

EPO: T918/14, European Patent Office, Board of Appeal, 2 November 2016

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The Board of Appeal found that the examining division had committed a substantial procedural violation by raising tentative patentability objections rather than completing an improperly justified incomplete search. Thus tentative examination had improperly been used as a condition for completing the search, rather than completing the search first and examining later. This forced the applicant to file amendments on speculative grounds, without knowing the prior art. Refusal of further amendments under rule 137(3) was arbitrary and exceeded the division's discretion, because without a substantiated opinion from the examining division it was impossible to judge whether the amendments addressed deficiencies.

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