
Kluwer Patent Blog

Plasma Torch / Agilent, European Patent Office (EPO Board of Appeal), 25 February 2013

Ferry van Looijengoed · Sunday, July 14th, 2013 · Landmark European Patent Cases

An amendment of independent patent claim 1 during prosecution introduced a new feature. According to the Examining Division this led to the combinations of features of dependent claims 2-4 to extend beyond the disclosure of the application as filed (Art. 123(2) EPC). The Board of Appeal held that the focus of the Examining Division was disproportionately directed to the structure of the claims as filed and did not uphold the ED's decision, because the disclosure directly and unambiguously referred to a variation of but not an alternative to the embodiment disclosed in the application as filed.

Click [here](#) for the full text of this case.

A summary of this case will be posted on <http://www.Kluweriplaw.com>

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This entry was posted on Sunday, July 14th, 2013 at 8:04 pm 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, [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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