

# EPO Case-Law Update

Recent decisions of the Boards of Appeal

## TOPICS

- First decisions according to the new RPBA
- Recent procedural decisions
- Recent substantive decisions, including decisions on computer-implemented and pharma/biotech inventions
- Referrals to the Enlarged Board
- Petitions for review
- Report period 2019 - 2020

*New Rules of Procedure  
of the Boards of Appeal  
- first experiences!*

## YOUR SPEAKERS



**Dr Hans-Peter  
Felgenhauer**

Former Technical Member  
of the Boards of Appeal,  
European Patent Office,  
Munich (Germany)



**Daniel Xavier Thomas**

Former Director,  
Directorate-General  
1 - Operations,  
European Patent Office,  
Munich (Germany)

# Recent decisions of the Boards of Appeal

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## Aims and objectives

Each year the Boards of Appeal (BoA) of the European Patent Office hand down more than 2000 decisions. These decisions set the standard for interpreting and applying the European Patent Convention. It is therefore vital for practitioners to keep up to date with the latest developments of the jurisprudence of the Boards of Appeal.

The most important published and unpublished decisions of the Boards of Appeal will be presented. The panelists will discuss, in particular, the consequences of these decisions on patent practice, in particular with respect to the basis of the appeal proceedings and the admittance of late filed submissions (new requests, prior art and arguments). The impact of the amended Rules of Procedure of the Boards of Appeal will be analyzed and discussed.

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## Who should attend?

Do you work in a corporate patent/IP department or as a patent attorney in private practice? Do you need to be up to date on EPO case-law? Then this update course is designed for you. Knowledge of patents is assumed. This course is also useful to advanced EQE candidates.

## Your speakers

### Dr Hans-Peter Felgenhauer

Former Technical Member of the Boards of Appeal, European Patent Office, Munich (Germany)

### Daniel Xavier Thomas

Former Director, Directorate-General 1 - Operations, European Patent Office, Munich (Germany)

### Dr Hans-Peter Felgenhauer

Hans-Peter was a Technical Member of the Boards of Appeal in the technical field of mechanical engineering from 2001 to 2014. Prior to that he was an examiner at the EPO. Before Hans-Peter joined the EPO, he worked as a patent attorney in private practice and as in-house counsel in Germany. He is currently working as a European Patent Attorney at Meissner Bolte, focusing on preparing expert opinions and conducting mock trials. Hans-Peter has a technical background in mechanical engineering.

### Daniel Xavier Thomas

Daniel is an electronics engineer by training. He started his career in the patent field in 1971 and has at last been heading directorates in various fields of electronics, physics and mechanics. Although he retired from active service at the EPO in 2013, D.X. Thomas continues to be active in the field of IP. To that effect he is leading workshops/seminars relating to various aspects of the European granting procedure. Daniel X. Thomas is also working as consultant in IP matters for various firms around Europe.

## Your agenda

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**7 Mai 2020, 09:00 - 17:00**

### **Main features of the revised RPBA**

- The three levels of convergence
- Extension of periods set by the Boards
- Acceleration of appeal proceedings
- Remittal to the first instance
- Oral Proceedings:
  - Summons - time limit
  - Change of date of oral proceedings
  - Abridged decisions
  - Issuance of decisions after oral proceedings
- Video or telephone conferences before the Boards
- Transitional provisions
- Effect on the procedure of first instance
- Suggestions from the speakers from the Boards

### **Recent decisions concerning procedural aspects**

- Admissibility of opposition
- Admissibility of appeal
- Accompanying persons
- Substantiation of objections in appeal proceedings
- Substantiation of requests in appeal proceedings
- Substantial Procedural Violation
- Oral proceedings Postponement
- Remittal by a Board of Appeal to the first instance

### **Recent decisions concerning substantive aspects**

- Availability to the public
- Public Prior Use
- Novelty: quality of translation, purity
- Effects in a method claim
- Selection inventions
- Inventive step and presentation of information
- Computer implemented inventions
- Sufficiency of disclosure: plausibility, functional features
- Added subject-matter
  - Intermediate generalisation
  - Correction of errors
  - Three points test = former "essentiality test"
- Extension of protection
- Amendment of the description
- Apportionment of costs
- Priority: validity, transfer

### **Referrals to the Enlarged Board (Art 112)**

- Appeal inadmissible or deemed not filed (G 1/18) - published
- Haar or Munich as venue of oral proceedings (G 2/19) - published
- Modelling Method (G 1/19) - pending
- Article 164(2) EPC - "Pepper" (G 3/19) - pending
- Double patenting (G x/19) - pending

### **Petitions for review (Art 112a)**

## EPO Case-Law Update

### REGISTRATION UNDER

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### REGISTRATION FORM

Yes, I will attend

EPO Case-Law Update  
7 Mai 2020 in Amsterdam/Leiden

Yes, I agree that FORUM Institut may inform me about events by:  
 email; and/or  telephone.  
I may withdraw my consent at any time.

#### Date and venue

Thursday, 7 May 2020 in Leiden  
9:00 - 17:00

Holiday Inn Leiden

Haagse Schouwweg 10 · NL 2332 KG Leiden  
Tel. +31 71 535 5555 · Fax +31(0) 71 53 55 553

#### Fee

€ 1,190.00 (+ 21% VAT)

The fee includes course documentation (including free download) as well as refreshments, lunch and a certificate. You will receive an invoice as well as confirmation.

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Name

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Position, department

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Date, signature

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