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Datasheet for the decision of 27 July 2016

Case Number: T 1691/15 - 3.2.07

Application Number: 09765878.5

Publication Number: 2291312

IPC: B65B69/00

Language of the proceedings: EN

Title of invention:
USE OF A CAPSULE TREATMENT APPARATUS

Patent Proprietor:
Nestec S.A.

Opponent:
Franssen, Guy Jacques

Headword:

Relevant legal provisions:
EPC Art. 113(1), 112(1), 108, 123(2), 83, 56, 54
EPC R. 79(1), 81(2), 99, 128, 144(d)

Keyword:
Admissibility of appeal - (yes)
Amendments - allowable (yes)
Sufficiency of disclosure - (yes)
Novelty - (yes)
Inventive step - (yes)
Procedural violation - (no)
Inspection of files - Exclusion of documents from file inspection (no)
Notification of all correspondence to all parties in inter partes proceedings
Referrals to the Enlarged Board of Appeal - (no)

Decisions cited:
T 1799/08, R 0015/09, R 0021/10, R 0019/11, R 0004/09, R 0008/12

Catchword:
Exchanges between an opponent and the EPO which have a substantive and/or procedural bearing on the case in opposition proceedings, even if dealt with by the Directorate Quality Support in the context of a complaint handling system, should be communicated without delay to the other party/ parties, as any other submission of a party or communication of the EPO in opposition proceedings. Such an exchange with a substantive and/or procedural bearing on the case should figure, by definition, in the public part of the file (see reasons, point 3).

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Case Number: T 1691/15 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 27 July 2016

Appellant: (Opponent)	Franssen, Guy Jacques Allée des Platanes 2 4053 Embourg (BE)
Respondent: (Patent Proprietor)	Nestec S.A. Avenue Nestlé 55 1800 Vevey (CH)
Representative:	Schnyder, Frank Simon Nestec S.A. CT-IAM Avenue Nestlé 55 1800 Vevey (CH)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 3 June 2015 rejecting the opposition filed against European patent No. 2291312 pursuant to Article 101(2) EPC.**

Composition of the Board:

Chairman	H. Meinders
Members:	G. Patton
	G. Weiss

Summary of Facts and Submissions

I. The appellant (opponent) lodged an appeal against the decision to reject the opposition and maintain the European patent No. 2 291 312 as granted, requesting that the decision under appeal be set aside and the patent be revoked.

Opposition had been filed against the patent as a whole and was based on the grounds according to Article 100(a) EPC (novelty and inventive step), Article 100(b) EPC (sufficiency of disclosure) and Article 100(c) EPC (extension beyond the content as originally filed).

II. The following documents of the opposition proceedings are relevant for the present decision:

D1: EP-B1-2 146 608;
D1a: WO-A-2008/139322, publication of the application of D1;
D4/D5: Alleged public prior oral divulgation of D1a on 15 January 2008 based on:
- letter dated 13 December 2007 from A. Chebil of Nestlé Nespresso S.A. to Mr G. Franssen; and
- "Non-Confidential Disclosure Agreement" dated 22 November 2007 and signed by A. Yoakim of Nestlé Nespresso S.A. and Mr G. Franssen on 28 November 2007.

D6: Internet extract of the definition of "to intercept", Merriam-Webster, undated, 1 page

III. Oral proceedings were arranged and the Board provided the parties with its preliminary non-binding opinion annexed to the summons for oral proceedings:

- the appeal appeared to have been filed in time and to be admissible;
- the amendments appeared not to extend beyond the application as originally filed;
- the invention was regarded as sufficiently disclosed;
- the claimed subject-matter was regarded to be novel;
- the patent proprietor (respondent)'s request with respect to receiving copies of the unilateral correspondence between the EPO and the appellant or any other person in this case preliminarily appeared not to be allowable; and
- no procedural violation appeared to have been committed in the opposition proceedings.

The Board did not give any preliminary opinion on inventive step of the claimed subject-matter, but merely indicated what needed to be discussed in this respect.

IV. With letters of 7 April 2016 and 13 April 2016 the appellant and the respondent, respectively, announced that they would not attend the oral proceedings. The Board then decided to adjourn the oral proceedings to a later date in view of the open issue on inventive step. In its communication dated 26 April 2016 setting another date for oral proceedings the Board provided its preliminary negative opinion on inventive step of the subject-matter of claim 1 and communicated to the respondent the complete unilateral correspondence between the EPO and the appellant (and its attorney Me Wouters) related to the file.

As a reaction, the respondent filed an auxiliary request with its letter dated 10 June 2016. It also requested with its letters dated 27 May 2016 and 30 June 2016 the referral of two questions to the

Enlarged Board of Appeal regarding *inter partes* proceedings, the first concerning the communication to the other party/parties of the opposition proceedings of any unilateral correspondence between the EPO and a party, and the second concerning the principle of equal treatment of the parties by the Board and neutrality of the Board when issuing a preliminary opinion.

The appellant also reacted with its letter of 16 June 2016 (see also its previous letters dated 15 February 2016, 7 March 2016, 7 April 2016 and 19 April 2016).

V. Oral proceedings took place on 27 July 2016 in the presence of both parties during which the following issues, *inter alia*, were discussed:

- the alleged procedural violations;
- the referral to the Enlarged Board of Appeal concerning the communication to the other party of the proceedings of any unilateral correspondence between the EPO and a party during the opposition proceedings;
- the admissibility of the appeal;
- the compliance of the subject-matter of claim 1 of the patent as granted with Articles 123(2) and 83 EPC;
- the referral to the Enlarged Board of Appeal regarding the principle of equal treatment of the parties by the Board and neutrality of the Board; and
- the compliance of the subject-matter of claim 1 of the patent as granted with Article 56 EPC.

The present decision was announced at the end of the oral proceedings.

VI. The appellant requested that the decision under appeal be set aside and that the European patent be revoked.

VII. The respondent requested that the appeal be found inadmissible (request 1) or that, if the appeal is found admissible, the Board renounces basing its decision on what it has put forward in respect of inventive step in its communications of 15 February 2016 and 26 April 2016 and if it intends not to renounce on its preliminary opinion on inventive step, that the question formulated in the letter of 30 June 2016 be referred to the Enlarged Board of Appeal (request 2) or that, if found admissible, the appeal be dismissed as unfounded (request 3) or that the decision under appeal be set aside and that the patent be maintained in amended form according to the documents as filed on 10 June 2016 (request 4), that a further amended request be allowed (request 5) and that the question as proposed in the letter of 27 May 2016 be referred to the Enlarged Board of Appeal (request 6).

VIII. The wording of claim 1 of the main request (patent as granted) reads as follows:

"Use,
for separating a packaging of a used capsule, in particular made of metal such as aluminium and/or plastic, from a capsule food or beverage ingredient contained therein and separately collecting the opened capsule packaging and the capsule ingredient for treatment by usual community recycling channels, of a machine (1) comprising:
- means (10, 11, 12, 15, 15', 151) for opening the packaging of said capsule fed to said machine and for removing the capsule ingredient from the opened capsule packaging, therefor the opening and removal means being

arranged to rotate relatively to the fed capsule packaging and to intercept the capsule packaging;
- means for parting (13, 13', 132) the opened capsule packaging from the capsule ingredient;
- means (11, 14') for collecting the opened capsule packaging; and
- means (14) for collecting the capsule ingredient."

The other claims 2-15 are dependent claims representing preferred embodiments.

In view of the present decision it is not necessary to recite the wording of the independent claims of the auxiliary request.

IX. The appellant argued essentially as follows

Filing and admissibility of the appeal (request 1)

All administrative issues have been dealt with correctly and the appeal is sufficiently substantiated by the statement setting out the grounds.

Alleged procedural violations

His arguments, in particular those provided with the letter dated 31 March 2015, were not taken into account by the opposition division when taking the impugned decision.

The title of D1 (or D2, or D5) is not mentioned in the impugned decision.

In the impugned decision the same wording of the claim of the contested patent is used when referring to the

prior art. This would come from a confusion between the prior art and the claimed subject-matter.

The version of the claim to consider does not comprise "and/or vice versa" which is, however, mentioned in the impugned decision.

Sheet 1 of form 2339 is missing in the registered letter notifying him of the impugned decision.

The signature of the legally qualified member is missing in the impugned decision.

The search examiner was also part of the examining and opposition procedures.

All the above would amount to procedural violations.

Communication of the exchange of letters between the appellant and the EPO during the opposition proceedings - Referral to the Enlarged Board of Appeal (request 6)

The correspondence did not contain any additional arguments not already available to the respondent via other (public) letters. It is agreed to provide all the correspondence to the respondent.

Main request (request 3)

The introduction of the word "use" in the claim is not supported by the application as originally filed.

D1/D1a, although available to the respondent before the filing of the application for the contested patent, is not cited in that patent so that the problem to be

solved cannot be properly defined and the invention cannot be carried out by the skilled person.

Clarity is to be considered under Article 100(b) EPC since the word "clear" is explicitly stated in the requirements. Due to confusions in the reference signs claim 1 lacks clarity. Lack of clarity also results from the term "use" as used in claim 1.

Novelty is acknowledged. However, inventive step is contested in view of the public prior oral divulgation by him to the respondent of his application D1a, as evidenced by D4/D5, and the skilled person's common general knowledge.

The only distinguishing feature of claim 1 over D4/D5(D1a) is that the opening and removal means is arranged to rotate relatively to the fed capsule packaging. Since the translation of the piston (2) in D4/D5(D1a) has the same technical effects as those obtained in the patent with a rotation, the claimed solution is an obvious alternative the skilled person would have immediately thought of and implemented in the apparatus of D4/D5(D1a) without any technical difficulty. The subject-matter of claim 1 would therefore not involve inventive step.

Principle of equal treatment of the parties and neutrality of the Board - Referral to the Enlarged Board of Appeal (Request 2)

The appellant did not provide any argument on this issue.

X. The respondent argued essentially as follows

Filing and admissibility of the appeal (request 1)

It is unclear whether the appeal fee has actually been paid in time so that the appeal should be regarded as not deemed to have been filed.

No substantiation is provided in the statement setting out the grounds on how and why the impugned decision should be seen as wrong, or why inventive step is lacking. Further, the appellant has never explicitly requested to set aside the decision and to revoke the patent. For these reasons, the appeal should be regarded as inadmissible.

Alleged procedural violations

The respondent did not provide any argument on this issue.

Communication of the exchange of letters between the appellant and the EPO during the opposition proceedings - Referral to the Enlarged Board of Appeal (request 6)

All undisclosed correspondence between the appellant (or any other person) and the EPO is to be provided to the respondent.

The issue related to such unilateral correspondence of the EPO with a party in *inter partes* proceedings is to be settled by the Enlarged Board of Appeal since it is a fundamental point of law for ensuring a fair and impartial procedure pursuant to Article 112(1) EPC.

Main request (request 3)

The change of claim category in examination proceedings, presently from apparatus claims to use claims, does not contravene Article 123(2) EPC if, as it is the case, there is sufficient basis in the application as filed.

Lack of acknowledgement of D1/D1a in the contested patent is irrelevant in opposition-appeal proceedings. Clarity is not a ground for opposition under Article 100 EPC.

Starting from D4/D5(D1a) as closest prior art, the distinguishing features of claim 1 are that the opening and removal means is arranged:
- to rotate relatively to the fed capsule packaging; and
- to intercept the capsule packaging.

The interception of the capsule packaging by the opening and removal means implies that claim 1 comprises the implicit feature that the **fed capsule is moving** when the opening and removal means comes in contact with it, which is not disclosed in D4/D5(D1a).

In view of the technical effects associated with the distinguishing features the problem to be solved is to modify the apparatus of D4/D5(D1a) so as to feed the used capsule in the apparatus without any positional constraints for the fed capsule. It is not merely finding an alternative to the translation movement.

The claimed solution is neither given nor suggested in D4/D5(D1a). In order to implement it, in particular

interception of the fed capsule, the mechanism of D4/D5(D1a) would have to be completely re-designed.

The subject-matter of claim 1 would therefore involve inventive step

Principle of equal treatment of the parties and neutrality of the Board - Referral to the Enlarged Board of Appeal (Request 2)

The Board introduced new facts, not even based on evidence, regarding the skilled person's common general knowledge before the effective date of the contested patent, neither of which had been brought forward by the appellant. This amounts to a breach of the principle of equal treatment of the parties in opposition and to a lack of neutrality of the Board. Due to the fact that in *inter partes* proceedings the Board's behaviour is of fundamental importance and that the law should be applied uniformly in that respect, this issue should be referred to the Enlarged Board of Appeal.

Reasons for the Decision

1. *Filing and admissibility of the appeal (request 1)*

1.1 In its written submissions, the respondent objected that it is unclear whether the appeal fee had actually been paid in time so that the appeal should be deemed not filed.

Further, the statement setting out the grounds does not provide any reasons on how and why the impugned decision should be seen as wrong, or why the invention

was not inventive. Since unsubstantiated, the appeal should be regarded as inadmissible.

1.2 The Board cannot share this view.

The decision under appeal was sent to the parties with date of 3 June 2015. It was not received by the appellant, so was sent again to it with date of 15 June 2015 and deemed received pursuant to Rule 126(2) EPC on 25 June 2015 (the receipt Form 2936 was signed on 20 June 2015). The two-month time limit for filing the appeal and paying the appeal fee pursuant to Article 108 EPC ends therefore on 25 August 2015.

The appeal fee was received by the EPO on 28 July 2015, and the appeal was filed per telefax on 18 August 2015, i.e. both are within the time limit. The earlier notification of 3 June 2015 has no effect.

With respect to the payment of the appeal fee being related to the present case, it is referred to the annex to the appellant's letter dated 20 August 2015 showing EPO emails of 29 July 2015 and 3 August 2015 mentioning it. In the same letter the appellant also writes that the ground for the payment had been given explicitly together with the money transfer.

As concerns admissibility, at least the reasons given by the appellant under points E) and L) of its statement setting out the grounds of appeal, also received per telefax on 18 August 2015, can be seen as arguing against points 10 and 12.2 of the impugned decision, respectively. As long as there is this link to the decision, this suffices for the Board.

Therefore, the requirements of Articles 106 to 108 EPC and Rule 99 EPC are met. The appeal has been filed in time, the same applies to the payment of the appeal fee. The appeal is also admissible.

1.3 At the oral proceedings, the respondent further argued that there was no statement, neither in the notice nor in the grounds of appeal, with an explicit request of setting aside the decision and revoking the patent. The Board has mentioned such a request in its annex to the summons, which has not been formulated by the appellant.

In addition, paragraphs E) and L) of the grounds of appeal would not provide any substantiation with respect to why and how the impugned decision should be seen as wrong. They would relate to a mere series of criticisms and unsubstantiated statements, like the rest of the grounds of appeal which were even less relevant.

1.4 The Board cannot follow this view.

As put forward at the oral proceedings the appellant explicitly expressed in the notice of appeal his "disagreement" with the impugned decision regarding the substantive and formal findings, requesting the "opposition division" to reconsider its position. Since there is no interlocutory revision pursuant to Article 109 EPC in opposition-appeal proceedings, this request is to be understood as being addressed to the Board for it to review the impugned decision, i.e. to set aside the decision.

It is also clear to the Board that the appellant's unique request has continuously and unambiguously been

the revocation of the patent (see impugned decision, point 2). Hence, the request for reviewing the impugned decision can only refer to the granting of its unique request, i.e. revoking the patent.

Further the Board cannot see why the Board should not be allowed to paraphrase the statements in the notice of appeal and/or the statement of grounds into an actual request, as it has done in its communication annexed to the summons. This is particularly so in view of the fact that the appellant is a private person, not professionally represented.

Finally, the appellant explicitly contested in paragraph E) of his statement setting out the grounds of appeal point 10 of the impugned decision on the issue of extending the content of the patent beyond the application as originally filed, on the basis of the introduction of the word "use" in claim 1 in examination. As argued by the appellant a change of a claim category could, under some circumstances, lead to an extension of the subject-matter. Hence, the arguments presented enable the Board to understand immediately what is argued against the decision and on what facts the appellant bases his arguments, without compelling the Board to perform investigations of its own. The fact that the arguments are not convincing does not interfere with admissibility of the appeal (Case Law of the Boards of Appeal, 7th Edition 2013, IV.E.2.2.6.3.a and IV.E.2.6.6).

The same applies for paragraph L) of the statement setting out the grounds of appeal. It is readily apparent that the appellant intends to contest the acknowledgement of inventive step under point 12.2 of the impugned decision. Starting from D1 (*de facto* D4/

D5(D1a)) the appellant mentions the distinguishing feature and discusses the modification of a linear movement into a rotational movement, which is to be regarded as obvious for the skilled person (see in particular second and third paragraphs of point L) and the "RESUMÉ" on page 8 of the statement setting out the grounds). There is thus a substantiated inventive step objection in the statement setting out the grounds of appeal contesting this issue of the impugned decision. Again, the Board immediately understands what is argued against the decision and on what facts the appellant bases his arguments, without having to perform investigations of its own.

2. *Alleged procedural violations*

The appellant alleged in points A), J) and M) of his statement of grounds of appeal that procedural violations were committed during the opposition proceedings.

2.1 With respect to point A)

2.1.1 Its arguments, in particular those provided with its letter dated 31 March 2015, were not taken into account when taking the impugned decision.

2.1.2 Even though the appellant is not specific enough, the Board emphasizes that D1 is properly acknowledged and discussed several times in the impugned decision (see for instance points 3, 11, 12.1 and 12.2). That D1 (the patent) is mentioned instead of D1a (its application) is of no consequence, since the appellant itself uses the designation D1. D1(D1a) is then correctly assessed as a prior art document pursuant to Article 54(3) EPC, i.e. to be considered for novelty

only. In this respect it is referred to the appellant's own letter of 31 March 2015, point 006, where it is mentioned that claim 1 of the contested patent concerns an alternative ("une variante") to that of D1, i.e. the claimed subject-matter is also acknowledged by the appellant to be novel vis-à-vis D1(D1a). In the jurisprudence of the Boards of Appeal on the question of novelty, alternatives (or "equivalents") are indeed not seen as novelty destroying, see Caw of the Boards of Appeal, 7th Edition 2013, I.C.3.5.

2.1.3 Contrary to the appellant's view, the fact that the title of D1 (or D2, or D5) is not mentioned in the impugned decision is not relevant for the outcome of the impugned decision as long as its disclosure is actually discussed, which is the case under point 12.1.

2.1.4 Finally, the fact of using the same wording of the claim of the contested patent in examining whether the features are disclosed or not in the prior art is the usual way for an opposition division to perform its work. Contrary to the appellant's view, there is no confusion between D1(D1a) and the claimed subject-matter at stake.

2.2 With respect to point J)

In opposition proceedings, the version to be considered is the granted patent, which does not comprise "and/or vice versa" in claim 1. The fact that "and/or vice versa" is mentioned together with the distinguishing features in the impugned decision, point 12.1, is indeed not correct. This does not amount to a procedural violation as the other distinguishing features still render the claimed subject-matter novel

over D1/D1a so that the reasoning put forward by the opposition division still holds.

2.3 With respect to point M)

2.3.1 The impugned decision is in accordance with Article 113(1) EPC and Rule 111 EPC. It was correctly notified by registered letter with advice of delivery in accordance with Rule 126(1) EPC. It has unambiguously been notified in accordance with Rule 126(2) EPC and reached its destination on 20 June 2015 (see Form 2936). Therefore, should sheet 1 of form 2339 be missing in the registered letter, as argued by the appellant, the decision will still be regarded as validly notified.

2.3.2 Finally, an opposition division is enlarged by the addition of a legally qualified member only if the nature of the decision so requires, which presently was considered not to be the case. Further, the EPC allows that an examiner of the examination proceedings can be a member of the opposition division, as long he/she is not the chairperson. These requirements are fulfilled (Article 19(2) EPC).

2.4 The above was the preliminary opinion of the Board which had been provided to the parties with the annex to the summons for oral proceedings dated 15 February 2016. None of the parties provided any additional arguments with respect to these points later in the proceedings.

2.5 The appellant further objected with its letter dated 15 February 2016 to the fact that the search examiner was also part of the examining and opposition divisions.

The Board cannot, however, share this view since this corresponds to EPO usual practice and complies with the EPC (cf. Articles 17, 18(2) and 19(2) EPC).

2.6 As a result of the above, the Board cannot find that any procedural violation was committed in the opposition proceedings.

3. *Communication of the exchange of letters between the appellant and the EPO during the opposition proceedings - Referral to the Enlarged Board of Appeal (request 6)*

3.1 In his letter dated 7 May 2015 in the appeal proceedings, the appellant referred, among others, to the following letters:

- EPO's letter dated 30 April 2014; and
- Me Wouters's letter dated 3 July 2014.

These letters were not retrievable from the public part of the file which led the respondent to request to be provided with the various exchanges between the EPO and the appellant as well as Me Wouters, or any other unnamed person on behalf of the appellant, if not present in the public part of the file.

3.2 Since the Board has access to the complete file, including the non-public part, it became aware that during the opposition proceedings the appellant has had an exchange with the EPO on file-related issues, based on complaints on his part.

Such complaints are dealt with by a dedicated EPO department called "Directorate Quality Support" (DQS). DQS has been entrusted with the office-wide handling of

complaints, being responsible for the administration and management of all (external) complaints, and for drafting and dispatching a reply to the complainant. This centralised procedure is meant to ensure a harmonised treatment of all complaints filed at the EPO.

The complaints as well the DQS replies are by default kept **in the non-public part** of the file.

The legal basis for this is apparently the Decision of the President of the EPO, OJ EPO 2007, Special edition No. 3, J.3, Article 1(2)(b), which states that documents "*may, exceptionally, be excluded from file inspection by the Office of its own motion if their inspection would be prima facie prejudicial to the legitimate personal or economic interests of natural or legal persons other than a party or his representative*" (Article 128(4) EPC and Rule 144(d) EPC).

3.3 Rule 79(1) EPC requires the EPO to send a notice of opposition to the patent proprietor. Rule 79(2) EPC states that in case there is more than one opponent, the other opponents will receive a copy of the others' opposition. Rule 79(3) EPC requires the EPO to send any observations and amendments filed by the patent proprietor to the other parties, Rule 81(2) EPC requires the EPO to send any communication under Article 101(1) EPC and any reply thereto to all parties.

The principle as established by the above is that in opposition proceedings, which are *inter-partes* proceedings, all exchanges have to be notified to all

parties. This is also acknowledged in the Notice of the EPO dated 3 June 2009, OJ EPO 2009, 434.

3.4 The Board, having access to the complete file as handled by the EPO, established that there has been the following exchange with the appellant during the opposition proceedings, documented in the **non-public** part of the file:

a) Note of a telephone conversation on 5 March 2014 with the opponent regarding his opposition, filed 26 February 2014, faxed to the opponent together with documentation regarding the filing of an opposition;

b) Email of 12 March 2014 of the opponent to the complaint department (Directorate Quality Support-DQS) regarding the opposition and referring to issues that clearly had a bearing on the opposition, more in particular substantive issues, such as the change to a "use" claim and novelty in respect of D1;

c) Reply of DQS to the opponent dated 30 April 2014 (the first letter mentioned in point 3.1 above);

d) The above mentioned (point 3.1) letter of Me Wouters dated 3 July 2014, on behalf of the opponent, clearly related to the substantive issues in the opposition proceedings;

e) Reply of DQS to this letter dated 10 July 2014 **indicating that the letter of 3 July 2014 would be treated as third party observations**;

f) A letter of the opponent dated 25 June 2015, this time addressed to the President of the EPO, again

clearly related to the substantive and procedural issues in the opposition;

g) Reply of DQS dated 17 July 2015, to the letter addressed to the President of the EPO;

h) An email addressed by the opponent to the President of the EPO dated 26 July 2015, claiming procedural and substantive irregularities in the handling of the complaints as well as the opposition;

i) Reply of DQS to the above email, dated 9 September 2015.

3.5 The principle above described should have had the effect that the entire exchange between the then opponent (now appellant) and the EPO – which clearly related to file specific issues - should have been sent promptly also to the patent proprietor (now respondent), so as to comply with the above mentioned well established principle (see point 3.3 above).

This is all the more evident for the letter of 3 July 2014, of which it was indicated by DQS that it would be treated as a third party observation in the opposition proceedings. The same applies to the inclusion of the President of the Office in the complaint procedure, as well as for the complaints regarding the work of the search and examining division, of which the search- respectively primary examiner now formed also part of the opposition division. In view of these two issues, the patent proprietor should indeed have been made aware of the circumstances under which the opposition division had to do its work.

3.6 The Board therefore decided, taking into account the respondent's further arguments in its letter dated 13 April 2016 referring to the above mentioned principle, to provide the respondent with the above mentioned complete correspondence.

3.7 None of the above mentioned letters sent to the EPO and the corresponding DQS replies can be regarded as *prima facie* prejudicial to the legitimate personal or economic interests of a natural or legal persons, be it a party to the procedure or not.

There was therefore no necessity to exclude them from the public file. Such an exclusion should in any case be **exceptional** according to the above mentioned (point 3.2) Decision of the President of the EPO, not by default.

The appellant itself had explicitly mentioned some of the letters in his letter dated 7 May 2015 and even *a posteriori* explicitly agreed at the oral proceedings with the complete correspondence having been communicated to the respondent, arguing that it did not contain any additional arguments that the appellant would not have been aware of in view of the other letters available in the EPO register.

With the communication of the Board dated 26 April 2016 providing the respondent with the correspondence, a communication which is part of the public file, this correspondence becomes public as well, resolving the issue.

3.8 As put forward by the Board at the oral proceedings and not contested by the respondent, the respondent was given sufficient time (around three months) to study

this correspondence in order to be able to present its comments and arguments pursuant to Article 113(1) EPC, to counter-balance any appellant's arguments which could possibly have, consciously or unconsciously, influenced the Board.

3.9 The respondent further argued that it was only by chance that it noticed there were exchanges between the opponent and the EPO that it was not aware of. This showed there was a definite issue of proper file handling in cases such as the present.

The Board indeed does not perform an *ex officio* check of the entire file, more in particular not whether there are non-public parts which should be public. With the present decision and its circulation for information of its colleagues, chairmen and members of the Boards of Appeal, it intends to increase awareness of the problems that may arise when exchanges with the EPO, more in particular under a complaints procedure, are withheld from the other parties in opposition proceedings and from the public part of the file.

3.10 The respondent further criticized the fact that the EPO had practically helped the opponent to file the opposition. This was derivable from the telephone note and fax a) of the list in point 3.4 above, in which the opponent apparently had been telephoned by an agent of the EPO to ask for his address and had been given information orally that he was to pay an opposition fee of a specific amount. This was subsequently supplemented by fax with the texts of the relevant legal requirements and form 2300.

3.11 According to Article 99(1) EPC an opposition shall not be deemed filed if the opposition fee has not been

paid, or not been paid in time. Rule 77(1) EPC states that if the opposition division notes that the notice of opposition does not comply with Article 99(1) EPC it shall reject the opposition as inadmissible unless the deficiencies have been remedied before the expiry of the opposition period.

The practice of the EPO is that Formalities notify an opponent of any deficiencies in the opposition that have to be remedied before the expiry of the opposition period (Rule 77(1) EPC deficiencies). The non-payment of the opposition fee is considered to be one such deficiency, see Guidelines for Examination at the EPO, November 2015, D-IV, 1.2.1 and 1.3.1.

That is what has apparently been done, although it is indeed unusual that an opponent is telephoned in this respect, although that may have been caused by the absence of his private address in the notice of opposition. The Board cannot see in this respect any favourable treatment in respect of the opponent.

3.12 Referral to the Enlarged Board of Appeal

3.12.1 In view of the above issues, the respondent requested the following question to be referred to the Enlarged Board of Appeal (see respondent's letter dated 27 May 2016):

> *In inter parties (sic) proceedings, where one party engages in unilateral correspondence with the European Patent Office regarding the proceedings, is the Office obliged to inform the other party/ parties promptly about this correspondence in order to preserve the right of the other party/parties to*

a fair and impartial procedure in particular to comply with Article 6 ECHR?

3.12.2 The Board decided not to refer the question to the Enlarged Board of Appeal since it was itself able to answer the question as far as it related to the facts of the present case and to solve the issue by providing the complete correspondence to the respondent.

4. *Main request (request 3)*

4.1 Effective date of the contested patent

The Board considers that the priority of the contested patent has been validly claimed. The effective date of the claimed subject-matter is hence 20 June 2008. This has not been contested by the appellant.

4.2 Documents

4.2.1 Document D1 is an EP patent specification of which the application D1a (WO-A-2008/139322) was filed on 23 April 2008, i.e. before the above effective date of the contested patent, and published on 20 November 2008, i.e. after said effective date. As a result, as correctly assessed by the opposition division, D1a is a prior art document pursuant to Article 54(3) EPC, i.e. to be considered **for novelty only** (impugned decision, point 12.1).

4.2.2 With respect to the alleged prior oral divulgation of **15 January 2008 (D4/D5)**, the Board considers that the invention as described in **D1a** has been **unconditionally** disclosed to the respondent and is therefore considered to be public. Contrary to the impugned decision, point 12.2, page 5, first complete paragraph,

the content of D1a is, hence, regarded as reflecting the "what" of this disclosure. As a consequence, the alleged public prior oral divulgation D4/D5(D1a) belongs to prior art pursuant to Article 54(2) EPC (see statement setting out the grounds, point G, last two paragraphs; respondent's reply to the statement of grounds, point 2).

4.2.3 The above was the preliminary opinion of the Board on the documents D1 and D4/D5(D1a), provided to the parties with the annex to the summons for oral proceedings dated 15 February 2016, point 8, which has not been subsequently contested by the parties.

4.2.4 D6 was filed by the respondent during the oral proceedings and concerns the definition of the verb "to intercept" as used in claim 1.

Although late-filed, the appellant has not contested its admission in the proceedings and the Board saw no reasons not to admit it. As a matter of fact, the Board considered that D6 was in support of the discussion on the interpretation of claim 1, more particularly on the presence of an implicit feature, i.e. the fed capsule(s) being in movement when the opening and removal means comes in contact with it(them) (see point 4.6 below). The fact that D6 is undated is irrelevant in this matter since it concerns the definition of a term which was obviously also valid before the priority date of the contested patent. This has not been contested by the appellant either.

4.3 Allowability of amendments

4.3.1 Claim 1 of the patent as granted reads as follows (in bold the amendments with respect to claim 1 of the application as originally filed):

"**~~A capsule-treatment machine (1) is arranged~~Use**, for separating a packaging of a **used** capsule, in particular made of metal such as aluminium and/or plastic, from a capsule food or beverage ingredient contained therein~~,~~ **and separately collecting the opened capsule packaging and the capsule ingredient for treatment by usual community recycling channels, of a machine (1)** comprising:
- means (10, 11, 12, 15, 15', 151) for opening the packaging of said capsule fed to said machine and for removing the capsule ingredient from the opened capsule packaging, therefor the opening and removal means being ~~**in particular**~~ arranged to rotate relatively to the fed capsule packaging and to intercept the capsule packaging ~~**and/or vice versa**~~;
- means for parting (13, 13', 132) the opened capsule packaging from the capsule ingredient;
- means (11, 14') for collecting the opened capsule packaging; and
- means (14) for collecting the capsule ingredient."

4.3.2 Claim 1 as granted is based on claim 1 as filed and page 3, lines 36-39, page 13, third paragraph and page 16, line 3 of the application as originally filed (see impugned decision, point 10).

4.3.3 Contrary to the appellant's view, the opposition division has thus provided in the impugned decision, point 10, the reasons for which it considered the

introduction of the word "use" as allowable pursuant to Article 123(2) EPC.

The Board further refers to the following passages of the application as originally filed:
- page 8, line 30 to page 9, line 32;
- page 10, line 34 to page 11, line 22;
- page 12, lines 17-34;
- page 13, lines 7-25;
- page 13, line 30 to page 14, line 10;
- page 16, lines 3-34, and
- claim 15

where the machine of original claim 1 is described **in operation**, i.e. in use.

The introduction of the word "use" in the claims does not provide any new teaching that the skilled person would not be able to derive directly and unambiguously from the application as originally filed, taken as a whole.

4.3.4 The dependent claims 2-15 of the patent as granted are based on dependent claims 2-14 of the application as originally filed.

4.3.5 As a consequence, the Board cannot find fault in the reasons and conclusion given in this respect in the impugned decision, point 10.

4.3.6 The above reflects the preliminary opinion of the Board on the allowability of the amendments which had been provided to the parties with the annex to the summons for oral proceedings dated 15 February 2016, point 9. No further arguments have been put forward by the appellant subsequently, neither in writing, nor orally.

4.4 Sufficiency of the disclosure

4.4.1 Contrary to the appellant's view, D1 (or D1a for that matter) need not be cited to derive the initial subjective problem to be solved which is in any case explicitly given in the contested patent, paragraphs [6], [9] and [12]. Further, the skilled person has at its disposal enough and clear technical information in the contested patent to be able to perform the invention, especially in view of solving the problem set (see the embodiments shown in the figures and the corresponding description).

The fact that before the effective date the respondent could have had at its disposal any information with respect to D1a does not change this fact.

Further, not mentioning a prior art document is as such not a ground for opposition pursuant to Article 100 EPC.

Hence, the Board cannot find fault in the reasons and conclusion given in the impugned decision, point 11.

4.4.2 Contrary to the appellant's view, lack of clarity is as such excluded from the grounds of opposition. Article 100(b) EPC recited by the appellant in this respect ("sufficiently clear and complete...") concerns the sufficiency of the disclosure for the skilled person to be able to perform the invention pursuant to Article 83 EPC (see Case Law of the Boards of Appeal, 7th Edition 2013, II.A.1.5). The Board cannot find fault in the reasons and conclusion given in the impugned decision, point 9.

4.4.3 The above was the preliminary opinion of the Board on sufficiency of disclosure which had been provided to the parties with the annex to the summons for oral proceedings dated 15 February 2016, point 10.

4.4.4 At the oral proceedings the appellant merely added that due to the word "use" in claim 1 the respondent could possibly take the means of his patent (D1) when asserting its rights. The scope of claim 1 would then appear to be unclear in that respect.

4.4.5 The Board cannot share this view since as already mentioned above, clarity is not a ground for opposition. Further, the means are clearly specified in claim 1 of the contested patent. They are unambiguously distinguishable from the means of D1 as far as novelty is concerned (see points 4.5 and 4.6.3 below).

4.5 Novelty

4.5.1 Contrary to the appellant's view formulated in its written submissions, it is not sufficient to allege that the effects are the same in D4/D5(D1a) and in the contested patent to conclude that D4/D5(D1a) would fully anticipate the claimed subject-matter. For novelty, all technical features of the claim should be found directly and unambiguously disclosed in D4/D5(D1a).

Since D4/D5(D1a) already does not disclose that the opening and removal means are arranged **to rotate** relatively to the fed capsule packaging, novelty is to be acknowledged with respect to D4/D5(D1a).

Hence, the Board cannot find fault in the reasons and conclusion given in the impugned decision, point 12.1.

4.5.2 The above was the preliminary opinion of the Board on novelty which had been provided to the parties with the annex to the summons to oral proceedings dated 15 February 2016, point 11. It has not been contested by the appellant subsequently. At the oral proceedings the appellant recognized that the subject-matter of claim 1 of the contested patent is novel.

4.6 Inventive step

4.6.1 As already mentioned under point 4.2.1 above D1a as such cannot be considered for assessing inventive step of the claimed subject-matter since it is prior art pursuant to Article 54(3) EPC.

Contrary to this, the alleged public prior oral divulgation D4/D5, based on D1a, can be considered for assessing inventive step of the claimed subject-matter.

It is even considered as the closest prior art since, like in claim 1, the apparatus of D4/D5(D1a) aims at separating the packaging of a used capsule from its content (D1a, page 1, lines 1-3).

In fact, as already pointed out under point 1.4 above with respect to admissibility of the appeal, the appellant contests the inventive step of the claimed subject-matter in view of D4/D5(D1a) and the skilled person's common general knowledge.

4.6.2 The public prior oral divulgation D4/D5(D1a) discloses a use, for separating a packaging of a used capsule ("capsule usagée" 1), in particular made of metal such as aluminium, from coffee ("marc") which is the capsule beverage ingredient contained therein, and separately collecting the opened capsule packaging ("capsule

retournée" 15; "capsule vidée et réduite", "capsule écrasée" 17) and said coffee for treatment by usual community recycling channels, of a machine ("machine expresso") comprising:
- means ("piston de vidange" 2) for opening the packaging of said capsule (1) fed to said machine and for removing the coffee from the opened capsule packaging, therefor the opening and removal means (2) being arranged to **translate** relatively to the fed capsule packaging;
- means for parting (2, "piston de déplacement" 3; "rainures d'éjection" 13) the opened capsule packaging from the coffee;
- means ("réservoir" 6) for collecting the opened capsule packaging (17); and
- means ("récipient à marc" 5) for collecting the coffee (paragraphs [1], [3] and [14] to [20]; claims 1 and 4; figures).

4.6.3 As a result, the only distinguishing features vis-à-vis D4/D5 (D1a) are the following (see also impugned decision, point 12.1):

the opening and removal means being arranged
- **to rotate** relatively to the fed capsule packaging; and
- **to intercept** the capsule packaging.

4.6.4 The Board shares the respondent's view, as argued during the oral proceedings, that the interception of the capsule packaging by the opening and removal means as claimed necessarily implies that claim 1 comprises the implicit feature that the **fed capsule is moving** when the opening and removal means comes in contact with it (see D6, "to stop and take someone or something

that is **going** from one place to another place before that person or thing gets there").

Contrary to the appellant's view this implicit feature is not disclosed in D4/D5(D1a) which clearly requires that the capsule packaging is **stationary** when the piston (2) comes in contact with it (paragraphs [14] to [16]). The argument of the appellant that it **could** also possibly happen in the apparatus of D4/D5(D1a) while the capsule drops down after the coffee has been made cannot hold, because that is not what D1a describes on page 2: after the coffee has been made the handle ("poignée" 7) is actuated ("ouverture") and the used capsule drops down. It is only upon subsequent actuation of handle (7) ("fermeture") to make coffee from yet another capsule, that the first used capsule is compressed by piston (2). To anticipate the claimed feature, it should have been directly and unambiguously derivable that one should **not** introduce the second capsule, but actuate piston (2) independently and swiftly as soon as handle (7) liberates the capsule. That is not the case, particularly not since the apparatus of D1a is not conceived, nor constructed for that purpose.

4.6.5 The Board shares the respondent's view put forward at the oral proceedings that the technical effect of the distinguishing features - rotation and interception - is that the fed capsule need no longer be stationary when the opening and removal means comes in contact with it so that it can be fed in the apparatus without any positional constraints, possibly also several capsules at a time (see contested patent, first embodiment, inlet 5 and opening and removal arrangement 10, paragraphs [34] and [35], figures 1 to 3; shock

members or capsule opener 15 in embodiments four to nine, figures 4 to 9).

As discussed at the oral proceedings, and contrary to the appellant's view, this technical effect is not achieved in the apparatus of D4/D5(D1a) by the use of a piston ("piston de vidange" 2) having a linear displacement towards a stationary capsule so that the problem to be solved cannot be to provide a mere alternative movement to that of D4/D5(D1a) for separating the packaging material of the used capsule from capsule ingredient.

4.6.6 Consequently, the problem to be solved can indeed be regarded as to modify the apparatus of D4/D5(D1a) so as to feed the used capsule in the apparatus without any positional constraints for the fed capsule.

4.6.7 The Board concurs with the respondent that the claimed solution to this problem is neither disclosed nor suggested in D4/D5(D1a) which concerns the linear displacement of a piston towards a stationary fed capsule. The Board considers that the skilled person could think of having the working bit of the piston (2) of D4/D5(D1a) rotate when coming in contact with the fed capsule so as to facilitate the breaking and opening of the fed capsule. This, however, does not amount to the claimed solution of having the fed capsule intercepted by the opening and removal means.

In order to implement such interception, i.e. the fed capsule being in movement when the piston (2) comes in contact with it, the mechanism of D4/D5(D1a) would have to be completely re-designed. The appellant has failed to explain how the skilled person would realise such implementation without inventive skills.

4.6.8 According to the appellant the author of D1a did not have to provide all possible adaptations of its invention. One embodiment was enough in order to fulfil the requirements of Rule 42(1)(e) EPC. As a result, in view of the technical effects to be achieved, which would be equivalent in D4/D5(D1a) and in the contested patent, the skilled person would have immediately thought of the claimed solution as a possible embodiment, which is an obvious simple technical adaptation to that of D4/D5(D1a).

In particular, the contested patent uses the centrifugal/centripetal forces to move the capsules against opening and removal means. These forces are used in order to apply a pressure on the capsule. Such pressure would be comparable to the pressure applied by the piston ("piston de vidange" 2 or "piston d'écrasement" 4) in D4/D5(D1a) for the same purpose; they are both expressed in Newton.

The above would be all the more true since the contested patent foresees means for hitting and impelling the fed capsule (see claim 7) and means for driving the capsule such as an Archimedean screw (see claim 9), which would be means acting like a piston as in D4/D5(D1a). In particular an Archimedean screw would be a means to transform a rotation into a translation, i.e. identically to a piston.

4.6.9 The Board cannot follow this view since, as argued by the respondent, D4/D5(D1a) does not disclose nor suggest any relative rotation of the fed capsule with respect to the opening and removal means, nor that the fed capsule be in movement when the opening and removal means comes in contact with it. As a matter of fact, in claims 1 and 4 of D1a the fed capsules are stamped

("emboutissage") in order to empty their contents. The capsules in D4/D5(D1a) are hence unambiguously fixed in place while the piston translates to break them open. This is also reflected by the single embodiment according to the invention of D1a (figures).

Further, as also argued by the respondent, even if the skilled person using his common general knowledge were to have the idea of a relative rotation between the capsule and the opening and removal means, he would not have any hint on how to implement it in the apparatus of D4/D5(D1a), taking also into account that the fed capsule needs to be intercepted, i.e. is in movement, without having to completely re-design the known apparatus. The appellant has not provided any plausible explanation on how the skilled person would perform such re-designing.

4.6.10 The result of the above is that claim 1 of the patent as granted involves inventive step.

5. *Principle of equal treatment of the parties and neutrality of the Board - Referral to the Enlarged Board of Appeal (Request 2)*

5.1 With its communication dated 26 April 2016, point 3, the Board gave a negative preliminary opinion on inventive step of the subject-matter of claim 1.

With its letter dated 30 June 2016 and during the oral proceedings the respondent argued that the following passages (a) and (b) of the Board's negative opinion (see point 3.2, second paragraph) would amount to new facts brought in by the Board:

(a) the skilled person will see no difficulty to confer to at least the part of the piston 2 of D1a in contact with the capsule, i.e. the working bit, such a rotation (see figure 5, part of piston 2 below the lever contacts), additionally to the translation, without having to re-design the machine of D1a; and

(b) the skilled person will realize that the combined movement translation-rotation would even better facilitate the breaking and opening of the capsule.

For the respondent, these new facts, not even based on evidence, would concern the skilled person's common general knowledge before the effective date of the contested patent. They had not been brought forward by the appellant.

The respondent does not deny that the Board is entitled to provide preliminary opinions and evaluations of facts. It considers however that, when new facts are brought in by the Board itself, as allegedly presently the case, this would amount to a breach of the principle of equal treatment of the parties and to a lack of neutrality of the Board. It refers in this respect to G 9/91, OJ EPO 1993, 408, reasons 2.

5.2 The respondent requested the following question to be referred to the Enlarged Board of Appeal (see respondent's letter dated 30 June 2016):

In inter partes opposition appeal proceedings, if the handling of the case led to a provisional opinion of the Board that was reached in non-compliance with the principle of equal treatment of the parties and strict neutrality of the Board:

i) how should this be corrected?
ii) can a party be prevented to rely on such provisional opinion?

5.3 The Board decided not to refer the question to the Enlarged Board of Appeal for the reasons given hereafter, which were discussed at the oral proceedings.

5.3.1 On the premise that the Board indeed introduced new facts, reference should be made to G 9/91 (*supra*), reasons 18. As concerns the **raising** of a new ground of opposition, the Enlarged Board accepted this from a Board, if the latter found it highly relevant. Whether the Board could actually **decide** on it, depended however on the approval of the patent proprietor.

If a new ground is introduced, this can include new facts, new evidence and new arguments. If such an introduction is permissible, the present Board cannot see that there is a problem of it adding points a) and b) (see point 5.1 above) to the already existing ground of opposition "lack of inventive step", based on the existing prior art D4/D5(D1a) and the existing argument that the skilled person using his common general knowledge would find a way to convert translation of the piston into rotation.

The Board agrees with the respondent that a new ground does not necessarily equate to new facts. Indeed a new ground could be based on facts already available, e.g. novelty as a new ground based on a prior art document already available and discussed so far only for inventive step. However, that is beside the point. The newly raised ground as discussed in G 9/91 (*supra*) covers the whole spectrum ranging from objections based

on facts already on file to grounds not even raised and based on new facts.

Therefore, the Board fails to see any legal basis that would prevent it from introducing new facts, should it find them highly relevant.

5.3.2 Wether the Board introduced new facts:

The Board considers that the assessment of the skilled person's common general knowledge and what he/she would do with that knowledge does not represent a new fact in the present case, but is the Board's assessment of the facts as presented by the appellant and the case as argued by the respondent (see below). It is considered to be an argument.

Indeed the appellant, already in its statement setting out the grounds, point L) and the RÉSUME on page 8, mentioned the skilled person and what he would be capable of, i.e. his common general knowledge ("la technique proposée dans le brevet Nestec....en découle de façon évidente pour tout homme de métier"). It further mentions that the solution proposed by Nestec is a simple transformation of a linear movement into a rotational movement ("passage de mouvement rotatif en linéaire et vice-versa...").

Based on this, the Board stated in its annex to the summons dated 15 February 2016, point 12:

> *[T]the issue at stake, to be discussed at the oral proceedings, is then whether the skilled person using his common general knowledge would consider in an obvious manner to change the linear movement of the opening and removal means of D4/D5 (D1a)*

("piston" 2) in a rotational movement, for the same purpose of separating the packaging material of the used capsule from the capsule ingredient.

The respondent answered in its letter dated 13 April 2016 (see last paragraph) that "the claimed invention is not suggested by the prior art and **cannot even be implemented in practice in the prior art device**" (emphasis added by the Board).

5.3.3 The decisions cited by the respondent in its letter dated 30 June 2016 use terms like "equal treatment" , "not substituting itself for the opponent" (T 1799/08, point 11 of the reasons and R 15/09, point 4.2 of the reasons) and "strict neutrality" (R 21/10, point 2.3 of the reasons; R 19/11, point 2.2 of the reasons; R 4/09, point 2.3.3 of the reasons and R 8/12, point 13 of the reasons).

5.3.4 "Equal treatment" – "not substituting itself for the opponent" – "neutrality"

In case T 1799/08 the situation was different from the present case, since it concerned oral proceedings where the opponent did not appear and where the Board would have had to fully investigate a ground not properly substantiated by that opponent and would have had to provide an elaborate and full reasoning in place of the opponent. That is hardly comparable to the present situation where the appellant is present at the oral proceedings, has provided further arguments as to the simplicity of changing translation into rotation, where the Board came with its assessment in reply to the position taken by the respondent on technical problems for the skilled person to come to the claimed solution.

In case R 15/09 the issue of equal treatment and neutrality was discussed in the sense that the Board should refrain from extensively informing one or the other party of its position, having heard the positions of the parties. The same applies to the reference to neutrality in decision R 8/12: "...there is no principle requiring a Board to put to a party every possible argument for or against it in advance of making a decision"; decision R 19/11: "...the parties are not entitled to advance indications of the reason or reasons for a decision before it is taken" and decision R 21/10 which states that a Board cannot be reproached for remaining neutral and not having informed the parties of all possible interpretations of the claim in question ("Il ne saurait pas plus être fait reproche à la Chambre de recours, dans une procédure inter partes, de n'avoir pas manqué à son absolu devoir de neutralité en n'informant pas les parties de toute possible interprétation de la revendication dont s'agit").

5.3.5 All these decisions have in common that the Board can include arguments in its written decision, even if not expressly brought forward in the (oral) proceedings, as long as they relate to the discussion at hand. The present case is far from that, it was exactly to avoid such new arguments in the decision – even though clearly related to the discussion on inventive step, more in particular how the skilled person would apply his common general knowledge - that the Board communicated its assessment in its annex to the summons dated 26 April 2016.

5.3.6 Case R 4/09 relates to the issue that the Board would have departed from its duty of neutrality if it would have suggested claim wording to the patent proprietor

with which an objection could be overcome. That case is hardly applicable to the present situation.

5.3.7 Since the Board considered that in the present case there was no issue with the principles of equal treatment and neutrality, the condition (non-compliance with those principles) for referring the question to the Enlarged Board before any discussion of inventive step, was not fulfilled. It could therefore proceed to the substantive discussion of inventive step as given in point 4.6 above.

6. *Auxiliary requests (Requests 4 and 5)*

In view of the above, there is no need to discuss the respondent's other auxiliary requests 4 and 5.

Order

For these reasons it is decided that:

1. The two requests for referral to the Enlarged Board of Appeal are refused.

2. The appeal is dismissed.

The Registrar: The Chairman:

B. Atienza Vivancos H. Meinders

Decision electronically authenticated