

Three in a Row: G 1/24, G 1/25, and G 1/26

On claim interpretation and the requirement for adaptation of the description before the EPO

For years, the EPO case law was divergent on a basic question of **claim construction**: when assessing patentability, do we read claims on their own, or with the description at hand and if so, under which circumstances? In **G 1/24** of 18 June 2025 (*»Heated aerosol«*), the Enlarged Board of Appeal (EnBoA) confirmed the primacy of the claims, but also clarified that the description and drawings shall *always* be consulted, and not only in case of unclarity or ambiguity. The central role of the description in the context of claim construction also puts another major question already discussed for years into sharper focus: if the description must always be consulted, what happens when it no longer matches the claims? The question of whether there is a requirement for **adaptation of the description** was referred to the EnBoA in July 2025 and is currently pending as **G 1/25** (*»Hydroponics«*). In addition, as G 1/24 refers to claim construction in the context of assessing patentability under Articles 52 to 57 EPC, one might ask whether and, if so, how the requirement to consult the description established by the EnBoA in G 1/24 applies to other EPC requirements, such as sufficiency of disclosure (Article 83 EPC) and added matter (Article 123(2) EPC). Questions arising in this regard very recently (on 3 June 2026) resulted in a further referral to the Enlarged Board, pending as **G 1/26** (*»Coated steel strips«*) and concerning *inter alia* the relationship between **claim interpretation and Article 123(2) EPC**.



G 1/24

»Heated aerosol«

Date of decision: 18 June 2025
Underlying case: **T 0439/22**



G 1/25

»Hydroponics«

Pending, date of referral: 29 July 2025
Underlying case: **T 0697/22**



G 1/26

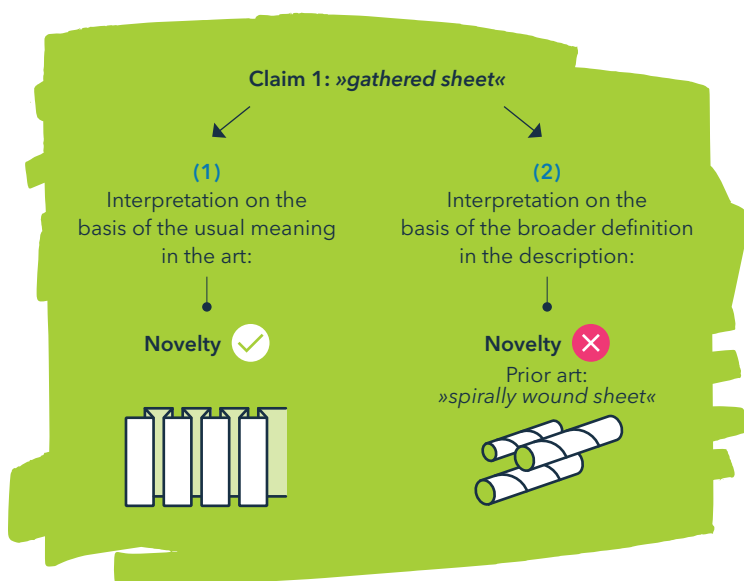
»Coated steel strips«

Pending, date of referral: 3 June 2026
Underlying case: **T 0873/24**



A quick reminder: the underlying facts of G 1/24 and the divergent lines of case law identified in T 0439/22

In the referring case T 0439/22 (date of the interlocutory decision: 24 June 2024), the Board was concerned with a tobacco-related patent directed to a heated aerosol-generating article comprising an aerosol-forming substrate, which in turn comprises a «gathered sheet». Whether the claim was considered novel in view of a prior art disclosing a corresponding article comprising a «spirally wound sheet» hinged on the question of interpretation of the term «gathered sheet». The Board found that there are **two possible interpretations** that could be applied. Following the understanding of the skilled person, the term «gathered sheet», when read in isolation, would be understood as defining a sheet folded along lines to occupy a three-dimensional space. Accordingly, when assigning this usual meaning to «gathered sheet», the claims must be regarded as novel over the «spirally wound sheet» in the prior art. The Board, however, also noted that the patent description defined «gathered» more broadly than the typical understanding in industry, in a way that also encompassed the «spirally wound sheet» of the prior art. This broader meaning according to the Board would still make technical sense and would not be in contradiction with, but merely encompass, the usual meaning in the art (reason 1.4 of T 0439/22).



Overview of possible claim interpretations established in T 0439/22 of 24 June 2024.

The outcome on novelty therefore depended on whether, and to what extent, the description and drawings had to or could be consulted when interpreting patent claims.

The Board in this context identified divergent lines of case law and decided to refer three questions to the Enlarged Board relating to

- (i) what is the legal basis for construing patent claims,
- (ii) whether and under which circumstances the figures and description can be taken into account when construing a patent claim, and
- (iii) to which extent a patent can serve as its own dictionary (reason 3.1 and the referring questions of T 0439/22).

G 1/24 in a nutshell: claims first, but never claims alone

In the following decision, G 1/24 of 18 June 2025, the EnBoA provided guidance on the principles governing claim interpretation when assessing patentability under Articles 52 to 57 EPC.

The EnBoA considered that there is no clear legal basis, in terms of an article in the EPC, for claim interpretation when assessing patentability. In particular, it held that neither Article 69 EPC, nor Article 1 of its Protocol, nor Article 84 EPC are entirely satisfactory (reasons 6 and 9 of G 1/24).

Nevertheless, the EnBoA considered that the above conclusion does not mean that it is necessary to invent new principles of claim interpretation from scratch. In the EnBoA's view, there is an existing body of case law from which the applicable principles of claim interpretation can be extracted (reason 10 of G 1/24). From this case law, the EnBoA derived the following two principles of claim interpretation (reason 12 and Headnote of G 1/24):

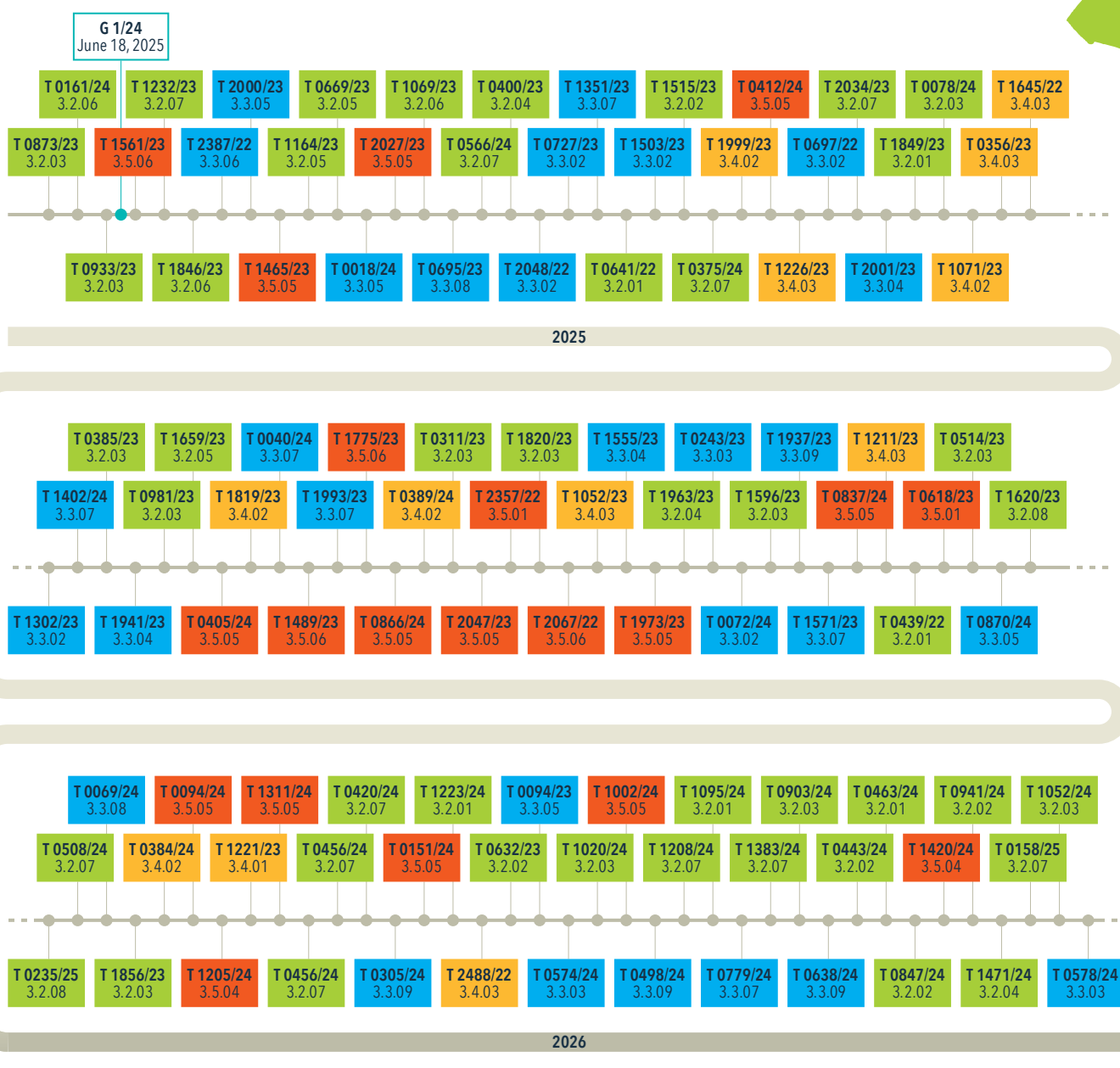
1. **The claims are the starting point and the basis** for assessing patentability of an invention under Articles 52 to 57 EPC.
2. **The description and drawings shall always be consulted** to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC, and not only if the person skilled in the art finds a claim to be unclear or ambiguous when read in isolation.

The EnBoA, in adopting the above position, thus rejected the previous case law that saw no need to refer to the description and drawings when interpreting a claim, unless the claim was unclear or ambiguous (reason 14 of G 1/24). The EnBoA also emphasized the importance of aligning the EPO's practice to that of the tribunals that are downstream of its patents (reasons 15 and 16 of G 1/24). For example, the EnBoA explicitly referred to Headnote 2 of the UPC Court of Appeal's order *NanoString v. 10x Genomics* (UPC_CoA_335/2023, 26 February 2024), which, according to the EnBoA, appears to be consistent with its conclusions (reason 19 of G 1/24).

Notwithstanding, the EnBoA also emphasized the importance of the examining divisions carrying out a high quality examination of whether a claim fulfills the clarity requirements of Article 84 EPC. According to the EnBoA, the correct response to any unclarity in a claim is amendment (reason 20 of G 1/24).

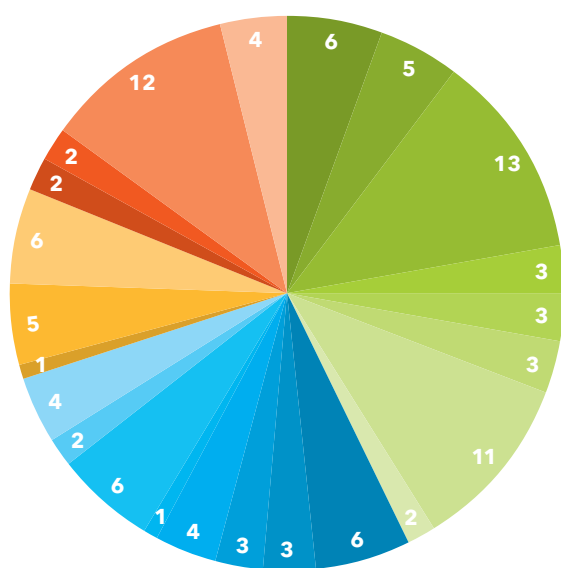
Case law following G 1/24: overview and statistics

Given the high relevance of the questions assessed in G 1/24, it is not at all surprising that about one year after G 1/24, the EPO's Boards of Appeal have already discussed and applied the EnBoA's guidance in G 1/24 on claim interpretation in **over 100 decisions**¹.



¹ The number of decisions was established by a search for Board of Appeal decisions citing G 1/24 in the EPO's database as of 9 June 2026, while cases citing G 1/24 solely in connection with a request for a stay of proceedings are not included.

Almost all Boards have already issued decisions discussing and applying the principles established in G 1/24. To date, the mechanics-focused 3.2 Boards account for the largest share, with 46 decisions referring to G 1/24, followed by the 3.3 Boards (Chemistry) with 29 decisions and the 3.5 Boards (Electrical engineering) with 20 decisions. The 3.4 Boards (Physics) cited G 1/24 in 12 cases. This distribution underlines the broad, practical relevance of G 1/24 across technical fields.



- 3.2.01 ● 3.2.02 ● 3.2.03
- 3.2.04 ● 3.2.05 ● 3.2.06
- 3.2.07 ● 3.2.08
- 3.3.02 ● 3.3.03 ● 3.3.04
- 3.3.05 ● 3.3.06 ● 3.3.07
- 3.3.08 ● 3.3.09
- 3.4.01 ● 3.4.02 ● 3.4.03
- 3.5.01 ● 3.5.04 ● 3.5.05
- 3.5.06

Number of decisions applying G 1/24 by Board. Cases that cite G 1/24 in view of a request for stay of proceedings are not included.
Status of the overview: 9 June 2026.

Takeaways from the post-G 1/24 case law

Considering the case law following G 1/24, certain guidance and takeaways may be derived.

Takeaway 1

The description does not automatically narrow the claims

In view of the guidance in G 1/24 that the description is always to be consulted when interpreting the claims, the question arises whether the description may be used to *narrow* the scope of a claim that literally reads more broadly. As suggested by the majority of the current case law, including T 1402/24 (reason 2.5.2), T 1232/23 (reason 2.10.3), T 2027/23 (Catchword and reason 3.5 to 3.5.15), T 1208/24 (reason 3.2.2), and T 1645/22 (reason 1.3.4), **G 1/24 cannot generally be considered a license to import features from specific, narrower embodiments into a more general claim wording.** Broad claim language is thus generally not cut down simply because the description contains more specific implementations. Furthermore, in T 1999/23, the Board held that **even an explicit definition of a term in the specification that departs from the usual, broader understanding in the art cannot be used to impart limitations on the claims** (reasons 5.5 to 5.10). Thus, while the description must always be consulted, such consultation does not mean an automatic narrowing of claims. Rather, the applicant or patentee should limit the claims accordingly by introducing further features or definitions, if so desired. According to T 2027/23, *«patentees are the masters of their fate»* (reason 3.5.2).

Takeaway 2

The description may be used to broaden the claims

On the other hand, the requirement for consulting the description as established in G 1/24 also gives rise to the question of whether the description can be used to broaden a claim. An illustrative case in this context is the underlying case T 0439/22 (date of decision: 11 December 2025). Applying the principles established in G 1/24, the Board held that **the broader definition given in the description had to be taken into account.** On that basis, the Board concluded that the term *«gathered sheet»* also encompasses the aerosol-generating articles in the prior art and the claims of the main request were consequently found to lack novelty (reason 3 to 3.7; see also again the overview above regarding possible claim interpretations established in T 0439/22).

Takeaway 3**Amendments to the description may affect claim scope**

Given that the description must always be consulted when interpreting the claims pursuant to G 1/24, amendments to the description may consequently also affect claim scope. For example, while the main request in the underlying decision T 0439/22 was held to lack novelty (*supra*), the auxiliary request in which the broader definition of the term »gathered« in the specification was deleted (while the claims remained unamended) was held to violate the requirements of Article 123(3) EPC. While the definition in the specification broadened the term »gathered« compared to the common understanding in the art in one aspect (and therefore led to the finding of lack of novelty of the main request), it at the same time implied a narrower meaning for the claimed »gathered sheet« in another aspect. The scope of protection conferred was thus considered extended for the auxiliary request compared to the granted claims (reasons 5.4 to 5.6, 6, and 7). The Board in T 0439/22 concluded that (Catchword 3, emphasis added)

a person skilled in the art reading the claim in the context of the description and figures will try to take a definition found in the description at face value. As long as the definition is technically reasonable and complies with the overall teaching of the claims, description and figures, the skilled person will read terms in the claim in the sense of the definition, taking into account both the broadening and limiting aspects.

The Board's reference to broadening and limiting features appears to differ from decisions generally rejecting a narrower claim interpretation based on features in the description as summarized in Takeaway 1 (reference is also made in this context to the referral G 1/26 discussed below).

**Takeaway 4****The correct response to an Article 84 EPC problem is claim amendment**

As shown above, the EnBoA in G 1/24 also expressly emphasized the importance of a high-quality examination regarding the requirements of Article 84 EPC. Where a lack of clarity objection is raised, the appropriate response is generally considered amendment of the claims, rather than reliance on the description in order to remove any ambiguities as to what the intended protection may be. Using the description as a corrective device for imprecise claim drafting is thus generally not considered acceptable (reason 20 of G 1/24). This was also confirmed in subsequent case law such as, for example, T 0981/23 (reason 2.2.3), T 2000/23 (reason 5), and T 1775/23 (reason 13.3). In T 1775/23, the Board indicated that a relatively large discrepancy between a straightforward and broader interpretation of the wording of the claim (on its own), and the apparently intended, narrower meaning based on the description would be a problem of clarity that could not be remedied solely by the Applicant's reference to G 1/24 (reason 13). Reference is also made to T 1420/24, wherein the Board was of the view that »if the description gives terms a special meaning that the person skilled in the relevant art cannot derive from the wording of a claim alone, Article 84 EPC in principle requires the claim to be amended to reflect that special meaning« (reason 10.4.1).

Certain principles that transpire from the case law following G 1/24 were also implemented recently in the **Guidelines for Examination**. The following passages were newly included in the current edition of April 2026, Part F, Chapter IV, section 4.1 (Clarity) and 4.2 (Interpretation):

The correct response to any lack of clarity in a claim is amendment.....

...when assessing patentability, the description and drawings cannot be relied on to read into the claim a restrictive feature not suggested by the wording of the claim.

If, on the other hand, the description provides a special broad definition of a term used in a claim, the claim must be interpreted in the light of that broad definition when assessing patentability, provided this interpretation is technically meaningful.

The very recent referral G 1/26 seeks further clarification regarding the extent to which features only disclosed in the description or the drawings can be read into the meaning of a claim (*infra*).

Applicability of the principles established in G 1/24 to the assessment of Article 83 EPC and Article 123(2) EPC

As evident from the Headnote of G 1/24, the principles established by the Enlarged Board apply to the assessment of patentability under Articles 52 to 57 EPC. Although it is considered desirable that the same claim interpretation is applied no matter which EPC-requirement is assessed, the **specific question might arise whether the principles established in G 1/24 equally apply to requirements such as sufficiency of disclosure and the requirements under Article 123(2) EPC** and if so, to what extent.

As regards sufficiency, while acknowledging that the EnBoA's statement that the *»description and drawings shall always be consulted to interpret the claims«* was made in the context of Articles 52 to 57 EPC, there are several decisions in which the Boards considered that this principle also applies for assessing whether the invention as claimed is sufficiently disclosed under Articles 100(b) and 83 EPC. Reference is made, for example, to T 1820/23 (reason 1.3.2), T 2067/22 (reason 4), and T 0243/23 (reason 2).

Most case law also acknowledges that the principles of G 1/24 concerning the role of the description in claim interpretation equally apply to the assessment of the requirements of Article 123(2) EPC. Exemplary decisions are T 873/23 (reason 1.6.1), T 2048/22 (reason 1.2.1 and 1.2.2), T 981/23 (reason 2.2.3), T 1973/23 (reason 3.7), and T 847/24 (reason 3.3). However, some decisions appear to at least leave open whether the principles of G 1/24 are indeed applicable to Article 123(2) EPC, such as T 72/24 (reason 1.10.12), T 405/24 (reason 1.2.3), T 412/24 (reason 3.1.1), and T 498/24 (reason 1.3.8). The relationship between claim interpretation and Article 123(2) EPC is also the subject of the very recent referral G 1/26, which will be discussed below.

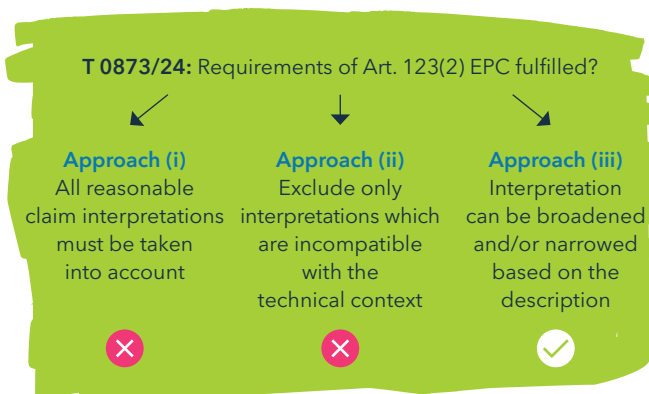
Further points for clarification by the EnBoA: new referral G 1/26

In T 0873/24, the claim in question is directed to a pre-coated steel strip comprising titanium and nitrogen and further defines the ratio of titanium to nitrogen as being more than 3.42. The claim, however, does not specify whether the amount of titanium and nitrogen is expressed as weight percent in order to determine the ratio. While the claim is not considered limited to a specific ratio, but to include both weight ratio and molar ratio, the application as filed only discloses a ratio based on weight. According to

the Board, the decision on whether the claims comply with or do not comply with the requirements of Article 123(2) EPC thus hinges on the question of to what extent the information found in the description may influence the interpretation of the claim (e.g., can the claim be considered limited to weight ratio based on the description?), and which possible interpretations of the claim need to be originally disclosed (e.g., is it solely required that the claim interpretation based on the description, i.e., a weight ratio, is originally disclosed?), see reasons 1 to 1.2.4.

The Board in T 0873/24 identifies different approaches to claim construction prior to assessing whether the subject-matter of the claim – established by way of interpretation – extends beyond the content of the application as filed. According to the Board,

- (i) a first approach consults the description only to define the skilled person and takes all technically reasonable claim interpretations, in particular broader ones, into account (reason 2.1),
- (ii) a second approach consults the specification beyond mere identification of the technical field in order to exclude interpretations of a claim that are incompatible with the technical context provided by the description, but does not accept that features only present in the description can be read into the claim (reason 2.2.), and
- (iii) a third, *»holistic«* approach permits broadening and/or narrowing of the interpretation in view of the patent specification (reason 2.3). The Board concludes that the three approaches in the case law outlined above regarding how the description is to be consulted for the assessment of added subject-matter would lead to different outcomes when applied in the case at hand (reason 3). See the below figure for an overview.



Overview of possible outcomes on Article 123(2) EPC depending on the approach on claim interpretation as identified by the Board in T 0873/24.

In view of the above, the Board in T 0873/24, with the interlocutory decision published on 3 June 2026, decided to refer four questions on claim interpretation (numbered as questions 2 (a), 2 (b), 3 (a), and 3 (b) in the referring decision) to the EnBoA:

- 2 (a) *Does the fact that the claims are the starting point and the basis for assessing the patentability of an invention generally preclude a feature which is only disclosed in the description or the drawings of a patent from being read into the meaning of a granted claim in particular if this leads to a restrictive reading of terms used in the claim?*
- 2 (b) *If the answer to question 2.a) is no: is claim interpretation the result of both reading the claims and consulting the description and drawings as a unitary process and does the claim being the starting point and the basis for assessing the patentability rule out only those interpretations which can be derived from the patent as a whole but would clearly contradict the general technical understanding of the terms used in the claim?*
- 3 (a) *When assessing compliance with Article 123 (2) EPC, must a term used in a claim be assessed against all interpretations that make technical sense to the skilled reader on the basis of the claim alone?*
- 3 (b) *If the answer to question 3.a) is no: is it sufficient that only the interpretations of the subject-matter of the claim established against the background of the patent specification as a whole are directly and unambiguously derivable from the application as filed?*



The further developments in this case will be interesting to watch, including whether the referral will be considered admissible by the EnBoA (question 1 of the referring decision concerns an aspect relating to Article 112(1) EPC).

From G 1/24 (and G 1/26) to G 1/25: the EPO's requirement of adapting the description

As G 1/24 emphasizes the relevance of the description and drawings for claim interpretation, a further topic that has been under discussion for several years has become of even greater significance: **is there indeed a requirement under the EPC to bring the description into conformity with the claims?** That is precisely the issue now before the EnBoA in G 1/25, a referral of major practical significance.

A certain requirement for adapting the description may already be derived from the very first edition of the EPO's Guidelines for Examination from 1978 (see Annex 2 of the Comments by the President of the EPO to the referral G 1/25 dated 20 January 2026), which refers to situations in which there is a *«serious inconsistency between claims and description»* or where *«the description and/or drawings include one or more embodiments of the invention which appear to fall outside of the subject-matter covered by the claims»*. The EPO's practice of adaptation of the description was further developed and specified over time. As stipulated in the current edition of the Guidelines (April 2026, Part F-IV, section 4.3), any inconsistency between claims and description must be avoided if it casts doubt on the subject-matter for which protection is sought. In practice, this usually means a requirement to delete no-longer-claimed subject-matter or expressly marking particular embodiments as falling outside of the claimed scope. Compared to other jurisdictions such as Japan, US, China, and South Korea, the EPO's practice of adaptation of the description may be regarded as particularly strict.

The debate around adaptation of the description is multifaceted. Legal certainty is often put forward as an argument in favor of a requirement to adapt the description, in particular in jurisdictions such as Germany where a *«file wrapper estoppel»* does not or only to a limited extent apply and where validity and infringement are not decided by the same court (*«bifurcated systems»*). Similarly to the EPO, the Guidelines for Examination before the German Patent and Trademark Office also require the Applicant to bring the description into conformity with the claims (version of 2 March 2026, section 2.7.1). On the other hand, there are also arguments raised against a

general requirement of description adaptation, such as, for instance, additional costs and potential delay of proceedings, the risk that description amendments might create issues under Articles 123(2), 123(3), 83 and/or 56 EPC, and a potential effect on later enforcement, including relevance for questions under the doctrine of equivalence.

In the following, the underlying case and the current status of the proceedings in G 1/25 are summarized.

T 0697/22: the underlying facts of G 1/25

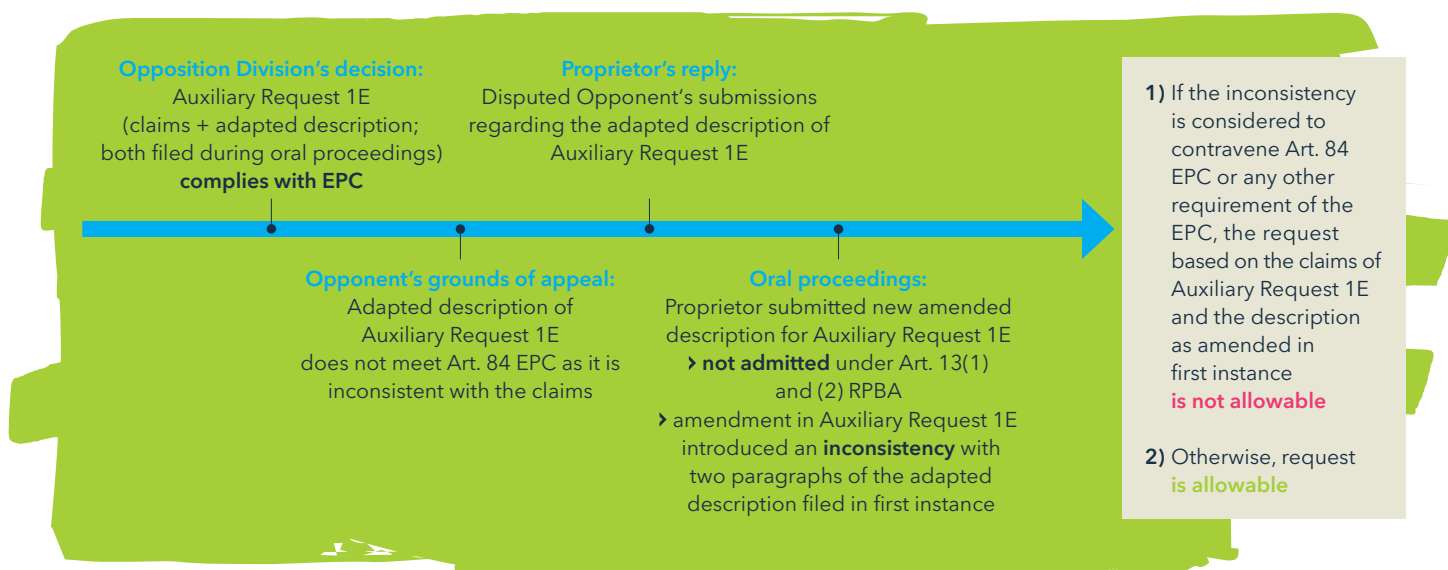
The referral arose from T 0697/22, which was concerned with a claim directed to a method of growing a plant in a hydroponics growing medium comprising mineral fibers and an organic binder, wherein the binder is further defined (Auxiliary Request 1E; reason 3 of T 0697/22).

During first instance, claims according to Auxiliary Request 1E and an accompanying adapted description were considered to comply with the requirements of the EPC. With the grounds of appeal, the Opponent submitted that the adapted description is not consistent with the claims of Auxiliary Request 1E. The requirements of Article 84 EPC were considered not to be fulfilled. The amended claim set allegedly introduced a mismatch with two passages of the description, which disclosed the binder in still broader terms than claim 1 of Auxiliary Request 1E (Summary of Facts and Submissions of T 0697/22). Up to

the oral proceedings, the Patentee took the position that the description as filed on first instance did not need to be further amended. Only at a later stage, during the oral proceedings before the Board, the Patentee filed a further adapted description, in which the two objected to passages were deleted (reason 9.1 of T 0697/22). The Board decided not to admit the new version of the description into the proceedings under Articles 13(1) and (2) RPBA (reasons 9.2 to 9.4 of T 0697/22).

The discussion thus focused on the allowability of the claims of Auxiliary Request 1E with the description as amended on first instance. The Board considered the claims allowable in terms of added matter, sufficiency, novelty, and inventive step (reasons 5 to 8.4 of T 0697/22). The Board, however, considered that an inconsistency had been introduced between the binder as defined in claim 1 of Auxiliary Request 1E and the disclosure in the two objected to passages of the description (reason 10.5 of T 0697/22). The allowability of the request thus hinged on whether the inconsistency between the claims and the description is contrary to any requirement of the EPC. The question of whether there is a necessity, to comply with the requirements of the EPC, to adapt the description to amended claims so as to remove inconsistencies was thus considered decisive for the outcome of the case (reason 10.6 of T 0697/22).

An overview of the underlying facts is provided in the figure below.



The divergent case law as identified in T 0697/22

The Board in T 0697/22 identified two clearly diverging lines of case law, one answering the above question (i.e., is there a requirement under the EPC to adapt the description?) in the affirmative, and a second line answering the above question in the negative (reason 13 of T 0697/22).

The **first – and dominant – line of case law** as identified by the Board considers adaptation of the description to amended claims as necessitated by the requirements of the EPC. According to the Board, decisions following this approach often describe that position as the established line of case law (reason 14.1 and 14.2 of T 0697/22). However, according to the Board in T 0697/22, there is no consensus in these decisions on one precise legal basis. Some cases contain a general reference to the requirements of the EPC as a legal basis (for example T 0250/20) or refer to the requirement of consistency as a general (legal) principle (for example T 1571/22), others rely on Article 84 EPC alone (for example T 1024/18), on Rule 42 EPC alone (for example T 140/19), or on a combination of Article 84 EPC with other provisions of the EPC such as Article 94(3) EPC and Rules 42, 48 and 71(1) EPC (as in T 438/22) or Article 84 EPC in conjunction with Rule 42 EPC (for example T 1452/21) (see reasons 14 to 14.4 of T 0697/22).

The **second line of case law** as identified by the Board consists of a few recent decisions, i.e., T 1989/18, T 2194/19, T 1444/20, and T 56/21, all issued in ex parte appeal proceedings. T 56/21 is the most recent decision and considered by the Board »as the most prominent« one. In those decisions, the Boards held that **there is no legal basis in the EPC to refuse an application when an amendment of claims has caused an inconsistency with the description and the description is not adapted**. According to the Catchword of T 56/21:

In examination of a patent application, neither Article 84 nor Rules 42, 43 and 48 EPC provide a legal basis for requiring that the description be adapted to match allowable claims of more limited subject-matter.

Under this second line of case law, according to the Board in T 0697/22, any resulting inconsistency and its possible consequences are the applicant's responsibility (see reasons 15 to 15.3 of T 0697/22).



The questions referred to the EnBoA

The Board considered that clarification by the EnBoA was needed to decide the case at hand. Furthermore, although the case before it was about *inter partes* appeal proceedings, the Board considered that the same divergence in the case law exists in *ex parte* appeal proceedings and thus considered it useful not to limit the referral to opposition proceedings in the first or second instance (reason 21.3 of T 0697/22). Accordingly, the following questions were referred to the EnBoA for decision:

1. If 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?
2. If yes, which requirement(s) of the EPC necessitate(s) such an adaptation?
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?

The EnBoA's preliminary opinion and the current status

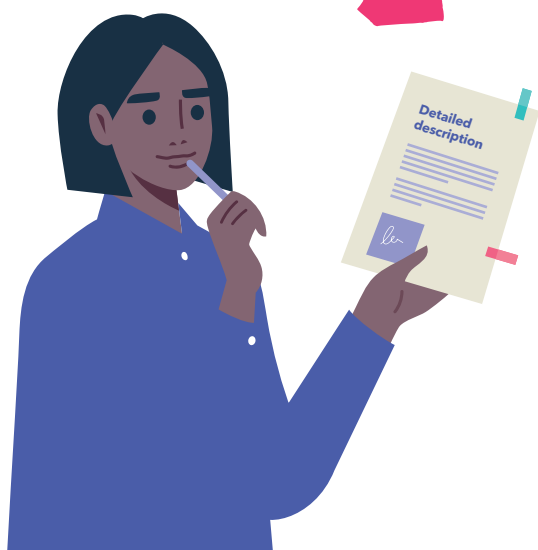
On 11 March 2026, the EnBoA issued a non-binding communication on the matter. According to this communication, the EnBoA does not see a need for the referred questions to be re-drafted or re-arranged. All questions are considered admissible. See page 1 of the communication of 11 March 2026.

Regarding Question 1, the EnBoA considers that the first issue that has to be dealt with is the meaning to be given to »inconsistency«. Relevant to the present referral, according to the Enlarged Board, is only an inconsistency that causes non-compliance with the EPC. In the case of such an inconsistency, according to the EnBoA, the answer to Question 1 is that a further amendment of the description, and/or the claims is necessary in order to comply with the EPC (see pages 1 and 2 of the Communication of 11 March 2026).

Regarding Question 2, according to the EnBoA, as the only inconsistencies that are relevant are those that cause non-compliance with the EPC, the Articles and Rules of the EPC that necessitate such an adaptation are those Articles and Rules of the EPC that are not being complied with. Further, the EnBoA notes that although Questions 1 and 2 refer to the EPC in its entirety, the referring decision mainly focuses on Article 84 EPC, in particular on the two approaches to Article 84 EPC, one of which sees Article 84 EPC as providing a basis for requiring the adaptation of the description (the first line of case law) and one of which that does not (the second line of case law). The EnBoA focuses on T 56/21 and questions whether the interpretation of Article 84 EPC given in T 56/21 is correct. The EnBoA states that it is currently of the view that many conclusions of T 56/21 are inconsistent with decision G 1/24 and its underlying reasoning and that thus the first line of case law should be followed as regards Article 84 EPC, and not the approach set out in T 56/21 (see pages 2 and 3 of the Communication of 11 March 2026).

Finally, regarding Question 3, the EnBoA did not see a reason to draw a distinction between examination and opposition proceedings in the context of the referral.

The oral hearing on the matter took place on 8 May 2026. The decision of the EnBoA is yet outstanding. While G 1/25 is pending, the President of the EPO has decided that proceedings in examination and opposition should continue and that divisions will continue to apply the practice outlined in the Guidelines for Examination in the EPO, including the adaptation of the description where necessary (see the news release »Referral G 1/25 on adaptation of the description« of 5 August 2025).



Outlook

G 1/24 clarified that the description and drawings shall always be consulted to interpret the claims when assessing the patentability of an invention under Articles 52 to 57 EPC. Notwithstanding, a careful drafting and prosecution strategy remains very important. While the majority of the current case law seems to reject a narrow reading of claims based on features solely disclosed in the specification, also broader definitions have been read into claim features. Both approaches might lead to potential validity problems. Therefore, Applicants should carefully review and possibly amend the specification in light of the claims before grant. The same applies in case of amendments in post-grant proceedings. For instance, depending on the circumstances, it could be advisable to introduce comparably narrower definitions disclosed in the specification into the claims if features of those definitions are deemed important for validity. And while G 1/24 emphasizes the importance of the specification as a whole in the context of claim construction, the EnBoA also noted that the correct response to any lack of clarity is claim amendment.

Although certain takeaways may be derived from the now already over 100 decisions referring to the principles set out in G 1/24, some questions regarding claim construction appear to remain open, as shown by the new referral G 1/26, which relates *inter alia* to the relationship between claim interpretation and Article 123(2) EPC.

Furthermore, following G 1/24, the question of whether an application can be granted or a patent can be upheld if there is a purported inconsistency between an amended claim and the description has become of even greater significance. The EPO's practice of description adaptation has been the subject of debate for several years and is currently being discussed in the pending referral G 1/25.

The EnBoA's decision in G 1/25, the further course of the referral G 1/26, and the continued application of G 1/24 by the Boards of Appeal will therefore be followed with particular interest.



Dr. Monika Ayten

/ German and European
Patent Attorney Trainee
/ M.Sc. Drug Research



Dr. Anja Fux

/ Partner
/ German Patent Attorney
/ European Patent Attorney
/ UPC Representative
/ M.Sc. Biochemistry