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**Datasheet for the decision  
of 5 August 2025**

**Case Number:** R 0028/24

**Appeal Number:** T 0289/23 - 3.5.07

**Application Number:** 19710182.7

**Publication Number:** 3752928

**IPC:** G06F16/29, G06Q50/16,  
G06Q50/14, G06Q50/30

**Language of the proceedings:** EN

**Title of invention:**

A METHOD AND AN APPARATUS FOR SEARCHING OR COMPARING SITES  
USING ROUTES OR ROUTE LENGTHS BETWEEN SITES AND PLACES WITHIN  
A TRANSPORTATION SYSTEM

**Applicant:**

Malewicz, Grzegorz

**Headword:**

Petition for review

**Relevant legal provisions:**

EPC Art. 112a(1), 112a(2)(c), 112a(2)(d), 112a(4), 113  
EPC R. 106, 107, 109(2)(a), 115(2)  
RPBA 2020 Art. 12(3), 12(6), 15(1), 15(3), 15(6)

**Keyword:**

Petition for review - clearly inadmissible

**Decisions cited:**

R 0004/08, R 0001/10, R 0003/20



**Große Beschwerdekammer**  
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**Grande Chambre de recours**

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Case Number: R 0028/24

**D E C I S I O N**  
**of the Enlarged Board of Appeal**  
**of 5 August 2025**

**Petitioner:** Malewicz, Grzegorz  
(Applicant) Alabastrowa 56  
25-753 Kielce (PL)

**Decision under review:** Decision T 289/23 of the Technical Board of  
Appeal 3.5.07 of the European Patent Office of  
19 September 2024.

**Composition of the Board:**

**Chairman** C. Josefsson  
**Members:** M. Blasi  
M. Müller

## **Summary of Facts and Submissions**

- I. The petition for review, filed by the appellant-applicant (petitioner) on 8 November 2024, concerns decision T 289/23 of Technical Board of Appeal 3.5.07 (the Board), which was taken at the oral proceedings of 19 September 2024 and issued as a reasoned written decision on 5 December 2024. With this decision, the Board decided on the appeal filed by the petitioner against the examining division's decision to refuse European patent application No. 19 710 182.7. A further letter indicating the reasons for the petition was filed on 6 December 2024.
- II. The examining division had found that the subject-matter of claim 1 of the set of claims filed on 8 September 2021 did not involve an inventive step within the meaning of Article 56 EPC. In the decision terminating the appeal proceedings, the Board:
- set aside the examining division's decision to refuse European patent application No. 19 710 182.7 for reason of a substantial procedural violation
  - remitted the case to the examining division for further prosecution, implying rejection of the petitioner's requests that:
    - the case not be remitted to the examining division for further prosecution
    - the Board order the grant of a patent on the basis of the claims filed on 8 September 2021
  - ordered reimbursement of the appeal fee in full.
- The Board also rejected the petitioner's requests:
- that damages be paid to the petitioner
  - for termination of the employment of a member of the examining division.

- III. In the petition for review, the petitioner submitted that fundamental procedural defects had occurred, namely violations of Article 12(6) RPBA 2020 and Article 12(3) RPBA 2020. In the petition for review, explicit reference was made to the ground under Article 112a(2)(d) EPC.
- IV. The petitioner made the following requests (page 3 of the petition for review):
- "1. *The Decision of the Board of Appeal, announced in the 'Minutes of the oral proceedings' dated 2024.10.07, is set aside.*
  2. *Proceedings in the patent application EP19710182.7 are re-opened before the Boards of Appeal.*
  3. *Any employment of the Chair [...] with the Defendant is terminated, and the Chair [...] is barred from holding any employment with the Defendant for five years.*
  4. *The Defendant pays the cost of the Petition.*
  5. *The Defendant pays 1,000,000 EUR to the Petitioner per annum, pro rated, starting from 2024.10.07, until the claims as amended on 21 September 2008, concerning a patent application EP19710182.7, are allowed by the Defendant."*
- V. In the petition for review, the petitioner asserted that fundamental procedural defects justifying the setting aside of the decision under review and the reopening of the proceedings before the Board had occurred (§12 to §16 of the petition for review).

- (a) From the petitioner's submissions on a violation of Article 12(6) RPBA 2020 (§3 to §8 of the petition for review), the Enlarged Board understands that the petitioner's complaint is against the Board's having introduced (i) facts and evidence relating to the missing signature of the legal member on the examining division's decision and (ii) considerations on a substantial procedural violation committed by the examining division, even though no submissions to this effect had been presented by the petitioner in the appeal proceedings, and no such elements were mentioned in the decision under appeal.

By introducing these facts and evidence and associated considerations of its own motion, a fundamental procedural defect had occurred as the Board should not have considered these facts and evidence. According to the petitioner, this constituted a violation of Article 12(6) RPBA 2020.

- (b) From the petitioner's submissions on a violation of Article 12(3) RPBA 2020 (§9 to §11 of the petition for review), the Enlarged Board understands that the petitioner's complaint is about the Board declining to decide on the petitioner's request that the decision under appeal be set aside for substantive reasons and that a patent be granted based on the set of claims of 8 September 2021, even though the petitioner's statement of grounds of appeal had set out why, by relying on facts, evidence and arguments, the examining division's finding on inventive step was incorrect. According to the petitioner, this constituted a violation of Article 12(3) RPBA 2020.

The petitioner submits that each of these violations constitutes a fundamental procedural defect to be reviewed under the ground under Article 112a(2)(d) EPC.

- VI. A further letter from the petitioner entitled "*Amendment for Petition*", including four enclosures, was received on 9 April 2025. The petitioner requested that this submission be added to the proceedings.
- VII. The Enlarged Board, in its current composition pursuant to Rule 109(2)(a) EPC, issued a communication pursuant to Article 13 RPEBA on 23 May 2025, received by the petitioner on 29 May 2025, informing the petitioner that, in the Enlarged Board's preliminary view, the petition for review was clearly inadmissible and, even if admissibility was assumed, clearly unallowable. It also set a two-month time limit for making further written submissions, if desired. No submissions were received within the time limit.
- VIII. Given that no request for oral proceedings was made, the current decision can be taken in written proceedings.
- IX. The Enlarged Board of Appeal must make a general remark. In its written submissions, the petitioner has chosen to use disrespectful, derogatory, and insulting language to describe individuals involved in the examination and appeal proceedings and also the European Patent Office as an organisation. The Enlarged Board of Appeal stresses that everyone involved deserves to be treated with dignity and respect and distances itself from the language used by the petitioner.

## Reasons for the Decision

### *Admissibility of the petition for review*

1. The petition for review is clearly inadmissible.
2. The formal requirements under Article 112a(1) and (4) EPC and Rule 107 EPC for filing a petition for review are met.
3. The petitioner referred to Article 112a(2)(d) EPC as ground for review. With regard to the asserted violations of Article 12(6) RPBA 2020 and Article 12(3) RPBA 2020, these cannot per se be considered under the ground for review of Article 112a(2)(d) EPC. However, having regard to the possible grounds for review, the petitioner's submissions on the fundamental procedural defect set out in V.(a) above (which could be designated as "*Board's ex officio considerations concerning a substantial procedural violation committed by the examining division*") can be associated with the ground under Article 112a(2)(c) EPC in conjunction with Article 113 EPC, and the petitioner's submissions on the fundamental procedural defect set out in V.(b) above (which could be designated as "*no decision on the set of claims*") can be associated with the ground under Article 112a(2)(d) EPC in conjunction with Rule 104(b) EPC.
4. Pursuant to Rule 106 EPC, a petition under Article 112a(2)(a) to (d) EPC is only admissible where an objection in respect of the procedural defect was raised during the appeal proceedings and dismissed by the board of appeal, except where such objection could not be raised during the appeal proceedings. Meeting



the requirements under Rule 106 EPC is a precondition for access to the petition for review since it is an extraordinary legal remedy against final decisions of the boards of appeal.

5. The petition for review contains no submissions as regards the requirements under Rule 106 EPC.
6. The Enlarged Board notes that the Board informed the petitioner with its communication under Article 15(1) RPBA 2020 of its opinion that a substantial procedural violation had occurred in the proceedings before the examining division and about its intention to reimburse the appeal fee and to remit the case to the examining division for further prosecution without considering the merits of the case, i.e. not to consider or decide upon the petitioner's request for the grant of a patent.
7. The petitioner, who intended not to attend the oral proceedings before the Board, had to take into consideration that a decision terminating the appeal proceedings would be taken at the end of the oral proceedings despite the petitioner's absence (see Rule 115(2) EPC and Article 15(3) and (6) RPBA 2020) and that this decision might be in line with what had been communicated in the communication under Article 15(1) RPBA 2020.
8. In the letter dated 11 July 2024, which is the only submission by the petitioner made after receipt of the communication under Article 15(1) RPBA 2020 and before the decision under review had been taken, the petitioner presented arguments against a remittal of the case and expressed discontent with how the Board intended to proceed by not deciding on the merits of

the case and indicated that a petition for review under Article 112a EPC would trigger additional costs.

9. However no objection within the meaning of Rule 106 EPC had been raised in the letter.
10. Raising an objection under Rule 106 EPC is a procedural act which is additional to and distinct from other statements (see also R 4/08, point 2.1 of the Reasons), such as arguing against the remittal of the case to the examining division.
11. While the Enlarged Board accepts that an explicit reference to Rule 106 EPC is not required for an objection to qualify as an objection under this provision, the objection nevertheless has to be immediately recognisable and without any doubt identifiable as an objection under Rule 106 EPC (see also R 4/08, *ibid.*). The purpose of Rule 106 EPC is to give the board of appeal concerned a chance to react immediately and appropriately by either removing the cause of the objection or by dismissing it (see also R 1/10, point 6.4.2 of the Reasons; R 3/20, point 2.2.1 of the Reasons).
12. As the petitioner's letter dated 11 July 2024 did not contain anything which qualified as an objection under Rule 106 EPC and as the exception from the obligation to raise an objection does not apply in the circumstances of the current case, the petition for review is clearly inadmissible.
13. Hence, the decision under review is not to be set aside and the the proceedings before the Board are not to be reopened.

*Reimbursement of the fee for petition for review*

14. Pursuant to Rule 110 EPC, if the proceedings before the board of appeal are reopened, the Enlarged Board orders the reimbursement of the fee for a petition for review *ex officio*. A request to this effect is not required.
15. However, since a request including a reimbursement of the fee for the petition for review was made (see item 4 on page 3 of the petition for review), this request must be rejected in view of the Enlarged Board's finding that the decision under review is not to be set aside and the proceedings are not to be reopened.

*Request for payment by the EPO of the cost of the petition, requests for payment of damages to the petitioner and requests for termination of an employment at the EPO*

16. In the provisions governing the legal remedy of a petition for review, i.e. Article 112a and Rules 104 to 110 EPC, an order for a payment by the EPO of the overall costs incurred by filing the petition for review, an order for a payment by the EPO of damages to the petitioner and orders for termination of an employment at the EPO are not mentioned. Accordingly, the Enlarged Board cannot make such orders in the proceedings on a petition for review.
17. Thus, the requests directed to the effects mentioned under items 3, 4 and 5 on page 3 of the petition for review have to be rejected.

## Order

### For these reasons it is decided that:

The petition for review is unanimously rejected as being clearly inadmissible.

The Registrar:

The Chairman:



M. Schalow

C. Josefsson

Decision electronically authenticated