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**Datasheet for the decision  
of 7 August 2013**

**Case Number:** T 1591/10 - 3.3.10  
**Application Number:** 01902556.8  
**Publication Number:** 1251885  
**IPC:** A61L 9/20, F24C 15/20  
**Language of the proceedings:** EN  
**Title of invention:**  
Air treatment apparatus  
**Patent Proprietor:**  
OY Halton Group, Ltd.  
**Opponent:**  
Jimco A/S  
**Headword:**  
-  
**Relevant legal provisions:**  
EPC Art. 56, 83, 123(2)  
**Keyword:**  
"Main request and auxiliary requests 1 to 3: inventive step (no) - alleged improvement not shown, reformulation of problem, alternative obvious"  
"Auxiliary request 4: added subject-matter (no); sufficiency of disclosure (yes) - specification of patent in suit together with common general knowledge provides adequate directions to enable the skilled person to construct units over the whole scope of the claim; inventive step (yes) - improvement plausible, means for achieving it not suggested by prior art"  
**Decisions cited:**  
T 0020/81, T 0032/85, T 0409/91, T 0435/91  
**Catchword:**  
-



Case Number: T 1591/10 - 3.3.10

**DECISION**  
of the Technical Board of Appeal 3.3.10  
of 7 August 2013

**Appellant:**  
(Opponent)

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**Representative:**

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**Respondent:**  
(Patent Proprietor)

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**Representative:**

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**Decision under appeal:**

**Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
21 May 2010 concerning maintenance of European  
patent No. 1251885 in amended form.**

**Composition of the Board:**

**Chairman:** P. Gryczka  
**Members:** J. Mercey  
F. Blumer

## Summary of Facts and Submissions

I. The Appellant (Opponent) lodged an appeal against the interlocutory decision of the Opposition Division which found that European patent No. 1 251 885 according to auxiliary request 1 filed during the oral proceedings before the Opposition Division met the requirements of the EPC. Claim 1 of said request read as follows:

"An air extraction and treatment unit for mounting above a source of contaminated air, said unit comprising an air inlet (8) through which said contaminated air is extracted in use, an air outlet (34) through which decontaminated air is expelled in use, and an air treatment means disposed therebetween, said air treatment means having an ultraviolet light (UV) source (20), characterised in that the unit is arranged such that in use no direct or reflected ultraviolet light is visible from outside the unit, the unit further comprising a removable grease filter (4) disposed in the path of incoming air and forming at least part of the barrier to light escaping, the grease filter (4) being of the type which forces air flowing therethrough to change direction abruptly, the unit being arranged such that even with the filter (4) removed no direct UV light from the unit is visible and the unit further comprising means for reducing or interrupting the supply of power to the UV source (20) in the event that said filter (4) is removed."

II. Notice of Opposition had been filed by the Appellant requesting revocation of the patent as granted in its entirety on the grounds of *inter alia* lack of inventive step (Article 100(a) EPC) and insufficient disclosure

(Article 100(b) EPC). *Inter alia* the following documents were submitted in opposition proceedings:

- (2) WO-A-94/08633,
- (3) US-A-5 523 057 and
- (7) WO-A-97/39823.

III. The Opposition Division held that the claims of the then pending auxiliary request 1 fulfilled the requirements of Article 123(2) and (3) EPC, that the invention was sufficiently disclosed, was novel and involved an inventive step, document (2) being considered to represent the closest prior art.

IV. With letter dated 31 January 2011, the Respondent (Patent Proprietor) filed auxiliary requests 1 to 5.

Claim 1 of auxiliary request 1 differs from claim 1 of the main request (auxiliary request 1 as maintained by the Opposition Division) in that the unit is for mounting above a cooker as source of contaminated air.

Claim 1 of auxiliary request 2 differs from claim 1 of the main request in that the feature "the unit being arranged such that even with the filter (4) removed no direct UV light from the unit is visible" has been supplemented by "but only reflected light is visible".

Claim 1 of auxiliary request 3 is a combination of claim 1 of each of auxiliary requests 1 and 2.

Claim 1 of auxiliary request 4 differs from claim 1 of auxiliary request 1 in that said means for reducing or interrupting the power comprises a pressure sensing

means (46) which can sense the drop in pressure inside the unit if the filter (4) is removed.

- V. The Appellant argued that the invention was insufficiently disclosed with respect to the functional feature "the unit is arranged such that in use no direct or reflected ultraviolet light is visible from outside the unit" present in claim 1 of all requests. More particularly, the specification of the patent in suit did not provide adequate directions to enable the skilled person to construct air extraction and treatment units over the whole scope of the claim, since many factors influenced whether or not light was visible from outside the unit. The skilled person could only establish by trial and error whether or not his particular choice from within these numerous parameters would provide a satisfactory result, which amounted to an undue burden. The specific embodiments of Figures 1 to 4 were not even according to the invention and could thus not be generalised, since the filter therein was not removable. Furthermore, the invention could not be carried out as the patent in suit was silent as to how to detect when the UV-light was "visible", UV-light being per definition not visible. The subject-matter of claim 1 of auxiliary request 4 was additionally not sufficiently disclosed, since the feature that "said means for reducing or interrupting the power comprises a pressure sensing means which can sense the drop in pressure inside the unit if the filter is removed" could not be put into practice, as removal of the filter would result in an increase, and not a drop, in pressure inside the unit.

The Appellant further argued that the unit according to claim 1 of all requests was not inventive, starting from document (2) as closest prior art, which related to an air extraction and treatment device and also dealt with the problem of UV light leaking from said device into the environment where it could damage people's eyes. Although document (2) did not explicitly disclose a means for switching off the UV light source, such a switch was inherent to a device comprising a UV lamp, the wording "in the event that said filter is removed" having no restrictive effect. In addition, since reflected light reached the filter at the inlet of the device of document (2), said filter inherently formed at least part of the barrier to light escaping. The subject-matter of claim 1 thus differed from the device of document (2) only by virtue of the filter being of the type which forced air flowing therethrough to change direction abruptly. However, such filters belonged to the common general knowledge of the person skilled in the art and were taught, for example, by document (7). With regard to the auxiliary request 4, document (3) taught a safety switch coupled to the power supply of the UV lamps in a ventilation system, said switch being released upon removal of an end wall, said end wall being removed, for example, in order to remove a filter.

The subject-matter of claim 1 of auxiliary requests 1, 3 and 4 offended against Article 123(2) EPC, since there was no basis for the amendment that the unit was for mounting above a cooker, only commercial cookers being disclosed in the application as filed.

VI. The Respondent submitted that the invention was sufficiently disclosed, since the specification of the patent in suit did provide adequate directions to enable the skilled person to construct air extraction and treatment units over the whole scope of the claim such that in use no direct or reflected ultraviolet light was visible from outside the unit. More particularly, two embodiments were specifically described in the Figures, paragraph [0009] indicating in general terms how to arrange the unit with suitably positioned walls to avoid escape of light therefrom. With regard to the objections regarding the pressure sensing means, it argued that the skilled person would recognise that the drop in pressure which said means should be able to sense must mean a drop in the vacuum. This was because the specification described how a large negative pressure was created in the unit when in use, it being clear that when the filter was removed, said vacuum would be decreased.

The Respondent argued that the unit according to claim 1 of all requests was inventive and submitted that document (7) was the closest prior art, since it related to a filter device for treating contaminated air emanating from, for example, a deep-fat fryer, whereas document (2) was concerned with an apparatus for destroying bacteria, the filter therein being merely to remove dust. Starting however from document (2), the objective technical problem underlying the patent in suit was the provision of a more compact air extraction and treatment unit with better UV-protection. Said problem was solved by the specific type of filter, namely of the type which forces air flowing therethrough to change direction

abruptly, and by the means for switching off the UV light source in the event that said filter was removed. By virtue of the double function of the filter, namely not only to filter out grease, but also to form at least part of the barrier to light escaping, the number of UV-blocking baffles in the unit could be reduced, thus reducing the overall size of the unit. By virtue of the coupling of the power switch to the filter, the user was protected from dangerous UV light entering his or her eyes when said filter was removed, such a safety mechanism not being present in document (2), nor in any of the other cited art, document (3) merely teaching a safety switch which was released upon removal of an end wall of the ventilation system described therein.

The Respondent argued that there was a basis on page 1, lines 1 to 10 and on page 5, lines 31 to 32 of the application as filed for the amendment that the air treatment unit was for mounting above a cooker.

VII. The Appellant requested that the decision under appeal be set aside and the patent be revoked.

The Respondent requested that the appeal be dismissed, or subsidiarily, that the patent be maintained on the basis of any of auxiliary requests 1 to 5 filed with letter dated 31 January 2011.

VIII. At the end of the oral proceedings, which were held on 7 August 2013, the decision of the Board was announced.



## **Reasons for the Decision**

1. The appeal is admissible.

### *Main request*

2. *Inventive step (Article 56 EPC)*

- 2.1 The patent in suit is directed to an air extraction and treatment unit which incorporates a UV light source to decontaminate the air drawn therethrough, the realisation behind the invention being that even reflected light from the UV tubes is hazardous (see paragraph [0005]), said hazards being avoided in accordance with the claimed invention (see paragraph [0007] by preventing the escape of UV light from the unit (see paragraphs [0009], [0012] to [0014], [0016] to [0018], [0031] and [0032])).

Document (2) is also directed to an air treatment device wherein air is drawn through a filter into a sterilisation chamber having a UV bulb, said device being constructed so as to prevent UV light from leaking from the sterilisation chamber into the environment where it could damage people's skin and eyes (see page 12, lines 22 to 29, page 16, lines 27 to 33, claims 4 to 10 and 12 to 15).

- 2.1.1 The Respondent argued that not document (2), but rather document (7), was the closest state of the art, since document (7) (see page 7, line 4 to page 8, line 25 and Figures 1 and 2) disclosed a device for use above a deep-fat fryer wherein the filter, as in the invention of the patent in suit, was of the type suitable for the

removal of grease, whereas the device of document (2) was merely for the removal of dust.

However, document (2) specifically addresses the technical problem underlying the patent in suit (see point 2.1 above), namely to prevent the escape of UV light from the unit, whereas document (7) does not refer to any problems associated with the UV light source used therein. Both devices use filters designed to remove "relatively" or "fairly" large particles (see paragraph [0010] of patent in suit and page 14, lines 3 to 5 of document (2)), the essence of the present invention not lying in the nature of the impurity to be removed.

2.1.2 Thus, the Board considers, in agreement with the Opposition Division and the Appellant, that the air treatment device of document (2) represents the closest state of the art and, hence, takes it as the starting point when assessing inventive step.

2.1.3 Thus, document (2) discloses (see Fig. 2) a device comprising an air intake 42, an air discharge 44, an ultraviolet box 150 including at least one UV light 152, the air intake having positioned within it a filter 60 substantially filling the intake which is retained by means that allow easy removal and replacement of said filter (see page 13, lines 26 to page 14, line 16). The intake baffle 182 and exhaust baffle 184 prevent UV light from leaking from the sterilization chamber 180 out the air intake or air discharge and into the environment where it could damage people's skin and eyes (see page 16, lines 27 to 33). A switch for interrupting the supply of power to the UV source is

not explicitly mentioned in document (2), but both parties agreed that an apparatus having UV lights inherently possessed such a switch (see Respondent's letter dated 31 January 2011, page 5, lines 18 to 19), document (2) also specifically stating that "The electrical system is ordinary, and the details of it will be apparent to those skilled in the wiring of lights" (see page 19, lines 5 to 8).

2.2 In view of this state of the art, the problem underlying the patent in suit, as formulated by the Respondent at the oral proceedings before the Board, was the provision of a more compact air extraction and treatment unit with better UV protection.

2.3 As the solution to this problem, the patent in suit proposes an air extraction and treatment unit as defined in claim 1 which is characterised by the filter being a grease filter of the type which forces air flowing therethrough to change direction abruptly.

2.3.1 The Respondent submitted that the features that the filter formed at least part of the barrier to light escaping and that the means for reducing or interrupting the supply of power to the UV source was linked to the removal of the filter further characterised the subject-matter of claim 1 of the patent in suit *vis-à-vis* the device of document (2).

However, since in document (2) reflected UV light also reaches the filter 60 of the device (see page 18, lines 9 to 16), said filter substantially filling the intake (see page 13, line 35 to page 14, line 1), this filter

must form at least part of the barrier to light escaping through this intake.

With regard to the means for reducing or interrupting the supply of power to the UV source in the event that said filter is removed, said wording merely requires that the UV source may be switched off when the filter is removed, but does not imply that there is a connection between the switch for the UV light source and the filter.

Hence, these two features do not further differentiate the subject-matter of claim 1 of the patent in suit from the device of document (2)

- 2.4 The Appellant and the Respondent were divided as to whether or not the problem defined in point 2.2 above was successfully solved *vis-à-vis* the closest prior art. The Respondent argued that in view of the double function of the filter, namely not only to filter out grease, but also to form at least part of the barrier to light escaping, the number of UV-blocking baffles in the unit could be reduced, thus reducing the overall size of the unit. By virtue of the coupling of the power switch to the UV light source, the user was protected from dangerous UV light entering his or her eyes when removing the filter, such a safety mechanism not being present in the device of document (2).

However, the unit of the patent in suit is not necessarily more compact than that of document (2), present claim 1 being open and thus also allowing for the presence of one or more baffles to prevent UV light escaping. Indeed, the specific units shown in Figures 1

to 4 of the specification of the patent in suit also have an additional baffle 14. Furthermore, since contrary to the arguments of the Respondent, the means for reducing or interrupting the supply of power to the UV source is not necessarily coupled to the filter (see point 2.3.1 above), said means is not distinguished from that of document (2). Thus, the claimed unit cannot provide improved UV protection *vis-à-vis* that of this document.

2.5 According to the jurisprudence of the Boards of Appeal, alleged but unsupported advantages cannot be taken into consideration in respect of the determination of the problem underlying the invention (see e.g. decision T 20/81, OJ EPO 1982, 217, point 3, last paragraph of the reasons). Since in the present case no improvements have been shown, the technical problem as defined in point 2.2 above needs reformulation in a less ambitious way.

2.6 Consequently, the objective problem underlying the patent in suit in the light of the teaching of document (2) is merely the provision of an alternative air extraction and treatment unit.

2.7 Finally, it remains to be decided whether or not the proposed solution to the above objective problem is obvious in view of the state of the art.

2.7.1 Filters of the type which force air flowing therethrough to change direction abruptly belong to the common general knowledge of the person skilled in the art as acknowledged by both parties, document (7) providing an example of such a filter in an air filter

device for use above a deep-fat fryer (see Figure 3, sheets 20 and page 8, lines 17 to 25). Document (7) thus gives a clear incentive as to how to solve the problem underlying the patent in suit of merely providing an alternative air extraction and treatment unit. Thus by combining the teachings of documents (2) and (7), the person skilled in the art would arrive at the solution proposed by the patent in suit without exercising an inventive step.

2.7.2 Since all of the Respondent's arguments in support of inventive step were based on the premise that the unit was improved *vis-à-vis* that of document (2), such an improvement having however not been shown (see point 2.4 above), said arguments are not pertinent.

2.8 As a result, the Respondent's main request is not allowable as the subject-matter of claim 1 thereof lacks inventive step pursuant to Article 56 EPC.

*Auxiliary request 1*

3. Claim 1 of auxiliary request 1 differs from claim 1 of the main request merely in that the unit is for mounting above a cooker as source of contaminated air.

3.1 However, this intended use, namely for mounting above a cooker, does not imply any additional technical features which would further differentiate the claimed unit from that of document (2). As such, the considerations having regard to inventive step given in points 2.1 to 2.7 *supra* and the conclusion drawn in point 2.8 above with respect to the main request apply

also to auxiliary request 1, i.e. the subject-matter claimed does not involve an inventive step.

*Auxiliary request 2*

4. Claim 1 of auxiliary request 2 differs from claim 1 of the main request merely in that the feature "the unit being arranged such that even with the filter (4) removed no direct UV light from the unit is visible" has been supplemented by "but only reflected light is visible".

4.1 The Respondent submitted that said amendment was purely of a clarifying nature, the fact that only reflected light was visible being a mandatory consequence of the features of claim 1 of the main request. As such, the subject-matter of this request is identical to that of the main request, such that it too does not involve an inventive step.

*Auxiliary request 3*

5. Claim 1 of auxiliary request 3 is a combination of claim 1 of each of auxiliary requests 1 and 2. Since the additional "feature" of claim 1 of auxiliary request 2 is not delimiting (see points 4 and 4.1 above) the subject-matter of this request is identical to that of auxiliary request 1, such that it too does not involve an inventive step.

6. *Other issues*

In view of the negative conclusion in respect of inventive step for the subject-matter of the main and

auxiliary requests 1 to 3 as set out in points 2 to 5 above, a decision of the Board on the other contested issues under Articles 83, 84 and 123(2) EPC raised by the Appellant in respect of one or more of these requests is unnecessary.

*Auxiliary request 4*

7. Claim 1 of auxiliary request 4 differs from claim 1 of the main request in that the unit is for mounting above a cooker as source of contaminated air and said means for reducing or interrupting the power comprises a pressure sensing means which can sense the drop in pressure inside the unit if the filter is removed.

8. *Amendments (Article 123(2) EPC*

8.1 The Appellant submitted that there was no basis for the amendment to claim 1 that the air extraction and treatment unit was for mounting above a cooker, only commercial cookers being disclosed in the application as filed.

8.2 However, in the passage forming the basis for this amendment (see page 5, lines 31 to 32 of the application as filed), reference is made to "an air extraction and treatment unit which is installed above a cooker in a commercial kitchen". The Board holds that this phrase provides a basis for the unit being for mounting above a cooker, since the location of the cooker does not in any way restrict the nature of the cooker.



8.3 The Appellant raised no other objections under Article 123(2) EPC to any of the amendments made to auxiliary request 4, nor does the Board see any reason to question their allowability under this article of its own motion.

9. *Sufficiency of Disclosure (Article 100(b) EPC)*

9.1 Claim 1 relates to an air extraction and treatment unit, wherein *inter alia* said unit is arranged such that in use no direct or reflected ultraviolet light is visible from outside the unit and comprising a pressure sensing means for reducing or interrupting the supply of power to the UV source which can sense the drop in pressure inside the unit if the filter is removed.

9.2 It is the established jurisprudence of the Boards of Appeal that the requirements of sufficiency of disclosure are met if the invention as defined in the independent claim can be performed by a person skilled in the art in the whole area claimed without undue burden, using common general knowledge and having regard to further information given in the patent in suit (see decisions T 409/91, OJ EPO 1994, 653, point 3.5 of the reasons; T 435/91, OJ EPO 1995, 188, point 2.2.1 of the reasons).

9.3 The Appellant argued that the invention was insufficiently disclosed with respect to the functional feature "the unit is arranged such that in use no direct or reflected ultraviolet light is visible from outside the unit". More particularly, the specification of the patent in suit did not provide adequate directions to enable the skilled person to construct

air extraction and treatment units over the whole scope of the claim, since many factors influenced whether or not light was visible from outside the unit, such as the intensity and placement of the UV light source, the number of UV reflections necessary in order to ensure that no UV light was visible from outside the unit, how to establish whether or not UV light was visible, UV-light being per definition not visible, the characteristics of the inner surface of the unit, the construction and placement of the filter and the construction of the rest of the unit. The skilled person could thus only establish by trial and error whether or not his particular choice from within these numerous parameters would provide a satisfactory result, which amounted to an undue burden. Only two specific examples of air extraction and treatment units were described in the patent in suit, the specification not providing sufficient information to enable the skilled person to produce other units falling under the claim wherein in use no direct or reflected ultraviolet light was visible from outside the unit.

- 9.3.1 However, paragraph [0009] of the specification of the patent in suit describes where UV light may potentially escape from the unit, namely from the air inlet and air outlet and indicates in general terms that the unit should be arranged with suitably positioned walls to avoid escape of light therefrom. Since the specification teaches the skilled person where special care should be taken and a general method, namely the positioning of walls, to prevent UV light from escaping, when starting from the two embodiments specifically described in the Figures, the skilled person would be able to produce other devices falling under claim 1. In

addition, the skilled person can predict the effect of modifications he makes to the specific units described, since the paths of reflection of UV light are more or less foreseeable.

- 9.3.2 The Appellant argued that in use the grease particles in the air and on the surfaces of the unit would scatter and/or diffuse the UV light such that it was completely impossible to predict a path of reflection.

The Board accepts that although grease in the unit may indeed affect the reflection of the UV light, no evidence has been provided that this would be to such an extent that it would not be possible to predict a path of reflection such that the skilled person would be unable to construct a suitable unit. In any case, the skilled person could carry out routine tests on the unit in use to analyse any effects the grease may have on light escaping. The present case is thus distinguished from those underlying the decisions T 435/91 (*idem.*) and T 32/85 (not published in OJ EPO) cited by the Appellant, which relate to physico- or biochemical processes where the link between structure and effect is often unpredictable. In contrast thereto, the effect the positioning of a wall has on the blocking of UV light is relatively predictable. Thus the conclusions drawn in the two cited decisions cannot be transferred to the present case.

- 9.3.3 The Appellant submitted that it was not possible to establish whether or not UV light was "visible", UV-light being per definition not visible to the human eye.

However, paragraph [0009] of the specification of the patent in suit indicates that it is necessary to avoid the potential escape of UV light from any angle which might render it visible to a user. The skilled person would thus understand that the unit should be so designed that UV light cannot enter the eyes of the user, and he could establish whether or not this was the case by virtue of a UV sensor.

9.3.4 The Appellant also argued that the specific embodiments of Figures 1 to 4 were not according to the invention, since the filter was not removable as it was secured by special screws 44. Hence, the specification of the patent in suit did not even contain a single example according to the invention which could give the person skilled in the art guidance as how to carry out the invention.

However, the specification of the patent in suit (see column 4, lines 13 to 16) indicates that said "special screws" are to hold the panel 42 in place, making no reference in this respect to the filter, the Figures being merely schematic. In any case, the patent in suit (see column 4, lines 17 to 20) explicitly teaches that said screws are removable, namely by qualified service personnel possessing the right tool. Thus the embodiments of Figures 1 to 4 are according to the invention, such that this argument of the Appellant must fail too.

9.4 The Appellant further argued that the invention was insufficiently disclosed, since the feature that "said means for reducing or interrupting the power comprises a pressure sensing means which can sense the drop in

pressure inside the unit if the filter is removed" could not be put into practice, as removal of the filter would result in an **increase**, and not a drop, in pressure inside the unit.

9.4.1 However, the specification describes how a large negative pressure is created in the unit when in use, the skilled person recognising that when the filter is removed, said vacuum would decrease. The Board thus holds that the skilled person would understand that the drop in pressure which said means should be able to sense means a drop in the vacuum. Since a pressure sensing means would be capable of sensing such a drop in the vacuum, this particular feature of the invention can be carried out.

9.5 Therefore, the Board holds that the invention is sufficiently disclosed.

#### 10. *Inventive step (Article 56 EPC)*

10.1 Starting from the device of document (2) as the closest state of the art (see point 2.1 above), the problem underlying the patent in suit may now be seen as the provision of an air extraction and treatment unit with better UV protection.

10.2 As the solution to this problem, the patent in suit proposes an air extraction and treatment unit as defined in claim 1 which is characterised by the filter being a grease filter of the type which forces air flowing therethrough to change direction abruptly and by the means for reducing or interrupting the power comprising a pressure sensing means which can sense the

drop in pressure inside the unit if the filter is removed.

10.3 Since in contrast to the unit of claim 1 of the main request the means for reducing or interrupting the supply of power to the UV source **is** now coupled to the filter, the Board is now convinced that the technical problem defined above has effectively been solved by the unit as defined in claim 1 of auxiliary request 4. By virtue of the pressure sensing means being able to sense when the filter is removed, the user is protected from reflected UV light entering his or her eyes on removal of the filter. In contrast, the filter of document (2), which also prevents some UV light from escaping, is not linked to a safety switch of any kind.

10.4 Finally, it remains to be decided whether or not the proposed solution to the technical problem defined in point 10.1 above is obvious in view of the cited prior art.

10.4.1 Neither document (2), nor any other cited prior art, suggests coupling the UV power switch of an air extraction and treatment unit to the removal of the filter, let alone using a pressure sensing means therefor. Accordingly, there is no suggestion in document (2), or in any of the prior art cited, to improve the UV protection of an air extraction and treatment unit by coupling the means for reducing or interrupting the supply of power to the UV source thereof to the removal of the filter.

10.4.2 The Appellant argued that document (3) taught a safety switch coupled to the power supply of the UV lamps in a ventilation system, said switch being released upon removal of an end wall, said end wall being removed, for example, in order to remove a filter.

However, the safety switch described in document (3) is not coupled to a filter but rather to an end wall of the ventilation system described therein (see column 3, lines 53 to 55 and column 6, lines 3 to 8). In any case, the switch of document (3) is not of the type which could sense a drop in pressure inside the system. Thus the skilled person cannot arrive at the claimed invention by combining the teaching of documents (2) and (3).

10.4.3 During the oral proceedings, the Appellant did not rely on any of the late-filed documents submitted with its letter dated 29 September 2010. Said documents merely teach that filters of the type which force air flowing therethrough to change direction abruptly have been used in air venting systems in kitchens for many years. They are thus of no relevance to the feature that the means for reducing or interrupting the power comprises a pressure sensing means which can sense the drop in pressure inside the unit if the filter is removed.

10.5 For these reasons, the Board concludes that the air extraction and treatment unit according to claim 1 of auxiliary request 4 involves an inventive step.

**Order**

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

1. The decision under appeal is set aside.
  
2. The case is remitted to the department of first instance with the order to maintain the patent on the basis of auxiliary request 4 (claims 1 and 2) as filed with letter dated 31 January 2011 and a description yet to be adapted.

The Registrar:

The Chairman:

G. Rauh

P. Gryczka