

Kluwer Patent Blog

T_0680/08, EPO Board of Appeal, 15 April 2010

Lars de Haas (V.O.) · Monday, July 19th, 2010

Claim 1 of the opposed patent had a limitation to a range of values with a lower bound that was slightly higher than disclosed in the priority document. The Board refused to recognize priority. As the priority document was prior art, the claim lacked novelty. The proprietor filed an auxiliary request wherein protection at the lower bound of the range was disclaimed. The Board recognized priority of the claim with the disclaimer, because the values in the remaining range concerned the same invention as the priority document. There was no proof that the change in the lower bound involved a technical effect. The Board also accepted the disclaimer, because it merely concerned a disclaimer of a value not enjoying a priority right.

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

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