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**Datasheet for the decision
of 2 December 2022**

Case Number: T 0630/19 - 3.2.03

Application Number: 11828709.3

Publication Number: 2623221

IPC: B21B45/02, B21B39/08

Language of the proceedings: EN

Title of invention:

MANUFACTURING DEVICE AND MANUFACTURING METHOD FOR HOT-ROLLED
STEEL STRIP

Patent Proprietor:

Primetals Technologies Japan, Ltd.
Nippon Steel Corporation

Opponent:

SMS group GmbH

Relevant legal provisions:

EPC Art. 54, 111(2), 123(2)

RPBA Art. 12(4)

RPBA 2020 Art. 11

Keyword:

Novelty - (no) - implicit disclosure (yes)

Appeal decision - remittal to the department of first instance
(no)

Remittal - special reasons for remittal (no)

Amendments - extension beyond the content of the application
as filed (yes)

Late-filed request - submitted with the statement of grounds
of appeal - request could have been filed in first instance
proceedings (no/yes)



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Case Number: T 0630/19 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 2 December 2022

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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
21 December 2018 concerning maintenance of the
European Patent No. 2623221 in amended form.**

Composition of the Board:

Chairman C. Herberhold
Members: R. Baltanás y Jorge
 F. Bostedt

Summary of Facts and Submissions

- I. European patent No. 2623221 B1 relates to a manufacturing device and manufacturing method for hot-rolled steel strip.
- II. An opposition to the patent was filed, based on Article 100(a) EPC, in conjunction with Articles 54 EPC and 56 EPC, and Article 100(b) EPC.
- III. The present appeal is against the interlocutory decision of the Opposition Division, which found that the sixth auxiliary request filed during the oral proceedings before the Opposition Division fulfilled the requirements of the EPC.

This decision was appealed by the patent proprietor (appellant).

In a communication pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA 2020), the Board indicated its preliminary opinion of the case.

Oral proceedings were held on 2 December 2022.

- IV. At the end of the oral proceedings the parties' requests were as follows.

The appellant requested that the decision under appeal be set aside and that the patent be maintained as granted or, in the alternative, that the patent be maintained on the basis of one of auxiliary requests 1 to 6, which had been filed with the statements setting out the grounds of appeal, or on the basis of auxiliary

request 7, which corresponded to the request based on which the Opposition Division had maintained the patent in amended form.

The opponent (respondent) requested that the appeal be dismissed.

V. Claim 1 as granted (i.e. claim 1 of the main request), including the labelling of its features as introduced by the Board, reads as follows:

- x1)** *A manufacturing device for a hot-rolled steel strip, comprising:*
- y1)** *a finishing mill line (11);*
- z1)** *a cooling apparatus (13) installed immediately after a delivery side of the finishing mill line;*
- a1)** *and pinch rolls (14) installed on a delivery side of the cooling apparatus and abutting on both upper and lower faces of a hot-rolled steel strip (S),*
- b1)** *wherein a wiping roll (15) positioned at least above the hot-rolled steel strip is disposed between the cooling apparatus and the pinch rolls,*
- c1)** *and a tension measuring apparatus (16; 16A) for measuring tension of the hot-rolled steel strip is installed between the wiping roll and the pinch rolls.*

VI. Claim 1 of auxiliary request 1 is based on claim 1 as granted, with feature b1) replaced by the following feature b1') (amendments marked in bold):

- b1')** *wherein a wiping roll (15) positioned at least above the hot-rolled steel strip **and coming in contact with the upper face of the strip (S)** is*

disposed between the cooling apparatus and the pinch rolls,

VII. Claim 1 of auxiliary request 2 is based on claim 1 as granted, with features z1) and b1) replaced by the following features z1') and b1") (amendments marked in bold):

z1') *a cooling apparatus (13) installed immediately after a delivery side of the finishing mill line and jetting water from nozzles (22);*

b1") *wherein a wiping roll (15) positioned at least above the hot-rolled steel strip and coming in contact with the upper face of the strip (S) without pinching the strip is disposed between the cooling apparatus and the pinch rolls,*

VIII. Claim 1 of auxiliary request 3 is based on claim 1 as granted, with features z1) and b1) replaced by features z1') and b1"), and with feature c1) replaced by the following feature c1') (amendments marked in bold):

c1') *a cooling water pool (23) is defined between the rolls of the last stand (12) of the finishing mill line (11) and the wiping roll (15), and a tension measuring apparatus (16; 16A) for measuring tension of the hot-rolled steel strip is installed in a non-water cooling zone between the wiping roll and the pinch rolls.*

IX. Claim 1 of auxiliary request 4 is based on claim 1 as granted, with features z1) and b1) replaced by features z1') and b1"), and with feature c1) replaced by the following feature c1") (amendments marked in bold):

c1") and a **contact-type** tension measuring apparatus (16; 16A) for measuring tension of the hot-rolled steel strip is installed between the wiping roll and the pinch rolls.

- X. Claim 1 of auxiliary request 5 is based on claim 1 of auxiliary request 3, supplemented by the wording "contact type" in feature c1') as in feature c1").
- XI. Claim 1 of auxiliary requests 2, 3, 4 and 5 corresponds to claim 1 of auxiliary requests 1, 2, 3 and 4 respectively from the contested decision, with the exception of the wording "and coming in contact with the upper face of the strip (S)" in feature b1").
- XII. Claim 1 of auxiliary request 6 is based on claim 1 of auxiliary request 2, supplemented by the following feature f) between features a1) and b1"):

f) ; and pre-coiler pinch rolls (20) and thereafter a down-coiler (21) for coiling the hot-rolled steel strip up

- XIII. Prior art

The following documents, relevant to the present decision, have been cited in the grounds of appeal and during the opposition proceedings.

- E1: US 4,074,555 A
E4: JP 2005 342767 A
E4b: English machine translation of E4

XIV. The appellant's arguments can be summarised as follows.

(a) Main request, novelty

The subject-matter of claim 1 differed from the disclosure of E1 in respect of features a1) (pinch rolls), b1) (wiping roll) and c1) (position of the tension measuring apparatus with respect to the wiping roll and the pinch rolls).

The "pinch rolls" as described in the patent specification caught the leading end of the steel strip and forwarded the strip along the production line, whereas the braking rollers (3', 3") in E1 had the opposite function, since they counterrotated against the movement of the steel strip and were intended to ensure winding of the strip on the mandrel (10). The role of the "pinch rolls" of the patent was played by the bending station (5) in E1. Even if Figure 1 of the patent disclosed pinch rolls (20) in a similar position with regard to the down coiler (21) to that of the braking rollers (3', 3") in E1, the former did not perform the same function as the latter, since they rotated in order to aid forwarding of the steel strip towards the down coiler (21). In conclusion, the skilled person did not consider the braking rollers (3', 3") of E1 as "pinch rolls".

Concerning features b1) and c1), claim 1 defined the "wiping roll" as a functional feature, i.e. a roll which performed a wiping action. As there was no mention in E1 of liquid reaching the bending station (5), it was not clearly and unambiguously disclosed that the deflecting rollers (6') performed a wiping action. Furthermore, even if the liquid was considered to reach the bending station, on an extremely hot steel

strip such as that in E1 such liquid would be boiling and would easily pass the relatively small deflecting rollers (6'). In particular in view of the location of these in a "valley", and given the undefined construction of the back-up rollers (7'), which were usually non-continuous, the water would in fact flood the deflecting rollers. Finally, there were also structural differences between a wiping roll and a deflecting roller such as that in E1, since wiping rolls did not need to be as robust as deflecting rollers, given their respective functions.

(b) Admittance of auxiliary requests, remittal request

Auxiliary requests 1 to 5 were essentially identical to the main request and auxiliary requests 1 to 4 from the contested decision. The only amendment was the addition of the feature "coming in contact with the upper face of the strip" in the context of the wiping roll. This was in response to point 4.2.2 of the decision, where the Opposition Division explained for the first time that it considered the "no contact" embodiment of E4 to anticipate a wiping roll. The amendment in auxiliary requests 1 to 5 was intended to overcome this objection, and paragraph [0039] of the A1 publication of the patent application provided *prima facie* the basis for it.

Auxiliary request 6 was based on auxiliary request 2 (which was itself based on auxiliary request 1 from the decision), supplemented by feature f) (pre-coiler pinch rolls and a down-coiler). This was in response to point 2.3.9 of the contested decision, in which the Opposition Division explained for the first time its interpretation of the feature "pinch rolls".

Remittal to the Opposition Division was requested in the event that the auxiliary requests were not excluded from the proceedings.

(c) Auxiliary requests 1 and 2, novelty

The same arguments applied as for the main request.

(d) Auxiliary requests 3, 4 and 5, added subject-matter

Feature b1") (wiping roll in contact with the upper face of the strip without pinching) had a basis in paragraph [0039] of the A1 publication. Even if other features were disclosed in this passage, the skilled person would recognise that they were not essential to the invention and that they could be omitted. Indeed, the amendment merely added the definition of the "wiping roll", which had already been inherently present in the claim as filed.

XV. The respondent's arguments can be summarised as follows.

(a) Main request, novelty

The subject-matter of claim 1 was not novel over E1.

Claim 1 merely defined "pinch rolls" without specifying their function. As the term encompassed any rolls pinching a steel strip, the braking rollers (3', 3") of E1 - which provided a tension on the steel strip - were "pinch rolls" within the meaning of claim 1.

Concerning feature b1) (wiping roll), the upper deflecting rollers (6') of E1 were wiping rolls within the meaning of claim 1. First, the wiping function did

not require a different material or construction from those of deflecting rollers. The relevant argument in the impugned decision was nothing more than an unproven allegation. Secondly, in order to wipe a hot steel strip, the wiping roll simply had to contact the whole surface of the steel strip and to resist high temperatures. The deflecting rollers (6') of E1 complied with all the necessary requirements for this.

The skilled person reading E1 would understand that the deflecting rollers (6') inevitably provided a wiping action, since the steel strip was open to the sides in such lines, and liquid coolant flowed out when it met the deflecting rollers (6'). As also argued by the appellant in its last submission, it was implicit that liquid reached the bending station (5) of E1, in view of the construction shown in Figures 1 and 2.

Furthermore, claim 1 had to be read in its broadest sense. The claim merely defined a roll which was suitable as a wiping roll, and the skilled person would understand that this was inevitably also the case for the deflecting rollers (6') in E1. The fact that E1 did not explicitly disclose the wiping function of the deflecting rollers did not affect their suitability for this.

Since the deflecting rollers (6') of E1 were wiping rolls within the meaning of claim 1, feature c1) (position of the tension measuring apparatus with respect to the wiping roll) was likewise disclosed in view of the position of the tension sensor (11) in E1.

(b) Admittance of auxiliary requests, remittal request

Auxiliary requests 1 to 6 could and should have been filed with the Opposition Division, and must be excluded from the proceedings under the discretionary power of the Board according to Article 12(4) of the Rules of Procedure of the Boards of Appeal 2007 (RPBA 2007). This was justified on grounds of procedural economy, which was particularly relevant in view of the fact that the patent had been applied for as long ago as 2011. Admitting the new auxiliary requests implied raising a new case and having to discuss new objections related to added subject-matter and clarity. Furthermore, the requests were not convergent.

Document E4b had been filed during the opposition by the appellant itself, who was therefore aware of its content. Thus, the decision of the Opposition Division based on this document could not have come as a surprise to the appellant.

Furthermore, the added feature "coming in contact with the upper face of the strip" in the new auxiliary requests did not *prima facie* overcome the objections raised in the contested decision, since a very close arrangement of the roll in relation to the steel strip as in E4/E4b also anticipated this feature.

The fact that, in the decision, the braking rollers of E1 were considered pinch rolls within the meaning of claim 1 could not be a surprise to the appellant either, since this point had already been raised by the respondent in the notice of opposition.

In the event that any of the auxiliary requests were not excluded by the Board, the case would have to be

remitted to the Opposition Division for full consideration of the new objections.

(c) Auxiliary requests 1 and 2, novelty

The same arguments applied as for the main request.

(d) Auxiliary requests 3, 4 and 5, added subject-matter

Feature b1") (wiping roll in contact with the upper face of the strip without pinching) was only disclosed for a wiping roll "*configured of a drive roll*" in paragraph [0039] of the A1 publication. The omission of this feature represented an unallowable intermediate generalisation, since the skilled person would understand that the invention envisaged a contact of the wiping roll with the upper face of the strip only when the wiping roll was constructed in this particular way.

Reasons for the Decision

1. Main request, novelty - Article 54(2) EPC

1.1 Features x1) (manufacturing device), y1) (finishing mill line) and z1) (cooling apparatus)

Document E1 discloses a manufacturing device for a hot-rolled steel strip (see e.g. column 1, lines 34 to 36), comprising a finishing mill line (rolling mill 2) and a cooling apparatus (spray nozzles 15) installed immediately after a delivery side of the finishing mill line (see Figure 1).

The appellant does not contest this. Thus, features x1), y1) and z1) are anticipated by E1.

1.2 Feature a1) (pinch rolls)

The appellant argued that E1 did not disclose feature a1) because the braking rollers (3', 3") of E1 were not suitable for catching the leading end of the steel strip and forwarding it, contrary to what the patent specification required for such rolls.

This is not persuasive.

For the skilled person, feature a1) is clear in itself. The feature defines "*pinch rolls installed on a delivery side of the cooling apparatus and abutting on both upper and lower faces of a hot-rolled steel strip*".

As pointed out by the Opposition Division (see point 2.3.9 of the contested decision), pinch rolls in general are rolls that provide traction to the strip, such that they can be used to accelerate or to brake the same thanks to the pinching action they provide.

The reverse-rotating rollers (3', 3") of E1 anticipate feature a1) since they provide traction with respect to the steel strip - even though this is in the opposite direction to that in the **particular embodiment** of the contested patent. Rollers 3' and 3'' thus inevitably "pinch" the steel sheet. Moreover, they are installed on a delivery side of the cooling apparatus and abut on both upper and lower faces of a hot-rolled steel strip (see Figure 1). Nothing more is claimed. In particular, there is no reason to interpret the claim feature "pinch rolls" in a way that would limit those "pinch rolls" to rolls which catch the leading end of the

steel strip and forward the strip. Even if the claim features are read in the context of the description, this does not mean that the skilled person necessarily understands the features in the claim in the limited sense of the patent specification: the skilled person relies on the usual technical meaning of the terms contained in the claim and does not seek to interpret or clarify their (already clear) meaning further on the basis of the description and the figures (see Case Law, 10th edition, II.A.6.3.1).

1.3 Feature b1) (wiping roll)

Figure 1 of E1 discloses spray nozzles (15) that apply coolant on the metal strip (1) immediately before the bending station (5).

Even if Figure 1 is schematic, the skilled person understands that the spray nozzles must be arranged in close vicinity to the bending station. In fact, according to lines 10 to 16 of column 3, the metal strip entering the bending station (5) must still have an *"elevated temperature preferably between 600° and 800° C"*. The skilled person understands from this that the bending station (5) must be arranged close to the spray nozzles (15) to prevent uncontrolled cooling of the metal strip. Moreover, the skilled person is aware of the high speeds at which metal strips are forwarded in the kind of production lines in E1. Consequently, the skilled person reading E1 concludes that at least some water must be present on the metal strip reaching the bending station (5). It is noted that this conclusion is in accordance with the appellant's written submissions, where it was argued that the cooling water will "flood the deflecting rollers" because they "were entirely located below the pass line

of the rolled metal strip" (page 1, last paragraph of the submission dated 13 November 2019). In view also of this statement, the Board considers the argument that it is possible that no moisture at all reaches deflecting roller (6') - in which case this could not be a "wiping roll" - unconvincing.

Figure 2 of E1 discloses that the deflecting roller (6') has no interruption in the longitudinal direction. The nature of its function (i.e. bending of a metal strip) also implies that it is uninterrupted and in constant contact with the surface of the metal strip. Indeed, it is pressed against the metal strip under substantial pressure (see function of jacks 9). These two factors inevitably result in a wiping action in relation to the water that remains on the incoming metal strip, in particular since the space along the sides of the metal strips is typically open in such facilities (and so water can escape to the sides on meeting the barrier-like deflecting rollers). The Board is thus convinced that the deflecting roller (6') exercises a wiping effect on the strip.

The Opposition Division argued that a wiping roll implied a particular material and surface finishing, (point 2.2.3 of the impugned decision), such that the skilled person would not consider roller 6' to be a wiping roll. On this point, the parties made further submissions at the oral proceedings before the Board. The respondent argued that the Opposition Division's statement was an unproven allegation. It submitted that, due to the high temperature of the steel sheet and the high speed, the wiping roll had to be made from steel, just like the bending and working rollers, as otherwise it could not cope with the high mechanical loads. There was furthermore no particular texture for

a wiping roll. On this issue, the appellant replied that it could not say whether a "wiping roll" required a particular material or surface finish. However, the wiping roll did not need to be as robust as the deflecting rollers. This was irrelevant in any case, as the term had to be seen as a functional feature, and the respondent had failed to prove that the deflecting roller (6') did indeed have a wiping effect. It was quite possible that some of the boiling water arriving at the rollers simply spilled over to the other side, such that the deflecting roller (6') could not be seen as a wiping roll in the sense of the claim.

The Board agrees with the appellant's functional interpretation of the term "wiping roll". However, as mentioned above, the deflecting roller (6') of E1 inevitably has a certain wiping effect. This is independent of whether the deflecting roller (6') is more robust than is needed for a purely wiping functionality. Some liquid may "jump" over the deflecting roller (6'), but this is irrelevant since claim 1 does not require complete wiping. Consequently, the deflecting roller (6') of E1 anticipates a "wiping roll" within the meaning of feature b1).

- 1.4 Feature c1) (position of the tension measuring apparatus with respect to the wiping roll)

The tension measuring apparatus (tension sensor 11) of E1 is installed between the wiping roll (deflecting roller 6') and the pinch rolls (reverse-rotating rollers 3', 3"). Thus, feature c1) is also anticipated by E1.

- 1.5 In view of the above, the subject-matter of claim 1 is not novel over E1 (Article 54(2) EPC).

2. Auxiliary requests, admittance - Article 12(4) RPBA 2007

2.1 The revised Rules of Procedure of the Boards of Appeal (RPBA 2020) entered into force on 1 January 2020. Subject to the transitional provisions (Article 25 RPBA 2020), the revised version also applies to appeals pending on the date of entry into force.

In the present case the statement of grounds of appeal was filed before 1 January 2020. Thus, Article 12(4) to (6) RPBA 2020 does not apply, and instead Article 12(4) RPBA 2007 applies to the grounds of appeal (Article 25(2) RPBA 2020).

Since auxiliary requests 1 to 6 were filed with the statement setting out the grounds of appeal, Article 12(4) RPBA 2007 is the applicable legal basis for consideration of whether they should be admitted.

2.2 Auxiliary requests 1 to 5

Even though document E4b was filed by the patent proprietor during oral proceedings before the Opposition Division, it could not predict how the Division would interpret the information contained in paragraph [0033] of this document. This document was filed by the patent proprietor to prove that no wiping could take place in E4 because of the gap between the damming roll (22) and the steel plate (1). The conclusion of the Opposition Division, that the damming roll (22) was a wiping roll even if it was not in contact with the steel plate (1) (point 4.2.2 of the contested decision), therefore came as a surprise to the patent proprietor.

Auxiliary requests 1 to 5 have been amended by adding the feature "and coming in contact with the upper face of the strip". This is an attempt to overcome the objection made by the Opposition Division in point 4.2.2. The filing of auxiliary requests 1 to 5 can thus be seen as a response by the appellant to the reasons given by the Opposition Division in the written decision.

Furthermore, auxiliary requests 1 to 5 essentially correspond (that is, apart from the added feature) to the main request and auxiliary requests 1, 2, 3 and 4 from the contested decision.

In this context, the alleged lack of convergence of the requests, the procedural economy and the *prima facie* allowability are not criteria which can speak against admittance of these auxiliary requests.

In view of the above, the Board sees no reason to exclude auxiliary requests 1 to 5 from the appeal proceedings, exercising its discretion under Article 12(4) RPBA 2007.

2.3 Auxiliary request 6

The party that was at that stage the opponent has already argued in its notice of opposition (page 4, second paragraph) that the reverse-rotating rollers of E1 (3', 3") were the pinch rolls defined in feature a1) of claim 1 (feature c), according to the numbering used in the notice of opposition).

Point 2.3.9 of the contested decision explained why the Opposition Division found this argument persuasive. The

fact that the Opposition Division agreed with an argument put forward at the beginning of the opposition proceedings cannot come as a surprise to the appellant, since this is part of the usual, predictable development of an opposition.

Consequently, auxiliary request 6 could and should have been filed during the opposition proceedings. Admitting this request in appeal proceedings would therefore run counter to their main aim, which is to allow the revision of a decision in a judicial manner, not to reopen the opposition proceedings by considering a case afresh.

In view of the above, the Board decides to hold auxiliary request 6 inadmissible, exercising its discretionary power under Article 12(4) RPBA 2007.

3. Remittal - Article 111 EPC, Article 11 RPBA 2020

Both parties requested remittal of the case to the Opposition Division for consideration of the auxiliary requests.

However, Article 11 RPBA 2020 states that boards shall not remit a case to the department whose decision was appealed for further prosecution, unless special reasons present themselves for doing so.

Such special reasons are not apparent in the present case.

As pointed out by the respondent in the context of admittance, the contested patent was filed in 2011. This already speaks against remittal of the case, in view of the further delay which it would entail.

Furthermore, the framework of the discussion does not change in substance when considering auxiliary requests 1 to 5: the same documents relevant to the main request are used in relation to these auxiliary requests, and to a large extent the arguments remain the same. Even if a discussion under Articles 84 and/or 123(2) EPC is indeed necessary, in most cases such a discussion is unavoidable for an admitted amended request in appeal proceedings. In the present case, it cannot justify a remittal.

Lastly, the EPC acknowledges no absolute right to have an issue decided by two instances (see Case Law, 10th edition, V.A.9.2.1).

Hence, the requests of the parties to remit the case to the Opposition Division for examination of auxiliary requests 1 to 5 are refused.

4. Auxiliary requests 1 and 2, novelty - Article 54(2) EPC

E1 shows a wiping roll (deflecting roller 6') "coming in contact with the upper face of the strip" (see Figure 1), as in feature b1'). Indeed, deflecting the steel sheet inevitably requires the roller to be in contact with the upper face of the strip. As roller 6' has no counterpart on the lower side of the strip, there is no pinching of the strip (see feature b1').

E1 further shows a cooling apparatus jetting water from nozzles (see spray nozzles 15 and lines 37 to 39 of column 1), as in feature z1').

The appellant has not disputed this.

Consequently, the subject-matter of claim 1 of auxiliary requests 1 and 2 is not novel over E1 (Article 54(2) EPC).

5. Auxiliary requests 3, 4 and 5, added subject-matter - Article 123(2) EPC

The appellant has cited paragraph [0039] of the A1 publication of the patent application as the basis for added feature b1") (a wiping roll **coming in contact with the upper face of the strip without pinching the strip**).

Indeed, the third sentence of paragraph [0039] reads: "... *the wiping roll 15, coming in contact with the upper face of the strip S ...*" (page 7 of the A1 publication, lines 35 and 36). However, the sentence continues as follows: "[the wiping roll] **is configured of a drive roll so that rotational resistance of the wiping roll 15 itself to the strip S is low.**" (emphasis added).

The argument made by the appellant that the skilled person would recognise that other features disclosed in paragraph [0039] were not essential to the invention is not persuasive. The skilled person reading the sentence cited as a basis concludes that reducing rotational resistance by driving the roll is functionally required in order to counter rotational resistance caused by the wiping roll being in contact with the upper face of the strip. The immediately adjacent disclosure in the same sentence of the features "coming in contact with the upper face of the strip" and "[wiping roll] configured of a drive roll" with the declared aim "**so that** rotational resistance [...] is low" (emphasis added)

establishes a functional link between the two features, and leaves no doubt about the need to provide the wiping roll as a drive roll.

Omitting the feature "drive roll" is therefore an intermediate generalisation which extends the subject-matter beyond the teaching of paragraph [0039].

Thus, feature b1") extends the subject-matter of claim 1 beyond the original disclosure in an unallowable manner.

Since claim 1 of auxiliary requests 3, 4 and 5 likewise comprises feature b1"), none of these auxiliary requests is allowable (Article 123(2) EPC).

6. Auxiliary request 7

Auxiliary request 7 is identical to the request that was maintained by the Opposition Division in its interlocutory decision.

Since the patent proprietor was the only appellant no objection to this request is pertinent (prohibition of *reformatio in peius*).

The request amounts *de facto* to a request for maintenance of the contested decision, something which does not need to be requested explicitly, since it is the outcome of the proceedings if the appeal is dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



C. Spira

C. Herberhold

Decision electronically authenticated