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**Datasheet for the decision
of 28 September 2016**

Case Number: T 0572/14 - 3.3.01

Application Number: 08778059.9

Publication Number: 2173731

IPC: C07D301/12, C07D303/04

Language of the proceedings: EN

Title of invention:
METHOD FOR PRODUCING PROPYLENE OXIDE

Patent Proprietor:
Sumitomo Chemical Company, Limited

Opponents:
The Dow Chemical Company
BASF SE

Headword:
Distillative work-up/SUMITOMO

Relevant legal provisions:
EPC Art. 54

Keyword:

Document admitted by the opposition division: discretion
correctly exercised (yes)
Novelty - main request (yes)

Decisions cited:

G 0007/93, T 0467/08

Catchword:



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Case Number: T 0572/14 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 28 September 2016

Appellant 1: Sumitomo Chemical Company, Limited
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Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
20 December 2013 concerning maintenance of the
European Patent No. 2173731 in amended form.

Composition of the Board:

Chairman L. Bühler
Members: G. Seufert
 M. Pregetter

Summary of Facts and Submissions

- I. The patent proprietor (appellant 1) and opponents 1 and 2 (appellants 2 and 3) lodged appeals against the decision of the opposition division revoking European patent No. 2 173 731.
- II. The patent was granted on the basis of 16 claims, with claim 1 reading as follows:

"1. A method for producing propylene oxide, comprising the steps of:

reacting hydrogen peroxide with propylene either in an acetonitrile solvent or in a mixture of solvents which include acetonitrile and water, in presence of a titanosilicate catalyst, so as to obtain a reaction mixture containing propylene oxide;
separating the reaction mixture obtained in the reacting into a gas and a reaction liquid;
distilling the reaction liquid obtained in the separating, so as to separate the reaction liquid into a distillate liquid containing propylene oxide, and a bottoms liquid including acetonitrile, or a combination of acetonitrile and water, wherein the bottoms liquid contains an amide compound and an oxazoline compound, the amide compound and the oxazoline compound being generated in the reacting as byproducts, and
distilling the bottoms liquid containing the amide compound and the oxazoline compound, so as to distill off an acetonitrile-water azeotropic mixture from a column top and an aqueous phase containing the amide compound and the oxazoline compound at a column bottom."

III. The present decision refers to the following documents:

- (1b) Next Generation Chemical Process Technologies R & D/ Non-halogen Chemistry Process Technologies R & D, Results Report, Japan Chemical Innovation Institute, March 2003, translation from Japanese into English
- (21) EP 2 014 654
- (22a) R. Smith, Chemical Process Design and Integration, John Wiley and Sons, Ltd., 2005, Chapter 16, pages 357 to 385
- (22b) R. Smith, Chemical Process Design and Integration, John Wiley and Sons, Ltd., 2005, Chapter 21, pages 445 to 458
- (23) EP 0 659 473
- (24) EP 1 247 805
- (25) B. Linnhoff *et al.*, Chemical Engineering Science, Vol. 38, No. 8, pages 1175 to 1188
- (26) M. Baerns *et al.*, Technische Chemie, Wiley-VCH Verlag GmbH & Co.KGaA, 2006, pages 325, 326, 336 to 338
- (27) WO 99/01445

IV. Notices of opposition were filed by appellants 2 and 3 requesting revocation of the patent in suit on the grounds of lack of novelty and inventive step and insufficiency of disclosure (Article 100(a) and (b) EPC).

V. The decision under appeal was based on the set of claims as granted (main request) and first to third auxiliary requests.

VI. The opposition division admitted late-filed document (21) into the proceedings and decided that the subject-matter of claim 1 as granted was not novel over

it. First and second auxiliary requests were not admitted. The third auxiliary request was considered to comply with the requirements of the EPC.

- VII. With its statement of grounds of appeal, appellant 1 challenged the opposition division's decision to admit document (21) and defended the patent on the basis of the claims as granted. Additionally, auxiliary requests 1 to 11 were filed. Auxiliary request 5 corresponded to the third auxiliary request underlying the decision under appeal. Appellant 1 also requested that appellant 2's appeal be rejected as inadmissible, because the notice of appeal was not properly signed. This request was subsequently withdrawn (see point XIV below).
- VIII. With its statement of grounds of appeal, appellant 2 raised objections of added matter, lack of clarity, insufficiency of disclosure and lack of inventive step against the third auxiliary request underlying the decision under appeal. In support, documents (22) to (25) were filed.
- IX. With its statement of grounds of appeal, appellant 3 raised objections of insufficiency of disclosure and lack of inventive step. In support, document (26) was filed.
- X. In its reply to the statement of grounds of appeal by appellants 2 and 3, appellant 1 objected to the admission of documents (22) to (26) into the appeal proceedings.
- XI. In its reply to the statement of grounds of appeal of appellant 1, appellant 2 contested the alleged inadmissibility of its appeal. It objected to the

admission of appellant 1's first auxiliary request into the appeal proceedings and addressed certain arguments of appellant 1.

- XII. In its reply to the statement of grounds of appeal of appellant 1, appellant 3 objected to the admission of auxiliary requests 1 to 4 and 6 to 11 and provided further arguments in support of its view that the main request and auxiliary requests 1 to 11 were not allowable.
- XIII. In a communication dated 13 April 2015, the board informed the parties that it considered the appeal of appellant 2 admissible. The parties would, however, be given an opportunity to argue on this issue, if necessary, when oral proceedings were held.
- XIV. At the oral proceedings, which were held as scheduled on 28 September 2016, appellant 1 withdrew its request that appellant 2's appeal be rejected as inadmissible.
- XV. Appellant 1's arguments, as far as they are relevant to the present decision, can be summarised as follows:

Document (21) should not be considered in the appeal proceedings. It had been filed late in the opposition proceedings without a valid excuse and had deprived appellant 1 of the opportunity for an appropriate reaction. Moreover, it was *prima facie* not relevant, since it was not novelty-destroying. In admitting document (21) into the proceedings, the opposition division had not exercised its discretion correctly.

The subject-matter of the claims as granted was novel over document (21), which was a document pursuant to Article 54(3) EPC. The embodiment according to

paragraph [0023] and figure 1 did not disclose all features of claim 1. In particular, it was not disclosed that the purification/separation step conducted on fluid 2 was a distillation as required. The opposition division had erred in concluding that the use of the term "tower" implied such a distillation step. The statement on which the opposition division had relied in this context was directed to a propane separation step conducted with fluid 6, rather than the separation/purification step carried out with fluid 2. The statement on page 3, lines 49 to 50 and page 4, lines 38 to 40, on which appellants 2 and 3 relied, belonged either to a different step or to a different embodiment. Furthermore, document (21) was silent as to the position in which the fluid streams 5, 6, and 7 were withdrawn. It was possible to carry out the distillation in such a way that all fractions were obtained at the top of the column, leaving only very high-boiling residues at the bottom. In these circumstances, the oxazoline and acetamide by-products could be present in different fractions. Figure 1 was a flow chart in which the various steps were represented schematically in the form of square boxes. It could not be used as evidence that the separation/purification step was a distillation step or that fluid 7 was recovered as a bottom liquid. The same arguments applied to the embodiment in paragraph [0024] and Figure 2 of document (21). The terms "high boiling" and "low boiling" in lines 38 to 40 characterised the constituents, not necessarily the position at which the fluids were withdrawn.

Claim 1 as granted was also novel over document (1b). Page 23 of that document did not refer to an actual process. The separation of the reaction mixture into a gas and a reaction liquid was not disclosed on this

page and it was not admissible to arrive at a finding of lack of novelty by combining the disclosure on page 23 with features that were found in a different context elsewhere in document (1b). Moreover, page 23 did not disclose the distillation sequence required by claim 1 as granted. All statements relating to potential distillation steps were theoretical discussions as to whether a certain mixture could be separated by distillation. Figure 3.1.3-4 mentioned on page 23 explained the azeotropic behaviour of a mixture of acetonitrile and water. It did not reflect an actual step in a method for producing propylene oxide.

XVI. Appellant 2's and appellant 3's arguments, as far as they are relevant to the present decision, can be summarised as follows:

The opposition division had examined the relevance of document (21), as was apparent from point 17.1 of the decision under appeal, and had come to the conclusion that this document was *prima facie* highly relevant. Although late-filed, it could prejudice the maintenance of the patent. The opposition division had therefore correctly exercised its discretion by admitting document (21) into the proceedings.

This document anticipated the subject-matter of claim 1 as granted. Paragraph [0023] and Figure 1 showed that the liquid fluid 4 was distilled into fluids 5, 6 and 7 and that fluid 7 was recovered as bottom liquid. Fluid 7 had to be the bottom liquid, as it contained the high-boiling constituents. That the separation/purification step was a distillation was apparent from page 3, lines 49 to 50, page 4, paragraph [0024], lines 38 to 40, and from the fact that document (21) as a whole did not refer to other separation steps. Although

paragraph [0024] referred to a different embodiment, it concerned the same separation problem. The statement in lines 38 to 40 could therefore be combined with the embodiment disclosed in paragraph [0023]. The explicit reference in paragraph [0024] to high- and low-boiling constituents clearly and unambiguously pointed to a distillation, and the most straightforward realisation would be to recover the low-boiling constituents at the top and the high-boiling constituents at the bottom. Recovering all streams at the top of the column was only possible for a batch system. The three fluid streams leaving the separation/purification step in Figure 1 indicated a continuously running system, which excluded such a recovery. The same applied to Figure 2.

Document (1b) anticipated the claimed subject-matter. It disclosed the epoxidation reaction of propylene with hydrogen peroxide on page 23, and the separation step into a gas and a reaction liquid on pages 7 to 8 and 9 to 10 (see bridging paragraphs). The recovery of the solvent acetonitrile/water as an azeotropic mixture at the top of the distillation column was disclosed on page 23 (see Fig. 3.1.3-4). Since the boiling point of propylene oxide was lower than that of the azeotropic mixture, it necessarily followed that propylene was distilled off before the distillation of the azeotropic mixture. The distillation sequence was therefore the same as in claim 1 as granted. The inverse sequence, which would involve a high-temperature distillation to separate a distillate containing acetonitrile and propylene oxide followed by a low-temperature distillation to separate propylene oxide as distillate and acetonitrile as bottom liquid, was not consistent with the disclosure in Figure 3.1.3-4 on page 23 of document (1b).

XVII. Appellant 1 requested that the decision under appeal be set aside and that the patent be maintained in unamended form (main request), or, alternatively, that the patent be maintained in amended form on the basis of one of auxiliary requests 1 to 4 filed with the statement of grounds of appeal, or, alternatively, that the appellant-opponents' appeals be dismissed (auxiliary request 5), or, alternatively, that the patent be maintained in amended form on the basis of auxiliary requests 6 to 11 filed with the statement of grounds of appeal. The appellant-patent proprietor further requested that documents D21 and D22 to D27 not be admitted into the appeal proceedings.

XVIII. Appellants 2 and 3 requested that appellant 1's appeal be dismissed, that the decision under appeal be set aside and that the patent in suit be revoked. Appellant 2 further requested that auxiliary request 1 not be admitted into the appeal proceedings. Appellant 3 further requested that the case be remitted to the department of first instance for further prosecution if the main request were found to be novel, and that auxiliary requests 1 to 4 and 6 to 11 not be admitted into the appeal proceedings, or, alternatively, that the case be remitted to the department of first instance for further prosecution. Appellant 3 also requested that document (27) be admitted into the appeal proceedings.

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

Reasons for the Decision

1. All the appeals are admissible.

Appellant 1 initially challenged the admissibility of appellant 2's appeal. In its communication of 13 April 2015, the board expressed its preliminary opinion that appellant 2's appeal was admissible in view of the explanation provided by appellant 2 in its reply to the statement of grounds of appeal by appellant 1. Appellant 1 did not contest the explanation of appellant 2 or the board's preliminary opinion and, at the oral proceedings, withdrew its request that appellant 2's appeal be held inadmissible (see point XIV above). In the absence of any arguments or evidence to the contrary, the board sees no reason to deviate from its preliminary opinion. There is no doubt that the notice of appeal of appellant 2 was correctly signed.

2. Procedural matters

2.1 Document (21) was filed after the time limit for filing an opposition pursuant to Article 99(1) EPC and the time limit set by the opposition division pursuant to Rule 116(1) EPC had expired. In exercising its discretion under Article 114(2) EPC, the opposition division decided to admit this document as *prima facie* relevant into the proceedings.

This decision was challenged by appellant 1, who argued that the opposition division had not exercised its discretion correctly (see point XV above).

2.2 If a discretionary decision of the opposition division is challenged, it is not the task of the board to review all facts and circumstances as if it were in the place of the first instance, and to decide whether or not it would have exercised such discretion in the same

way. The board should only overrule the way in which the opposition division has exercised its discretion if it comes to the conclusion that it has done so according to the wrong principles, or without taking into account the right principles, or that it has exercised its discretion in an unreasonable way and has thus exceeded the proper limit of its discretion (see G 7/93, OJ EPO 1994, 775, point 2.6 of the Reasons).

- 2.3 An essential criterion, which, according to established jurisprudence, has to be taken into account by the opposition division when deciding on the admissibility of late-filed documents, is their *prima facie* relevance. It is apparent from the decision under appeal (see page 11, point 17.1) that the opposition division considered this question and came to the conclusion that the criterion of *prima facie* relevance was fulfilled.
- 2.4 The opposition division acknowledged that document (21) was filed very late in the proceedings. Whether it accepted appellant 3's justification for the late filing (see decision under appeal, point 17.1, second paragraph, first sentence) is not apparent. What is, however, apparent is that the opposition division was of the opinion that document (21) was sufficiently relevant to change the outcome of the opposition proceedings and accordingly decided to admit it. In other words, the opposition division was of the opinion that, in the present case, the document's relevance outweighed the lateness of its submission. Furthermore, no reasons are apparent, and none were provided, as to why appellant 1 was not in a position to adequately react to the submission of document (21), which is a rather short document and was filed more than one month

prior to the oral proceedings before the opposition division.

2.5 In these circumstances, the board is satisfied that the opposition division has exercised its discretion correctly and in a reasonable way. Whether or not the opposition division erred in its assessment as to the relevance of document (21), as argued by appellant 1, is not relevant in this context, but rather needs to be considered in the examination of novelty.

2.6 The board also notes that it can hold inadmissible and hence disregard a party's submission in the appeal proceedings only on the basis of Article 114(2) EPC and Articles 12(4) and 13 RPBA. However, since document (21) was admitted by the opposition division and therefore become part of the opposition proceedings, it cannot be excluded from the appeal proceedings pursuant to Article 12(4) RPBA, which empowers the board to hold inadmissible facts, evidence or requests which were not admitted in the first-instance proceedings (see also T 467/08, point 1.2.2 of the Reasons). For the same reasons, namely that document (21) was already part of the opposition and appeal proceedings, the provisions of Article 13 RPBA cannot be relied on, as they concern amendments to a party's case after the filing of the grounds of appeal or the reply to it. Hence, the board cannot disregard document (21).

Main request (claims as granted)

3. Novelty over document (21)

3.1 Claim 1 as granted is directed to a method for producing propylene oxide comprising the steps of a)

reacting propylene with hydrogen peroxide in acetonitrile or a mixture of acetonitrile and water in the presence of a titanosilicate and b) separating the reaction mixture into a gas and a reaction liquid. In a first distillation step c), the reaction liquid is separated into a distillate liquid containing propylene oxide and a bottom liquid including acetonitrile, or a combination of acetonitrile and water, as well as amide and oxazoline by-products which are formed in the reaction. In a second distillation step d), the bottom liquid is distilled in such a way as to obtain an acetonitrile-water azeotropic mixture at the top of the column and an aqueous phase containing the amide and the oxazoline by-products at the bottom (see point II above)).

According to the decision under appeal, document (21) disclosed all features of claim 1 as granted. This decision was challenged by appellant 1.

- 3.2 Document (21) constitutes prior art under Article 54(3) EPC. This was not contested. It discloses a method for the production of propylene oxide in which propylene is reacted with hydrogen peroxide (see claim 1). The reaction is carried out in a solvent, which includes acetonitrile and water as a preferred solvent mixture (see paragraph [0012] and example 2) in the presence of a titanosilicate catalyst (see claim 6, paragraph [0008] and example 2). Separation of the reaction mixture into gas and a reaction liquid is disclosed in paragraph [0023], line 17. Fluid 2 - the epoxidation reaction distillate - is separated into gas fluid 3 and liquid fluid 4. Furthermore, paragraph [0023] discloses that liquid fluid 4 is separated into fluids 5, 6 and 7 in a separation/purification step (see lines 17 to 18 and Figure 1). Propylene oxide can be taken out as

fluid 5 (line 19). Fluid 6, which mainly consists of propylene and propane, is partly recycled and partly sent to a propane separation step (lines 19 to 20). Fluid 7 mainly consists of water and acetonitrile and sometimes contains propylene glycol or oligomers thereof (lines 23 to 24). There is, however, no explicit teaching in document (21) that the separation/purification step is a distillation step as required by claim 1 as granted. Even if that were the case, no information is provided as to how the distillation was actually conducted and at which position fluids 5, 6 and 7 were withdrawn.

3.3 In the decision under appeal, the opposition division took the view that a distillation step was implicit in view of the statement in paragraph [0023] that "propylene is recovered from the top of the tower (fluid 8) and propylene oxide from the bottom of the tower (fluid 9)". The opposition division was of the opinion that the word "tower" indicated a distillation step, in line with paragraph [0020] of document (21), where this word is used in conjunction with "rectification".

3.4 The board does not agree. Firstly, paragraph [0023] refers to the recovery of propylene from the top and propane, rather than propylene oxide, from the bottom of the tower. Furthermore, the board concurs with appellant 1 that the statement on which the opposition division relied in this context (see paragraph [0023], lines 21 to 23) refers to a propane separation step conducted with fluid 6, not a separation/purification step conducted with fluid 4 (i.e. the reaction liquid). Accordingly, even if the board accepted the opposition division's argument that the use of the word "tower" in paragraph [0023] was tantamount to a distillation step,

this would only mean that propane and propylene are separated by distillation. No conclusion as to the realisation of the preceding separation/purification step with fluid 4 can be drawn.

- 3.5 The opposition division's argument that fluid 7 was equivalent to the bottom liquid is admittedly not very clear, as argued by appellant 1 (see decision under appeal, page 13, first complete paragraph). The board understood this argument as being based on the opposition division's finding that the separation step conducted on fluid 4 was a distillation step. Since, according to the opposition division, fluid 7 was still a not yet purified mixture of water, acetonitrile, propylene glycol and oligomers thereof, it had to be the bottom liquid.
- 3.6 For the reasons set out in point 3.4 above, the board does not accept the finding that paragraph [0023] implicitly discloses that the separation/purification step is a distillation step. However, even if this were the case, it does not necessarily follow that fluid 7 is obtained as the bottom liquid. As was pointed out by appellant 1, it would be possible to conduct the distillation in document (21) in such a way that fluids 5, 6 and 7 are obtained at the top or side of the column, leaving very high-boiling constituents including anthraquinone or ammonium dihydrogenphosphate (see document (21), example 2, page 5, lines 53 to 54) as bottom liquid. In this context, the board also notes that fluid 7 does not necessarily contain propylene glycol and oligomers thereof (see document (21), paragraph [0023], line 23), as argued by the opposition division. The board therefore cannot follow the opposition division's conclusion that fluid 7 is clearly the bottom liquid. Furthermore, document (21)

is silent about the presence of oxazoline and acetamide by-product. Assuming they are formed as inevitable by-products, they may be found in different fractions, depending on the actual conditions applied during distillation (for example pressure, temperature, theoretical trays or reflux ratio, etc.).

- 3.7 According to appellants 2 and 3, conducting the distillation in the way indicated by appellant 1 was only possible in a batch system. Figure 1, however, described a continuous system. The same applied to figure 2. Moreover, it was argued that, according to Figure 1, fluid stream 7 was recovered at the bottom.
- 3.8 The board does not find these arguments convincing. Figure 1 is a mere flow chart. It does not provide any information as to the mode in which each of the steps or the whole process is operated. Nor can the purely schematic nature of figure 1, which represents the various steps in the form of "rectangular boxes", be used as evidence that fluid 7 is recovered at the bottom of a distillation column. The arrows at the top, side or bottom of these boxes do not reflect the position from which a fluid is withdrawn, but merely indicate that it is recovered. This is confirmed by the description of the propane separation step. In Figure 1 fluid stream 8 is represented by an arrow at the bottom and fluid 9 by an arrow at the side. However, according to paragraph [0023] (see lines 21 to 22), fluid 8 is recovered at the top and fluid 9 at the bottom.
- 3.9 Similar considerations to those in point 3.6 and 3.8 apply to the embodiment in paragraph [0024] of document (21), which refers to figure 2. This paragraph describes the separation of fluid 2 - an epoxidation reaction solution - into fluid 4 mainly composed of

acetonitrile, propylene and propane and a fluid 5 mainly composed of propylene oxide, propylene and propane. The components in fluid 4 are characterised as low-boiling constituents and the components in fluid 5 as high-boiling constituents. A distillation step is not explicitly mentioned in paragraph [0024]. Even if the board adopted the view of appellants 2 and 3 that the reference to boiling points clearly and unambiguously disclosed a distillation step, no information is provided about the position (i.e. top, side or bottom) from which fluids 4 and 5 are withdrawn. For the same reasons as set out in point 3.6 above, the board accepts appellant 1's argument that fluid 5 is not necessarily recovered as the bottom liquid.

3.10 It follows from the above that document (21) does not directly and unambiguously disclose a distillation as required by claim 1 as granted. The board therefore concludes that the subject-matter of claim 1 as granted, and by the same token of dependent claims 2 to 16, is novel over document (21) (Article 54 EPC).

4. Novelty over document (1b)

4.1 According to appellants 2 and 3, document (1b) anticipated the subject-matter according to claim 1 as granted.

4.2 Document (1b) is concerned with the development of novel synthesis methods of epoxides and examines the influence of certain features, such as the type of catalyst employed, the reactor design, the type of solvent, and the temperature, on the epoxidation reaction of propylene with hydrogen peroxide. None of the experiments conducted in document (1b) in this

respect explicitly discloses any distillation step or steps. On page 23, document (1b) discloses nitriles as desirable solvents and acetonitrile as the most suitable solvent (see lines 5 to 6 and 10 to 12). On the same page (see lines 16 to 18), document (1b) indicates that the boiling point of acetonitrile, which is lower than that of water, allows the removal of water, which is a by-product of the epoxidation reaction, from the bottom of a distillation column. Reference is also made to the azeotropic behaviour of acetonitrile and water, which permits the recovery of a mixture of acetonitrile and water from the top or side of a distillation column (see page 23, lines 19 to 23 and page 24, Figure 3.1.3-4) and the apparently easy separation of propylene oxide and acetonitrile (see page 23, lines 23 to 26).

From the disclosure on page 23, the person skilled in the art learns that a distillative work-up of an epoxidation reaction liquid is technically feasible, and that certain separation steps are easy to perform. However, no specific distillation sequence is disclosed, and no information (i.e. pressure, temperature, reflux, theoretical trays, etc.) is provided from which the skilled person could clearly and unambiguously deduce it. In the board's judgement, the hypothetical considerations presented on page 23 of document (1b) are consistent with different distillation options, for example a high-temperature distillation to separate a mixture of propylene oxide/acetonitrile/water at the top of a distillation column, leaving a bottom fraction containing water and high-boiling constituents, such as acetamide by-products, followed by a low-temperature distillation to remove propylene oxide, or a single distillation step simultaneously removing propylene oxide at the column

top and acetonitrile/water as a side stream. The argument of appellants 2 and 3 that document (1b) discloses, at least implicitly, the same distillation steps as claim 1 as granted is therefore not accepted. Implicit disclosure means disclosure which any person skilled in the art would objectively consider as necessarily implied in the explicit content. It should not be construed to mean matter that does not belong to the content of the technical information provided by a document, but may be rendered obvious on the basis of that content.

Hence, the board concludes that claim 1 as granted, and by the same token dependent claims 2 to 16, are novel over document (1b) (Article 54 EPC).

5. Remittal

5.1 In the decision under appeal, the opposition division rejected appellant 1's main request for lack of novelty. It has not yet ruled on the other grounds for opposition, e.g. sufficiency of disclosure or inventive step. In these circumstances and in view of appellant 3's request for remittal (see point XVIII above), the board considers it appropriate to exercise its power under Article 111(1) EPC to remit the case to the department of first instance.

5.2 Having come to the conclusion that the main request complies with Article 54 EPC and having decided to remit the case to the department of first instance, there is no need to decide on auxiliary requests 1 to 11 or the admission of documents (22) to (27).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution.

The Registrar:

The Chairman:



M. Schalow

L. Bühler

Decision electronically authenticated