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**Datasheet for the decision
of 6 February 2025**

Case Number:	T 2318/22 - 3.5.04
Application Number:	18211094.0
Publication Number:	3487179
IPC:	H04N19/50, H04N19/70, H04N19/46, H04N19/51, H04N19/91, H04N19/18, H04N19/59, H04N19/139, H04N19/176, H04N19/129, H04N19/124, H04N19/136, H04N19/13, H04N19/61
Language of the proceedings:	EN

Title of invention:
CODING OF SIGNIFICANCE MAPS AND TRANSFORM COEFFICIENT BLOCKS

Patent Proprietor:
GE Video Compression, LLC

Opponent:
Unified Patents, LLC

Relevant legal provisions:
EPC Art. 76(1)
RPBA 2020 Art. 13(2)

EPA Form 3030
This datasheet is not part of the Decision
It can be changed at any time and without notice

Keyword:

Main request and auxiliary requests I to V, IX and X - subject-matter extends beyond content of earlier application (yes)
Auxiliary requests VI to VIII - amendment after notification of Art. 15(1) RPBA communication - taken into account (no)

Case Number: T 2318/22 - 3.5.04

D E C I S I O N
of Technical Board of Appeal 3.5.04
of 6 February 2025

Appellant: GE Video Compression, LLC
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Decision under appeal: Interlocutory decision of the Opposition
                              Division of the European Patent Office posted on
                              16 August 2022 concerning maintenance of the
                              European Patent No. 3487179 in amended form.

Composition of the Board:

Chair   B. Willems
Members: F. Sanahuja
               G. Decker

Summary of Facts and Submissions

I.   The present appeals are against the opposition
        division's interlocutory decision dated 16 August 2022
        that, account being taken of the amendments made by the
        patent proprietor during the opposition proceedings,
        European patent No. 3 487 179 and the invention to
        which it relates met the requirements of the EPC
        (Articles 101(3)(a) and 106(2) EPC).

II.   The application underlying the patent was filed as a
        divisional application of European patent application
        No. 18 185 240.1 ("parent application"), which in turn
        is a divisional application of European patent
        application No. 17 177 435.9 ("grandparent
        application"), which in turn is a divisional
        application of European patent application
        No. 11 713 791.9 ("great-grandparent application"). The
        great-grandparent application is a Euro-PCT application
        within the meaning of Article 153(2) EPC. The
        underlying international application was published as
        WO 2011/128303 A2.

III.   In the opposition proceedings, the grounds for
        opposition according to Article 100(a) together with
        Articles 54(1) and 56 EPC, Article 100(b) and
        Article 100(c) EPC were raised.

IV.   In its decision, the opposition division reached the
        following conclusions.

        -   The main request and auxiliary requests I and II
            did not meet the requirements of Article 54 EPC.

- The main request and auxiliary request III did not
  meet the requirements of Article 76(1) EPC.

- Auxiliary request IV vers2 met the requirements of
  the EPC (Article 101(3)(a) EPC).

V.   Both the patent proprietor and the opponent filed
      notice of appeal and a statement of grounds of appeal.

VI.   By a letter dated 22 May 2023, the opponent filed a
      reply to the patent proprietor's statement of grounds
      of appeal.

VII. By a letter dated 22 May 2023, the patent proprietor
      filed a reply to the opponent's statement of grounds of
      appeal and submitted two amended sets of claims
      according to auxiliary requests V and VI.

VIII. By a letter dated 31 October 2023, the opponent filed
      observations on the patent proprietor's submissions
      dated 22 May 2023. The opponent submitted that none of
      the arguments which it had submitted in writing during
      the opposition proceedings had been withdrawn. It
      objected to the admittance of the patent proprietor's
      auxiliary requests V and VI and reasoned that the
      claims of auxiliary requests V and VI did not meet the
      requirements of Articles 76(1), 83, 84, 54 and 56 EPC
      and that the claims of these requests lacked
      entitlement to the claimed priority date.

IX.   The board issued summons to oral proceedings and a
      communication under Article 15(1) RPBA. In this
      communication, the board gave, *inter alia*, the
      preliminary opinion that the main request and auxiliary

requests I to IV did not meet the requirements of
Article 76(1) EPC.

X.   In its letter of reply dated 9 December 2024, the
        opponent argued, *inter alia*, that auxiliary requests V
        and VI filed by the patent proprietor with its letter
        dated 22 May 2023 should not be admitted into the
        proceedings and that the claims of these requests did
        not meet the requirements of Articles 123(2), 76(1),
        84, 54 and 56 EPC.

XI.   In its reply dated 16 December 2024, the patent
        proprietor requested suspension of the appeal
        proceedings in view of pending referral G 1/24. It
        submitted amended claims according to auxiliary
        requests V, VI, VII and VIII and maintained previously
        filed auxiliary requests V and VI as auxiliary
        requests IX and X. It argued, *inter alia*, that the
        claims of all requests met the requirements of
        Articles 76(1) and 123(2) EPC.

XII.   By a communication dated 9 January 2025, the board
        refused the patent proprietor's request for suspension
        of the proceedings.

XIII.   With its reply dated 20 January 2025, the opponent
        requested that auxiliary requests V to VIII not be
        admitted into the appeal proceedings.

XIV.   The patent proprietor's final requests were that the
        appeal proceedings be suspended in view of pending
        referral G 1/24, or that the decision under appeal be
        set aside and the patent be maintained as amended on
        the basis of the claims of the main request or,
        alternatively, one of auxiliary requests I to III filed
        with the statement of grounds of appeal, or, as

auxiliary request IV, that the opponent's appeal be
dismissed, i.e. that the interlocutory decision of the
opposition division of 16 August 2022 be maintained,
i.e. that the patent be maintained on the basis of the
claims of auxiliary request IV vers2 filed during the
oral proceedings before the opposition division, or
that the patent be maintained as amended on the basis
of the claims of one of auxiliary requests V, VI, VII
and VIII filed with the letter dated 16 December 2024,
or that the patent be maintained as amended on the
basis of the claims of one of auxiliary requests IX
and X, which were filed as auxiliary requests V and VI
with the letter dated 22 May 2023. It further requested
that the objections raised by the opponent for the
first time in its statement of grounds of appeal not be
admitted into the proceedings.

The opponent's final requests were that the decision
under appeal be set aside and that the patent be
revoked in its entirety. It further requested that the
patent proprietor's auxiliary requests V to X not be
admitted into the appeal proceedings.

XV.   The features of claim 1 of the **main request** are
        identified as follows:

(a)   "*Apparatus for decoding transform coefficient
        blocks encoded in a data stream, comprising:*
(b)   *a decoder (250) configured to extract, from the
        data stream, for a respective transform
        coefficient block, a significance map indicating
        positions of significant transform coefficients
        within the respective transform coefficient block
        by extracting, by context-adaptively entropy
        decoding, first-type syntax elements and
        second-type syntax elements, wherein the*

*first-type syntax elements are interspersed with
the second-type syntax elements,*

(c) *wherein each of the first-type syntax elements at
least indicates, for a respective position within
the respective transform coefficient block (256),
whether a significant transform coefficient is
present, and wherein each of the second-type
syntax elements at least indicates, for a
respective position within the respective
transform coefficient block (256), whether a
transform coefficient at the associated position
is the last significant transform coefficient
according to a scan order in the respective
transform coefficient block, and*

(d) *the values of the significant transform
coefficients within the respective transform
coefficient block; and*

(e) *an associator (250) configured to associate each
of the first-type syntax elements and each of the
second-type syntax elements to the respective
positions of the respective transform coefficient
block in the scan order,*

(f) *wherein the decoder is configured to use, in
context-adaptively entropy decoding a current
second-type syntax element, a context which is
selected depending on a number of significant
transform coefficients in a predetermined
neighborhood of the current second-type syntax
element."*

XVI. Claim 1 of **auxiliary request I** differs from claim 1 of
the main request in that feature (f) has been amended
as follows (additions underlined and deletions ~~struck
through~~):

(f)   "*wherein the decoder is configured to use, in
      context-adaptively entropy decoding a the~~current~~
      second-type syntax elements, a contexts which
      are~~is~~ individually selected for each of the
      second-type syntax elements depending on a number
      of significant transform coefficients at positions
      at which according to the previously extracted and
      associated first-type syntax elements significant
      transform coefficients are situated and which
      positions are situated in a predetermined
      neighborhood of ~~the~~ a current second-type syntax
      element.*"

XVII.   Claim 1 of **auxiliary request II** differs from claim 1 of
        auxiliary request I in that the following feature has
        been inserted after feature (e):

        (e') "*wherein the decoder is configured to use, in
              context-adaptively entropy decoding the first-type
              syntax elements, contexts which are individually
              selected for each of the first-type syntax
              elements depending on a number of positions at
              which according to the previously extracted and
              associated first-type syntax elements significant
              transform coefficients are situated, in a
              neighborhood of the position with which a current
              first-type syntax element is associated,*"

XVIII. Claim 1 of **auxiliary request III** differs from claim 1
        of auxiliary request I in that the following feature
        has been inserted at the end of the claim:

            "*wherein the predetermined neighborhood is inside
            the transform coefficient block, and wherein the
            transform coefficient block is larger than 8x8*"

XIX.   Claim 1 of **auxiliary request IV** differs from claim 1 of
        auxiliary request II in that the terms "extracting" in
        feature (b), "scan order" in features (c) and (e),
        "associate" in feature (e) and "neighborhood" in
        feature (e') have been amended to "sequentially
        extracting", "predetermined scan order", "sequentially
        associate" and "predetermined neighborhood",
        respectively, and in that the following feature has
        been inserted at the end of the claim:

        "*wherein the predetermined neighborhood of the
        position with which the current first-type syntax
        element is associated and the predetermined
        neighborhood of the current second-type syntax
        element are inside the transform coefficient
        block, and wherein the transform coefficient block
        is larger than 8x8*"

XX.   Claim 1 of **auxiliary request V** differs from claim 1 of
        auxiliary request IV in that the word "then" has been
        inserted at the end of feature (c).

XXI.   Claim 1 of **auxiliary request VI** differs from claim 1 of
        auxiliary request IV in that feature (c) has been
        amended as follows (additions underlined):

        (c) "*wherein each of the first-type syntax elements at
             least indicates, for a respective position within
             the respective transform coefficient block (256),
             whether a significant transform coefficient is
             present, and wherein each of the second-type
             syntax elements at least indicates, for a
             respective position within the respective
             transform coefficient block (256), whether a
             transform coefficient at the associated position
             is the last significant transform coefficient*

according to a scan order in the respective transform coefficient block, wherein the decoder (250) is configured to extract the second-type syntax elements from the data stream between first-type syntax elements indicating that at the respective associated position a significant transform coefficient is situated, and immediately subsequent first-type syntax elements, and then"

XXII.   Claim 1 of **auxiliary request VII** differs from claim 1 of auxiliary request VI in that the following feature has been inserted at the end of feature (f):

"*wherein only positions are counted, at which, according to the previously extracted and associated first-type syntax elements, significant transform coefficients are situated,*"

XXIII. Claim 1 of **auxiliary request VIII** differs from claim 1 of auxiliary request VII in that the following feature has been inserted at the end of feature (e'):

"*wherein only positions are counted, at which, according to the previously extracted and associated first-type syntax elements, significant transform coefficients are situated,*"

XXIV.   Claim 1 of **auxiliary requests IX and X** differs from claim 1 of auxiliary request IV in that the following feature has been inserted at the end of feature (f):

"*wherein only positions are counted, at which, according to the previously extracted and associated first-type syntax elements, significant transform coefficients are situated,*"

Reasons for the Decision

1.   *Main request - content of the divisional application (Article 76(1) EPC)*

1.1   A European divisional application may be filed only in respect of subject-matter which does not extend beyond the content of the earlier application as filed (Article 76(1), second sentence, EPC).

        In the case of a sequence of applications consisting of a root application followed by divisional applications, each divided from its predecessor, it is a necessary and sufficient condition for a divisional application of that sequence to comply with Article 76(1), second sentence, EPC that anything disclosed in that divisional application be directly and unambiguously derivable from what is disclosed in each of the preceding applications as filed (see Case Law of the Boards of Appeal of the European Patent Office, 10th edition, 2022, II.F.2.1.2).

1.2   The opponent argued that claim 1 of the main request did not meet the requirements of Article 76(1) EPC because feature (b) specified that the first-type syntax elements were interspersed with the second-type syntax elements (see section 10.1 of the opponent's statement of grounds of appeal). However, the basis indicated by the patent proprietor on page 17, lines 11 to 14 of the great-grandparent application disclosed second-type syntax elements being interspersed with first-type syntax elements. Claim 3 of the great-grandparent application specified that second-type syntax elements were between first-type syntax elements. Hence, while the description and

claim 3 disclosed second-type syntax elements located between first-type syntax elements, claim 1 of the main request specified the other way round.

The opponent also argued that claim 1 did not specify any particular temporal order between first-type and second-type syntax elements and that, therefore, it did not exclude the second-type syntax element being located before the first-type syntax element in the data stream. Coding the first-type syntax element after the second-type syntax element was technically sensible, even if this might be redundant in some circumstances.

Further, claim 1 did not require that the second-type syntax element be coded only when the first-type syntax element indicated that a significant transform coefficient was coded. The term "interspersed" did not imply that the second-type syntax element was coded only on condition that a significant coefficient was present at the respective position. And nor was this implied by the definition of the second-type syntax element in claim 1.

In addition, claim 9 of the great-grandparent application could not serve as a basis because it did not specify coding the second-type syntax element.

1.3   The patent proprietor argued that interspersing syntax elements of one type with syntax elements of another type resulted only in an alternating sequence of the two types and that it thus made no difference whether first-type syntax elements were interspersed with second-type syntax elements or vice versa (see section I.1(h) of the patent proprietor's letter of 22 May 2023).

Moreover, the wording of claim 1 included an implicit
order. Indicating whether a transform coefficient was
"the last significant transform coefficient" in the
transform coefficient block implied that, at the time
of decoding the second-type syntax element, the decoder
already knew that the transform coefficient at the
respective position was significant, i.e. that the
respective first-type syntax element had been signalled
in the data stream. Thus, the semantics of the
expression "second-type syntax elements" in claim 1
implied that the respective first-type syntax elements
were extracted prior to the second-type syntax elements
(see section 2.1 of the patent proprietor's letter of
16 December 2024). The definition of the second-type
syntax element in claim 1 would not make technical
sense if this element were to be extracted from the
data stream for positions in the transform coefficient
block at which there was no significant coefficient.

Further, if the second-type syntax elements were to be
sent before the first-type syntax elements, it would be
nonsensical to signal the first-type syntax element for
the position at which the last significant coefficient
in the transform coefficient block was coded.

In addition, claim 9 of the great-grandparent
application did not include any interspersing.

1.4   Page 17, lines 11 to 14 of the description of the
        great-grandparent application, which the patent
        proprietor indicated as a basis, discloses coding
        syntax elements last_significant_coeff_flag
        (second-type syntax elements) interspersed with the
        sequence of significant_coeff_flag (first-type syntax

elements) at the positions where the first-type syntax element signals a significant coefficient.

It is apparent from page 17, lines 11 to 21 of the description of the great-grandparent application that it is only when the first-type syntax element signals that a significant transform coefficient is present at a scanning position that the second-type syntax element for this position is coded, i.e. is present in the data stream. The presence of an interspersed second-type syntax element in the data stream at a scanning position is conditional on an immediately preceding first-type syntax element signalling the presence of a significant transform coefficient at the scanning position.

Claim 3 of the great-grandparent application indicates that the second-type syntax elements follow the first-type syntax elements in so far as it specifies "*extract, between first-type syntax elements indicating that at the respective associated position a significant transform coefficient is situated, and immediately subsequent first-type syntax elements, second-type syntax elements ... for the associated positions at which a significant transform coefficient is situated*".

1.5   The board agrees with the opponent that the definition of the second-type syntax element in claim 1 does not imply any particular temporal order or conditional coding. The second-type syntax element only indicates "*whether a transform coefficient at the associated position is the last significant transform coefficient*". It is not apparent from this wording that a first-type syntax element indicating whether a

significant coefficient is present at the associated
position must precede the second-type syntax element.

The patent proprietor's argument that coding the
second-type syntax element before the first-type syntax
element would not make technical sense is not
convincing. Coding the second-type syntax element
before the first-type syntax element may generate
redundant information or be less efficient than coding
the first-type syntax element first and coding the
second-type syntax element only when the first-type
syntax element indicates a significant coefficient at
the corresponding position. However, an inferior coding
efficiency or generating redundant data are not
necessarily suitable criteria for judging whether an
implementation makes technical sense. Irrespective of
the order in which the elements are signalled and
whether the second-type syntax element is only
conditionally coded, the information conveyed by the
first-type and second-type syntax elements is coded in
the data stream and available to the decoder.
Therefore, reading feature (b) in such a way that the
first-type syntax element is included before the
second-type syntax element in the data stream does not
reflect the only technically sensible way of reading
this feature.

1.6   Claim 1 thus encompasses second-type syntax elements
        preceding corresponding first-type syntax elements in
        the data stream. However, the great-grandparent
        application does not provide a direct and unambiguous
        basis for this order (see point 1.4 above).

1.7   In view of the above, claim 1 of the main request does
        not meet the requirements of Article 76(1) EPC.

2.   *Auxiliary requests I to V – content of the divisional
        application (Article 76(1) EPC)*

2.1   Claim 1 of auxiliary requests I to V specifies feature
        (b) in the same way as claim 1 of the main request.

2.2   Neither the patent proprietor nor the opponent
        submitted further comments.

2.3   Consequently, for the same reasons as set out with
        respect to the main request, claim 1 of auxiliary
        requests I to V does not meet the requirements of
        Article 76(1) EPC.

3.   *Auxiliary request VI – admittance (Article 13(2) RPBA)*

3.1   The claims of auxiliary request VI were filed with a
        letter dated 16 December 2024, i.e. after the board's
        communication under Article 15(1) RPBA, and are
        therefore amendments within the meaning of
        Article 13(2) RPBA.

3.2   Under Article 13(2) RPBA, any amendment to a party's
        appeal case after notification of a communication under
        Article 15(1) RPBA is, in principle, not to be taken
        into account unless there are exceptional circumstances
        which have been justified with cogent reasons by the
        party concerned.

        The explanatory remarks on Article 13(2) RPBA contain
        the following guidance: "*The basic principle of the
        third level of the convergent approach is that, at this
        stage of the appeal proceedings, amendments to a
        party's appeal case are not to be taken into
        consideration. However, a limited exception is provided
        for: it requires a party to present compelling reasons*

*which justify clearly why the circumstances leading to
the amendment are indeed exceptional in the particular
appeal ('cogent reasons'). For example, if a party
submits that the Board raised an objection for the
first time in a communication, it must explain
precisely why this objection is new and does not fall
under objections previously raised by the Board or a
party. The Board may decide to admit the amendment in
the exercise of its discretion*" (see Supplementary
publication 2, OJ EPO 2020, explanatory remarks on
Article 13(2), page 60, third paragraph).

3.3   The patent proprietor submitted that the amendments to
        claim 1 of auxiliary request VI had been filed in
        response to, and addressed, the objection under
        Article 76(1) EPC raised for the first time in
        point 2.5 of the board's communication under
        Article 15(1) RPBA and relating to the first-type
        syntax elements being interspersed with the second-type
        syntax elements. This situation constituted exceptional
        circumstances within the meaning of Article 13(2) RPBA.

        The patent proprietor argued that the opponent's
        objection under Article 76(1) EPC was based on the
        order of elements in the claimed feature "*wherein the
        first-type syntax elements are interspersed with the
        second-type syntax element*" differing from the order of
        elements in the phrase "*the significance map coding
        involves a coding of binary syntax elements
        last_significant_coeff_ flag [second-type syntax
        elements] interspersed with the sequence of
        significant_coeff_ flag [first-type syntax elements] at
        the positions thereof*" in the great-grandparent
        application. In contrast, the board had reasoned that
        the phrase "interspersed with" *per se* did not imply any
        particular order of the elements but that the

great-grandparent application did not provide a basis
for any of the orders of the elements specified in
claim 1.

Moreover, the opponent's objection was not
substantiated. The discussion of claim 3 of the
great-grandparent application on page 14 of the
opponent's statement of grounds of appeal did not
suffice to substantiate the objection, and the
submissions on page 53 of the opponent's statement of
grounds of appeal related to a different objection from
that raised by the board in point 2.5 of its
communication under Article 15(1) RPBA.

Further, the patent proprietor stated that, in view of
the large number of objections, it was not appropriate
for it to file requests addressing them all, in
particular if they were not substantiated.

3.4   The opponent submitted that the objection was raised
        and substantiated in point 7.1 of the notice of
        opposition and on pages 14 and 53 of the statement of
        grounds of appeal. With reference to the description
        (page 17, lines 11 to 14) and claim 3 of the
        great-grandparent application, it had disputed, from
        the outset of the opposition proceedings, the existence
        of a basis in the great-grandparent application for
        interspersing the first-type syntax elements with the
        second-type syntax elements.

        Further, the fact that a board arrives at a different
        conclusion from the opposition division could not be
        considered an exceptional circumstance within the
        meaning of Article 13(2) RPBA.

3.5   The board finds that the comments in point 2.5 of its
         communication under Article 15(1) RPBA are a natural
         development of the case which takes account of the
         arguments of both parties and which is not to be
         considered exceptional within the meaning of
         Article 13(2) RPBA.

3.5.1   In the statement of grounds of appeal (see
         section 10.1), the opponent referred to page 17,
         lines 11 to 14 of the description, which the patent
         proprietor had indicated as a basis for the contested
         feature, and to claim 3 of the great-grandparent
         application. It submitted that said passage and claim 3
         of the great-grandparent application disclosed the
         inverse order of elements.

         The board considers that, in the present case, the
         identification of the claimed feature which allegedly
         infringed the requirements of Article 76(1) EPC and the
         explanation as to why the feature was not directly and
         unambiguously derivable from the basis indicated by the
         patent proprietor constitute sufficient substantiation
         of the objection.

3.5.2   In point 2.5 of its communication under Article 15(1)
         RPBA, the board concurred with the opponent that the
         great-grandparent application did not provide a basis
         for second-type syntax elements for a given position
         preceding first-type syntax elements for that position.
         This conclusion was based on page 17, lines 11 to 21 of
         the description and claim 3 of the great-grandparent
         application. The passage of the description corresponds
         to the indicated basis for the contested feature and to
         a subsequent explanation of the interspersing described
         therein.

Therefore, the board relied on substantially the same facts and evidence as those submitted by the opponent.

3.5.3   The board finds that this normal development of a case, based on substantially the same factual and evidentiary framework, does not constitute exceptional circumstances within the meaning of Article 13(2) RPBA that would justify taking into account auxiliary request VI.

3.5.4   Moreover, the board's agreement with one of the opponent's arguments cannot be considered "exceptional circumstances". If exceptional circumstances were to be acknowledged whenever a board agrees with, and further develops, an objection raised by the opponent, the board would be unable to evaluate and comment on the arguments submitted by both parties to come to a balanced and reasoned conclusion without opening the door to the filing of new requests.

3.5.5   The objection was known to the patent proprietor from the outset of the appeal proceedings and this would have provided a sufficient reason for the filing of an amended auxiliary request by the patent proprietor at an early stage to overcome the objection. However, the patent proprietor decided to file such a request only after the board's communication under Article 15(1) RPBA. It is within the patent proprietor's sphere of risk to counter an objection only by way of arguments and to defer the filing of requests addressing the objection to a later stage of the appeal proceedings.

3.6   In view of the above, the board, exercising its discretion under Article 13(2) RPBA, decided not to take into account auxiliary request VI.

4.   *Auxiliary requests VII and VIII – admittance*
        (Article 13(2) RPBA)

4.1   The claims of auxiliary requests VII and VIII were
        filed with a letter dated 16 December 2024, i.e. after
        the board's communication under Article 15(1) RPBA, and
        are therefore amendments within the meaning of
        Article 13(2) RPBA.

4.2   Neither the patent proprietor nor the opponent
        submitted further comments.

4.3   Consequently, for the same reasons as set out with
        respect to auxiliary request VI, the board, exercising
        its discretion under Article 13(2) RPBA, decided not to
        take into account auxiliary requests VII and VIII.

5.   *Auxiliary requests IX and X – content of the divisional*
        application (Article 76(1) EPC)

5.1   Claim 1 of auxiliary requests IX and X specifies
        feature (b) in the same way as claim 1 of the main
        request.

5.2   Neither the patent proprietor nor the opponent
        submitted further comments.

5.3   Consequently, for the same reasons as set out with
        respect to the main request, claim 1 of auxiliary
        requests IX and X does not meet the requirements of
        Article 76(1) EPC.

6.   *Request for suspension of the appeal proceedings*

        The patent proprietor's request for suspension of the
        appeal proceedings in view of pending referral G 1/24

was based on the question of how certain claimed
features were to be interpreted. However, this question
was not relevant to the present decision. Therefore,
any possible outcome of pending referral G 1/24 has no
impact on the case in hand. Consequently, the board
finds that this request is no longer relevant.

7.   *Conclusion*

Claim 1 of the main request and auxiliary requests I
to V, IX and X does not meet the requirements of
Article 76(1) EPC. Auxiliary requests VI to VIII were
not taken into account under Article 13(2) RPBA. Since
none of the patent proprietor's requests is allowable,
the decision under appeal is to be set aside and the
patent is 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 Chair:

K. Boelicke   B. Willems

Decision electronically authenticated