

T1621/09, European Patent Office (Appeals Court), 22 September 2011

Kluwer Patent Blog
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The Board decided that the introduction of the Rules of Procedure of the Boards of Appeal (RPBA) overruled prior case law on admission of new arguments not included in the grounds of appeal, as distinguished from new facts and evidence. The Board ruled that introduction of new arguments may violate Article 12(2) RPBA, which requires that the grounds of appeal state a party's complete "case", depending on the kind of argument. Further, the Board refused to use its discretion to admit the new argument, after weighing a number of factors, including its inconsistency with prior arguments, the absence of the respondent when the argument was raised at the oral proceedings, and its impression that the new argument, although plausible, was not clearly correct.

Click [here](#) for the full text of this case.

A summary of this case will be posted on <http://www.KluwerIPCases.com>