

## **Decision of the Enlarged Board of Appeal dated 28 June 2007 G 1/06\***

(Language of the proceedings)

Composition of the board:

Chairman: P. Messerli  
Members: S. Perryman  
P. Alting Van Geusau  
B. Günzel  
C. Holtz  
A. Nuss  
Sir N. Pumfrey

**Applicant: SEIKO EPSON CORPORATION**

**Headword: Sequences of divisionals/SEIKO**

**Article: 54(3), 75(2), 76(1)(2)(3), 77(5), 82, 96(2), 97(1), 100(c), 102(3), 112(1)(a), 113(1), 123(1)(2), 138(1)(c) and 138(2) EPC 1973**

**Rule: 25(1)(2), 51(2), 86(3), 86(4) EPC 1973**

**RPEBA Art. 8**

**UK Patents Act 1977: Sections 76(1), 130(7)**

**Keyword: "Invalidity as a result of non-compliance with Article 76(1) EPC on filing a divisional application - no" - "Amendment to conform with Article 76(1) EPC - allowable, even if at time of amendment earlier application no longer pending" - "Content of a member of a sequence of divisional applications must be disclosed in each of the preceding applications in the sequence as filed" - "Claims of a member of a sequence of divisional applications need not be directed to subject-matter within the scope of the claims of the preceding applications in the sequence as filed"**

*Headnote:*

*In the case of a sequence of applications consisting of a root (originating) application followed by divisional applications, each divided from its predecessor, it is a necessary and sufficient condition for a divisional application of that sequence to comply with Article 76(1), second sentence, EPC that anything disclosed in that divisional application be directly and unambiguously derivable from what is disclosed in each of the preceding applications as filed.*

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\* The Summary of facts and submissions and Reasons for the decision are identical in their wording to the corresponding section of decision G 1/05, OJ EPO 2008, 271 (in this issue). The proceedings were consolidated. Therefore this is an abridged version of the decision. A copy of the full text in the language of proceedings may be obtained from the EPO Information Desk in Munich on payment of a photocopying fee of EUR 0.70 per page.