

Definitions of Technical Contribution

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The contribution is the set of features by which the claimed object is presumed to differ from the prior art. The contribution must fulfill the requirements of patentability.

Contents

1 Introduction

An invention is a contribution to the state of the art. The contribution is the set of features by which the claimed object is claimed to differ from the prior art. This set of features must at the same time fulfill all the patentability criteria. This is intuitively and in the law tradition how the terms have been used and it should normally not need any confirmation in legislation. But the EPO people have confounded the notions and

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are trying to impose these confounded notions. The Council has followed the EPO only incompletely, because hardly anyone understands the EPO notions. Provisions such as Art 2b provide an opportunity to set things straight. It is not necessary to define “technical” within Art 2b, neither positively nor negatively.

2 Voting List

no.	submitted by	vote	critique
25 ¹	Rocard	+	Disentangles “contribution” from inventive step.
57 ² 62 ³ 63 ⁴	Mastenbroek, Lichtenberger; Kudrycka, Zwiefka; Bertinotti	++	gets an essential clarification right: contribution is the new part and that this part must fulfill the requirements of patentability.
58 ⁵	Szejna	o	Corrects an error of the Council (according to which the “contribution” may consist entirely of non-technical features), but fails to clarify the position of the contribution in the system of patentability examination.
59 ⁶	Lichtenberger, Frassoni	+	The intention to define “technical” by “forces of nature” and to exclude software is commendable, but this amendment fails to clarify the function of the “contribution” in the system of patentability criteria. It would be better to define “technical” somewhere else.
60 ⁷	Ortega	++	makes it clear that forces of nature must be part of the contribution and

3 Amendments in Detail

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