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Datasheet for the decision of 13 December 2018

Case Number: T 2333/15 - 3.2.03

Application Number: 02781779.0

Publication Number: 1447641

IPC: F42B3/12, F42B3/103

Language of the proceedings: EN

Title of invention:
INITIATOR ASSEMBLY

Patent Proprietor:
Daicel Chemical Industries, Ltd.

Opponent:
TRW Airbag Systems GmbH

Headword:

Relevant legal provisions:
EPC 1973 Art. 100(a), 54(4), 56, 114(2)
EPC Art. 54(2), 54(3)
RPBA Art. 12(4)

Keyword:

Late-filed document - admitted (no)
Novelty - main request (no) - auxiliary request (yes)
Inventive step - auxiliary request (yes)

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

Boards of Appeal

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Case Number: T 2333/15 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 13 December 2018

Appellant: (Patent Proprietor)	Daicel Chemical Industries, Ltd. Mainichi Intecio 3-4-5, Umeda Kita-ku, Osaka-shi Osaka 530-0001 (JP)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Appellant: (Opponent)	TRW Airbag Systems GmbH Wernher-von-Braun-Strasse 1 84544 Aschau/Inn (DE)
Representative:	ZF TRW Patentabteilung TRW Automotive GmbH Industriestraße 20 73553 Alfdorf (DE)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted on 19 October 2015 concerning maintenance of the European Patent No. 1447641 in amended form.**

Composition of the Board:

Chairman	G. Ashley
Members:	V. Bouyssy
	G. Weiss

Summary of Facts and Submissions

I. European patent No 1 447 641 (in the following: "the patent") concerns an initiator assembly for a gas generator.

II. The patent as a whole was opposed on the grounds of lack of novelty and lack of inventive step (Article 100(a) EPC 1973).

III. The opposition division held that the ground for opposition of lack of novelty prejudiced the maintenance of the patent as granted, that the amendment of auxiliary request 1 before it did not comply with Article 123(3) EPC, but that the patent as amended on the basis of auxiliary request 1bis before it met the requirements of the EPC.

IV. This interlocutory decision was appealed by both the patent proprietor and the opponent.

V. As both parties are thus both appellant and respondent, for the sake of simplicity they are referred to as patent proprietor and opponent.

VI. In the communication pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA) of 25 April 2018, the Board indicated its preliminary opinion of the case.

VII. Oral proceedings before the Board were held on 13 December 2018.

VIII. Final requests

The patent proprietor requested that the appealed decision be set aside and the patent be maintained as granted (main request), alternatively as amended on the basis of one of auxiliary requests 1 to 5 filed with the statement setting out the grounds of appeal.

The opponent requested that the appealed decision be set aside and the patent be revoked.

IX. Claims of the patent proprietor's main request and auxiliary requests 1 and 2

(a) Main request

Independent apparatus claim 1 as granted reads as follows (the feature numbering is introduced by the Board for ease of reference; it differs from the feature numbering in the appealed decision):

(a) An initiator assembly constituted by integrating, with a resin (3), an electric type initiator (1) and a metallic collar (2)
(b) surrounding at least part of the electric type initiator (1),
(c) wherein at least either of an annular protrusion (9) and a cylindrical protrusion (10) which are surrounding the electric type initiator (1) is formed on the metallic collar (2), and the protrusion (9, 10) is covered with the resin (3),

characterised by

(d) a rotation-preventing means (11) is [sic] formed on the metallic collar at least in a contacting portion with the resin (3), and
(e) the rotation-preventing means (11) is [sic] engaged

with the resin (3), so as to prevent a rotation between the resin (3) and the metallic collar (2).

(b) Auxiliary request 1

Independent apparatus claim 1 as amended reads as follows (compared with claim 1 as granted, added passages are indicated in bold, deleted passages in strike-through):

(a) An initiator assembly constituted by integrating, with a resin (3), an electric type initiator (1) and a metallic collar (2)
(b) surrounding at least part of the electric type initiator (1),
(c) wherein ~~at least either of an annular protrusion (9) and~~ a cylindrical protrusion (10) which ~~are surrounding~~ **surrounds a periphery of** the electric type initiator (1) is formed on the metallic collar (2) **to extend in an axial direction of the initiator assembly,** and the protrusion (~~9,~~ 10) is covered with the resin (3),

characterised ~~by~~ **in that**

(d) a rotation-preventing means (11) is formed on the metallic collar at least in a contacting portion with the resin (3), and
(e) the rotation-preventing means (11) is engaged with the resin (3), so as to prevent a rotation between the resin (3) and the metallic collar (2).

(c) Auxiliary request 2

Independent apparatus claim 1 as amended reads as follows (compared with claim 1 as granted, added passages are indicated in bold, deleted passages in strike-through):

(a) An initiator assembly constituted by integrating, with a resin (3), an electric type initiator (1) and a metallic collar (2)
(b) surrounding at least part of the electric type initiator (1),
(c) wherein ~~at least either of an annular protrusion (9) and~~ a cylindrical protrusion (10) which ~~are surrounding~~ **surrounds a periphery of** the electric type initiator (1) is formed on the metallic collar (2) **to extend in an axial direction of the initiator assembly,** and the protrusion (~~9,~~ 10) is covered with the resin (3),

characterised ~~by~~ **in that**

(d) a rotation-preventing means (11) is formed on the metallic collar at least in a contacting portion with the resin (3), and
(e) the rotation-preventing means (11) **is formed on an inner peripheral surface of the cylindrical protrusion and** is engaged with the resin (3), so as to prevent a rotation between the resin (3) and the metallic collar (2).

Independent claim 7 is directed to a gas generator comprising an initiator assembly as defined in claim 1.

X. Cited evidence

(a) In the statements setting out the grounds of appeal, and in the replies to them, the parties referred among others to the following prior art documents, which were filed in the opposition proceedings and are cited in the decision under appeal:

D1: EP 1 286 125 A1;

D3: EP 0 943 503 A2;
D4: US 5,733,135;
D9: WO 01/23826 A1.

(b) In addition, given that D9 is in Japanese, the opponent has relied on its translation published pursuant to Article 153(4) EPC, filed with its grounds of appeal:

D9a: EP 1 217 325 A1.

XI. The arguments of the parties, insofar as relevant for the present decision, can be summarised as follows:

(a) Main request - Novelty

The patent proprietor submitted that the opposition division erred in deciding that the initiator assembly disclosed in figure 1 of D1 anticipated the subject-matter of claim 1. In fact, whilst D1 disclosed an assembly including an electric initiator, a metallic collar and a resin, it failed to disclose that the assembly was constituted by integrating the electric initiator and the collar by means of the resin only, as required by feature (a) of the claim.

The opponent argued that the assembly disclosed in figure 1 of D1 formed an initiator assembly as defined in claim 1, because it had been made by integrating the electric initiator, the metallic collar and the resin. The claim wording was not limited to a method for integrating the electric initiator and a metallic collar by injection-molding the resin. It did not exclude that a part of the electric initiator was welded to the metallic collar, as was the case in D1.

(b) Auxiliary request 1 - Novelty

The opponent argued that the subject-matter of claim 1 as amended still lacked novelty in light of D1. In particular, the flange-like portion 408 in figure 1 of D1 formed a cylindrical protrusion in the broad sense of feature (c).

The patent proprietor argued that, at variance with feature (c), the flange-like portion 408 was an inward annular protrusion formed on the collar and it was not entirely covered with resin.

The opponent submitted also that the assembly disclosed in figure 4 of D3 anticipated the subject-matter of claim 1. In particular, the collar formed by the sections 168 and 172 comprised a cylindrical protrusion 180 as well as a rotation-preventing means (central oval-shaped slot in figure 6).

The patent proprietor argued that D3 failed to disclose a cylindrical protrusion and a rotation-preventing means, as required by features (c), (d) and (e). In figure 4, the cylindrical portion 180 was a part of the collar 164 and it was not entirely covered with the resin 160, at variance with the claimed invention. Further, it could not be derived from D3 that the central oval-shaped slot shown in figure 6 was purposively designed to prevent a rotation between the resin and the collar.

(c) Auxiliary request 2 - Novelty

The opponent argued that the subject-matter of claim 1 as amended still lacked novelty in light of D3. In particular, the interior section 168 of the collar 164 shown in figure 4 formed a cylindrical protrusion in the broad sense of feature (c), and the central oval-shaped slot shown in figure 6 formed a rotation-preventing means as required by features (d) and (e).

The patent proprietor argued that the interior section 168 disclosed in D3 formed an inward annular protrusion of the collar, but not a cylindrical protrusion, and that D3 failed to disclose any rotation-preventing means.

(d) Auxiliary request 2 - Inventive step

The opponent argued that the subject-matter of claim 1 did not involve an inventive step when starting from D4 as closest prior art. The claimed subject-matter differed from D4 by features (d) and (e). The technical problem objectively solved by these features was how to prevent moisture ingress. The claimed solution to this problem was rendered obvious by the teaching of D3, in particular figure 6 of D3 which disclosed a central oval-shaped slot formed in the interior section 168 of the collar 164. In light of this teaching, the skilled person would form a rotation-preventing means on the inner peripheral surface of the inwardly radially extending protrusion of the interlock portion 162 of the collar 150 disclosed in figure 4 of D4 and thus arrive at the claimed solution. In fact, in figure 4 of D4, the inwardly radially radially extending protrusion of the interlock portion 162 formed a cylindrical protrusion in the broad sense of the claim.

The patent proprietor argued that the skilled person faced with the objective problem to be solved would not consider the teaching of D3 because this document did not address this problem. Even if the skilled person were to consider figure 6 of D3, it would at most motivate him to position a rotation-preventing means on the inner peripheral surface of the inward annular protrusion of the interlock portion 162 shown in figure 4 of D4, but not on that of the upward circular protrusion. Hence, the skilled person would not arrive at feature (e) of claim 1.

Reasons for the Decision

1. Applicable provisions of the EPC

1.1 The patent is based on an International application which was filed under the PCT on 15 November 2002 and was still pending at the time of entry into force of the EPC 2000 on 13 December 2007.

1.2 According to Articles 1(1) and 6, first sentence of the Decision of the Administrative Council of 28 June 2001 on the transitional provisions under Article 7 of the Act revising the EPC of 29 November 2000 (Special edition No. 4, OJ EPO 2007, 217), Articles 56, 84, 100 und 114 EPC 1973 as well as Articles 52, 54, 123 and 153 EPC (2000) apply. With respect to potentially colliding European applications pursuant to Article 54(3) EPC, however, the provisions of Article 54(4) EPC 1973 continue to apply. Since Rule 157(2) EPC is linked to Article 153 EPC, it is to be applied in the present case (by analogy with J 10/07, OJ EPO 2008, 567).

2. Consideration of D9 and D9a in the appeal proceedings

2.1 D9 was filed by the opponent during the oral proceedings before the opposition division. The patent proprietor requests the Board not to admit prior art document D9 into the appeal proceedings because it lacks relevance.

2.2 The Board notes that the opposition division already decided not to admit D9 into the proceedings, using its discretionary power under Article 114(2) EPC 1973.

2.3 The opposition division decided not to admit D9 because it was late-filed at a very late stage of the proceedings before it, i.e. during the oral proceedings, and its content was *prima facie* no more relevant than that of D4 with respect to the rotation-preventing means required in claim 1 (see appealed decision, point 2.2 of the reasons). Thus, it appears that the opposition division has correctly exercised its discretionary power under Article 114(2) EPC 1973, taking into account the right principles.

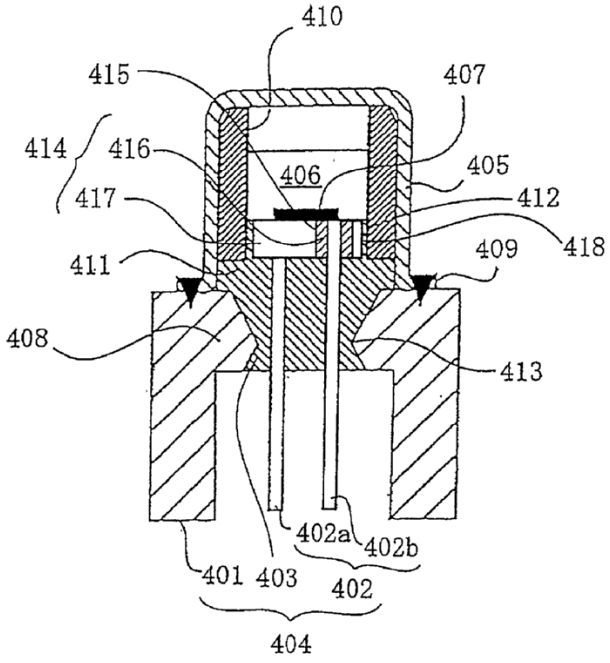
2.4 In addition, the content of D9 is indeed *prima facie* no more relevant than that of D4 with respect to the question of whether the provision of rotation-preventing means defined in features (d) and (e) would be an obvious measure for the skilled person to prevent moisture ingress. As submitted by the patent proprietor, the projections 42 disclosed in figure 2 of D9 are provided to prevent the initiator assembly as a whole from rotating within the cylinder 113 of a gas generator and to facilitate crimping of the cylinder (figure 6 of D9 and paragraph 33 in D9a).

2.5 For theses reasons, the Board concludes not to take D9, and its translation D9a, into further consideration (Article 114(2) EPC 1973 and Article 12(4) RPBA).

3. Main request - Novelty in light of D1

3.1 D1 constitutes prior art relevant for the common designated contracting states for which the designation fees have been validly paid, i.e. Germany and France (see Articles 153(2)(5) and 54(3) EPC and Article 54(4) EPC 1973, Rule 159(1) EPC).

3.2 D1 discloses in figure 1 (reproduced below) an initiator assembly comprising, in the terms of claim 1, a resin (molded member 403), an electric initiator (conductive pins 402, eyelet 414, charge holder 410, priming 406, cover member 405) and a metallic collar (metal collar 401) surrounding the pair of conductive pins of the initiator (feature (b) of claim 1).



D1 teaches that the collar is formed with an inward flange-like portion for holding the resin (paragraph 15). In the illustrated assembly, the flange-like portion 408 extends radially inwardly towards the center of the collar 401 to form a central opening through which the conductive pins and the resin extend. The portion 408 is partly covered with resin. The flange-like portion 408 thus forms an "annular protrusion" in the sense of feature (c) of claim 1.

The inner peripheral surface of the annular protrusion 408 is formed with a continuous projection 413 projecting radially inwardly with a tapered cross-section to prevent the eyelet 414, the pins 402 and the resin 403 from passing through the central opening (paragraphs 39 to 42 and 72 to 76). It is stated in paragraph 42 of D1 that this continuous projection can be replaced by discontinuous, i.e. discrete projections. Such discrete projections would inevitably engage with the resin to prevent a rotation between the resin and the collar. Thus, they form rotation-preventing means as required by features (d) and (e).

3.3 The parties dispute whether feature (a) of claim 1 can be derived from D1, namely that the initiator assembly is "constituted by integrating, with a resin, an electric type initiator and a metallic collar".

3.4 The Board shares the view of the opponent that this feature cannot distinguish the claimed initiator assembly from that disclosed in D1.

3.4.1 Feature (a) seeks to define a product feature by referring to its method of manufacture. On a normal reading, it simply means that the assembly has been made by putting or bringing together a resin, an

electric initiator and a metallic collar. The language of feature (f) is clear, albeit broad. For instance, claim 1 covers embodiments wherein the initiator and the collar are interconnected by means of a resin as well as a welded joint.

3.4.2 Since claim 1 itself imparts a clear and technically sound teaching to the skilled reader, there is no reason for consulting the description and the drawings of the patent to give the disputed feature a narrower meaning. The patent proprietor submits that it follows from figures 1 and 2 and the description of the patent, in particular the introductory part referring to D3 (paragraphs 1 and 2 of the patent specification) and the technical problem addressed in the patent, i.e. that of moisture ingress (paragraph 8), that the assembly according to the invention is manufactured by integrating two complete components, namely the electric initiator and the metallic collar, only by means of the resin, in particular by injection-molding the resin between these two components. However, this teaching of the patent cannot be relied on to read into the claim an implicit restrictive feature not suggested by the explicit wording of the claim.

3.4.3 Based on the above interpretation of feature (a), the assembly disclosed in figure 1 of D1 forms an assembly as defined in claim 1. Indeed, it has been formed by putting together the resin, the initiator and the collar (figures 5a to 5f of D1). In contrast to the assembly shown in figure 1 of the patent, in the assembly of D1 the initiator and the collar are joined by injection-molding the resin (figure 5a) as well as by welding the cover member 405 to the collar 401 (figure 5f and paragraph 79). However, this is not excluded by the claim wording.

3.5 Thus, the Board agrees with the opposition division that the subject-matter of claim 1 as granted lacks novelty in light of D1, and this applies to the contracting states Germany and France (Articles 52(1) and 54(3) EPC and Article 54(4) EPC 1973).

4. Auxiliary request 1 - Amendments

4.1 Auxiliary request 1 corresponds to auxiliary request 1bis found allowable by the opposition division.

4.2 Claim 1 as amended differs from claim 1 as granted in that, in feature (c), the wording "at least either of an annular protrusion and" has been deleted and the limitation has been added that the cylindrical protrusion "surrounds a periphery of" the electric initiator "to extend in an axial direction of the initiator assembly". Thus, claim 1 has been limited to the preferred embodiment of the initiator assembly as defined in dependent claim 2 as granted. Accordingly, dependent claim 2 has been deleted from the amended set of claims and the dependencies on the remainder of the dependent claims has been amended accordingly. Claim 3 as granted - now claim 2 - has been amended so as to reflect the deletion of the annular protrusion from claim 1 as amended, while claim 5 as granted - now claim 4 - has been amended so as to reflect the specification of the cylindrical protrusion in claim 1 as amended.

4.3 These amendments are supported by the information in the application documents as originally filed (see published translation EP 1 447 641 A1). In particular, claim 1 differs from claim 1 as originally filed in that feature (c) has been amended and in that features

(d) and (e) have been incorporated in it. Support for amended feature (c) can be found in claim 2 as originally filed, while support for added features (d) and (e) can be found in paragraphs 22 and 23 and paragraph 47 of the original application.

4.4 In conclusion, the amendments to independent claim 1 meet the requirements of Article 123(2) and (3) EPC.

5. Auxiliary request 1 - Novelty

5.1 The subject-matter of claim 1 is novel in light of D1 (Articles 52(1) and 54(3) EPC and Article 54(4) EPC 1973), but it lacks novelty in light of D3 (Articles 52(1) and 54(2) EPC) for the following reasons:

5.2 Novelty in light of D1

5.2.1 It is in dispute among the parties whether or not the flange-like portion 408 shown in figure 1 of D1 constitutes an upward cylindrical protrusion anticipating feature (c) as amended.

5.2.2 As a matter of ordinary language, the term "protrusion" refers to a part that protrudes or juts out from a surrounding surface. Hence, feature (c) must be construed as defining a part with a cylindrical shape which protrudes from a surface of the collar in the axial direction of the assembly. This reading is technically sound in the context of claim 1. In addition, it is in conformity with the teaching of the patent: in figures 1 and 2, the cylindrical protrusion 10 juts out from the upper surface of the collar 2.

5.2.3 Based on this interpretation of feature (c), it is immediately apparent that the portion 408 disclosed in

D1 does not constitute a cylindrical protrusion in the sense of the claim, but rather an annular protrusion extending radially inwardly from the inner peripheral surface of the collar, in a similar manner as the inward annular protrusion 9 shown in figures 1 and 2 of the patent.

5.2.4 Hence, the Board shares the patent proprietor's opinion that feature (c) as amended cannot be derived from D1.

5.3 Novelty in light of D3

5.3.1 D3 discloses in figure 4 (reproduced below) an initiator assembly 100 constituted by integrating, with a resin 160, an electric initiator 120 and a metallic collar 164, whereby the resin is injection-molded between the initiator and the collar. As shown in figure 6, the collar 164 is an integral one-piece unit comprising three sections: a dome-shaped interior section 168 with a central opening receiving the resin and the conductive pins; an intermediate section 172 in the form of an annular bead or bulge; and an exterior section 180 in the form of a cylinder which extends substantially parallel to the conductive pins 136 and 150 towards and beyond their tips.

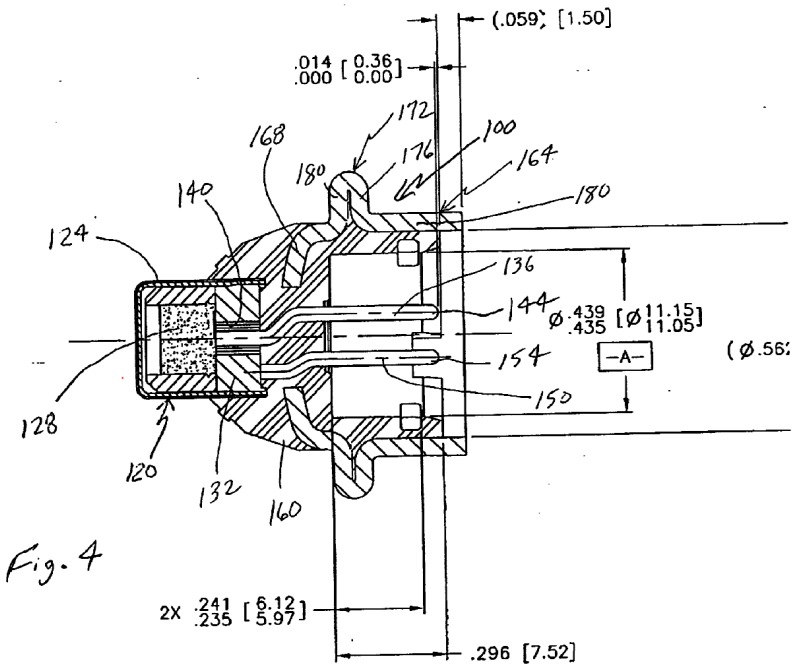


Fig. 4

5.3.2 The parties dispute whether or not D3 discloses a "cylindrical protrusion" in the sense of feature (c) as well as a "rotation-preventing means" in the sense of features (d) and (e).

5.3.3 The Board shares the view of the opponent that the cylindrical section 180 forms a cylindrical protrusion as required in feature (c). Firstly, it can be seen as a cylindrical part protruding from the collar formed by portions 168 and 172. This understanding is supported by the fact that the collar shown in figures 1 to 3 of D3 does not have such a cylindrical protrusion, this being shown only in the alternative embodiment of the collar shown in figure 4 and 6. Secondly, it is apparent from figure 3 of D3 that the inner surface of the cylindrical section 180 is partly covered with resin 160. In this respect, even though it follows from figures 1 and 2 and paragraphs 42 and 43 of the patent specification that the cylindrical protrusion is entirely covered with resin, there is no reason to read

this limitation into feature (c) of the claim, since it alone imparts a clear and technically sound teaching.

5.3.4 As shown in figures 4 and 6 of D3, the central opening of the collar 164 is a substantially oval-shaped slot (claim 18 of D3). This is in contrast to the central circular opening of the collar 40 shown in figures 1 to 3 and it is clear that this oval-shaped slot engages with the injection-molded resin and would inevitably prevent a rotation between the resin and the collar, even though this is not expressly mentioned in D3. Hence, the collar shown in figures 4 and 6 of D3 comprises a rotation-preventing means as required by features (d) and (e).

6. Auxiliary request 2 - Amendments

6.1 Claim 1 as amended differs from claim 1 of auxiliary request 1 by the added limitation that the rotation-preventing means "is formed on an inner peripheral surface of the cylindrical protrusion" (feature (e)). Thus, claim 1 has been further limited to the preferred embodiment of the initiator assembly as defined in granted claim 5. Accordingly, dependent claim 5 has been deleted from the amended set of claims and the dependencies on the remainder of the dependent claims has been amended accordingly.

6.2 These amendments are supported by the information in the application documents as originally filed. Support for the added limitation can be found in figure 2, claim 6 and paragraph 23 of the original application as published.

6.3 In conclusion, the amendments to independent claim 1 meet the requirements of Article 123(2) and (3) EPC.

7. Auxiliary request 2 - Novelty

7.1 The Board is not persuaded by the opponent's arguments that the interior section 168 of the collar 164 shown in figures 3 and 6 of D3 can be seen as a cylindrical protrusion in the sense of claim 1.

7.2 In fact, at variance with feature (c), the interior section 168 extends radially inwardly towards the center of the collar. Thus, it does not form a cylindrical protrusion formed on the collar, but rather an inward annular protrusion.

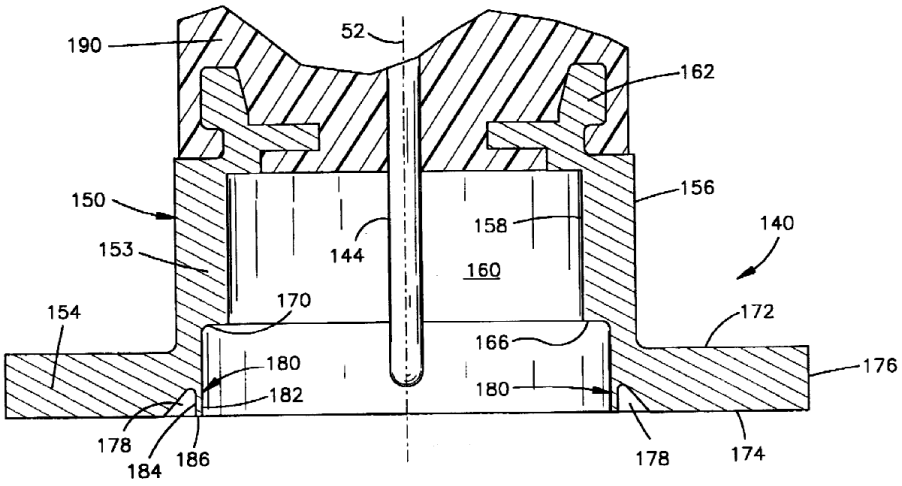
7.3 Hence, the Board agrees with the patent proprietor that the subject-matter of claim 1 as amended is novel in light of D3.

8. Auxiliary request 2 - Inventive step

8.1 The parties agree that the initiator assembly disclosed in D4 forms a realistic starting point for the assessment of inventive step. The Board shares this view.

8.2 D4 discloses in figure 4 (partly reproduced below) an initiator assembly 140 constituted by integrating, with a resin (plastic material 190), an electric initiator (see igniter 142 shown in figure 2) and a metallic collar (retainer 150) surrounding the conductive pins (144) of the initiator, whereby the resin is injection-molded between the initiator and the collar. The collar 150 is formed with an interlock portion 162 which extends axially upward from the collar and is fully embedded within the resin 190. In figure 4, the interlock portion 162 includes an annular part

extending radially inwardly towards the center of the collar, as well as a cylindrical part extending upwardly along the axial direction of the collar. Based on the above interpretation of feature (c) (see point 5.2.2), this upward cylindrical part forms a cylindrical protrusion in the sense of the claim.



8.3 It is agreed that the subject-matter of claim 1 differs from this initiator assembly disclosed in D4 in that

(d) a rotation-preventing means is formed on the metallic collar at least in a contacting portion with the resin, and

(e) the rotation-preventing means is formed on an inner peripheral surface of the cylindrical protrusion and is engaged with the resin, so as to prevent a rotation between the resin and the metallic collar.

8.4 These distinguishing features have the effect of more securely joining the resin to the metallic collar and thus of preventing the development of a potential path of moisture ingress between these two parts. Hence, starting from D4, the problem objectively solved by the distinguishing features is that of preventing moisture ingress (see paragraph 8 of the patent specification).

8.5 The Board is not persuaded by the opponent's contention that the skilled person, in the expectation of solving the objective problem, could and indeed would modify the initiator assembly of D4 in view of the teaching of D3 so as to arrive at the claimed invention.

8.5.1 Even though D3 is also concerned with an initiator assembly with an injection-molded resin surrounding a part of an electric initiator, it does not address the problem of moisture ingress and thus there is no reason why the skilled person would consider the teaching of this document.

8.5.2 Even if the skilled person were to consider the teaching of D3, he would not get any motivation to form a rotation-preventing means on an inner peripheral surface of the cylindrical protrusion shown in figure 4 of D4 (i.e. the upward cylindrical part of the interlock portion 162), as required by feature (e). Instead, figure 6 of D3 would at most suggest to provide a rotation-preventing means on the inner peripheral surface of the annular protrusion shown in figure 4 of D4 (i.e. the inward annular part of the interlock portion 162) and thus would teach away from feature (e).

8.6 In conclusion, the Board is not convinced that the subject-matter of claim 1 lacks an inventive step when starting from D4 (Article 52(1) EPC and Article 56 EPC 1973).

9. For the reasons set out above, the grounds for opposition raised by the opponent prejudice the maintenance of the patent as granted and as amended according to auxiliary request 1, but they do not

prejudice the maintenance of the patent as amended according to auxiliary request 2.

10. In light of this conclusion there is no need to consider auxiliary requests 3 to 5 of the patent proprietor.

11. The description is in conformity with the amended claims (see amendments to paragraphs 9, 10, 12, 19, 24, 44 and 47 of the patent specification). This was not disputed by the opponent.

Order

For these reasons it is decided that:

1. The appeal of the opponent is dismissed.

2. The decision under appeal is set aside.

3. The case is remitted to the opposition division with the order to maintain the patent as amended in the following version:
   - claims 1 to 7 filed as auxiliary request 2 with letter dated 29 February 2016;
   - description, pages 2 to 5 filed during the oral proceedings before the Board, and pages 6 and 7 of the patent specification;
   - figures 1 to 4 of the patent specification.

The Registrar: The Chairman:

C. Spira G. Ashley

Decision electronically authenticated