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**Datasheet for the decision
of 7 May 2014**

Case Number: T 0658/11 - 3.3.01
Application Number: 03741871.2
Publication Number: 1513915
IPC: C10M163/00
Language of the proceedings: EN

Title of invention:

METHOD OF LUBRICATING AN INTERNAL COMBUSTION ENGINE AND
IMPROVING THE EFFICIENCY OF THE EMISSIONS CONTROL SYSTEM OF
THE ENGINE

Patent Proprietor:

The Lubrizol Corporation

Opponents:

Afton Chemical Corporation
Infineum International Limited

Headword:

Method of lubrication/LUBRIZOL

Relevant legal provisions:

EPC Art. 123(2), 84
RPBA Art. 12(2), 13(1), 13(2)

Keyword:

Admitted: claim sets A-C (yes), D-E (no)
Main request, auxiliary requests 1-3, claim sets A and B:
added matter (yes)
Claim set C: clarity (no)

Decisions cited:

T 1621/09



**Beschwerdekammern
Boards of Appeal
Chambres de recours**

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Case Number: T 0658/11 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 7 May 2014

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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
17 January 2011 concerning maintenance of the
European Patent No. 1513915 in amended form.**

Composition of the Board:

Chairman	A. Lindner
Members:	L. Seymour
	L. Bühler

Summary of Facts and Submissions

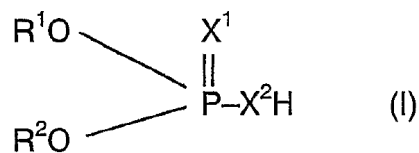
- I. European patent No. 1 513 915, was filed as application number 03 741 871.2, based on the international application published as WO 03/104620.
- II. Revocation of the patent in suit was sought pursuant to Articles 100(c), 100(b) and 100(a) EPC (lack of novelty and inventive step).
- III. The decision under appeal was based on a main request filed with letter dated 18 December 2009, auxiliary requests 1 and 2 filed with letter dated 16 November 2010, and auxiliary request 3 filed during oral proceedings before the opposition division.

With respect to all these requests, the opposition division found in favour of the patent proprietor on the issues of added matter, sufficiency of disclosure and novelty.

An inventive step was denied for the subject-matter of the respective claims 1 of the main request and auxiliary requests 1 and 2. In contrast, the subject-matter of auxiliary request 3 was found to represent a non-obvious alternative to the available prior art.

- IV. All three parties to the opposition proceedings appealed against this decision.
- V. In its statement of grounds of appeal, appellant opponent I challenged the reasoning and conclusions in the decision under appeal with respect to novelty and inventive step of auxiliary request 3, and appellant opponent II with respect to insufficiency and inventive step.

- VI. With its statement of grounds of appeal, the appellant patentee resubmitted its requests that had formed the basis of the decision under appeal, and presented its arguments on inventive step of these requests.
- VII. In the respective replies of the parties, the issues raised in the statements of grounds of appeal were further discussed (see letters of 20 October 2011 of appellant opponent II, 26 October 2011 of appellant patentee, and 26 October and 16 December 2011 of appellant opponent I).
- VIII. On 25 November 2013, summons were issued by the board for the parties to attend oral proceedings on 19 February 2014. On request of appellant opponent I, these were subsequently rescheduled to 7 May 2014.
- IX. With letter of 7 April 2014, the appellant patentee submitted clean copies of its previous requests, additionally containing the correction of a typographical error in the respective claims 1. Claim 1 of the main request reads as follows (emphasis added):
- "1. A method of lubricating an internal combustion engine and improving the efficiency of the emissions control system of the engine, the emissions control system being equipped with a catalyst containing exhaust gas after treatment device, the method comprising:
- (A) selecting a lubricating oil composition comprising: a base oil; an alkali or alkaline earth metal-containing detergent; a metal salt of one or more phosphorus-containing compounds represented by the formula



wherein in formula (I), X¹ and X² are independently O or S, and R¹ and R² are independently hydrocarbyl groups, the average total number of carbon atoms per phosphorus-containing moiety being at least 10.4,

wherein at least one of the R¹ and R² groups in one or more of the phosphorus-containing metal salt contains 4 or fewer carbon atoms and less than 40 percent of all the R¹ and R² groups supplied by the phosphorus-containing metal salt contain 4 or fewer carbon atoms; and an acylated nitrogen containing compound having at least 10 aliphatic carbon atoms and a TBN of at least 2; the lubricating oil composition being characterized by a phosphorus concentration of up to 0.12% by weight and the substantial absence of copper;

- (B) adding the lubricating oil composition to the engine;
- (C) operating the engine;
- (D) generating a lean-phosphorus containing exhaust gas; and
- (E) contacting the catalyst in the exhaust gas after treatment device with the lean-phosphorus containing exhaust gas."

The respective claims 1 of auxiliary requests 1 to 3 differed from claim 1 of the main request in the presence of additional features in step (A).

- X. In its letter of 7 April 2014, appellant opponent I stated that it maintained all the objections previously put forward (see above points V and VII), and raised a number of additional objections, *inter alia* pursuant to Article 123(2) EPC.

XI. In its reply of 24 April 2014, the appellant patentee noted that, in the latest submission of appellant opponent I, objections under Article 123(2) EPC had been raised for the first time in the appeal proceedings. Additional claim sets labelled A, B and C were filed, each containing a main request and three auxiliary requests.

The claims 1 of set A differed from the respective claims 1 of the previous requests (cf. above points IX) in that, at its second occurrence in step (A), the expression "the phosphorus-containing metal salt" had been replaced by "the phosphorus-containing metal salt(s)".

Claim 1 of the main request of set B differed from that of set A in the limitation of the meanings of X¹ and X² to sulfur and in the addition in step (A) of the feature "wherein the metal used in the metal salt of a phosphorus containing compound is zinc". The respective claims 1 of auxiliary requests 1 to 3 of set B only contained the second of these amendments.

The claims 1 of set C differed from those of set A in the addition of the following passage inserted at the end of said claims:

"and wherein the following mixture of phosphorus-containing compounds is used: 70 to 99 molar % of a dialkyldithiophosphate derived from 4-methyl-2-pentyl alcohol; and 1 to 30 molar percent of a dialkyldithiophosphate derived from an alcohol mixture of about 60% by mole isopropyl alcohol and about 40% by mole 4-methyl-2-pentyl alcohol".

XII. With letter of 1 May 2014, the appellant patentee filed two further claim sets labelled D and E.

The claims 1 of set D differed from those of set A in the insertion of a limitation to the definitions of R¹ and R², namely, "wherein at least one of R¹ and R² is isopropyl".

The claims 1 of set E differed from those of set D in the insertion of "to 16%" after "less than 40 percent".

XIII. Oral proceedings were held before the board on 7 May 2014.

XIV. The appellant opponents' arguments, insofar as they are relevant to the present decision, may be summarised as follows:

On the issue of admissibility of the appellant patentee's requests filed with letters dated 24 April and 1 May 2014, the appellant opponents argued that the submissions of appellant opponent I with letter of 7 April 2014 could not be taken as a justification for submitting twenty requests only one or two weeks prior to the date set for oral proceedings. Objections of added matter pursuant to Article 100(c) EPC had been substantiated at the very beginning of the opposition proceedings and had never been withdrawn. Appellant opponent II further argued that the ground of Article 100(c) EPC had also been introduced during the initial phase of the appeal proceedings, by virtue of the reference in its reply of 20 October 2011 (second paragraph) to previous arguments filed in the opposition proceedings. There had therefore been no amendment to the appellant opponents' case during the appeal proceedings, within

the meaning of Article 13(1) RPBA. Moreover, any reliance on new arguments based on existing facts and evidence could not be regarded as constituting an amendment of case.

The filing of twenty requests in two batches so close to oral proceedings, without adequate explanation, had put the appellant opponents at a disadvantage owing to the limited remaining time available to prepare their case. In particular, claim sets C to E included substantive limitations introduced from various locations of the description. The appellant opponents should not be expected to deal with amendments of this type at such a late stage in the procedure. In addition, no clear basis could be found in the description for the language used in claim sets D and E.

Concerning the objection under Article 123(2) EPC relating to the feature "wherein at least one of the R¹ and R² groups in one or more of the phosphorus-containing metal salt contains 4 or fewer carbon atoms" in claim 1 of the main request, the appellant opponents argued that this represented a significant amendment, which had been introduced during the examination procedure as a distinguishing feature with respect to the cited prior art. No basis in the application as originally filed could be found for this lower limit, which required the mandatory presence of at least one hydrocarbyl group having "4 or fewer carbon atoms". Indeed, several embodiments were disclosed in which no such groups were present. Examples 2, 5 and 7 were very specific and could not provide a basis for the present generalisation. This objection also applied to claims 1 of auxiliary requests 1 to 3, and to the corresponding claims of sets A and B.

With respect to claim 1 of the main request of set C, the appellant opponents submitted that the subject-matter claimed lacked clarity. For example, owing to the position and wording of the newly inserted feature, it was unclear at which point in the claimed method the defined mixtures were to be used. Even were it to be assumed that the mixtures according to the newly introduced feature further defined the phosphorus compounds of step (A), there were still inconsistencies in the product-by-process language employed, which left the reader in doubt as to whether the acidic starting materials or the finished salts were being defined. It was also unclear whether the newly introduced definitions of mixtures was intended to be limiting with respect to the compounds of formula (I) according to step (A) or whether further compounds were permitted. These objections applied equally to claims 1 of the auxiliary requests of set C.

- XV. The appellant patentee's arguments, insofar as they are relevant to the present decision, may be summarised as follows:

Regarding the issue of admissibility of its claim sets A to E, the appellant patentee argued that, in the decision under appeal, the opposition division had found that all requests before them fulfilled the requirements of Articles 100(c) and 123(2) EPC. In their statements of grounds of appeal and in subsequent replies, the appellant opponents had not challenged this aspect of the decision. The generic reference to the submissions made during opposition proceedings could not be seen as constituting substantiated objections with respect to added subject-matter. It had therefore been a fair assumption on the

part of the appellant patentee that the appellant opponents did not wish to pursue this issue. The submissions dated 7 April 2014, in which objections of added matter were raised for the first time during the appeal proceedings, had taken the appellant patentee by surprise. The claim sets A to C had been filed as a clear response to these late-filed objections and should therefore be admitted into the appeal proceedings. Similarly, claim sets D and E had been filed only one week later after further consideration of the issues at stake.

A cascade approach had been adopted with respect to the newly filed requests, whereby particular amendment types had been introduced into the previously filed main request and auxiliary requests 1 to 3, in order to address particular points raised in said submissions of 7 April 2014. Claim sets A and B dealt with formalistic issues, and sets C to E were based on specific embodiments that had clearly been highlighted as being preferred in the description. These requests could therefore be dealt with without particular difficulty within the time available.

Concerning the objection under Article 123(2) EPC, the appellant patentee argued that, in its broadest teaching, the application as originally filed did not include any limitation with respect to the number of R¹ and R² groups having "4 or fewer carbon atoms". The support for the range now specified in claim 1 of the main request was to be found in the section starting on page 14, line 10 of the application as originally filed. In particular, on page 14, lines 29 to 31, "less than 40 mole percent" was specified for the R¹ and R² groups having "4 or fewer carbon atoms". The skilled reader would directly and unambiguously identify this

passage to disclose two embodiments, namely, one embodiment in which hydrocarbonyl groups containing "4 or fewer carbon atoms" were absent, and one embodiment in which they were present, up to a specified limit. The feature "wherein at least one of the R¹ and R² groups in one or more of the phosphorus-containing metal salt contains 4 or fewer carbon atoms" had been introduced to reflect the lower limit of the latter embodiment. It was also clear from the examples of the application as originally filed that such an embodiment was contemplated. Thus, Examples 2, 5 and 7 disclosed mixtures wherein R groups with three carbon atoms were present in amounts of less than 40 mole %, and on page 24, lines 22 to 26, examples of this type were highlighted as being particularly advantageous. Said feature did not therefore give rise to added matter. The same reasoning applied to claim 1 of auxiliary requests 1 to 3, and to the corresponding claims of sets A and B. In set B, the support in the description was reinforced by the fact that the definition of the salts had been limited so as to more closely reflect said examples.

Concerning the definition introduced at the end of claim 1 of the main request of set C, the appellant patentee argued that the skilled person reading the claim with a mind desirous to understand would immediately realise that this referred back to the phosphorus-containing compounds appearing in step (A) and was intended to restrict the definitions thereof. The features defining compounds of formula (I) in step (A) of claim 1 would therefore readily be identified as being redundant. It was normal practice in the art to define such compounds by specifying the alcohols from which they were prepared, and these were then used to form the metal salts. The skilled person

would rule out any other reading of the claim as being implausible, and the feature introduced did not therefore give rise to a lack of clarity of the claim as a whole. The same argumentation applied to claims 1 of the auxiliary requests of set C.

- XVI. The appellant patentee requested that the first-instance decision be set aside and that the patent be maintained on the basis of
- the main request filed with letter dated 7 April 2014, or, alternatively, on the basis of:
 - main requests A, B or C filed with letter dated 24 April 2014;
 - main requests D or E, filed with letter dated 1 May 2014;
 - auxiliary request 1 filed with letter dated 7 April 2014;
 - auxiliary requests 1A, 1B or 1C filed with letter dated 24 April 2014;
 - auxiliary requests 1D or 1E, filed with letter dated 1 May 2014;
 - auxiliary request 2 filed with letter dated 7 April 2014;
 - auxiliary requests 2A, 2B or 2C filed with letter dated 24 April 2014;
 - auxiliary requests 2D or 2E, filed with letter dated 1 May 2014;
 - auxiliary request 3 filed with letter dated 7 April 2014;
 - auxiliary requests 3A, 3B or 3C filed with letter dated 24 April 2014;
 - auxiliary requests 3D or 3E, filed with letter dated 1 May 2014.

The appellant opponents requested that the decision under appeal be set aside and that the European patent

No. 1 513 915 be revoked. Appellant opponent II further requested that claim sets A to C filed with letter dated 24 April 2014 and claim sets D and E filed with letter dated 1 May 2014 not be admitted into the appeal proceedings.

XVII. At the end of the oral proceedings, the decision of the board was announced.

Reasons for the Decision

1. The appeal is admissible.
2. *Admissibility of claim sets A to E*
 - 2.1 In the decision under appeal, the opposition division considered all requests before them to fulfil the requirements of Articles 100(c) and 123(2) EPC. The appellant opponents did not challenge this aspect of the decision in their statements of grounds of appeal, or in the subsequent exchange of replies, all filed in 2011 (cf. above points V and VII). With its letter of 7 April 2014, one month before oral proceedings before the board, appellant opponent I raised objections under Article 123(2) EPC for the first time in appeal proceedings, although the requests on file had remained substantially unchanged (cf. above point VI). This constitutes an amendment to the appellant opponents' case in the sense of Article 13(1) RPBA, which may only be introduced into the proceedings at the board's discretion.
 - 2.2 The arguments of the appellant opponents in this respect are not considered to be convincing.

Appellant opponent II referred to the following statement in its letter dated 20 October 2011, which reads as follows (see second paragraph):

"With regard to the main request and the first and second auxiliary requests Appellant-Opponent II refers to the arguments filed in the opposition proceedings and will not repeat them verbatim here."

It is impossible to ascertain from this sentence which specific arguments are being referred to. Moreover, it does not provide any substantiation as to why the contested decision is incorrect with respect to any particular aspect. Therefore, on the basis of the above sentence, the ground under Article 100(c) EPC, in conjunction with Articles 123(2) EPC, cannot be identified as forming part of the appellant opponents' case at appeal within the meaning of Article 12(2) RPBA.

The appellant opponents further argued that this attack did not represent an amendment to their case in the sense of Article 13(1) RPBA, since it was based on evidence and facts that had already been on file at the start of the opposition proceedings. However, contrary to the appellant opponents' contention, in accordance with Article 12(2) RPBA, the arguments relied on also constitute part of a party's case and may indeed change it (cf. also decision, T 1621/09, points 8 and 9 of reasons). Consequently, as explained above in point 2.1, the new attack based on Article 123(2) EPC, raised for the first time at a very late stage of the appeal proceedings, had the effect of altering the case of the appellant opponents.

2.3 In response to the amendment of the appellant opponents' case, the appellant patentee did not object to the objections under Article 123(2) EPC being admitted into the proceedings. Under these circumstances, in the interest of procedural fairness, the appellant patentee must also be entitled to react in an appropriate manner, in accordance with Article 13(1), (2) RPBA.

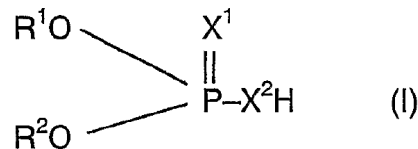
The board considers claim sets A to C to be a fair reaction. In particular, they were filed in a timely manner, just over two weeks after receipt of the letter dated 7 April 2014 of appellant opponent I. Moreover, the amendments undertaken with respect to requests previously on file are readily identifiable as straightforward attempts to overcome specific objections of added subject-matter raised in said letter. Finally, the feature added in claim set C relates to a preferred embodiment, which is clearly identifiable in the application as originally filed (see page 15, lines 24 to 28), and had been the focus of attention throughout the appeal proceedings. Therefore, these requests were admitted into the proceedings.

However, in view of the fact that the appellant patentee had already filed twelve requests (claim sets A to C) in its response of 24 April 2014, the filing of eight additional requests one week later, without explanation as to why they could not have been filed with the first batch of requests, is to be viewed more critically. Given the limited remaining time available before oral proceedings, the later filing of a second batch of amendments put the appellant opponents at a considerable disadvantage in preparing their case. Moreover, the appellant patentee referred

to page 15, line 10 and example 2 of the application as originally filed as providing the basis for the amendments introduced. However, in these passages, the features now claimed are not disclosed in combination. Therefore, contrary to the submission of the appellant patentee, the embodiments of claim sets D and E do not clearly emerge as being preferred in the description. Consequently, these amendments are not considered to be clearly allowable under Article 123(2) EPC, but rather give rise to additional objections in this respect. For these reasons, the board decided not to admit claim sets D and E into the proceedings.

3. *Main request - Article 123(2) EPC*

3.1 Claim 1 is formulated as a method claim comprising a step (A), which involves the selection of a lubricating oil composition comprising a number of components, including, a metal salt of one or more compounds of formula



The hydrocarbyl groups R¹ and R² are further qualified as follows (cf. above point IX):

- a) the average total number of carbon atoms per phosphorus-containing moiety is at least 10.4,
- b) in one or more of the phosphorus-containing metal salt, at least one of the R¹ and R² groups contains "4 or fewer carbon atoms"; and

- c) less than 40 percent of all the R¹ and R² groups supplied by the phosphorus-containing metal salt contain "4 or fewer carbon atoms".

Thus, feature a) defines a minimum average number of carbon atoms per phosphorus, and features b) and c) define a range for the number of R¹ and R² groups having "4 or fewer carbon atoms". Since feature b) does not appear verbatim in the application as originally filed, the question arises whether this subject-matter is directly and unambiguously derivable therefrom.

- 3.2 In claim 1 as originally filed, the only structural requirement defined for the hydrocarbyl groups R¹ and R² relates to feature a). In dependent claim 25, it is specified that "less than 34 mole percent" contain "4 or fewer carbon atoms". Hence, feature b) cannot be directly and unambiguously derived from the originally filed claims, since a lower limit for groups with "4 or fewer carbon atoms" is not disclosed, and in particular not the lower limit of "at least one".

A similar picture emerges from the relevant sections of the description as originally filed, namely, that entitled "The Phosphorus-Containing Metal Salt" (page 14, line 10 to page 16, line 9) and the examples (page 20, line 25 to page 24, line 26). As in claim 25 as originally filed, the limit of "less than 34 mole percent" is to be found in both these sections (page 14, lines 25 to 29; page 24, lines 22 to 26). The sentence referred to by the appellant patentee as providing a basis for the present range reads as follows (page 14, lines 29 to 31, emphasis added):

"In other embodiments, **less than 40 mole percent** or less than 36 or 31 mole percent of all such hydrocarbonyl groups contain **4 or fewer** or 3 or fewer **carbon atoms**".

Again, no lower limit is specified.

On page 15, lines 24 to 28, embodiments are disclosed relating to compositions containing particular mixtures of 4-methyl-2-pentyl (C6) and isopropyl groups (C3). Similarly, in Table II of the application as originally filed (pages 23 and 24), three examples are listed, namely, Examples 2, 5 and 7, which comprise isopropyl groups in amounts falling within the range now claimed, of 16, 30 and 26 mole %, respectively. However, in view of the very specific nature of these disclosures, for example, with respect to the nature of the R¹ and R² groups and the relative percentages thereof in the mixture, they cannot provide an allowable basis for a generalisation to the subject-matter of claim 1.

- 3.3 The appellant patentee effectively argued that the expression "less than 40 mole percent" was to be considered as being equivalent to a disclosure of the value zero, as one embodiment, and the remaining part of the range as a second embodiment.

This argument is not considered to be convincing:

The issue is not whether a range, or in the present case, the lower limit of a range, is conceptually encompassed by that which is disclosed in the application as originally filed. The relevant question is rather whether it is directly and unambiguously disclosed therein. As explained above in point 3.2, the application as originally filed does not disclose the

mandatory presence of "at least one" hydrocarbyl group R^1 and R^2 having "4 or fewer carbon atoms".

3.4 Consequently, the main request fails because it includes subject-matter which extends beyond the content of the application as originally filed.

4. *Auxiliary requests 1 to 3, and requests of claim sets A and B - Article 123(2) EPC*

The respective claims 1 of auxiliary requests 1 to 3, and of the requests of sets A and B all contain the lower limit as defined in feature b) listed above in point 3.1.

Therefore, the assessment with respect to added matter presented above in point 3 applies to these request *mutatis mutandis*.

The appellant patentee argued that the phosphate salts as defined the respective claims 1 of set B were closer to the examples as originally filed. However, these claims retain their generality both with respect to the nature of the R^1 and R^2 groups and the ranges claimed. The restrictions undertaken do not therefore alter the analysis provided above in point 3.

Consequently, the subject-matter of claims 1 of these requests does not meet the requirements of Article 123(2) EPC.

5. *Main request of claim set C - Article 84 EPC*

5.1 In claim 1 of the main request of set C, the following definition was imported from the description (cf. above point XI):

"and wherein the following mixture of phosphorus-containing compounds is used: 70 to 99 molar % of a dialkyldithiophosphate derived from 4-methyl-2-pentyl alcohol; and 1 to 30 molar percent of a dialkyldithiophosphate derived from an alcohol mixture of about 60% by mole isopropyl alcohol and about 40% by mole 4-methyl-2-pentyl alcohol".

5.2 The board has come to the conclusion that claim 1 so amended does not meet the requirements of Article 84 EPC for the following reasons:

5.2.1 The feature reproduced above in point 5.1, has been inserted at the end of claim 1, rather than at the appropriate position of a particular step. This introduces ambiguity as to where in the method the defined mixtures are to be used.

The appellant patentee argued that the skilled reader would immediately realise that the inserted feature referred back to the phosphorus-containing compounds of step (A). However, the board notes that the open-ended term "comprising" is employed in the claim, both with respect to the number of steps in the method, and the components of the lubricating oil composition. The possibility of using the newly defined mixture elsewhere in the claimed method is therefore not excluded by the wording of the claim, nor has it been established that this would be excluded for technical reasons.

5.2.2 Even if, for the sake of argument, the board were to accept the appellant patentee's reading of the claim as set out in the previous paragraph, the claim would nevertheless be unclear.

The appellant patentee argued in this context that the skilled reader would understand the newly introduced feature as restricting the definition of step (A), and therefore recognise that the features defining the compounds of formula (I) in step (A) to be redundant. However, if the features were truly redundant, then the claim would lack conciseness, contrary to Article 84 EPC. An alternative broader construction of the claim, which is not excluded by the wording used, is that further phosphorus-containing compounds may be present, in addition to those defined in the newly introduced feature. In this case, said features of step (A) would not be redundant, but rather limit the possible structure and amounts of these further compounds. This ambiguity in the claim wording leads to doubts concerning the subject-matter for which protection is sought.

5.3 In view of the above-noted deficiencies, it is not necessary to consider the additional objections of the appellant opponents with respect to inconsistencies in the language used in the claim.

For the reasons set out above in point 5.2, it is concluded that the person skilled in the art, on reading the claim 1 of the main request of set C is not able to derive a clear definition of what is intended to be claimed. Consequently, this claim does not fulfil the requirements of Article 84 EPC.

6. *Auxiliary requests 1 to 3 of claim set C*
- Article 84 EPC

The respective claims 1 of the auxiliary requests 1 to 3 of claim set C suffer from the same deficiencies of clarity as that of the main request of set C.

Therefore, the assessment with respect to lack of clarity presented above in point 5 applies equally to these auxiliary requests. The appellant patentee did not make any additional submissions in this respect.

Consequently, the subject-matter of claims 1 according to auxiliary requests 1 to 3 of claim set C does not meet the requirements of Article 84 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:



M. Schalow

A. Lindner

Decision electronically authenticated