

Have you read G1/25 yet?

Come on, it is not that bad. G1/25 basically says: if the description actually confuses the claim interpretation, fix it. If it merely contains extra stuff, leave it alone.

True. But at least now we can say: »Show me the EPC problem.«

Yes. I had just started to understand G1/24, and now the Enlarged Board gives us the next episode.

That sounds reasonable. But I can already hear an Examiner saying: »This paragraph gives me a feeling of inconsistency.« And then my afternoon is gone.

Fine. I'll print that on a mug for the next Rule 71(3) communication.



G1/25

The answer to all questions?

The Enlarged Board of Appeal's decision G1/25 of 3 September 2026 addresses a question that has become increasingly important in European patent practice: when claims are amended, must the description be adapted to match them?

For years, EPO practice has often required applicants and proprietors to amend the description after claim amendments. In many cases, this meant deleting or relabeling embodiments no longer covered by the claims. The practice was familiar, but its legal basis was controversial. Sometimes, reference was made to Article 84 EPC to argue that the description had to be brought into line with the claims. Sometimes, to the contrary, it was held that if the claims were clear in themselves, the EPC did not require adaptation of the description merely because it contained unclaimed embodiments.

G1/25 provides clarification and, in doing so, avoids both extremes and adopts a more moderate position.

Legal background

The long-discussed question underlying G1/25 is what, if any, the legal basis for the necessity of an adaptation of the description is under the EPC. The Board of Appeal identified, in decision T 697/22 underlying G1/25, two lines of case law: The first line of case law considers that the adaptation of the description to amended claims is necessitated by the requirements of the EPC (see also VII of G1/25). The second line of case law denies a legal basis for mandatory description adaptation and holds that Article 84 only concerns the claims, so that clarity is to be assessed without reference to the description (see also VIII to XVII of G1/25, and in particular T 56/21).

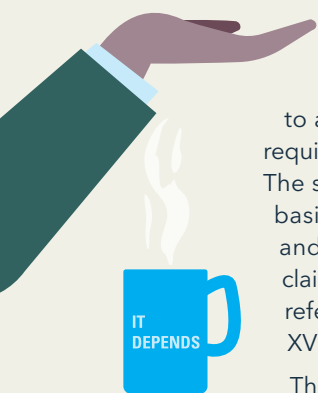
The EnBoA clarifies in G1/25 (Reasons 27 to 32) that the second line of case law is not endorsed. In particular in view of G1/24, the »interpretative role of the description« shall not be excluded.

Impact of G1/24

G1/25 discusses the relevance of G1/24 to the question of adapting the description after claim amendments in detail (in Reasons 4 to 12). Specifically, according to G1/24, the description and drawings must always be consulted when interpreting the claims – not only when the claim wording appears unclear or ambiguous. Claim interpretation is a holistic process, in line with T 439/22, implementing G1/24.

The meaning of the claim is to be determined from the perspective of the skilled person, taking the whole patent or application into account. In doing so, however, the description and drawings cannot be used to give the claim scope a limitation or an expansion for which there is no basis in the claim wording. In line with this, if the description contains a definition of a term in the claim, the skilled person will normally apply that definition, as long as it is technically reasonable and consistent with the overall teaching.

Hence, in short, after G1/24, the description and drawings are always part of claim interpretation, and this is the basis for the reasoning in G1/25.



The questions referred

Three questions were referred to the Enlarged Board of Appeal (EnBoA), namely:

Question 1:

If the claims of a European patent are amended during opposition proceedings or opposition-appeal proceedings, and the amendment introduces an inconsistency between the amended claims and the description of the patent, is it necessary, to comply with the requirements of the EPC, to adapt the description to the amended claims so as to remove the inconsistency?

Question 2:

If the first question is answered in the affirmative, which requirement(s) of the EPC necessitate(s) such an adaptation?

Question 3:

Would the answer to questions 1 and 2 be different if the claims of a European patent application are amended during examination proceedings or examination-appeal proceedings, and the amendment introduces an inconsistency between the amended claims and the description of the patent application?

Hence, the questions relate to claim amendments in any EPO proceedings and the EPC provisions that may require adaptation of the description.

The EnBoA's answers

The EnBoA gave the following consolidated answer in the order as follows:

»If the claims of a European patent, or patent application, are amended during proceedings before the departments of the EPO, or in appeal proceedings, and the amendment introduces an inconsistency between the amended claims and the description, including any drawings, of the patent, or application, and because of that inconsistency Articles 52 to 57, 76(1), 83, 84, 123(2) or 123(3) EPC are not complied with, it is necessary to adapt the description, including any drawings, to the amended claims so as to remove that inconsistency.«

In Reasons 43 and 44, the EnBoA clarifies that the necessity to adapt the description or any drawings is not a consequence of the existence of an inconsistency as such, but arises **only where, and to the extent that, the inconsistency has legal significance** because it leads to non-compliance with a requirement of the EPC. An inconsistency having no such legal effect does not require adaptation of the description, including of any drawings.

On this basis, specific answers to the questions were as follows (Reasons 49):

If the inconsistency is such as to cause a non-compliance with the EPC, **Question 1** is to be answered **»Yes«**.

Regarding **Question 2**, whether such an adaptation is required depends on whether, in the circumstances of the case, the inconsistency is such as to result in non-compliance with a requirement of the EPC. Question 2 is therefore to be answered to the effect that the **legal basis for any necessary adaptation is the provision of the EPC with which compliance is lacking** by reason of the inconsistency in question.

Question 3 is to be answered with a **»No«**, so that the EnBoA's approach applies not only to opposition proceedings, but also to examination proceedings.

What is a (relevant) inconsistency?

G1/25 discusses (in Reasons 16 to 23) what is meant by an »inconsistency« between the claims and the description, including any drawings. Thus, in practice, the meaning of »inconsistency« may become of core importance, and in view thereof, it is one of the most useful aspects of G1/25 that it provides an explanation of this term.

According to Reason 18,

*»An **inconsistency** between the claims and the description, and any drawings, exists where one or more statements in the description, including the drawings, suggest an **understanding of a claim which is incompatible with the apparent meaning of the claim**, and that incompatibility cannot readily be resolved by applying the principles set out in G1/24. «*

In Reason 20, the EnBoA supplements this definition from the negative side:

*»An **inconsistency is not established** merely because the description, including any drawings, contains a technical teaching, examples, or embodiments that **do not fall within the claimed subject-matter**. If, on the other hand, due to such an incompatibility, it is unclear whether a technical teaching, examples, or embodiments do, or do not fall within the claimed subject matter, an inconsistency exists. «*

This will likely be the most frequently cited passage in day-to-day practice. It expressly says not every unclaimed embodiment must be deleted. A description may contain broader disclosure, alternatives or examples outside the claims. The relevant question is therefore whether the skilled person *»is left in real doubt«* about the claimed invention in light of the description and any drawings.

Relevant EPC requirements

G1/25 explains how inconsistencies between the claims and the description, including drawings, may affect compliance with various EPC provisions (in Reasons 33 to 42).

In doing so, G1/25 recognizes that inconsistencies may relate to Article 84. For example, it may be *»unclear whether information, examples, subject-matter or embodiments are or are not within the scope of the claim, then it cannot be said that the claim is supported by the description, including any drawings.«*

In some cases, inconsistencies may affect patentability requirements under Articles 52 to 57 EPC. For example, if a claim is narrowed to establish inventive step under Article 56 EPC, but the description continues to present a broader technical teaching as the invention, that inconsistency may affect the assessment of patentability.

Similarly, in rare cases, inconsistencies might be relevant to sufficiency under Article 83 EPC, added matter under Article 123(2) EPC or Article 76(1) EPC, or extension of protection under Article 123(3) EPC.

The list of the EPC requirements the EnBoA considers relevant in this context is apparently exhaustive.

Discussion

The EnBoA also makes obiter observations on the timing of description amendment (see Reasons 45 to 47). Apparently, the EnBoA does not intend to trigger a change of the current practice when it comes to filing of an adapted description. Correctly, from a procedural point of view, amending the claims and adapting the description or drawings to those amended claims is part of the same procedural step, even if some time passes in between. However, often, the debate on issues such as clarity is closed before an adapted description has been filed. It may turn out only in connection with a later-filed version of the description whether, and to what extent, an inconsistency, e.g. one incompatible with Article 84 EPC, is actually present. G1/25 may support re-opening the corresponding debate when the description is being discussed.



Another aspect worth considering may be the interplay between G1/25 and Rule 80 EPC. In opposition proceedings, amendments to the description are allowable (only) if they are occasioned by a ground for opposition, typically by claim amendments made during the opposition proceedings. But what if the description was not adapted during examination proceedings and an inconsistency non-compliant with EPC requirements exists in the patent as granted? Must the description then be adapted in opposition proceedings? Apparently, the inconsistency in the granted patent continues to exist. Arguably, as the inconsistency in the granted patent has not been »introduced« in opposition proceedings, and in line with Rule 80 EPC, no adaptation is required during the opposition proceedings. However, in this context, the EnBoA states in Reasons 25 that »[t]he same considerations may arise where the claims are not amended, for example when a patent as granted is examined in opposition proceedings, [...]«. This may be interpreted to the effect that EPC-relevant inconsistencies »originating« from examination proceedings may need to be solved in opposition proceedings, even if the granted claims are not amended. It remains to be seen how such constellations will be handled.



Conclusion

G1/25 confirms that the description, including any drawings, must be adapted to amended claims **only where an inconsistency introduced by the amendment causes non-compliance with the EPC**, not merely to achieve formal textual neatness.

G1/25 will probably not end disputes about description adaptation, but it gives practitioners better tools to manage them. Thus, in practice, the analysis may follow three steps, for example. First, an Examiner will need to identify an alleged inconsistency. This is because the Examiner should identify the specific statement or part of the drawings alleged to create the inconsistency, i.e. that allegedly conflicts with the amended claims. It should not be enough to say generally that the description is broader than the claims. Second, the Examiner will need to ask whether the inconsistency affects claim interpretation, which should be the important G1/24 and G1/25 point. Since the description and drawings must be consulted when interpreting the claims, a conflicting passage may influence how the skilled person understands the claim. But not every broader passage does so, for example if the description merely contains an unclaimed embodiment, or a broader technical teaching, which is not automatically an inconsistency. Third, the Examiner will need to identify the EPC provision that is not complied with. The practitioner may then prepare structured rebuttals to one or more of these steps.



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