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**Datasheet for the decision  
of 21 May 2021**

**Case Number:** T 1592/16 - 3.2.02

**Application Number:** 09789695.5

**Publication Number:** 2340062

**IPC:** A61M1/00

**Language of the proceedings:** EN

**Title of invention:**

Reduced pressure wound closure systems

**Patent Proprietor:**

KCI Licensing, Inc.

**Opponent:**

Smith and Nephew, Inc.

**Headword:**

**Relevant legal provisions:**

EPC Art. 54(3), 83

RPBA 2020 Art. 13(2)

**Keyword:**

Novelty - main and first auxiliary request (no); second  
auxiliary request (yes)  
Admittance of a declaration and hearing of a technical expert  
(no)  
Sufficiency of disclosure - second auxiliary request (yes)

**Decisions cited:**

T 0474/04

**Catchword:**



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

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**Case Number: T 1592/16 - 3.2.02**

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 21 May 2021**

**Appellant:** KCI Licensing, Inc.  
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**Representative:** Simmons & Simmons  
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**Appellant:** Smith and Nephew, Inc.  
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**Representative:** HGF  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
9 May 2016 concerning maintenance of the  
European Patent No. 2340062 in amended form.**

**Composition of the Board:**

**Chairman** M. Alvazzi Delfrate  
**Members:** M. Stern  
N. Obrovski

## **Summary of Facts and Submissions**

- I. Appeals were lodged by the patent proprietor and the opponent against the interlocutory decision of the opposition division concerning the maintenance of European patent No. 2 340 062 in amended form.
- II. In the appealed decision it was held that the main and first auxiliary requests then on file lacked novelty over WO-A-2009/158132 (E2) and that the second auxiliary request then on file met the requirements of the EPC, in particular, the requirements of novelty (in view of, inter alia, E2) and sufficiency of disclosure.
- III. The Board issued summons to oral proceedings on 15 September 2020 and presented its preliminary opinion in a communication under Article 15(1) RPBA 2020 dated 17 September 2020.
- IV. With letter dated 26 October 2020, the patent proprietor filed a declaration (E10) by a technical expert (Dr. Robinson) and indicated that the expert would be available to be called to give evidence at the oral proceedings should that be considered necessary.
- V. Oral proceedings before the Board were held on 21 May 2021.

The appellant/patent proprietor (hereinafter "the patent proprietor") requested that the decision under appeal be set aside and that the patent be maintained on the basis of the main request, the first auxiliary request, or the second auxiliary request, all filed with the submission dated 26 October 2020.

The appellant/opponent (hereinafter "the opponent") requested that the decision be set aside and that the patent be revoked.

VI. Claim 1 of the **main request** reads as follows:

"1. A reduced-pressure, wound-closure system (100) for providing a closing force to a surface wound (111) on a patient, the reduced-pressure, wound-closure system (100) comprising:

    a first attachment member (182) for releasably attaching to a first portion of the patient's epidermis (108) proximate an edge of the surface wound (111);

    a second attachment member (184) for releasably attaching to a second portion of the patient's epidermis (108) proximate the edge of the surface wound (111), wherein the first attachment member (172) is spaced from the second attachment member (184);

    a contracting member (188) coupled to the first attachment member (172) and the second attachment member (184) and operable to contract under reduced pressure;

    wherein the contracting member (188) is sealed, wherein a closing force is developed which pulls the first attachment member (172) and the second attachment member (187) towards each other when reduced pressure is supplied to the sealed contracting member (188)."

VII. In claim 1 of the **first auxiliary request**, the last paragraph of claim 1 of the main request is replaced by the following expression (amendments to the replaced paragraph highlighted by the Board):

    "wherein the contracting member (188) is sealed, wherein a closing force is developed ~~which pulls~~

between the first attachment member (172) and the second attachment member (187) ~~towards each other~~ when reduced pressure is supplied to the sealed contracting member (188), and wherein at least one of the first or second attachment members (182, 184) has a reduced pressure interface for receiving reduced pressure from a reduced pressure conduit".

VIII. In claim 1 of the **second auxiliary request**, the last paragraph of claim 1 of the main request is replaced by the following expression (amendments to the replaced paragraph highlighted by the Board):

"wherein the contracting member (188) is sealed, wherein a closing force is developed ~~which pulls~~ between the first attachment member (172) and the second attachment member (187) ~~towards each other~~ when reduced pressure is supplied to the sealed contracting member (188), wherein the sealed contracting member (188) comprises:

a contracting manifold material (188) having a first side (150) and a second, patient-facing side (192), and a peripheral edge (194);

a first sealing member (196) disposed proximate the first side (190) of the contracting manifold material (188);

a second sealing member (198) disposed proximate the second, patient-facing side(192) of the contracting manifold material (188);

a peripheral sealing member (200) disposed against the peripheral edge (194) of the contracting manifold material (188); and

wherein the first sealing member (196) second sealing member (198), and peripheral sealing member (200) are operable to pneumatically seal the contracting manifold material (188)".

IX. The arguments of the opponent relevant for the present decision are summarised as follows:

*Main request*

The Opposition Division had correctly established that the subject-matter of claim 1 lacked novelty over E2. The device of the patent worked by supplying reduced pressure to a sealed contracting member, which contracted and pulled the outer walls towards one another (paragraph [0038]). E2 worked by using a reduced pressure to supply a force to an interior portion of a dressing assembly that urged a closing bolster from an extended position to a compressed position (paragraph [0025]). A manifold member 175 within the frame contracted under reduced pressure and was compressed (paragraphs [0033] and [0044]). Thus, in both devices, a negative pressure force was applied to an interior part, e.g. a foam, and the devices contracted. The attachment members of the patent were pulled together by the contracted contracting member, and the members 132 and 146 of E2 of the pivoting frame around the foam manifold 175 were pulled together by the contracting manifold. The devices operated in an identical manner. The patentee's contention that in E2 the drape "pushed" on the frame and manifold was incorrect, since the source of the force (the negative pressure) was from within the frame, just as in the device of the patent.

The declaration and the offered hearing of the expert, submitted after notification of the summons to oral proceedings should not be admitted as late-filed. Both the subject-matter claimed and the current objection of lack of novelty based on E2 were essentially the same

as in the appealed decision. It would have been therefore incumbent upon the patent proprietor to file the declaration and the request to hear the expert with the statement of grounds of appeal, rather than after notification of the summons to oral proceedings.

*First auxiliary request*

The patent at paragraph [0028] described an example where an attachment member might have a base member and a wall member (which might be made from numerous materials). The attachment member might include additional parts not integral with the base member/wall member (adhesive for attaching to epidermis). The indication from these specific examples in the description was that an attachment member might have portions that extended in different directions, and the attachment member needed not be a unitary piece. Hence, in E2, the member 132 (left wall) and the member 160 (top wall) might be considered a first attachment member having a reduced pressure interface for receiving reduced pressure from a reduced pressure source (Figure 1). The member 146 was a second attachment member that was spaced apart from the first attachment member 132/160 by connector 172.

*Second auxiliary request*

Claim 1 lacked novelty over E2. The first, second and peripheral sealing members of claim 1 were disclosed in E2 by the first and second sealing members 263 and 265 of Figure 3B. Each of these had the property to be on a first side, a second, patient-facing side, and a peripheral edge of the contracting manifold material.



The patent did not disclose the claimed invention in a sufficient manner as required by Article 83 EPC. Regarding the feature "contracting member that is sealed", the patent disclosed one such way when describing the contracting members to be encapsulated by a sealing material. However, one way of enabling a skilled person to carry out the invention was sufficient only if it allowed the invention to be performed over the whole range claimed. The patent failed to do this because the claimed range was far broader than the specific detail of the description. Similarly, claim 1 covered all ways of developing a closing force, but the patent failed to disclose that feature across the full scope of the claim. Finally, the patent did not specify a technical problem to be solved and the skilled person had no specific direction to follow when seeking to put the claimed invention into practice.

- X. The arguments of the patent proprietor relevant for the present decision are summarised as follows:

*Main request*

E2 did not take away the novelty of the subject-matter of claim 1. E2 did not disclose the first and second attachment members and the sealed contracting member of claim 1. Members 132 and 146 formed part of a frame, i.e. a single component, and were not spaced apart as required by claim 1. Furthermore, E2 did not disclose the claimed sealed contracting member, since claim 1 required "a" sealed contracting member coupled to other elements of the system. That is, the sealed contracting member was a stand-alone component that was itself sealed and which generated the required contracting forces. This was supported by paragraphs [0031]

and [0032] of the patent which explained how the sealed contracting member was formed. In contrast, E2 disclosed a drape covering a number of other components. The manifold material itself was not a contracting member within the meaning of claim 1 because it was not sealed, and it did not contract when reduced pressure was applied. Also the combination of the drape and the manifold material was not a contracting member because this arrangement did not provide a "sealed contracting member", but rather a manifold within a wound covered by a drape.

Moreover, E2 used a push force to close the wound, whereas claim 1 used a pull force. In E2, the force was generated by a pressure differential across the drape, which lied outside of the frame which was said to represent the attachment members of claim 1. When reduced pressure was applied to the wound, a pressure differential was created across the drape which pushed on the frame and manifold 175, leading to a closing force being applied to the wound. In contrast, in claim 1, a reduced pressure applied within the sealed contracting member created a pressure differential across the wall of the sealed contracting member, which, as specified in the claim, pulled the first and second attachment members together. E2 did not disclose a sealed contracting member which pulled the attachment members together. The arrows 120 in Figure 1 actually showed a closing force being applied by the closing members to the skin. The sentence at lines 14 to 16 of page 8 made it clear that it was the closing members which generated the closing forces and that these were transmitted to the skin through the gripping members 145 and 159, and that arrows 120 showed the forces created by the closing members on the epidermis. It was therefore clear that the arrows showed a

"pushing" force from the closing members which pushed the wound together. The only technically accurate conclusion when reading E2 correctly was that the closing members were pushed together by the drape which imparted the closing force to the epidermis to close the wound. As explained at lines 18-20 of page 6, a compressive force 122 was also generated by the over-drape pressing down on the top of the frame. As set out in paragraph [0042], this downward force was converted into a closing force by arranging the closing members at an appropriate angle. This paragraph also confirmed that the forces arose from the drape since the first sentence stated "because the over-drape 180 surrounded the pivotal frame, there was also a downward (for the orientation shown) force placed on the pivotal frame". It was therefore clear that the author of E2 considered the over-drape to be creating the forces.

In order to confirm the technical aspects of the above arguments concerning the functioning of the device of E2, a declaration (E10) by an expert in this technical field was filed. The technical expert, Dr. Robinson, was available to be called to give evidence at the oral proceedings should that be considered necessary. The information in E10 was entirely the same as that which had been submitted throughout the proceedings, and therefore no new additional information required consideration. That is, there was no expansion of the patent proprietor's case or additional burden to any party. E10 served to confirm the submissions made by the representatives by a suitably qualified expert to put those submissions beyond doubt. Admission of the declaration (E10) and the hearing of the expert was thus appropriate as a response to the preliminary opinion by the Board.

*First auxiliary request*

E2 did not anticipate the subject-matter of claim 1. The top member 160 was part of the frame of E2, but it was not for releasable attachment to a patient's epidermis. It was only with a construction of the prior art based entirely on hindsight that the opponent could argue that this component represented an attachment member. On any reasonable construction of the claim, the top member was a joining member of the lateral walls of the frame. Moreover, the word "member" took its normal meaning of "one piece of" and did not include two pieces as suggested. In the context of E2 the first attachment member was one piece of the frame 130, not two. The combination of the closing member 132 and the connection member 160 was not "a member". Dividing the frame at joint 172 applied an inconsistent construction of the first and second attachment members, as the first attachment member comprised two pieces (132 and 160), but the second attachment member comprised only one piece (146). If the first attachment member was represented by the two members 132 and 160, then, when applying a consistent construction, also the second attachment member had to be represented by two members, namely 146 and 160. However, this did not fall within claim 1 because the first and second attachment members were not spaced apart. There was yet a further contradiction regarding the term "spaced apart". It was asserted that joint 170 (which was the same as joint 172) formed the members 132 and 160 into a single element. It was contradictory for a single type of joint to both, make two parts into a single member and space two parts apart. Both joints had to either form two parts into one or separate them.

*Second auxiliary request*

E2 did not anticipate the subject-matter of claim 1. The claim required three sealing members which could not be said to be anticipated by the two end caps 263 and 265 in Figure 3B. Moreover, claim 1 required that the first, second and peripheral sealing members were operable to pneumatically seal the contracting manifold material. E2 did not disclose such a seal.

The opponent had raised some questions that the claimed invention could not be implemented across its scope, but they failed to explain any particular aspect that the skilled person could not implement. It was settled case law that raising such questions was insufficient to support an objection under Article 83 EPC, but that an explanation of what could not be implemented had to be provided. The opponent did not object that the skilled person could not implement the claimed invention, but only that there might be other ways of generating a closing force than that claimed and explained in the description. The Opposition Division were correct that the skilled person could implement the claimed invention and that the examples provided by the description were sufficient to implement the claimed invention across its scope.

**Reasons for the Decision**

1. *The invention*

The invention relates to a reduced-pressure (or vacuum) wound-closure system. Such systems are used to remove unwanted fluids from wound cavities and to help approximate the fascia and other tissues by providing a

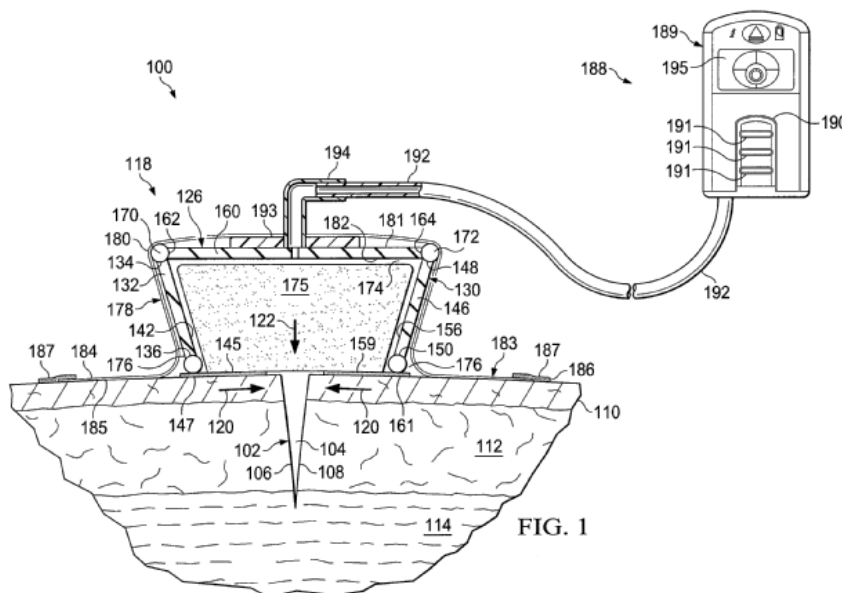
closing force on the wound at the level of the epidermis (column 1, lines 20 to 26).

The claimed wound-closure system comprises two attachment members (172 and 184 in Figure 1) for releasably attaching to a patient's epidermis and a sealed contracting member (188) coupled to the attachment members, wherein a closing force (depicted by arrows 170 in Figure 1) is developed between the two attachment members when reduced pressure is supplied to the sealed contracting member.

2. Main request - Novelty over E2

2.1 Undisputedly, E2, a previous application by the patent proprietor, is comprised in the state of the art under Article 54(3) EPC.

2.2 Document E2 concerns reduced-pressure wound-closure systems. In Figure 1, a first embodiment is depicted:



2.3 In this embodiment, the reduced-pressure wound-closure system comprises two attachment members (closing members 132 and 146, which are lateral walls of a bolster, similar to the one shown in Figure 3B; page 12, line 31 to page 13, line 2), the attachment members being suitable for releasably attaching to a patient's epidermis (via adhesive strips 147 and 161; page 8, lines 7 to 11), and a contracting member (manifold member 175) which is coupled to the attachment members (page 8, lines 17 to 19) and which contracts when reduced pressure is supplied to the contracting member (page 8, lines 22 to 23).

The contracting member 175 is made from a porous and permeable foam-like material (page 8, lines 27 to 30) that is placed within an over-drape 180 that is sealed against the epidermis 110 of the patient (page 9, lines 27 to 31). Hence, the contracting member is a "sealed contracting member" as claimed, contrary to the patent proprietor's view expressed in its statement of grounds of appeal (page 3) that the manifold in E2 was not sealed and did not contract.

Moreover, and contrary to a further argument by the patent proprietor, the two attachment members, i.e. closing members 132 and 146, are clearly shown in Figure 1 to be "spaced apart" from each other by several elements, such as connection member 160 and connectors 170 and 172.

2.4 When reduced pressure is supplied to the sealed contracting member 175, a pressure differential between the outside and the inside of over-drape 180 is created, so that an inward wound closing force (depicted by arrows 120 in Figure 1) between the two attachment members 132 and 146 is developed (page 11,

lines 8 to 14; page 8, lines 17 to 24). This closing force is transmitted to the patient's skin by gripping members 145 and 159 associated to the attachment members 132 and 146, as explained on page 8, lines 7 to 9 and 14 to 16: "The gripping member 145 and 159 (e.g., adhesive strips 147 and 161) are operable to transmit the inward, closing forces 120 from the closing members 132 and 146 to the patient's skin and thereby urge the edges 106 and 108 of the linear wound 102 into close approximation."

As correctly held by the Opposition Division in the appealed decision (point 4.2), the pressure differential between atmospheric pressure outside the sealing over-drape 180 and its inside, where the reduced pressure or vacuum is generated, produces the closing force which drives the attachment members (132, 146) "towards each other", as claimed. The Board considers, therefore, that it is a matter of semantical choice to say that this closing force "pushes" the attachment members towards each other (due to positive pressure on the outside of the over-drape), as advocated by the patent proprietor, or that the closing force "pulls" the attachment members towards each other (due to the negative pressure inside the over-drape), as expressed in claim 1.

- 2.5 The patent proprietor argued, referring to page 6, lines 18 to 20 and paragraph [0042] of E2, that a compressive force 122 was also generated by the over-drape pressing down on the top of the frame. This downward force was converted into a closing force by arranging the closing members at an appropriate angle. These passages also confirmed that the closing forces arose from the drape since the first sentence of paragraph [0042] stated "because the over-drape 180



surrounded the pivotal frame, there was also a downward (for the orientation shown) force placed on the pivotal frame." It was therefore clear that the author of E2 considered the over-drape to be creating the forces.

In the Board's view, the cited passages of E2 do not contradict or invalidate the Board's conclusion that the closing force caused by the pressure differential pulls the attachment members towards each other. In fact, paragraph [0042] makes it clear that the downward force 122 is an **additional** force exerted on the frame that contributes to the closing force 120: "In the embodiment of Figures 1 and 2, application of reduced pressure from the reduced-pressure subsystem 188 causes the manifold member 175 to contract inward, but because over-drape 180 surrounds the pivotal frame 130, there is **also** a downward (for the orientation shown) force placed on the pivotal frame 130. In this particular embodiment, it is desirable to orient the members of the pivotal frame 130 so that the downward force will be translated into a **contribution** to the closing force 120." [emphasis added].

- 2.6 As a consequence, the subject-matter of claim 1 of the main request lacks novelty within the meaning of Article 54(1) and (3) EPC.
- 2.7 Under Article 13(2) RPBA 2020, any amendment to a party's appeal case made after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.
  - 2.7.1 In order to support their technical evaluation of E2, the patent proprietor requested (in their letter dated

26 October 2020, after notification of the summons to oral proceedings) that the statement of a technical expert (E10) and the hearing of that expert be admitted into the appeal proceedings. Conversely, the opponent requested not to admit the declaration and the offered hearing of the technical expert.

- 2.7.2 The statements made by the technical expert in document E10 on what is allegedly disclosed in prior-art document E2 substantially corresponds to what had been submitted in the patent proprietor's statement of grounds of appeal. However, document E10 and the offered hearing of the expert who made the statements contained therein constitute new pieces of evidence which were not mentioned in the patent proprietor's statement of grounds of appeal. Therefore, these submissions constitute an amendment of the patent proprietor's appeal case.
- 2.7.3 The patent proprietor further considered that the admittance of the declaration and the hearing of the technical expert was an appropriate response to the preliminary opinion by the Board.
- 2.7.4 The Board disagrees. In the appeal proceedings, both the subject-matter claimed and the objection of lack of novelty in view of E2 remained essentially the same as in the appealed decision. Moreover, in its preliminary opinion issued with the summons to oral proceedings, the Board shared the Opposition Division's technical assessment of E2. Hence, there was no unforeseeable development. Rather, it was incumbent upon the patent proprietor to file E10 and the request to hear the technical expert already with the statement of grounds of appeal, instead of only after having received the Board's preliminary opinion.

- 2.7.5 In view of the above, there are no exceptional circumstances which have been justified with cogent reasons by the patent proprietor for considering document E10 and the hearing of the expert.
- 2.7.6 In the absence of any of such exceptional circumstances, the Board exercised its discretion not to admit document E10 and the offered hearing of the technical expert (Article 13(2) RPBA 2020).
- 2.7.7 For the sake of completeness, the Board points out that the situation in the present case is different from the situation in T 0474/04, wherein a witness declaration had been filed in time and a witness offered in respect of its disputed content was not heard by the opposition division.

3. *First auxiliary request - Novelty over E2*

- 3.1 Claim 1 of the first auxiliary request includes the additional limitation that *"at least one of the first or second attachment members has a reduced pressure interface for receiving reduced pressure from a reduced pressure conduit"*.
- 3.2 These features are anticipated by the embodiment of Figure 1 of E2 too.

The structure formed by the closing member 132 (the left side wall), the pivot connector 170 and member 160 (the top wall mentioned on page 7, lines 21 to 23) is equated to the first attachment member of claim 1. The closing member 146 (the right side wall) is equated to the second attachment member of claim 1. The so identified attachment members are spaced apart from

each other by the second pivot connector 172. The first attachment member (132, 160, 170) is depicted in Figure 1 as having a reduced pressure interface (port 194 interfacing with tubing 192) for receiving reduced pressure from a reduced pressure source (page 11, lines 3 to 5).

- 3.3 Although the top member 160 is mentioned in E2 as having the function of a connection member connecting lateral (wall) members 132 and 146 (page 7, lines 28 to 30), it is not unreasonable to read the structure formed by the top member 160, the pivot connector 170 and lateral member 130 onto the first attachment member of the claim. Such reading of features of the prior art onto the wording of a patent claim is, of course, an exercise performed in the knowledge of the claim. Thus, the patent proprietor's warning against "hindsight" construction appears baseless.

Moreover, contrary to the view of the patent proprietor, there is no inconsistency in identifying a "member" recited in the claim with a structure in E2 having more than one piece. Even in the patent, the first attachment member 172 is described as having more than one piece, i.e., a first base member 174 and a first wall member 176 (column 8, lines 25 to 27). Neither is there any reason why each of the two attachment members identified in E2 should have the same number of pieces or elements, as argued by the patent proprietor. In fact, also in the patent, the first attachment member 172 comprises a reduced-pressure interface 183, whilst the second attachment member 184 lacks such an element (Figure 1; paragraph [0030] of the patent). Finally, there is no reason why the first pivot connector 170 in E2 should not form part of the "first attachment member", only

because the second pivot connector 172 was not identified as a constituent of the "second attachment member".

3.4 As a consequence, the subject-matter of claim 1 of the first auxiliary request lacks novelty within the meaning of Article 54(1) and (3) EPC.

#### 4. *Second auxiliary request*

4.1 Claim 1 of the second auxiliary request includes the limitations of the sealed contracting member comprising, in essence, a contracting manifold material having a first sealing member, a second sealing member and a peripheral sealing member disposed, respectively, on a first side, a second, patient-facing side, and a peripheral edge of the contracting manifold material, wherein the first sealing member, the second sealing member and the peripheral sealing member are operable to pneumatically seal the contracting manifold material.

#### 4.2 *Novelty over E2*

E2 does not disclose the contracting manifold member to be sealed by three different sealing members disposed, respectively, on a first side, a second, patient-facing side, and a peripheral edge of the contracting manifold material. The embodiment of Figure 3B comprises two end caps 263 and 265 which may be considered as **two** different sealing members. These features do not anticipate the claimed contracting manifold material having **three** distinct sealing members.

Hence, the subject-matter of claim 1 of the second auxiliary request satisfies the requirement of novelty within the meaning of Article 54(1) and (3) EPC.

#### 4.3 *Sufficiency of disclosure*

- 4.3.1 The opponent objected the patent to disclose only one way to devise a sealed contracting member, namely, as a contracting member encapsulated by a sealing material. Moreover, the patent only indicated that a closing force was developed when reduced pressure was supplied to the sealed contracting member. It was argued that one way of enabling the skilled person to carry out the invention was sufficient only if it allowed the invention to be performed over the whole range claimed. The patent failed to do this, because the claimed range was said to be far broader than the specific detail of the description.

Whilst acknowledging that the patent indeed disclosed one way of carrying out the mentioned features, the opponent omitted to explain any particular aspect that the skilled person could not implement. That is, the opponent did not object that the skilled person could not implement the claimed invention, but objected only that there may be other ways of devising a sealed contracting member or generating a closing force than that claimed and explained in the description.

It is however established case law that for supporting an objection under Article 83 EPC, an explanation of what cannot be implemented has to be provided. In the absence of such an explanation in the present case, the objection fails to convince.

In fact, as the patent undisputedly disclosed one way for implementing the claimed sealed contracting member and generating a closing force, the skilled person was given enough technical information to put the claimed invention into practice.

- 4.3.2 The Board therefore concludes that the patent satisfies the requirements of sufficiency of disclosure of Article 83 EPC.
  
- 4.4 The opponent explicitly confirmed during oral proceedings that there were no objections against the second auxiliary request other than the aforementioned objections concerning lack of novelty in view of E2 and lack of sufficiency of disclosure. The Board does not see any further deficiencies either.
  
- 4.5 The Board concludes that the objections raised do not prejudice the maintenance of the patent in amended form on the basis of the second auxiliary request.

## 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:

Claims 1-7 according to the second auxiliary request filed with the submission dated 26 October 2020

#### Description:

Paragraphs 1-6 and 12-46 as filed on 21 May 2021 during the oral proceedings before the Board

#### Drawings:

Figures 1-5B as filed on 21 May 2021 during the oral proceedings before the Board.

The Registrar:

The Chairman:



D. Hampe

M. Alvazzi Delfrate

Decision electronically authenticated