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# Kluwer Patent Blog

## Communication system/Samsung, European Patent Office (EPO Board of Appeal), 11 May 2009

Ferry van Looijengoed · Monday, May 11th, 2009 · Landmark European Patent Cases

In the search report of the patent application several prior art references were mentioned that were not described in the patent application as originally filed, while they were known to the applicant. The Examining Division had decided that Rule 42(1) EPC 2000 would not allow a later introduction of the discussion of the prior art references in the application. The Board of Appeal concluded that Rule 27(1) EPC 1973, or equivalent Rule 42(1) EPC 2000, does not put a stringent obligation on the applicant to acknowledge prior art known to him, and to cite documents known to him reflecting this prior art, at the time of filing the application. The Board held that no requirement of the EPC prohibits amending an application in order to meet the provisions set out in Rule 27(1) EPC 1973 or equivalent Rule 42(1) EPC 2000.

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

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This entry was posted on Monday, May 11th, 2009 at 2:21 am and is filed under [Art. 123\(2\) of the European Patent Convention \(EPC\)](#), a European patent (application) may not be amended in such a way that it contains subject-matter which extends beyond the content of the application as filed. Adding subject-matter which is not disclosed would give an applicant an unwarranted advantage and could be damaging to the legal security of third parties. ([G 1/93](#), OJ 1994, 541) *The ‘gold standard’ of the European Patent Office’s Board of Appeal is that “any amendment can only be made within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the documents as filed” (G 3/89, OJ 1993,117; G 11/91, OJ 1993, 125).*“>Added matter, [G 1/93](#), OJ 1994, 541) *The ‘gold standard’ of the European Patent Office’s Board of Appeal is that any amendment can only be made within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the documents as filed (G 3/89, OJ 1993,117; G 11/91, OJ 1993, 125).*“>Amendments, [Case Law](#), [electricity](#), [electronics](#), and [electromagnetism](#) and includes control systems, medical electrical engineering, electrical energy systems, high-performance electronics, robotics, electric motors, digital and analogue circuits, circuit topologies, oscillators, amplifiers, filters, semiconductor components, silicon-based components, semiconductor systems, sensors, transistors, passive components, MEMs, smartcards, signal processing systems, digital signal processing, coding techniques, computer-related inventions, computer technology, embedded software, telecommunications, GSM/UMTS/CDMA systems and typologies, telecommunications coding techniques, positioning technologies, TFT/LCD/Plasma/(O)LED displays, Plasma physics, Solar cells, Semiconductor physics, Deposition techniques, etching techniques, thin film techniques, epitaxy techniques, Plasma processing, MRI, Thermodynamics, Nuclear physics, Nuclear energy, Nuclear applications in medicine, Geophysics, Aerodynamics, Sustainable energy technologies, Computational physics”>Electrical Engineering, [EPC](#)

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