

**Internal distribution code:**

- (A) [ - ] Publication in OJ
- (B) [ - ] To Chairmen and Members
- (C) [ - ] To Chairmen
- (D) [ X ] No distribution

**Datasheet for the decision  
of 30 May 2023**

**Case Number:** T 1937/19 - 3.2.06

**Application Number:** 08771807.8

**Publication Number:** 2299867

**IPC:** A46B5/00, A61Q13/00, B29C45/16,  
A46B5/02

**Language of the proceedings:** EN

**Title of invention:**  
TOOTHBRUSH WITH VISUAL AND/OR OTHER SENSORY EFFECTS

**Patent Proprietor:**  
Colgate-Palmolive Company

**Opponent:**  
THE PROCTER & GAMBLE COMPANY

**Headword:**

**Relevant legal provisions:**  
EPC Art. 56, 123(2)  
RPBA 2020 Art. 13(2)

**Keyword:**

Inventive step - main request and auxiliary request 1 (no)  
Amendments - auxiliary requests 2 and 3 to 7 - added subject-matter (yes)  
Amendment after summons - auxiliary request 2a- exceptional circumstances (no)

**Decisions cited:**

**Catchword:**



**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 1937/19 - 3.2.06**

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.06**  
**of 30 May 2023**

**Appellant:** THE PROCTER & GAMBLE COMPANY  
(Opponent) One Procter & Gamble Plaza  
Cincinnati, Ohio 45202 (US)

**Representative:** Elkington and Fife LLP  
Prospect House  
8 Pembroke Road  
Sevenoaks, Kent TN13 1XR (GB)

**Respondent:** Colgate-Palmolive Company  
(Patent Proprietor) 300 Park Avenue  
New York, NY 10022 (US)

**Representative:** Schicker, Silvia  
Wuesthoff & Wuesthoff  
Patentanwälte PartG mbB  
Schweigerstraße 2  
81541 München (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
24 April 2019 concerning maintenance of the  
European Patent No. 2299867 in amended form.**

**Composition of the Board:**

**Chairman** M. Harrison  
**Members:** P. Cipriano  
L. Basterreix

## Summary of Facts and Submissions

- I. The appellant (opponent) filed an appeal against the interlocutory decision of the opposition division in which the opposition division found that European patent No. 2 299 867 in an amended form met the requirements of the EPC.
- II. The appellant requested that the decision under appeal be set aside and the patent be revoked in its entirety.
- III. The respondent (patent proprietor) requested that the appeal be dismissed or, in the alternative, that the patent be maintained in amended form on the basis of one of auxiliary requests 1 to 7 filed with the reply to the statement of grounds of appeal.
- IV. The following documents are relevant to the present decision:
  - D1 EP 1 621 106 A1
  - D2 US 2006/0213018 A1
  - D4 JP 2006-202 and its translation
- V. The Board issued a summons to oral proceedings and a subsequent communication containing its provisional opinion, in which it indicated *inter alia* that the subject-matter of claim 1 of the main request and of auxiliary request 1 was rendered obvious by the combination of D1 with common general knowledge, D2 or D4 and that auxiliary requests 2 to 7 did not fulfil the requirement of Article 123(2) EPC.

VI. Oral proceedings were held before the Board on 30 May 2023, during which the respondent filed auxiliary request 2a.

At the close of the proceedings, the requests of the parties were as follows:

The appellant requested that the decision under appeal be set aside and the patent be revoked in its entirety.

The respondent requested that the appeal be dismissed (main request), auxiliarily that the patent be maintained on the basis of one of auxiliary requests 1 to 7 filed on 9 January 2020 with the reply to the grounds of appeal, or that the patent be maintained on the basis of auxiliary request 2a filed during the oral proceedings.

VII. Claim 1 according to the main request reads as follows:  
"1. A toothbrush comprising:  
a base component (10) having a gripping region (12) and an oral engaging region (14); and  
a second component (40) covering at least a portion of said base component (10) in said gripping region (12), wherein said second component is at least partially transparent;  
wherein said base component (10) includes an underlying surface (20) and a plurality of projections (15) in said gripping region (12) that protrude from the underlying surface (20) at different heights providing projection surfaces (18a, 18b, 18c) at varying heights above the underlying surface (20) such that the second component (40) covers said base component (10) at more than one thickness;  
characterized by a third component (50) being a thermoplastic elastomer covering at least one

additional portion of said base component (10) in said gripping region (12) that is not covered by said second component (40)."

Claim 1 of auxiliary request 1 corresponds to claim 1 of the main request without the reference signs "(18a, 18b, 18c)".

Claim 1 of auxiliary request 2 corresponds to claim 1 of the main request with the following feature appended at the end of the claim:

"the base component (10) and the second component (40) being formed from polypropylene."

Claim 1 of auxiliary request 3 corresponds to claim 1 of auxiliary request 2 without the reference signs "(18a, 18b, 18c)".

Claim 1 of auxiliary request 2a corresponds to claim 1 of the main request with the following feature appended at the end of the claim:

"the base component (10) comprising a polyolefin and the second component (40) being polypropylene."

Claim 1 of auxiliary request 4 corresponds to claim 1 of the main request with the following feature appended at the end of the claim:

"the projection surfaces (18a, 18b, 18c) are at first, second, and third heights above the underlying surface (20); and

the underlying surface (20) is covered with a first thickness of the second component and the projections surfaces (18a, 18b, 18c) are covered with second, third, and fourth thicknesses of the second component, each of the first, second, third, and fourth thicknesses being different."

Claim 1 of auxiliary request 5 corresponds to claim 1 of auxiliary request 4 without the reference signs "(18a, 18b, 18c)" at the first time of mention.

Claim 1 of auxiliary request 6 corresponds to the combination of the features of claim 1 of the main request with the features of claim 1 of auxiliary requests 2 and 4.

Claim 1 of auxiliary request 7 corresponds to claim 1 of auxiliary request 6 without the reference signs "(18a, 18b, 18c)" at the first time of mention.

VIII. The appellant's arguments relevant to the present decision may be summarised as follows:

*Main request and auxiliary request 1 - Article 56 EPC*

Starting from D1

The only feature of claim 1 in dispute as regards its disclosure in D1 was whether the second component was at least partially transparent. Paragraph [0030] of D1 disclosed that the gripping member 407 was made of an elastomeric material, such as TPE (thermoplastic elastomer). Since all TPE materials used in the construction of toothbrushes transmitted light to some extent, D1 implicitly disclosed the feature of claim 1 that the second component was at least partially transparent.

Should it be considered that D1 did not disclose a partially transparent second component, this feature provided no additional benefit, since whether a visual effect is "appealing" or not is entirely subjective. Therefore, making the second component at least

partially transparent cannot contribute to inventive step on the basis of this alleged effect.

Further, it was well known before the priority date that parts of toothbrush handles (including TPE components such as the gripping member 407 of D1) could be made from materials of different colours and different degrees of transparency/translucency, to provide different aesthetic appearances. This was disclosed by D2, in connection with the at least one soft component 20 (see paragraphs [0045] and [0072]). It was also disclosed in D4, in which the coating material 6 was made transparent or translucent to display a part 5E of the core 5 (see D4: paragraphs [0014]-[0016] and in particular paragraph [0017] as well as Figs. 1-2).

*Auxiliary requests 2 and 3 - Article 123(2) EPC*

Claim 1 of auxiliary requests 2 and 3 did not fulfil the requirement of Article 123(2) EPC.

There was no explicit disclosure for the feature "the base component (10) and the second component (40) being formed from polypropylene" which required several selections. Paragraph [0036] disclosed that the second component may "be" polypropylene and not more generally that it was formed from polypropylene (among other possible components) as defined in claim 1.

"Chemically compatible" materials did not mean that the materials had to be the same.

Paragraph [0023] also disclosed that the base component formed from polypropylene was formed by injection molding, which was not defined in claim 1.

*Auxiliary request 2a - Article 13(2) RPBA 2020*

Auxiliary request 2a was only filed during the oral proceedings but it should have been filed before. There were no exceptional circumstances justifying its admittance at this stage of the proceedings.

*Auxiliary requests 4 and 5 - Article 123(2) EPC*

Paragraph [0029] only disclosed the features added to claim 1 in combination with the further feature that the underlying surface was "covered with a substantially uniform first thickness of a second component", which was not defined in claim 1.

- IX. The respondent's arguments relevant to the present decision may be summarised as follows:

*Main request and auxiliary request 1 - Article 56 EPC*

Starting from D1

D1 did not disclose that the gripping member 407 was at least partially transparent. Instead, Figure 2 of D1 showed that the gripping member 407 was non-transparent because it concealed the structure of the receiving regions 317.

The at least partially transparent second component ensured that the projections of the base component that were covered by the second component were visible through the second component. This not only provided an appealing visual effect, but also improved the usability of the projections for example for marketing purposes or to enhance a user experience.

The prior art did not provide the skilled person with any motivation to replace the opaque gripping member 407 of D1 with an at least partially transparent member. Also, D1 taught away from making such a change since it would give the impression of a less secure connection between the gripping member 407 and the base 300.

Auxiliary requests 2 and 3 - Article 123(2) EPC

Paragraphs [0023] and [0036] provided a basis for the base component and the second component being formed from polypropylene.

Paragraphs [0019], [0020] and [0036] explicitly taught that it was advantageous for the base component and the second component to be chemically compatible, i.e. made of the same material, in order to provide a favorable adhesion/bonding between these components.

The skilled person would have recognized from the wording of the application as filed that injection moulding was only one of the possibilities of forming the components and that it was a method feature not inextricably linked to the choice of material.

Auxiliary request 2a - Article 13(2) RPBA 2020

The objections made under Article 123(2) EPC against auxiliary request 2 were raised for the first time during the appeal proceedings, such that it had only been appropriate to file auxiliary request 2a at the oral proceedings, after hearing the Board's preliminary opinion.

Auxiliary requests 4 and 5 - Article 123(2) EPC

Paragraphs [0028] and [0029] provided a basis for the added features.

The term "while" did not inextricably link the feature of a uniform thickness of the second component 40 on the underlying surface 20 to the feature relating to the thicknesses of the second component 40 covering the projection surfaces 18a, 18b, 18c. In fact, the English term "while" (corresponding to the German term "während") indicated an equality of the two features but could not be considered as a synonym for the term "and".

Due to the curved shape of the gripping region of the toothbrush in Figure 5, it was clear that the thickness of the second component above the various projection surfaces was not necessarily uniform.

## **Reasons for the Decision**

1. Main request and auxiliary request 1 - Article 56 EPC
  - 1.1 It was contested between the parties whether D1 disclosed the feature that the "second component is at least partially transparent". It was common ground that D1 disclosed all the other features of claim 1.
  - 1.2 The Board finds that there is no evidence (the appellant also did not provide any) that all TPE materials used in the construction of toothbrushes transmit light to some (meaningful) extent and that there is no reason why the TPE materials used cannot be completely opaque. Figure 2 of D1 shows that the gripping member 407 conceals the structure of the receiving regions 317 such that, without further information, the skilled person would infer that the material of the gripping member 407 should not allow light to pass through.

Even if the boundary between an "at least partially transparent" material as defined in claim 1 and an opaque material is not well defined, not all TPE materials transmit light. Therefore, it is not unambiguous that the material used for the grip surface 410 is capable of transmitting any (non-residual) amount of light.
  - 1.3 D1 therefore does not disclose that the second component is at least partially transparent.

1.4 In regard to the objective problem to be solved by this feature, the respondent argued that a second component that is at least partially transparent had the effect of making the projections of the base component that are covered by the second component visible through the second component. According to the respondent, this improved visibility not only provided for an appealing visual effect, but also improved the usability of the projections, for example for marketing purposes (e.g. brand recognition) or for improving the user experience by making the toothbrush recognisable with other oral care products. Thus, the respondent argued that the objective problem was to improve the visibility and usability of the toothbrush.

The Board does not accept this. Making the second component at least partially transparent does change the visual appearance of the toothbrush. However, the Board finds that whether the result is appealing or enhances the user experience are subjective criteria that depend on the individual user, i.e. these criteria do not amount to a technical effect vis-à-vis the starting point D1 since these effects are not technical but merely considerations of aesthetical (visual appeal) or business (marketing, brand recognition) nature.

Moreover, even if they were considered technical, the claim only defines generally that the second component should at least be transparent and this *alone* would not allow the skilled person to recognise any brand or make the toothbrush recognizable with other oral care products.

The Board consequently finds that the provision of a second component that is at least partially transparent does not provide any *technical* effect.

1.5 Therefore, the objective problem solved by this feature when starting from D1 as the closest prior art is simply to provide an alternative configuration for the toothbrush.

1.6 The Board finds that it is common general knowledge to make parts of toothbrush handles (including TPE components such as the gripping member 407 of D1) from materials with different colors and different degrees of transparency/translucency, to provide different aesthetic appearances.

To make a component of a toothbrush at least partially transparent is also disclosed in D2, in connection with the at least one soft component 20 (see paragraphs [0044] and [0072]) and in D4, in which the coating material 6 is made transparent or translucent to display a part 5E of the core 5 (see paragraph [0017] as well as Figures 1 and 2).

1.7 The respondent argued that the skilled person in the art would not make the gripping member 407 at least partially transparent since this would make the receiving regions 317 and ribs 315 (used to retain and hold the gripping member 407) visible and would give the impression of a less secure connection between the gripping member 407 and the base 300.

This argument is however not persuasive. Again here, a possible impression on the user is merely a subjective sensation dependent on the user. It may well be that seeing the receiving regions between the ribs would

give the user the impression of a more secure connection.

Further, the base component 10 of the opposed patent (see e.g. Figures 1, 2 and 4) also has a similar configuration in which projections 15 protrude from the underlying surface 20 and build receiving regions. The arrangement of the receiving sections in D1 is therefore similar to the one of the patent and would not constitute a hindrance to the skilled person wishing to adapt the toothbrush of D1.

1.8 It thus follows that, when starting from the toothbrush of D1, the skilled person trying to find an alternative configuration for it and faced with the teaching of D2, D4 or their own common general knowledge would make the second component at least partially transparent without exercising an inventive step. The requirement of Article 56 EPC is therefore not fulfilled.

1.9 Claim 1 of auxiliary request 1 differs from claim 1 of the main request only in that the reference signs 18a, 18b and 18c relating to the projection surfaces have been deleted. This deletion does not alter the inventive step reasoning with respect to claim 1 of the main request.

Claim 1 of auxiliary request 1 therefore also does not involve an inventive step for the reasons given above.

1.10 The main request and auxiliary request 1 are consequently not allowable.

2. Auxiliary requests 2 and 3 - Article 123(2) EPC
  - 2.1 Claim 1 of auxiliary request 2 was amended with regard to claim 1 of the main request by the introduction of the feature that the base component (10) and the second component (40) are formed from polypropylene.
  - 2.2 The respondent argued that paragraph [0036] provided a link between the material of the base component in paragraph [0023] and the material of the second component in paragraph [0036] by indicating that polypropylene was a preferred material for the second component if the base component comprised a polyolefin, whereas paragraph [0023] further specified the material to be used for the base component to be preferably polypropylene.

The Board does not accept this argument. There is no unambiguous disclosure of both the base component and the second component being formed from polypropylene. Paragraph [0023] discloses that the base component may be formed from a polyolefin such as polypropylene. Thus, polypropylene is one possibility if a polyolefin is selected as the material for the base component. On the other hand, paragraph [0036] discloses a condition. If the base component comprises any polyolefin (i.e. in general and not specifically polypropylene), then the second component may be polypropylene or a random ethylene-propylene copolymer. It is therefore only disclosed that if the skilled person selected the more general polyolefin for the base component, then the second component may be polypropylene or a random ethylene-propylene copolymer. The specific combination of polypropylene as a specific material for the base component and also for the second component is not disclosed.

- 2.3 In addition, paragraph [0023] discloses that "the base component may be formed from a polyolefin such as polypropylene, as discussed above, into its desired shape by injection molding".
- 2.3.1 The respondent argued that injection molding was only one of the possibilities to form the components. Paragraph [0019] disclosed polypropylene as a possible material for the base component and the second component but it did not disclose that the materials needed to be injection molded due to the words "can be injection molded". In addition, it argued that it was clear to the skilled person reading paragraph [0020] that the components needed to be chemically compatible in order to improve the bonding. Thus, the skilled person reading the application understood that injection molding was an optional method feature not inextricably linked to the choice of material, and thus could be omitted.
- 2.3.2 These arguments are, however, not persuasive. Paragraph [0019] discloses polypropylene but only in a general list of possible materials for the base and the second components. In addition, "chemical compatibility" is disclosed in paragraph [0020] as being the capacity of materials to adhere without the aid of a separate layer or bonding agent. This does not mean that the material of both components must necessarily be the same. Paragraphs [0019] and [0020] therefore do not provide a basis or an indication for the skilled person to select a base component and a second component being made from the same material, polypropylene.

Further, whilst paragraph [0019] only discloses the possibility of the suitable materials being injection

molded, the discussion of materials for the components in paragraphs [0019] and [0020] is quite general and does not form a single disclosure with paragraph [0023]. The base component disclosed in paragraph [0023] is part of a more specific disclosure in which the possibility of the base component being formed from a polyolefin (such as polypropylene) is only disclosed in combination with it being formed by injection molding.

The application as filed does not disclose that a base component made of polypropylene could be made by any other method, or that this method is only optional, such that the skilled person would not find that injection molding was one of many possibilities not inextricably linked to the choice of material.

2.4 Claim 1 of auxiliary request 2 therefore does not fulfil the requirement of Article 123(2) EPC.

2.5 Claim 1 of auxiliary request 3 differs from claim 1 of auxiliary request 2 only in that the reference signs 18a, 18b and 18c relating to the projection surfaces have been deleted. This deletion does not change the reasoning regarding Article 123(2) EPC with respect to claim 1 of auxiliary request 2, nor did the respondent argue that it did.

Claim 1 of auxiliary request 3 therefore does not fulfil the requirement of Article 123(2) EPC.

2.6 Auxiliary requests 2 and 3 are consequently not allowable.

3. Auxiliary request 2a - Article 13(2) RPBA 2020
  - 3.1 Auxiliary request 2a was filed during the oral proceedings, i.e. after notification of the summons to oral proceedings.
  - 3.2 According to Article 13(2) RPBA 2020, "[a]ny amendment to a party's appeal case made ... after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned".
  - 3.3 The respondent argued that the objections made under Article 123(2) EPC to auxiliary request 2 were raised for the first time during the appeal proceedings, such that it was only appropriate to file auxiliary request 2a at the oral proceedings, after hearing the Board's preliminary opinion.
    - 3.3.1 The Board does not accept this argument. Auxiliary request 2 was filed for the first time with the respondent's reply to the grounds of appeal, but the appellant raised its objections to auxiliary request 2 by letter dated 5 March 2020, approximately two months after the respondent's reply and more than three years before the oral proceedings took place. In its further submission of 10 August 2020, the respondent merely argued that claim 1 of auxiliary request 2 fulfilled the requirement of Article 123(2) EPC but did not submit a further auxiliary request for the case that the Board might conclude otherwise.

In addition, as pointed out by the appellant, the objection against the two components both being made from polypropylene had already been raised during the

opposition proceedings (see opponent's letter of 16 April 2018, section bridging pages 3 and 4).

The Board thus finds no reason justifying the filing of auxiliary request 2a at the oral proceedings. It could and should have been submitted earlier.

- 3.3.2 With regard to the respondent's argument concerning waiting for the Board's preliminary opinion before filing the request, it is evident from the RPBA 2020 that waiting for a Board's provisional opinion before making appropriate amendments is not commensurate with the purpose of the Rules of Procedure. Instead, the RPBA 2020 is set up such that the Board takes into account the written submissions of the parties and, to prepare parties for oral proceedings, then indicates the matters to be discussed which appear important for the decision to be taken. In the words of Article 15(1) RPBA 2020 this is expressed as follows: "In order to help concentration on essentials during the oral proceedings the Board shall issue a communication drawing attention to matters that seem to be of particular significance for the decision to be taken".
- 3.3.3 The strict nature of the requirement for exceptional circumstances to exist, as in Article 13(2) RPBA 2020, is simply because the case of the parties is expected to have been made already. It would be clearly contrary to this if the Board's communication were to be foreseen as an opportunity for a party to react to a provisional opinion of the Board by filing amendments to its appeal case, at least in those cases where a Board has not raised any new issue but has merely expressed an opinion in agreement with one party's arguments.

- 3.4 The Board therefore does not find any exceptional circumstances justifying the amendment of the respondent's appeal case and the filing of auxiliary request 2a addressing the objection under Article 123(2) EPC after the preliminary opinion of the Board.
- 3.5 For the above reasons, the Board exercised its discretion under Article 13(2) RPBA 2020 not to take into account auxiliary request 2a.
4. Auxiliary requests 4 and 5 - Article 123(2) EPC
- 4.1 Claim 1 of auxiliary request 4 has been amended with respect to claim 1 of the main request by the introduction of the following features:
- the projection surfaces (18a, 18b, 18c) are at first, second, and third heights above the underlying surface (20); and
  - the underlying surface (20) is covered with a first thickness of the second component and the projections surfaces (18a, 18b, 18c) are covered with second, third, and fourth thicknesses of the second component, each of the first, second, third, and fourth thicknesses being different.
- 4.2 The respondent argued that paragraphs [0028] and [0029] provided a basis for the added features relating to the heights and the thicknesses, respectively. Further, and unlike paragraph [0029], paragraph [0033] and Figure 5 disclosed an underlying surface 20 covered by a first thickness of the base component that was not uniform. According to the respondent, this further disclosure of a non-uniform thickness covering the underlying surface made it clear to the skilled person that the uniform thickness of the second component over the underlying surface 20 was not inextricably linked to the other

characteristics disclosed in paragraphs [0028] and [0029].

This argument is, however, not persuasive. Figure 5 and its related paragraphs of the description, such as paragraph [0033], do not disclose a uniform thickness covering the underlying surface, but they relate to a different embodiment than the one disclosed in paragraphs [0028] and [0029], in which all three projection surfaces are covered with three thicknesses each. These two different embodiments constitute two different separate disclosures and there are no reasons to combine their distinctive characteristics.

- 4.3 The respondent also argued that due to the curved shape of the gripping region of the toothbrush, it was clear that the thickness of the second component above the various projection surfaces was not necessarily uniform. This was reflected in paragraph [0029] by the use of the verb "may".

This argument is not persuasive either. As also argued by the appellant, the skilled person reading paragraph [0029] derives that the features "underlying surface 20 may be covered with a substantially uniform first thickness of a second component" and "projection surfaces 18a, 18b, 18c may be covered with second, third, and/ or fourth thickness of the second component" are disclosed in combination due to the use of the term "while" between both possibilities. The Board does not concur with the respondent's argument that the term "while" between these both possibilities does not mean "and" in this context, because the sentence to which this relates starts with "In this manner", and then describes the two features above

which are the consequence of the "manner" being discussed.

- 4.4 Claim 1 of auxiliary request 4 therefore does not fulfil the requirement of Article 123(2) EPC.

Claim 1 of auxiliary request 5 differs from claim 1 of auxiliary request 4 only in that the reference signs 18a, 18b and 18c relating to the projection surfaces have been deleted. This deletion does not change the reasoning regarding Article 123(2) EPC with respect to claim 1 of auxiliary request 4, nor has the respondent argued that it did.

- 4.5 Claim 1 of auxiliary request 5 therefore does not fulfil the requirement of Article 123(2) EPC.

- 4.6 Auxiliary requests 4 and 5 are consequently not allowable.

5. Auxiliary requests 6 and 7 - Article 123(2) EPC

The subject-matter of claim 1 of auxiliary request 6 is a combination of claim 1 of auxiliary request 2 together with the amendments made to claim 1 of auxiliary request 4. Claim 1 of auxiliary request 7 corresponds to claim 1 of auxiliary request 6 without the reference signs 18a to 18c. The Board therefore finds that the above reasons for not fulfilling the requirement of Article 123(2) EPC with respect to auxiliary requests 2 to 5 apply *mutatis mutandis*. The respondent also did not argue that the same reasons would not equally apply to these requests.

- 5.1 Auxiliary requests 6 and 7 are consequently also not allowable.

6. In the absence of any request which meets the requirements of the EPC, the patent has to be revoked.

## 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:



D. Grundner

M. Harrison

Decision electronically authenticated