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**Datasheet for the decision  
of 30 June 2011**

**Case Number:** T 0562/09 - 3.2.07

**Application Number:** 01202984.9

**Publication Number:** 1209082

**IPC:** B65B 25/14

**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for packaging paper web rolls and roll package

**Patent Proprietor:**

SAIMATEC ENGINEERING OY

**Opponent:**

Metso Paper, Inc.

**Headword:**

-

**Relevant legal provisions:**

EPC Art. 56, 123(2), 114(2)

RPBA Art. 13(1) and (3)

**Relevant legal provisions (EPC 1973):**

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**Keyword:**

"Inventive step (main request; auxiliary request; auxiliary request 2): no"

"Amendments (auxiliary request 3; auxiliary request 4): unallowable"

"Late-filed auxiliary request I - not admitted"

**Decisions cited:**

T 0183/09

**Catchword:**

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Case Number: T 0562/09 - 3.2.07

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.07  
of 30 June 2011

**Appellant:** Metso Paper, Inc.  
(Opponent) Fabianinkatu 9 A  
FI-00130 Helsinki (FI)

**Representative:** Klingele, Stefan  
TBK  
Bavariaring 4-6  
D-80336 München (DE)

**Respondent:** SAIMATEC ENGINEERING OY  
(Patent Proprietor) Teknola  
FIN-57230 Savonlinna (FI)

**Representative:** Becher, Claus Thomas  
Hoffmann Eitle  
Patent- und Rechtsanwälte  
Arabellastrasse 4  
D-81925 München (DE)

**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office posted 30 December 2008  
rejecting the opposition filed against European  
patent No. 1209082 pursuant to Article 101(2)  
EPC.

**Composition of the Board:**

**Chairman:** H.-P. Felgenhauer  
**Members:** K. Poalas  
E. Dufrasne

## Summary of Facts and Submissions

- I. The appellant (opponent) lodged an appeal against the decision of the Opposition Division to reject the opposition against European patent No. 1 209 082.
- II. Opposition had been filed against the patent as a whole, based on Article 100(a) EPC (lack of novelty and lack of inventive step) and 100(b) EPC (insufficient disclosure).

The Opposition Division found that the grounds of opposition under Article 100(a) and (b) EPC did not prejudice the maintenance of the patent as granted.

- III. The following documents are mentioned in the present decision:

D1: DE 40 34 757 A,  
D2: US 3 895 711 A,  
D3: US 4 553 374 A,  
D4: US 5 765 340 A and  
E10: FR 1 055 390 A.

- IV. Oral proceedings took place before the Board on 30 June 2011.

- (a) The appellant requested that the decision under appeal be set aside and that European patent No. 1 209 082 be revoked.
- (b) The respondent (patent proprietor) requested that the appeal be dismissed (main request) or, in the alternative, that the decision under appeal be set

aside and the patent be maintained as amended on the basis of auxiliary request I, filed during the oral proceedings, or the auxiliary request filed with letter dated 24 September 2009, or one of auxiliary requests 2 to 4 filed with letter dated 30 May 2011.

- V. The independent claim 1 of all of the respondent's requests and the independent claim 8 of the patent as granted read as follows (amendments to the corresponding independent claims of the patent as granted are marked in bold or struck through):

*Main request (claims of the patent as granted)*

"1. Method for packaging rolls, particularly paper web rolls (5), the method comprising the steps of taking a roll into a supported position on a wrapping station (6) and wrapping onto the roll a paper web wrapper (1, 1a) or the like material dispensed by means of at least one wrapper dispensing station (8) and dispensing means (9), whereby the wrapper is wound so as to form either a centered wrapping or an overlapping wrapping, characterized in that the roll (5) is aligned for the wrapping operation by means of transferring the wrapping station (6) laterally in the axial direction of the roll in regard to the wrapper dispensing system (8, 9)".

"8. Apparatus for packaging rolls, particularly paper web rolls (5), the apparatus comprising a wrapping station (6) having a roll imported thereto and at least one wrapper dispensing station (8) with dispensing, severing and gluing means at the station(s) for wrapper

materials of different widths and qualities, characterized in that the wrapping station (6) is made movable in the axial direction of the roll (5) for aligning the roll for either centered wrapping or overlap wrapping".

*Auxiliary request I*

"1. Apparatus for packaging rolls, particularly paper web rolls (5), the apparatus comprising a wrapping station (6) having a roll imported thereto and ~~at least one~~ wrapper dispensing stations (8) with dispensing, severing and gluing means at the station(s) for wrapper materials of different widths and qualities, characterized in that the wrapping station (6) is made movable in the axial direction of the roll (5) for aligning the roll for either centered wrapping or overlap wrapping".

*Auxiliary request*

"1. Method for packaging rolls, particularly paper web rolls (5), the method comprising the steps of: taking a roll into a supported position on a wrapping station (6) and wrapping onto the roll a paper web wrapper (1, 1a) or the like material dispensed by means of at least one wrapper **storage and** dispensing station (8) and dispensing means (9), whereby the wrapper is wound so as to form either a centered wrapping or a **stagewise** overlapping wrapping, characterized in that the roll (5) is aligned for the wrapping operation **either centrally in regard to the wrapper(1,1a) being wound, or laterally in the different wrapping stages,** by means of transferring the wrapping station (6)

laterally in the axial direction of the roll in regard to the wrapper dispensing system (8, 9)".

*Auxiliary request 2*

"1. Method for packaging rolls, particularly paper web rolls (5), the method comprising the steps of: taking a roll into a **rotatably** supported position on a wrapping station (6) and wrapping onto the roll a paper web wrapper (1, 1a) or the like material dispensed by means of at least one wrapper dispensing station (8) and dispensing means (9), whereby the wrapper is wound so as to form either a centered wrapping or an overlapping wrapping, characterized in that the roll (5) is aligned for the wrapping operation by means of transferring the wrapping station (6) laterally in the axial direction of the roll in regard to the wrapper dispensing system (8, 9) **while the roll is in its rotatably supported position**".

*Auxiliary request 3*

"1. Method for packaging rolls, particularly paper web rolls (5), the method comprising the steps of: taking a roll into a **rotatably** supported position on **and in parallel to two elements of** a wrapping station (6), **one element being located on each side of the roll,** and wrapping onto the roll a paper web wrapper (1, 1a) or the like material dispensed by means of at least one wrapper dispensing station (8) and dispensing means (9), whereby

the wrapper is wound so as to form either a centered wrapping or an overlapping wrapping, characterized in that the roll (5) is aligned for the wrapping operation by means of transferring the wrapping station (6) laterally in the axial direction of the roll in regard to the wrapper dispensing system (8, 9) **while the roll is in its rotatably supported position**".

*Auxiliary request 4*

"1. Method for packaging rolls, particularly paper web rolls (5), the method comprising the steps of: taking a roll into a **rotatably** supported position on **and in parallel to two rollers of** a wrapping station (6), **one roller being located on each side of the roll,** and wrapping onto the roll a paper web wrapper (1, 1a) or the like material dispensed by means of at least one wrapper dispensing station (8) and dispensing means (9), whereby the wrapper is wound so as to form either a centered wrapping or an overlapping wrapping, characterized in that the roll (5) is aligned for the wrapping operation by means of transferring the wrapping station (6) laterally in the axial direction of the roll in regard to the wrapper dispensing system (8, 9) **while the roll is in its rotatably supported position**".

VI. During the oral proceedings lack of novelty of the subject-matter of claim 1 according to the main request was discussed extensively, but this is not essential to



the present decision.

VII. The appellant argued essentially as follows:

*Main Request - Claim 1 - Inventive step, Article 56 EPC*

Due to the fact that no concrete definition of the wrapping station is given in the patent in suit, the wrapping station claimed in claim 1 can be understood as comprising a pair of support rollers movable in their axial direction.

The subject-matter of claim 1 differs from the wrapping method known from D4 in that the wrapping station is movable in regard to the wrapper dispensing system.

The technical object underlying the alleged invention is therefore the provision of a method in which the positioning of the wrapper with regard to the paper roll is simplified.

The skilled person coming across D1 realizes immediately that a controlled axial movement of the support rollers 15 allows the axial movement of the paper roll, see column 2, lines 62 to 64, be it in the wrapping station or elsewhere. The skilled person will, therefore, readily replace the hoistable transporter 2 as the moving means in the wrapping station of D4 by an arrangement which allows a simplified movement of the support rolls in a defined and controlled manner without exercising an inventive activity.

*Admissibility of auxiliary request I*

Auxiliary Request I was filed at a very late stage of the oral proceedings and it pursued an aspect of the invention that was neither a subject of the present appeal proceedings nor of the preceding opposition proceedings and thus represented a shift away from the main line of debate. Furthermore the amendments made by the respondent generated an intermediate generalisation of the apparatus claim 8 of the patent as granted, violating thereby the requirements of Article 123(2) EPC. The appellant was taken by surprise by these amendments and was not prepared for this, for him, totally new situation within the time frame of the oral proceedings.

Therefore, since auxiliary request I was filed late, thereby requiring adjournment of the oral proceedings, and since it was not clearly allowable, it should not be admitted into the proceedings.

*Admissibility of auxiliary requests 2 to 4*

Auxiliary requests 2 to 4, having been late filed and not being clearly allowable, should not be admitted into the proceedings.

*Auxiliary request - Claim 1 - Inventive step,  
Article 56 EPC*

Since all the additional features of the method according to claim 1 of the auxiliary request over the method according to claim 1 of the main request were known from D4 and since the subject-matter of claim 1

of the main request did not involve an inventive step over the combination of the teachings of D4 and D1, then the subject-matter of claim 1 of the auxiliary request did not involve an inventive step over the combination of the teachings of said documents either.

*Auxiliary request 2 - Claim 1 - Inventive step,  
Article 56 EPC*

Since all the additional features of the method according to claim 1 of the auxiliary request 2 over the method according to claim 1 of the main request were known from D4 and since the subject-matter of claim 1 of the main request did not involve an inventive step over the combination of the teachings of D4 and D1, then the subject-matter of claim 1 of the auxiliary request 2 did not involve an inventive step over the combination of the teachings of said documents either.

*Auxiliary request 3 - Claim 1 - Amendments,  
Article 123(2) EPC*

The added feature "one element being located on each side of the roll" in claim 1 of auxiliary request 3 was neither mentioned in the originally filed application nor derivable from the originally filed figures 13 to 15. Said amendment therefore violated the requirements of Article 123(2) EPC.

*Auxiliary request 4 - Claim 1 - Amendments,  
Article 123(2) EPC*

The added feature "one roller being located on each side of the roll" in claim 1 of auxiliary request 4 was neither mentioned in the originally filed application nor derivable from the originally filed figures 13 to 15. Said amendment therefore violated the requirements of Article 123(2) EPC.

VIII. The respondent argued essentially as follows:

*Main Request - Claim 1 - Inventive step, Article 56 EPC*

The wrapping station according to claim 1 could be understood as comprising at least a pair of support rollers movable in their axial direction.

The wrapping method known from D4 required an "up-over-and-down" movement of a hoistable roll transporter. Due to this movement the packaging process became clumsy and slow.

D1 proposed wrapping in a conventional manner and failed to address the problem of speeding up the wrapping process known from D4. The person skilled in the art therefore would have not considered D1 when trying to solve the problem of speeding up the method known from D4.

Even if the person skilled in the art had considered D1 he would not have found therein any information that the wrapping station should be movable laterally and he would not have added complexity to the method known from D4 by making the wrapping station moveable without any obvious advantage.

It would have been more likely for the person skilled in the art to modify the method known from D4 in the sense of E10 than to combine the teachings of D4 and D1 with each other. A combination of the teachings of D4 and E10 did not lead to the subject-matter of claim 1.

*Admissibility of auxiliary request I*

Auxiliary request I differed from the main request in that the method claims were deleted and the independent apparatus claim 8 of the patent as granted was amended and renumbered as apparatus claim 1. Apparatus claim 8 of the patent as granted encompassed not only the alternative of having only one wrapper dispensing station but also the alternative of having a plurality of wrapper dispensing stations. Claim 1 of the auxiliary request I, being directed now to the above-mentioned second alternative, was apparently per se present in claim 8 of the patent as granted and could not be seen as a shifting of the respondent's case. Moreover, claim 1 of auxiliary request I was clearly allowable since a combination of a plurality of wrapper dispensing stations with an axial movable wrapping station as now claimed was neither known nor rendered obvious to the person skilled in the art by the teachings of D4 and D1.

*Admissibility of auxiliary requests 2 to 4; Auxiliary request - Claim 1 - Inventive step, Article 56 EPC; Auxiliary request 2 - Claim 1 - Inventive step, Article 56 EPC; Auxiliary request 3 - Claim 1 - Amendments, Article 123(2) EPC; Auxiliary request 4 - Claim 1 - Amendments, Article 123(2) EPC*

The respondent did not present arguments on any of the above-mentioned issues.

## **Reasons for the decision**

1. *Main Request - Claim 1 - Novelty, Article 54 EPC*
  - 1.1 The Board concurs with the respondent's argument that it is not clearly and unambiguously derivable from D1 that the rollers 15 are part of the wrapping station mentioned in said document and that it is not clearly and unambiguously derivable from D2 or D3 either that the respective wrapping station is movable laterally to the corresponding wrapper storage and dispensing stations.
  - 1.2 Accordingly, the method according to claim 1 of the main request is novel over the above-mentioned state of the art.
  - 1.3 Given that the inventive step issue, as far as it concerns the main request, was the decisive issue in the present case, the Board will concentrate its reasoning on said issue, see point 2 below.
2. *Main Request - Claim 1 - Inventive step, Article 56 EPC*
  - 2.1 As no concrete definition of the structure of the wrapping station is given in the patent in suit and since from its figures 11 to 15 it can be inferred that the wrapping station identified therein via the reference sign 6 comprises (at least) two support rollers, which obviously rotate when the paper roll is

wrapped, the Board concurs with the parties that the wrapping station referred to in claim 1 can be understood as comprising (at least) a pair of support rollers laterally movable in the axial direction of a roll supported by said support rollers.

2.2 D4, considered to represent the closest prior art, discloses a method and an apparatus for wrapping paper rolls, see column 1, lines 5 to 9. According to D4, overlapping wrapping is applied when the wrapper is narrower than the paper roll's axial length, see column 2, lines 45 to 47. In order to move the paper roll 11 relative to the wrapper dispenser 5, a hoistable transporter 2 arranged between support rollers 3 is used, see column 3, lines 23 to 27 and line 46 to column 4 line 16.

2.3 Accordingly, D4 describes a method disclosing not only all the features of the preamble of claim 1 of the main request with respect to the alternative of overlapping wrapping but also the features of the characterising part of said claim, according to which the roll is aligned for the wrapping operation in regard to the wrapper dispensing system. This alignment is made in D4 via the hoistable transporter 2.

2.4 The method according to claim 1 is therefore distinguished from the method known from D4 in that the alignment of the roll takes place by means of transferring the wrapping station laterally in the axial direction of the roll.

2.5 The effect of that distinguishing feature can be seen in speeding up the wrapping method known from D4 when

the roll is aligned with respect to at least one wrapper dispensing station.

- 2.6 Therefore, the problem to be solved by the person skilled in the art starting from the wrapping method known from D4 is to speed up said method.
- 2.7 The question at stake in the present case is therefore whether the skilled person starting from the method of D4 and confronted with the above mentioned problem would take into consideration the teaching of D1 and whether by doing so would derive from D1 the teaching of making the wrapping station axially movable.
- 2.8 The Board considers that the skilled person starting from the method of D4 and confronted with the above mentioned problem would inevitably take into consideration the teaching of D1 for the following reasons:

D1 belongs to the same technical field as D4 and the patent in suit as it refers to a method for packaging paper rolls which have an axial length larger than the width of the available wrapper. The roll is transferred in its axial direction after a first part of the roll has been wrapped by a wrapper to form a first wrapping. In a further step a second part (or the remainder) of the roll is wrapped with a wrapper in an overlapping fashion with the first wrapping. The transfer of the roll from a first alignment in a position in which it receives the first wrapping to a second alignment in a position in which it receives the second wrapping is clearly a movement of the roll in its axial direction, see claim 3; column 2, lines 23 to 25 and figures 1 to



4. Accordingly, the person skilled in the art trying to solve the above mentioned problem would obviously take into consideration the teaching of D1 since it refers to a paper web wrapping method, whereby the roll is axially moved between the wrapping positions/stations.
- 2.9 The Board considers further that the following teaching can be derived from D1:
- 2.9.1 Figure 5 of D1, having the turnstile 10 depicted therein in a manner inconsistent with the other figures of D1, shows a pair of support rollers (Tragrollen) 15 positioned underneath the roll 1. The support rollers 15 are axially shiftable, that is parallel to the longitudinal axis of the roll in defined and controlled manner, see column 2, lines 58 to 64. According to column 1, line 65 to column 2, line 4 of D1 the wrapping can be done in the usual manner, that is by rotating the roll 1 in the direction of the arrow shown in figure 5 and feeding a front end of the packaging paper strip to the roll circumference. Accordingly, by properly understanding the function implied by said arrow and its description in the context in which it is shown, the person skilled in the art immediately realizes that the controlled axial movement of the support rollers 15 disclosed in D1 allows the axial movement of the paper roll, be it in the wrapping station or elsewhere.
- 2.9.2 According to the Board's perception the person skilled in the art understands the reference in D1 to "wrapping in the usual manner", see column 1, line 65 to column 2, line 4, so that the roll is positioned during wrapping on top of two rotatable support rollers, see for

example the figures of D4. The fact that figure 5 of D1 shows the roll, even if it is the finished wrapped roll, positioned on top of said two obviously rotatable support rollers 15, and that the corresponding passage of the description, see column 2, lines 62 to 64, states that said rollers are also axially shiftable in defined and controlled manner, makes it obvious for the skilled person that said support rollers can be used for the roll wrapping as well as for the aligning operation.

2.10 As can be derived from the above, the skilled person would not only take into consideration the teaching of D1 but would also deduce from it that the axially shiftable support rollers 15 described therein can be used as a wrapping station in the sense of that referred to in claim 1 of the main request. The Board concludes therefore that the skilled person starting from the method known from D4 would replace the combination of the two stationary support rollers 3 and the hoistable transporter 2 by the axially shiftable support rollers 15 of D1 in order to speed up the wrapping process known from D4. It would thereby arrive at the subject-matter of claim 1 without exercising any inventive activity.

2.11 The respondent presented no evidence to support its allegation that a wrapping station having two axially shiftable support rollers like the one defined by claim 1 is more complex than the combination of the hoistable transporter 2 and the two support rollers 3 known from D4. Accordingly, the Board considers that this allegation need not be taken into consideration for the assessment of inventive step.

2.12 The respondent argued further that it would be more likely for the person skilled in the art to modify the method known from D4 in the sense of E10 than to combine the teachings of D4 and D1 and that since the combination of the teachings of D4 and E10 does not lead to the subject-matter of claim 1 then said subject-matter involves an inventive step.

2.13 The Board notes that the respondent did not present any argument or evidence as to why the skilled person who would have combined the teachings of D4 and E10 with each other would then be prevented from combining the teachings of D4 and D1 with each other. Moreover, the Board notes that concerning the assessment of inventive step the existence of only one combination of the teachings of two documents, in the present case D4 and D1, which would render the subject-matter of claim 1 obvious to the person skilled in the art is sufficient to characterise the subject-matter of claim 1 as not being inventive.

2.14 For the above-mentioned reasons the subject-matter of claim 1 does not involve an inventive step and the requirement of Article 56 EPC is not met.

### 3. *Admissibility of auxiliary request I*

3.1 Auxiliary request I was filed at a late stage, namely towards the end of the oral proceedings before the Board. This request differs from the main request in that the method claims have been deleted and the independent apparatus claim 8 as granted has been amended and renumbered as apparatus claim 1.

3.2 Whereas apparatus claim 8 as granted encompasses both alternatives of having only one or a plurality of wrapper dispensing stations, apparatus claim 1 of auxiliary request I claims only the second alternative concerning the plurality of wrapper dispensing stations.

3.3 In the Board's view, auxiliary request I thus amounts to an amendment of the respondent's initial case. The admittance of this amendment as part of the respondent's case is thus subject to the Board's discretion according to Article 13 of the Rules of Procedure of the Boards of Appeal (RPBA). This discretion is to be exercised "in view of inter alia the complexity of the new subject-matter submitted, the current state of the proceedings and the need for procedural economy", see Article 13(1) RPBA. Furthermore, amendments submitted after oral proceedings have been arranged are not admitted "if they raise issues which the Board or the other party ... cannot reasonably be expected to deal with without adjournment of the oral proceedings", see Article 13(3) RPBA.

3.4 The Boards of Appeal have developed the following approach in exercising their discretion to admit late filed amendments, cf. T 183/09 (of September 2010, not published in OJ EPO), point 4.1 of the Reasons:

*"Unless an amendment is justified by developments in the appeal proceedings - for example if it addresses objections or comments first raised in the proceedings - it will be admitted only if it does not extend the scope or framework of discussion as determined by the*

*decision under appeal and the statement of the grounds of appeal, and is moreover clearly allowable, see the Case Law of the Boards of Appeal, 6th edition, 2010 (CLBA), VII.E.16.1.1 and the case law cited therein, in particular T 397/01 (not published in OJ EPO), point 1 of the Reasons. Amended claims are clearly allowable if the Board can quickly ascertain that they overcome all outstanding issues without raising new ones, see CLBA, VII.E.16.4.1 and the case law cited therein.*

*From the above it may be inferred that procedural economy, that is the need to conclude proceedings swiftly and to create legal certainty, plays an increasingly dominant role as appeal proceedings progress towards their end. In the final stages of an appeal procedure it may in fact come to outweigh all other factors in the balance of interests that the Board must strike when deciding admissibility of new requests or of new facts and evidence. This shift in balance of interests towards legal certainty is a consequence of the judicial nature of an inter partes appeal procedure".*

- 3.5 In the present case no sound reasons have been put forward, nor are such reasons evident to the Board, that might justify the late filing of auxiliary request I.
- 3.6 Auxiliary request I does not directly address specific points raised in the preceding written or even oral procedure other than that it represents a new attempt to differentiate the invention from the prior art. Because it concerns only the deletion of the method claims and of a part of the independent apparatus claim

it is obvious that it could have been prepared in advance and could also clearly have been filed at an earlier stage. That it was not, was a matter of choice, rather than being dictated by the circumstances of the case.

3.7 Discussion of this request, if admitted, would moreover go beyond the scope of the debate of the original appeal as defined by the appealed decision, the statement of grounds of appeal and subsequent written submissions. Auxiliary request I pursues an aspect of the invention that was considered neither during the present appeal proceedings nor the preceding opposition proceedings and it thus represents a shift away from the main line of debate. Whereas the procedure up to the oral proceedings and during the first part of the oral proceedings focused on the feature of the **wrapping station** and its movability laterally in the axial direction, this request and in respect of it the respondent's argument concern the presence of a plurality of **wrapper dispensing stations**. As for the specific alternative of the independent apparatus claim 8 of the patent as granted now present in claim 1, the respondent did not previously provide a specific, detailed argument in favour of this particular combination.

3.8 During the oral proceedings and immediately after auxiliary request I was filed, the appellant offered reasonably detailed arguments concerning an intermediate generalisation generated by the amendments in the apparatus claim, which was not allowable under Article 123(2) EPC, and stated that it was taken by surprise and was not prepared to argue on inventive

step based now on the presence of a plurality of wrapper dispensing stations.

3.9 The Board, taking into consideration the arguments of the parties, ascertains that the filed amendments do not overcome all the outstanding issues without raising new ones and that it would need to consider the parties' arguments thoroughly and possibly adjourn the oral proceedings before being able to decide on the allowability of auxiliary request I. Accordingly, auxiliary request I is not clearly allowable in the sense set out under point 3.4 above.

3.10 For the above-mentioned reasons the Board does not admit auxiliary request I into the proceedings.

4. *Admissibility of auxiliary request, auxiliary request 2, auxiliary request 3 and auxiliary request 4*

4.1 The auxiliary request was filed by the respondent at the earliest possible time in the appeal proceedings, namely with the respondent's response to the grounds of appeal. The appellant did not raise any objections concerning the admittance of said request into the proceedings.

4.2 Auxiliary requests 2 to 4 were filed by facsimile on 30 May 2011, i.e. within the time limit set by the Board in the annex to the summons to oral proceedings. The Board considers the filing of these requests as the respondent's reaction to the provisional opinion of the Board expressed in said annex.

4.3 Taking the above into consideration the Board decides to exercise its discretion according to Article 114(2) EPC in the respondent's favour and admits the auxiliary request and the auxiliary requests 2 to 4 into the proceedings.

5. *Auxiliary request - Claim 1 - Inventive step, Article 56 EPC*

5.1 The appellant argued that since all the additional features of the method according to claim 1 of the auxiliary request over the method according to claim 1 of the main request were known from D4 and since the subject-matter of claim 1 of the main request did not involve an inventive step over the combination of the teachings of D4 and D1, then obviously the subject-matter of claim 1 of the auxiliary request did not involve an inventive step over the combination of the teachings of said documents either.

5.2 The respondent did not present any arguments on this issue.

5.3 The Board, in the absence of any counter-arguments from the respondent, sees no reason not to follow the above-mentioned appellant's line of argument and concludes that the subject-matter of claim 1 of the auxiliary request does not meet the requirements of Article 56 EPC.

6. *Auxiliary request 2 - Claim 1 - Inventive step, Article 56 EPC*



- 6.1 The appellant argued that since all the additional features of the method according to claim 1 of auxiliary request 2 over the method according to claim 1 of the main request were known from D4 and since the subject-matter of claim 1 of the main request did not involve an inventive step over the combination of the teachings of D4 and D1 then obviously the subject-matter of claim 1 of auxiliary request 2 did not involve an inventive step over the combination of the teachings of said documents either.
- 6.2 The respondent did not present any arguments on this issue.
- 6.3 The Board, in the absence of any counter-arguments from the respondent, sees no reason not to follow the above-mentioned appellant's line of argument that the subject-matter of claim 1 of auxiliary request 2 does not meet the requirements of Article 56 EPC.
7. *Auxiliary request 3 - Claim 1 - Amendments, Article 123(2) EPC*
- 7.1 The appellant argued that the added feature in claim 1 of auxiliary request 3 that "one element being located on each side of the roll" was neither mentioned in the originally filed application nor was it derivable from the originally filed figures 13 to 15 and that accordingly said amendment violated the requirements of Article 123(2) EPC.
- 7.2 The respondent did not present any arguments on this issue.

7.3 The Board, in the absence of any counter-arguments from the respondent, sees no reason not to follow the above-mentioned argument of the appellant and concludes that the subject-matter of claim 1 of auxiliary request 3 does not meet the requirements of Article 123(2) EPC.

8. *Auxiliary request 4 - Claim 1 - Amendments,  
Article 123(2) EPC*

8.1 The appellant argued that the added feature in claim 1 of auxiliary request 4 that "one roller being located on each side of the roll" was neither mentioned in the originally filed application nor was it derivable from the originally filed figures 13 to 15 and that said amendment therefore violated the requirements of Article 123(2) EPC.

8.2 The respondent did not present any arguments on this issue.

8.3 The Board, in the absence of any counter-arguments from the respondent, sees no reason not to follow the above-mentioned argument of the appellant and concludes that the subject-matter of claim 1 of auxiliary request 4 does not meet the requirements of Article 123(2) EPC.

**Order**

**For these reasons it is decided that:**

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:

G. Nachtigall

H.-P. Felgenhauer