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

Case Number: R 0019/25

Appeal Number: T 0016/24 - 3.2.01

Application Number: 17728657.2

Publication Number: 3458796

IPC: F41H1/02, F41H5/04

Language of the proceedings: EN

Title of invention:
FLEXIBLE LIGHTWEIGHT ANTIBALLISTIC PROTECTION

Patent Proprietor:
Seyntex NV

Opponent:
Mehler Vario System GmbH

Headword:
Petition for review

Relevant legal provisions:
EPC Art. 112a(2)(c), 112a(4), 113(1), 116(1)
EPC R. 76(2)(c), 99(2), 107(2), 108(1), 110, 140

Keyword:

Petition for review - clearly inadmissible
Lack of substantiation

Decisions cited:

R 0005/08



Große Beschwerdekammer
Enlarged Board of Appeal
Grande Chambre de recours

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Case Number: R 0019/25

D E C I S I O N
of the Enlarged Board of Appeal
of 12 December 2025

Petitioner: Mehler Vario System GmbH
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36043 Fulda (DE)

Representative: Meyer-Dulheuer MD Legal Patentanwälte PartG mbB
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Representative: Brantsandpatents bv
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Decision under review: **Decision of the Technical Board of Appeal 3.2.01
of the European Patent Office of 30 July 2025.**

Composition of the Board:

Chairman I. Beckedorf
Members: Y. Podbielski
M. Alvazzi Delfrate

Summary of Facts and Submissions

- I. The petition for review filed by the appellant-opponent ("the Petitioner") concerns the appeal proceedings in case T 16/24 before Technical Board of Appeal 3201 ("the Board"). In its decision dated 30 July 2025 the Board dismissed the appeal against the interlocutory decision of the Opposition Division, according to which the patent, as amended according to auxiliary request 2 filed during the oral proceedings before the Opposition Division, complied with the requirements of the EPC.
- II. The petition for review is based on the ground that a fundamental violation of Article 113(1) EPC - the petitioner's right to be heard - had occurred, and thus on Article 112a(2)(c) EPC. The Petitioner alleges that the list of documents cited in point II of the impugned decision was severely flawed in two respects. It firstly referred to documents related to the subject of brake systems of vehicles, whereas the patent related to flexible lightweight antiballistic protection vests. Secondly, a number of documents had been omitted from the list. The Petitioner argues that this flaw may have influenced the outcome of the appeal proceedings and the Petitioner was now unaware of the validity of the decision.
- III. The Petitioner requests
that the decision be reissued with a proper list of the state of the art and comprising a declaration that the outcome of the proceedings has not been affected by the selection of the improper documents of the state of the art for the written decision,
that the proceedings before the Board be re-opened,

and that the fee for the petition for review be reimbursed.

- IV. The Board issued a decision dated 5 November 2025 correcting an error in the decision of 30 July 2025 under Rule 140 EPC. Point II of the decision was corrected such that the document numbers were replaced with "the correct numbers as mentioned in the decision under appeal and as referred to by the parties in the appeal proceedings". No additional documents were added.

Reasons for the Decision

1. Under Article 116(1) EPC oral proceedings take place either at the instance of the European Patent Office if it considers this to be expedient or at the request of any party to the proceedings. The Petitioner has not requested oral proceedings. The Enlarged Board does not consider it necessary or expedient that oral proceedings take place. Therefore, this decision is issued in the written procedure.
2. To the extent that the petition for review is based on the fact that the list of documents in the decision, before having been corrected, referred to documents unrelated to the appeal proceedings rather than to the ones discussed, this flaw has been removed with the issuance of the decision correcting the obvious error. The Enlarged Board thus considers this point moot.
3. To the extent that the petition is based on the fact that not all documents which were referred to during the proceedings have been quoted in the list of

documents, it is not apparent why this leads to a violation of the Petitioner's right to be heard.

3.1 Under Rule 107(2) EPC the petition shall indicate the reasons for setting aside the decision of the Board, and the facts and evidence on which the petition is based. The Enlarged Board concurs with R 5/08 (Reasons 22) that this corresponds to similar provisions requiring the substantiation of an opposition or an appeal (Rules 76(2)(c) and 99(2) EPC respectively), and that, given the exceptional nature of the remedy offered by the review procedure, the burden imposed on a petitioner cannot be less than the burden placed on opponents and appellants (see in this regard Case Law of the Boards of Appeal, 11th edition 2025, "CLB", IV.C.2.2.8 and V.A.2.6.3). Thus, the contents of the petition must be sufficient for the petitioner's case to be properly understood on an objective basis and enable the Enlarged Board to understand immediately why the decision suffers from a fundamental procedural defect (CLB V.B.3.8.1). This requirement to substantiate the petition is to be fulfilled by the end of the time for filing the petition for review (Article 112a(4) EPC).

3.2 The Petitioner has not substantiated why the omission of some documents from the list of documents in the decision has led to a violation of their right to be heard. There is no requirement for a Board of Appeal to explicitly refer to all documents cited during the proceedings, if it does not consider these documents to be relevant. A party's right to be heard is violated if the decision is based on arguments on which they did not have an opportunity to comment, or where arguments put forward by them were relevant to the decision, but were not duly considered by the board (CLB V.B.4.3.11).

No such specific allegation has, however, been made by the Petitioner. The Enlarged Board is thus not able to understand why the decision suffers from a fundamental procedural defect. As a consequence, the petition for review does not comply with Rule 107(2) EPC and is inadmissible pursuant to Rule 108(1) EPC.

4. Given that the petition for review is inadmissible, the condition under Rule 110 EPC for reimbursement of the fee for the petition for review, namely that the proceedings before the Boards of Appeal are re-opened, is not met. Therefore the request for reimbursement of the fee for the petition for review cannot be granted.

Order

For these reasons it is decided that:

The petition for review is unanimously rejected as being clearly inadmissible.

The Registrar:

The Chairman:



N. Michaleczek

I. Beckedorf

Decision electronically authenticated