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**Datasheet for the decision
of 12 February 2021**

Case Number: T 0565/16 - 3.2.02

Application Number: 07842194.8

Publication Number: 2061534

IPC: A61M1/28, A61M1/34, A61M1/16

Language of the proceedings: EN

Title of invention:
MEDICAL FLUID SYSTEM WITH FLEXIBLE SHEETING DISPOSABLE UNIT

Patent Proprietor:
Baxter International Inc.
Baxter Healthcare S.A.

Opponent:
Fresenius Medical Care Deutschland GmbH

Headword:

Relevant legal provisions:
EPC Art. 54, 56, 123(2)
RPBA 2020 Art. 13(1), 13(2), 12(3)

Keyword:

Novelty - (yes)

Inventive step - (yes)

Amendments - added subject-matter (no)

Late-filed request - admitted (yes) - justification for late filing (yes)

Decisions cited:

Catchword:



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Case Number: T 0565/16 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 12 February 2021

Appellant: Fresenius Medical Care Deutschland GmbH
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
7 January 2016 concerning maintenance of the
European Patent No. 2061534 in amended form.**

Composition of the Board:

Chairman M. Alvazzi Delfrate
Members: S. Böttcher
 Y. Podbielski

Summary of Facts and Submissions

I. The opponent lodged an appeal against the interlocutory decision of the Opposition Division, dispatched on 7 January 2016, that, account being taken of the amendments according to the main request valid at that time, European patent No. EP 2 061 534 and the invention to which it related met the requirements of the EPC.

II. Oral proceedings took place on 12 February 2021.

The appellant (opponent) requested that the decision under appeal be set aside and that the patent be revoked. They also requested that neither the main request nor auxiliary requests 1 and 2 be admitted into the proceedings.

The respondent (patent proprietor) requested that the the patent be maintained on the basis of the main request filed on 10 February 2021 or, as an auxiliary measure, that the patent be maintained on the basis of auxiliary requests 1 or 2, filed with letter dated 19 November 2020, or one of auxiliary requests 3 to 9 filed as auxiliary requests 1 to 7 with the reply dated 23 August 2016.

III. The following documents are referred to by the parties:

D1: DE 195 46 028
D2: DE 41 16 178
D3: US 3 709 222
D7: US 2006/0195064
D8: EP 1 258 260

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

"A kidney failure therapy system (100) comprising:
a dialysate supply line (18);
at least one valve actuator (106);
at least one pump actuator (90);
a disposable unit (10);
a housing for the at least one valve actuator (106) and
the at least one pump actuator (90),
the housing including a stationary member (102)
configured to receive the disposable unit (10);
characterised in that the disposable unit (10) includes
first and second flexible sheets (74a, 74c) sealed to
each other to form: (i) at least one flow path (26)
configured to be placed in fluid communication with the
dialysate supply line (18) and to operate with the at
least one valve actuator (106); and (ii) at least one
membrane pumping portion (30, 70) configured to operate
with the at least one pump actuator (90); wherein the
at least one valve actuator (106) and the at least one
pump actuator (90) are configured to contact the
disposable unit (10) to effect valving and pumping;
(iii) a pathway (56) from the membrane pumping portion
(30, 70) to at least one balance chamber (50); and (iv)
at least one patient pathway (60) in fluid
communication with the at least one balance chamber
(50)."

V. The arguments of the appellant, as far as relevant for
the decision, can be summarised as follows:

Admittance of the objections under Article 123(2) EPC

Objections raised in the statement of grounds of appeal

In the statement of grounds of appeal the same

objections were raised as in the opposition procedure. It was argued in detail why the claims of the patent as granted did not meet the requirements of Article 123(2) EPC, contrary to the opposition division's view. No new issues had been added.

Objection raised in the submission dated
20 January 2021

In paragraphs [0154] and [0233] only a flexible sheeting cassette was mentioned and not a disposable unit. This objection emerged only after claim 10 had been deleted in auxiliary requests 1 and 2, since it became apparent that the embodiment of claim 10 was still encompassed by claim 1.

The objections under Article 123(2) EPC should therefore be admitted.

Admittance of documents D7 and D8

D7 and D8 disclosed a disposable unit having supply lines that could be clamped by valve actuators (D7: page 4, right hand column, lines 4-9; D8: Figures 1, 2 and 3). Furthermore, the disposables of D7 and D8 comprised pumping portions (Figure 4 of D7, Figure 4 of D8). Thus, the teaching of D7 and D8 would motivate the person skilled in the art to provide the disposable unit of D1 with clamping spots in the area of the fluid supply lines 21 and 22 and with pumping portions. Therefore, these documents were highly relevant for the issue of inventive step.

D7 and D8 were submitted in direct response to the decision of the opposition division at the earliest point of time in the appeal proceedings. They should

therefore be admitted.

Admittance of the main request

There were no exceptional circumstances justifying the filing of the new main request only two days before the oral proceedings, in particular since the proprietor had received the Board's preliminary opinion already in September 2020, and had already reacted by filing new auxiliary requests on 19 November 2020.

The deletion of claim 10 did not overcome the objection under Article 123(2) EPC, since the embodiment defined in this claim, i.e. the disposable unit being a blood cassette, was still encompassed by claim 1.

The main request filed on 10 February 2021 should therefore not be admitted into the proceedings.

Main request - added subject-matter

Claim 1 contravened the requirements of Article 123(2) EPC since it could not be derived from the application as originally filed that the stationary member alone, i.e. without the second member, was configured to accept the disposable unit.

Paragraphs [0154] and [0233] disclosed that the dialysis machine included two elements 102a and 102b. It was clear that these two elements together were formed to receive the disposable unit.

The omission of the feature that the second member was part of a door also contravened Article 123(2) EPC. The door was essential to encase the disposable unit on all six sides to ensure the proper functioning of the

device. If one of the members was stationary, the other had to be moveable like a door to enclose the cassette.

It was clear from paragraphs [0154] and [0155] of the application that both members were necessary to ensure the functioning of the balance chamber and the valve actuator. In particular, the second member had to form an abutment for the plunger of the valve actuator.

Although dependent claim 10 had been deleted, claim 1 still encompassed the embodiment of this claim. Since it could not be derived from the application as originally filed that the disposable unit was a blood cassette, claim 1 did not meet the requirements of Article 123(2) EPC.

Main request - novelty in view of D1

D1 disclosed a kidney failure therapy system comprising a dialysate supply line (first supply line 21 or second supply line 22), a valve actuator 34, and a disposable unit including first and second flexible sheets 1, 2 sealed to each other. The system further comprised a housing for the valve actuator including a stationary member configured to receive the disposable unit (column 6, lines 42 to 45, Figure 5).

The pressure plates 39 and 40 (Figure 5) could be regarded as pump actuators (column 6, line 68, to column 7, line 8). Contrary to the opposition division's view, the plates 39 and 40 in fact acted as pump actuators since they exerted a pressure on the equalization chambers 5 and 6 of the disposable unit to empty them (column 7, lines 2 to 13). This was also described in D2, in which the functioning of the pressure plates of D1 was explained (column 6, lines 8

to 11).

Hence, the equalization chambers 5 and 6, which were formed by the flexible sheets, could be regarded as membrane pumping portions (feature (ii)) which operated with the pump actuators (pressure plates).

The flexible sheets of the disposable unit of D1 also formed the flow paths mentioned in claim 1, irrespective of the additional flexible hoses inserted between the sheets.

The valve actuator and the pump actuator were configured to contact the disposable unit to effect valving and pumping (column 6, line 42, to column 7, line 13).

Hence, the subject-matter of claim 1 lacked novelty over D1.

Main request - novelty in view of D2

It was disclosed in D2 that the disposable unit comprised a flexible bag (column 2, line 65, and column 4, lines 7 to 10). This implied that the bag was formed by flexible sheets which were sealed to each other.

D2 disclosed that the chambers 32 and 60 could be emptied by the pressure plates 74 and 76. Thus, fluid was pumped out of the chambers 32 and 60.

Therefore, D2 anticipated all the features of claim 1.

Main request - novelty in view of D3

The subject-matter of claim 1 lacked novelty in view of

D3 for the reasons given in the notice of opposition.

Main request - inventive step starting from D1

D1 disclosed that the disposable unit was a one-piece unit (column 2, lines 51 to 55). This implied that an embodiment was envisaged in which the flow channels were not formed by flexible hoses inserted between the sheets, but rather by the flexible sheets themselves.

The distinguishing feature of a membrane pumping portion was known from D3, since the pump tubes 209a and 242a, which were configured to operate with pumps 90 and 92 (Figure 5), could be regarded as membrane pumping portions.

The provision of such a membrane pumping portion in the disposable of D1 and the configuration of the pressure plates of D1 as pump actuators, in order to solve the problem of simplifying the cassette and the pumping means, was therefore obvious for the person skilled in the art.

Hence, the subject-matter of claim 1 lacked an inventive step over D1 in view of D3.

Main request - inventive step starting from D3

The subject-matter of claim 1 differed from the system of D3 in that the flexible sheets were sealed to form the flow paths according to features (i), (iii) and (iv) and the membrane pumping portion according to feature (ii).

The problem to be solved was to provide a disposable unit for a dialysis system that could be produced

easily and cost-efficiently.

This problem was also mentioned in D1 (column 1, lines 61 to 65), and it was solved in D1 by the provision of two flexible sheets that were sealed to each other to form the disposable.

Hence, the subject-matter of claim 1 also lacked an inventive step in view of a combination of D3 with D1.

VI. The arguments of the respondent, as far as relevant for the decision, can be summarised as follows:

Admittance of the objections under Article 123(2) EPC

Objections raised in the statement of grounds of appeal

The arguments of the appellant in their statement of grounds of appeal were based on those raised in the notice of opposition. The appellant did not refer to the opposition division's reasoning in the decision under appeal that claim 1 satisfies the requirements of Article 123(2) EPC. Thus, the appellant had not set out clearly why the decision under appeal should be reversed in respect of claim 1 and Article 123(2) EPC.

Objection raised in the submission dated
20 January 2021

The objection as to the feature "flexible sheeting cassette" was not linked to the deletion of claim 10 in auxiliary requests 1 and 2.

These objections should therefore not be admitted into the proceedings.

Admittance of documents D7 and D8

The late-filed submission of D7 and D8 was not occasioned by an argument or point raised by another party.

D7 and D8 were not prima facie relevant to patentability of the opposed patent. They were no more relevant than D3 or D4 in respect of the subject matter that they were purported to disclose.

The appellant did not give any reason whatsoever as to why D7 and D8 were not submitted with their grounds of opposition.

The Board should exercise its discretion not to admit D7 and D8 into the proceedings.

Admittance of the main request

The claims set of the main request filed on 10 February 2021 differed from the claims set of the former main request (claims as granted) in that dependent claims 10 and 15 had been deleted.

This deletion had been made in direct response to the Board's preliminary opinion that claims 10 and 15 did not satisfy the requirements of Article 123(2) EPC. The Board's reasoning was different and more detailed from the arguments provided by the appellant in their statement of grounds of appeal. The deletion did not give rise to new objections or broaden the scope of discussion and clearly addressed the Board's objections to these claims.

Main request - added subject-matter

Paragraph [0154] and Figure 7 of the application as filed could be regarded as basis for the housing including a stationary member (102) configured to receive a disposable unit (10). Paragraph [0154] specified that "one of the members of 102a or 102b is stationary and configured to accept flexible sheeting cassette 10".

Furthermore, a housing configured to receive a disposable unit was disclosed at paragraph [0118] and Figures 7, 9, 21, 22, 24 and 26.

The person skilled in the art would not consider that the housing including a stationary member configured to receive a disposable unit was inextricably linked to a second member being part of a door. A second member was not required in order for the housing to receive the disposable unit and for the device to operate. The housing could form a chamber or slot that received the disposable unit. In this case the stationary member could be configured to perform the function of forming an abutment for the plunger. A second separately specified member would not be required. It was rather disclosed as a preferred feature.

The deletion of claim 10 meant that the objection under Article 123(2) EPC with regard to the disposable unit (1) of claim 1 being a blood cassette was overcome.

Consequently, claim 1 fulfilled the requirements of Article 123(2) EPC.

Main request - novelty in view of D1

The pressure plates 39, 40 in D1 could not be considered as pump actuators since they were not able

to pull fluid from a source and push it under pressure to a destination. By reference to D2, it was clear that the filtrate pump 30 and the substitute pump 54 represented the pump actuators that pull and push the fluid in D1.

Accordingly, the equalization chambers in D1 could not be considered to be membrane pumping portions.

The flow paths and pathways as defined in claim 1 had to be formed at least in part by the flexible membrane sheets. Hence, the inlet channels 15, 17 and the outlet lines 23, 24 in D1 were not a disclosure of the claimed flow path of feature (i) and the pathway of feature (iv). In D1, the inlet and outlet channels were formed solely by flexible plastic hoses, which were inserted between the upper and lower sheets (column 5, lines 4 to 7; Figure 1).

As there was no pumping portion in D1, the inlet channels 15, 17 in D1' could not be a pathway from the pumping portions to a balance chamber.

The supply lines 21, 22 did not equate to the flow path of feature (i) since they did not contain clamping spots enabling them to be operated with a valve actuator.

In summary, the subject-matter of claim 1 was novel over D1.

Main request - novelty in view of D2

The subject-matter of claim 1 did not lack novelty in view of D2 for the reasons given in the response to the notice of opposition.

Main request - inventive step starting from D1

D1 did not disclose first and second flexible sheets forming the flow paths of features (i), (iii) and (iv) and the membrane pumping portion of feature (ii). Furthermore, there was no disclosure of a pump actuator configured to contact the disposable unit to effect pumping.

The objective technical problem was the provision of a simpler, and thus more economical and readily producible kidney failure therapy system.

There was no motivation for the person skilled in the art to modify the pressure plates of the device of D1 to provide a pump actuator configured to contact the disposable to effect pumping. The disposable in D1 was specifically designed to be used with the peristaltic pumps 30, 54 in D2.

The person skilled in the art would not turn to D3 to solve the problem posed since this document did not teach flow paths and a pumping portion that were formed by sealing two flexible sheets to each other.

A complete re-design of the device described in D1 would have been required to arrive at the subject-matter of claim 1.

The subject-matter of claim 1 was therefore inventive over D1 in combination with D3.

Main request - inventive step starting from D3

D1 did not disclose any of pathways (i), (iii) and (iv)

and the pumping portion (ii) formed at least in part by two flexible sheets sealed to each other. Thus, by combining the teaching of D3 with that of D1, the person skilled in the art could not arrive at the subject-matter of claim 1.

The subject-matter of claim 1 was therefore inventive over D3 in view of D1.

Reasons for the Decision

1. Subject of the invention

The invention relates to a dialysis system. The system comprises a disposable pumping cassette (10) that can be loaded into a machine (Figures 24A and 24B). The cassette includes two flexible sheets sealed to each other to form various flow paths (26a, 56a, 60a), a balance chamber (50) and a membrane pumping portion (30) (Figure 15). The housing of the machine comprises at least one valve actuator (106) (Figure 7), at least one pump actuator (90) (Figure 5), and a stationary member (102a) (Figure 7) that receives the pumping cassette. When the cassette is loaded into the housing, the pump actuator and the valve actuator contact the cassette to effect valving (paragraphs [0156] and [0157]) and pumping (paragraphs [0146] to [0148]).

2. Admittance of the objections under Article 123(2) EPC

2.1 Objections raised in the statement of grounds of appeal

The Board acknowledges that in point II of the statement of grounds of appeal (relating to the objections under Article 123(2) EPC) the appellant did

not explicitly refer to the decision of the opposition division. However, the appellant referred to the passages of the description cited by the respondent during the opposition procedure and mentioned in the decision. Hence, the board considers that the appellant explained why, in their view, the appealed decision had to be set aside in this respect.

Hence, there was no reason for the Board to exercise its discretion under Article 12(4) RPBA 2007 not to admit the objections into the proceedings.

2.2 Objection raised in the submission dated 20 January 2021

In the submission dated 20 January 2021, which was filed after notification of the summons to oral proceedings, the appellant raised the new objection that there was no disclosure of the general term "disposable unit" used in claim 1 since in paragraphs [0154] and [0233] only a flexible sheeting cassette was mentioned. Although this objection was presented as being aimed at auxiliary requests 1 and 2 filed on 19 November 2020, it is undisputed that it also applies to the request filed on 5 November 2015 which was the subject of the impugned decision.

Contrary to the appellant, the Board does not see how the new objection under Article 123(2) EPC could have been occasioned by the deletion of claim 10 in the auxiliary requests. Hence, there are no exceptional circumstances justifying the late filing of this objection. It is, therefore, not taken into account (Article 13(2) RPBA 2020).

3. Admittance of documents D7 and D8

D7 and D8 were filed by the appellant with the statement of grounds of appeal.

The Board agrees with the respondent that D7 and D8 are not more relevant than D3 or D4. In particular, neither of these documents discloses first and second flexible sheets sealed to each other to form the fluid paths and the pumping portion as defined in claim 1.

Since these documents could have been presented in the first instance proceedings, the Board decided not to admit them into the appeal proceedings.

4. Admittance of the main request

The claims set of the main request filed on 10 February 2021 differs from the claims set of the former main request (claims as allowed by the opposition division) in that dependent claims 10 and 15 have been deleted.

According to the respondent, this deletion had been made in direct response to the Board's preliminary opinion that claims 10 and 15 did not satisfy the requirements of Article 123(2) EPC. The Board agrees with the respondent that its reasoning in points 2.1.3 and 2.1.4 of the preliminary opinion was different from the arguments provided by the appellant in their statement of grounds of appeal. Hence, there were exceptional circumstances which had been justified with cogent reasons.

In the Board's view, the deletion of the objected claims, even at this late stage, is an appropriate

reaction to overcome, prima facie, the issues raised. Moreover, although it has been done at a very late stage of the proceedings, it does not raise any additional issue.

Furthermore, the Board considers that the deletion of dependent claims does not constitute an amendment to a party's appeal case in the sense of Article 13(1) EPC. Hence, the requirements of Article 13(2) EPC do not apply.

The main request filed on 10 February 2021 is therefore admitted into the proceedings.

5. Main request - added subject-matter

The introduction of the feature "the housing including a stationary member (102) configured to receive the disposable unit" does not contravene Article 123(2) EPC.

Both paragraphs [0154] and [0233] of the application as originally filed, referred to by the parties, relate to the operation of the balance chamber of the cassette with a portion of the dialysis machine including first and second chamber forming members (102a and 102b), which, in use, enclose the upper and lower balance chamber compartments (54a and 54b) (Figures 7 and 26A). It is mentioned in both paragraphs that one of the chamber forming members is stationary and configured to accept the flexible sheeting cassette.

Hence, contrary to the appellant's view, it is solely the stationary member that has the function of receiving the disposable unit. The second member, which is said to be part of a door, is not required in order

for the housing to encase the cassette. The cassette could, for instance, be received in a channel or slot of the housing and encased by the walls of the channel.

Furthermore, the first, stationary member 102a is not inextricably linked to the second member 102b which is part of a door. It can be derived from paragraphs [0154] and [0155] and Figure 7 that the second member forms an abutment for the plunger 108 when compressing the valve seat 281 against the second sheet 74b. However, this function could also be performed by another part of the housing or the stationary member. Hence, the door is not essential to ensure the proper functioning of the disposable unit.

It is true that the scope of claim 1 encompasses also an embodiment where the disposable unit is a blood cassette and that such an embodiment was not originally disclosed. However, this is irrelevant for Article 123(2) EPC, which does not require that all the possibly conceivable embodiments encompassed by a claim are originally disclosed. Article 123(2) EPC rather requires that the application is not amended in such a way that it contains subject-matter which extends beyond the content of the application as filed. The amendment made by introducing dependent claim 10 appears to have contravened that. However, by deleting claim 10, this amendment was undone.

6. Main request - novelty in view of D1

6.1 D1 relates to a dialysis system comprising a disposable unit that is formed by two flexible sheets which are sealed to each other and which form a balance chamber 4, two equalization chambers 5, 6 and a buffer chamber 7. The disposable unit comprises flow channels 15 to 18

connecting the balance chamber to the other chambers or to conduit 24 (Figure 1).

- 6.2 In the appellant's view, the equalization chambers 5 and 6 can be regarded as membrane pumping portions which operate with the pressure plates 39 and 40 (Figure 5) that can be regarded as pump actuators (column 6, line 68, to column 7, line 8).

The Board does not agree with this position. As the opposition division correctly states, the spring biased pressure plates themselves (the functioning of which is explained in D2, column 5, line 66, to column 6, line 66, see D1, column 7, lines 5 to 8) are not capable to effect pumping since they cannot actively push and pull fluid through the cassette. In fact, after the respective equalization chamber is emptied into the balancing chamber by means of the respective pressure plate, the equalization chamber cannot be filled again unless a pump pushes fluid into it against the spring bias of the pressure plate (D2, column 6, lines 61 to 63).

Hence, D1 does not disclose a pump actuator which is configured to contact a membrane pumping portion on the disposable unit to effect pumping.

- 6.3 Furthermore, D1 discloses that the inlet and outlet channels 15 to 18 (which can be engaged by the valve actuators 34; column 6, lines 61 to 63, Figure 5) are formed by flexible hoses 19 which are inserted between upper and lower sheets 1,2 (column 4, lines 64 to 68). Hence, D1 does not disclose the feature that the flow paths defined in claim 1 are formed by the first and second flexible sheets sealed to each other as required

by claim 1.

6.4 It follows that D1 does not anticipate the subject-matter of claim 1.

7. Novelty in view of D2

7.1 D2 discloses a plasma filtration device comprising a disposable unit 200 (Figure 2). The disposable unit has two equalization chambers 32, 60 which can be emptied by pressure plates 74, 76. As mentioned above with regard to D1, these pressure plates cannot be regarded as pump actuators. Consequently, D2 does not disclose a pump actuator which is configured to contact a membrane pumping portion on the disposable unit to effect pumping.

7.2 Furthermore, as can be derived from Figure 2, the flow paths of the disposable unit are not formed by flexible sheets sealed to each other.

7.3 Hence, the subject-matter of claim 1 is novel over D2.

8. Novelty in view of D3

In respect of D3 the appellant merely referred to the submissions in opposition proceedings without explaining why, in their view, the decision of the opposition division was not correct. There is thus no substantiation of this objection in the appeal proceedings as required by Article 12(3) RPBA 2020.

9. Inventive step

9.1 D1 in combination with D3

D1 can be considered to represent the closest prior art.

The subject-matter of claim 1 differs from the device of D1 in that the flow paths of features (i), (iii) and (iv) are formed by two flexible sheets sealed to each other, and in that the pump actuator is configured to contact the disposable unit to effect pumping.

The objective technical problem is the provision of a simpler, and thus more economical and readily producible kidney failure therapy system.

The disposable unit of D1 is specifically designed to be used with external pumps, e.g. the peristaltic pumps 30, 54 in D2. Hence, the person skilled in the art would not be motivated to modify the pressure plates in D1 to provide a pump actuator configured to contact the disposable unit to effect pumping.

It is true that, as pointed out by the appellant, the disposable unit is described in D1 as a one-piece disposable unit. However, this does not mean that the disposable unit does not have flexible hoses inserted between the sheets. Indeed, D1 discloses that it is advantageous to insert flexible plastic hoses between the sheets to form the fluid channels. The plastic hoses prevent the channels from collapsing and create clamping spots (column 5, lines 8 to 12). Hence, D1 teaches away from forming the flow paths of the disposable unit by the sheets.

Document D3 does not disclose or suggest the distinguishing features. In particular, the tube portions 209a and 242a of the disposable unit of D3 (Figure 5) cannot be regarded as membrane pumping

portions that are formed from two flexible sheets sealed to each other. D3 also does not disclose flow paths of a disposable unit that are formed in this way.

The subject-matter of claim 1 therefore involves an inventive step over D1 in combination with D3.

9.2 D3 in combination with D1

Starting from D3, the appellant identifies as distinguishing feature that the disposable unit includes first and second flexible sheets which form the flow paths and the membrane pumping portion as defined in claim 1. To solve the problem of providing a disposable unit that can be manufactured simply and cheaply, the person skilled in the art would turn to D1 which disclosed the missing features. The subject-matter of claim 1 would therefore not be inventive.

The Board does not concur with this view. As mentioned before, D1 neither discloses a membrane pumping portion nor flow paths that are formed by two flexible sheets sealed to each other. Hence, the person skilled in the art would not have arrived at the subject-matter of claim 1 by combining D3 and D1.

Consequently, the subject-matter of claim 1 is also inventive over D3 in view of D1.

10. Account bein taken of the amendments made by the patent proprietor during the appeal proceedings, the patent and the invention to which it relates are found to meet the requirements of the EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the opposition division with the order to maintain the patent as amended in the following version:

Claims 1 to 13 of the main request filed with the latter dated 10 February 2021

Description: pages 2 to 29 of the patent specification

Drawings: sheets 1 to 35 of the patent specification

The Registrar:

The Chairman:



D. Hampe

M. Alvazzi Delfrate

Decision electronically authenticated