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# Datasheet for the decision of 2 March 2022

**Case Number:** T 0834/18 - 3.5.02

**Application Number:** 09779139.6

**Publication Number:** 2406798

**IPC:** H01F27/28, H01F27/10, H01F27/12, H01F27/30

**Language of the proceedings:** EN

**Title of invention:**
An Electric Transformer with Improved Cooling System

**Patent Proprietor:**
Hitachi Energy Switzerland AG

**Opponent:**
Siemens Aktiengesellschaft

**Relevant legal provisions:**
EPC Art. 100(a), 56
RPBA Art. 12(4)

**Keyword:**
Grounds for opposition
Inventive step - (no) - obvious form of implementation - merely accepting predictable drawbacks
Late-filed request - admitted (no) - request could have been filed in first instance proceedings (yes)

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**Beschwerdekammern**

**Boards of Appeal**

**Chambres de recours**

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0
Fax +49 (0)89 2399-4465

**Case Number: T 0834/18 - 3.5.02**

# D E C I S I O N
# of Technical Board of Appeal 3.5.02
# of 2 March 2022

| | |
|---|---|
| **Appellant:** (Opponent) | Siemens Aktiengesellschaft<br>Werner-von-Siemens-Straße 1<br>80333 München (DE) |
| **Representative:** | Maier, Daniel Oliver<br>Siemens AG<br>T IP TLI<br>Otto-Hahn-Ring 6<br>81739 München (DE) |
| **Respondent:** (Patent Proprietor) | Hitachi Energy Switzerland AG<br>Bruggerstrasse 72<br>5400 Baden (CH) |
| **Representative:** | Epping - Hermann - Fischer<br>Patentanwaltsgesellschaft mbH<br>Postfach 20 07 34<br>80007 München (DE) |
| **Decision under appeal:** | **Decision of the Opposition Division of the European Patent Office posted on 7 February 2018 rejecting the opposition filed against European patent No. 2406798 pursuant to Article 101(2) EPC.** |

**Composition of the Board:**

| | |
|---|---|
| **Chairman** | R. Lord |
| **Members:** | F. Giesen |
| | W. Ungler |

## Summary of Facts and Submissions

I. The present appeal by the opponent (appellant) lies from the decision of the opposition division posted on 7 February 2018 rejecting the opposition filed against European patent No. 2406798 pursuant to Article 101(2) EPC.

The reason for the impugned decision was essentially that the subject-matter of claim 1 of the patent as granted involved an inventive step in view of the documents:

D1 *EP 0 616 341 B1*
D2 *EP 0 993 007 B1.*

In particular, the closest prior art D2 did not disclose or suggest transverse pipes connecting the clamping bar to the cooling ducts.

II. In a communication pursuant to Article 15(1) RPBA 2020, the board informed the parties of their preliminary opinion.

III. Oral proceedings before the board took place on 2 March 2022. The oral proceedings were held in the form of a videoconference, to which both parties had given their consent.

The final requests of the parties were as follows:

The appellant (opponent) requests that

the decision under appeal be set aside and the patent be revoked.

The respondent (patent proprietor) requests that

the appeal be dismissed (main request), or as an auxiliary measure,
that the decision under appeal be set aside and the patent be maintained in amended form on the basis of the auxiliary request filed with the reply to the statement of grounds of appeal.

IV. Claim 1 of the **main request** (patent as granted) reads as follows:

"*An electric transformer (100) comprising:*
*- a magnetic core (1, 2);*
*- at least one coil assembly (10) which is positioned around a portion of said magnetic core (1, 2) and comprises a plurality of windings (11) and a plurality of cooling ducts (12);*
*- a structure (20) adapted for applying a clamping force on said magnetic core (1, 2) and/or windings (11), said clamping structure (20) comprising at least a first clamping bar (21);*
*- a cooling circuit (30) adapted for conveying cooling fluid directly inside one or more of said cooling ducts (12), said cooling circuit (30) comprises a pump (31) for pumping cooling fluid from a fluid container into said first clamping bar (21),*
*characterized in that said first clamping bar (21) is part of said cooling circuit (30) and comprises*

*a closed channel-like body adapted to allow passage of fluid inside it without leaks towards said at least one coil assembly (10), and wherein said cooling circuit (30) further comprises a first fluid diffuser (32) which is operatively connected to said at least one coil assembly (10) and one or more pipes (33) which protrude transversely from said first clamping bar (21) and are connected to said first fluid diffuser (32), for allowing flowing of the cooling fluid from the clamping bar (21) into said one or more of said cooling ducts (12).*"

Claim 1 according to the **first auxiliary request** contains in addition to the features of claim 1 of the main request the feature

"*and in that it comprises one or more guide elements (35) which are positioned inside said at least one coil assembly (10) and are adapted for guiding said cooling fluid into said cooling ducts (12).*"

at the end of the claim.

V. The arguments of the appellant that are relevant for the present decision can be summarised as follows:

The subject-matter of claim 1 did not involve an inventive step in view of document D2. D2 disclosed a clamping bar with a closed channel-like body adapted to allow passage of fluid inside it without leaks towards said at least one coil assembly in paragraph [0018] and claim 1.

The sole distinguishing feature was to be seen in one or more pipes which protruded transversely from the clamping bar and were connected to the fluid diffuser. D2 did not disclose a direct fluid connection between the clamping iron and the pressure flange but was silent in this regard. D2 did not contain any disclosure of a particularly high clamping force which had to be borne by the winding assemblies. The clamping iron of D2 is disclosed in claim 3 and column 3, line 57 to column 4, line 5, to clamp the core, but not the coil assemblies. The material of the support tubes 6 and 12 was fibre-reinforced plastic according to paragraph [0017], which was not suitable for withstanding a particularly high clamping force.

The technical problem solved by the distinguishing feature was to create a transition for the cooling fluid from the clamping bar to the fluid diffuser, which avoided mixing of cool and hot cooling oil, which was mentioned in paragraph [0008] of D2.

Document D1 disclosed a cooled transformer and attempted to avoid mixing of cool and hot cooling oil. The solution to this problem, using transverse pipes 27, was shown in figure 6 of D1. It did not matter that pipes were shown in a different context in D1 or in which way the fluid ran through them. A skilled person would understand neither D2 nor the claimed invention in such a manner that the axial force of the clamping bars was exerted directly on the pipes.

The first auxiliary request should have been filed in the first instance proceedings and therefore it should not be admitted pursuant to Article 12(4) RPBA 2007. The reasons for the impugned decision did not prompt the filing of a new auxiliary request in appeal.

Furthermore, the patent proprietor had chosen not to be present at the oral proceedings before the opposition division, which would have given them an opportunity to react to the discussion. It was not appropriate to postpone such a reaction to the appeal proceedings.

VI. The arguments of the respondent that are relevant for the present decision can be summarised as follows:

The subject-matter of claim 1 involved an inventive step in view of document D2.

Concerning the distinguishing features, document D2 did not disclose one or more pipes which protruded transversely from the first clamping bar and were connected to the first fluid diffuser. Moreover D2 did not disclose a clamping bar. D2 contained only a disclosure of a clamping iron, which was a more generic disclosure than a clamping bar. Furthermore, D2 only disclosed that the clamping iron had a hollow profile. This was a more generic disclosure than a channel-like body adapted to allow passage of fluid inside it without leaks towards said at least one coil assembly.

D2, rather than leaving this question open, disclosed a direct connection between the clamping iron and the pressure flange. The function of the clamping iron was to clamp together the core and the winding assemblies. It was the function of a flange to provide a fluid-tight connection between two ducts that could be mechanically stressed. Hence, the person skilled in the art unambiguously derived from D2 that the pressure flange 14 served the purpose of providing a coupling of the coil arrangement 5 to the hollow profiles of the clamping bars that could be mechanically stressed. If

there were no direct connection between the coil arrangement 5 and the hollow profiles of the clamping bars, the described function of the pressure flange 14 would be obsolete. The skilled person would also understand the passage of D2, column 4, lines 5 to 8 and lines 24 to 27 as a disclosure of a direct connection. Pipes and openings had different functions, since pipes were elements bridging a distance, whereas an opening could not accomplish this. However, pipes did not have the same mechanical strength as a flange, such as flange 14 of D2. The technical advantage of the claimed subject-matter was that different dimensions of the transformer could be accommodated and that the functions of fluid coupling and mechanical coupling were separated, e.g. by the winding tables 27 which were mentioned in the description.

Given these considerations, the technical problem starting from D2 as the closest prior art was to be seen in how to maintain a reliable and integrated fluid flow between the clamping bars and the distribution chamber despite potential changes in the dimensions of the transformer.

Starting from D2, there was no motivation for the skilled person to provide pipes. If the skilled person were to introduce pipes between the clamping bar and the flange, the clamping bars could not maintain their function of mechanically clamping the outer and inner support tubes 6, 12. Their mechanical strength, emphasized in paragraph [0017] of D2, would then be obsolete. The construction of the flange 14 would necessarily have to be modified. Notwithstanding these modifications, for which the skilled person had absolutely no motivation in D2, all mechanical forces of the clamping bars would then be concentrated on the

pipes. This bears the risk of deforming the pipes with the consequence of destroying the cooling circuit.

The auxiliary request should be taken into account in the appeal proceedings. In their preliminary opinion, the opposition division had considered that the openings (17) in the flange (14) of D2 anticipated transverse pipes. This opinion concerning parts of the cooling circuit between the outer clamping bars, gave reason to further specify the function of outer parts of the cooling circuit by incorporating the features of granted claims 8 and 9 into an amended claim 1. The later change from this preliminary opinion led to the opposition division concluding that in fact there was a distinguishing feature in view of D2 regarding the structure of the cooling circuit lying between the outer clamping bars. Therefore, the decision under appeal prompted the respondent to further defend the patent by specifying the structure of the cooling circuit between the clamping bars. Therefore, the respondent had for the first time in the appeal a reason to introduce an amended claim 1 incorporating the features of claim 2 into claim 1, and had thus properly reacted to the decision of first instance.

## Reasons for the Decision

1. *Admissibility of the Appeal*

The appeal complies with the requirements of Articles 106 and 108 EPC, as well as Rule 99 EPC. It is therefore admissible.

2. *Main Request - Lack of Inventive Step*

2.1 The ground for opposition pursuant to Article 100(a) EPC in conjunction with Article 56 EPC prejudices the maintenance of the patent because the subject-matter of claim 1 as granted does not involve an inventive step within the meaning of Article 56 EPC in view of document D2.

2.2 Closest Prior Art

Both parties accept document D2 as a suitable choice of a starting point for assessing inventive step. The board agrees.

2.3 Distinguishing Features

It was contentious between the parties whether D2 disclosed a clamping bar and one or more pipes protruding transversely from the clamping bar.

2.3.1 Document D2 discloses in column 3, line 57 to column 4, line 14 a clamping iron. The German expression "Preßeisen" is a special term used in the field of transformers to refer to bars clamping together the metal sheets from which the core is constructed, just like the clamping bars according to claim 1. This is also in accordance with D2, column 4, lines 2 to 5. The bar shape of a clamping iron follows from the fact that the core is clamped along its entire length in a direction perpendicular to the axial direction of the coils. The German expression "Hohlprofil" refers to a piece whose cross-section does not vary along its length (typically manufactured by extruding) and which is hollow. According to D2, column 4, lines 24 to 27, the clamping iron is thus a piece with a hollow cross-

section, and the cooling oil runs through it. This means necessarily that the clamping iron is fluid-tight, *viz.* "closed" within the meaning of claim 1. The fact that a "Preßeisen" is inherently bar-shaped means that the hollow interior is "channel-like" within the meaning of claim 1. D2 explicitly discloses in the above-cited passage the adaptation of the clamping bars to allow passage of a fluid.

The respondent asserted that a clamping iron did not imply a bar shape, but this argument ignores the meaning inherent in the expression used in D2. According to the respondent the expression clamping iron with a hollow profile was more generic than a clamping bar with a channel. This does not convince the board for the reasons indicated above. A clamping bar with a channel-like profile is therefore not a distinguishing feature.

2.3.2 Concerning the feature of one or more pipes protruding transversely from the clamping bar, document D2 merely discloses in column 4, lines 5 to 8, that the clamping iron has fluid openings which are connected to the fluid openings (17) of the pressure flange.

In the board's view no details of the connection between the fluid openings of the clamping bar and the coil assemblies can be derived from this passage.

The appellant did not contest that pipes transverse to the clamping bar were a distinguishing feature. The respondent insisted that D2 disclosed a direct connection, arguing that this followed from the word "flange" used in D2, because a flange was a connection between pipes which can be mechanically stressed, and that it was essential for the arrangement of D2 that a

high mechanical force between the clamping iron and the flanges 14 could be realised.

The board agrees that pipes are not directly and unambiguously disclosed in D2, but disagrees that a direct connection was directly and unambiguously disclosed. The word flange does not imply a particularly high mechanical rigidity. There are also plastic pipes and flanges which do not possess high mechanical strength. The respondent also appears to overlook that D2, column 4, lines 22 to 24, states explicitly that the pressure of the cooling fluid is low, only around 0.15 bar. It follows from this passage, that the flange does not have to be able to handle high mechanical forces due to the pressure of the coolant fluid. Furthermore, the respondent overlooks that the clamping iron is disclosed in column 4, lines 2 to 4, to clamp the core sheets, but not the coil assemblies. The passage in column 3, lines 52 to 56, merely states that the supporting tubes 6 and 12 have a suitable mechanical strength. It cannot be concluded that this stiffness was more than needed to keep the winding assemblies in place against the electromotive forces that occur during use. The fact that according to paragraph [0017] of D2 they are made from fibre-reinforced plastic corroborates this view, since fibre-reinforced plastic does not possess a particularly high mechanical strength.

In particular, the respondent failed to explain why the clamping forces necessary in D2 were in any way different from those according to the opposed patent. The appellant is correct in arguing that the diffuser according to claim 1 of the main request corresponds to the flange according to D2, and that there is nothing to imply a difference in their mechanical strengths.

Lastly, the respondent considered that a skilled person would view figure 4 of D2 to be a disclosure of a direct fluid connection between the clamping bar and the pressure flange. However, figure 4 is clearly a schematic representation concerning the flow patterns. The distance between the clamping bar and coil assembly or further details of the fluid connection are not derivable from this figure.

It follows that D2 does not disclose

> *"one or more pipes (33) which protrude transversely from said first clamping bar (21) and are connected to said first fluid diffuser (32)."*

The respondent argued that there were in fact two differences, namely that D2 disclosed a direct connection and that claim 1 defined pipes. The board has explained above why a direct connection is not disclosed in D2, but even if it were, the fact that pipes are used instead of a direct connection still would not amount to two differences between D2 and the subject-matter of claim 1.

2.4 Technical Effect and Objective Technical Problem

2.4.1 According to document D2, *loc. cit.*, there is a suitable fluid connection for the cooling fluid between the clamping iron and the flange 14, which corresponds to a part of a diffuser. D2 merely does not disclose how this fluid connection is realised.

Therefore, no additional technical effect, going beyond that achieved by the arrangement according to the prior art, is achieved by the distinguishing feature of claim 1.

The objective technical problem is therefore merely to provide a particular implementation of a fluid connection between the clamping bar and the diffuser.

2.4.2 The appellant argued that the technical problem was to propose a connection between the clamping bar and the diffuser which avoided mixing of cool and hot cooling fluid. D2 mentions this problem in paragraph [0008] with respect to the prior art, in which the entire amount of oil in the transformer is circulated, rather than circulating coolant oil only through the windings. The effect of avoiding hot and cool oil from mixing is achieved irrespective of the type of fluid connection chosen in D2 and does not rely specifically on transverse pipes. The board is therefore not persuaded that this aspect is part of the the correct formulation of the technical problem.

The respondent did not propose any objective technical problem in their reply to the statement of grounds of appeal. After being informed of the board's preliminary opinion they argued that the technical problem was that of maintaining a reliable and integrated fluid flow between the clamping bars and the distribution chamber despite potential changes in the dimensions of the transformer. During the oral proceedings the respondent argued that a technical advantage was to be seen in the separation of the functionality of fluid and mechanical connections. In the respondent's opinion the formulation of the technical problem by the opposition division of providing a passage already contained a pointer to the solution.

The respondent did not explain why the distinguishing feature provided for a reliable fluid flow despite

changes in dimensions of the transformer. The respondent did not explain clearly what "changes in dimension" they were considering. The board notes that this aspect is never mentioned in the opposed patent. If the respondent argues that pipes allow to introduce a distance between the coil windings and the clamping bars, this is probably correct, but would then merely corroborate the problem formulation on which the opposition division based their assessment. Moreover, pipes do not appear to be a more reliable fluid connection than any connection disclosed in D2. A separation of fluid and mechanical coupling is also never mentioned in the opposed patent. Furthermore, claim 1 of the main request does not contain any element that would allow to conclude that the clamping force of the clamping bar would not be exerted on the transverse pipe. In this respect the respondent made reference to the winding tables 27. Claim 1, however, is clearly not restricted to the presence of any element, such as the winding tables, which would prevent the clamping force compressing the transverse pipes.

The definition of the objective technical problem by the respondent therefore did not persuade the board.

2.5 Assessment of the Solution

2.5.1 The board is of the opinion that pipes are merely a straightforward known solution for a skilled person to implement a fluid connection, in particular for bridging a distance. Given that a clamping bar serves the purpose of clamping metal sheets of the core together and that the core legs also have to be surrounded by the coil assemblies, it is immediately apparent that the coil assemblies will be essentially

arranged at a right angle with respect to the clamping bar. Therefore, when trying to solve the above technical problem it is obvious for a skilled person to provide one or more pipes protruding transversely from the clamping bar in order to establish a fluid connection between the latter and the fluid diffuser.

2.5.2 The respondent restricted their argument in the reply to the statement of grounds of appeal to the assertion that D2 did not disclose or suggest pipes. The board finds such an assertion to clearly fall short of convincingly arguing that the solution of providing pipes for making a fluid connection is not obvious. It would be somewhat unrealistic, in the board's view, to assume a person skilled in the field of transformer cooling needed an explicit suggestion in the prior art to employ such a well-known measure.

The respondent argued further that in D2 the introduction of transverse pipes interfered with the clamping arrangement. According to the respondent the clamping iron of D2 clamped the tubular support tubes 6, 12, which according to column 3, lines were disclosed as absorbing mechanical clamping forces which held the structure together. According to the respondent, the clamping bars of D2 could not maintain their function of mechanically clamping the outer and inner support tubes 6, 12, so that their mechanical strength, emphasized in paragraph [0017] of D2, would then be obsolete, and the construction of the flange 14 would necessarily have to be modified. The respondent further argued that, notwithstanding these modifications, for which the skilled person had absolutely no motivation in D2, all mechanical forces of the clamping bars would then be concentrated on the pipes.

This argument is not persuasive. First, the board stresses that D2 discloses that the clamping irons clamp together the core, but not the support tubes. The board has little doubt that the clamping irons will also hold the coil assemblies in place. However, the respondent's suggestion that the clamping force according to D2 was particularly high, or at least qualitatively different from that according to the opposed patent, is not derivable from D2. Rather, there is absolutely no reason to assume that the clamping force exerted by the clamping bars in D2 and those according to claim 1 of the main request was any different.

According to claim 1 of the main request, the transformer comprises

> "*a structure (20) adapted for applying a clamping force on said magnetic core (1, 2) and/or windings (11 ), said clamping structure (20) comprising at least a first clamping bar (21)*"

Claim 1 clearly does not contain any other feature which would mitigate the problem the respondent sees with the introduction of pipes between the clamping bars and the diffuser of D2. Rather, in the transformer according to claim 1, the pipes would equally have to withstand the clamping force. The respondent therefore attempts to argue that merely accepting a disadvantage that can readily be identified in the prior art amounted to making an inventive step. This does not persuade the board.

The respondent further argued that paragraph [0008] of D2 taught away from pipes, because pipes would increase

the contact between hot isolation oil and cold cooling oil. Claim 1 of the main request contains no feature which could mitigate this problem. Again, merely identifying an alleged problem in the prior art and accepting it, without providing any non-obvious advantage, is not tantamount to making an inventive step.

The board can agree with the respondent's assertion that the introduction of pipes would allow changing the dimensions of the transformer. However, pipes are well-known construction elements in order to establish a fluid connection across a distance. The respondent merely argues that pipes are used in the manner they are intended to be used. This cannot justify the respondent's conclusion of the presence of an inventive step. There was nothing in the respondent's arguments to convince the board that introducing a distance between the clamping bar and the flange was anything more than routine work for a skilled person.

2.5.3 The reasons for the impugned decision, which according to Article 12(1)(a) RPBA 2020 forms part of the basis of the appeal proceedings, also do not convince the board.

The opposition division argued that since D2 dealt with a railroad transformer, and such railroad transformers needed to be compact, whereas pipes would introduce a distance between the clamping bar and the coils, so that D2 taught away from using intermediate pipes.

This argument does not persuade the board. A technical effect associated with a distinguishing feature must be achieved across the entire scope of the claim. Likewise, the corresponding problem must be solved

across the entire scope of the claim in order for an inventive step to be acknowledged. Claim 1 does not contain any restriction concerning the size of the transformer. For sizes similar to that of the transformer of D2, which are clearly covered by the subject-matter of claim 1, the respondent merely accepts the additional distance introduced by the transverse pipes. As before, this would merely amount to identifying an alleged problem in the prior art and then simply accepting it. Doing this does not require making an inventive step.

The opposition division appears to have tacitly assumed that the transformer of claim 1 was larger than that of D2 and that dimensions did not matter for the transformer of claim 1 as they do in D2. This amounts to tacitly assuming that D2 is not a realistic starting point for the assessment of inventive step of claim 1, which is in contradiction to the initial choice by the opposition division and without this being reflected by the wording of the claim.

The opposition division accepts, according to paragraph 1.4.5 of the impugned decision, that pipes were indeed a known means for providing a fluid passage but other means of connection could also be envisaged, such as directly connecting the openings 17 to the clamping bar. The board observes, that whether a particular solution to a problem is obvious or not, is entirely unrelated to how many other solutions there might be. Relying on the presence of various possible solutions cannot be a substitute to assessing whether a given one among the possible solutions is obvious. To the board, pipes as well as a direct connection are both obvious means of providing a fluid passage between the clamping bar 20 and the openings 17.

3. *Admittance - First Auxiliary Request*

3.1 The board has decided not to admit the first auxiliary request pursuant to Article 12(4) RPBA 2007, applicable by virtue of Article 25(2) RPBA 2020.

3.2 According to Article 12(4) RPBA 2007, the board has the discretionary power not to take into account requests which could have been filed in the first-instance proceedings.

3.3 The appellant-opponent raised an objection of lack of novelty based on document D2 already in the notice of opposition. The opposition division informed the parties of their preliminary agreement with this objection. In response, the respondent-proprietor filed an auxiliary request in which granted claim 1 was limited to a second clamping bar. The respondent-proprietor was not represented at the oral proceedings before the opposition division.

At the oral proceedings, the opposition division deviated from their non-binding preliminary opinion and concluded that claim 1 as granted involved an inventive step because D2 neither disclosed nor suggested transverse pipes.

In the statement of grounds of appeal, the appellant no longer argued that D2 disclosed transverse pipes but that they were obvious in view of D2. In their reply the respondent filed for the first time in the appeal proceedings a first auxiliary request limited to guiding elements within the coil assembly.

3.4 The board is of the opinion that at the time of filing the reply to the appeal no new aspects had been raised that could have justified the filing of the new auxiliary request. The only thing that had changed was that transverse pipes were now objected to as being obvious, rather than being disclosed in D2. It does not become apparent from the respondent's arguments, why restricting the claim to having a second clamp was an appropriate line of defence against the objection that transverse pipes are disclosed in D2, but are not an appropriate line of defence against the objection that transverse pipes were obvious in the light of D2, or why now guiding elements were an appropriate line of defence.

It is rather very clear that, in the circumstances of the present case, the factual basis of the underlying objection had remained essentially unchanged and that the only thing that has changed is essentially the legal conclusion drawn on that factual basis. Such a different legal conclusion cannot justify replacing one line of defence with a new line of defence introduced only in appeal in the present case.

The board notes especially that, if a party is not going to be represented at oral proceedings, as was the case for the respondent-proprietor at the oral proceedings before the opposition division in the present case, they should file all potential reactions to an objection that they were clearly aware of already before that oral proceedings. Delaying further attempts to overcome the central objection of the impugned decision amounts to an attempt to use the appeal proceedings as an extension of the first-instance proceedings, rather than treating them as a judicial review thereof.

The respondent's argument that there would have been a problem with the convergence of the requests is also not persuasive. Apart from the fact that the board finds the suggestion of the auxiliary request introduced in appeal having very little chance of being admitted in opposition proceedings unlikely, the board is decidedly not convinced that the delaying of the filing of a non-converging request to the appeal procedure increased the chances of its admissibility. The board therefore concludes that this request could and should have been filed in the first-instance proceedings.

4. *Conclusions*

Since the ground for opposition pursuant to Article 100(a) EPC and Article 56 EPC prejudices the maintenance of the opposed patent and since the board does not admit the respondent's first auxiliary request, the board accedes to the appellant's request.

**Order**

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

1. The decision under appeal is set aside.

2. The patent is revoked.

The Registrar: The Chairman:

U. Bultmann R. Lord

Decision electronically authenticated