

Petition for review/Olympus, European Patent Office (EPO Enlarged Board of Appeal), 22 July 2009

Kluwer Patent Blog
June 22, 2009

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Please refer to this post as: Ferry van Looijengoed, 'Petition for review/Olympus, European Patent Office (EPO Enlarged Board of Appeal), 22 July 2009', Kluwer Patent Blog, June 22 2009, <http://patentblog.kluweriplaw.com/2009/06/22/petition-for-reviewolympus-european-patent-office-epo-enlarged-board-of-appeal-22-july-2009/>

In the case at hand, Olympus filed a petition for review against the decision of the Board of Appeal to revoke Olympus' patent. Olympus argued that it had had no opportunity to comment on the grounds for this decision as it had never received the statement of the grounds of appeal and the invitation to comment on them from the European Patent Office. The Enlarged Board of Appeal agreed with Olympus, holding that – in the absence of any evidence that the EPO had sent the documents – the circumstances of the case qualify as a fundamental violation of the right to be heard and that for that reason the appeal proceedings should be reopened. This is the first case under the new review procedure provided by the EPC 2000 in which the Enlarged Board of Appeal orders reopening of an appeal procedure.
The full summary of this case has been published on [Kluwer IP Law](#).