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**Datasheet for the decision
of 12 March 2025**

Case Number: T 0744/23 - 3.3.05

Application Number: 15763009.6

Publication Number: 3194077

IPC: B03D1/00

Language of the proceedings: EN

Title of invention:

USE OF BRANCHED ALCOHOLS AND ALKOXYLATES THEREOF AS SECONDARY COLLECTORS

Patent Proprietor:

Nouryon Chemicals International B.V.

Opponent:

BASF SE

Headword:

SECONDARY COLLECTORS/Nouryon Chemicals

Relevant legal provisions:

EPC Art. 100(c)
RPBA 2020 Art. 11
EPC R. 124

Keyword:

Claim interpretation - opponent's view not followed
Grounds for opposition - added subject-matter (no)
Minutes of oral proceedings - request for correction of
minutes

Decisions cited:

G 0001/21, G 0001/24, R 0012/22, T 0966/99, T 0263/05,
T 0287/11, T 2002/13, T 0262/17, T 0118/20, T 0195/20,
T 1891/20

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0744/23 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 12 March 2025

Appellant: Nouryon Chemicals International B.V.
(Patent Proprietor) Velperweg 76
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Representative: LKGlobal UK Ltd.
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Respondent: BASF SE
(Opponent) Carl-Bosch-Str. 38
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Representative: Maiwald GmbH
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80335 München (DE)

Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 17 April 2023
revoking European patent No. 3194077 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chair G. Glod
Members: S. Besselmann
R. Winkelhofer

Summary of Facts and Submissions

- I. The patent proprietor's (appellant's) appeal in this case lies from the opposition division's decision to revoke European patent EP 3 194 077 B1.
- II. The patent in suit concerns the use of branched alcohols and alkoxyates thereof as secondary collectors.
- III. The independent claims of the patent as granted read as follows:

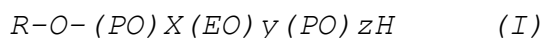
Claim 1: *"Use of branched fatty alcohol-based compounds selected from the group of fatty alcohol alkoxyates with 12-16 carbon atoms having a degree of branching of 1-3, with a degree of ethoxylation of up to 3 where the molecular formula is*

$R-O-(PO)_x(EO)_y(PO)_zH$ (I),

wherein R is an alkyl or alkenyl group having 12-16 carbon atoms, and where said alkyl or alkenyl group has a degree of branching of 1-3; PO is a propyleneoxy unit and EO is an ethyleneoxy unit; x is a number 0, y is a number 0-3 and z is a number 0, as secondary collectors for the froth flotation of non-sulfidic ores, in combination with a primary collector selected from the group of amphoteric and anionic surface active compounds."

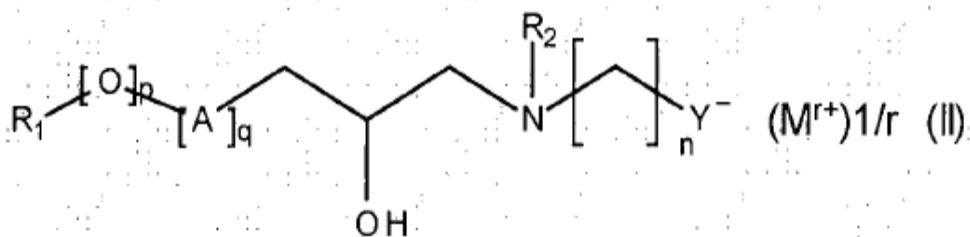
Claim 6: *"A process for the froth flotation of non-sulfidic ores using a collector composition comprising a primary collector selected from the group of amphoteric and anionic surface-active compounds, and a secondary collector which is selected from the group of branched fatty alcohol alkoxyates with 12-16 carbon*

atoms having a degree of branching of 1-3, with a degree of ethoxylation of up to 3 of the formula

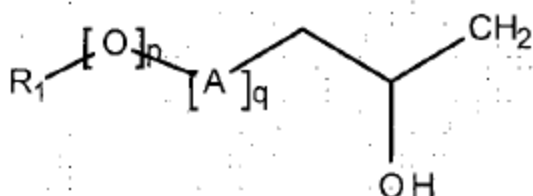


wherein R is an alkyl or alkenyl group having 12-16 carbon atoms, and wherein said alkyl or alkenyl group has a degree of branching of 1-3; PO is a propyleneoxy unit and EO is an ethyleneoxy unit; x is a number 0, y is a number 0-3 and z is a number 0."

Claim 12: "A collector composition comprising a surface-active primary collector selected from the group consisting of fatty acids, sulfonates, alkyl phosphates, alkyl sulfates, compounds of the formula (II)

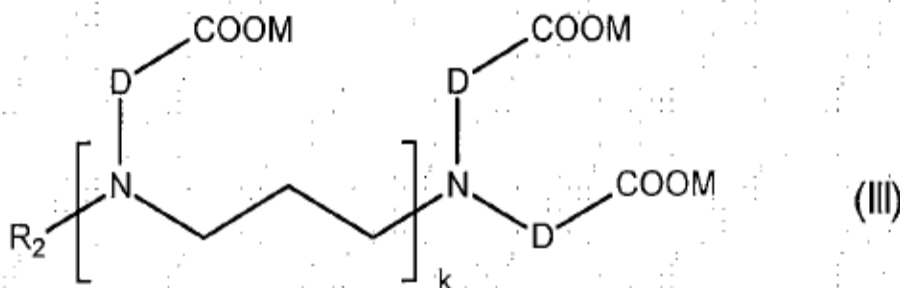


wherein R_1 is a hydrocarbyl group with 8-22, preferably 12-18, carbon atoms; A is an alkyleneoxy group having 2-4 carbon atoms; p is a number 0 or 1; q is a number from 0 to 5, preferably 0; R_2 is a hydrocarbyl group having 1-4 carbon atoms, preferably 1, or R_2 is the group

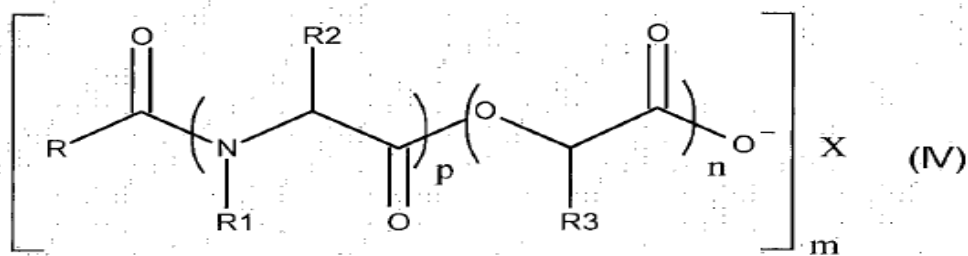


wherein R_1 , A, p and q have the same meaning as above, Y^- is selected from the group consisting of COO^- and

SO_3^- , preferably COO^- ; n is a number 1 or 2, preferably 1; M is a cation, which may be monovalent or divalent, and inorganic or organic, and r is a number 1 or 2; or where the compound (II) is in its acidic protonated form without an external cation (M^{r+}) $1/r$; compounds of formula (III)

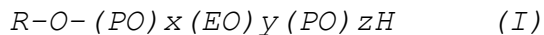


wherein R_2 is a hydrocarbyl group with 8-22, preferably 12-18, carbon atoms, D is $-\text{CH}_2-$ or $-\text{CH}_2\text{CH}_2-$, k is 0-4, preferably 0-3, and most preferably 0-2, and M is hydrogen or a cation, such as sodium or potassium; and compounds of formula (IV)



wherein R is a hydrocarbyl group having from 7-23, preferably 11-21, carbon atoms, optionally substituted; R_1 is H or CH_3 , preferably H ; R_2 is H or a C1-C4 alkyl group, preferably H ; R_3 is H or CH_3 , preferably CH_3 ; n is a number 1-20; p is a number 1-3, preferably 1; X is H^+ or a cation which is organic or inorganic, and m represents the valency of the cation and is a number 1-2, preferably 1; and mixtures thereof; and a secondary collector that is selected from the group of branched fatty alcohol alkoxyates with 12-16 carbon

atoms having a degree of branching of 1-3, with a degree of ethoxylation of up to 3 of the formula



wherein R is an alkyl or alkenyl group having 12-16 carbon atoms, and wherein said alkyl or alkenyl group has a degree of branching of 1-3; PO is a propyleneoxy unit and EO is an ethyleneoxy unit; x is a number 0, y is a number 0-3 and z is a number 0.

Claims 2-5, 7-11 and 13 relate to particular embodiments of the use, the process and the collector composition, respectively.

- IV. The appellant's arguments are reflected in the reasons for the decision.
- V. The respondent's (opponent's) arguments can be summarised as follows.

Claim 1 as granted specified the total number of carbon atoms in the fatty alcohol alkoxylate as an additional feature. It thereby infringed Article 123(2) EPC. Moreover, the term "branching" had to be understood broadly and encompassed all the compounds having a degree of branching of 1-3, including a linear secondary alcohol. The same considerations applied to independent claims 6 and 12, in which the secondary collector was specified as being selected from branched fatty alcohol alkoxylates in the same manner as in claim 1.

- VI. In their submission of 28 November 2024, the respondent requested a stay of the proceedings in view of the pending referral G 1/24, or alternatively requested

that supplementary questions regarding claim interpretation in relation to Article 123(2) EPC be referred to the Enlarged Board.

- VII. The appellant opposed consideration of the respondent's submission of 28 November 2024, and a stay of the proceedings.
- VIII. A further request by the respondent for correction of the minutes of the oral proceedings before the board, as held on 12 March 2025, is pending (see Reasons 5. below).
- IX. On substance, the appellant requests that the decision under appeal be set aside and amended such that the opposition be rejected (main request), or that the patent be maintained in amended form on the basis of one of auxiliary requests 1-10 filed with the statement of grounds of appeal.

The respondent requests that the appeal be dismissed, in the alternative, that the proceedings be stayed and/or that questions be referred to the Enlarged Board of Appeal.

Alternatively, both parties request remittal to the opposition division.

Reasons for the Decision

Main request

1. Claim interpretation

1.1 The question of claim interpretation has been dealt with separately in the impugned decision, and was also addressed by the appellant (pages 3-26 of the statement of grounds of appeal) and the respondent (pages 10 et seq. of the reply to the appeal).

1.2 Number of carbon atoms

1.2.1 According to the impugned decision, the part of claim 1 reading "selected from the group of fatty alcohol alkoxylates with 12-16 carbon atoms" (first two lines of claim 1) specified the total number of carbon atoms in the fatty alcohol alkoxylate (see the impugned decision, "Grounds for the decision", point 5.7, penultimate sentence; point 5.9).

1.2.2 The board agrees that the expression "fatty alcohol alkoxylates with 12-16 carbon atoms" as such, i.e. *taken in isolation*, may indeed be understood as specifying the total number of carbon atoms in the fatty alcohol alkoxylates; however, when read as a whole, the claim cannot be interpreted this way, as it would not be consistent with the remainder of the claim.

The claimed compounds are additionally defined in terms of the Markush formula $R-O-(PO)_x(EO)_y(PO)_zH$. The skilled person would immediately recognise that the definition of the alkyl or alkenyl group R in the Markush formula ("*wherein R is an alkyl or alkenyl*

group having 12-16 carbon atoms, and where said alkyl or alkenyl group has a degree of branching of 1-3") parallels the descriptive indication "with 12-16 carbon atoms having a degree of branching of 1-3", while the definition of $(PO)_x(EO)_y(PO)_z$ in the Markush formula ("PO is a propyleneoxy unit and EO is an ethyleneoxy unit; x is a number 0, y is a number 0-3 and z is a number 0") parallels the descriptive expression "with a degree of ethoxylation of up to 3".

In the light of these parallels, the skilled person would immediately understand that the reference to 12-16 carbon atoms having a degree of branching of 1-3 only refers to the fatty alcohol part of the compound, i.e. the alkyl or alkenyl group R, and does not include the carbon atoms in the subsequently mentioned ethyleneoxy units (i.e. the alkoxyate part of the compound). Accordingly, the two expressions which are each introduced by the word "with" ("with 12-16 carbon atoms having a degree of branching of 1-3" and "with a degree of ethoxylation of up to 3") refer to different parts of the fatty alcohol alkoxyate. Consequently, T 195/20 (Reasons 5.), which was relied on by the respondent and stated that how the skilled person would interpret the claim needed to be analysed, is not at odds with the above conclusion.

- 1.2.3 The fact that the indicated descriptive expressions from the claim might be superfluous in view of the Markush formula, which is usually more concise, would not lead the skilled person to any different interpretation, in contrast to the respondent's view. The skilled person would not exclude a given understanding of the descriptive term merely because its meaning can already be derived from the Markush formula or *vice versa*, but would, by contrast, consider

concordance between the formula and the corresponding description to be confirmation of their understanding of them. This is not a question of giving more weight to the Markush formula, in contrast to the respondent's view.

- 1.2.4 In the light of the claim as a whole, the skilled person would exclude an interpretation according to which the total number of carbon atoms in the fatty alcohol alkoxylates was meant. As outlined above, this is not a case of claim wording which, when taken as a whole, could lead to alternative interpretations of which one was ruled out as being technically unreasonable or illogical. It is therefore irrelevant whether the examples in the patent in suit would be compatible with claim wording according to which the total number of carbon atoms in the fatty alcohol alkoxylate was 12-16, as argued by the respondent. It is even less a question of resolving an alleged contradiction by disregarding a claimed feature. Consequently, the considerations of T 2002/13 (Reasons 6.), as drawn upon by the respondent, do not apply here.

The respondent also asserted that the purpose of the amendment had been to specify the total number of carbon atoms in the molecule. While there is no indication of this, the claim should in any case not be interpreted in the light of the intention of the drafter, which is a subjective criterion (see also T 287/11, Reasons 2.8.2, albeit in relation to the scope of protection).

- 1.2.5 In conclusion, the reference to 12-16 carbon atoms having a degree of branching of 1-3 only refers to the

fatty alcohol part of the compound in the context of the claim as a whole.

1.2.6 It was common ground among the parties that the considerations are the same for independent claims 6 and 12, referring to "branched fatty alcohol alkoxyates" defined in an analogue manner.

1.3 "Alkoxyate" versus "y=0"

1.3.1 The appellant was of the view that "y=0" was excluded from the scope of the claim because the corresponding compound did not qualify as a fatty alcohol alkoxyate.

1.3.2 As correctly indicated in the impugned decision, claim 1 is arguably unclear in that it refers to the use of an "alkoxyate" even though the number of alkoxy (ethylenoxy) units may be 0 (y=0).

1.3.3 In this case, neither interpretation may be ruled out as being illogical or technically unreasonable. Indeed, even the application as (originally) filed supports the fact that both fatty alcohols and their alkoxyates are generally suitable for the intended use. This is not a question of interpreting the claim on the basis of the application as filed, in contrast to the respondent's view. At the same time, there is no reason to give more weight to the express reference to an "alkoxyate" than to the express indication that "y=0" or vice versa. It follows that, in this case, the skilled person would understand the claim as deviating from the strict meaning of the term "alkoxyate" in the art, with it not being unusual that patent claims give a special or broader meaning to a term, and would interpret the term broadly, thus encompassing embodiments in which "y=0", as expressly stated in the claim itself.

- 1.3.4 The same considerations apply to the definition of the "branched fatty alcohol alkoxylates" in claims 6 and 12.
- 1.4 "Branched" and "degree of branching"
 - 1.4.1 Another issue of interpretation concerns the question of how the term "branched" is to be understood in relation to a secondary alcohol, considering that the degree of branching of 1 (i.e. two methyl groups; see paragraph [0017] of the patent in suit) is already fulfilled by a hydrocarbon chain which would normally be considered "linear".
 - 1.4.2 The opposition division concluded that secondary alcohols could be regarded as branched compounds when using the patent as its own dictionary, in light of the definition of branching in paragraph [0017], and thereby followed the respondent's view that the term "branching" as used in claim 1 was to be interpreted differently from the general interpretation in the organic chemistry (point 4 of the grounds for the decision).
 - 1.4.3 According to the appellant, by contrast, the usual definition of a "branched" fatty alcohol was applicable, which was a fatty alcohol in which a hydrogen of a non-terminal methylene group within the fatty chain is replaced with an alkyl group (statement of grounds of appeal, page 22, last paragraph). This definition did not include a linear secondary alcohol. The degree of branching was an additional requirement, and limiting it to 1-3 had the effect that a branched compound with a degree of branching of e.g. 4 was not encompassed by the claim.

- 1.4.4 The respondent emphasised that the appellant did not provide documentary evidence for their definition, but did not themselves put forward any alternative definition of how the term "branched fatty alcohol" was usually understood. Instead, the respondent's main argument was that this term was given a special meaning in the context of the opposed patent. In support of this argument, the respondent asserted that nonylphenol was indicated as an example of a branched alcohol in the patent in suit (footnote under Table 1), even though nonyl was linear.
- 1.4.5 However, the term "branched" in this case cannot be interpreted in such a broad way, encompassing linear secondary alcohols.

Claim 1 refers to the use of "*branched* fatty alcohol-based compounds selected from the group of fatty alcohol alkoxylates with 12-16 carbon atoms *having a degree of branching of 1-3*" and specifies, in relation to R in the Markush formula, that said alkyl or alkenyl group has a *degree of branching of 1-3*.

It is thus clear that the degree of branching is an additional requirement that the *branched* fatty alcohol-based compounds have to meet; it does not amount to a self-contained definition of how the term "branched" is to be understood. Similarly, paragraph [0017] of the patent in suit merely defines the "degree of branching", but does not seek to define the more general term "branched". In other words, the fatty alcohol-based compounds first have to be branched and second have to fulfil the degree of branching, with a definition of "degree of branching" being provided in paragraph [0017]. There is nothing in the patent in

suit that would suggest that the term "branched" was used differently from its usual meaning, including linear compounds. In particular, nonylphenol can be, and usually is, a branched compound. There is consequently no apparent inconsistency in the footnote under Table 1, in contrast to the respondent's view, and irrespective of whether this late allegation of fact by the respondent should be taken into account.

It is not the case either that the specified degree of branching would be entirely incompatible with this usual understanding of the term "branched". The observation that a linear secondary alcohol has two methyl groups, corresponding to a "degree of branching" of 1, does not prove that there is general inconsistency in the claimed features. The claim is not specifically concerned with secondary alcohols. With other compounds, it is possible that both requirements are met at the same time, i.e. that a compound is "branched" and has a degree of branching within the claimed range. Primary alcohols may undoubtedly be branched and have a degree of branching of 1. Compounds which do not meet both requirements are not within the scope of the claim. The claimed requirements thus merely have the consequence that, in the case of secondary alcohols, only part of the claimed range of the degree of branching is available, because the secondary alcohol must also be "branched" within the generally recognised understanding of this term.

- 1.4.6 The same considerations apply to independent claims 6 and 12, which refer to "branched fatty alcohol alkoxylates" and also to a "degree of branching of 1-3".

2. Article 100(c) EPC

- 2.1 The opposition division concluded that the requirements of Article 123(2) EPC were not met because the application as filed did not disclose a total number of carbon atoms of 12-16 in the fatty alcohol alkoxylate.

However, in the light of the above claim interpretation (see point 1.2), the amendment resulting in the wording "selected from the group of fatty alcohol alkoxylates with 12-16 carbon atoms", which is possibly ambiguous when considered in isolation, does not allow for *the claim as a whole* to be interpreted such that a total number of carbon atoms in the fatty alcohol alkoxylate had to be 12-16, and consequently does not infringe Article 123(2) EPC.

- 2.2 The observation that there are other possible ambiguities in the claim (see point 1. above) does not affect this conclusion.
- 2.3 The subject-matter of claim 1 is thus directly and unambiguously derivable from a combination of claims 1 and 2 as filed.
- 2.4 It was common ground that the considerations would be the same for independent claims 6 and 12, referring to "branched fatty alcohol alkoxylates" defined in an analogue manner.
- 2.5 For these reasons, the ground of opposition pursuant to Article 100(c) EPC does not prejudice the maintenance of the patent.

3. Stay of proceedings and referral

3.1 According to the respondent, the proceedings should be stayed in view of the pending referral G 1/24 because the question of claim interpretation with regard to a "branched" compound having a specified "degree of branching" had an impact on the outcome of the case. In the alternative, the respondent suggested that the board consider referring supplementary questions to the Enlarged Board of Appeal to cover the aspects of amendments and claim interpretation.

3.2 However, as derived from the above considerations (point 1.4), the term "branched" is to be given its normal meaning and there is nothing in the patent in suit that would support a different interpretation. In particular, a different interpretation cannot be derived from the fact that the patent in suit provides a definition of the term "degree of branching" (paragraph [0017]). This latter definition as such was not contested.

3.3 The outcome of G 1/24 is therefore not decisive for the case in hand.

3.4 Moreover, the interpretation of the claim with regard to "branched" and "degree of branching" does not concern the respondent's objection under Article 123(2) EPC and Article 100(c) EPC (see point 2.). Therefore, supplementary referral questions that could be relevant here do not arise in this regard, nor have any been proposed by the respondent.

3.5 There was consequently neither a reason to stay the proceedings nor to refer questions to the Enlarged Board.

4. Remittal

4.1 The objection pursuant to Article 100(c) EPC was the only ground for opposition dealt with in the impugned decision. In view of the primary object of the appeal proceedings to review the decision under appeal in a judicial manner (Article 12(2) RPBA), these circumstances qualify as presenting special reasons for remittal under Article 11 RPBA.

5. Correction of the minutes of the oral proceedings before the board

5.1 In the course of the written proceedings before the board, the respondent had also requested, *inter alia*, that the oral proceedings be conducted in person.

5.2 The board's communication pursuant to Article 15(1) RPBA had taken note thereof and added that it would, however, be appropriate to hold the oral proceedings by videoconference pursuant to Article 15a RPBA, as this would be the most sustainable format, and no particular reasons had been put forward nor were any apparent, as to why this would not be appropriate in the present case.

5.3 Oral proceedings were held by videoconference on 12 March 2025.

5.4 On 11 April 2025, the respondent submitted a request for correction of the minutes of the oral proceedings, as follows (emphasized in the original):

"A. Request

It is requested to correct the Minutes as set out in the following.

On page 1 of the Minutes, before the last paragraph on this page (beginning with the words "The discussion commenced with [...]"), the following passage is inserted:

"The Chairman noted the Respondent/Opponent's request to hold the oral proceedings in person and asked whether the Respondent/Opponent was prepared to present its case in the format of a videoconference. The Respondent/Opponent confirmed but referred to the submission dated 25 July 2024 and pointed out that it was held in decision G 1/21 that a hearing in person is the optimum format and was also referred to as 'gold standard'."

On page 2 of the Minutes, the first paragraph is supplemented by inserting the following passage after the first sentence (ending with the words "affecting all three board members"):

"On the occasion of these events, the Respondent/Opponent referred to its reasoned request of holding the oral proceedings in person."

B. Reasons

According to Rule 124(1) EPC,

"minutes of oral proceedings [...] shall be drawn up, containing the essentials of the oral proceedings [...], the relevant statements made by the parties [...]."

The requests of the parties without doubt represent "essentials of the oral proceedings" in this sense. It is therefore indispensable that the minutes summarize each of the requests brought forward by a party in the course of the procedure and elaborated on during the oral proceedings.

In the present case, the reasoned request to hold the oral proceedings in person was brought forward in the submission dated 25 July 2024 in accordance with the corresponding invitation by the Board of Appeal in the Summons dated 27 June 2024. Inter alia, it was referred to decision G 1/21 in which it was held that a hearing in person is the optimum format and were also referred to as "gold standard".

The technical issues, which affected the access of the Board of Appeal to the internet and, thus, the videoconference facility and required an interruption of the oral proceedings until 14.00 hrs, underline why a hearing in person was mentioned as the optimum format and the "gold standard" in decision G 1/21.

Nevertheless, the Minutes in the present version do not even mention this request. This should be corrected in accordance with the present request."

5.5 This request cannot be granted.

5.6 Minutes of oral proceedings shall contain, *inter alia*, the essentials of the oral proceedings and the relevant statements of the parties (Rule 124(1) EPC).

According to the jurisprudence of the Boards of Appeal, these essentials of the oral proceedings or the relevant statements of the parties are to be determined

with a view to what the board may have to decide on (in the order), in particular requests to amend or set aside the contested decision, to dismiss the appeal, to remit the case, to refer the case to the Enlarged Board of Appeal, or requests relating to the appeal fee or costs (e.g. see T 262/17 of 30 August 2022, Reasons 1; T 263/05, Reasons 8.5; T 966/99, Reasons 7.2.2; T 1891/20 of 16 May 2022, Reasons 3.2).

This also applies to statements disposing of the subject-matter of the appeal proceedings or parts thereof, such as withdrawal of the approved or agreed text of the patent (Article 113(2) EPC; cf. again T 263/05, Reasons 8.6), or withdrawal of the appeal.

However, the minutes do not have to contain the complete arguments of the parties (e.g. see T 118/20 of 27 June 2024, Reasons 2, and T 1891/20 of 16 May 2022, Reasons 2.2, both with reference to the "travaux préparatoires" to Article 6(4) RPBA, which state: "*... arguments presented by the parties during the oral proceedings are generally not included in the minutes ...*" (OJ EPO 2020, Supplementary publication 2, 50).

The more so, the minutes may not contain arguments or statements of the parties which they consider to be (only) of use in subsequent proceedings before national courts or the Unified Patent Court and which have no bearing on the decision of the board (cf. again T 262/17 of 30 August 2022, Reasons 2; T 966/99, Reasons 7.2.3; T 263/05, Reasons 8.8).

- 5.7 The format of the oral proceedings is an ancillary question which is regularly not to be dealt with in the order of a (substantive) decision. The choice of format

is a discretionary procedural decision (G 1/21, Reasons 50; R 12/22, Reasons II.B.3.2.1.a)) which must be made *ex officio* in advance, in accordance with the criteria of Article 15a(1) RPBA ("appropriateness").

It therefore does not concern, in itself, the essentials of the oral proceedings, nor are the statements made in the oral proceedings, which related to their format as such, relevant statements within the meaning of Rule 124(1) EPC.

5.8 The oral proceedings in this case on 12 March 2025 were affected by a general network failure on the EPO premises (which also affected the oral proceedings in G 1/23 that took place the same day). This is already reflected in the minutes.

5.9 However, the discussions which the respondent also wishes to have included in the minutes relate solely to the format of the oral proceedings, and to their request for in-person oral proceedings, which they had made in writing before, and which had already been addressed in the board's communication.

5.10 As outlined above, such discussions do not relate to the essentials of the oral proceedings or to relevant statements to be included in the minutes.

Contrary to the respondent's contention, not all "requests of the parties without doubt represent 'essentials of the oral proceedings'" to be included in the minutes by default, but only under the requirements as also outlined above (e.g. see, again, T 1891/20 of 16 May 2022, reasons 3.2). In particular, the request concerning the format of the oral proceedings and the related discussions, which the respondent wishes to

have reflected in the minutes, do not fulfil these requirements.

- 5.11 There was no connection between the technical issues caused by the network failure during the oral proceedings and these discussions. Likewise, these technical issues did not, in retrospect, make the respondent's request and the discussions on the format of the oral proceedings essential.

Moreover, the respondent had not at all argued in their initial request that technical problems were likely to arise because of the format of the oral proceedings (cf. again R 12/22, Reasons II.B.3.2.1.d)).

Order

For these reasons it is decided that:

- 1. The decision under appeal is set aside.**
- 2. The case is remitted to the Opposition Division for further prosecution.**
- 3. The request for correction of the minutes of the oral proceedings before the board is rejected.**

The Registrar:

The Chair:



C. Vodz

G. Glod

Decision electronically authenticated