
DECISION G 1/19 OF THE ENLARGED BOARD OF APPEAL



On March 10, 2021 the Enlarged Board of Appeal (EBoA) of the European Patent Office has issued decision G 1/19 on computer-implemented simulations.

In summary, the EBoA concludes that the COMVIK approach is suitable for the assessment of computer-implemented simulations. In particular, a numerical simulation that is claimed as such may be patentable if an inventive step can be based on features contributing to the technical character of a claimed simulation method, even if said features are non-technical per se.

Background of the decision

The decision refers to European patent application 03793825.5, in relation to the modeling and simulation of movements of pedestrians in an environment.

During the examination procedure, the Examining Division refused the application for the reason that, according to the Examining Division's opinion, only the use of a computer

contributed to the technical character of the claimed method.

The applicant filed an appeal against said refusal decision, arguing that even if the method steps were considered to be non-technical, they still contributed to the technical character of the invention since they resulted in a technical effect by virtue of their interaction with the computer.



Established case law

According to the principles established in decision T641/00 (COMVIK) an invention consisting of a mixture of technical and non-technical features and having technical character as a whole is to be assessed with respect to the requirement of inventive step taking account of all those features that contribute to said technical character.

Decision of the Enlarged Board of Appeal

The EBoA agrees that the COMVIK approach is suitable for the assessment of computer-implemented simulations. In this context, the EBoA concludes that a simulation without an output having a direct link with physical reality may still solve a technical problem.

Besides, the EBoA is of the opinion that the simulation of non-technical processes may still contribute to the technical character of an invention. The EBoA concludes that it is neither a sufficient nor a necessary condition that a numerical simulation is based, at least in part, on technical principles that

underlie the simulated system or process.

If the non-technical features form the basis for a technical use of the outcomes of the simulation (e.g. a use having an impact on physical reality) and said use is at least implicitly specified in the claim, it can be considered that said non-technical features make a technical contribution for the assessment of inventive step.

The EBoA also concludes that the same considerations would apply to simulations claimed as part of a design process.