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**Datasheet for the decision  
of 20 April 2012**

**Case Number:** T 2060/11 - 3.3.05  
**Application Number:** 01920727.3  
**Publication Number:** 1275168  
**IPC:** H01M 10/36, H01M 4/04,  
H01M 6/18, H01M 2/10,  
H01M 10/46, H01M 10/48,  
C23C 14/48, H05K 1/16,  
H01L 27/00

**Language of the proceedings:** EN

**Title of invention:**

Method and apparatus for integrated-battery devices

**Applicants:**

Cymbet Corporation  
Jenson, Mark Lynn  
Klaassen, Jody Jon

**Headword:**

Integrated battery/CYMBET

**Relevant legal provisions:**

EPC Art. 123(2)  
EPC R. 137(5)

**Keyword:**

"Allowability of the amendments (yes)"

**Decisions cited:**

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**Catchword:**

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Case Number: T 2060/11 - 3.3.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.3.05  
of 20 April 2012

**Appellant I:**  
(Applicant 1) Cymbet Corporation  
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**Appellant II:**  
(Applicant 2) Jenson, Mark Lynn  
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**Appellant III:**  
(Applicant 3) Klaassen, Jody Jon  
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**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 7 April 2011  
refusing European patent application  
No. 01920727.3 pursuant to Article 97(2) EPC.

**Composition of the Board:**

**Chairman:** G. Raths  
**Members:** J.-M. Schwaller  
S. Hoffmann

## Summary of Facts and Submissions

- I. This appeal lies from the decision of the examining division refusing European patent application No. 01 920 727.3 on the grounds that the amended claims of the different requests then on file lacked the requirements of Article 123(2) EPC. The main request was further held not to meet the requirements of Rule 137(5) EPC.
- II. With the grounds of appeal, the appellants filed five amended sets of claims as a new main request and as auxiliary requests 1 to 4, respectively.
- III. Following a communication from the board expressing its doubts under Article 123(2) EPC regarding the amendments proposed in the said requests, the appellant submitted a letter of observations dated 29 March 2012 indicating the support in the application as filed for the amendments questioned by the board.
- IV. At the oral proceedings, which took place on 20 April 2012, the allowability of the amendments was discussed extensively. The appellants then abandoned all the requests then on file and filed an amended set of claims as a sole request.

Claim 1 thereof reads as follows:

*"1. A combined battery and device apparatus comprising :*  
*a first conductive layer ;*  
*a rechargeable battery comprising a cathode layer;*  
*an anode layer, and a LiPON electrolyte layer located*  
*between and electrically isolating the anode layer from*

*the cathode layer, wherein the anode or the cathode or both include an intercalation material, the battery disposed such that either the cathode layer or the anode layer is in electrical contact with the first conductive layer;*

*an electrical circuit having a major surface adjacent face-to-face to and electrically connected to the battery; and*

*wherein the electrical circuit is an integrated circuit including electronics for recharging the solid-state battery."*

Claims 2 to 5 are directed to specific embodiments of the combined battery and device apparatus according to claim 1, on which they depend.

Claim 6 relates to a method for forming a combined battery and device apparatus according to claim 1, and claims 7 to 9 are directed to specific embodiments of the process according to claim 6, on which they depend.

- V. The appellants further requested that the contested decision be set aside and that the case be remitted to the department of first instance for further prosecution on the basis of the set of claims filed on 20 April 2012 as a sole request during the oral proceedings before the board.

## **Reasons for the Decision**

1. Allowability of the amendments (Article 123(2) EPC)

1.1 The claims of the sole request at issue have a basis as follows in the application as filed and published as WO 01/73866 A2:

- Claim 1 results from the combination of claim 1 with the passages at page 2, lines 16 to 18; page 7, lines 3 and 4; page 43, lines 26 to 28 and Figure 9A;
- Claim 2: in the passage at page 13, lines 28 to 30;
- Claim 3: in claim 1 as filed and e.g. page 25, lines 11 and 12; see also e.g. Figure 9A;
- Claim 4: in the passage at page 35, lines 15 and 16;
- Claim 5: in the passage at page 5, lines 7 to 9;
- Claim 6 results from the combination of claim 21 and claim 1 with the passages at page 7, lines 3 and 4; page 43, lines 26 to 28 and Figure 9A;
- Claims 7 and 8: in the passage at page 73, lines 13 to 15 and 26 to 30;
- Claim 9: in the passage at page 5, lines 7 to 9.

It follows that the amended claims of this request meet the requirements of Article 123(2) EPC.

1.2 In view of the comments on the page headed "Further information continued from PCT/ISA/210" of the International Search Report, the board notes that the

amended claims further appear to comply with the requirements of Rule 137(5) EPC.

2. Remittal

As the decision was exclusively based on Article 123(2) EPC and Rule 137(5) EPC objections, and since the latter have been overcome by the amendments proposed in the request at issue, the board considers it appropriate to exercise its power conferred by Article 111(1) EPC to remit the case to the first instance for further prosecution.

**Order**

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

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution on the basis of the set of claims 1 to 9 filed on 20 April 2012.

The Registrar:

The Chairman

C. Vodz

G. Rath