additional disclosed restricting feature to that effect, the temperature of the incoming regenerating gas was therefore considered to interact with the remaining features of the claim in such terms that it influenced the solution of the technical problem which could be understood from the application as originally filed. It followed that the condition that missing technical contribution be provided, set out in decision G 1/93 (OJ 1994, 541), was not met in the case at issue.

In T.287/14 the board held that the disclaimer "wherein the composition does not contain a beta-nucleating agent" added to the claim was a feature providing a technical contribution to the claimed subject-matter. The disclaimer, by modifying the technical characteristics of the matrix phase of the polyolefin composition of claim 1, gave the appellant an unwarranted advantage by restricting the claimed subject-matter to a group of polyolefin compositions having specific technical characteristics and properties.

For further cases which did not fall under the exception of G 1/93, Headnote 2, because the added feature provided a technical contribution to the claimed invention, see e.g. T.913/15, T.958/15, T.312/16.