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**Datasheet for the decision  
of 22 May 2024**

**Case Number:** T 0800/22 - 3.2.01

**Application Number:** 15830880.9

**Publication Number:** 3218226

**IPC:** B60R1/074

**Language of the proceedings:** EN

**Title of invention:**

DEVICE FOR ADJUSTING A SHELL-SHAPED HOUSING PART, A SUPPORTING FRAME FOR USE IN SUCH A DEVICE, AND A VEHICLE PROVIDED WITH SUCH A DEVICE

**Patent Proprietor:**

MCi (Mirror Controls International)  
Netherlands B.V.

**Opponent:**

Motherson Innovations Company Limited

**Headword:**

**Relevant legal provisions:**

EPC Art. 54, 56  
RPBA 2020 Art. 12(3), 12(5)

**Keyword:**

novelty, inventive step (main request: yes)  
Discretion not to admit submission - requirements of Art.  
12(3) RPBA 2020 met (no)

**Decisions cited:**

**Catchword:**



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Case Number: T 0800/22 - 3.2.01

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.01**  
**of 22 May 2024**

**Appellant:** Motherson Innovations Company Limited  
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**Decision under appeal:** **Decision of the Opposition Division of the European Patent Office posted on 1 February 2022 rejecting the opposition filed against European patent No. 3218226 pursuant to Article 101(2) EPC.**

**Composition of the Board:**

**Chairman** V. Vinci  
**Members:** C. Narcisi  
S. Fernández de Córdoba

## Summary of Facts and Submissions

I. The opposition was rejected and European patent No. 3 218 226 was maintained as granted by the decision of the Opposition Division posted on 1 February 2022. Against this decision an appeal was lodged by the Opponent in due form and in due time pursuant to Article 108 EPC.

II. The following documents are cited in this decision:

WO-A (designating the published patent application of the contested patent);

EP-B (designating the publication of the contested patent);

E1 (EP 2 422 227 B1);

E1' (EP 2 485 921 B1);

E2 (EP 2 492 144 B1);

E3 (DE 41 41 657 A1);

E3' (GB 2 250 965 A);

E4 (DE 196 01 429 C1);

D1 (WO 2013/126719 A2);

F1 (Alfred Böge (Hrsg), "Vieweg Handbuch Maschinenbau", Wiesbaden: Friedr. Vieweg & Sohn Verlag/GWV, Fachverlage GmbH, 18. Auflage 2007).

III. Oral proceedings were held on 22 May 2024. The Appellant (Opponent) requested that the decision under appeal be set aside and that the European patent be revoked.

The Respondent (Patent Proprietor) requested that the appeal be dismissed and that the patent be maintained as granted (main request) or, in the alternative, that the case be remitted to the first instance department,

or further in the alternative, that the patent be maintained in amended form

- according to auxiliary requests 1 to 39 (filed with the reply to the statement of grounds of appeal on 24 October 2022; auxiliary request 1 to 39 corresponding to auxiliary requests 1 to 39 filed on 28 July 2021 during opposition proceedings) or

- according to auxiliary requests 40-44 filed on 29 January 2024.

The respondent further requested that the patent be maintained on the basis of auxiliary requests 7A to 20A and 22A to 39A (as mentioned in the reply to the statement of grounds of appeal) or auxiliary requests 40A-44A (as mentioned in the letter dated 29 January 2024).

IV. Granted claim 1 (main request) reads as follows:

"A device (1) for adjusting a shell-shaped housing part, such as, for example, a mirror cap, in particular a mirror device for a motor vehicle, comprising a base part (2), in particular for attachment to the body of the motor vehicle, on which, with the aid of a first hinge construction (3, 25, 20, 60, 30) a supporting frame (3) is arranged, furthermore comprising a first, for example electric, actuator (4) with which the supporting frame (3) is pivotable relative to the base part (2) about a first hinge axis (5) extending in a substantially upward direction between a folded-in position, in which the supporting frame (3) for instance substantially abuts along the body of the motor vehicle, and a folded-out position, in which the supporting frame (3) for instance is oriented substantially transversely to the body, while on the supporting frame (3) a support (6), in particular for supporting a mirror surface, is arranged with the aid

of a second hinge construction (35, 65, 30, 60), the device furthermore comprising a second, for example electric, actuator (7) with which the support (6) is pivotable relative to the supporting frame (3), said support (6) being pivotable relative to the supporting frame (3) only about a second hinge axis (8) extending substantially transversely to the substantially upward direction, characterized in that the supporting frame (3) is mounted movably relative to the base part (2) at least partly with the aid of a first ball hinge construction (30, 60, 20), and that the support (6) is mounted movably relative to the supporting frame (3) at least partly with the aid of a second ball hinge construction (60, 30), and that the center or midpoint of the first ball hinge construction (30, 60, 20) and the center or midpoint of the second ball hinge construction (60, 30) substantially coincide, such that the first ball hinge construction and the second ball hinge construction substantially form a double ball hinge construction or a compound ball hinge construction."

V. The Appellant's (Opponent) arguments may be summarized as follows:

The subject-matter of claim 1 (main request) is not new over E1 (in conjunction with E1') disclosing all the features of claim 1, in particular features 1.6 ("the supporting frame (3) is mounted movably relative to the base part (2) at least partly with the aid of a first ball hinge construction (30, 60, 20), and"), 1.7 ("the support (6) is mounted movably relative to the supporting frame (3) at least partly with the aid of a second ball hinge construction (60, 30), and"), and 1.8

("the center or midpoint of the first ball hinge construction (30, 60, 20) and the center or midpoint of the second ball hinge construction (60, 30) substantially coincide, such that the first ball hinge construction and the second ball hinge construction substantially form a double ball hinge construction or a compound ball hinge construction") being known from E1. E1 discloses according to the embodiment of figure 5 a double-ball hinge construction 30b, 30, 30a, 22b comprising a first and second ball hinge construction whose centres or midpoints coincide, taking into account that said construction can be (implicitly) implemented by the skilled person with "substantially" coinciding centres or midpoints, as specified and required by claim 1.

In addition, the embodiment of figures 13-17 (see E1, paragraphs [0019], [0024]) likewise discloses said features, considering that spherical socket element 22b' constitutes an at least partially spherical bearing surface with a first midpoint, and the ball member of the mounting arm (with a spring ring 23' disposed at the ball member receiving portion provided by said spherical socket member 22b') constitutes an at least partially spherical bearing surface with a second midpoint, and that said first and second midpoints coincide within certain tolerances.

The subject-matter of claim 1 (main request) is not new over E1', the embodiment of figure 4 disclosing all the features of claim 1 and in particular a mounting assembly 18 which "comprises a single ball or single-pivot mounting assembly whereby the reflective element and casing are adjustable relative to the vehicle windshield" which optionally can be replaced by "a double ball or double pivot mounting configuration"

according to paragraph 16 of E1' such that it is novelty destroying for the subject-matter of claim 1 for the same reasons as for E1. Thus, features 1.6 to 1.8 are thereby disclosed in E1'.

The subject-matter of claim 1 (main request) is not new over E2 disclosing all the features of claim 1, the embodiment of figure 8 disclosing in particular a base part 18, a supporting frame 13, a support provided by the foot 2 and the head 3, and two axis 8,9 in conformity with claim 1. Further, claim 12 mentions "the mirror assembly according to any one of the preceding claims, characterized in that the at least one articulation (05) is realized in the form of a ball-and-socket joint". Thus, each of the two articulations represented by axis 08 and 09 may be realized in the form of a ball-and-socket joint according to claim 12 of E2, which results in a double ball hinge construction or compound ball hinge construction according to feature 1.8 of claim 1. Disputed features 1.6 to 1.8 are hence known from the embodiment of figure 8 in E2, taking into account the technical teaching of dependent claim 12.

The subject-matter of claim 1 (main request) is not new over E3 (considered in conjunction with E3'), the embodiment of figures 1 and 2 disclosing all the features of claim 1, particularly features 1.6 to 1.8. These figures disclose a base part 5,7, a supporting frame 24, a support 2,8,9, and two perpendicular axis crossing each other in the centre of the two balls of the double ball hinge construction provided by the three spherical parts 7, 8 and 24. Further, claim 1 of E3 (or E3') specifies that "means for articulating the body to the support means and defining a first, substantially vertical axis of rotation for the body

and a second axis of rotation for the body substantially perpendicular to the first axis" are provided, hence a first and second actuator are thereby at least implicitly disclosed, according to feature group 1.3 ("a first actuator (4) with which the supporting frame (3) is pivotable relative to the base part (2) about a first hinge axis (5) extending in a substantially upward direction between a folded-in position and a folded-out position") and feature group 1.5 ("a second actuator (7) with which the support (6) is pivotable relative to the supporting frame (3), said support (6) being pivotable relative to the supporting frame (3) only about a second hinge axis (8) extending substantially transversely to the substantially upward direction") of claim 1.

The line of arguments based on lack of novelty of claim 1 over E4 is withdrawn.

The subject-matter of claim 1 (main request) is not inventive in view of E1 in conjunction with common general knowledge, with F1 or with E2. The skilled person would arrive in an obvious manner at said feature 1.8 of claim 1 on account of the need and object to provide a compact configuration and structure of said device, such a configuration being already suggested in E1 (see e.g. paragraphs [0018], [0031]) and known from common general knowledge, wherein clearly both a double ball (double pivot) mounting assembly and alternatively a single ball (single pivot) mounting assembly are indicated in E1.

Further, said feature 1.8 would be obvious for the skilled person in view of F1 (representing common general knowledge), given that F1 discloses a compact configuration including a plurality of concentric ball joints each having an axis intersecting with the other

axis in one point (see e.g. F1, claim 1), wherein the articulation element ("Gelenkelemente") are freely rotatable around any of 3 spatial directions.

Finally, should the Board regard the group of features 1.3 and 1.5 as distinguishing the subject-matter of claim 1 from E1, said features would anyway not contribute to inventive step in view of the obvious combination of E1 and E2, which discloses a first and a second actuator according to features 1.3 and 1.5.

The subject-matter of claim 1 (main request) lacks an inventive step over E2 in conjunction with common general knowledge, or with F1 or with E3. In view of the disclosure of E2, particularly the indications and suggestions derivable from claim 12 (see above), the skilled person would implement in an obvious manner a "double ball hinge construction or compound ball hinge construction" in order to obtain a bearing configuration and structure being more compact and increasing precision of the articulation. Such a double ball hinge construction or compound ball hinge construction is known from common general knowledge, in particular from F1 or further from E3, and the skilled person would have no difficulties in adopting and implementing it in the device of E2. Therefore, the claimed subject-matter lacks an inventive step.

The subject-matter of claim 1 lacks an inventive step over E4 in conjunction with common general knowledge, F1, E2 or E3. Specifically, E4 discloses in figures 1,2 a device including all the features of claim 1 except for feature 1.8, E4 disclosing two separate ball joints 6,7 (see E4, claims 1 and 2), a supporting frame 5 pivotably mounted with respect to the base 2a (via ball joint 7) and a support 4 pivotably mounted with respect

to supporting frame 5 (via pivot bearing 6). The skilled person would solve the mentioned technical problem (concerning the implementation of a compact configuration and precise articulation) in an obvious manner by replacing said separate and distinct ball joints 6,7 with a compound ball hinge or double ball hinge construction, such as known from common general knowledge or from F1.

The line of arguments based on lack of inventive step of the subject-matter of claim 1 in view of D1 should be admitted into the appeal proceedings, given that it was discussed during opposition proceedings and in the appealed decision (see page 13, point 7.5), and given that this line of argument was also mentioned in the statement of grounds of appeal (see page 28), D1 being also referred to in the "Overview over the 39 auxiliary requests of July 28, 2021" annexed to the statement of grounds of appeal.

VI. The Respondent's (Patentee) arguments may be summarized as follows:

The subject-matter of claim 1 is not known from E1 or E1', as these documents at least do not disclose feature 1.8 of claim 1.

The subject-matter of claim 1 is not known from E2, since E2 at least does not disclose features 1.7 and 1.8 of claim 1.

The subject-matter of claim 1 is not known from E3 (or E3'), since E3 at least does not disclose a supporting frame and a first actuator (according to feature group

1.3) and does not disclose a second actuator according to group of features 1.5.

The subject-matter of claim 1 involves an inventive step over E1 in conjunction with common general knowledge, F1 or E2, the skilled person having no incentive and no motivation to modify the apparatus of E1 to implement feature 1.8. In effect, F1 discloses an arrangement comprising struts being independently pivotable relative to each other about a common centre, such a configuration not suggesting and leading to feature 1.8 of claim 1.

The subject-matter of claim 1 is not rendered obvious in view of E2 in conjunction with common general knowledge, or with F1 or E3, the skilled person starting from E2 not being able to arrive at features 1.7, 1.8 in an obvious manner.

The subject-matter of claim 1 is not rendered obvious in view of E4 in conjunction with common general knowledge or F1, or E2, or E3. In particular, E4 does not even disclose any ball joint construction, such that a combination with F1 (or common general knowledge) in order to obtain a concentric double ball joint construction according to feature 1.8 is not rendered obvious for the skilled person.

The line of arguments based on lack of inventive step in view of D1 should not be admitted into the appeal proceedings since it was not substantiated in the statement of grounds of appeal.

The lines of arguments based on E1', E2, E3, E3', E4 and F1 (or at least part of these lines of arguments)

are late filed and should not be admitted into the appeal proceedings.

### **Reasons for the Decision**

1. The appeal is admissible.
  
2. The subject-matter of claim 1 is new over E1 and E1' (belonging to the same patent family as E1), since at least feature 1.8 ("the center or midpoint of the first ball hinge construction (30, 60, 20) and the center or midpoint of the second ball hinge construction (60, 30) substantially coincide, such that the first ball hinge construction and the second ball hinge construction substantially form a double ball hinge construction or a compound ball hinge construction") is not known therefrom (Article 54 EPC).

In particular, figure 5 (as well as figures 1 to 4, 6 belonging to the same embodiment) discloses "a double-ball or double-pivot mounting assembly" (see E1, paragraph [0018]) comprising a mounting arm 30 with ball joint constructions 30b, 30a formed at opposite ends thereof, for mounting to the base portion 28 and to the mirror casing 12, respectively. These ball joint constructions are therefore clearly and unambiguously arranged at a distance (corresponding to said mounting arm's length) such as to form two distinct and separate ball joints or pivot joints, which are not concentric.

The Appellant's allegation that said two ball joint constructions would be implicitly implemented by the

skilled person as "substantially" (i.e. within manufacturing tolerances) concentric ball joints (as required by disputed feature 1.8 of claim 1) manifestly lacks an objective and factual basis in E1. Moreover, E1 fails to disclose any possible actual implementation of such a "substantially" concentric ball joint construction, let alone to give any suggestion in this respect.

Indeed, E1 merely states in paragraph [0031] that "optionally, the mounting assembly may comprise other types of mounting configurations, such as a single-ball or single-pivot mounting configuration or the like, while remaining within the spirit and scope of the present invention".

The same applies for the embodiment of figure 12, to which said paragraph [0031] is actually directly related.

The further embodiment of figures 13 to 17 merely discloses (at least partly) the constructional elements of a further embodiment including a ball joint construction for mounting an extremity of said mounting arm (not shown in figure 13) to said mirror casing 12', wherein a receiving portion (or ball socket) 22b' is provided with a "spring ring or pressure applying element 23'" (see E1, paragraph [0024]) in order "to apply generally even pressure around the ball socket to control the torque/effort required to adjust the mirror casing relative to the ball member of the mounting arm". Thus, said pressure applying element 23' does not constitute (as alleged by the Appellant) a second spherical element of a second ball joint construction, given it being merely a part of a first ball joint construction comprising said ball member and said ball socket 22b'.

Finally, for E1' the same arguments apply as for E1, E1' disclosing in figure 4 a "single-ball or single-pivot mounting assembly" which may be optionally replaced by a "double-ball or double-pivot mounting configuration" (see E1', paragraph [0016]), and disclosing in figure 6 a "double-ball or double-pivot mounting assembly" which may be optionally replaced by a "single-ball or single-pivot mounting configuration" (see E1', paragraph 0038]. Thus in E1', similarly to E1, said "double-ball or double-pivot assembly" comprises two distinct and separate ball hinge constructions, mounted at the extremities of a mounting arm (as illustrated in figure 6), no explicit or implicit disclosure of claimed feature 1.8 being therefore derivable from E1'.

3. The subject-matter of claim 1 is new over E2 (Article 54 EPC), for at least features 1.7 ("the support (6) is mounted movably relative to the supporting frame (3) at least partly with the aid of a second ball hinge construction (60, 30), and") and 1.8 are not known therefrom.

Indeed, the embodiment of figure 8 in E2 merely discloses a single ball hinge construction 13 (see E2, paragraph [0074]) including both pivoting axis 08 and 09 (the same applies for figures 7 and 9).

Dependent claim 12 does in no way alter or change the fact that no second ball hinge construction is explicitly or implicitly disclosed in E2, claim 12 being formulated broadly (see "at least one pivoting connection") in order to cover or encompass the embodiments of figures 1 to 6, generally including pivoting connections 05, 06, 07 ("gelenkige Verbindung"), as well as those of figures 7 to 9,

including a single ball hinge construction. Thus, the skilled person would not implicitly derive from claim 12 any instruction or indication to implement a second ball hinge construction in the embodiment of figure 8, not to mention a double ball or compound ball hinge construction.

4. The subject-matter of claim 1 is new over E3 (or E3'), since E3 at least does not disclose an actuator according to feature group 1.3 ("a first actuator (4) with which the supporting frame (3) is pivotable relative to the base part (2) about a first hinge axis (5) extending in a substantially upward direction between a folded-in position and a folded-out position") or 1.5 ("a second actuator (7) with which the support (6) is pivotable relative to the supporting frame (3), said support (6) being pivotable relative to the supporting frame (3) only about a second hinge axis (8) extending substantially transversely to the substantially upward direction") of claim 1 (Article 54 EPC).

In the Board's view, the term "actuator" has to be understood as a part of a machine or system that moves something or makes something work, not necessarily implying that the movement has to be imparted by a motor or a machine. Even with this broad understanding, an actuator "with which the supporting frame is pivotable relative to the base part" is not derivable from E3.

In effect, based on the assumption (following the Appellant's arguments) that a supporting frame 24 (see E3, figures 1,2; description column 3) is pivotably arranged on a base part 5,7 about a first hinge axis "a" (as required by feature group 1.3), and that a support 2,8,9, is pivotable about a second hinge axis

"b" about said supporting frame 24 (as required by feature group 1.5), it ensues from the overall disclosure of E3 that these pivoting motions are both necessarily produced by direct manual acting (albeit in different ways) on one and the same constructional element 2,8,9 constituting said support and also the mirror casing. Indeed no specific first and second actuators or means are disclosed in E3 for performing said pivoting motions.

Therefore, it can only be concluded that either there are no first and second actuators at all disclosed in E3, or (regarding said mirror casing or support 2,8,9 as an actuator) that merely a single actuator is provided. Thus, in both cases the requirements of feature groups 1.3 and 1.5 are not fulfilled, given that the wording of claim 1 requires at least two distinct and separate actuators.

The Appellant's contention that E3, and particularly e.g. claim 1 of E3 (or E3'), implicitly discloses a first and second actuator is manifestly erroneous, since an implicit disclosure is given only if the disputed feature is derivable in a clear and unambiguous manner from the overall disclosure of a document, which is presently obviously not the case, as said mirror casing acts as the sole actuator apt for performing both said pivoting movements (about the axis "a" and "b").

Finally the Board notes that the question of whether or not said constructional element 24 ("Gleitblock") can rightly be regarded as forming a supporting frame within the meaning of claim 1 (as contended by the Appellant) may be left unanswered, novelty of the claimed subject-matter over E3 being anyway given.

5. The subject-matter of claim 1 (main request) is not rendered obvious in view of E1 in conjunction with common general knowledge, or with F1 or with E2 (Article 56 EPC).

Starting from E1 the skilled person would have no valid reason or motivation for implementing a "double ball hinge construction" as defined in features 1.6 to 1.8 of claim 1. In effect, as abundantly discussed above (see novelty discussion), E1 already provides two alternatives for mounting the mirror casing to the mounting base, namely either by means of a single-ball mounting configuration or by means of a double-ball mounting assembly. These alternatives already provide at least two rotational degrees of freedom and also have a compact configuration and construction (particularly the single-ball mounting configuration), while also allowing a precise orientation and operation of the mirror casing by means of the mounting arm.

Therefore, the skilled person would not be incentivized to replace the ball hinge construction of E1 with a double ball hinge construction as defined in claim 1, which is more complex and less robust, due to the concentric arrangement of two ball hinge assemblies, while not being more compact or precise than the ball joint construction shown in E1 (due to the only "substantially" coinciding centres or midpoints). E1 gives no further suggestions or indications relating to any specific common general knowledge which would lead to disputed feature 1.8 of claim 1.

Further, the technical teaching of F1 would not be implemented in an obvious manner by the skilled person in the device of E1, F1 disclosing essentially a ball

hinge construction allowing to pivotably connect one or more struts ("Streben") in one point, each strut being independently pivotable (rotatable) (with respect to the other struts) about all three directions in space (F1, see "Erläuterung der Erfindung und ein Ausführungsbeispiel"; "Zusammenfassung").

Thus F1 includes more or i.e. redundant degrees of freedom than needed as compared to E1 disclosing only one mounting arm (similarly to claim 1 of the invention), given the independent pivotable motion of each of said struts of F1 about one single pivoting point. Therefore, not only the combination of E1 with F1 would not be obvious for the skilled person, but also the implementation of the technical teaching of F1 in the device of E1 would not obviously and directly lead to the claimed subject-matter, given further steps on the part of the skilled person being needed.

The combination of E1 and E2 would not lead to the claimed subject-matter, particularly to feature 1.8, as it already ensues from the discussion of novelty with respect to E2 (see above) that the skilled person would not implicitly derive from E2 (specifically from E2, the embodiment of figures 7 to 8, and from claim 12) any instruction, indication or suggestion to implement a second ball hinge construction, let alone a double ball or compound ball hinge construction including concentric first and second ball hinge constructions as defined in feature 1.8 of claim 1.

Therefore, it is immaterial whether or not said groups of features 1.3 and 1.5 are regarded as known from E1 and obvious in view of E2.

6. The subject-matter of claim 1 is not rendered obvious in view of E2 in conjunction with common general knowledge, or with F1 or E3 (Article 56 EPC).

E2, similarly to E1, already discloses several alternatives for pivotably mounting a mirror casing to the mounting base in figures 1 to 6 and 7 to 9 (particularly figure 8). The skilled person would have no valid reason or incentive to adopt the technical features 1.7,1.8 in the device of E2 given that (as already mentioned above) E2 does not provide any instruction, indication or suggestion relating to a specific common general knowledge which would lead the skilled person in an obvious manner to said features.

Moreover (analogously to the device of E1 (see above)) it is also questionable whether the alleged advantages concerning compactness and precision (of actuation) would be at all achieved.

Features 1.7, 1.8 are not rendered obvious for the skilled person starting from E2 in view of F1, the same reasons applying here as for the line of arguments considering E1 in conjunction with F1 (see above).

Starting from E2 the skilled person would not arrive in view of E3 in an obvious manner to the subject-matter of claim 1, as E3 discloses a device having an entirely different structure and configuration as compared to E2. Therefore, it would for instance not be obvious for the skilled to install electric actuators (as disclosed in the device of E2) in the ball joint construction disclosed in E3, which is conceived and designed for manual actuation by acting on the mirror casing and also does not provide sufficient space for said installation. In addition, E2 disclosing a ball joint

articulation with only one sliding contact surface (see ball joint 13 in figure 8), it would not be obvious to implement the teaching of E3 (disclosing two sliding contact surfaces; see constructional parts 7, 9, 24 and surfaces defined therebetween) in the device of E2.

7. The subject-matter of claim 1 is not rendered obvious in view of E4 in conjunction with common general knowledge, or F1, E2 or E3 (Article 56 EPC).

E4 differs from claim 1 in that at least features 1.6 to 1.8 are not known from E4, since E4 does not show any ball hinge construction at all, but only two distinct and separate axial bearings with a cylindrical housing H (E4, claim 2, figure 9).

Thus, the skilled person taking E4 as a starting point would not arrive in an obvious manner at the claimed subject-matter, given that a) the axial bearing construction of E4 represents a starting point lying even further away from the claimed subject-matter than the device of E1 and E2; b) the documents or common general knowledge considered for the argumentation are the same as used for the arguments based on lack of inventive step starting from E1 or from E2 (see above).

8. The Board decided to exercise its discretionary power not to admit the line of arguments based on lack of inventive step of the subject-matter of claim 1 of the main request starting from D1 (Article 12(3), (5) RPBA 2020 (Rules of Procedure of the Boards of Appeal version 2020)).

The Board considered that the submissions presented in the statement of grounds of appeal were not sufficiently substantiated such as to provide

sufficient information for the Board and the Respondent to understand the arguments corroborating the Appellant's allegations.

In particular, in the statement of grounds of appeal (dated 9 June 2022) the Appellant only mentioned on page 28 that in the "Overview over the 39 auxiliary requests of July 28, 2021" (annexed to the statement of grounds of appeal) arguments (based inter alia on D1) "are attached herewith to outline our arguments, to be presented in full detail where appropriate". Therefore, said "Overview" includes only an "outline" of said arguments based on D1, and moreover it concerns only some of the auxiliary requests, not the main request, which is under discussion.

For these reasons the Board decided not to admit the objection of lack of inventive step (of the subject-matter of claim 1) starting from D1, given that this line of attack was not at all substantiated in the statement of grounds of appeal.

9. The Board notes that in conclusion it was not necessary to decide on the other admissibility issues raised by the Respondent since the further Appellant's objections contested on the grounds of admissibility by the Respondent already failed on substantive grounds.

## **Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



M. Schalow

V. Vinci

Decision electronically authenticated