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D E C I S I O N
of 19 December 2001

Case Number: T 0005/00 - 3.2.6

Application Number: 91919616.2

Publication Number: 0555318

IPC: A61F 13/56

Language of the proceedings: EN

Title of invention:

A sanitary napkin or an incontinence guard having flexible side-flaps

Patentee:

SCA Hygiene Products AB

Opponent:

The Procter & Gamble Company

Headword:

-

Relevant legal provisions:

EPC Art. 54, 84

EPC R. 29, 57a

Keyword:

"Main request, second and fourth auxiliary request: novelty (no)"

"First and third auxiliary request: clarity (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 0005/00 - 3.2.6

D E C I S I O N
of the Technical Board of Appeal 3.2.6
of 19 December 2001

Appellant: SCA Hygiene Products AB
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 18 October 1999
revoking European patent No. 0 555 318 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: H. Meinders
Members: G. Pricolo
M.-B. Tardo-Dino

Summary of Facts and Submissions

I. European Patent No. 0 555 318, granted on application No. 91 919 616.2, was revoked by the Opposition Division by decision announced on 21 September 1999 and posted on 18 October 1999. It based the revocation exclusively on the fact that claim 1 of the patent as granted did not fulfil the requirements of Article 54 EPC (novelty) in respect of:

D1: EP-A-0 337 438.

II. The Appellant (Patentee) both filed a notice of appeal against this decision and paid the appeal fee on 20 December 1999. On 22 February 2000 the grounds of appeal were filed.

III. Oral proceedings took place on 19 December 2001.

The Appellant requested setting aside the decision under appeal and remittal to the first instance for examination of inventive step with a set of claims according to a main request (as granted) or one of four auxiliary requests, if the Board came to the conclusion that the subject-matter of these claims were novel.

The Respondent requested dismissal of the appeal.

V. Independent claim 1 according to the **main request** reads as follows:

"1. An absorbent article, such as a sanitary napkin or an incontinence guard, intended to be worn in the crotch part of a pair of underpants (9) and including an elongated absorbent pad (3) enclosed in a casing

(1,2), and flexible flaps (4,5) extending from respectively long side edges (6,7) of said pad, said flaps (4,5) being formed of separate material pieces intended to pass around leg edges (10,11) of the underpants (9) in use, each flap (4,5) having an edge part which coincides generally with a corresponding edge part of the article casing (1,2); characterised in that the flaps (4,5) are attached to the casing (1,2) such that the said edge part of the flaps constitutes an outer edge part of the flaps (4,5), while a remaining free part of the flaps extending inwardly over the absorbent pad (3) on the side of the casing (1,2) adapted to be remote from the wearer of the article."

Claim 1 according to **auxiliary request 1** reads as follows:

"1. An absorbent article, such as a sanitary napkin or an incontinence guard, intended to be worn in the crotch part of a pair of underpants (9) and including an elongated absorbent pad (3) enclosed in a casing (1,2), and flexible flaps (4,5) extending from respectively long side edges (6,7) of said pad, said flaps (4,5) being formed of separate material pieces intended to pass around leg edges (10,11) of the underpants (9) in use, each flap (4,5) having an edge part which coincides generally with a corresponding edge part of the article casing (1,2); characterised in that the flaps (4,5) are attached on the side of the casing (1,2) which is distal from the wearer in use such that said edge part of the flaps constitutes an outer edge part of the flaps (4,5), while a remaining free part of the flaps extending inwardly over the absorbent pad (3) on the side of the

casing (1,2) adapted to be remote from the wearer of the article."

Claim 1 according to **auxiliary request 2** reads as follows:

"1. An absorbent article, such as a sanitary napkin or an incontinence guard, intended to be worn in the crotch part of a pair of underpants (9) and including an elongated absorbent pad (3) enclosed in a casing (1,2), wherein the casing includes a liquid permeable sheet (1) and a liquid impermeable sheet (2), and flexible flaps (4,5) extending from respectively long side edges (6,7) of said pad, said flaps (4,5) being formed of separate material pieces intended to pass around leg edges (10,11) of the underpants (9) in use, each flap (4,5) having an edge part which coincides generally with a corresponding edge part of the article casing (1,2);

characterised in that the flaps (4,5) are attached on the liquid impermeable sheet (2) such that said edge part of the flaps constitutes an outer edge part of the flaps (4,5), while a remaining free part of the flaps extending inwardly over the absorbent pad (3) on the side of the casing (1,2) adapted to be remote from the wearer of the article."

Claim 1 according to **auxiliary request 3** reads as follows:

"1. An absorbent article, such as a sanitary napkin or an incontinence guard, intended to be worn in the crotch part of a pair of underpants (9) and including an elongated absorbent pad (3) enclosed in a casing (1,2), wherein the casing includes a liquid permeable

sheet (1) and a liquid impermeable sheet (2), and flexible flaps (4,5) extending from respectively long side edges (6,7) of said pad, said flaps (4,5) being formed of separate material pieces intended to pass around leg edges (10,11) of the underpants (9) in use, each flap (4,5) having an edge part which coincides generally with a corresponding edge part of the article casing (1,2);

characterised in that the flaps (4,5) are attached on the liquid impermeable sheet (2) such that said edge part of the flaps constitutes an outer edge part of the flaps (4,5), while a remaining free part of the flaps extending inwardly over the absorbent pad (3) on the side of the casing (1,2) adapted to be remote from the wearer of the article, and there is no direct connection between the casing (1,2) or the absorbent pad (3) and the flaps (4,5), thereby interrupting all liquid transport paths therebetween."

Claim 1 according to **auxiliary request 4** reads as follows:

"1. An absorbent article, such as a sanitary napkin or an incontinence guard, intended to be worn in the crotch part of a pair of underpants (9) and including an elongated absorbent pad (3) enclosed in a casing (1,2) said casing including a liquid-permeable sheet (1) on that side of the article which faces the wearer in use, and a liquid-impermeable sheet (2) on that side of the article which is distal from the wearer in use, said two sheets (1,2) projecting out beyond the edges of the absorbent pad (3) and being mutually joined in edge joins (12,13) around the periphery of said absorbent pad (3), and flexible flaps (4,5) extending from respectively long side edges (6,7) of said pad,

said flaps (4,5) being formed of separate material pieces intended to pass around leg edges (10,11) of the underpants (9) in use, each flap (4,5) having an edge part which coincides generally with a corresponding edge part of the article casing (1,2); characterised in that said edge joins (12,13) form said corresponding edge parts of the article casing (1,2) and in that the flaps (4,5) are attached to the casing (1,2) and are secured to the edge joins (12,13) in an overlapping configuration such that said edge part of the flaps constitutes an outer edge part of the flaps (4,5), while a remaining free part of the flaps extends inwardly over the absorbent pad (3) on the side of the casing (1,2) adapted to be remote from the wearer of the article; and in that the flexible flaps (4,5) are secured to the edge joins (12,13) on the liquid-impermeable sheet (2) projecting out from the absorbent pad (3)."

VI. In support of its **main request** the Appellant argued that D1 did not provide an unambiguous disclosure of separate flaps, it rather encouraged the continuation of material from the central part into the flaps, as illustrated for the backsheet and an absorbent layer. It further did not provide information on how the flaps were attached to the casing and thus there was no indication that the edge parts of the flaps actually constituted an outer edge part of the flaps. The absorbent article according to D1 needed special hinges to provide the orientation of the flaps inwardly over the distal part of the casing, the article according to granted claim 1 achieved this by the claimed manner of attachment. To find in D1 the disclosure of the claimed subject-matter, a skilled reader would have to disregard the preference for absorbent material

continuing into the flaps, he would have to make a specific choice of attaching the flaps to the casing and he would have to decide on a separate hinge. This clearly meant that D1 provided no unambiguous disclosure of the subject-matter of claim 1.

In support of its **first auxiliary request** the Appellant submitted that this amendment was made for establishing novelty, thus in response to a ground for opposition and therefore the request should not be dismissed as inadmissible. The definition used was clear to define the part of the casing onto which the flaps were attached and the particular way in which this attachment was arranged. By defining the flaps as being attached "on the side of the casing which is distal from the wearer in use" the subject-matter of claim 1 now distinguished itself from the article shown in D1, which did not disclose how the hinges attached the flaps to the casing.

The subject-matter of the main claim according to the **second auxiliary request**, by defining the casing as including a liquid-impermeable and a liquid-permeable sheet, the flaps being attached on the liquid-impermeable sheet, was in the opinion of the Appellant novel over D1 as in the article of D1 it was not even clear whether there was a liquid-impermeable sheet involved in the casing. The use of the wording "attached on" clearly implied a lateral extension for the attachment of the flaps.

The subject-matter of the main claim of the **third auxiliary request** further distinguished itself from D1 by the absence of liquid transport paths between the casing or the absorbent pad and the flaps. D1 implied

instead the use of a layer of absorbent material continuing from the absorbent part into the flaps.

The Appellant contended for the **fourth auxiliary request** that the chosen wording made clear that the attachment of the flaps had a lateral extension, thus distinguishing itself from the hinge means disclosed in D1. The flaps shown in D1 further had no overlapping configuration with the casing, as the flaps were disposed at an angle to the casing backsheet.

VII. The Respondent did not share the Appellant's views and its submissions can be summarised as follows:

The subject-matter of claim 1 of the **main request** lacked novelty over D1, as the flaps of the article shown therein were separate flaps due to the use of separate hinges as mentioned in column 4, lines 6 to 9. This was all the more so since the material of the flaps should be stretchable and flexible, which D1 did not mention as being the case for any of the materials used in connection with the absorbent core or the casing. The use of the same material as the backsheet material of the casing was only optional and even then this did not imply the continuation of the casing backsheet into the flap. As the separate hinges were disclosed in D1 as being arranged along the longitudinal sides of the napkin the edge parts of the flaps necessarily constituted an outer edge part of the flaps.

The **first auxiliary request** should not be admitted pursuant to Rule 57a EPC. It did not address a ground of opposition because the subject-matter of the claim had not changed in comparison to the main request: from

D1 it was clear that the flaps were also attached on the casing side distal from the wearer in use. The Respondent further subscribed to the clarity objection raised by the Board in the oral proceedings that in use the casing no longer had only one specific side which was distal from the wearer, thus this feature could not be used to further define the article, as it was technically ambiguous.

Neither could the amendment of claim 1 according to the **second auxiliary request** attribute novelty to the subject-matter claimed, as the casing of the napkin disclosed in D1 had a liquid impermeable backsheet and a liquid permeable topsheet, the hinge being fixed to the casing at the longitudinal sides. If the hinge were separate as disclosed in D1, the attachment of the flaps to the liquid-impermeable sheet would be indirect; if the hinges were integral with the flaps as suggested by D1, column 4, lines 6 to 9, the flaps with the integral hinges would be directly attached to the casing's liquid-impermeable sheet.

The further amendment according to the **third auxiliary request** rendered claim 1 unclear in that the technical features to achieve the claimed effect of interrupting all liquid transport between the absorbent pad or the casing and the flaps were lacking in the claim. There existed further a contradiction in stating that the flaps on the one hand were attached to the casing and on the other hand there was no direct connection between these two.

The use of the term "edge join" in the main claim according to the **fourth auxiliary request** in combination with the term "edge part" created confusion

about what was actually meant by the term "edge part". An "edge part" not necessarily had a width, it could as well be a part of a line, whereas the Appellant, by the use of "edge join" tried to attribute a certain aspect of width to the feature "edge part". The flap and the casing could without difficulty be joined together along a corresponding line, this line then being the "corresponding edge part".

Reasons for the Decision

1. The appeal is admissible
2. *Main request (claims as granted)*
 - 2.1 The parties agreed with the Board's preliminary opinion expressed in the annex to the summons that for the question of novelty only D1 was relevant, none of the other documents available in the file disclosing all features of claim 1 as granted.

D1 is most relevant as the invention it discloses functions by the same principles as the invention of the patent in suit: the flaps are attached in such a way to the casing that a self-locking effect is achieved.

- 2.2 D1 discloses a sanitary napkin intended to be worn in the crotch part of a pair of underpants (see Figure 3) and including an elongated absorbent pad enclosed in a casing of fluid-pervious material (column 5, line 14) having flaps extending from respectively long side edges of the pad (or casing for that matter), the flaps being formed of separate material pieces intended to

pass around leg edges of the underpants in use, each flap having a part of its edge (namely its entire longitudinal edge) which coincides generally with a corresponding part of the edge of the article casing, as this part of the edge of the casing (which goes all around the article) occupies the same portion of space as the edge of the flaps at the location where the flaps are attached to the casing (see column 2, lines 25 to 31 and column, 4, lines 6 to 9). Thus all features of the preamble of claim 1 as granted are known from D1.

- 2.2.1 The Appellant argued that the flaps shown in D1 were not separate material pieces.

For the Board D1 discloses to the skilled person two main embodiments for the connection of the flaps to the napkin: either by hinges directed along the longitudinal sides of the napkin (column 4, lines 6 to 9) or by hinges arranged transversely across the flaps, i.e. transverse to the longitudinal sides of the article (column 4, lines 10 to 23). The first main embodiment can then be carried out in two ways: the hinges are either integral with the flaps or are separate therefrom.

For this decision the embodiment with the separate hinges along the longitudinal sides of the absorbent article is of importance.

A skilled person, when confronted with the term "hinge" and "hinge means" will read it in its normal sense, i.e. a movable joint such as between a door and a doorpost. As the hinges according to the above discussed embodiment are of separate construction and

are arranged along the longitudinal sides of the napkin, the hinge will separate the relative flap from the casing edge to which it is attached.

2.2.2 The Appellant appears to rely primarily on Figure 2 of D1 which appears to show the flaps as contiguous extensions of the backsheet covering the garment facing side of the absorbent core. However, this is not the only embodiment described in D1. There are other embodiments which not necessarily involve the liquid-impervious backsheet in the manner shown in Figure 2. For instance, the impervious backsheet covering the garment facing side of the absorbent element is not mandatory ("the sanitary napkins ... **can** further include a body-fluid impervious surface ... "), see column 5, lines 56 to 59 of D1. This means that even if the flap involves a body-fluid impervious backing as discussed below this is not necessarily contiguous with the flap over the absorbent element.

Conversely, even if there is a body-fluid impervious surface on the absorbent element, this does not necessarily continue into the flap: the flap "**may** include a body fluid impervious backing such as the materials described above in connection with the body fluid-impervious surfaces for the undergarment facing side of the absorbent core" (column 6, lines 20 to 24 of D1). Finally, column 6, lines 17 to 19 of D1 mentions that the flap should be made of stretchable flexible material, a material which is nowhere mentioned for the absorbent core, its casing or its backsheet.

2.2.3 The Appellant further submitted that there was no unambiguous disclosure of separate flaps, as there was

a preferred embodiment (column 5, lines 34 to 42) wherein a layer of absorbent material extended from the absorbent core into the flaps.

However, this embodiment is described only as a possible further development of a previously described embodiment, in the latter there being another layer of absorbent material underlying the absorbent element. This implies that the basic form of the article, before these improvements, is without this further layer of absorbent material.

- 2.2.4 Therefore the flaps disclosed in D1 are considered by the Board to be separate material pieces.

- 2.3 If the separate flaps are attached by separate hinges to the longitudinally extending sides of the napkin as discussed above it is implicit to the skilled person that, with the napkin seen in cross-section, the hinges are located at the (lateral) extremities of the longitudinal sides of the napkin and that at that location they provide the transition to the flaps, being separate hinges. In view of the biased configuration of the flaps, by which their free part extends inwardly over the absorbent pad on the side of the casing adapted to be remote from the wearer of the article, of necessity the edge part of the flaps connected by the separate hinges to the longitudinal sides of the napkin will constitute the outer edge part of the flaps.

- 2.4 The Appellant contended that the subject-matter of claim 1 distinguished itself from D1 in that the specific manner of attachment of the flaps to the article provided the inward orientation of the flaps,

over the backsheet, whereas in the article disclosed in D1 this orientation was achieved by the additional hinges.

However, there are no features in claim 1 to support this. For the attachment of the flaps to the article claim 1 mentions only that they are attached to the casing "such that said edge part of the flaps constitutes an outer edge part of the flaps, while a remaining free part of the flaps extends inwardly over the absorbent pad on the side of the casing adapted to be remote from the wearer of the article". Thus there is no mention or implication of a particular manner of attachment, particularly not of a certain lateral extension of the coinciding edge part of the flaps and the casing.

An "edge" not necessarily has a width; it can just as well be a line. Therefore an "edge part" as mentioned in the claim does not necessarily have a lateral extension, it can also be formed by a section of that line.

- 2.5 Thus also all features of the characterising part of claim 1 are known from D1. The subject-matter of claim 1 thus lacks novelty over D1 (Article 54 EPC).

The main request cannot therefore be allowed.

3. *First auxiliary request*

- 3.1 The Respondent argued that this request should not be admitted into the appeal proceedings as the subject-matter of claim 1 did not change in substance by this amendment. The subject-matter of claim 1 was not novel

and therefore the same objection applied to that of claim 1 of the first auxiliary request. Therefore the amendment could not help claim 1 to overcome the ground of opposition of lack of novelty, and thus did not fulfil the requirement of Rule 57a EPC.

The Board observes that Rule 57a EPC requires amendments only to be "occasioned" by grounds of opposition. Whether the amendments actually "overcome" a ground for opposition is an altogether different issue, not governed by Rule 57a EPC. It is clear that the objection of lack of novelty made against the subject-matter of claim 1 as granted occasioned this amendment further specifying the location of the attachment of the flaps, by which the Appellant considered the subject-matter of claim 1 to differ from the napkin disclosed in D1. The first auxiliary request is therefore admitted into the proceedings.

- 3.2 According to Article 84 EPC the claims shall define the matter for which protection is sought. They shall be clear, concise and supported by the description. Rule 29 EPC requires the claims to define the matter for which protection is sought in terms of the technical features of the invention. If a patent is to be maintained in amended form the patent should fulfil, among others, these requirements of the EPC (Article 102(3) EPC).

By its present amended wording claim 1 defines the invention in that the flaps are attached "on the side of the casing (1,2) which is distal from the wearer in use". However, this term does not have an unambiguous technical meaning and attempts to define the napkin by features of the use to which it is put, instead of by

technical features of the napkin itself.

In use the side of the casing upon which the flaps are attached will namely not necessarily remain distal from the wearer but will be directed towards the wearer, as can be seen in Figure 6 of the patent in suit. This figure shows the casing flanges pivoted up towards the wearer, the side of the casing to which the flaps are attached being directed towards the thighs, which is clearly not "distal" from the wearer.

- 3.3 By this amendment claim 1 therefore does not fulfil the requirements of Article 84 and Rule 29 EPC and the patent cannot thus be maintained in this form.

The first auxiliary request cannot therefore be allowed. The question of novelty of the subject-matter of claim 1 according to this request therefore needs no further consideration.

4. *Second auxiliary request*

- 4.1 According to this request it is now further specified in claim 1 that the casing includes "a liquid permeable sheet (1) and a liquid impermeable sheet (2)" and that the flaps "are attached on the liquid impermeable sheet (2)".

The first feature is known from D1, which specifies that the casing can further include a fluid impervious surface (=sheet) fixed to the garment facing side of the core wrapped in a fluid pervious surface (=sheet) (see column 5, line 56 to column 6, line 6). The description of D1 does not specify how this impervious sheet is fixed to the pervious sheet, except by

mentioning heat sealing or adhesive, but the skilled person finds in the drawings (in particular Figures 1 and 2) the information that the pervious and impervious sheet are attached to each other along a seam or flange involving both sheets, formed along the periphery of the absorbent core. In the art this is a common manner of fixing such two sheets together, see for Example D5, page 6, lines 14 to 19, a patent document also acknowledged in the patent in suit. The patent in suit, see column 4, lines 56 to 59, also mentions that the casing sheets are joined together by known techniques of gluing, heat welding or ultrasonic welding.

In this known manner of joining together the casing topsheet and backsheet they both extend outward, up to the side edges of said flange. In the napkin disclosed in D1 the separate hinges are provided along the longitudinal side edges thereof for attaching the flaps to the casing (see point 2.3 above), thus the flaps are attached via the hinges **to** both the liquid-permeable and the liquid-impermeable sheet of the casing.

- 4.2 The used wording: "the flaps are attached **on** the liquid impermeable sheet" is grammatically incorrect. The Board considers that this can only be read as "the flaps are attached **to** the liquid impermeable sheet".

However, in that case (see point 4.1 above) the subject-matter of claim 1 is already known from D1 and thus lacks novelty (Article 54 EPC).

- 4.3 The Appellant argued that the subject-matter of claim 1 was different from the napkin disclosed in D1, arguing that by the wording used it was clear that the attachment had a certain width in the lateral direction

and that the flap was **only** attached to the impermeable sheet.

The Board cannot concur with this. For such a limited interpretation the claim should have mentioned the attachment of the flap as being "only" to the impermeable sheet, which it does not. Further, nowhere is there mention in the patent in suit that the width of the attachment region of the flap to the casing is of particular importance for the self-locking function. Rather, this is attributed to the length of the flap and the curved configuration of the longitudinal edges (6, 7) of the napkin (see column 6, lines 33 to 37 of the patent in suit). The attachment region and its width is nowhere mentioned in this connection.

To derive this feature only from Figures 3 and 6 of the patent in suit would therefore also run counter to the established case law of the Boards of Appeal, which allows for amending claims with the help of features only disclosed in the drawings when the structure and function of these features is clearly, unmistakably and fully derivable from the drawings by the skilled person and not at odds with the other parts of the disclosure (see Case Law Boards of Appeal, 1999, Section III.A.1.2).

4.4 The second auxiliary request cannot therefore be allowed.

5. *Third auxiliary request*

5.1 For the third auxiliary request, claim 1 of the second auxiliary request is now further limited by the feature that "there is no direct connection between the casing

(1,2) or the absorbent pad (3) and the flaps (4,5), thereby interrupting all liquid transport paths therebetween".

As already stated in point 3.2 above, the requirements of Article 84 and Rule 29 EPC have to be fulfilled if the patent is to be maintained in amended form.

According to the present wording of claim 1 it is not specified by which technical means it is achieved that on the one hand the flaps are attached to the liquid impermeable sheet of the casing and on the other hand there is no direct connection between the flaps and the casing and at the same time fluid transport is interrupted. The same applies to the claimed absence of a direct connection between the absorbent pad and the flaps.

Claim 1 therefore does not contain the technical features essential for achieving the claimed effect and thus does not fulfil the requirements of Article 84 and Rule 29 EPC.

5.2 The third auxiliary request cannot therefore be allowed. The question of novelty of the subject-matter of claim 1 according to this request therefore needs no further consideration.

6. *Fourth auxiliary request*

6.1 Claim 1 according to the fourth auxiliary request, compared with claim 1 of the main request further specifies that the casing includes a liquid permeable sheet on the side of the article which faces the wearer in use and a liquid impermeable sheet on that side of

the article which is distal from the wearer in use. These two sheets project out beyond the edges of the absorbent pad and are mutually joined in edge joins around the full periphery of the absorbent pad. These edge joins form the corresponding edge parts of the article casing. The flaps are secured to the edge joins on the liquid-impermeable sheet projecting out from the absorbent pad in an overlapping configuration such that the edge part of the flaps constitutes an outer edge part of the flaps while a remaining free part of the flaps extends inwardly over the absorbent pad on the side of the casing adapted to be remote from the wearer of the article.

- 6.2 The napkin according to the embodiment described in D1 (column 5, line 56 to column 6, line 6) also has a liquid-permeable sheet on the side of the article facing the wearer in use and a liquid-impermeable sheet on the side of the article which is distal from the wearer in use. The normal manner for a skilled person to produce the napkin as shown in Figures 1 and 2 of D1 (see point 4.1) is to have these two sheets project beyond the edges of the absorbent pad and to join them mutually in an edge join around the full periphery of the absorbent pad. Thus the edge joins along the longitudinal sides of the napkin form the edge parts of the casing in that area, with which corresponding edge parts of the flaps coincide. The flaps are attached to the casing by the separate hinges (see point 2.3) along the longitudinal sides formed by the edge joins; they are therefore secured to the edge joins. As the liquid-impermeable sheet and the liquid-permeable sheet extend up to the longitudinal edge of the napkin's casing (see point 4.1) formed by the edge join, the flexible flaps are of necessity secured to both the liquid-impermeable

and the liquid-permeable sheet projecting out from the absorbent pad.

The flaps of the napkin disclosed in D1 are held by the biased hinges in a configuration in which their free parts overlap the absorbent pad on the side adapted to be remote from the wearer of the article, see Figure 2 and claim 7 of D1. Their edge part secured to the edge join constitutes an outer edge part for the reasons already explained in point 2.3 above.

6.3 Also in respect of claim 1 of this request the Appellant argued that the wording "edge part" as used in claim 1 implied a certain width of the join between the liquid-permeable sheet and the liquid-impermeable sheet forming the casing and that the securement of the flaps to these edge joins on the liquid-impermeable sheet implied that the flaps were **only** attached to the liquid-impermeable sheet.

In point 4.3 above the Board has already explained for the second auxiliary request why it does not agree with this argumentation.

6.4 All features of claim 1 being known either explicitly or implicitly from D1 the subject-matter of claim 1 according to the fourth auxiliary request does not involve novelty (Article 54 EPC).

None of the requests of the appellant being allowable the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

M. Patin

H. Meinders