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# Kluwer Patent Blog

## Patent case: Kerr Corp. vs. RPE GmbH, EPO

Bart van Wezenbeek (Hoffmann Eitle) · Thursday, June 2nd, 2022

The present case relates to the admittance of a new ground for opposition which was raised during the oral proceedings before the opposition division but had deliberately not been decided upon by the opposition division. In the absence of a positive decision on admittance by the opposition division, the Board considered that the ground for opposition under Article 100 c) EPC should be treated as a fresh ground at the appeal stage and its admittance should be governed by the principles set forth in G 10/91, which require the proprietor's consent for its introduction into the appeal proceedings.

Case date: 21 January 2022

Case number: T 0077/18

Court: European Patent Office (EPO), Board of Appeal

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

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