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Datasheet for the decision of 19 November 2021

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Language of the proceedings: EN

Title of invention:
HERBICIDAL COMPOSITION

Applicant:
Ishihara Sangyo Kaisha, Ltd.

Headword:

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Amendments

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G 0010/93, T 0025/09, T 1253/11

Catchword:

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Case Number: T 2879/19 - 3.3.02

D E C I S I O N
of Technical Board of Appeal 3.3.02
of 19 November 2021

Appellant: (Applicant)	Ishihara Sangyo Kaisha, Ltd. 3-15 Edobori 1-chome Nishi-ku Osaka-shi, Osaka 550-0002 (JP)
Representative:	Müller-Boré & Partner Patentanwälte PartG mbB Friedenheimer Brücke 21 80639 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 14 June 2019 refusing European patent application No. 13769011.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman	M. O. Müller
Members:	S. Bertrand
	L. Bühler

Summary of Facts and Submissions

I. The appeal by the applicant ("appellant") lies from the decision of the examining division to refuse European patent application No. 13 769 011.1 on the basis of the main request.

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

"*1. A herbicidal composition comprising, as active ingredients, (a) nicosulfuron or its salt, (b) terbuthylazine or its salt and (c) compound C (compound C is at least one herbicidal compound selected from the group consisting of group C1 and group C2 or its salt; Group C1 is at least one 4-hydroxyphenylpyruvate dioxygenase inhibitor selected from the group consisting of sulcotrione, mesotrione, and their salts; and group C2 is at least one very long chain fatty acid biosynthesis inhibitor selected from the group consisting of dimethenamid-P, flufenacet and their salts).*"

III. The following documents are referred to in the present decision:

D1	EP 0 614 606 A2
D2	WO 02/100173 A1
D3	CN 101 965 846
D5	JP 2007 291055 A
Attachment-1	Experimental report filed on 24 May 2016
Annex-1	Additional experimental data filed with the statement of grounds of appeal

IV. The examining division came to the conclusion that the subject-matter of claims 1 to 12 according to the main request did not involve an inventive step in view of either D2 or D5 as the closest prior art in combination with either D1 or D3.

V. In its statement setting out the grounds of appeal, the appellant contested the examining division's decision. It submitted claim sets of a main request and auxiliary requests 1 to 10 and argued that the subject-matter of the claims of the main request involved an inventive step. The claim set of the main request corresponded to the claim set of the main request submitted before the examining division.

VI. On 27 August 2021, the appellant was summoned to attend oral proceedings on 19 November 2021.

VII. With a letter of 31 August 2021, the appellant requested postponement of the oral proceedings.

VIII. In a communication dated 8 September 2021, the board informed the appellant that it could not accede to the appellant's request for postponement of the oral proceedings.

IX. On 15 September 2021, the board issued a communication in preparation for the oral proceedings, which had been arranged as requested by the appellant. Objections under Articles 56 and 84 EPC were raised against the claims of the main request.

X. With a further letter dated 15 October 2021, the appellant filed a main request* and auxiliary requests 1* to 8*. It submitted arguments against the objections under Articles 56 and 84 EPC.

XI. Oral proceedings before the board were held on 19 November 2021 by videoconference.

XII. Appellant 1's arguments, where relevant to the present decision, may be summarised as follows.

Main request and auxiliary requests 1 to 8 - Clarity of the claims

- The skilled person could understand the claimed subject-matter, based on the disclosure provided in the description.

- The objections of lack of clarity had not been raised by the examining division.

Main request*, auxiliary requests 1* to 8* and auxiliary requests 9 and 10 - Inventive step

- D5 disclosed a synergistic composition comprising nicosulfuron and terbuthylazine. Considering D5 as the closest prior art, the distinguishing feature of claim 1 of any of these requests was the presence of mesotrione.

- The compositions according to claim 1 of any of these requests were more efficient than the composition according to D5, even more efficient than expected.

- The objective technical problem was the provision of a herbicidal composition exhibiting synergism.

- A mixture comprising nicosulfuron and mesotrione exhibited antagonism, as shown in table A of annex-1. Therefore, it would not have been obvious

that a ternary mixture comprising nicosulfuron, terbuthylazine and mesotrione as claimed would have a synergistic effect.

- Furthermore, the solution proposed by claim 1 of any of auxiliary requests 1* to 8* and auxiliary requests 9 and 10 was not obvious in view of D2 since D2 did not disclose synergistic compositions in an enabling manner.

- Therefore, the subject-matter of claim 1 of any of auxiliary requests 1* to 8* and auxiliary requests 9 and 10 involved an inventive step.

Auxiliary request 11 - Inventive step

- When considering D5 as the closest prior art, the distinguishing feature of claim 1 of auxiliary request 11 was sulcotrione and its salt.

- Table 1-1 of attachment-1 showed that compositions according to claim 1 of auxiliary request 11 were more efficient than expected when compared to the composition of D5.

- The objective technical problem was the provision of a method for controlling undesired plants or inhibiting their growth, this method exhibiting synergism.

- There was no teaching in D1, D2 or D3 that the addition of sulcotrione and its salt would provide further synergism to a composition comprising compounds A and B.

XIII. The appellant requested that the decision under appeal be set aside and that the application be granted on the

basis of the claim set of the main request or alternatively on the basis of the claim set of any of the main request* and auxiliary requests 1, 1*, 2, 2*, 3, 3*, 4, 4*, 5, 5*, 6, 6*, 7, 7*, 8, 8*, 9, 10 and 11. The claim requests without asterisk were filed with the statement of grounds of appeal, and the claim requests with an asterisk were filed by letter dated 15 October 2021. Auxiliary request 11 was filed during the oral proceedings before the board.

Reasons for the Decision

Main request - Claims 1 to 12 filed on 24 May 2016

1. Article 84 EPC

1.1 Claims 1 and 7 comprise the following bracketed expression:

"*(compound C is at least one herbicidal compound selected from the group consisting of group C1 and group C2 or its salt; Group C1 is at least one 4-hydroxyphenylpyruvate dioxygenase inhibitor selected from the group consisting of sulcotrione, mesotrione and their salts; and group C2 is at least one very long chain fatty acid biosynthesis inhibitor selected from the group consisting of dimethenamid-P, flufenacet and their salts)*"

The bracketed expression is not a reference sign in claims 1 and 7. It is therefore not clear whether the bracketed expression is an optional or mandatory feature of claim 1 or 7. It follows that compound C in claims 1 and 7 of the main request is not clearly defined, and thus the claims lack clarity.

1.2 Claim 10 reads as follows: "*The method according to Claim 7, wherein the undesired plants are weeds having lowered sensitivity to herbicidal compounds.*"

The term "lowered sensitivity" lacks clarity since claim 10 has neither a standard for comparing the sensitivity nor information for establishing whether the sensitivity is lowered. Thus, the skilled person cannot clearly determine the weeds falling under the definition of the claim. Therefore, the claim lacks clarity.

1.3 Claims 2, 11 and 12 refer to mixing ratios defined by the expression "by the weight ratio". However, the expression "mixing ratio ... by the weight ratio" is not recognised in the art. The skilled person is thus in doubt concerning the meaning of this expression. Claims 2, 11 and 12 therefore lack clarity.

1.4 Claim 12 reads as follows: "*12. The herbicidal composition according to Claim 11, wherein the mixing ratio of (a) to (c) sulcotrione or its salt is from 1:0.5 to 1:200 by the weight ratio, the mixing ratio of (a) to (c) mesotrione or its salt is from 1:0.25 to 1:12 by the weight ratio, the mixing ratio of (a) to (c) dimethenamid-P or its salt is from 1:2 to 1:200 by the weight ratio, and the mixing ratio of (a) to (c) flufenacet or its salt is from 1:3 to 1:30 by the weight ratio.*"

It is not clear whether the mentioning of four mixing ratios in claim 12 for four different components (c) implies that component (c) is a mixture of all four components, i.e. sulcotrione, mesotrione, dimethenamid-P and flufenacet, or whether component (c) according to claim 12 may contain only one of these four components. Thus, claim 12 lacks clarity.

1.5 The appellant argued that, based on the disclosure provided in the description, the claims were clear for the skilled person.

The board does not agree. The claims must be clear in themselves when read by the person skilled in the art, without any reference to the content of the description (see e.g. T 1253/11, Reasons 2.2.2). Thus, the appellant's argument must fail.

1.6 The appellant submitted during oral proceedings that the objections of lack of clarity had not been raised by the examining division.

It is indeed true that these objections were raised for the first time by the board. However, following the principles set out in G 10/93, OJ EPO, 1995, 172 (Reasons 3 and 4), the board has the power to examine whether the application or the invention to which it relates meets the requirements of the EPC, including requirements which the examining division did not take into consideration. The fact that the examining division's decision is silent on the requirements of Article 84 EPC does not prevent the board from assessing the clarity of claims.

1.7 In view of the above, the board concludes that claims 1, 2, 7, 10, 11 and 12 do not meet the requirements of Article 84 EPC.

2. It follows that the main request is not allowable.

Auxiliary requests 1 to 8 (filed with the statement of grounds of appeal)

3. Auxiliary requests 1 to 8 comprise claim(s) having at least one of the same deficiencies as claims 1, 2, 7,

10, 11 and 12 of the main request. This was not disputed by the appellant.

Thus, auxiliary requests 1 to 8 are not allowable.

Main request* and auxiliary requests 1* and 2* (filed with the letter of 15 October 2021)

4. Article 56 EPC

Claim 1 of auxiliary request 2* relates to a herbicidal composition comprising:

(a) nicosulfuron or its salt

(b) terbuthylazine or its salt

(c) at least one of sulcotrione, mesotrione, dimethenamid-P, flufenacet and their salts

The above commercial names represent well-defined herbicides.

In the following, nicosulfuron and terbuthylazine are called compound A and compound B, and the compound defined under (c) above is called compound C.

Claim 1 of auxiliary request 2* also defines the undesired plants. These undesired plants are at least one member selected from the group consisting of malvaceae, compositae, chenopodiaceae and solanaceae.

The aim of the invention is to provide a high active herbicidal composition having a broader herbicidal spectrum (page 2, lines 7 to 8 of the description). The compositions according to the application exhibit a synergistic effect (e.g. page 4, lines 4 to 5 and 10 to 12).

4.1 Closest prior art D5

D5 relates to a synergistic herbicidal composition comprising nicosulfuron (corresponding to compound A of claim 1) and terbuthylazine (corresponding to compound B of claim 1) (paragraph [0005] of the translation). The composition is reported to exhibit a synergistic herbicidal effect (paragraph [0006] of the translation). Furthermore, D5 discloses a list of undesired plants (sixth full paragraph on page 2), among which ragweed is mentioned. This plant belongs to the genus Ambrosia spp., which itself belongs to the family Compositae (see the application on page 9, lines 1 to 9), corresponding to the undesired plants of claim 1.

4.2 Distinguishing feature

The distinguishing feature of claim 1 of auxiliary request 2* in view of D5 is compound C, i.e. at least one of sulcotrione, mesotrione, dimethenamid-P, flufenacet and their salts.

4.3 Technical effect and objective technical problem

In the data of attachment-1 and annex-1, the following is shown.

Table 1-1 of attachment-1 shows the growth inhibition rates for velvetleaf (malvaceae) when using (i) a composition comprising compound A, compound B and sulcotrione as compound C, i.e. a composition as claimed, and (ii) a composition comprising compounds A and B, i.e. a composition as disclosed in D5. The table shows visually observed growth inhibition rates (column X) and calculated values of growth inhibition rates (column Y).

The expected growth inhibition rate of a composition (A+B)+C, according to claim 1 of auxiliary request 2*, is 87 or 89% under no rainfall conditions (row "(A+B)+C", column Y, "no rainfall" of table 1-1). The visually observed growth inhibition for the mixture A+B+C is 95 or 98% under the same conditions (row "A+B+C", column X, "no rainfall" of table 1-1).

The expected growth inhibition rate of a composition (A+B)+C, according to claim 1 of auxiliary request 2*, ranges from 64 to 72% under rainfall conditions (row "(A+B)+C", column Y, "rainfall" of table 1-1). The visually observed growth inhibition for the mixture A+B+C ranges from 87 to 94% under the same conditions (row "A+B+C", column X, "rainfall" of table 1-1).

The observed velvetleaf growth inhibition rates for a composition according to D5 ("A+B") are 35% under no rainfall conditions (row "(A+B)", column X, "no rainfall" of table 1-1), and 25 and 10% under rainfall conditions (row "(A+B)", column X, "rainfall").

Table 1-1 of attachment-1 thus shows that compositions "A+B+C" (C being sulcotrione), i.e. compositions according to claim 1 of auxiliary request 2*, are more efficient than expected when compared to compositions "A+B" according to D5.

Similar conclusions can be made when considering the velvetleaf growth inhibition rates shown in table 1-2 of attachment-1 with compound C being mesotrione, table 1-3 of attachment-1 with compound C being flufenacet and table C of annex-1 with compound C being dimethenamid-P.

Tables 1-1 to 1-3 of attachment-1 and table C of annex-1 thus show that compositions "A+B+C", according to claim 1 of auxiliary request 2*, are more efficient

than expected when compared to compositions "A+B" according to D5.

The fact that the inhibition rates observed for compositions "A+B+C" are more efficient than expected implies that compound C acts synergistically with the synergistic composition A+B disclosed in D5.

Based on the above considerations, the objective technical problem may be formulated as (different from the examining division's formulation of an alternative herbicide), the provision of a herbicidal composition exhibiting further synergism over that of D5.

4.4 Obviousness

The solution proposed by claim 1 of auxiliary request 2* is obvious in view of D2 and D3.

D2 relates to a synergistic herbicidal composition comprising mesotrione (compound C of claim 1) and a second herbicide (claim 1 of D2). The second herbicide may be terbuthylazine (claim 2 of D2) (compound B of claim 1). Thus, D2 discloses a synergistic herbicidal composition comprising compound B and a compound C (mesotrione). The skilled person would have investigated replacing compound B in the composition disclosed in D5 with a synergistic mixture of B+C as disclosed in D2 when seeking further synergism since they would have expected that the synergism between B and C as taught by D2 would add to that between A and B observed in D5. Hence, the skilled person would have arrived at the subject-matter of claim 1 of auxiliary request 2* without inventive merit.

The same conclusion applies for D3. D3 (abstract) discloses a synergistic herbicidal composition comprising nicosulfuron (compound A) and flufenacet (a

compound C). The skilled person would have investigated replacing compound A in the composition of D5 with the synergistic mixture of A+C as disclosed in D3 when seeking further synergism.

4.5 The appellant submitted that a mixture A+C, when C is mesotrione, exhibited antagonism, as shown in table A of annex-1. Therefore, it would not have been obvious that a corresponding ternary mixture A+B+C would have had a synergistic effect since the skilled person would not have known how the antagonism effect of A+C would have affected a ternary composition A+B+C.

The board does not agree.

The cited prior art does not teach any antagonism that would have prevented the skilled person from adding compound C in the composition A+B of D5. In the absence of a prejudice demonstrated by reference to the literature or encyclopaedias published before the priority date (see e.g. T 25/09, Reasons 17), the appellant's argument is not accepted.

4.6 The appellant further submitted that D2 did not disclose synergistic compositions in an enabling manner. D2 did not contain any examples showing any synergism between terbuthylazine and mesotrione (respectively compounds B and C according to claim 1 of auxiliary request 2*). Only during the examination phase did the applicant of D2 file some evidence of a synergistic effect for a composition comprising mesotrione and a compound different from terbuthylazine.

4.6.1 The board cannot accept the appellant's argument. The board is of the view that the skilled person looking for a solution to the technical problem posed would have considered the general teaching of a document.

When searching for a solution for achieving an effect, they would not have disregarded a document for the sole reason that it comprises no examples evidencing the effect. The skilled person would have considered any document comprising a teaching on how to solve the technical problem. To establish a non-enabling disclosure in a document, it has to be shown that the skilled person would not be in a position to repeat the invention disclosed in that document, considering the common general knowledge. In the case at hand, the appellant did not provide evidence that the skilled person, considering their common general knowledge, could not recognise any synergistic effect in a composition comprising mesotrione and terbuthylazine as disclosed in D2.

The board is also of the view that the skilled person would not have investigated the file history of a patent application - in the current case, the later filing of experimental evidence referred to by the appellant - to establish the technical content of a document. As set out above, a skilled person would have considered only the general teaching of a document.

Thus, the board concludes that there are no apparent reasons to establish that the synergistic compositions of D2 are disclosed in a non-enabling manner.

4.7 For the above reasons, the subject-matter of claim 1 of auxiliary request 2* does not involve an inventive step.

Claim 1 of each of the main request* and auxiliary request 1* corresponds to claim 1 of auxiliary request 2*, except that the composition of claim 1 of the main request* is not limited to any undesired plant and, in claim 1 of auxiliary request 1*, the group of undesired

plants is broader than the group of claim 1 of auxiliary request 2*. Thus, the same reasoning applies *mutatis mutandis* to claim 1 of each of the main request* and auxiliary request 1*.

Auxiliary requests 3* to 8* (filed with the letter of 15 October 2021)

5. Claim 1 of auxiliary request 3* differs from claim 1 of auxiliary request 2* (see 4 above) in that the undesired plants are restricted to the group consisting of Abutilon spp., Ambrosia spp., Chenopodium spp. and Solanum spp.

As set out above (4.1 above), D5 discloses that the synergistic compositions disclosed in the document are used on a wide range of plants, among which ragweed is listed. This plant belongs to the genus Ambrosia, as required by claim 1 of auxiliary request 3*. Thus, claim 1 of auxiliary request 3* does not comprise any further distinguishing feature in comparison to claim 1 of auxiliary request 2*. Therefore, the reasoning given for claim 1 of auxiliary request 2* with regard to inventive step applies to the subject-matter of claim 1 of auxiliary request 3*.

6. Claim 1 of auxiliary request 4* reads as follows:

"1. *A herbicidal composition comprising, as active ingredients, (a) nicosulfuron or its salt, (b) terbuthylazine or its salt and (c) compound C, wherein compound C is at least one 4-hydroxyphenylpyruvate dioxygenase inhibitor selected from the group consisting of sulcotrione, mesotrione and their salts.*"

Claim 1 of auxiliary request 5* differs from claim 1 of auxiliary request 4* in that compound C is restricted to mesotrione.

With regard to claim 1 of auxiliary request 2* (see 4 above), the definition of compound C in claim 1 of auxiliary request 4* and 5* has been restricted to two compounds (sulcotrione and mesotrione) or one compound (mesotrione), respectively. Since D2 discloses a synergistic composition of terbuthylazine and mesotrione (compound C as required by claim 1 of each of auxiliary requests 4* and 5*), the reasoning given for claim 1 of auxiliary request 2* (see 4.2 to 4.4 above) still applies to the subject-matter of claim 1 of each of auxiliary requests 4* and 5*.

7. Claim 1 of auxiliary request 8* relates to a method for controlling undesired plants or inhibiting their growth. This method comprises applying, as active ingredients, compounds A, B and C. Compound C is as defined in claim 1 of auxiliary request 2*, i.e. a compound selected from the group consisting of sulcotrione, mesotrione, dimethenamid-P, flufenacet and their salts. The undesired plants are at least one member selected from the group consisting of Abutilon spp., Ambrosia spp., Chenopodium spp. and Solanum spp., as in claim 1 of auxiliary request 3*.

The closest prior art for the subject-matter of claim 1 of auxiliary request 8* is still document D5.

As set out above (see 4.1), D5 (claim 2) relates to a method for controlling or inhibiting the growth of undesirable plants comprising applying to the plants an effective amount of a composition comprising A and B.

The distinguishing feature of claim 1 of auxiliary request 8* in view of D5 is the presence of compound C in the composition used in the method, i.e. at least

one of sulcotrione, mesotrione, dimethenamid-P, flufenacet and their salts.

As set out in the context of claim 1 of auxiliary request 2*, tables 1-1 to 1-3 of attachment-1 and table C of annex-1 show that a method for controlling or inhibiting the growth of undesirable velvetleaf using a compositions "A+B+C", i.e. compositions used in the method of claim 1 of auxiliary request 8*, is more efficient than expected when compared to the method comprising a composition "A+B" according to D5.

Based on the above considerations, the objective technical problem may be formulated as the provision of a method for controlling undesired plants or inhibiting their growth, this method exhibiting further synergism over that of D5.

For the same reasons as those given for claim 1 of auxiliary request 2*, the solution proposed by claim 1 of auxiliary request 8* does not involve an inventive step, D2 and D3 teaching further synergism by replacing compound B with a synergistic mixture of B+C, C being either mesotrione (D2) or flufenacet (D3).

Claim 1 of each of auxiliary requests 6* and 7* corresponds to claim 1 of auxiliary request 8*, except that in the method of claim 1 of auxiliary requests 6* and 7*, the group of undesired plant was broader than the group of claim 1 of auxiliary request 8*. Thus, the same reasoning applies *mutatis mutandis* to claim 1 of each of auxiliary requests 6* and 7*.

Auxiliary requests 9 and 10 (filed with the statement of grounds of appeal)

8. With regard to claim 1 of auxiliary request 8*, the definition of compound C in claim 1 of auxiliary request 9 or 10 has been restricted to two compounds (sulcotrione and mesotrione) or one compound (mesotrione), respectively.

As set out above, D2 teaches a method using a synergistic composition of B and mesotrione, mesotrione being compound C according to claim 1 of auxiliary request 9 or 10. Thus, the reasoning given for claim 1 of auxiliary request 8* still applies to the subject-matter of claim 1 of each of auxiliary requests 9 and 10.

Auxiliary request 11

9. The set of claims of auxiliary request 11 comprises three claims, claim 1 of which reads as follows:

"*1. A method for controlling undesired plants or inhibiting their growth, which comprises applying a herbicidally effective amount of (a) nicosulfuron or its salt, a herbicidally effective amount of (b) terbuthylazine or its salt, and a herbicidally effective amount of (c) sulcotrione and its salt, to the undesired plants or to a place where they grow, wherein the undesired plants are at least one member selected from the group consisting of Abutilon spp., Ambrosia spp., Chenopodium spp. and Solan um spp.*"

Claim 1 of auxiliary request 11 thus restricts compound C to sulcotrione and its salts.

10. Article 84 EPC

The board is satisfied that claims 1 to 3 of auxiliary request 11 meet the requirements of Article 84 EPC.

The claims of auxiliary request 11 do not comprise any of the unclear terms found in claims 1, 2, 7, 10, 11 and 12 of the main request (see 1.1 to 1.4 above).

11. Article 123(2) EPC

Claim 1 of auxiliary request 11 is based on claim 8 as filed and the passage on page 16, lines 1 to 12. The definition of compound C in claim 8 as filed has been restricted to sulcotrione and its salts, and the list of undesired plants was shrunk to the list comprising Abutilon spp., Ambrosia spp., Chenopodium spp. and Solanum spp.

Claims 2 and 3 of auxiliary request 11 correspond to claims 9 and 10 as filed.

12. Article 56

12.1 As set out above, compound C in claim 1 of auxiliary request 11 is restricted to sulcotrione and its salts.

12.2 Document D5 represents the closest prior art. As set out above, D5 discloses a synergistic composition comprising compounds A and B.

The distinguishing feature of claim 1 of auxiliary request 11 in view of D5 is compound C, i.e. sulcotrione and its salt.

As set out above, table 1-1 of attachment-1 shows that compositions "A+B+C", according to claim 1 of auxiliary request 11, are more efficient than expected when compared to compositions "A+B" according to D5.

Thus, the objective technical problem may be formulated as the provision of a method for controlling undesired plants or inhibiting their growth, this method exhibiting further synergism over that of D5.

None of D1, D2 and D3 teaches that the addition of sulcotrione and its salt would provide further synergism to a composition comprising compounds A and B.

12.3 D2 (see 4.4 above) relates to a synergistic herbicidal composition comprising mesotrione and terbuthylazine (compound B). The subject-matter of claim 1 of auxiliary request 11 differs from D2 in the presence of compounds A and C (sulcotrione). Thus, D2 is less relevant than D5, from which the subject-matter of claim 1 of auxiliary request 11 only differs in the presence of compound C. Consequently, an inventive step can be acknowledged in view of D2 as the closest prior art for the same reasons as those given above for D5.

12.4 Thus, the subject-matter of claim 1 and, by the same token, of claims 2 to 3 of auxiliary request 11 referring back to the method of claim 1, involves an inventive step within the meaning of Article 56 EPC.

13. The board concludes that the claims of auxiliary request 11 meet the requirements of the EPC.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the examining division with the order to grant a patent on the basis of the claims according to auxiliary request 11 filed during the oral proceedings before the board and a description to be adapted thereto.

The Registrar: The Chairman:

N. Maslin M. O. Müller

Decision electronically authenticated