## **Kluwer Patent Blog**

## Imperceptibly different image/HOURPLACE, European Patent Office (EPO Board of Appeal), 30 September 2009

Ferry van Looijengoed · Wednesday, September 30th, 2009 · Landmark European Patent Cases

The appellant in this case filed a statement of grounds against the decision of the examining division to refuse a patent application. For the main request this statement only stated that it was believed that the application met the requirements of the European Patent Convention and maintained the arguments presented in the examination procedure. For an auxiliary request, the appellant provided further arguments. The Board of Appeal decided that the appeal as a whole was admissible. However, the main request was not, since the appellant's arguments were already dealt with in the decision of the examining division and the Board could not understand immediately from the statement of grounds why the decision was allegedly incorrect. As regards to the auxiliary request, the Board considered that the problem mentioned in the application was non-technical. The scope of the claims would cover subject-matter where the only relevant effect would be non-technical. Therefore, the Board found it necessary to reformulate the problem such that non-technical aims would be part of the problem for application of the problem and solution (see T 641/00). After doing so, the claimed subject-matter was held non-inventive.

Click here for the full text of this case. A summary of this case will be posted on http://www.KluwerIPCases.com.

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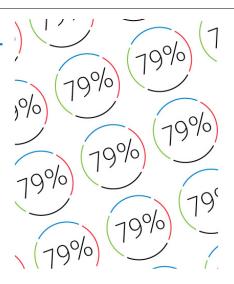
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