

## T1828/08, European Patent Office (Appeals Court), 7 December 2011

Kluwer Patent Blog  
July 30, 2012

Lars de Haas (V.O.)

Please refer to this post as: Lars de Haas, 'T1828/08, European Patent Office (Appeals Court), 7 December 2011', Kluwer Patent Blog, July 30, 2012, <http://patentblog.kluweriplaw.com/2012/07/30/t182808-european-patent-office-appeals-court-7-december-2011/>

---

The objection raised by the opponent that the protected subject matter of a divisional application extends beyond the content of the parent application does not represent a "fresh ground for opposition". This is because in the present case i.c. the opposition division had earlier raised an unrelated objection earlier, holding that the patent based on the divisional application extends beyond the parent divisional parent application, even though the original grounds of opposition concerned only inventive step. G 1/95 makes it clear that the alternatives mentioned in the ground for opposition under Article 100(c) EPC relate to a single legal basis on which an opposition can be based. Therefore, the new objection that the divisional application extends beyond the parent application can be considered in the appeal proceedings stage without the approval of the patentee.

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

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