Kluwer Patent Blog

T248/12, European Patent Office (Appeals Court), 5 March 2013

Lars de Haas (V.O.) · Sunday, July 14th, 2013

The Board observed that it could not be understood that the “technical relevance” criterion, proposed by another board in T 1906/11 for judging extension of subject matter, defines a new standard for judging amendments with respect to Article 123(2) in the case of intermediate generalizations. Instead, the Board had to decide whether the technical information inferred by the skilled person was new having regard to the content of the original application as filed.

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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 9:09 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, EPC, Mechanical Engineering
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