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**Datasheet for the decision  
of 4 November 2013**

**Case Number:** T 0558/13 - 3.5.04

**Application Number:** 09169458.8

**Publication Number:** 2131575

**IPC:** H04N5/32

**Language of the proceedings:** EN

**Title of invention:**

Imaging apparatus, radiation imaging apparatus, and radiation imaging system

**Applicant:**

Canon Kabushiki Kaisha

**Headword:**

**Relevant legal provisions:**

EPC Art. 76(1), 112(1) (a)  
RPBA Art. 20, 21

**Keyword:**

Divisional application - subject-matter extends beyond content of earlier application (yes)  
Referral to the Enlarged Board of Appeal - (no)

**Decisions cited:**

G 0001/06, G 0002/10, T 0962/98, T 0273/10, T 0500/11

**Catchword:**

see points 3.7 and 3.8



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Case Number: T 0558/13 - 3.5.04

**D E C I S I O N**  
**of Technical Board of Appeal 3.5.04**  
**of 4 November 2013**

**Appellant:** Canon Kabushiki Kaisha  
(Applicant) 30-2 Shimomaruko 3-chome  
Ohta-ku  
Tokyo 146-8501 (JP)

**Representative:** TBK  
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**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 29 November 2012 refusing European patent application No. 09169458.8 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** F. Edlinger  
**Members:** R. Gerdes  
T. Karamanli

## Summary of Facts and Submissions

- I. The appeal is directed against the decision to refuse European patent application No. 09 169 458.8, which was filed as a divisional application of the earlier European patent application No. 07 106 042.0.
- II. The patent application was refused by the examining division on the grounds that claim 1 according to the sole request was filed in respect of subject-matter which extended beyond the content of the earlier application as filed (Article 76(1) EPC).
- III. The applicant appealed against this decision and with the statement of grounds of appeal maintained the claims on file.
- IV. The board sent a communication accompanying the summons to oral proceedings indicating *inter alia* that it tended to agree with the reasons given in the decision under appeal. The board also drew attention to further amendments which appeared to contravene Article 76(1) EPC.
- V. With its reply of 2 October 2013 the appellant maintained the claims on file as main request and submitted new claims of an auxiliary request as well as a new page 26 of the description.
- VI. Oral proceedings before the board were held on 4 November 2013. As announced in the summons to oral proceedings, the board held oral proceedings in appeal cases T 558/13 and T 560/13 consecutively. After a discussion on Article 76(1) EPC with regard to the main and first auxiliary requests the appellant requested that questions be referred to the Enlarged Board of

Appeal. After an interruption of the oral proceedings the appellant presented a new second auxiliary request comprising Questions 1) to 3) and explained why these questions should be referred to the Enlarged Board of Appeal.

The appellant requested that the decision under appeal be set aside and that a patent be granted in the following version:

Main request:

Claims:

No. 1 to 4 filed with letter of 23 May 2011

Description:

Pages 1 and 1a as filed with letter of 23 May 2011;

Pages 3-8, 12, 13, 18-21, 23-25, 27, 28, and 32-38 as filed with letter of 31 May 2010;

Page 26 as filed with letter of 2 October 2013;

Pages 2, 9-11, 14-17, 22, and 29-31 as originally filed;

Drawings:

Sheets 1/16 to 16/16 as originally filed.

First auxiliary request:

Claims:

No. 1 to 4 of the auxiliary request filed with letter of 2 October 2013

Description and drawings: identical to those of the main request.

As second auxiliary request the appellant requested that the questions submitted in the oral proceedings of 4 November 2013 be referred to the Enlarged Board of Appeal.

VII. Claim 1 of the main request reads as follows:

"An imaging apparatus, comprising:  
a plurality of pixels arranged in row and column directions and each having a conversion element (102) for converting radiation or light into an electrical signal and a switch element (103), wherein the plurality of pixels is divided into a plurality of groups of columns and the columns of different groups are arranged in succession;  
a plurality of signal wirings (110) connected to the plurality of switch elements (103) in the column direction; and  
a read out circuit (105) connected to the plurality of signal wirings (110) and comprising a plurality of sample and hold circuits (107) corresponding to the plurality of signal wirings (110),  
characterized in that  
the plurality of sample and hold circuits (107) are configured to hold electric signals transferred from conversion elements in one row by signals (SH1, SH2) which are different in timing with which they enter a high or low level for each of the plurality of groups."

VIII. Claim 1 of the first auxiliary request reads as follows:

"An imaging apparatus, comprising:  
a plurality of pixels arranged in row and column directions and each having a conversion element (102) for converting radiation or light into an electrical signal and a switch element (103), wherein the plurality of pixels is divided into a plurality of groups of columns and the columns of different groups are arranged in succession;

a plurality of signal wirings (110) connected to the plurality of switch elements (103) in the column direction;

a read out circuit (105) connected to the plurality of signal wirings (110), wherein the read out circuit (105) comprises a plurality of operational amplifiers (106) respectively connected with a first input terminal to a corresponding one of the plurality of signal wirings (110) and a plurality of sample and hold circuits (107) corresponding to the plurality of operational amplifiers (106); and

a reference power source (Vref) for supplying a reference voltage to second input terminals of the operational amplifiers (106),

characterized in that

the plurality of sample and hold circuits (107) are configured to hold electric signals transferred from conversion elements in one row by signals (SH1, SH2) which are different in timing with which they enter a high or low level for each of the plurality of groups; and

the reference power source (Vref) has a plurality of independent power sources (Vref1, Vref2; Vref1-Vref4), and each of the plurality of independent power sources (Vref1, Vref2; Vref1-Vref4) has an independent power source circuit, and, for each of the plurality of groups, one independent power source circuit is provided which is unrelated to another independent power source circuit of the plurality of groups."

IX. Questions 1) to 3) according to the second auxiliary request read as follows:

"1) If a claim is based on one or more embodiments disclosed in the application as filed and, if applicable, in the parent application as filed, and if

the claim defines some but not all the features disclosed with respect to the one or more embodiments, and if the applicant argues that the omitted feature(s) are not essential for the invention:

May the claim be refused for undue extension and extension beyond the parent application, respectively, because the application does not comprise an explicit statement that the omitted feature(s) may be omitted, without proving that the omitted feature(s) are inextricably linked to at least one of the claimed features?

2) If 1) is decided positively, is it sufficient for refusal that at least one of the omitted features contributes to the same technical effect as alleged to the claimed subject-matter?

3) If 1) is decided negatively, will the skilled person use its general technical knowledge based on the original disclosure to decide if the omitted feature(s) are inextricably linked to at least one of the claimed features?"

X. The reasons given in the decision under appeal relating to the main request (the then sole request) can be summarised as follows:

Claim 1, when compared with the subject-matter of claim 5 of the earlier application as originally filed, does not define at least that "a plurality of power sources are independently provided for each of the plurality of groups". The application discloses several embodiments teaching how to reduce the line noise in a passive pixel sensor (paragraph [0012]). In all embodiments the pixels (and the read out circuits) are arranged in groups and each group is provided with a different power source voltage. In the embodiment related to figures 7 and 8 (see paragraphs [0088]

to [0098]), it is disclosed that in addition to the separate power sources for the respective groups, the timing of the reset signals can be different (see paragraph [0092]). However, there is no explicit embodiment from which it can be directly and unambiguously derived that the line noise caused by the external noise can be reduced only by providing different sample and hold timing. Therefore, claim 1 does not comply with the requirement of Article 76(1) EPC.

XI. The arguments of the appellant can be summarised as follows:

Compared to claim 1 of the earlier application as filed, claim 1 of the present application did not include the feature relating to the provision of independent power sources. The skilled person using common general knowledge would have understood the earlier application such that the technical effect associated with the provision of independent power sources was the reduction of line noise caused by a fluctuation of a power source. This first effect was distinct from the second effect of reducing line noise caused by external noise as disclosed in the earlier application as filed. All embodiments of the invention referred to the first effect and disclosed the provision of independent power sources as a remedy. The fourth embodiment (see paragraphs [00088] to [00098] and figures 7 and 8 of the earlier application as filed) referred additionally to the second effect and the corresponding remedy, which was time-shifted operation of the sample and hold circuits as well as of the reset circuits. The feature of the time-shifted operation was therefore "orthogonal" to the feature of separate power sources. In other words, it was implicit



for the skilled person that the second effect was solely attributable to the time-shifted operation, which itself did not have any influence on the provision of the independent power sources.

As a consequence the subject-matter of claim 1 was based on implicit disclosure, which was nothing else than what is the clear and unambiguous consequence of what is explicitly mentioned, using common general knowledge. Implicit disclosure belonged to the original disclosure (see decision G 2/10).

In the present case two decisions of the Technical Boards of Appeal were extremely relevant to the present case and should be considered by the board. Following the approach in decisions T 500/11 (see Reasons, points 3.3 and 3.4.4) and T 273/10 (see Reasons, point 14.4) the question should be whether the feature relating to the provision of independent power sources was inextricably linked to the other features of claim 1 of the earlier application as filed. The omitted feature was apparently not indispensable for achieving the effect of reducing line noise caused by external noise and, thus, it was not essential for the invention (see statement of grounds of appeal, page 6, second paragraph).

With respect to the first auxiliary request the appellant argued that it was clear to the skilled person that either one of a time-shifted operation of the reset circuits and a time-shifted operation of the sample and hold circuits contributed to the effect of reducing line noise caused by external noise. Figure 8 disclosed unambiguously that the shifted reset timing suppressed noise at another time than the shifted sample and hold timing.

It was necessary to refer the questions of the second auxiliary request to the Enlarged Board of Appeal since there was apparently a non-uniform application of law. In the present case the approach of the board regarding the analysis of the amendments deviated from that which was followed in decisions T 500/11 and T 273/10. In particular, the present board apparently rejected the test whether a feature was "inextricably linked" to the further features in a claim and instead only allowed basing the amendments on explicit disclosure. To ensure a consistent application of the law a more precise definition was needed of what "inextricably linked" meant.

### **Reasons for the Decision**

1. The appeal is admissible.

#### *The requirement of Article 76(1) EPC*

2. Article 76(1), second sentence, EPC requires that a European divisional application "may be filed only in respect of subject-matter which does not extend beyond the content of the earlier application as filed".

According to established jurisprudence, the same principles apply for testing compliance of a divisional application with Article 76(1) EPC in relation to the earlier application as filed, as for determining compliance with Article 123(2) EPC with respect to an application as filed, see decision G 1/06 (OJ EPO 2008, 307, Reasons, point 5.1). Thus, according to constant jurisprudence, the criterion for establishing whether amendments comply with Article 123(2) EPC, namely that

the amended subject-matter be directly and unambiguously derivable from the original disclosure by the skilled person, as determined by the whole technical content of the earlier application as filed, namely the totality of claims, description and figures when read in context, applies also in determining whether a divisional application complies with Article 76(1) EPC in respect of the earlier application as filed (see decision G 1/06, Reasons, point 9.2).

This criterion has also been confirmed by decision G 2/10 (OJ EPO 2012, 376, see Reasons, point 4.3), in which the Enlarged Board of Appeal reviewed the jurisprudence on the allowability of amendments under Article 123(2) EPC and concluded that "the general definition of the requirements of Article 123(2) EPC established in opinion G 3/89 and decision G 11/91 ... has become the generally accepted, one could also say the 'gold' standard, for assessing any amendment for its compliance with Article 123(2) EPC."

*Main request*

3. Claim 1 according to the main request differs from claim 1 of the earlier application as filed in that the following feature has been omitted from the present claim:

"... a plurality of power sources are independently provided for each of the plurality of groups."

Instead, claim 1 now specifies that the read out circuit comprises a plurality of sample and hold circuits and is characterised by the following additional feature:

"... the plurality of sample and hold circuits (107) are configured to hold electric signals transferred from conversion elements in one row by signals (SH1, SH2) which are different in timing with which they enter a high or low level for each of the plurality of groups."

- 3.1 The earlier application relates to an imaging apparatus (figure 1) and a corresponding radiation imaging system for medical applications comprising a pixel (or sensor) array (101). Each pixel consists of a radiation or light sensitive element (102) and a transistor (103) acting as a switch so as to allow transfer of the accumulated charge to a read out circuit (105) via a plurality of signal wirings (110) arranged in the column direction of the pixel array. The read out circuit comprises several operational amplifiers (106) each connected to at least one of the signal wirings.
- 3.2 The aim of the earlier application is the reduction of line noise artifacts which are more visible than random noise and substantially degrade image quality (figure 13A and 13B, paragraphs [0010] to [0012] and [0035] to [0037] of the earlier application as filed). In order to reduce line noise artifacts the pixel array is divided into a plurality of groups and each of the plurality of groups is provided with an independent power source. This has the effect that power source noise is diffused and does not affect the different groups (and thus all the columns) at the same time (see paragraphs [0066] and [0067] of the earlier application as filed).
- 3.3 According to the first embodiment the read out circuit is divided into an even and an odd group each corresponding to a group of pixels of the pixel array,

the operational amplifiers of each group being supplied with **reference voltages** from "unrelated and independent power sources" (see figure 1 and paragraphs [0053] to [0063] of the earlier application as filed). According to the second and sixth embodiments, the **bias voltage** of each group of pixels is supplied from an independent power source (see figures 5, 11 and paragraphs [0078] to [0081] and [00108] of the earlier application as filed). In the third to fifth embodiments the measures proposed for the first and second embodiments are combined, i.e. both the bias voltages of the groups of pixels and the reference potentials of the group of the read out circuit are supplied from independent power sources (see figures 6, 7 and 9 of the earlier application as filed). Thus, the feature of independent power sources for each group of pixels is present in each embodiment of the earlier application as filed.

3.4 In addition to the provision of independent power sources, the fourth and fifth embodiments show two groups of reset signals and sample and hold signals, each with shifted timing to one another. The earlier application as filed discloses the technical effect caused by the shifted timing as an additional effect: "Therefore, in addition to the line noise caused by the fluctuation of the power source supplied to the radiation imaging apparatus, the line noise caused by external noise propagated through a space, a housing, and an AC line can also be reduced." (See paragraph [0097] of the earlier application as filed). The claims of the earlier application as filed specify the shifted timing of the reset and sample hold signals in dependent claim 5 as an additional feature to the provision of independent power sources for each group of pixels which is specified in claim 1, from which

claim 5 depends. The board notes that the feature of a shifted timing is not mentioned in the "summary of the invention", whereas the provision of independent power sources is central to the concept of the invention as it is presented in the summary of the invention or, likewise, in the concluding paragraphs of the earlier application as filed (see paragraphs [0008] to [0016] and [00116] to [00118]).

- 3.5 It follows that the concept of the invention as consistently presented in the earlier application as filed requires the provision of independent power sources for each group of pixels.
- 3.6 Since this feature is not present in claim 1 of the main request, the skilled person is presented with subject-matter which is not directly and unambiguously derivable from the earlier application as filed. The subject-matter of claim 1 of the main request therefore extends beyond the content of the earlier application as filed.
- 3.7 The board accepts the appellant's argument that the shifted timing of the reset and sample and hold circuits provides the new technical advantage of "reducing a line noise caused by an external noise" (see statement of grounds, page 4, second paragraph), at least in the sense that the visual degradation from line noise caused by external noise may be diminished by incorporation of this feature (see figures 13A and 13B).

Nevertheless, in the board's view, there is no justification for the appellant's conclusion that the subject-matter of claim 1 without the features specifying the independent power sources was directly

and unambiguously derivable from the earlier application as filed. It is not sufficient to prove that the feature of providing a plurality of independent power sources was "not indispensable for achieving the effect of reducing line noise caused by external noise" (see statement of grounds, page 6, second paragraph). Such reasoning does not take sufficient account of the information conveyed by the earlier application as a whole, which is primarily concerned with providing independent power sources and which only presents the additional technical effect caused by the shifted timing as a side issue (see paragraph [0097] of the earlier application as filed). It may be true that a skilled reader, trying to improve the disclosed invention, might realise that shifted timing of the reset and sample hold signals might be sufficient to achieve a desired effect. However, what is required for complying with the provisions of Article 76(1) EPC is a direct and unambiguous disclosure of the subject-matter which is claimed in the divisional application in the (earlier) application as filed. There is no room for speculation as to which features of the disclosed invention (inventions) might be omitted on further reflection, if there is no explicit or implicit disclosure of the generalised subject-matter remaining after the omission of these features. In other words, the disclosure of an independent technical effect that is achieved by some features of the subject-matter disclosed in the earlier application as filed does not suffice as proof of a direct and unambiguous disclosure of subject-matter comprising only the features which provide that independent technical effect.

3.8 Furthermore, the appellant cited decisions T 500/11 and T 273/10 in support of its argument that the feature of

independent power sources may be omitted because it was not inextricably linked to the other features of claim 1 of the earlier application as filed. These decisions concern intermediate generalisations in which "a claim amended by inclusion of a bundle of features extracted from a specific embodiment had been found allowable because the bundle of features proposed as an amendment comprised all the features essential for the performance of the invention" (see T 500/11, Reasons, point 3.4.2, referring to decision T 273/10).

Firstly, as stated above, intermediate generalisations concern the inclusion of features in a claim. In contrast, present claim 1 was amended by omitting one feature (independent power sources) in addition to the inclusion of further features (time shifted signals). The finding of the board with respect to the main request concerns the omission of the feature of independent power sources. Hence, this finding does not concern an intermediate generalisation, because there never was a more general claim which was amended by inclusion of specific, but generalised features.

Secondly, the problem underlying the invention is the reduction of line noise artifacts (see point 3.2 above). It is unambiguously stated in the earlier application as filed that the independent power sources constitute an essential feature to solve this problem (see, for example, paragraphs [0065] and [0067]). Hence, an essential feature for the performance of the invention was omitted from claim 1, contrary to the condition formulated in point 3.4.4 of the Reasons of decision T 500/11 and point 14.3, last sentence, of the Reasons of decision T 273/10.



Lastly, in point 3.4.1 of the Reasons of decision T 500/11 reference is made to decision T 962/98, see Catchword of the latter decision: "There may exist situations where some characteristics taken from a working example may be combined with other features disclosed in a more general context without necessarily creating an objectionable intermediate generalization. However, under Article 123(2) EPC, such an intermediate generalization is only admissible if the skilled person can recognize without any doubt from the application as filed that those characteristics are not closely related to the other characteristics of the working example and apply directly and unambiguously to the more general context. In other terms, in order to be acceptable, this intermediate generalization must be the result of unambiguous information that a skilled person would draw from the review of the example and the content of the application as filed (cf. point 2.5)." The board observes that it is apparent from this reference that the board in case T 500/11 applied the same strict criterion in order to establish whether the claimed subject-matter complied with Article 123(2) EPC as the present board does to establish whether the claimed subject-matter complies with Article 76(1) EPC, namely that any amendment be directly and unambiguously derivable by the skilled person from the original disclosure, as determined by the whole technical content of claims, description and figures when read in context.

3.9 As a result, the board finds that the subject-matter of claim 1 contravenes Article 76(1) EPC.

*First Auxiliary Request*

4. Claim 1 according to the first auxiliary request is essentially distinguished from claim 1 according to the main request by specifying independent power sources each supplying a reference voltage to the operational amplifiers of the read out circuit. As in claim 1 according to the main request, time-shifted operation of the sample and hold circuits of the read out circuit is specified in claim 1 of the first auxiliary request.
- 4.1 In the earlier application as filed the latter feature relating to time-shifted operation of the sample and hold circuits was disclosed in the context of the time-shifted operation of the reset circuits (see figures 7, 8 and 9 together with paragraphs [0088] to [00102] and dependent claim 5 of the earlier application as filed).
- 4.2 It follows that there is no explicit disclosure of the time-shifted operation of the sample and hold circuits separately from the time-shifted operation of the reset circuits. The appellant did not contest this fact but argued that the subject-matter of claim 1 was implicitly disclosed in the earlier application as filed.
- 4.3 The board accepts that the earlier application as filed discloses the technical effect of reducing line noise caused by external noise through time-shifted operation of the reset and sample and hold circuits. However, different from the decisions T 273/10 (Reasons, point 14.5) and T 500/11 (Reasons, point 3.3), referred to by the appellant, in the present case the skilled person could not recognise directly and unambiguously from the earlier application as filed that this

technical effect was not at least in part also caused by the time-shifted operation of the reset circuit and that there was no "reciprocal relationship". Quite to the contrary, according to the original disclosure of the earlier application they are linked in structure (used together, see figures 7 and 9) and in function (each element contributes to the noise diffusion, see figure 8). There is no information in the earlier application as filed that implies that the sample and hold signals should be shifted independently of the reset signals.

4.4 The appellant's argument that it was apparent from figure 8 of the earlier application as filed that the shifted sample and hold signals suppressed noise at another time than the shifted reset signals is not convincing. The board accepts that this conclusion could be arrived at by further reflection because each pair of these time-shifted signals diffuses noise at a given instant of time. But there is no direct and unambiguous disclosure of such a concept. Therefore, this does not allow the conclusion that the signals may be shifted independently from one another to suppress line noise generated by external noise. Figure 8 illustrates time shifting of both signals in combination by an apparently equal amount of time. It therefore does not show anything else than what is disclosed in the description and claim 5 of the earlier application as filed.

4.5 As a consequence, the subject-matter of claim 1 according to the first auxiliary request extends beyond the content of the earlier application as filed, contrary to Article 76(1) EPC.

*Second Auxiliary Request*

5. The appellant requested that several questions be referred to the Enlarged Board of Appeal (see point IX above).
- 5.1 Under Article 112(1)(a) EPC, a board of appeal, either of its own motion or upon request from a party, refers any questions of law to the Enlarged Board of Appeal in order to ensure uniform application of the law, or if a point of law of fundamental importance arises, if it considers that a decision is required.
- 5.2 The requirement "to ensure uniform application of the law" is fulfilled if in the particular case the board deems it necessary to deviate from the interpretation or explanation of the EPC contained in another decision of a board of appeal, or if there are diverging decisions of two boards (Moser, "Münchner Gemeinschaftskommentar zum EPÜ", 1997, Art. 112, Note 19, Benkard, "Europäisches Patentübereinkommen", 2nd edition, München 2012, Art. 112, Note 5). However, a referral under Article 112(1)(a) EPC is made only when the board considers that a decision of the Enlarged Board of Appeal is required. In this context Articles 20 and 21 RPBA also have to be taken into consideration. Under Article 21 RPBA a referral of questions to the Enlarged Board of Appeal must be made in cases where the board considers it necessary to deviate from an interpretation or explanation of the EPC contained in an earlier opinion or decision of the Enlarged Board of Appeal. However, if a board wishes to deviate from an earlier decision taken by a board of appeal, a referral is not compulsory, but the board must give the grounds for deviation unless such grounds are in accordance with an earlier opinion or decision

of the Enlarged Board of Appeal (Article 20(1), first sentence, RPBA).

- 5.3 "A point of law of fundamental importance" within the meaning of Article 112(1)(a) EPC (the wording "an important point of law" of Article 112(1)(a) EPC 1973 has been amended in the course of the revision of the EPC) arises if that point is of fundamental importance in the sense that it is relevant to a substantial number of similar cases and is therefore of great interest not only to the parties in the appeal in question but also to the public at large. A question regarding a point of law of fundamental importance does not need to be referred to the Enlarged Board of Appeal if the question can be answered beyond all doubt by the board itself (see Case Law of the Boards of Appeal, 7th edition 2013, IV.E.9.1.2).
- 5.4 The present board, as set out above (point 2), does not have any doubt that the criterion developed by the established jurisprudence of the Enlarged Board of Appeal (the 'gold' standard) has to be applied when assessing whether the subject-matter of a divisional application extends beyond the content of the earlier application as filed.

Applying this criterion, the board has arrived at the conclusion that the subject-matter of claim 1 of the main and first auxiliary requests is not, be it explicitly or implicitly, directly and unambiguously disclosed in the earlier application as filed and that, therefore, the requirements of Article 76(1) EPC are not fulfilled (see points 3 and 4 above). Having regard to this criterion, ascertaining whether something is indeed directly and unambiguously disclosed in an application is a question of fact. Its examination may

involve additional considerations, for example in the case of intermediate generalisation, which was the core issue in the decisions referred to by the appellant. However, this does not change the standard set by the jurisprudence of the Enlarged Board. Hence, no point of law of fundamental importance arises which could need to be clarified by the Enlarged Board of Appeal.

5.5 Finally, the board has come to its conclusion on the issue of Article 76(1) EPC, without deviating from decisions T 500/11 and T 273/10, cited by the appellant (see points 3.8 and 4.3 above).

5.6 For the above reasons the board does not see a necessity to refer the appellant's questions to the Enlarged Board of Appeal.

#### *Conclusion*

6. It follows from the above that none of the appellant's requests is allowable.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



K. Boelicke

F. Edlinger

Decision electronically authenticated