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Datasheet for the decision
of 24 March 2022

Case Number:	T 2613/18 - 3.5.03
Application Number:	09007920.3
Publication Number:	2136592
IPC:	H04W52/02
Language of the proceedings:	EN

Title of invention:
Method for performing random access procedures and terminal thereof

Applicant:
Optis Cellular Technology, LLC

Headword:
Support by the description/OPTIS

Relevant legal provisions:
EPC Art. 84
RPBA 2020 Art. 13(2)

Keyword:

Support by the description - main request (no):
inconsistencies between independent claim and the description
Admittance of claim requests filed after the summons - 1st to
4th auxiliary requests (no): no clear allowability
Admittance of claim request filed during the oral proceedings
- 5th auxiliary request (no): no exceptional circumstances
justified with cogent reasons

Decisions cited:

T 0133/85, T 0409/91, T 2271/18, T 2632/18

Beschwerdekammern

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Case Number: **T 2613/18 - 3.5.03**

D E C I S I O N
of Technical Board of Appeal 3.5.03
of 24 March 2022

Appellant: (Applicant)	Optis Cellular Technology, LLC P.O. Box 250649 Plano, TX 75025 (US)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 17 May 2018 refusing European patent application No. 09007920.3 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chair   K. Bengi-Akyürek
Members: J. Eraso Helguera
                 R. Romandini

Summary of Facts and Submissions

I.   The appeal was lodged against the decision of the examining division to refuse the present European patent application for lack of inventive step (Article 56 EPC) with respect to claim 1 of each of a main request and an auxiliary request.

II.   Oral proceedings before the board were held on 24 March 2022.

The appellant requested that the appealed decision be set aside and that a patent be granted on the basis of the claims of the **main request** subject to the appealed decision or, alternatively, of one five auxiliary requests: **auxiliary requests I to IV** filed with a response to the board's communication under Article 15(1) RPBA 2020 and **auxiliary request V** filed during the oral proceedings before the board.

At the end of the oral proceedings, the board's decision was announced.

III.   Claim 1 of the **main request** reads as follows:

"A method of performing a random access procedure between a mobile terminal and a network, the method comprising:

-   transmitting (S11) a RACH, abbreviated for Random Access Channel, preamble to the network;

-   receiving (S12) a RACH response from the network;

- determining (S13) whether the RACH preamble was explicitly signaled by the network by using information included in the received RACH response;

- if the RACH preamble was explicitly signaled by the network, monitoring (S14) a downlink channel until a new transmission is indicated according to radio resource allocation information received from the network, wherein the downlink channel is a PDCCH, abbreviated for Physical Downlink Control CHannel; and

- if the RACH preamble was not explicitly signaled by the network, starting (S15) a contention resolution timer, wherein if the contention resolution timer expires, the downlink channel is no longer monitored as part of performing the random access procedures, and

wherein an active time during which the mobile terminal needs to monitor the downlink channel is a time period after reception of the RACH response until a radio resource allocation information is received, wherein said active time is only applied if the RACH preamble was explicitly signaled by the network."

Claim 1 of the **first auxiliary request** reads as follows (board's highlighting indicating amendments vis-à-vis claim 1 of the main request):

"A method of performing a random access procedure between a mobile terminal and a network, the method comprising:

- transmitting (S11) a RACH, abbreviated for Random Access Channel, preamble to the network;

- receiving (S12) a RACH response from the network;

- determining (S13) whether the RACH preamble was explicitly signaled by the network by using information included in the received RACH response;

- if the RACH preamble was explicitly signaled by the network, monitoring (S14) a downlink channel until a new transmission is indicated according to radio resource allocation information received from the network, wherein the downlink channel is a PDCCH, abbreviated for Physical Downlink Control CHannel; and

- if the RACH preamble was not explicitly signaled by the network, starting (S15) a contention resolution timer and monitoring the PDCCH, wherein the downlink channel is not monitored upon expiration of the contention resolution timer and wherein the random access procedure is performed again after a back-off time, and

wherein an active time during which the mobile terminal needs to monitor the downlink channel is a time period after reception of the RACH response until a radio resource allocation information is received, wherein said active time is only applied if the RACH preamble was explicitly signaled by the network."

Claim 1 of the **second auxiliary request** reads as follows (board's highlighting indicating amendments vis-à-vis claim 1 of the first auxiliary request):

"A method of performing a random access procedure between a mobile terminal and a network, the method comprising:

- transmitting (S11) a RACH, abbreviated for Random Access Channel, preamble to the network;

- receiving (S12) a RACH response from the network;

- determining (S13) whether the RACH preamble was explicitly signaled by the network by using information included in the received RACH response;

- if the RACH preamble was explicitly signaled by the network, monitoring (S14) a downlink channel until a new transmission is indicated according to radio resource allocation information received from the network, wherein the downlink channel is a PDCCH, abbreviated for Physical Downlink Control CHannel; and

- if the RACH preamble was not explicitly signaled by the network, starting (S15) a contention resolution timer and monitoring the PDCCH, wherein the downlink channel is not monitored upon expiration of the contention resolution timer and wherein the random access procedure is performed again after a back-off time, and

wherein an active time during which the mobile terminal needs to monitor the downlink channel is a time period after reception of the RACH response until a radio resource allocation information is received, wherein said active time is only applied if the RACH preamble was explicitly signaled by the network, and

wherein the time period is not included in an active time during which the mobile terminal needs to monitor the downlink channel if the RACH preamble was not explicitly signaled by the network."

Claim 1 of the **third auxiliary request** reads as follows
(board's highlighting indicating amendments vis-à-vis
claim 1 of the main request):

"A method of performing a random access procedure
between a mobile terminal and a network, the method
comprising:

-    transmitting (S11) a RACH, abbreviated for Random
     Access Channel, preamble to the network;

-    receiving (S12) a RACH response from the network;

-    determining (S13) whether the RACH preamble was
     explicitly signaled by the network by using
     information included in the received RACH response;

-    if the RACH preamble was explicitly signaled by the
     network, monitoring (S14) a downlink channel until
     a new transmission is indicated according to radio
     resource allocation information received from the
     network, wherein the downlink channel is a PDCCH,
     abbreviated for Physical Downlink Control CHannel;
     and

-    if the RACH preamble was not explicitly signaled by
     the network, starting (S15) a contention resolution
     timer and monitoring the PDCCH, and

wherein an active time condition during which the
mobile terminal needs to monitor the downlink channel
is a time period after reception of the RACH response
until a radio resource allocation information is
received, wherein said active time is only applied if
the RACH preamble was explicitly signaled by the
network, and

wherein the downlink channel does not need to be
monitored according to the active time condition upon
expiration of the contention resolution timer and
wherein the random access procedure is performed again
after a back-off time."

Claim 1 of the **fourth auxiliary request** reads as
follows (board's highlighting indicating amendments
vis-à-vis claim 1 of the third auxiliary request):

"A method of performing a random access procedure
between a mobile terminal and a network, the method
comprising:

-   transmitting (S11) a RACH, abbreviated for Random
    Access Channel, preamble to the network;

-   receiving (S12) a RACH response from the network;

-   determining (S13) whether the RACH preamble was
    explicitly signaled by the network by using
    information included in the received RACH response;

-   if the RACH preamble was explicitly signaled by the
    network, monitoring (S14) a downlink channel until
    a new transmission is indicated according to radio
    resource allocation information received from the
    network, wherein the downlink channel is a PDCCH,
    abbreviated for Physical Downlink Control CHannel;
    and

-   if the RACH preamble was not explicitly signaled by
    the network, starting (S15) a contention resolution
    timer and monitoring the PDCCH, and

wherein an active time condition during which the
mobile terminal needs to monitor the downlink channel
is a time period after reception of the RACH response
until a radio resource allocation information is
received, wherein said active time is only applied if
the RACH preamble was explicitly signaled by the
network, and

wherein the downlink channel does not need to be
monitored according to the active time condition upon
expiration of the contention resolution timer and
wherein the random access procedure is performed again
after a back-off time,

and

wherein the time period is not included in an active
time during which the mobile terminal needs to monitor
the downlink channel if the RACH preamble was not
explicitly signaled by the network."

Claim 1 of the **fifth auxiliary request** reads as follows
(board's highlighting indicating amendments vis-à-vis
claim 1 of the main auxiliary request):

"A method of performing a random access procedure
between a mobile terminal and a network, the method
comprising:

-   transmitting (S11) a RACH, abbreviated for Random
    Access Channel, preamble to the network;

-   receiving (S12) a RACH response from the network;

- determining (S13) whether the RACH preamble was explicitly signaled by the network by using information included in the received RACH response;

- if the RACH preamble was explicitly signaled by the network, monitoring (S14) a downlink channel until a new transmission is indicated according to radio resource allocation information received from the network, wherein the downlink channel is a PDCCH, abbreviated for Physical Downlink Control CHannel; and

- if the RACH preamble was not explicitly signaled by the network, starting (S15) a contention resolution timer and monitoring the PDCCH, wherein if the radio resource allocation information is not received upon expiration of the contention resolution timer, the downlink channel is no longer monitored and wherein the PDCCH is not monitored during a back-off time and the random access procedures performed again after a back-off time, and

wherein an active time during which the mobile terminal needs to monitor the downlink channel is a time period after reception of the RACH response until a radio resource allocation information is received, wherein said active time is only applied if the RACH preamble was explicitly signaled by the network, and

wherein an active time during which the mobile terminal needs to monitor the downlink channel if the RACH preamble was not explicitly signaled by the network starts with said starting of the contention resolution timer and ends with said expiration of the contention

resolution timer if the radio resource allocation
information is not received upon expiration;

wherein the radio resource allocation information is a
C-RNTI, abbreviated for Radio Network Temporary
Identifier."

Reasons for the Decision

1.   The application

1.1   The present application relates to the random access
         procedure provided in an LTE system (cf. page 5, line 4
         to page 9, line 27 of the description as filed). This
         procedure is used when there is a signalling message or
         user data to be transmitted via the uplink by a mobile
         terminal that did not receive allocation of dedicated
         radio resources from the network side, or may also be
         used when the base station instructs the mobile
         terminal to perform a Random Access CHannel (RACH)
         procedure. The random access procedure provided in the
         LTE system can be classified as a *contention-based*
         random access procedure ("contention case") and a
         non-contention based procedure ("non-contention case"),
         based upon whether the random access preamble is
         selected by the *mobile terminal* itself or selected by
         the *base station* (i.e. the network). In the latter
         case, the mobile terminal receives information about
         the preamble to be used through explicit signalling
         from the base station.

1.2   The application further explains some concepts of
         discontinuous reception (DRX) in LTE (cf. e.g. page 10,
         line 15 to page 11, line 5 of the description as
         filed). A mobile terminal having always to monitor the

downlink channel, e.g. the PDCCH, would result in
undesirable power consumption for the mobile terminal.
To resolve this issue, the mobile terminal and the base
station operate according to pre-established consistent
rules. As a result, the mobile terminal only needs to
monitor the PDCCH at certain specified times, which
reduces power consumption thereof. *Active time* denotes
the time at which the mobile terminal should wake up
(from its idle state) to monitor a downlink channel,
namely the PDCCH. After such active time, the mobile
terminal need not monitor the PDCCH. The active time
may include *inter alia* a time period during which an
"On-Duration" timer or a "DRX Inactivity" timer or a
"DRX Retransmission" timer or a "Contention Resolution"
timer operates ("condition 1") and a time period
including the duration from *after* the RACH MSG 2 is
transmitted up to the time *when* a Cell Radio Network
Temporary Identifier (C-RNTI) or a Temporary C-RNTI is
received ("condition 4").

1.3   The application recognises that, based upon those
        "active time" definitions, the downlink channel must be
        monitored even during a "back-off time". This back-off
        time is not a time period during which a "contention
        resolution timer" is being operated and thus the
        network does not allocate radio resources to the mobile
        terminal. Accordingly, given that the mobile terminal
        need not actually perform monitoring, power consumption
        is unnecessarily wasted during this time period (cf.
        page 12, lines 15-21 of the description as filed). To
        reduce the power consumption of the mobile terminal in
        the known LTE system, the application proposes that the
        "active time" definition according to condition 4 be
        applied for instances where the RACH procedure is
        non-contention based, while such condition 4 is not
        applied for *other* situations (cf. page 14, lines 3-6

and page 15, lines 14-18 of the description as filed).

2.   MAIN REQUEST

Claim 1 of the main request comprises the following
limiting features (board's outline):

(a) A method of performing a random access procedure
    between a mobile terminal and a network, the method
    comprising:

(b) transmitting a RACH preamble to the network;

(c) receiving a RACH response from the network;

(d) determining whether the RACH preamble was
    explicitly signaled by the network

    (d1) by using information included in the received
          RACH response;

(e) if the RACH preamble was explicitly signalled by
    the network, monitoring a downlink channel until a
    new transmission is indicated according to radio
    resource allocation information received from the
    network,

(f) wherein the downlink channel is a PDCCH;

(g) if the RACH preamble was not explicitly signalled
    by the network, starting a contention resolution
    timer,

(h) wherein if the contention resolution timer expires,
    the downlink channel is no longer monitored as part
    of performing the random access procedures,

(i) wherein an active time during which the mobile
      terminal needs to monitor the downlink channel is a
      time period after reception of the RACH response
      until a radio resource allocation information is
      received,

   (i1) wherein said active time is only applied if
         the RACH preamble was explicitly signaled by
         the network.

2.1   Claim 1 - support by the description (Article 84 EPC)

2.1.1   A claim which is inconsistent with the description is
        not supported by the description under Article 84 EPC.
        The requirement of "support by the description"
        reflects the general legal principle that the extent of
        the patent monopoly, as defined by the claims, should
        correspond to the technical contribution to the art in
        order for it to be supported or justified (see e.g.
        T 133/85, Headnote 1; T 409/91, Reasons 3.3).

2.1.2   Present claim 1 is not supported by the description,
        contrary to the requirements of Article 84 EPC, for the
        reasons set out below.

2.1.3   The alleged advantage of the method described in
        Figure 10 and pages 15-19 of the description as filed
        is that undesired power consumption can be *reduced* in
        the contention case (compared with the random access
        procedures in the known LTE systems). The proposed
        method addresses a very specific problem caused by the
        simultaneous application of at least two "active time"
        conditions, i.e. conditions 1 and 4, in the definition
        of the time period during which the mobile terminal
        should monitor the PDCCH, i.e the "active time", for

the "contention case". The description includes with
regard to the method concerned a definition of an
active time for the contention case according to, at
the very least, condition 1 (cf. page 12, lines 13-14
of the description; Fig. 10: "Active time 2").

Conversely, the sole feature of claim 1 explicitly
referring to an "active time", i.e. **feature (i)**, is
defined as applying only to the "non-contention case".
Feature (h) falls short of a definition of an active
time for the contention case, since the wording "no
longer monitored" merely implies that once the
contention resolution timer has expired, the random
access procedures are over. This is not the case
according to the description. There, in such a case, a
new attempt for random access is made after a back-off
time in which no monitoring takes place (cf. Fig. 10
and page 14, line 26 to page 15, line 2 of the
description as filed). Thus, the PDCCH is monitored
again after this back-off time as an integral part of
the overall random access procedures (cf. page 14,
lines 34-36). Moreover, feature (h) does not define
when the mobile terminal *begins* to monitor PDCCH in the
contention case. Hence, the active time is not defined
by claim 1 in a manner consistent with the description
and drawings.

2.1.4   According to the appellant, the gist of the invention
        was the use of so-called "condition 4" only in the
        non-contention case and not for other cases. It was not
        required for the understanding of the claimed invention
        to define a back-off timer or when a *different* active
        time for the contention case begins. Those features
        were unrelated to the present invention and the skilled
        person would understand that they were part of the

standard random access procedures applied in an LTE
system.

2.1.5   This is not convincing. The claim is not limited to any
        mobile systems in particular, much less to LTE systems
        in which the random access procedures involve the
        specific steps and active time conditions explained in
        the present description. Those features, hence, cannot
        be considered to be implicitly disclosed in the claim
        by the mere mention of a "random access procedure
        between a mobile terminal and a network" or by the
        occurrence of the term "PDCCH", which was notoriously
        introduced with LTE Release 8. The fact that the
        disputed features might belong to the prior art does
        not make them any less essential. In the case at hand,
        the invention cannot be reduced to the use of
        "condition 4" only in the non-contention case for any
        otherwise undefined random access procedures. Rather,
        the alleged technical contribution is described to
        appear in combination with a specific definition of the
        active time for the contention case which includes, at
        the very least, "condition 1".

2.2   It follows from the above that the main request is not
        allowable under Article 84 EPC.

3.   FIRST TO FOURTH AUXILIARY REQUESTS

3.1   Claim 1 of the **first auxiliary request** comprises the
        same limiting features as claim 1 of the main request
        except for the following amendments (board's outline
        and highlighting):

        (g) if the RACH preamble was not explicitly signaled by
            the network, starting a contention resolution timer

(g1) and monitoring the PDCCH,

(h) wherein the downlink channel is not monitored ~~if~~
    upon expiration of the contention resolution timer
    ~~expires, the downlink channel is no longer~~
    ~~monitored as part of performing~~ and wherein the
    random access procedure~~s~~ is performed again after a
    back-off time,

Claim 1 of the **second auxiliary request** comprises the
same limiting features as claim 1 of the first
auxiliary request with the addition of the following
feature (board's outline and highlighting):

(j) wherein the time period is not included in an
    active time during which the mobile terminal needs
    to monitor the downlink channel if the RACH
    preamble was not explicitly signaled by the
    network.

Claim 1 of the **third auxiliary request** comprises the
same limiting features as claim 1 of the main request
except for the deletion of feature (h), the following
amendment of feature (i) (board's outline and
highlighting):

(i) wherein an active time condition during which the
    mobile terminal needs to monitor the downlink
    channel is a time period after reception of the
    RACH response until a radio resource allocation
    information is received,

and the addition of feature (g1) and the following
feature:

(k) wherein <u>the downlink channel does not need to be
monitored</u> according to the active time condition
<u>upon expiration of the contention resolution timer</u>
and wherein <u>the random access procedure is
performed again after a back-off time</u>.

Claim 1 of the **fourth auxiliary request** comprises the
same limiting features as claim 1 of the third
auxiliary request with the addition of feature (j).

*3.2   Admittance into the appeal proceedings (Article 13(2)
RPBA 2020)*

3.2.1   The claims of the first to fourth auxiliary requests
were filed <u>after</u> notification of the summons to oral
proceedings before the board.

3.2.2   Hence, the admittance of these claim requests is
governed by Article 13(2) RPBA 2020, according to which
any amendment to a party's appeal case is, in
principle, not taken into account unless there are
exceptional circumstances, which have been justified
with cogent reasons by the party concerned. Moreover,
when applying Article 13(2) RPBA 2020, the board may,
in the exercise of its discretion, also rely on
criteria mentioned in Article 13(1) RPBA 2020, such as
clear allowability.

3.2.3   The board's communication under Article 15(1) RPBA 2020
contained, *inter alia*, the following statement as
regards an objection under Article 84 EPC (original
emphasis):

"4.5   Furthermore, although **feature i** is defined
as applying only to the non-contention case,
apparently it should *also apply* to the contention

case in the event that the radio resource
allocation information is successfully received but
the contention resolution timer has not yet expired
(cf. Fig. 6). In other words, the *active time* for
the contention case is not defined by claim 1 in a
manner consistent with the description and
drawings."

3.2.4   As regards the "active time" for the contention case,
the underlying description as originally filed
indicates the following at page 14, lines 28-34 in
connection with Figures 9 and 10 (board's emphasis):

"... when the UE receives a random access
response ... from the network, the contention
resolution timer is operated and the downlink
channel (PDCCH) is monitored. However, **if a C-RNTI
is not received upon expiration of the contention
resolution timer via the downlink channel being
monitored**, the UE performs the random access
procedure again after a back-off time is
applied ..."

From the above teaching, the skilled reader understands
that, in the considered "contention case", the downlink
channel is to be monitored as long as the contention
resolution timer has not expired and no C-RNTI, i.e. no
"radio resource allocation information", has been
received yet. Thus, both conditions have to be
fulfilled according to the teaching of the description.

3.2.5   In its reply to the board's communication under
Article 15(1) RPBA 2020, the appellant submitted the
following:

"In its preliminary opinion, the Board of Appeal
raises new objections under Articles 84 and 83 EPC.
In view of and in response to these newly raised
objections by the Board of Appeal, four additional
Auxiliary Requests are submitted herewith to react
to the new situation."

3.2.6   Even if it was accepted *arguendo* that this statement
constitutes "cogent reasons" justifying "exceptional
circumstances" (cf. point 4.2.3 below), the board does
not consider any of the new claim requests clearly
allowable under at least Article 84 EPC, for the
following reasons:

The amendments carried out in claim 1 may arguably
address the objections set out in points 4.4 ("begin to
monitor the PDCCH") and 4.6 ("PDCCH monitored again as
part of the random access procedures") of the board's
preliminary opinion. However, it is apparent that:

i)   the amendments in claim 1 of the first auxiliary
      request do <u>not</u> address <u>at all</u> the objection set out
      in point 4.5 (i.e. the definition of "active time")
      of the same opinion (cf. appellant's footnotes 1 to
      3 in the marked-up version);

ii)   feature (j) in claim 1 of the second and fourth
      auxiliary requests now links "the time period",
      which is defined in feature (i) as the "active
      time" for the non-contention case, to "an active
      time" defined for the contention case; thus,
      instead of overcoming the objection raised under
      Article 84 EPC of point 4.5 of the board's
      preliminary opinion (cf. points 3.2.3 and 3.2.4
      above), this even introduces an *additional*
      ambiguity into the claim;

iii) similarly, feature (k) in claim 1 of the third and fourth auxiliary requests links "the time period", which is defined in feature (i) as the active time *condition* for the non-contention case, to "an active time *condition*" defined for the contention case, which is likewise ambiguous.

3.3   Accordingly, none of the first to fourth auxiliary requests were admitted into the appeal proceedings (Article 13(2) RPBA 2020).

4.   FIFTH AUXILIARY REQUEST

4.1   Claim 1 of the **fifth auxiliary request** comprises the same limiting features as claim 1 of the main request except for the amendment of feature (h) (board's outline and highlighting):

(h) wherein if the radio resource allocation information is not received upon expiration of the contention resolution timer, the downlink channel is no longer monitored and wherein the PDCCH is not monitored during a back-off time and the random access procedures performed again after a back-off time,

and the addition of feature (g1) and the following features:

(l) wherein an active time during which the mobile terminal needs to monitor the downlink channel if the RACH preamble was not explicitly signaled by the network starts with said starting of the contention resolution timer and ends with said expiration of the contention resolution timer if

the radio resource allocation information is not
received upon expiration;

(m) wherein the radio resource allocation information
is a C-RNTI.

4.2   *Admittance into the appeal proceedings (Article 13(2)
RPBA 2020)*

4.2.1   The claims of the fifth auxiliary request were filed
during the oral proceedings before the board, i.e. at a
very late stage of the appeal proceedings. Thus,
Article 13(2) RPBA 2020 applies.

4.2.2   In support of admittance of this auxiliary request, the
appellant submitted that it constituted an appropriate
reaction to the new objections raised by the board
during the oral proceedings and that such request could
not have been filed earlier.

4.2.3   This is not persuasive. The objection of lack of
support by the description, specifically mentioning the
lack of definition of an "active time" for the
contention case, had already been raised by the board
in point 4.5 of its communication under Article 15(1)
RPBA 2020. So, instead of seriously taking up the hint
provided in that communication, i.e. that "the *active
time* for the contention case is **not defined** by claim 1
in a manner consistent with the description and
drawings" (cf. point 3.2.3 above) and of remedying the
mentioned defect according to the teaching of the
original description (cf. point 3.2.4 above, in
particular the emphasised part of that teaching), the
appellant chose to wait only until the hearing before
the board to then concede that claim 1 might indeed not
be fully consistent with the description. Such a

conduct cannot justify admittance of a late-filed claim request.

4.2.4   Notwithstanding the fact that a "new" objection raised by a board in appeal proceedings cannot *per se* amount to "exceptional circumstances" within the meaning of Article 13(2) RPBA 2020 (cf. T 2632/18, Reasons 4.3; T 2271/18, Catchword), it is apparent that such a request could and should have been filed already before the oral proceedings in appeal proceedings, at least in response to the board's preliminary opinion. The negative opinion on allowability under Article 84 EPC of the main request and on admittance under Article 13(2) RPBA 2020 of the first to fourth auxiliary requests announced by the board during the oral proceedings does not constitute *per se* an "exceptional circumstance". Hence, it could not justify a *further* amendment to the appellant's case at such a late stage of the appeal proceedings. Moreover, the additional comments and explanations given by the board during the oral proceedings in relation to its objections raised in its preliminary opinion do not constitute "new" objections just because they are not a repetition of a written statement or because they helped the representative understand the written objection.

4.2.5   It follows that there are neither "exceptional circumstances" nor "cogent reason" which could justify the admittance of this claim request.

4.3   Consequently, the fifth auxiliary request was not admitted into the appeal proceedings (Article 13(2) RPBA 2020) either.

5.   Since there is no allowable claim request, the appeal
        must be dismissed.

Order

For these reasons it is decided that:

        The appeal is dismissed.

The Registrar: The Chair:

B. Brückner   K. Bengi-Akyürek

Decision electronically authenticated