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**Datasheet for the decision  
of 12 June 2019**

**Case Number:** T 1208/17 - 3.3.10

**Application Number:** 06016651.9

**Publication Number:** 1842564

**IPC:** A61L15/46

**Language of the proceedings:** EN

**Title of invention:**

Absorbent articles including odour control system

**Patent Proprietor:**

The Procter & Gamble Company

**Opponent:**

ONTEX bvba

**Headword:**

**Relevant legal provisions:**

EPC R. 76(2) (a), 41(2) (c)

RPBA Art. 12(4)

EPC Art. 123(2), 123(3), 100(b), 56, 111(1)

**Keyword:**

Admissibility of opposition - (yes)

Inventive step - (no) - main request, first to third auxiliary requests

Amendments - added subject-matter (yes) - fourth and fifth auxiliary requests

Remitted with the order to maintain the patent on the basis of auxiliary request 6

**Decisions cited:**

T 0870/92, G 0009/92, G 0004/93, T 0020/81

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
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Case Number: T 1208/17 - 3.3.10

**D E C I S I O N**  
**of Technical Board of Appeal 3.3.10**  
**of 12 June 2019**

**Appellant:** ONTEX bvba  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
7 April 2017 concerning maintenance of the  
European Patent No. 1842564 in amended form.**

**Composition of the Board:**

**Chairman** P. Gryczka  
**Members:** R. Pérez Carlón  
T. Bokor

## **Summary of Facts and Submissions**

- I. The appeal lies from the decision of the opposition division on the maintenance of European patent No. 1 842 564 in the form of the main request then pending.
- II. Notice of opposition had been filed on the grounds of added subject-matter (Article 100(c) EPC), insufficiency of disclosure (Article 100(b) EPC), and lack of novelty and inventive step (Article 100(a) EPC).
- III. The documents filed before the opposition division include the following:

D3 EP 1 275 404 A1  
D9 US 2004/0037792 A1

Documents D9 to D12 were filed after expiry of the nine months opposition period also before the opposition division. Documents D13 to D40 were filed in appeal.

- IV. The opposition division concluded that claim 1 of the main request before it had the required basis in the application as originally filed, and that the claimed invention was sufficiently disclosed for it to have been carried out by the person skilled in the art. The claimed absorbent article was novel and document D3 was the closest prior art. The problem underlying the claimed invention was to provide an alternative composition for odour control in absorbent articles. The solution, which was characterised by the required aldehydes, was not obvious having regard to the prior art. The opposition division decided not to admit

documents D9 and D11 into the proceedings.

V. With the response to the grounds of appeal, the appellant filed a main request and auxiliary requests 1 to 5. Auxiliary requests 6 and 7 were filed under cover of a letter dated 25 April 2019.

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

*"A disposable absorbent article selected from diapers, surgical dressings, wound dressings, perspiration pads, incontinence pads, sanitary napkins, panty liners, tampons for feminine hygiene and interlabial devices, said absorbent article comprising an odour control system, wherein the odour control composition comprises two classes of odour control material, wherein a first class of odour control material reduces odour by acting on malodours or a malodorous substance in the absorbent article and a second class of odour control material reduces odour by acting on the user's nose receptors, the absorbent article characterized in that the first class of odour control material is selected from aldehydes selected from the group consisting of alpha-amylcinnamic aldehyde, p-anisaldehyde, benzaldehyde, cinnamic aldehyde, cuminic aldehyde, decanal, p-t-butyl-alpha-methyldihydrocinnamaldehyde, 4-hydroxy-3-methoxycinnamaldehyde, 2-phenyl-3-(2-furyl)prop-2-enal, vanillin isobutyrate, ethyl vanillin acetate, vanillin acetate, cyclamen aldehyde, heptanal, lauryl aldehyde, nonanal, octanal, phenylacetaldehyde, phenyl propyl aldehyde, vanillin, salicyl aldehyde, cytral, 2,4-dihydroxy-3-methylbenzaldehyde, 2-hydroxy-4-methylbenzaldehyde, 5-methyl salicylic aldehydes, 4-nitrobenzaldehyde, o-nitrobenzaldehyde, 5-ethyl-2-thiophenecarbaldehyde, 5-methyl-2-thiophenecarboxaldehyde, 2-thiophenecarbaldehyde,*

*asaronaldehyde, 5-(hydroxymethyl)-2-furaldehyde, 2-benzofurancarboxaldehyde, 2,3,4-trimethoxybenzaldehyde, protocatechualdehyde, heliotropine, 4-ethoxy-3-methoxybenzaldehyde, 3,4,5-trimethoxybenzaldehyde, 3-hydroxybenzaldehyde, o-methoxycinnamaldehyde, 3,5-dimethoxy-4-hydroxycinnamaldehyde, 2,8-dithianon-4-3n-4-carboxaldehyde, sorbinaldehyde, 2,4-heptadienal, 2,4-decadienal, 2,4-nonadienal, 2,4-nonadienal, (E,E)-,2,4-octadien-1-al, 2,4-octadienal, 2,4-dodecadienal, 2,4-undecadienal, 2,4-tridecadien-1-al, 2-trans-4-cis-7-cis-tridecatrienal, piperonylidene propionaldehyde, 2-methyl-3-(2-furyl)acrolein, 2,4-pentadienal, 2-furfurylidene butyraldehyde, 3-(2-furyl)acrolein, pyruvaldehyde, ethanedial and mixtures thereof, and said second class of odour control material is selected from the group consisting of menthol, menthyl acetate, 3-methyl-4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-but-3-en-2-one, 4-(2,6,6-trimethyl-2-cyclohexen-1-yl)-but-3-en-2-one, (E)-, menthyl lactate, isomenthyl acetate, isomenthyl propionate, isomenthyl isobutyrate, isomenthyl butyrate, camphor, p-menthane and mixtures thereof."*

Claim 1 of the first auxiliary request contains, in addition to the features of claim 1 of the main request, the following:

*"wherein the odour control system comprises the first class of odour control material in relation to said second class of odour control material at a ratio of from 15:1 to 1:15 by weight."*

Claim 1 of the second auxiliary request limits the aldehydes required by claim 1 of the main request to the following:

*"alpha-amylcinnamic aldehyde, decanal, 4-hydroxy-3-methoxycinnamaldehyde, 3,5-dimethoxy-4-hydroxycinnamaldehyde, 2-phenyl-3-(2-furyl)prop-2-enal, ethyl vanillin acetate, vanillin isobutyrate, vanillin acetate, asaronaldehyde, and mixtures thereof".*

Claim 1 of the third auxiliary request contains, in addition to the features of claim 1 of the second auxiliary request, the following:

*"wherein the odour control system comprises the first class of odour control material in relation to said second class of odour control material at a ratio of from 15:1 to 1:15 by weight."*

Claim 1 of the fourth auxiliary request relates to an absorbent article, characterised in that

*"the first class of odour control material is selected from aldehydes selected from the group consisting of alpha-amylcinnamic aldehyde, and said second class of odour control material is selected from the group consisting of menthyl acetate."*

Claim 1 of the fifth auxiliary request contains, in addition to the features of claim 1 of the fourth auxiliary request, the following:

*"wherein the odour control system comprises the first class of odour control material in relation to said second class of odour control material at a ratio of from 15:1 to 1:15 by weight."*

Lastly, claim 1 of auxiliary request 6 relates to an absorbent article characterised in that:

"the first class of odour control material is selected from aldehydes selected from the group consisting of alpha-amylcinnamic aldehyde in an amount of from 0.05 g/m<sup>2</sup>" to 20 g/m<sup>2</sup>, and said second class of odour control material is selected from the group consisting of menthyl acetate in an amount of from 0.05 g/m<sup>2</sup> to 20 g/m<sup>2</sup>."

VII. The arguments of the appellant (opponent) where relevant for the present decision were as follows:

There were no doubts on the identity of the opponent and the opposition was thus admissible.

D9 was *prima facie* relevant and should for this reason alone be admitted into the proceedings. Either D3 or D9 could be considered the closest prior art. The sole problem solved by the claimed absorbing article was that of providing an alternative. The solution, which was characterised by the aldehydes required by claim 1, would have been obvious for the skilled person and the absorbent article of claim 1 of the main request was thus not inventive. The same reasoning applied to claim 1 of the first to third auxiliary requests.

Claim 1 of the fourth and fifth auxiliary request did not find the required basis in the application as originally filed, as alpha-amylcinnamic aldehyde and menthyl acetate were combined with further limitations which were not features of claim 1.

The claimed invention was not sufficiently disclosed, as it was not clear which compound should be considered as "menthyl acetate". Nor was it apparent whether this compound was capable of acting on the user's nose receptors, as required by claim 1.



Document D3 was the closest prior art for the absorbing article of claim 1 of auxiliary request 6. The problem underlying the invention was the mere provision of an alternative. The solution, which was characterised by containing alpha-amylcinnamic aldehyde and menthyl acetate, was obvious having regard to D9 and was thus not inventive.

VIII. The arguments of the respondent (patent proprietor) where relevant for the present decision were as follows.

The identity of the opponent was not clear, as EPO form 2030 and the statement of the grounds for opposition referred to two different entities. As a consequence, the opposition was not admissible.

From the cited prior art, document D3 came the closest to the absorbent article of claim 1 of the main request and was thus the closest prior art. The problem underlying the claimed invention of how to provide an improved absorbent article with odour control was credibly solved having regard to the data in Table 1 of the patent in suit. If the problem were nevertheless to be reformulated, it should be seen as how to provide an absorbing article having odour control which lacked cyclodextrins. As none of the documents on file hinted at the aldehydes in claim 1, the claimed solution was inventive.

The conclusion on the issue of inventive step should be the same with respect to claim 1 of the main request and the first to third auxiliary requests.

Claim 1 of the fourth and fifth auxiliary requests

found the required basis in the combination of claims 6 and 7 and in the example of the patent in suit. These passages also provided a basis for claim 1 of auxiliary request 6.

The claimed invention was sufficiently disclosed for it to have been carried out by the person skilled in the art. The appellant had not discharged its burden of proof in this respect.

Document D3 was also the closest prior art for the absorbing article of claim 1 of auxiliary request 6. Even if the problem underlying the claimed invention were to be considered merely to provide an alternative absorbing article, the claimed solution was nevertheless inventive as the prior art did not hint at the specific combination of materials claimed.

- IX. The board informed the parties in a communication dated 15 February 2019 that it was inclined to consider *inter alia* the opposition and the appeal admissible and the claimed invention sufficiently disclosed.
- X. Oral proceedings before the board took place on 12 June 2019.
- XI. The final requests of the parties were as follows.
- The appellant-opponent requested that the decision under appeal be set aside, that European patent No. 1 842 564 be revoked, and that D9 and D13 to D23 be admitted into the proceedings.
  - The respondent-proprietor requested that the decision under appeal be set aside and that the patent be maintained in an amended form on the

basis of claims 1 to 11 of the main request or, alternatively, any of the first to fifth auxiliary requests, all filed with the response to the grounds of appeal dated 14 December 2017, or on the basis of auxiliary requests 6 or 7, both filed with the letter dated 25 April 2019.

In addition, the respondent-proprietor requested the non-admission of documents D9 and D13 to D23 into the proceedings. If one or more of these documents except D9 were admitted, it requested that documents D24 to D40 also be admitted and that the case be remitted to the opposition division. It also requested that the opposition be rejected as inadmissible.

XII. At the end of the oral proceedings, the decision was announced.

### **Reasons for the Decision**

1. The appeal is admissible

Admissibility of the opposition

2. The respondent argued that the opposition was not admissible as EPO form 2300 referred to "ONTEX bvba" as the opponent, with "Belgium" as the state of residence or principal place of business, whereas the reasoned statement containing the grounds for opposition only mentioned "Ontex (Belgium)". This cast doubt on the true identity of the opponent.

The respondent did not provide any evidence that several distinct legal entities were registered at the address in question, but merely asserted that this was

not excluded by Belgian law.

In accordance with T 870/92 (not published in OJ EPO, Reasons 1), the board concluded that the notice of opposition allowed the identification of the opponent, including its official designation required by Rule 76(2)(a) EPC in combination with Rule 41(2)(c) EPC and thus that the opposition was admissible.

Document D9

3. Document D9 was filed after the nine months' opposition period and was not admitted by the opposition division, as it considered that it was unlikely to change the outcome of the proceedings.
4. Article 12(4) RPBA gives the board the discretion, not the obligation, to hold inadmissible evidence not admitted by an opposition division.
5. D9 was filed again with the statement of grounds of appeal. It relates to the same technical field of the claimed invention, namely malodour control [0003] by means of deodorising composition, and discloses absorbent articles [0062] and compositions comprising aldehydes and second control materials from the list in claim 1 [0050]. D9 thus is a *prima facie* relevant document for the claimed invention.

Under these circumstances, the board exercised its discretion to admit this document into the proceedings.

Inventive step, main request, first to third auxiliary requests

6. Claim 1 of the main request relates to a disposable absorbent article comprising two odour control

materials. The first odour control material is an aldehyde, which is selected from a list of aldehydes and is capable of acting on malodour in the absorbent article. The second class of odour control material is selected from a second list of compounds, and is capable of acting on the user's nose receptors.

7. Closest prior art

7.1 The opposition division and the respondent considered that document D3 was the closest prior art. The appellant considered that not only D3 but also D9 could be taken as a promising springboard for examining inventive step.

7.2 It can, however, be left undecided whether D9 comes closer to the claimed invention since even considering D3 as the closest prior art, the proposed solution is obvious for the reasons explained below.

7.3 Document D3 relates to odour regulation in hygiene products [0001] by using a combination of oxidised cyclodextrins containing an aldehyde functionality (page 3, line 16) and a neutralising odour or fragrance which can contain a terpenoid such as menthol (page 3, line 49).

8. Technical problem underlying the invention

The parties had different views as to the formulation of the technical problem effectively solved by the claimed invention.

The respondent defined the technical problem underlying the claimed invention as providing an absorbent article having improved odour control (paragraph (88) of the

response to the grounds of appeal).

9. Solution

The solution to this technical problem is the claimed disposable absorbent article, characterised in that it contains, in addition to a fragrance such as menthol, an aldehyde selected from the list specified in claim 1.

10. Success

The proprietor relied on the data in Table 1 of the patent in suit to prove that the problem as formulated above had been credibly solved by the claimed absorbent article.

However, the tests reported do not compare the claimed absorbent article with that of the closest prior art D3 containing cyclodextrin. For this reason alone, the data in Table 1 cannot prove that the claimed solution solves the problem of providing an absorbent article having improved odour control, contrary to the respondent's argument.

11. Reformulation of the technical problem

According to the case law, alleged but unsupported advantages cannot be taken into consideration in determining the problem underlying the invention (see e.g. decision T 20/81, OJ EPO 1982, 217, Reasons 3, last paragraph). As the alleged improvement in terms of odour control lacks the required supporting evidence, the technical problem as defined above needs to be reformulated.

The respondent argued that, if the problem were to be reformulated, it should be defined as the provision of a disposable absorbent article which allows avoiding the use of cyclodextrins.

12. Solution

The solution to this technical problem is the claimed disposable absorbent article, characterised in that it contains, in addition to a fragrance such as menthol, an aldehyde selected from the list in claim 1.

13. Success

13.1 The parties were divided as to whether the claimed solution credibly solved the problem of providing an absorbent article which allows avoiding the use of cyclodextrins.

13.2 The respondent relied on the data in Table 1 of the patent in suit which shows that a combination of alpha-amylcinnamic aldehyde and menthyl acetate is capable of reducing malodour caused by the presence of ammonia, in the absence of cyclodextrin derivatives.

The appellant argued that it did not allow concluding that every pair of aldehyde and second class of odour component required by claim 1 was a suitable odour controlling system.

13.3 The question of whether the problem as reformulated by the respondent according to point 11. above has been solved in all aspects can be left undecided since even if considering it to be credibly solved, the conclusion on inventive step is negative for the reasons that

follow.

14. It remains to be decided whether the proposed solution to the problem defined above would have been obvious for the skilled person in view of the prior art.

14.1 Document D3 discloses that aldehydes directly bind ammonia and amine compounds such as urine in a hygiene article [0013]. It is apparent that this effect is not only linked to the specific aldehydes of D3, which are attached to a cyclodextrin: it arises from the reactivity of aldehyde groups and their known ability to form Schiff's bases.

The skilled person, trying to obtain an alternative absorbent article having malodour control which does not require aldehyde-containing cyclodextrins, would thus have found in D3 the teaching that other aldehydes would also be also suitable for this purpose.

14.2 The respondent argued that claim 1 did not require aldehydes in general but specific aldehydes selected from a list. It would have been a challenge for the skilled person to find aldehydes having the required physical properties such as suitable volatility and a pleasant odour. The state of the art did not hint at the aldehydes required by claim 1, which lacked unpleasant and/or too intense odour [0020]. For this reason, the absorbent article of claim 1 was inventive.

However, the properties of aldehydes are known and can be retrieved from databases or textbooks. Many of the aldehydes in claim 1 are used in perfumery (citral) and/or as food additives (vanillin). The skilled person, trying to select alternative aldehydes suitable for the claimed invention would have chosen those



having suitable volatility and lacking unpleasant and/or too intense odour and thus would have arrived at the claimed invention without using inventive skills.

The board has considered, in favour of the appellant, that the data provided in the patent proves the suitability of every aldehyde required by claim 1 in combination with every material of the second type required.

However, by the same token, it also has to conclude that not only those aldehydes required by claim 1 are suitable for the claimed invention and make cyclodextrin redundant. Selecting some aldehydes among those equally suitable can only be regarded as obvious for the person skilled in the art.

- 14.3 The respondent argued that the system disclosed in D3 encapsulated odour substances such as menthol into cyclodextrin, which would control their release upon use. Having regard to this mode of action, the skilled person would not have considered using a material not containing cyclodextrin.

The encapsulating ability of cyclodextrin is well known. In its absence, the release of menthol into the environment would not be controlled by cyclodextrin. Since a controlled release is not required in the present invention, the skilled person would have recognised that cyclodextrins are not essential for the claimed articles.

- 14.4 The respondent argued that according to D3 the aim of oxidising cyclodextrin and thus forming aldehyde derivatives was to improve solubility [0014]. The skilled person would have found no reason to consider

aldehydes for any further reason such as controlling odour, as in the present invention.

However, the preceding paragraph [0013] discloses the ability of aldehyde functional groups to bind amines and ammonia in hygiene articles, which are known causes of malodour (D9, [0003]). This argument is thus not convincing.

14.5 For these reasons, the absorbent article of claim 1 of the main request is not inventive (Article 56 EPC).

15. First to third auxiliary requests

15.1 It was undisputed between the parties that the conclusion on the issue of inventive step of the absorbent article of claim 1 of the main request would be the same with respect to that of claim 1 of the first to third auxiliary requests.

These requests are thus not allowable.

Fourth and fifth auxiliary requests, amendments

16. Claim 1 of these requests requires the combination of alpha-amylcinnamic aldehyde as the first class of odour material and menthyl acetate as the second class.

As a basis, the respondent relied on claims 7 and 8 and Table 2 of the application as originally filed.

Claim 7 discloses alpha-amylcinnamaldehyde in combination with its mass per surface unit. Similarly, claim 8 discloses menthyl acetate combined with its mass per area unit. Table 2 of the application discloses a mixture of these two compounds, in specific

amounts and at a ratio of 1:1 by weight. None of these limitations has been included in claim 1 of these requests.

For these reasons, claim 1 of the fourth and fifth auxiliary requests does not find the required basis in the application as originally filed and thus contravene the requirements of Article 123(2) EPC.

#### Auxiliary request 6

#### 17. Amendments

17.1 Claim 1 of auxiliary request 6 finds a basis in the combination of claims 1, 7 and 8 as originally filed.

17.2 By incorporation of further features, the scope of protection of claim 1 of auxiliary request 6 is not extended with respect to claim 1 as granted.

17.3 The requirements of Article 123(2) and (3) EPC are thus fulfilled.

#### 18. Sufficiency of disclosure

18.1 In the context of the main request, the appellant argued that the claimed invention was not sufficiently disclosed for it to have been carried out by the person skilled in the art.

18.2 Claim 1 relates to a disposable absorbent article containing two well-known compounds. The board is unable to see what difficulties could arise for obtaining this article.

18.3 From the appellant's objections in its written submissions, only those in connection with the feature "menthyl acetate" apply to claim 1 of the sixth auxiliary request.

The appellant argued that the patent in suit did not disclose either which specific isomer of menthyl acetate should be used, or how this compound triggered the nose-blocking mechanism required by claim 1.

However, menthyl acetate is a well-known chemical which the skilled person would have no problem in identifying and using. With respect to whether menthyl acetate could trigger the required nose-blocking mechanism, the appellant has not discharged its burden of proof by providing any evidence in this respect and the board sees no reason to doubt that it would not have been the case having regard to the common general knowledge.

19. Novelty

19.1 The appellant had no objection due to lack of novelty (Article 54 EPC) against claim 1 of auxiliary request 6.

The board is also satisfied that none of the documents on file discloses the subject-matter of claim 1 of auxiliary request 6.

20. Documents D10 to D40

20.1 These documents were filed by the appellant after the nine months' opposition period. D10 to D12 were not admitted by the opposition division. Documents D13 to D23 were filed in appeal.

20.2 At the oral proceedings before the board, the appellant did not maintain its requests that documents D10 to D12 be admitted. It further acknowledged that none of D13 to D23 were relevant for the examination of auxiliary request 6. There is thus no need to decide on the admissibility of any of them.

20.3 For the same reasons, as the respondent's request that documents D24 to D40 be admitted into the proceedings was conditional to the admission of any of documents D13 to D23, there is no need to decide on it either.

20.4 Lastly, it is not necessary to decide on the respondent's conditional request that the case be remitted if any of D13 to D23 were admitted into the proceedings.

21. Inventive step

21.1 Claim 1 of auxiliary request 6 is directed to a disposable absorbing article which contains alpha-amylcinnamic aldehyde and menthyl acetate as odour control materials.

21.2 Closest prior art

The parties agreed at the oral proceedings that document D3 was the closest prior art for the absorbent article of auxiliary request 6. The board sees no reason to differ.

Document D3 discloses absorbent articles having odour control components. The articles of D3 contain neither alpha-amylcinammic aldehyde nor menthyl acetate. This was undisputed.

21.3 Technical problem underlying the invention

The parties had different views as to the formulation of the technical problem underlying the invention as claimed in auxiliary request 6.

In the following, it will be examined whether the subject-matter of claim 1 is inventive under the assumption that the technical problem is merely that of providing an alternative absorbent article having, like that of the prior art, an odour control system. Since the claimed solution to this problem is not obvious, it is not necessary to examine whether a more ambitious problem had also been solved.

21.4 Solution

The solution to this technical problem is the claimed disposable absorbent article, characterised in that it comprises alpha-amylcinnamic aldehyde and menthyl acetate.

21.5 Success

It is undisputed that the claimed disposable absorbent article provides an alternative article having an odour control system.

The results in Table 1 of the patent in suit show that the combination of the two substances required by claim 1 effectively control malodour, at least malodour due to ammonia.

21.6 It thus remains to be decided whether the proposed solution to the problem defined above would have been obvious for the skilled person in view of the prior

art.

None of the documents on file relate to menthyl acetate in the context of odour control or in combination with disposable absorbent articles.

D3 hints at the use of aldehydes for odour control, but fails to teach the combination of the compounds required by claim 1.

Document D9 discloses alpha-amylcinnamic aldehyde as a component of a fragrance composition [0050], but fails to teach that menthyl acetate could be compatible with it under the conditions of that use.

There is thus no hint in the prior art at the claimed solution which is for this reason inventive (Article 56 EPC).

21.7 The appellant argued that document D9 hinted at the use of alpha-amylcinnamic aldehyde in the context of odour control compositions [0050] and that its combination with a further odour component such as menthyl acetate would have been obvious for the skilled person.

However, embodiment 4 (E4) of D9 shows that the use of the fragrance composition of paragraph [0050] (comparative example CE13 on paragraph [0110]) does not have the sought effect of malodour control (table on page 12). The skilled person would not have combined either the composition of paragraph [0050] or any of its components with menthyl acetate in the expectation of obtaining an odour control system. This argument is thus not convincing.

21.8 The board is satisfied that the subject-matter of claim 1 of auxiliary request 6 involves an inventive step.

22. Remittal

The description of the patent as granted contains subject-matter not encompassed by the claims of auxiliary request 6 (see for example [0007]) and thus requires amendment (Article 84 EPC). The board decided to make use of its discretion to remit the case to the opposition division for the description to be adapted (Article 111(1) EPC). None of the parties objected to such remittal.

## **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 in an amended form on the basis of claims 1-10 of auxiliary request 6 filed with letter dated 25 April 2019 and a description to be adapted to these claims.



The Registrar:

The Chairman:



C. Rodríguez Rodríguez

P. Gryczka

Decision electronically authenticated