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**Datasheet for the decision
of 18 October 2021**

Case Number: T 0311/20 - 3.2.02

Application Number: 15192606.0

Publication Number: 3000491

IPC: A61M1/00

Language of the proceedings: EN

Title of invention:

DELIVERY-AND-FLUID-STORAGE BRIDGES FOR USE WITH REDUCED-
PRESSURE SYSTEMS

Patent Proprietor:

KCI Licensing, Inc.

Opponent:

Smith & Nephew, Inc.

Relevant legal provisions:

EPC Art. 76(1), 84, 56

RPBA Art. 12(4)

EPC R. 126(2)

RPBA 2020 Art. 13(1)

Keyword:

Divisional application - added subject-matter (no)

Amendment to appeal case after notification of the summons (no)

Lack of clarity (no)

Inventive step (yes)



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Case Number: T 0311/20 - 3.2.02

D E C I S I O N
of Technical Board of Appeal 3.2.02
of 18 October 2021

Appellant: Smith & Nephew, Inc.
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Memphis, TN 38116 (US)

Representative: Appleyard Lees IP LLP
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Respondent: KCI Licensing, Inc.
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 27 November
2019 rejecting the opposition filed against
European patent No. 3000491 pursuant to Article
101(2) EPC.**

Composition of the Board:

Chairman M. Alvazzi Delfrate
Members: S. Dennler
N. Obrovski

Summary of Facts and Submissions

- I. The opponent filed the appeal against the opposition division's decision to reject its opposition against the contested patent.
- II. In that decision, the opposition division held, *inter alia*, that the subject-matter of claim 1 of the patent as granted did not contain subject-matter extending beyond the content of the earlier application as filed (published as WO 2011/115908 A1; "the parent application") which had been the basis for the divisional application from which the patent was granted. Moreover, the subject-matter of claim 1 as granted was found to be novel and to involve an inventive step, especially in view of the following documents:
- D1:** WO 2009/002260 A1
D3: US 2007/0167927 A1
D4: WO 2008/100440 A1
D5: WO 2009/071932 A2
D6: US 2009/299308 A1
D7: US 2008/0195017 A1
- III. The appellant/opponent ("the appellant") requested that the decision under appeal be set aside and that the patent be revoked.
- IV. The respondent/patent proprietor ("the respondent") requested that the patent be maintained in amended form on the basis of the claims of the main request or the first auxiliary request, both filed with the submission dated 6 January 2021. As a second auxiliary request,

the respondent requested that the patent be maintained as granted.

An amended paragraph [0005] of the description adapted to the claims of the main request was filed during the oral proceedings before the Board on 18 October 2021.

V. Claim 1 of the **main request** ("claim 1") reads as follows (amendments with respect to claim 1 as granted highlighted by the Board):

A delivery-and-fluid-storage bridge (102) for use with a reduced-pressure treatment system (100), the delivery-and-fluid-storage bridge (102) comprising:

a delivery manifold (138) extending along a length of the delivery-and-fluid-storage bridge (102) for delivering reduced pressure through the delivery-and-fluid-storage bridge (102);

an absorbent layer (140) proximate the delivery manifold (138) adapted to receive and store fluids; wherein the delivery-and-fluid-storage bridge (102) has a first side (103) and a second, patient-facing side (105);

a first encapsulating layer (148) and a second encapsulating layer (150) at least partially enclosing the delivery manifold (138) and the absorbent layer (140);

a first aperture (152) formed proximate the first longitudinal end (110) of the delivery-and-fluid-storage bridge (102) for fluidly communicating reduced pressure to the delivery manifold (138) from a reduced-pressure source (120); and

a second aperture (154) formed on the second, patient-facing side (105) of the second encapsulating layer (150) for transmitting reduced pressure to a tissue site; and

characterized in that the delivery-and-fluid-storage bridge (102) further comprises a conduit (164) disposed between the first encapsulating layer (148) and the second encapsulating layer (150), wherein the conduit (164) extends substantially along the longitudinal length of the delivery-and-fluid-storage bridge (102) from the first longitudinal end (110) to the second longitudinal end (112) of the delivery-and-storage bridge (102) to facilitate measurement of pressure proximate the tissue site and to monitor pressure at the second longitudinal end (112) of the delivery-and-fluid-storage bridge (102).

VI. The **appellant's arguments**, as far as relevant for the present decision, can be summarised as follows.

Added subject-matter

The feature of claim 1 whereby the conduit extended "from the first longitudinal end to the second longitudinal end" of the bridge was not directly and unambiguously derivable from the parent application as filed. In particular, paragraph [0042] of the description as filed was concerned only with the point at which the conduit terminated. No clear, unambiguous disclosure was made of the point from which the conduit started. In particular, nowhere in paragraph [0042] was it stated that the conduit extended "from the first longitudinal end".

Lack of clarity

The amendments made in claim 1 with respect to claim 1 as granted introduced a lack of clarity open to objection under Article 84 EPC:

- (a) First, the wording "extends (...) from (...) to (...)" could be interpreted either as a definition of the end points of the conduit or simply as a definition of part of the extent of the conduit. It was thus not clear whether the conduit was to be construed as being located entirely within the bridge or whether an extension of the tube outside the bridge at either end would still fall within the scope of the claim.

- (b) Second, claim 1 referred both to "a length of the delivery-and-fluid-storage bridge" and to "the longitudinal length of the delivery-and-fluid-storage bridge". It was not clear whether these were intended to be references to the same thing or whether there were two different lengths defined in the claim.

- (c) Third, the added wording referred to a "delivery-and-storage bridge", which was inconsistent with the terminology of "delivery-and-fluid-storage bridge" used elsewhere in the claims.

Objection (a) had already been raised in the statement of grounds of appeal against the first auxiliary request previously filed during the first-instance proceedings, to which the current main request corresponded (point 5.2 of the statement referring to section 3 of the appellant's letter dated 1 July 2019).

Objections (b) and (c), raised for the first time with the appellant's submission dated 18 December 2020, had been filed in response to the respondent's reply to the statement of grounds of appeal, in which the respondent had indicated that this previous first auxiliary

request was maintained. Since the summons to attend oral proceedings before the Board had been issued on 8 December 2020, admitting objections (b) and (c) into the proceedings was subject not to Article 13(2) RPBA 2020 but to Article 13(1) RPBA 2020. These objections were not complex and related largely to matters discussed in the Board's preliminary opinion. Therefore, the respondent could not be surprised by late objections that changed the subject of the proceedings. These objections thus had to be admitted into the proceedings.

Inventive step

The subject-matter of claim 1 lacked inventive step in view of the combination of either D1 or D7 with any of D3-D5. The other inventive-step objections based on a combination of D1 or D7 with D6 were withdrawn during the oral proceedings before the Board.

a) in view of D1

D1 disclosed a reduced-pressure treatment including a soft, padded bridge to convey a vacuum so as to avoid discomfort for the patient, like the bridge in the contested patent. The subject-matter of claim 1 differed from this known bridge only on account of the conduit defined in the characterising portion. These distinguishing features solved the technical problem of monitoring pressure at the tissue site.

D1 already contained pointers towards monitoring pressure, for example to maintain a predetermined underpressure in the wound pocket (page 11, lines 13-14). Each of D3-D5 related to the monitoring of pressure at a wound site in similar reduced-pressure

treatment systems. From these documents, the person skilled in the art would have learnt that it was advantageous to combine a pressure monitoring conduit with the reduced-pressure delivery conduit. In the light of D3-D5, the person skilled in the art would therefore have obviously incorporated this kind of pressure monitoring conduit into the padded bridge of D1, in a way that maintained the advantages described in D1. Hence, the person skilled in the art starting from D1 would have arrived at the claimed subject-matter without exercising inventive skill.

b) in view of D7

A similar inventive-step attack starting from D7 instead of D1 had been already presented in the first-instance proceedings. The opposition division judged it "less significant" and did not deal with it in detail in the decision under appeal, but this attack had not been abandoned.

This argument was based essentially on the same reasoning as that starting from D1. D7 also contained pointers towards measuring the reduced pressure applied at the tissue site (paragraphs [0043]-[0045]).

VII. The **respondent's arguments**, as far as relevant for the present decision, can be summarised as follows.

Added subject-matter

Claim 1 was not concerned with the location where the conduit started. The feature that the conduit extended "from the first longitudinal end to the second longitudinal end of the delivery-and-storage bridge" was supported by the statement in paragraph [0042] of

the description of the parent application as filed that the conduit "could either terminate proximate the first longitudinal end (...) or could continue to the second longitudinal end". The requirements of Article 76(1) EPC were therefore met.

Lack of clarity

Objection (a) was unfounded because claim 1 was not concerned with any features of the conduit other than its extension from the first to the second end and its ability to perform the required functions.

Objections (b) and (c) had been filed late and should thus not be admitted into the proceedings. In any case, it was clear from the wording of claim 1 that "longitudinal length" was a reference to "length" and "delivery-and-storage-bridge" a reference to "delivery-and-fluid-storage-bridge".

Claim 1 was therefore clear.

Inventive step

The subject-matter of claim 1 involved an inventive step in view of both D1 and D7 in combination with any of D3-D5. During the oral proceedings before the Board, the respondent did not maintain the written objection to the admittance of the inventive-step objections involving a combination with D5.

a) in view of D1

It was accepted that the subject-matter of claim 1 differed from the system disclosed in D1 only on account of the conduit as defined in the characterising

portion. However, the technical problem formulated by the appellant was incorrect because it contained a pointer to the claimed solution. Rather, the technical problem to be solved was to improve the system of D1.

The person skilled in the art facing this problem would not have considered any of D3-D5, especially because these documents disclosed conventional tubings which the soft bridge of D1 recommended avoiding. In addition, even if the person skilled in the art had done so, combining these documents with D1 would not have led to the claimed solution.

b) in view of D7

The appellant had abandoned the inventive-step objection starting from D7 in the first-instance proceedings. The opposition division did not consider any such objection in the decision under appeal. Thus, this objection should not be admitted into the appeal proceedings.

Were this objection to be admitted, the same considerations and conclusion as for the attack starting from D1 applied, in view of the similarities between the disclosures of D1 and D7.

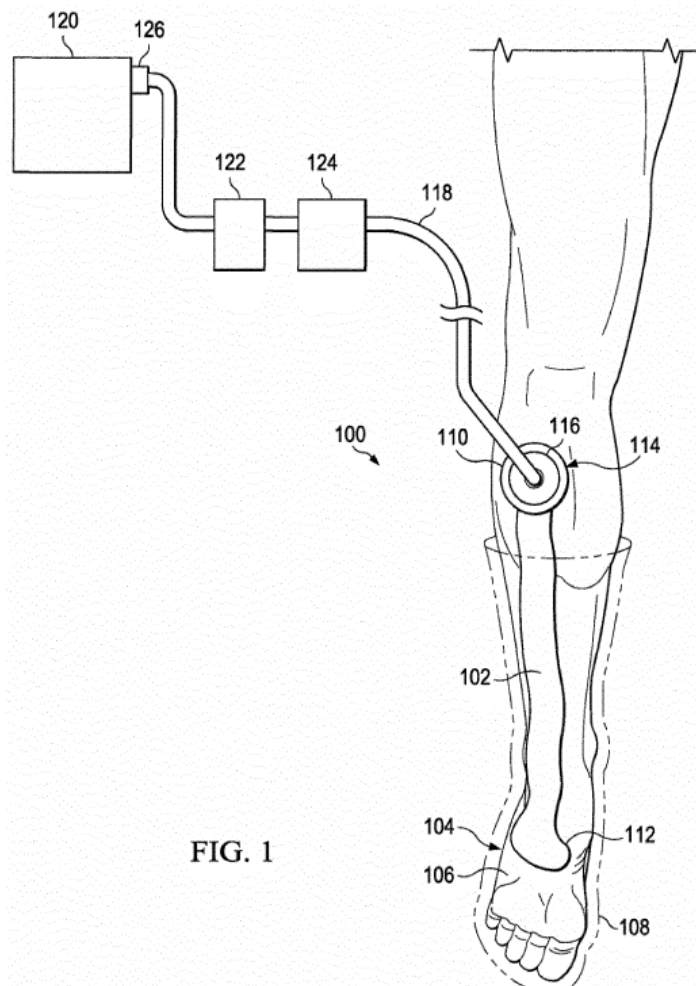
Reasons for the Decision

1. Subject-matter of the contested patent

1.1 The patent generally concerns treatment systems for reduced-pressure therapy. In this kind of therapy, reduced pressure is applied to a tissue site, for example a wound, in order to remove fluids that may

exude from it and to promote faster healing and increased tissue growth (paragraph [0002]).

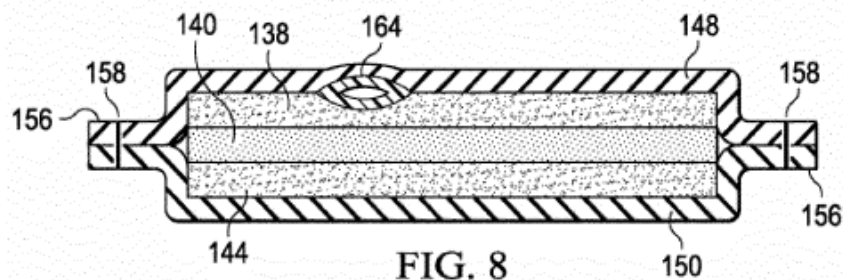
1.2 Applying reduced pressure may be problematic when access to the tissue site is limited, for example when the tissue site (104) is on the sole of a foot (106) covered by an orthopaedic device, such as an offloading boot (108) as illustrated in Figure 1 reproduced below. The patent aims at facilitating the application of reduced pressure in situations like this.



To this end, the patent provides a low-profile delivery-and-fluid-storage bridge (102) adapted to convey reduced pressure between a first longitudinal end (110), typically placed at a location with more convenient access (in this example, outside the

offloading boot), where it can be coupled to a reduced-pressure source (120) via a reduced-pressure interface (116), and a second longitudinal end (112) placed in the vicinity of the tissue site (104) to be treated. Hence, in contrast to harder conventional tubings, reduced pressure can be applied to the tissue site even when using an orthopaedic device, without causing undesirable pressure which could lead to the formation of ulcers. This increases patient comfort and enhances the reliability of the reduced-pressure supply (paragraphs [0009]-[0011] and [0013]).

1.3 As shown in the cross-section depicted in Figure 8 reproduced below, the delivery-and-fluid-storage bridge (102) comprises at least one delivery manifold (138, 144) extending along the length of the bridge for delivering reduced pressure through the bridge, and an absorbent layer (140) to receive and store wound exudates. Both are encapsulated between two encapsulating layers (148, 150) (paragraphs [0019] and [0023]).



1.4 In addition, the bridge further comprises a conduit (164) disposed between the encapsulating layers and extending along the length of the bridge, to facilitate the measurement of pressure proximate the tissue site and to monitor pressure at the second longitudinal end (paragraphs [0028]-[0029]). The pressure measured at the second longitudinal end can be compared with the

pressure at the reduced-pressure source to determine the pressure drop across the system and, in turn, the saturation of the bridge (paragraph 0029]).

2. Added subject-matter

2.1 In dispute between the parties is whether the feature of claim 1 whereby the conduit extends "from the first longitudinal end to the second longitudinal end" of the delivery-and-fluid-storage bridge is directly and unambiguously derivable from the parent application as filed, especially from paragraph [0042] of the description.

2.2 Paragraph [0042] discloses two alternative configurations of the conduit, namely that "the conduit 164 *could either terminate proximate the first longitudinal end 110 of the delivery-and-fluid-storage bridge 102 or could continue the longitudinal length 132 of the delivery-and-fluid-storage bridge 102 to the second longitudinal end 112*" (emphasis added by the Board).

While in the second configuration the conduit is explicitly disclosed as extending "to the second longitudinal end" as defined in claim 1, there is indeed no explicit disclosure of the location *from where the conduit extends*.

2.3 However, a plain reading of the sentence above shows that the conduit runs along the longitudinal length of the bridge *in the direction of the second longitudinal end*, as implied by the term "continue". Since, in the second configuration, the conduit does not "terminate [at a location] proximate the first longitudinal end 110", but "continue[s]" from this location, the person

skilled in the art understands that the location *from where the conduit extends* must necessarily be farther from the second longitudinal end than said location "proximate the first longitudinal end". The person skilled in the art therefore concludes that the conduit implicitly extends "from the first longitudinal end" of the delivery-and-fluid-storage bridge.

- 2.4 This conclusion is supported by the conduit's function of monitoring pressure at the second longitudinal end, disclosed in paragraphs [0042]-[0043] of the parent application as filed.

Paragraphs [0026]-[0027] disclose that the first longitudinal end is typically placed at a location with convenient access, for example outside an offloading boot, whereas the rest of the bridge may extend within the boot. The person skilled in the art therefore understands that the conduit for monitoring pressure at the second longitudinal end must extend at least from the first longitudinal end in order to fluidly couple said second longitudinal end to a location outside the boot that is suitable for accommodating a pressure feedback device, or a connection to that device.

- 2.5 Therefore, contrary to the appellant's argument, the Board concludes that the claimed feature whereby the conduit extends "from the first longitudinal end to the second longitudinal end" of the delivery-and-fluid-storage bridge is directly and unambiguously derivable from the parent application as filed. The requirements of Article 76(1) EPC are therefore met.

3. **Clarity**

The appellant objected to an alleged lack of clarity linked to the following wordings:

- (a) "from the first longitudinal end (110) to the second longitudinal end (112)"
- (b) "longitudinal length" of the delivery-and-fluid-storage bridge
- (c) "delivery-and-storage bridge"

3.2 *Objection (a)*

Contrary to the appellant's view, the expression "from the first longitudinal end (110) to the second longitudinal end (112)" added in claim 1 clearly limits the definition of the conduit by specifying its extent *within the delivery-and-fluid-storage bridge*. The possibility that the conduit may not be entirely contained within the bridge is not excluded by this claim wording and does not result in a lack of clarity, contrary to the appellant's view.

3.3 *Objections (b) and (c)*

3.3.1 The appellant raised objections (b) and (c) for the first time with a further written submission filed on 18 December 2020, i.e. ten days after issuance of the summons to oral proceedings on 8 December 2020. It follows from Rule 126(2) EPC that this further submission was not filed "after notification of a summons" as specified in Article 13(2) RPBA 2020. The admittance of these objections, contested by the respondent, is therefore subject to Article 13(1) RPBA 2020.

As explained by the appellant, these objections were filed in response to the respondent's filing on appeal of a first auxiliary request, to which the current main request corresponds. It is true that this auxiliary request was identical to the earlier first auxiliary request previously filed before the department of first instance. However, the amendments made in this request, on which objections (b) and (c) are based, were not discussed in the decision under appeal since the opposition division decided to reject the opposition. The appellant could therefore not have been expected to file these objections earlier. Moreover, the objections and the amendments concerned are not complex, so admitting them is not detrimental to procedural economy.

For these reasons, the Board decided to admit objections (b) and (c) into the proceedings pursuant to Article 13(1) RPBA 2020.

3.3.2 These objections, however, do not convince the Board.

Regarding objection (b), the person skilled in the art would clearly recognise from the wording of claim 1 that the expressions "a length of the delivery-and-fluid-storage bridge" in line 3 and "the longitudinal length of the delivery-and-fluid-storage bridge" in the last paragraph refer to the same length, namely the longitudinal length L of the bridge connecting the first and second longitudinal ends, as illustrated in Figure 2 (paragraphs [0013] and [0018]). This interpretation is also in line with the description of the patent as a whole, in which the only length disclosed is the longitudinal length L .

Regarding objection (c), the omission of the word "fluid" in the expression "delivery-and-storage bridge" does not render claim 1 unclear. Despite the absence of this term, the person skilled in the art recognises immediately that the expression unambiguously refers to the delivery-and-fluid-storage bridge 102 recited in the claim.

3.4 Therefore, the Board concludes that claim 1 is clear (Article 84 EPC).

4. Inventive step starting from D1

4.1 It is common ground that D1 discloses the features of the preamble of claim 1, namely (see Figures 1 and 4 reproduced below):

A delivery-and-fluid-storage bridge (tube 3; page 10, lines 17-20) for use with a reduced-pressure treatment system (comprising in particular a reduced-pressure source 5, 6; page 11, lines 11-26), the delivery-and-fluid-storage bridge comprising:

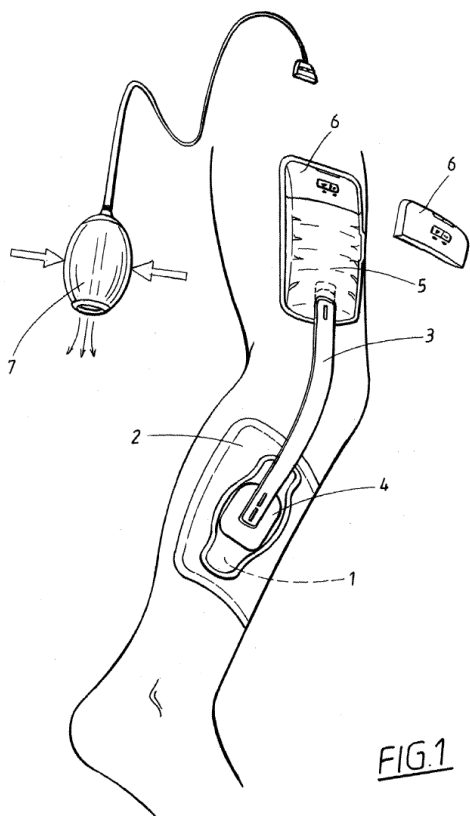


FIG.1

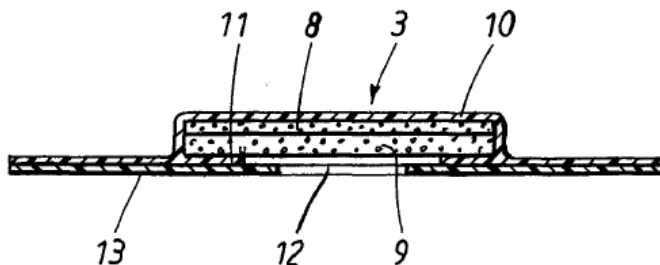


FIG.4

a delivery manifold (8) extending along a length of the delivery-and-fluid-storage bridge for delivering reduced pressure through the delivery-and-fluid-storage bridge (page 13, lines 10-12);

an absorbent layer (9) proximate the delivery manifold adapted to receive and store fluids (page 13, lines 14-15);

wherein the delivery-and-fluid-storage bridge has a first side and a second, patient-facing side (Figure 4);

a first encapsulating layer and a second encapsulating layer at least partially enclosing the delivery manifold and the absorbent layer (page 12, line 12: "the tube casing consists of two plastics films made of a soft elastic plastic");

a first aperture (see e.g. opening shown in Figure 16; page 18, lines 30-31) formed proximate the first longitudinal end (end of the tube 3 connected to the receptacle 5) of the delivery-and-fluid-storage bridge for fluidly communicating reduced pressure to the delivery manifold from a reduced-pressure source (5, 6); and

a second aperture (12) formed on the second, patient-facing side of the second encapsulating layer for transmitting reduced pressure to a tissue site.

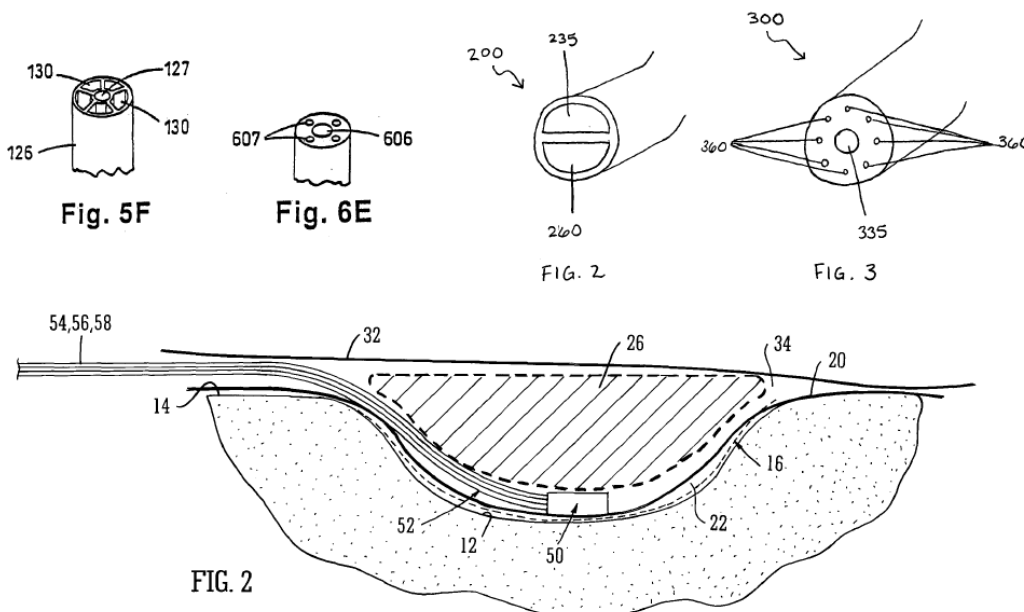
4.2 The subject-matter of claim 1 thus differs from the bridge known from D1 on account of *a conduit disposed between the first encapsulating layer and the second encapsulating layer, wherein the conduit extends along the longitudinal length of the bridge from the first longitudinal end to the second longitudinal end to facilitate measurement of pressure proximate the tissue site and to monitor pressure at the second longitudinal end, as defined in the characterising portion of claim 1. This is not contested by the parties.*

4.3 Even if the appellant's formulation of the objective technical problem to be solved were accepted, i.e. to monitor pressure at the tissue site (which is contested by the respondent), the person skilled in the art starting from D1 would not have arrived at the claimed subject-matter without an inventive step.

4.3.1 As the appellant submitted, it is true that D3 discloses (Figure 1) a reduced-pressure treatment

system which comprises, in addition to a first tube 101 for conveying reduced pressure to a porous dressing 102 at a wound site to be treated, a second tube 106 coupling the dressing to a pressure transducer 108 for monitoring the pressure at the wound site (paragraph [0031]). D3 further teaches that, instead of being a separate tube as illustrated in Figure 1, this second tube 106 can be conveniently combined with the first tube 101 into a single multi-lumen tube, as disclosed in paragraphs [0035]-[0036] and illustrated in Figures 5F and 6E reproduced below (see reduced-pressure delivery lumen 127, 606 and pressure monitoring lumen 130, 607; paragraphs [0036]-[0038]).

Moreover, D4 and D5 also disclose similar multi-lumen tubes, as shown in Figures 2-3 of D4 (see reduced-pressure delivery lumen 235, 335 and pressure monitoring lumen 260, 360; page 17, line 10 - page 18, line 10) and in Figure 2 of D5 (lumens 54, 56, 58; page 11, line 34 - page 12, line 4), also reproduced below.



However, as pointed out by the appellant itself, D1 clearly describes the relatively rigid plastic tubing

traditionally used in these treatment systems as being unsatisfactory for connecting the tissue site to the reduced-pressure source (page 3, lines 6-14), in view of the pressure points they may cause. This is why D1 provides the soft, padded bridge 3 as a replacement for that traditional tubing in the region of the treatment site, so as to avoid discomfort to the patient (page 4, lines 8-9; page 12, lines 29-31; page 24, lines 19-23).

The tubes disclosed in D3-D5 thus belong to the very type of tubing that D1 recommends avoiding in the vicinity of the tissue site. For this reason, the Board is not convinced by the appellant's assertion that the person skilled in the art starting from D1 would have considered any of D3-D5 for a solution to the above-mentioned problem.

In this respect, it is irrelevant that D1 may contain implicit pointers towards monitoring pressure at the tissue site, as the appellant argues. Moreover, this view is not contradicted by the disclosure in D1 that the soft, padded bridge 3 may "[merge] into a conventional silicone tube before it is coupled to the collecting receptacle" (page 24, last paragraph) - i.e. that the bridge 3 is compatible with existing hard silicone tubing, as argued by the appellant. This statement suggests at most that a conventional tube could be used in the connection region between the bridge and the collecting receptacle, where chafing issues are less critical. However, using a multi-lumen tube to connect the collecting receptacle to the bridge, while leaving the bridge unchanged, would clearly not solve the technical problem referred to above.

The appellant's inventive-step attack thus fails to convince the Board for this reason alone.

- 4.3.2 Furthermore, even if the person skilled in the art had considered D3-D5, they would not have arrived at the subject-matter of claim 1 in an obvious manner.

On one hand, replacing the padded bridge 3 *as a whole* with a multi-lumen tube including a pressure monitoring lumen and a reduced-pressure delivery lumen as disclosed in D3-D5 would have gone against the very teaching of D1 that this relatively rigid tubing should be avoided, as discussed in point 4.3.1 above. The person skilled in the art would therefore not have envisaged any such modification. Moreover, this would have destroyed the flat, low-profile encapsulated configuration of the padded bridge of D1, thus leading away from the claimed subject-matter.

On the other hand, without hindsight the person skilled in the art would not have been prompted by the particular designs of multi-lumen tubes disclosed in D3-D5 to specifically include a pressure monitoring conduit *between the two encapsulating layers* of the bridge of D1, i.e. *within the reduced-pressure delivery lumen*:

- (a) From the designs of Figure 6E of D3 and Figure 3 of D4, according to which pressure monitoring lumens are "located within the walls" of a thick multi-lumen tube (paragraph [0037] of D3), the person skilled in the art would not have extrapolated that this kind of monitoring conduit could be provided "within the walls" of the bridge of D1, i.e. within the thickness of the encapsulating layers, not

least because the layers are formed of thin plastics films (page 12, line 12).

What is more, even if the person skilled in the art had done so, the resulting conduit would have been provided within the thickness of one of the encapsulating layers and not, as argued by the appellant, formed by attaching an additional sheet to the inner surface of said encapsulating layer. Therefore, the conduit would in no way have extended *between the two encapsulating layers*, i.e. within the delivery lumen of the bridge as required by claim 1. In this respect, the Board agrees with the respondent that Figure 8 of the contested patent shows the conduit 164 being located not "within the walls" of the bridge but rather within its lumen.

(b) In the other designs, the delivery lumen and the pressure monitoring lumens are merely juxtaposed. Hence, on this basis the person skilled in the art would at most have positioned an additional pressure monitoring conduit *outside* the layers of the bridge of D1 and thus would not have arrived at a bridge according to claim 1 either.

4.4 From the above considerations, the Board concludes that the subject-matter of claim 1 involves an inventive step in view of D1 (Article 56 EPC).

5. Inventive step starting from D7

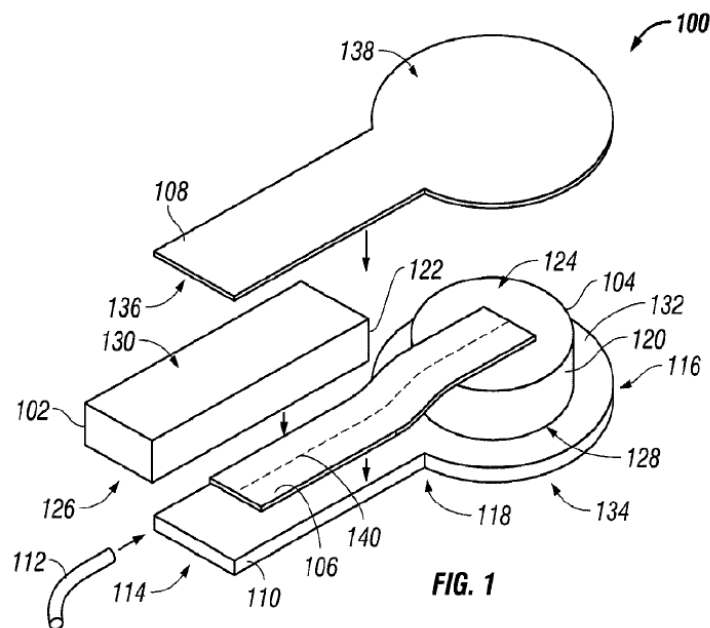
5.1 Contrary to the respondent's assertion, the fact that the opposition division considered the inventive-step objections based on D7 as a starting point to be "less significant" and, accordingly, did not address them in

detail in the decision under appeal (last two sentences of point 20 of the decision) does not mean that these objections have been abandoned.

In its statement of grounds of appeal (points 4.43-4.60), the appellant maintained that D7 could equally be regarded as the starting point to demonstrate a lack of inventive step of claim 1 and gave reasons why, as a consequence, the decision under appeal had to be set aside.

The Board therefore considered these objections as sufficiently substantiated and decided to take them into account in the appeal proceedings in accordance with Article 12(4) RPBA 2007 (which applies in this case by virtue of the transitional provisions of Article 25(2) RPBA 2020).

5.2 It is common ground that, like D1, D7 discloses the features of the preamble of claim 1, namely (see Figure 1 reproduced below):



A delivery-and-fluid-storage bridge (breathable interface system 100; paragraph [0028]) for use with a reduced-pressure treatment system (paragraphs [0007]-[0008]), the delivery-and-fluid-storage bridge comprising:

a delivery manifold (fabric layer 106) extending along a length of the delivery-and-fluid-storage bridge for delivering reduced pressure through the delivery-and-fluid-storage bridge (paragraph [0041]);

an absorbent layer (first and second foam pads 102, 104) proximate the delivery manifold adapted to receive and store fluids (paragraph [0036]);

wherein the delivery-and-fluid-storage bridge has a first side and a second, patient-facing side (Figure 1);

a first encapsulating layer (108) and a second encapsulating layer (110) at least partially enclosing the delivery manifold and the absorbent layer;

a first aperture (for receiving the reduced-pressure conveying tube 112) formed proximate the first longitudinal end of the delivery-and-fluid-storage bridge for fluidly communicating reduced pressure to the delivery manifold from a reduced-pressure source (704; Figure 7, paragraph [0042]); and

a second aperture (302; Figure 3) formed on the second, patient-facing side of the second encapsulating layer for transmitting reduced pressure to a tissue site (paragraph [0030]).

The subject-matter of claim 1 thus similarly differs from the bridge known from D7 on account of the pressure monitoring conduit defined in the characterising portion of claim 1.

In addition, D7 also presents the bridge 100, of low profile, as being advantageous for allowing reduced

pressure to be applied to a tissue site without causing significant patient discomfort (paragraph [0007]), like the bridge in D1 and the bridge according to claim 1.

Hence, the disclosure of D7 is substantially equivalent to that of D1 as regards the assessment of inventive step of claim 1. This is not contested by the parties.

5.3 The appellant's line of reasoning starting from D7 is based essentially on the same reasoning as the attack starting from D1.

It follows from the considerations in point 4 above that, without hindsight and without exercising inventive skill, the person skilled in the art starting from D7 would not have included a pressure monitoring conduit in the bridge of D7 *between the encapsulating layers*, as required by claim 1. This is irrespective of whether D7 may contain pointers towards monitoring pressure at the tissue site as the appellant argued.

The Board therefore concludes that the subject-matter of claim 1 also involves an inventive step starting from D7 (Article 56 EPC).

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the opposition division with the order to maintain the patent as amended in the following version:

Claims: claims 1-11 of the main request filed with the submission dated 6 January 2021

Description:

- paragraphs [0001]-[0004] and [0006]-[0048] of the patent specification
- paragraph [0005] as filed during the oral proceedings before the Board

Drawings: drawings of the patent specification

The Registrar:

The Chairman:



D. Hampe

M. Alvazzi Delfrate

Decision electronically authenticated