

Communication system/Samsung, European Patent Office (EPO Board of Appeal), 11 May 2009

Kluwer Patent Blog
May 11, 2009

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Please refer to this post as: Ferry van Looijengoed, 'Communication system/Samsung, European Patent Office (EPO Board of Appeal), 11 May 2009', Kluwer Patent Blog, May 11 2009, <http://patentblog.kluweriplaw.com/2009/05/11/communication-systemsamsung-european-patent-office-epo-board-of-appeal-11-may-2009/>

In the search report of the patent application several prior art references were mentioned that were not described in the patent application as originally filed, while they were known to the applicant. The Examining Division had decided that Rule 42(1) EPC 2000 would not allow a later introduction of the discussion of the prior art references in the application. The Board of Appeal concluded that Rule 27(1) EPC 1973, or equivalent Rule 42(1) EPC 2000, does not put a stringent obligation on the applicant to acknowledge prior art known to him, and to cite documents known to him reflecting this prior art, at the time of filing the application. The Board held that no requirement of the EPC prohibits amending an application in order to meet the provisions set out in Rule 27(1) EPC 1973 or equivalent Rule 42(1) EPC 2000.

A full summary of this case has been published on [Kluwer IP Law](#).