

## G1/19

- The following questions are referred to the Enlarged Board of Appeal for decision:
- 1. In the assessment of inventive step, can the computer-implemented simulation of a technical system or process solve a technical problem by producing a technical effect which goes beyond the simulation's implementation on a computer, if the computer-implemented simulation is claimed as such?
- 2. If the answer to the first question is yes, what are the relevant criteria for assessing whether a computer-implemented simulation claimed as such solves a technical problem? In particular, is it a sufficient condition that the simulation is based, at least in part, on technical principles underlying the simulated system or process?
- 3. What are the answers to the first and second questions if the computer-implemented simulation is claimed as part of a design process, in particular for verifying a design?

## G2/19

- G2/19 – Question 1

- Ist im Beschwerdeverfahren das Recht auf Durchführung einer mündlichen Verhandlung gemäß Artikel 116 EPÜ eingeschränkt, wenn die Beschwerde auf den ersten Blick unzulässig ist?
- In appeal proceedings, is the right to oral proceedings under Article 116 EPC restricted where the appeal is prima facie inadmissible?

## G2/19

- G2/19 – Question 2

- Wenn die Antwort auf Frage 1 ja ist, ist eine Beschwerde gegen den Patenterteilungsbeschluss in diesem Sinne auf den ersten Blick unzulässig, die ein Dritter im Sinne von Artikel 115 EPÜ eingelegt und damit gerechtfertigt hat, dass im Rahmen des EPÜ kein alternativer Rechtsbehelf gegen eine Entscheidung der Prüfungsabteilung gegeben ist, seine Einwendungen betreffend die angebliche Verletzung von Artikel 84 EPÜ nicht zu berücksichtigen?

## G2/19

- G2/19 – Question 2

- If the answer to question 1 is yes, is an appeal against the decision to grant in this sense prima facie inadmissible, where the third party within the meaning of Article 115 EPC filed the appeal and justified it by arguing that within the framework of the EPC no alternative legal remedy is available against a decision of the examining division not to consider its objections regarding the alleged non-compliance with Article 84 EPC?

## G2/19

- G2/19 – Question 3

- Wenn die Antwort auf eine der ersten beiden Fragen nein ist, kann die Kammer ohne Verletzung von Artikel 116 EPÜ die mündliche Verhandlung in Haar durchführen, wenn die Beschwerdeführerin diesen Standort als nicht EPÜkonform gerügt und eine Verlegung der Verhandlung nach München beantragt hat?

## G2/19

- G2/19 – Question 3

- If the answer to one of the first two questions is no, can the board hold oral proceedings in Haar without infringing Article 116 EPC if the appellant has complained that the location was not EPC-compliant and requested a transfer to Munich?

## G3/19

- Under Article 112(1)(b) EPC the President of the European Patent Office refers the following points of law to the Enlarged Board of Appeal:
- 1. Having regard to Article 164(2) EPC, can the meaning and scope of Article 53 EPC be clarified in the Implementing Regulations to the EPC without this clarification being *a priori* limited by the interpretation of said Article given in an earlier decision of the Boards of Appeal or the Enlarged Board of Appeal?
- 2. If the answer to question 1 is yes, is the exclusion from patentability of plants and animals exclusively obtained by means of an essentially biological process pursuant to Rule 28(2) EPC in conformity with Article 53(b) EPC which neither explicitly excludes nor explicitly allows said subject-matter?

## G4(?)/19

- 1. Can a European patent application be refused under [Article 97\(2\) EPC](#) if it claims the same subject-matter as a European patent granted to the same applicant which does not form part of the state of the art pursuant to [Article 54\(2\) and \(3\) EPC](#)?
- 2.1 If the answer to the first question is yes, what are the conditions for such a refusal and are different conditions to be applied where the European patent application under examination was filed
  - a) on the same date as, or
  - b) as a European divisional application ([Article 76\(1\) EPC](#)) in respect of, or
  - c) claiming the priority ([Article 88 EPC](#)) in respect of
- a European patent application on the basis of which a European patent was granted to the same applicant?
- 2.2 In particular, in the latter case, does an applicant have a legitimate interest in the grant of the (subsequent) European patent application in view of the fact that the filing date and not the priority date is the relevant date for calculating the term of the European patent under [Article 63\(1\) EPC](#)?