

any significant deviation, i.e. a symptom, during the comparison, and (iv) the attribution of the deviation to a particular clinical picture, i.e. the deductive medical or veterinary decision phase.

In T 1255/06 the claim in question only defined the data acquisition steps (the temperature of the body) which could be used in a diagnostic method. Although the acquisition of the temperature data lead to the detection of a deviation from the normal values, it did not allow per se the attribution of the detected deviation to a particular clinical picture.

T 1232/15 related to the use of several adhesive and haptic strips for forming an aid for visually impaired people to enable line-by-line palpation of the breasts when performing a clinical breast examination. The board held that the claimed steps merely included the preparation of a diagnostic method to be performed by a visually impaired person, and that the steps constitutive for making the diagnosis were not included.

b) The criterion "practised on the human or animal body"

According to G 1/04 all method steps of a technical nature should satisfy the criterion "practised on the human or animal body", i.e. the performance of each and every one of these steps should imply an interaction with the human or animal body, necessitating the presence of the latter.

In G 1/04 the Enlarged Board of Appeal held that in a diagnostic method, the method steps of a technical nature belonging to the preceding steps which were constitutive for making the diagnosis for curative purposes *stricto sensu* must satisfy the criterion "practised on the human or animal body".

This criterion was to be considered only in respect of method steps of a technical nature. Thus, it did not apply to diagnosis for curative purposes *stricto sensu*, i.e. the deductive decision phase, which as a purely intellectual exercise could not be practised on the human or animal body.

Art. 52(4) EPC 1973 did not require a specific type and intensity of interaction with the human or animal body; a preceding step of a technical nature thus satisfied the criterion "practised on the human or animal body" if its performance implied any interaction with the human or animal body, necessitating the presence of the latter. If the preceding technical method steps were performed by a device, this did not satisfy the criterion "practised on the human or animal body" (G 1/04).

In T 1197/02 the invention related to a method of assessing the presence of glaucomatous damage to the visual system of a subject. The board explained that since the criterion "practised on the human or animal body" in Art. 52(4) EPC 1973 was to be considered only in respect of method steps which are of a technical nature (G 1/04, OJ 2006, 334, points 6.4.1 and 6.4.4 of the Reasons), it neither applied to the deductive decision phase, nor to those steps which consisted in comparing the data collected in the examination phase with standard values and in finding a significant deviation resulting from the comparison. These activities were principally of a non-technical nature and normally not