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**Datasheet for the decision  
of 1 October 2020**

**Case Number:** T 1592/17 - 3.2.01

**Application Number:** 10400058.3

**Publication Number:** 2457830

**IPC:** B64C27/48

**Language of the proceedings:** EN

**Title of invention:**  
Blade to rotor hub joint

**Patent Proprietor:**  
AIRBUS HELICOPTERS DEUTSCHLAND GmbH

**Opponent:**  
Bell Helicopter Textron Inc.

**Headword:**

**Relevant legal provisions:**

EPC Art. 108, 56  
EPC R. 99(2), 103(1) (a)  
RPBA Art. 12(4)  
RPBA 2020 Art. 24, 25(2)

**Keyword:**

Admissibility of appeal - appeal sufficiently substantiated  
(yes)

Late-filed evidence - admitted (no)

Inventive step - (yes)

Substantial procedural violation - (no)

Reimbursement of appeal fee - (no)

**Decisions cited:**

G 0007/93, T 0160/09, T 0143/91

**Catchword:**



**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

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Case Number: T 1592/17 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 1 October 2020**

**Appellant:** Bell Helicopter Textron Inc.  
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**Respondent:** AIRBUS HELICOPTERS DEUTSCHLAND GmbH  
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**Decision under appeal:** **Decision of the Opposition Division of the  
European Patent Office posted on 23 May 2017  
rejecting the opposition filed against European  
patent No. 2457830 pursuant to Article 101(2)  
EPC.**

**Composition of the Board:**

**Chairman** G. Pricolo  
**Members:** J. J. de Acha González  
P. Guntz

## Summary of Facts and Submissions

I. The appeal of the opponent lies against the decision of the Opposition Division concerning the rejection of the opposition against European patent 2457830.

II. In its decision, the Opposition Division referred inter alia to the following documents:

**D8:** US 6 126 398,

**D9:** JP 2 750 425 (including machine translation into English),

**D10:** US 2 830 669,

**D11:** GB 1 127 887,

**D14:** US 2 369 048, and

**D15:** GB 804 043.

With its statement of grounds of appeal the appellant further submitted:

**D23:** "An illustrated guide to military helicopters", Gunston (1981),

**D24:** "Helicopters of the world", Taylor (1978),

**D25:** Hiller sales brochure from 1959 for the 12E helicopter,

**D26:** sales brochure from 1986 for the Rogerson Hiller UH-12E,

**Img1:** photograph showing closer detail of the rotor of a UH-12E helicopter, and

**Img2:** photograph showing closer detail of the rotor of a UH-12E helicopter.

With the reply to the statement of grounds of appeal the respondent submitted the following documents:

- D27:** <https://barrieaircraft.com/photo/hiller-uh12-04.html>, Barrie Aircraft Museum, Hiller UH picture #04, accessed on January 4, 2018,
- D28:** <https://i.pinimg.com/originals/c1/73/4d/c1734d89bd22073b81971b36ab453b3a.jpg>, accessed on January 4, 2018,
- D29:** First enlarged detail of <https://barrieaircraft.com/photo/hiller-uh12-04.html>, Barrie Aircraft Museum, Hiller UH picture #04, accessed on January 4, 2018,
- D30:** Second enlarged detail of <https://barrieaircraft.com/photo/hiller-uh12-04.html>, Barrie Aircraft Museum, Hiller UH picture #04, accessed on January 4, 2018,
- D31:** Enlarged detail of <https://i.pinimg.com/originals/c1/73/4d/c1734d-89bd22073b81971b36ab453b3a.jpg>, accessed on January 4, 2018,
- D32:** Excerpt from "Overhaul Manual", Control Rotor Cuff and Trunnion Assembly, Part No. 36123.11, Service Department, Hiller Aircraft Corporation, Palo Alto, California, July 1959,
- D33:** Excerpt from "Aeronautical Research in Germany - from Lilienthal until Today", E. H. Hirsche!, H. Prem, G. Madelung, Springer-Verlag Berlin Heidelberg, ISBN 978-3-642-62129-1, 2004, pages 574 to 576,
- D34:** "Aeromechanic Aspects in the Design of the EC135", K. Kampa, B. Enenkl, G. Paiz, G. Roth, presented at the 23rd European Rotorcraft Forum in Dresden, Germany, September 16-18, 1997,
- D35:** "Fatigue Substantiation and Damage Tolerance Evaluation of Fiber Composite Helicopter Components", H. Bansemir, S. Emmerling, presented at the RTO AVT Specialists' Meeting on "Application of Damage Tolerance Principles for

Improved Airworthiness of Rotorcraft", Corfu, Greece, April 21-22, 1999, and  
**D36:** US 4 427 340.

With letter of 20 July 2018 the appellant further filed the following documents:

**D22:** NTSB Report April 11, 1994, and  
**D37:** Espacenet results 20 July 2018.

With letter of 12 September 2018 the respondent further filed the following documents:

**D38:** US 5 358 381,  
**D39:** US 5 454 693, and  
**D40:** US 5 462 408.

III. Oral proceedings were held before the Board on 1 October 2020.

The appellant (opponent) requested that the decision under appeal be set aside and that the European patent be revoked.

The respondent (patent proprietor) requested that the appeal be rejected as inadmissible or, if the appeal is deemed to be admissible, to dismiss the appeal.

IV. Claim 1 as granted reads as follows (feature numbering as used by the parties and the Opposition Division in its decision):

- (a) "A rotor blade connection with
- (b) connection means (1),
- (c) a rotor blade (2),
- (d) a rotor hub and

- (e) a control cuff (17),
- (f) said connection means (1) mounting said rotor blade (2) to said rotor hub,
- (g) particularly mounting said rotor blade (2) to said rotor hub of a helicopter,
- (h) said connection means (1) being an intermediate beam element (3) mounted between said rotor blade (2) and said rotor hub
- (i) with two bolts (4, 5) inserted vertically relative to a main plane of said rotor blade (2) into a free end (7) of said rotor blade (2) that is generally directed towards the rotor hub,
- (j) said two bolts (4, 5) being arranged distant from each other along a longitudinal axis (6) of said rotor blade (2) to said rotor hub,
- (k) said intermediate beam element (3) being provided between said end (7) of said rotor blade (2), that is generally directed towards the rotor hub, and said rotor hub,
- (l) at least one fairing (12, 13) being provided, said at least one fairing (12, 13) encompassing at least one of the bolts (4, 5)
- (m) and in that a blade connection bolt (16) is provided,
- (n) which connects the rotor blade (2) to the control cuff (17)
- (o) offset from the longitudinal axis (6)
- (p) next to a trailing edge (15) of said rotor blade (2),
- (q) additionally to the two bolts (4, 5) arranged in the intermediate beam element (3) and aligned along the longitudinal axis (6) of said rotor blade (2),
- (r) the intermediate beam element (3) being provided with two essentially longitudinal sides (8, 9) being opposed to each other
- (s) and encompassing coaxially the end (7) of said rotor blade (2), that is generally directed towards the rotor hub."

## **Reasons for the Decision**

### 1. *Admissibility of the appeal*

1.1 The respondent considers the appeal to be inadmissible since the appellant fails to address the Opposition Division's reasoning in its decision and merely attempts to obtain a second go at the examination of the opposition by the Board using the appeal procedure as a continuation of the opposition procedure (see point III. of the reply to the statement of grounds of appeal).

1.2 Pursuant to Rule 101(1) EPC the Board of Appeal shall reject the appeal as inadmissible, if the appeal does not comply with Articles 106 to 108, Rule 97 or Rule 99, paragraph 1(b) or (c) or paragraph 2 EPC, unless any deficiency has been remedied before the relevant period under Article 108 has expired. According to Article 108 EPC a statement setting out the grounds of appeal shall be filed within four months of notification of the decision in accordance with the Implementing Regulations. Under Rule 99(2) EPC in the statement of grounds of appeal the appellant shall indicate the reasons for setting aside the decision impugned, or the extent to which it is to be amended, and the facts and evidence on which the appeal is based. The statement of grounds of appeal shall further contain a party's complete case. It shall set out clearly and concisely the reasons why it is requested that the decision under appeal be reversed, amended or upheld, and should specify expressly all the facts, arguments and evidence relied on (see Article 12(3)



RPBA 2020, Rules of Procedure of the Boards of Appeal  
OJ EPO 2019, A63).

1.3 In the present case, the statement of grounds of appeal sets out clearly the reasons why the appellant finds the decision of the Opposition Division to be incorrect. In particular, it addresses why in its view the interpretation of the Opposition Division of the term "control cuff" is too restricted and does not belong to common general knowledge of the skilled person (see point 2. of the statement of grounds of appeal), why documents D9, D14 and D15 represent as well promising starting points for assessing inventive step of the subject-matter of granted claim 1 (see point 3 of the grounds of appeal) and why that subject-matter does not involve an inventive step in view of D9, D14 or D15, together with an alleged public prior use (Hiller UH-12E main rotor), and in view of D8 combined with D9, D14, D15 or D8 itself (different embodiment), and common general knowledge of the skilled person, whereby the technical effect of the differences and the formulation of the technical problem is not shared with those in accordance with the Opposition Division's decision.

Thus, the Board and what matters the respondent too are in a position to understand why according to the appellant the contested decision is incorrect without making investigations of their own.

Consequently, the appeal is admissible since it meets the criteria under Article 108 and Rule 99(2) EPC.

2. *Evidence*

Document D22 was referred to by the Opposition Division in its decision merely as an example to prove that a control cuff is a terminology used in the field of helicopters' main rotor systems and therefore known to the skilled person in that field (see point 14.2 of the impugned decision). The document, however, fails to define or show the term in a figure or picture (see below 'claim interpretation').

The appellant submits with the appeal new evidence (D23 to D26 and the two images - Img1 and Img2 - included in the text of the statement of grounds of appeal in section 2.1.5) for an alleged public prior use relating to the helicopter UH-12E that is referred to in the report of D22 in order to assess inventive step but not in order to prove common general knowledge.

This new alleged public prior use with its evidence has therefore been filed for the first time with the statement of grounds of appeal.

Article 12(4) RPBA 2007 (Rules of Procedure of the Boards of Appeal OJ EPO 2007, 536) provides the Board with the power to hold inadmissible facts, evidence or requests which could have been presented or were not admitted in the first instance proceedings. The provisions of this article apply to the current appeal case pursuant to the transitional provisions of the new Rules of Procedure of the Boards of Appeal that entered into force on 1 January 2020 (see Articles 24 and 25(2) RPBA 2020).

In the present case, the Opposition Division's interpretation of the feature "control cuff" was

already submitted in the summons to oral proceedings. The opponent as appellant, however, only submitted the new evidence after the Opposition Division cited in its decision D22 as an example for the use in the field of helicopters of the term "control cuff". Bearing in mind that the object under discussion is the patent as granted and that the interpretation of the Opposition Division was already submitted with the summons (see point 6 of the annex to the summons of the Opposition Division), the mere reference to D22 for the first time in the impugned decision cannot justify the late filing with the statement of grounds of appeal of the new evidence for a new alleged public prior use for the purposes of assessing inventive step. Additionally, D23 to D26 do not disclose any details of the rotor blade connection of the UH-12E helicopter and its operation, and the operation of the rotor systems of Img1 and Img2 is not directly and unambiguously derivable from the images only. Further, it has not been proven that the images of the rotor in the statement of grounds of appeal belong to the helicopter UH-12E and the respondent contests it.

Under these circumstances, the Board cannot find any reason justifying the filing of the allegation of public prior use with its corresponding evidence (D23 to D26 and Img1 and Img2) at the appeal stage and thus exercises its discretion pursuant to Article 12(4) RPBA 2007 not to admit it in the appeal proceedings.

As a consequence, documents D27 to D32 of the respondent need not be considered since they relate to this alleged public prior use and were filed only in case the public prior use would be admitted in the appeal proceedings (see request on page 9 of the reply under "preliminary remark").

It is further noted that the evidence submitted to prove what is common general knowledge of the skilled person in the relevant date of the contested patent is in principle admissible. This applies to D22 of the appellant and to D33 to D36 and D38 to D40 from the respondent and the Board sees no reasons for not admitting them in the current appeal proceedings.

3. *Claim interpretation*

In its decision the Opposition Division considered that the term "control cuff" is a term that relates to a cuff-like structure intended to apply control (most likely pitch control for the skilled person), in the patent's context of a rotor blade. The type of cuff-like structure employed to that end - an elongate tubular element surrounding a beam, linking hub to blade and extending sufficiently from the blade in the direction of the hub to both provide lead/lag and flapping stiffness and to accept and transfer control inputs to the blade - was considered to be generally known to the skilled person as a "control cuff", or "control sleeve", as would be evident from a large number of patent documents as well as non-patent documents naming such a control cuff (D22 was cited as an example of a document using the term; see point 14.2 of the impugned decision).

According to the evidence presented by the respondent to prove common general knowledge (D33 to D36 and D38 to D40), a control cuff is a well established technical term within the field of bearingless rotor systems of helicopters for controlling the pitch of the blades. This term is in line with the above mentioned interpretation from the Opposition Division. The

control cuff is a torsionally stiff tubular, sleeve-shaped element which surrounds a flexible beam element linking a rotor hub to a rotor blade and which is used to transmit pitch angle control movements to the rotor blade for setting a current pitch or blade angle of the rotor blade and, thus, controlling cyclic and collective pitch thereof.

However, granted claim 1 is not limited to helicopters, this being optional in the claim which reads

"particularly mounting said rotor blade (2) to said rotor hub of a helicopter" (emphasis by the Board), and even less to bearingless rotor systems for helicopters that include a flexbeam.

Accordingly, the Board does not share the limited interpretation of the term in granted claim 1 taken by the Opposition Division in its decision since claim 1 is not limited to bearingless rotor systems of helicopters.

The appellant defends that the above-mentioned term has to be laid out as broadly as possible within the disclosure of the patent specification. Since neither the term "cuff" nor its specific control is defined in the patent specification, the feature "control cuff" has merely to be interpreted as an element with an unspecified shape which provides an unspecified control within the rotor blade connection claimed. Moreover, a cuff-like structure cannot be derived from the patent specification as a whole and even less from figure 5, in which, even though a schematic top view of a third embodiment of the invention is shown, a cuff-like element is not represented at all under reference number 17.

The Board partly shares the view of the appellant but considers that a cuff being a mechanical part represents to the skilled person a tubular or sleeve-shaped element. Accordingly, the "control cuff" of claim 1 should be interpreted as a cuff-like structure, i. e. a tubular or sleeve-shaped element, which is intended to apply an unspecified control (see also letter of the respondent of 27 November 2018 page 3, third paragraph).

4. *Fresh ground for opposition under Article 100(b) EPC*

As a consequence of the above mentioned interpretation under point 4 for the term "control cuff", the objection under the fresh ground for opposition pursuant to Article 100(b) EPC of the appellant is void since the appellant raised the fresh ground only in case the narrow interpretation of "control cuff" of the Opposition Division were to be followed (see point 4 of the grounds of appeal).

The Board nevertheless points out the following in this regard.

The ground for opposition according to Article 100(b) EPC was a lately introduced ground which the Opposition Division did not admit exercising its discretion because it was not *prima facie* relevant (see point 14 of the decision).

The Board can, however, only revise the substance of discretionary decisions of the Opposition Division if it is convincingly shown that the Opposition Division did not exercise its discretion in accordance with the right principles, or that it exercised it in an

unreasonable way, and thus exceeded the proper limits of its discretion (see G 7/93, point 2.6).

The appellant did not question the way the discretion was exercised, but explained the substantial reasons why in its view the ground for opposition is justified. Accordingly, the Board sees no reason to reverse the discretionary decision of the Opposition Division with the consequence that the ground for opposition under Article 100(b) EPC is not part of the appeal proceedings.

## 5. *Inventive Step*

5.1 With the statement of grounds of appeal the appellant objected to the inventive step of the subject-matter of granted claim 1 in view of the following combinations of prior art:

- (i) D9 with the new public prior use UH-12E;
- (ii) D14 with the new public prior use UH-12E;
- (iii) D15 with the new public prior use UH-12E;
- (iv) D8 (fig. 5) with D8 (fig. 3) itself and common general knowledge of the skilled person; and
- (v) D8 (fig. 5) with D9, D14 or D15 alone, or additionally with common general knowledge

During the oral proceedings before the Board the appellant further objected in view of:

- (vi) D9 with D10 and D11, when considering their broad interpretation of the term "control cuff";
- (vii) D9 with D11 and common general knowledge of the skilled person, when considering the narrower interpretation of the term "control cuff"; and

(viii) D8 (fig. 3) with common general knowledge of the skilled person.

5.2 Since the alleged public prior use of the helicopter UH-12E has not been admitted in the appeal proceedings (see point 2 above) and since the control cuff has a narrower interpretation than that of the appellant (see point 3 above), the objections under (i) to (iii) and (vi) cannot succeed.

5.3 Departing from figure 5 of D8 as the closest prior art ((iv) and (v)), it is common ground that the rotor blade connection disclosed therein differs from the subject-matter of claim 1 in features (j) (the two bolts are arranged along the longitudinal axis of the blade) and (q) (a blade connection bolt additional to the two bolts and offset from the longitudinal axis and connected next to a trailing edge of the blade).

The appellant is of the view that these two differentiating features do not provide any synergistic effect and comprise a mere aggregation of functionally independent features. Two distinct partial problems would then be solved. Feature (j) solves the problem of reducing the cross-section of the blade-hub connection, and feature (q) solves the problem of how to provide lead-lag stiffness to a blade-hub connection. The first problem would be known from D9, D14 or D15 which show the use of longitudinal arrangement of bolts, as well as from figure 3 of D8 which in combination with figure 5 of D8 teaches the skilled person that the integration of the plates 6.40 and 6.41 into the blade is obvious. The solution to the second problem would be obvious to the skilled person bearing in mind its common general knowledge.



Even if the formulation of the partial problems from the appellant were shared, the Board concurs with the view of the respondent that the line of argumentation of the appellant is based on hindsight. The skilled person finds no teaching in any of the referred prior art to merely combine isolated features of any of the structurally different rotor blade connections according to any of D9, D14 or D15 with the flexbeam rotor blade connection of figure 5 of D8. Further, if the skilled person were to look at figure 3 of D8 he would not get any hint to integrate the plates into the blade. On the contrary, when starting from figure 5 of D8, the skilled person would be hinted to implement the whole connection as depicted in figure 3 of D8.

- 5.4 When starting from figure 3 of D8 as the closest prior art (viii), the appellant argues that the skilled person in view of the alternative depicted in figure 5 of D8, in which the plates are integrated into the flexbeam, the skilled person would also find as an obvious alternative the integration of the plates into the blade.

The Board cannot follow that line of argument and shares the view of the respondent. Even if the skilled person would consider to integrate the plates 6.40 and 6.41 into the blade, he would not arrive at the invention according to claim 1 because feature (r) would then no longer be present. The two essentially longitudinal sides resulting from the integration of the plates into the blade would be provided in the blade and not in the intermediate beam element.

In a further line of argument starting from figure 3 of D8, the appellant alleges that another obvious alternative modification would be to integrate the

plates into the beam element 1 similar to that of figure 5, while further providing a middle plate integrated into the radially inner end of the blade which would then be inserted coaxially between the opposed to each other plates of the beam element. The Board cannot see why the skilled person would consider at all such a complete reconstruction of the connection of the beam element, the control cuff and the blade of the bearingless rotor of D8. This line is clearly based on hindsight.

- 5.5 Regarding D9 as the starting point for assessing inventive step while interpreting "control cuff" as laid down under point 3 above (vii), the appellant argues that the subject-matter of claim 1 differs from the rotor blade connection of figure 1 of D9 in the fairing (feature (l)) and the control cuff (features (e), (m)-(q)). The feature relating to the fairing solves a separate partial problem to the features of the control cuff, and does not provide any inventive step in view of common general knowledge, as shown in D11. The features of the control cuff solve the partial problem of how to transfer control (of whatever type, for instance pitch) to the rotor blade. Providing a control cuff according to features (e) and (m) to (q) would be an obvious choice on how to control pitch of the rotor blade which falls under common general knowledge of the skilled person as recognised by the respondent (see page 5, last paragraph and page 6, third paragraph of the respondent's letter of 12 September 2018).

The Board disagrees. Firstly, the respondent in the referred letter defends while referring to D33-D36 and D38-D40 that it is common general knowledge for the skilled person that a control cuff within the field of

bearingless rotor systems of helicopters that comprise a flexbeam is a specific mechanical part for controlling the pitch of the blades. This as set out above under point 3 is shared by the Board. However, the rotor of D9, as acknowledged by the appellant, is not a flexbeam bearingless rotor system and, consequently, it cannot be said that the skilled person would include a control cuff of such systems into the rotor system of D9. Secondly, when trying to provide a pitch control to the blade 5 of D9, the skilled person would provide a pitch control system actuating directly to the hub grip 4 in order to pivot it, and accordingly the blade, around the spindle shaft 3 in order to maintain both the lead/lag damping function of the damper pin 15 and folding function of the blade by unmounting the pin 15 described in D9. The skilled person has no motivation bearing in mind its common general knowledge to provide a control cuff as claimed into the rotor system of figure 1 of D9.

- 5.6 Finally, the lack of technical effect of the third bolt connecting the trailing edge of the blade to an offset point of the control cuff alleged by the appellant is not shared. From a mechanical point of view an additional connection will indeed contribute to lead-lag stiffness of the blade thereby improving the damping function of the lead-lag damper due to a better rigidity of the whole rotor blade connection.
- 5.7 It follows that the subject-matter of granted claim 1 involves an inventive step in view of the combinations of the prior art at hand raised by the appellant (Article 56 EPC).
6. As a consequence of the above, the appeal is admissible but not allowable and must therefore be dismissed.

7. *Alleged procedural violations*

- 7.1 The appellant submits that their right to be heard under Article 113 EPC was violated since the impugned decision was based on new evidence (D22) and on lack thereof (no evidence of the large number of documents supporting the definition of "control cuff" was produced) on which they did not have an opportunity to comment. Additionally, the Opposition Division did not review D22 in any detail because the further evidence provided shows that the alleged "control cuff" in the helicopter referred to in D22 is totally inconsistent with the Examining Division's narrow construction. Consequently, the Opposition Division's decision is insufficiently reasoned contrary to Rule 111(2) EPC.

The Board does not agree that the right to be heard of the appellant (Article 113 EPC) was violated as regards the interpretation of the term "control cuff". The Opposition Division in its decision took the view of the patent proprietor regarding the interpretation of the term which was considered as being generally known to the skilled person in the field of helicopters. Further, in its decision the Opposition Division took due consideration of the comments submitted by the opponent and, accordingly, the decision is reasoned in that respect (Rule 111(2) EPC). Regarding D22, the document does not represent evidence introduced to prove common general knowledge with respect to the definition of "control cuff", but it is merely mentioned as an example to show that the term "control cuff" is used in the field of helicopters. D22 cannot prove that the interpretation followed by the Opposition Division belongs to common general knowledge since the document does not further define it. The

decision is not based on that evidence but on what the parties alleged to be or not be common general knowledge of the skilled person during the opposition proceedings.

A substantial procedural violation does not result from an alleged erred interpretation of a technical feature by the Opposition Division. This only amounts to an error of judgement which does not constitute a substantial procedural violation (see Case Law of the Boards of Appeal of the EPO, 9th Edition, V.A.9.5.10).

- 7.2 The appellant further alleges that the second examiner of the Opposition Division, who worked for the patent proprietor before joining the EPO as an examiner, could have lacked impartiality regarding the skilled person's understanding of the term "control cuff", due to his experience with the proprietor's company-specific knowledge. The Opposition Division should have taken care to select a member whose impartiality with regard to the understanding of the general knowledge of the skilled person would be beyond doubt. As such, the selection of the second member, in particular as it was done without any prior announcement to the parties and after the summons were issued, amounted to a substantial procedural violation.

The Board notes that it is permissible that the second member at the oral proceedings is different from the one who signed the summons (see T 160/09, point 10 of the reasons). There is also no prohibition on changing the composition of a division, nor is the EPO required to follow a particular procedure to do this.

Further, the fact that the second member of the Opposition Division had formerly been employed by the patent proprietor does not represent sufficient proof of a personal interest within the meaning of Article

24(1) EPC (see T 143/91, point 2 of the reasons). Moreover, the interpretation of the term "control cuff" by the Opposition Division was already put forward in its preliminary opinion annexed to the summons to oral proceedings under the former composition of the Opposition Division without the member suspected of partiality. This interpretation remained unchanged in the impugned decision.

Consequently, there is no reason to suspect partiality of the second member of the Opposition Division and the change of the second member of the Opposition Division is not flawed.

- 7.3 Pursuant to Rule 103(1)(a) EPC the appeal fee shall be reimbursed in full where the Board of Appeal deems an appeal to be allowable, if such reimbursement is equitable by reason of a substantial procedural violation.

In the present case the appeal is not allowable and the Opposition Division did not incur any substantial procedural violation in its decision. The request for reimbursement of the appeal fee is therefore refused.

## **Order**

**For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:



A. Vottner

G. Pricolo

Decision electronically authenticated