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**Datasheet for the decision
of 19 April 2021**

Case Number: T 0858/17 - 3.3.02

Application Number: 09705632.9

Publication Number: 2247679

IPC: C09D167/02

Language of the proceedings: EN

Title of invention:
POWDER COMPOSITION

Patent Proprietor:
Allnex Belgium, S.A.

Opponent:
PPG Industries, Inc

Headword:

Relevant legal provisions:
EPC Art. 123(2)
RPBA 2020 Art. 13(1), 13(2)

Keyword:

Main request and auxiliary request 1 - admitted (yes)
Main request and auxiliary request 1 - added subject-matter
(yes)
Auxiliary request 2 filed at oral proceedings - admitted (no)

Decisions cited:

G 0007/93, T 1227/14

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0858/17 - 3.3.02

D E C I S I O N
of Technical Board of Appeal 3.3.02
of 19 April 2021

Appellant: Allnex Belgium, S.A.
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Appellant: PPG Industries, Inc
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
6 February 2017 concerning maintenance of the
European Patent No. 2247679 in amended form.**

Composition of the Board:

Chairman M. O. Müller
Members: M. Maremonti
E. Mille

Summary of Facts and Submissions

- I. The appeals by the opponent and the patentee lie from the interlocutory decision of the opposition division, according to which European patent No. 2 247 679 (hereinafter "the patent") in its form modified on the basis of the then pending second auxiliary request and the invention to which it relates meet the requirements of the EPC.
- II. In the appealed decision, the opposition division came to, *inter alia*, the following conclusions on the then pending claim requests (main request and auxiliary requests 1 to 5):
- The main request and auxiliary requests 1 to 5 were admitted into the proceedings.
 - The subject-matter of the main request and the first auxiliary request did not meet the requirements of Article 83 EPC.
 - The second auxiliary request complied with Articles 83 and 123(2) and (3) EPC.
 - The subject-matter claimed in the second auxiliary request was novel and involved an inventive step in view of either D9" or D8 taken as the closest prior art.
- III. In its statement of grounds of appeal and in subsequent submissions, the opponent contested the admittance of the claim requests of the patentee and raised objections to the claimed subject-matter under, *inter alia*, Article 123(2) EPC.
- In its argumentation, the opponent also relied on the following new items of evidence:

A021: Finne and Albertsson, "*New Functionalized Polyesters to Achieve Controlled Architectures*", Journal of Polymer Science: Part A: Polymer Chemistry, 2004, Vol. 42, pages 444 to 452

A022: Bicak *et al.*, "*Self-Curable Polyester by a Reaction of Glycidol with Maleic Anhydride*", Journal of Polymer Science: Part A: Polymer Chemistry, 2003, Vol. 41, pages 2549 to 2555

Appendix B: Clarification of data from the examples given in D9"

- IV. With its statement of grounds of appeal, the patentee filed a new main request and a new first auxiliary request. It further maintained the second auxiliary request found allowable by the opposition division and also filed a new third auxiliary request. In its reply to the opponent's statement of grounds of appeal, the patentee filed a modified version of its third auxiliary request. In its submissions, the patentee rebutted the arguments of the opponent and argued, *inter alia*, that the claimed subject-matter complied with Article 123(2) EPC.
- V. The parties were summoned to oral proceedings in accordance with their requests.
- VI. In preparation for the oral proceedings, the board issued a communication pursuant to Article 15(1) RPBA 2020.
- VII. In reply to the board's communication, the patentee withdrew the previous main request and first auxiliary request while maintaining the previous second and third auxiliary requests, which thus now represent its main request and first auxiliary request, respectively.
- VIII. By letter dated 5 February 2021, the opponent requested that the oral proceedings be held by video conference.

IX. In a subsequent communication, the board informed the parties that the oral proceedings would be held by video conference.

X. Oral proceedings before the board were held on 19 April 2021 by video conference. During the oral proceedings, the patentee filed a new set of claims according to auxiliary request 2.

XI. Final requests

The opponent requests that the decision under appeal be set aside and that the patent be revoked. It further requests that none of the claim requests of the patentee be admitted into the proceedings. The opponent also requests that A021, A022 and Appendix B be admitted into the proceedings.

The patentee requests that the appeal of the opponent be dismissed, meaning that the patent be maintained on the basis of the claims of the second auxiliary request found allowable by the opposition division (hereinafter "main request"). Alternatively, it requests that the patent be maintained on the basis of the claims of the third auxiliary request having been filed with its reply to the appeal of the opponent (hereinafter "auxiliary request 1"). Alternatively, it requests that the patent be maintained on the basis of the claims of auxiliary request 2 filed during oral proceedings on 19 April 2021. The patentee further requests that A021, A022 and Appendix B as filed by the opponent not be admitted into the proceedings.

XII. The content of documents A021, A022 and Appendix B did not play any role in the decision taken by the board. As such, a decision by the board on the admittance of these items of evidence is not needed.

XIII. The opponent's objections, in so far as relevant to the present decision, are summarised as follows.

- The opposition division had erred in admitting the main request into the proceedings since this request had been filed late without any justification. The same applied to auxiliary request 1 having been filed only in appeal.
- Thus, both requests should not be admitted into the proceedings.
- Claim 1 of the main request had been considerably amended compared to claim 1 as filed. Even if the individual amendments might be disclosed individually in the application as filed, the numerous added features led to a new combination of features that was not directly and unambiguously disclosed in the application as filed.
- The same objection applied to claim 1 of auxiliary request 1, with this claim being directed to the use of the composition defined in claim 1 of the main request.
- It had to be concluded that the main request and auxiliary request 1 did not comply with Article 123(2) EPC.
- Auxiliary request 2 had been filed only at the oral proceedings. No exceptional circumstances for filing this request so late were present. In fact, the objections under Article 123(2) EPC against the subject-matter of the main request and auxiliary request 1 had been raised already at the onset of the appeal proceedings.

- Moreover, the admittance of auxiliary request 2 would lead to an entirely fresh case on inventive step since the technical significance of the presence of polyester (B) in the coating composition had never been addressed.
- Therefore, auxiliary request 2 should not be admitted into the proceedings.

XIV. The counter-arguments presented by the patentee can be summarised as follows.

- In line with the board's preliminary opinion expressed in points 4.4 and 4.5 of the communication issued in preparation for the oral proceedings, the main request and auxiliary request 1 should be admitted into the proceedings.
- The combination of the amendments carried out in claim 1 of the main request and auxiliary request 1 was directly and unambiguously disclosed in the application as filed. Particular reference should be made to claims 1, 3, 5, 10 and 14 as filed constituting the basis for most of the amendments made. The examples of the application as filed also pointed to the claimed subject-matter.
- It had to be concluded that the subject-matter of the main request and auxiliary request 1 complied with Article 123(2) EPC.
- Auxiliary request 2 represented a serious attempt to overcome the objections raised under Article 123(2) EPC. Therefore, even if filed late, this request should be admitted into the proceedings.

Reasons for the Decision

Main request and auxiliary request 1 - admittance into the proceedings

1. The opponent requested that both the main request and auxiliary request 1 of the patentee not be admitted into the proceedings. It argued that these requests had been filed late and that the patentee had not put forward any reasons, let alone exceptional circumstances, for filing these requests late.

2. The board disagrees for the following reasons.

Main request

2.1 The main request is identical to the second auxiliary request filed before the opposition division (named "*New Second Auxiliary Request*" in the annex to the appealed decision). This request had been admitted into the proceedings by the opposition division (appealed decision, point 1.3 of the reasons).

2.2 It is already questionable whether the board has any discretion at all to exclude from the appeal proceedings a claim request that had already been admitted by the opposition division and made the subject of the appealed decision (Article 12(2) RPBA 2020; see also T 1227/14, reasons, points 1.1.2 and 1.1.3).

2.3 In reviewing discretionary decisions on admittance taken by a department of first instance, the boards (Case Law of the Boards of Appeal, 2019 edition, V.A. 3.5.1 (b)) have generally applied the criteria established in decision G 7/93 (OJ 1994, 775). However, this decision of the Enlarged Board of Appeal concerned a case where the department of first instance did not

admit a certain subject-matter, and the board had to review that decision. This is different from the case at issue in which the opposition division did admit the actual main request.

2.4 Assuming that G 7/93 is applicable to the case at issue, under this decision of the Enlarged Board of Appeal, the board could at most assess whether the department of first instance correctly exercised its discretion. It is not the board's task to re-examine the case and decide whether it would have exercised the discretion in the same way. The board may overrule the decision of the department of first instance only if it either failed to exercise its discretion in accordance with the right principles or exercised its discretion in an unreasonable way (G7/93; reasons, point 2.6).

2.5 In the current case, the opposition division (appealed decision, reasons, points 1.2 and 1.3) admitted a first version of the second auxiliary request filed on 3 November 2016, i.e. two and a half months before the oral proceedings, by observing that this represented an attempt to overcome objections raised by the division in its preliminary opinion and that the opponent had had enough time (two and a half months) to prepare its response. The opposition division then admitted an amended second auxiliary request (corresponding to the current main request) filed at the oral proceedings by observing that it contained only minor amendments filed in response to objections raised by the opponent for the first time during oral proceedings. This finding has not been contested by the opponent.

2.6 Therefore, the board has no reasons to doubt, and no such reasons have been provided by the opponent, that the opposition division exercised its discretion in admitting the second auxiliary request according to the right principles and in a reasonable way. Thus, even

assuming that the board had the power to exclude something from the appeal proceedings that has been admitted by the opposition division and taking decision G 7/93 into account, the board sees no reasons for excluding the main request from the appeal proceedings.

Auxiliary request 1

2.7 Auxiliary request 1 is based on the fifth auxiliary request filed before and admitted by the opposition division (appealed decision, point 1.3 of the reasons). The sole amendments to claim 1 of that fifth auxiliary request were carried out to make auxiliary request 1 convergent with the current main request. In fact, claim 1 of auxiliary request 1 is identical to use claim 11 of the main request. Therefore, the admittance of auxiliary request 1 does not lead to any fresh case in appeal.

2.8 For the reasons set out above, the board decided to admit the main request and auxiliary request 1 into the proceedings.

Main request - claim 1 - compliance with Article 123(2) EPC

3. Claim 1 of the main request recites as follows. The amendments to claim 1 as filed have been highlighted by the board:

"1. A powder coating composition comprising as a binder a mixture of:

*(A) **from 19.0 to 99.0 parts by weight of** a first polyester that is amorphous and that comprises at least one carboxy group; the first polyester being obtained from an acid comprising at least 50 mole % of isophthalic acid and/or terephthalic acid and from a polyol which comprises no more than 10 mole % neopentyl glycol (NPG), the first polyester having an acid number from ~~15 to 100~~ **20 to 80 mg KOH/g and having a glass***

transition temperature of from 45°C to 100°C as measured by DSC according to ASTM D3418 with a heating gradient of 20°C per minute;

(B) from 44.5 to 0 parts by weight of a second optional polyester that is amorphous and that comprises at least one carboxy group; the second polyester being obtained from an aliphatic diacid and an aliphatic diol, and

(C) from 1 to 50 parts by weight of a curing agent that comprises functional groups reactable with the carboxylic acid groups on the polyester(s) (A) and (where present) (B);

all parts being based on the total weight of polyester resins and curing agents, and the sum of the weight percentages of (A), (B) and (C) totalling 100%,

wherein the binder consists essentially of amorphous polyesters,

wherein the first polyester (A) is obtained and/or obtainable from:

(a) a dicarboxylic acid component comprising (by mole % of total acid)

(i) from 50 to 100 mole % of a first acid selected from isophthalic acid, terephthalic acid and mixtures thereof; and

(ii) from 50 to 0 mole % of a second acid selected from:

fumaric acid, maleic acid, phthalic anhydride, 1,4-cyclohexanedicarboxylic acid, 1,3-cyclohexanedicarboxylic acid, 1,2-cyclohexanedicarboxylic acid, succinic acid, adipic acid, glutaric acid, pimelic acid, suberic acid, azelaic acid, sebacic acid, 1,12-dodecanedioic

*acid, anhydrides thereof; and any mixtures thereof;
and*

(b) a polyol component comprising:

*(i) from 70 to 100 mole % of a first alcohol
selected from:*

propyleneglycol, 2-methyl-1,3-propanediol, 2-ethyl-2-butyl-1,3-propanediol, 1-ethyl-2-methyl-1,3-propanediol, 2-ethyl-2-methyl-1,3-propanediol and diethyleneglycol, used alone or in a mixture;

*(ii) optionally from 0 to 30 mole % of a further diol preferably selected from 1,4-butanediol, 1,6-hexanediol, 1,4-cyclohexanediol, 1,3-cyclohexanedimethanol, 1,4-cyclohexanedimethanol, hydrogenated Bisphenol A; and/or mixtures thereof;
and*

(iii) optionally from 0 to 10 mole % of neopentyl glycol, and

wherein the curing agent is selected from an epoxy resin and/or from a β -hydroxyalkylamide hardener."

The opponent argued that no basis for the claimed combination of features was present in the application as filed, contrary to the requirements of Article 123(2) EPC.

3.1 The patentee submitted that the subject-matter of claim 1 was based on claims 1, 3, 5, 10 and 14 as filed. Since all the dependent claims 3, 5, 10 and 14 referred back to any preceding claim, the combination of all features mentioned in these claims was directly and unambiguously disclosed in the claims as filed. When starting from this base, only three additional

features had been added to claim 1 of the main request, namely:

- the range of the glass transition temperature from 45°C to 100°C together with its measurement method
- the range of the amount of the curing agent from 1 to 50 parts by weight
- the sum of components (A), (B) and (C) totalling 100%

The application as filed on page 13, lines 21 to 29, repeated the wording of claim 14, with the claimed ranges of components (A) and (B) being disclosed with the claimed range of component (C). Immediately after this, in lines 31 and 32, it was disclosed that the sum of (A), (B) and (C) totalled 100%.

The glass transition temperature and its measurement method were directly and unambiguously disclosed on page 9, lines 1 to 3, of the application as filed. The claimed range was a preferred one as clearly stated on page 8, line 33, referring to more preferred polyesters (A). Furthermore, examples 1, 2 and 4 to 7 all disclosed polyesters having a glass transition temperature falling within the claimed range.

Therefore, no multiple selections had been made, and the claimed combination of features was directly and unambiguously disclosed in the application as filed.

3.2 The board disagrees for the following reasons.

3.2.1 When starting from claims 1, 3, 5, 10 and 14 as filed, as done by the patentee, a first selection as regards the acid number of polyester (A) is needed to arrive at the range defined in claim 1 of the main request. In fact, claim 3 as filed, invoked by the patentee, defines the claimed acid number's range of 20 to 80 mg

KOH/g as the broader of two ranges, with the narrower range from 30 to 70 mg KOH/g stated to be more preferred. Thus, already in claim 3 as filed, the selection of a less preferred range out of two ranges has been made.

- 3.2.2 Additionally, claim 14 as filed, also invoked by the patentee, is not a proper basis. It defines the amounts of components (A), (B) and (C). While for (A) and (B) the ranges as defined in claim 14 have been included in claim 1 of the main request, a different, i.e. narrower, range from 1 to 50 parts by weight has been selected for component (C). In fact, claim 14 as filed recites a broader range "*from 1 to 65 parts by weight*" for component (C). The combination of this narrower range for the amount of (C) in claim 1 with the claimed ranges for (A) and (B) is not disclosed in the claims as filed. Claim 15 as filed rather discloses a narrower range for (C) "*from 3 to 50 parts by weight*" in combination with narrower ranges for (A) and (B) as well, respectively "*from 24.5 to 95.5 parts by weight*" and "*from 30.0 to 1.5 parts by weight*".

The patentee referred to page 13, lines 21 to 29, of the application as filed as the basis for the combination of the claimed ranges for (A), (B) and (C). However, also here, the application as filed rather recites the ranges for (A), (B) and (C) as also defined in claim 14 as filed, with the narrower, more preferred ranges for (A), (B) and (C) as defined in claim 15 as filed disclosed in brackets.

Therefore, the claimed combination of the broader ranges for (A) and (B) with a new narrower range "*from 1 to 50 parts by weight*" for (C), not even corresponding to the disclosed more preferred range "*from 3 to 50 parts by weight*" as disclosed in claim 15 and on page 13 as filed, represents an arbitrary

selection out of several envisageable combinations of all disclosed ranges for (A), (B) and (C). No pointer towards the selected combination exists in the application as filed.

- 3.2.3 On page 13, lines 31 to 32, the application as filed further discloses that "*to prepare the binder the sum of the weight percentages of (A), (B) and (C) does not exceed 100%, and **advantageously** said sum totals 100%*" (emphasis added by the board). Therefore, the feature included in claim 1 of the main request (point 3 above) expressing that the sum of the weight percentages of (A), (B) and (C) totals 100% is a further selection that has been made from the above statement in the application as filed.
- 3.2.4 Furthermore, the application as filed, from page 8, line 33, to page 9, line 5, states that more preferred polyesters (A) "*exhibit at least one, most preferably all of the following other properties*" in which the listed properties include the glass transition temperature together with acid number, number averaged molecular weight and Brookfield viscosity of polyester (A). Out of these four listed properties, only acid number and glass transition temperature have been included in claim 1 of the main request. Thus, an additional selection has been made. For the acid number, the second from a list of four ranges of increasing preference has been selected. For the glass transition temperature, a range from 45°C to 100°C was selected. This range was not disclosed as such in the cited passage but represents a new range resulting from combining the upper limit of the broader range (from -50°C to 100°C) with the lower limit of the narrower range (from 45°C to 80°C) disclosed in the above-stated passage. Therefore, further selections without specific

pointers have been made within the application as filed to arrive at the claimed subject-matter.

The patentee argued that the polyesters prepared in examples 1, 2 and 4 to 7 of the application as filed had glass transition temperatures ranging from 49°C (example 7) to 74°C (example 5) and thus falling within the claimed range. This represented a pointer towards the range having been selected.

However, the board notes that the values from 49°C to 74°C disclosed in examples 1, 2 and 4 to 7 also fall within the above-mentioned broader (from -50°C to 100°C) and narrower (from 45°C to 80°C) ranges disclosed on page 9, lines 1 to 3, of the application as filed. Therefore, the examples do not represent a specific pointer towards the new range from 45°C to 100°C included in claim 1 of the main request.

3.3 For the reasons set out above, the board came to the conclusion that the amendments to claim 1 as filed carried out in claim 1 of the main request result from multiple arbitrary selections from different passages of the application as filed. No guidance is present in the application as filed which would have led the skilled person to the claimed combination of all the amended features.

3.4 Therefore, the amendments carried out in claim 1 of the main request result in a subject-matter extending beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

As a consequence, the main request is not allowable.

Auxiliary request 1 - claim 1 - compliance with Article 123(2) EPC

4. Claim 1 of auxiliary request 1 is directed to

"The use of a powder coating composition for coating the interior and/or exterior of a food container coming into contact with alcohol" in which the powder coating composition is identical to the composition defined in claim 1 of the main request (point 3 above).

It follows that claim 1 of auxiliary request 1 contains the same combination of amended features as claim 1 of the main request. As a consequence, the same observations mentioned above for the main request apply to claim 1 of auxiliary request 1.

For these reasons, the subject-matter of claim 1 of auxiliary request 1 extends beyond the content of the application as filed, contrary to the requirements of Article 123(2) EPC.

Therefore, auxiliary request 1 is not allowable.

Auxiliary request 2 - admittance into the proceedings

5. During oral proceedings before the board and after having heard the conclusions of the board on the non-compliance of the main request and auxiliary request 1 with Article 123(2) EPC, the patentee filed a set of claims according to auxiliary request 2. Claim 1 of this request reads as follows. The amendments to claim 1 of the main request have been highlighted by the board. Identical text has been replaced by square brackets.

"1. A powder coating composition comprising as a binder a mixture of:

*(A) from ~~19.0 to 99.0~~ **24.5 to 95.5** parts by weight of a first polyester that is amorphous and that comprises [...], the first polyester having an acid number from 20 to 80 mg KOH/g and having a glass transition temperature of from 45°C to ~~100°C~~ **80°C** as measured by*

*DSC according to ASTM D3418 with a heating gradient of 2
0°C per minute;*

*(B) from ~~44.5 to 0~~ **30.0 to 1.5** parts by weight of a
second optional polyester that is amorphous and that
comprises [...], and*

*(C) from ~~± 3~~ to 50 parts by weight of a curing agent
that comprises [...];*

all parts being based [...] and

*wherein the curing agent is selected from an epoxy
resin and/or from a β -hydroxyalkylamide hardener."*

Claim 2 of the main request, which was directed to the
composition of claim 1 "*comprising said second
polyester (B)*", has been deleted in auxiliary request
2.

The opponent requested that auxiliary request 2 not be
admitted into the proceedings.

5.1 The patentee submitted that claim 1 of auxiliary
request 2 included the most preferred ranges of the
amounts of components (A), (B) and (C) and the glass
transition temperature, in line with the corresponding
disclosures in the application as filed. Therefore,
auxiliary request 2 represented a serious attempt to
overcome the objections under Article 123(2) EPC raised
against the main request and auxiliary request 1. This
request had not been filed earlier because no
unfavourable opinion of the board as regards to
compliance with Article 123(2) EPC of the claimed
subject-matter had been expressed. Therefore, auxiliary
request 2 should be admitted into the proceedings.

5.2 The board disagrees.

Under Article 13(1) RPBA 2020, any amendments to a
party's case after it has filed its grounds of appeal

or reply may be admitted only at the board's discretion. This discretion is to be exercised in view of, *inter alia*, the current state of the proceedings and the need for procedural economy. It has further to be demonstrated that any such amendment, *prima facie*, overcomes the raised objections and does not give rise to new objections.

Moreover, under Article 13(2) RPBA 2020, any amendment to a party's case made after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.

5.3 In the case at issue, the objections under Article 123(2) EPC against the subject-matter of the main request and auxiliary request 1 were raised by the opponent already at the onset of the appeal proceedings (opponent's statement of grounds of appeal, pages 5 to 9; reply to the patentee's statement of grounds of appeal, pages 4 and 5). The issue was also dealt with in the communication issued by the board in preparation for the oral proceedings. In this communication (point 6.3), the board addressed the need to discuss at the oral proceedings whether the combination of the amendments carried out was directly and unambiguously disclosed in the application as filed. Thus, even though the board did not express an unfavourable preliminary opinion, it clearly pointed to the fact that compliance of the claimed subject-matter with Article 123(2) EPC was an issue to be discussed.

5.4 Therefore, the patentee had ample opportunity to file current auxiliary request 2 well in advance of the oral proceedings to try to overcome the objections raised by the opponent. No exceptional circumstances, let alone justified with cogent reasons, exist in the case at

issue for filing auxiliary request 2 only at the oral proceedings.

5.5 Moreover, a *prima facie* inspection of the amendments carried out in claim 1 of auxiliary request 2 reveals that if for the glass transition temperature the most preferred range has been selected (page 9, lines 1 to 3, of the application as filed), this is not the case for the acid number, for which a broader, less preferred range has been selected from the corresponding passages in the application as filed (page 8, lines 35 to 36, and claim 3). Thus, it has not been demonstrated that the amendments made, *prima facie*, overcome the raised objections. Rather, the admittance of auxiliary request 2 would have required further discussion to assess the compliance of the claimed subject-matter with Article 123(2) EPC, and this at the latest possible stage of the appeal proceedings.

5.6 Even more important, the amendment made to the amount of polyester (B) in claim 1 of auxiliary request 2 (point 5 above) makes the presence of this polyester in the claimed composition compulsory. Polyester (B) was purely optional in the composition defined in claim 1 of the main and auxiliary request 1 (points 3 and 4 above). However, the technical significance of polyester (B) has never been addressed in these appeal proceedings. In fact, also according to the additional claim requests filed by the patentee with its statement of grounds of appeal and later withdrawn, the presence of polyester (B) was purely optional. Thus, the admittance of auxiliary request 2 would have raised complex issues at an extremely late stage of the proceedings since a factual assessment would have had to be made regarding the technical significance, e.g. for inventive step, of the presence of polyester (B) in

the claimed composition. Therefore, the admittance of auxiliary request 2 would have led to an entirely fresh case on the issue of inventive step to be considered at the oral proceedings for the first time. However, the primary object of the appeal proceedings is to review the decision under appeal (Article 12(2) RPBA 2020) and not to start new opposition proceedings.

- 5.7 In exercising its discretion under Article 13(1) and (2) RPBA 2020, the board therefore decided not to admit auxiliary request 2 into the proceedings.

Conclusions

6. None of the patentee's requests is both admissible and allowable.

Order

For these reasons it is decided that:

1. The appealed decision is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



N. Maslin

M. O. Müller

Decision electronically authenticated