

ANLAGE 4**VORLAGEN AN DIE GROSSE
BESCHWERDEKAMMER¹****Vorlagen der Beschwerdekammern****ANNEX 4****REFERRALS TO THE
ENLARGED BOARD OF
APPEAL¹****Referrals by boards of appeal****ANNEXE 4****QUESTIONS SOUMISES À LA
GRANDE CHAMBRE DE
RECOURS¹****Questions soumises par les
chambres de recours**

In accordance with Article 112(1)(a) EPC, Technical Board of Appeal 3.3.09 has referred the following points of law to the Enlarged Board of Appeal by interlocutory decision of 17 October 2016 in case T 437/14:

1. Is the standard referred to in G 2/10 for the allowability of disclosed disclaimers under Article 123(2) EPC, i.e. whether the skilled person would, using common general knowledge, regard the subject-matter remaining in the claim after the introduction of the disclaimer as explicitly or implicitly, but directly and unambiguously, disclosed in the application as filed, also to be applied to claims containing undisclosed disclaimers?
2. If the answer to the first question is yes, is G 1/03 set aside as regards the exceptions relating to undisclosed disclaimers defined in its answer 2.1?
3. If the answer to the second question is no, i.e. if the exceptions relating to undisclosed disclaimers defined in answer 2.1 of G 1/03 apply in addition to the standard referred to in G 2/10, may this standard be modified in view of these exceptions?

The case is pending under **G 1/16**

¹ Die Vorlagen an die Große Beschwerdekammer erscheinen in der Anlage 4 nur in der Verfahrenssprache.

¹ The referrals to the Enlarged Board of Appeal are published in Annex 4 in the language of the proceedings only.

¹ Les questions soumises à la Grande Chambre de recours ne sont publiées dans l'Annexe 4 que dans la langue de la procédure.