

## **EPO: T773/10, European Patent Office (EPO), Board of Appeal, T773/10, 24 October 2014**

**Kluwer Patent Blog**  
March 20, 2015

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*Please refer to this post as: Kluwer Patent blogger, 'EPO: T773/10, European Patent Office (EPO), Board of Appeal, T773/10, 24 October 2014', Kluwer Patent Blog, March 20 2015, <http://patentblog.kluweriplaw.com/2015/03/20/epo-t77310-european-patent-office-epo-board-of-appeal-t77310-24-october-2014/>*

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The Board of Appeal rejected an attempt to apply the fiction of novelty of "medical" substances and compositions of article 54(5) EPC to a dialysis membrane. Contrary to T2003/08 the claimed dialysis membrane did not contain any further substance that might constitute an active ingredient. With reference to arguments in T2003/08, the board noted that it was not decisive that the dialysis membrane could perform the same function as a drug. The board also did not consider the membrane a single-use product consumed during use, because the reason for not re-using merely was fouling, which could theoretically be removed.

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