

Similarly, in T.1465/15 the board could see no pointer to the claimed combination (of a preferred range of soy hydrolysate with a target protein to be expressed); no preference for the claimed combination over any of the remaining combinations was derivable from the relevant list of converging alternatives of concentration ranges.

(ii) Combination individualised in application as filed – examples

In T.45/12 the board considered that the specific combination of pioglitazone with glimepiride was singularised in the root application as filed. All through the description of the root application as filed pioglitazone was disclosed as the most preferred sensitivity enhancer to be used in combination with another antidiabetic agent. Glimepiride was one specific antidiabetic agent disclosed for use as second component in the composition. Thus, even assuming that the composition containing pioglitazone with glimepiride would require a selection (among the specific antidiabetic agents disclosed to be combined with pioglitazone), this **one-dimensional selection** did not introduce added subject-matter.

In T.1032/12 the board rejected the appellant's argument that the claimed polypeptide was defined by two features selected from two independent lists. The board considered that, in the case at issue, the protein of SEQ ID NO:2 was singled out as the **particularly preferred polypeptide**, and when reference to fragments as the preferred sequences was made, they were always labelled as "particularly preferred fragments". Therefore, the reference in the description to "the preferred polypeptide" was a reference to the polypeptide of SEQ ID NO:2. It was this specific mention of the full-length molecule as the particularly preferred molecule that distinguished the case at issue from the case underlying decision T.583/09, referred to by the appellant, where different molecules had been presented as equivalent alternatives.

In T.1402/14 the board considered that the situation in the case in hand was different from that in T.1511/07 (see point a) above), where the board had considered that the application as filed did not contain any pointer towards combining two ranges of different level of preference. In the case in hand, the combined ranges were of the **same level of preference** (broadest definition of each range). In the board's view, claim 1 of auxiliary request 1 therefore did not contain any subject-matter extending beyond the content of the application as filed.

T.2723/16 is another decision in which the selection was deemed to have already been disclosed as preferable.

d) Lists of converging alternatives

In T.1621/16 the board observed that it was established case law that, under certain circumstances, amendments based on multiple arbitrary selections from lists represented an extension of the content of the application as filed. However, most decisions following this approach related to amendments based on lists of non-converging alternatives (i.e. mutually exclusive or partially overlapping elements). By contrast, in cases where the amendments were based on selections from lists of converging alternatives (i.e. lists of options ranked from the least to the most preferred, wherein each of the more preferred