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**Datasheet for the decision
of 6 February 2025**

Case Number: T 2320/22 - 3.5.04

Application Number: 18211098.1

Publication Number: 3471416

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Language of the proceedings: EN

Title of invention:

CODING OF SIGNIFICANCE MAPS AND TRANSFORM COEFFICIENT BLOCKS

Patent Proprietor:

GE Video Compression, LLC

Opponent:

Unified Patents, LLC

Relevant legal provisions:

EPC Art. 100(c), 76(1)

RPBA 2020 Art. 13(2)

Keyword:

Granted patent - extension of subject-matter (yes)

Auxiliary requests I, II, III, IIIa and IV - subject-matter extends beyond content of earlier application (yes)

Auxiliary requests V and VI - amendment after notification of Art. 15(1) RPBA communication - taken into account (no)

Decisions cited:

T 1473/19



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2320/22 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 6 February 2025

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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
8 August 2022 concerning maintenance of the
European Patent No. 3471416 in amended form.

Composition of the Board:

Chair B. Willems
Members: F. Sanahuja
G. Decker

Summary of Facts and Submissions

- I. The present appeals are against the opposition division's interlocutory decision dated 8 August 2022 (corrected under Rule 140 EPC on 18 October 2022) that, account being taken of the amendments made by the patent proprietor during the opposition proceedings, European patent No. 3 471 416 and the invention to which it relates met the requirements of the EPC (Articles 101(3)(a) and 106(2) EPC).
- II. The application underlying the patent was filed as a divisional application of European patent application No. 18 185 240.1 ("parent application"), which in turn is a divisional application of European patent application No. 17 177 435.9 ("grandparent application"), which in turn is a divisional application of European patent application No. 11 713 791.9 ("great-grandparent application"). The great-grandparent application is a Euro-PCT application within the meaning of Article 153(2) EPC. The underlying international application was published as WO 2011/128303 A2.
- III. In the opposition proceedings, the grounds for opposition according to Article 100(a) together with Articles 54(1) and 56 EPC, Article 100(b) and Article 100(c) EPC were raised.
- IV. In its decision, the opposition division reached the following conclusions.
- The ground for opposition under Article 100(a) EPC and Article 54 EPC prejudiced maintenance of the

patent as granted.

- The ground for opposition under Article 100(c) EPC prejudiced maintenance of the patent as granted.
- Auxiliary request I was not allowable because the subject-matter of claim 1 of this request lacked novelty over the disclosure of document D7 (Article 54 EPC).
- Auxiliary request II did not meet the requirements of Article 76(1) EPC.
- Auxiliary request III was not allowable because the subject-matter of claim 1 of this request lacked inventive step in view of the disclosure of document D23 combined with common general knowledge (Article 56 EPC).
- Auxiliary request IV met the requirements of the EPC (Article 101(3)(a) EPC).

- V. Both the patent proprietor and the opponent filed notice of appeal and a statement of grounds of appeal.
- VI. By a letter dated 1 May 2023, the opponent filed a reply to the patent proprietor's statement of grounds of appeal.
- VII. By a letter dated 2 May 2023, the patent proprietor filed a reply to the opponent's statement of grounds of appeal and submitted an amended set of claims according to auxiliary request IIIa.
- VIII. By a letter dated 20 December 2023, the opponent filed observations on the patent proprietor's submissions

dated 2 May 2023. It objected to the admittance of the patent proprietor's auxiliary request IIIa and reasoned that the claims of this request did not meet the requirements of Articles 123(2), 83 and 56 EPC and lacked entitlement to the claimed priority date.

- IX. The board issued summons to oral proceedings and a communication under Article 15(1) RPBA. In this communication, the board gave, *inter alia*, the preliminary opinion that the ground for opposition under Article 100(c) EPC prejudiced maintenance of the patent as granted, auxiliary requests I to III and IV did not meet the requirements of Article 76(1) EPC, and it might need to be discussed whether admitting auxiliary request IIIa would run counter to the principle of procedural economy.
- X. In its letter of reply dated 9 December 2024, the opponent reiterated that claim 1 of all the requests lacked inventive step (Article 56 EPC).
- XI. With its reply dated 13 December 2024, the patent proprietor requested suspension of the appeal proceedings in view of pending referral G 1/24. It submitted amended claims according to auxiliary requests V and VI. The patent proprietor contested the board's interpretation of claim 1 of auxiliary request I and argued, *inter alia*, that the claims of auxiliary requests I and II met the requirements of Articles 76(1) and 123(2) EPC. It reasoned that the subject-matter of claim 1 of auxiliary request III met the requirements of Article 56 EPC, and submitted arguments to support its opinion that the claims of auxiliary request IV met the requirements of the EPC. The patent proprietor argued that auxiliary requests V and VI should be admitted into the proceedings,

indicated a basis for the amended claims of these requests and reasoned that the subject-matter of claim 1 of these requests met the requirements of Article 56 EPC.

- XII. By a communication dated 9 January 2025, the board refused the patent proprietor's request for suspension of the proceedings.
- XIII. With its reply dated 20 January 2025, the opponent requested that auxiliary requests V and VI not be admitted into the appeal proceedings.
- XIV. The patent proprietor's final requests were that the appeal proceedings be suspended in view of pending referral G 1/24, or that the decision under appeal be set aside and that the opposition be rejected, i.e. that the patent be maintained as granted, or alternatively, that the patent be maintained as amended on the basis of the claims of one of auxiliary requests I, II and III filed with the statement of grounds of appeal, or on the basis of the claims of auxiliary request IIIa filed with the letter dated 2 May 2023, or, as auxiliary request IV, that the opponent's appeal be dismissed, i.e. that the interlocutory decision of the opposition division of 8 August 2022 be maintained, i.e. that the patent be maintained on the basis of the claims of auxiliary request IV filed during the oral proceedings before the opposition division, or that the patent be maintained as amended on the basis of the claims of one of auxiliary requests V and VI filed with the letter dated 13 December 2024.
- XV. The opponent's final requests were that the decision under appeal be set aside and that the patent be

revoked. It further requested that the patent proprietor's auxiliary requests IIIa, V and VI not be admitted into the appeal proceedings.

XVI. The features of claim 1 of the **patent as granted** are identified as follows:

"Apparatus for decoding a transform coefficient block encoded in a data stream, comprising:

- A *a decoder (250) configured to extract, from the data stream, a significance map indicating positions of significant transform coefficients within the transform coefficient block, and*
- A1 *the values of the significant transform coefficients within the transform coefficient block,*
- A2 *with, in extracting the significance map, extracting, from the data stream, first-type syntax elements by context-adaptive entropy decoding,*
- A3 *with each of the first-type syntax elements indicating, with respect to an associated position within the transform coefficient block, whether a significant transform coefficient is present; and*
- B *an associator (250) configured to associate each of the first-type syntax elements with the respective position of the transform coefficient block in a predetermined scan order,*

B1 *wherein the decoder is configured to use, in context-adaptively entropy decoding a current first-type syntax element, a context which is selected depending on a number of significant transform coefficients in a predetermined neighborhood of the current first-type syntax element*

B2 *and the position of the current first-type syntax element."*

XVII. Claim 1 of **auxiliary request I** differs from claim 1 of the patent as granted in that the phrase "extracting, from the data stream" in feature A2 and the term "associate" in feature B have been amended to "sequentially extracting, from the data stream" and "sequentially associate", respectively, and in that feature B1 has been amended as follows (additions underlined and deletions ~~struck through~~):

B1 *"wherein the decoder is configured to use, in context-adaptively entropy decoding ~~a-the~~current first-type syntax elements~~, a-contexts~~, are is individually selected for each of the first-type syntax elements depending on a number of positions at which according to the previously extracted and associated first-type syntax elements significant transform coefficients are situated in a predetermined neighborhood of ~~the-a~~a current first-type syntax element"*

XVIII. Claim 1 of **auxiliary request II** differs from claim 1 of auxiliary request I in that the following feature has been inserted at the end of the claim:

", the predetermined neighborhood being situated within the transform coefficient block"

- XIX. Claim 1 of **auxiliary requests III and IIIa** differs from claim 1 of auxiliary request II in that the following feature has been inserted at the end of the claim:

"the size of the transform coefficient block being larger than 8x8"

- XX. Claim 1 of **auxiliary request IV** differs from claim 1 of auxiliary request III in that the following feature has been inserted at the end of feature B1:

", wherein only the positions are counted at which according to the previously extracted and associated first-type syntax elements significant transform coefficients are situated"

- XXI. Claim 1 of **auxiliary request V** differs from claim 1 of auxiliary request III in that the word "then" has been inserted at the beginning of feature A1 and in that the phrase "a number" in feature B1 has been amended to "the number".

- XXII. Claim 1 of **auxiliary request VI** differs from claim 1 of auxiliary request IV in that the word "then" has been inserted at the beginning of feature A1 and in that the phrase "a number" in feature B1 has been amended to "the number".

Reasons for the Decision

1. Interpretation of features A and A1

1.1 With reference to decision T 1473/19 (point 3.13 ff of the Reasons), the patent proprietor submitted that a patent claim had to be interpreted in its context, which included the description. It was not possible to give the broadest meaning to claim features irrespective of the context in which they were used. The description provided context, which contributed to legal certainty. If a technically sensible interpretation was not disclosed in the description, it could not be considered under Article 123(2) EPC.

1.1.1 The patent proprietor argued that claim 1 of the granted patent clearly specified that the presence and positions of significant transform coefficients were already known to the decoder at the time the values of the significant transform coefficients were extracted. That is, from the wording of the claim, the extraction of the significance map implicitly preceded the extraction of values of the significant transform coefficients. Otherwise the second definite article in the phrase "the values of the significant transform coefficients" would contain an undefined reference.

Thus claim 1 specified either extracting the significant transform coefficients after the significance map or extracting them interleaved with the significance map. These were the only technically sensible options for extracting the values of the significant transform coefficients.

1.1.2 Further, in order to extract the values of the significant transform coefficients, the decoder had to

know the number of significant transform coefficients in the transform coefficient block. This number was implicitly an element of the significance map because it could be derived from said map by counting the number of first-type syntax elements (significant coefficient flags) indicating that a significant transform coefficient was present at an associated position within the transform coefficient block.

Extracting the values of the significant transform coefficients before the significance map was not a technically sensible interpretation because feature A1 did not specify extracting the number of significant transform coefficients in the transform block. If the values were extracted first, the decoder would not know how many significant transform coefficients to extract.

- 1.1.3 When interpreting claim 1 in the context of the description of the patent, paragraph [0005] disclosed obtaining the positions and the number of significant transform coefficients from the significance map. The remainder of the description was consistent with this teaching and disclosed always extracting the significant coefficient flags (first-type syntax elements) from the significance map before the values of the significant transform coefficients (see paragraphs [0047] and [0050]). Hence the description excluded the interpretation in which the values of the significant transform coefficients were extracted before the significance map.
- 1.2 The opponent submitted that the board in decision T 1473/19 confirmed the principle of the primacy of the claims (see point 3.16 of the Reasons). Further, a claim need not be interpreted to cover only the

embodiments described in the application (see point 4.4 of the Reasons).

- 1.2.1 The opponent also argued that claim 1 did not specify any temporal order for extracting the significance map and the values of the significant transform coefficients. The use of the second definite article in the phrase "the values of the significant transform coefficients" merely indicated that the significant transform coefficients were the same as those referred to by the significance map.

Thus claim 1 left it open in which order the significance map and the values of the significant transform coefficients were extracted.

- 1.2.2 The number of significant transform coefficients could be provided before the significance map, which would be used to allocate the significant transform coefficients to corresponding positions. Even though this might be less efficient, it was nevertheless a technically sensible interpretation of the claim.

- 1.2.3 There was no indication in claim 1 that the number of first-type syntax elements indicating that a significant transform coefficient was present at an associated position was used to derive the number of significant transform coefficients.

In this context, the opponent noted that paragraph [0005] of the patent in suit referred to the H.264 standard, whereas claim 1 was not limited to it. The remainder of the description could not change the broad interpretation of the extraction order of claim 1.

- 1.3 The board finds that the subject-matter of claim 1 of the patent as granted does not specify any order for extracting the significance map and the values of the significant transform coefficients of a transform coefficient block.
- 1.3.1 The extraction operations that the decoder is configured to perform in this particular case do not require a temporal order for their execution. Further, the second definite article in the phrase "the values of the significant transform coefficients" only refers to the significant transform coefficients of the significance map, as argued by the opponent, without implying that the significance map is first extracted.
- 1.3.2 The patent proprietor's argument that extracting the values of the significant transform coefficients before the significance map would not be technically sensible is not convincing. Coding and extracting the values of the significant transform coefficients before the significance map may be less efficient than coding and extracting the significance map first, as it may require an additional indication of the number of significant transform coefficients. However, inferior coding efficiency is not necessarily a suitable criterion for judging whether an implementation makes technical sense. Regardless of the extraction order, the significance map and the values of the significant transform coefficients are available to the decoder. That feature A1 does not specify extracting the number of significant transform coefficients in the transform block is not to be read as excluding that said number could also be coded and extracted. Therefore extracting the values of the significant transform coefficients after the significance map or interleaved with it are

not the only technically sensible readings of features A and A1.

- 1.3.3 Further, the board agrees with the opponent that a claim need not be interpreted as covering only the embodiments described in the application.

The board in decision T 1473/19 found that the mere fact that a claim feature was understood according to a technically sensible interpretation not disclosed in the description did not speak against that interpretation, in particular because neither the description nor the drawings excluded that interpretation (see point 4.4 of the Reasons).

This board considers that the wording of features A and A1 does not contradict the disclosure of the description and drawings of the patent. Rather, the claimed wording encompasses additional alternatives.

- 1.4 In view of the above, the subject-matter of claim 1 is not restricted to the interpretation submitted by the patent proprietor, and encompasses, at least, extracting the values of the significant transform coefficients before, after or interleaved with the significance map, all of these extraction orders being technically sensible.

2. *Request for suspension of the appeal proceedings*

The patent proprietor's request for suspension of the appeal proceedings in view of pending referral G 1/24 was based on the question of how certain features were to be interpreted and whether the description was to be taken into account for this question. However, since the board arrives at the same interpretation of

features A and A1 regardless of whether or not the description is taken into account for interpretation purposes (see point 1. above), any possible outcome of pending referral G 1/24 has no impact on the case in hand. Consequently, the board finds that this request is no longer relevant.

3. *Patent as granted - subject-matter of the European patent (Article 100(c) EPC)*

- 3.1 Under Articles 100(c) and 101(2) EPC, the subject-matter of the European patent may not extend beyond the content of the application as filed, or, if the patent was granted on a divisional application, beyond the content of the earlier application as filed.

In the case of a sequence of applications consisting of a root application followed by divisional applications, each divided from its predecessor, it is a necessary and sufficient condition for a divisional application of that sequence to comply with Article 76(1), second sentence, EPC that anything disclosed in that divisional application be directly and unambiguously derivable from what is disclosed in each of the preceding applications as filed (see Case Law of the Boards of Appeal of the European Patent Office, 10th edition, 2022, II.F.2.1.2).

The same principles that apply to Article 76(1) EPC also apply to the ground for opposition under Article 100(c) EPC by virtue of the same wording.

- 3.2 The opponent argued that the ground for opposition under Article 100(c) EPC prejudiced maintenance of the patent as granted. Although claim 9 of the great-grandparent application specified extracting the

values of significant transform coefficients without using context-adaptive decoding, as specified in claim 1, the values of significant transform coefficients were extracted only after extracting the significance map. The description of the great-grandparent application disclosed only specific extraction orders of the significance map and the values of the significant transform coefficients. Omitting these orders in features A and A1 represented an intermediate generalisation.

As to the technical sense of extracting the values of the significant transform coefficient before the significance map, the opponent submitted that the number of significant transform coefficient values might have to be provided. However, this number could not be considered to be an element of the significance map which was separately signalled, in particular because claim 1 specified that the significance map only indicated the positions of the significant transform coefficients within the transform coefficient block.

- 3.3 The patent proprietor submitted that the number of significant transform coefficients had to be signalled in advance when the significant transform coefficient values were first extracted. Such a number was implicitly an element of the significance map, since it was the significance map that indicated the positions and number of the significant transform coefficients. Consequently, the values of the significant transform coefficients were extracted between the number of significant transform coefficients and the element of the significance map indicating their associated positions, i.e. the values of the significant transform

coefficients were interleaved with elements of the significance map.

Since page 15, lines 32 to 36 and page 17, lines 24 and 25 of the great-grandparent application disclosed interleaving the values of the significant transform coefficients with the significance map, features A and A1 did not contain subject-matter which extended beyond the content of the great-grandparent application as filed.

3.4 The board finds that the great-grandparent application does not provide a basis for coding and extracting the significant transform coefficients before the significance map, as encompassed by claim 1 of the granted patent (see point 1.4 above).

3.4.1 The patent proprietor's argument that the number of significant transform coefficients was an element of the significance map is not convincing.

Claim 1 specifies "*a significance map indicating positions of significant transform coefficients within the transform coefficient block*". The number of significant transform coefficients is not defined in the claim, either as an element of the significance map or otherwise. Hence it is not apparent why this number should be considered to be an element of the significance map.

3.4.2 The passages of the great-grandparent application cited by the patent proprietor disclose encoding the values of the significant transform coefficients after the significance map or interleaving them with the syntax elements of the significance map. However, these two alternatives do not provide a basis for any encoding

order of the significance map and the values of the significant transform coefficients, for example, encoding the values of the significant transform coefficients before the syntax elements of the significance map.

3.5 In view of the above, the board finds that the ground for opposition under Article 100(c) EPC prejudices maintenance of the patent as granted because the subject-matter of claim 1 extends beyond the content of the great-grandparent application as filed.

4. *Auxiliary requests I, II, III, IIIa and IV - content of the divisional application (Article 76(1) EPC)*

4.1 Claim 1 of auxiliary requests I, II, III, IIIa and IV specifies features A and A1 in the same way as claim 1 of the granted patent.

4.2 Neither the patent proprietor nor the opponent submitted further comments.

4.3 Consequently, for the same reasons as set out with respect to the granted patent, claim 1 of auxiliary requests I, II, III, IIIa and IV does not meet the requirements of Article 76(1) EPC.

4.4 In view of this conclusion, the question of whether auxiliary request IIIa should be admitted in the appeal proceedings can be left undecided.

5. *Auxiliary request V - admittance (Article 13(2) RPBA)*

5.1 The claims of auxiliary request V were filed with a letter dated 13 December 2024, i.e. after the board's communication under Article 15(1) RPBA, and are

therefore amendments within the meaning of Article 13(2) RPBA.

- 5.2 Under Article 13(2) RPBA, any amendment to a party's appeal case after notification of a communication under Article 15(1) RPBA is, in principle, not to be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.

The explanatory remarks on Article 13(2) RPBA contain the following guidance: *"The basic principle of the third level of the convergent approach is that, at this stage of the appeal proceedings, amendments to a party's appeal case are not to be taken into consideration. However, a limited exception is provided for: it requires a party to present compelling reasons which justify clearly why the circumstances leading to the amendment are indeed exceptional in the particular appeal ('cogent reasons'). For example, if a party submits that the Board raised an objection for the first time in a communication, it must explain precisely why this objection is new and does not fall under objections previously raised by the Board or a party. The Board may decide to admit the amendment in the exercise of its discretion"* (see Supplementary publication 2, OJ EPO 2020, explanatory remarks on Article 13(2), page 60, third paragraph).

- 5.3 The patent proprietor submitted that the amendments to claim 1 of auxiliary request V had been filed in response to, and addressed, the objection under Article 100(c) EPC raised for the first time in the board's communication under Article 15(1) RPBA which related to the order of coding and extracting the significance map and the values of the significant

transform coefficients. This situation constituted exceptional circumstances within the meaning of Article 13(2) RPBA.

The patent proprietor argued that the opponent's objection under Article 100(c) EPC was based on an alleged intermediate generalisation in claim 1 of the granted patent of the disclosure of claim 9 of the great-grandparent application. Claim 1 omitted that the extraction of the values of the significant transform coefficients occurred after the extraction of the significance map. In contrast, the board extended the objection by reasoning that claim 1 encompassed coding and extracting the values of the significant transform coefficients before the significance map and that the great-grandparent application did not provide a basis for this order.

Further, the discussion of claim 9 of the great-grandparent application on page 14 of the opponent's statement of grounds of appeal did not suffice to substantiate the objection, as it did not address why the decision under appeal was wrong. In these circumstances, the patent proprietor did not expect the board to decide differently from the opposition division.

The objection was thus only substantiated by the board's communication under Article 15(1) RPBA. This fact justified the subsequent filing of auxiliary request V.

- 5.4 The opponent submitted that the objection was raised and substantiated on page 14 of the statement of grounds of appeal. It had disputed the existence of a basis in the great-grandparent application for decoding

the values of the significant transform coefficients without the remaining features of claim 9 of the great-grandparent application when context-adaptive decoding was not used for extracting the values of the significant transform coefficients.

Further, the fact that a board arrived at a different conclusion from the opposition division could not be considered an exceptional circumstance within the meaning of Article 13(2) RPBA.

5.5 The board finds that the comments relating to the order of coding and extracting the significance map and the values of the significant transform coefficients in its communication under Article 15(1) RPBA are a natural development of the case which takes account of the arguments of both parties and is not to be considered exceptional within the meaning of Article 13(2) RPBA.

5.5.1 In the statement of grounds of appeal (see page 14), the opponent submitted that the description of the great-grandparent application disclosed decoding the values of the significant transform coefficients only using context-adaptive decoding. Although claim 9 of the great-grandparent application did not refer to context-adaptive decoding, it did define a specific extraction order of the significance map and the values of the significant transform coefficients. The order's omission represented an intermediate generalisation which lacked basis in the great-grandparent application.

The board considers that, in the present case, the identification of the claimed feature which allegedly infringed the requirements of Article 100(c) EPC, and the explanation as to why this feature was not directly

and unambiguously derivable from the content of the great-grandparent application as filed, implicitly addresses why the opponent considered that the decision under appeal was wrong, and constitutes a sufficient substantiation of the objection.

- 5.5.2 In its communication under Article 15(1) RPBA, the board concurred with the opponent that the great-grandparent application did not provide a basis for omitting the encoding order of the significance map and the values of the significant transform coefficients. This conclusion was based on the disclosure of page 15, lines 32 to 36 and page 17, lines 24 and 25 of the great-grandparent application to which the patent proprietor had referred (see point 111 of the minutes of the oral proceedings before the opposition division).

The board therefore relied on substantially the same facts and evidence as those relied on by the parties.

- 5.5.3 The board finds that this normal development of a case, based on substantially the same factual and evidentiary framework, does not constitute exceptional circumstances within the meaning of Article 13(2) RPBA that would justify taking into account auxiliary request V.

- 5.5.4 Moreover, the board's agreement with one of the opponent's arguments cannot be considered "exceptional circumstances". If exceptional circumstances were to be acknowledged whenever a board agrees with, and further develops, an objection raised by the opponent, the board would be unable to evaluate and comment on the arguments submitted by both parties to come to a

balanced and reasoned conclusion without opening the door to the filing of new requests.

5.5.5 The objection was known to the patent proprietor from the outset of the appeal proceedings and this would have provided a sufficient reason for the filing of an amended auxiliary request by the patent proprietor at an early stage to overcome the objection. However, the patent proprietor decided to file such a request only after the board's communication under Article 15(1) RPBA. It is within the patent proprietor's sphere of risk to counter an objection only by way of arguments and to defer the filing of requests addressing the objection to a later stage of the appeal proceedings.

5.6 In view of the above, the board, exercising its discretion under Article 13(2) RPBA, decided not to take into account auxiliary request V.

6. *Auxiliary request VI - admittance (Article 13(2) RPBA)*

6.1 The claims of auxiliary request VI were filed with a letter dated 13 December 2024, i.e. after the board's communication under Article 15(1) RPBA, and are therefore amendments within the meaning of Article 13(2) RPBA.

6.2 Neither the patent proprietor nor the opponent submitted further comments.

6.3 Consequently, for the same reasons as set out with respect to auxiliary request V, the board, exercising its discretion under Article 13(2) RPBA, decided not to take into account auxiliary request VI.

7. *Conclusion*

The ground for opposition under Article 100(c) EPC prejudices maintenance of the patent as granted. Claim 1 of auxiliary requests I, II, III, IIIa and IV do not meet the requirements of Article 76(1) EPC. Auxiliary requests V and VI were not taken into account under Article 13(2) RPBA. Since none of the patent proprietor's requests is allowable, the decision under appeal is to be set aside and the patent is to be revoked.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chair:



K. Boelicke

B. Willems

Decision electronically authenticated