

Internal distribution code:

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

**Datasheet for the decision
of 13 June 2025**

Case Number: T 0195/23 - 3.2.04

Application Number: 13783656.5

Publication Number: 2914137

IPC: A24D3/04

Language of the proceedings: EN

Title of invention:

A FILTER FOR A SMOKING ARTICLE

Patent Proprietor:

British American Tobacco (Investments) Ltd

Opponents:

Philip Morris Products S.A.

JT International S.A.

Headword:

Relevant legal provisions:

EPC Art. 87(1), 56

RPBA 2020 Art. 12(3), 13(1), 13(2)

Keyword:

Priority - (no) - basis in priority document (no)

Inventive step - (no)

Amendment after summons - exceptional circumstances (no) -
taken into account (no)

Amendment to appeal case - amendment to patent - justification
by party (no)

Decisions cited:

Catchword:



Beschwerdekammern
Boards of Appeal
Chambres de recours

Boards of Appeal of the
European Patent Office
Richard-Reitzner-Allee 8
85540 Haar
GERMANY
Tel. +49 (0)89 2399-0

Case Number: T 0195/23 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 13 June 2025

Respondent: British American Tobacco (Investments) Ltd
(Patent Proprietor) Globe House
1 Water Street
London WC2R 3LA (GB)

Representative: Harrison, Philip Mark
Venner Shipley LLP
200 Aldersgate
London EC1A 4HD (GB)

Appellant: Philip Morris Products S.A.
(Opponent 1) Quai Jeanrenaud 3
2000 Neuchâtel (CH)

Representative: HGF
HGF Limited
1 City Walk
Leeds LS11 9DX (GB)

Appellant: JT International S.A.
(Opponent 2) 8 rue Kazem Radjavi
1202 Geneva (CH)

Representative: Bandpay & Greuter
11 rue Christophe Colomb
75008 Paris (FR)

Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
23 November 2022 concerning maintenance of the
European Patent No. 2914137 in amended form.**

Composition of the Board:

Chairman A. Pieracci
Members: C. Kujat
 T. Bokor

Summary of Facts and Submissions

- I. The opponent's appeals are against the interlocutory decision of the opposition division of the European Patent Office concerning the maintenance of the European Patent No. 2 914 137 in amended form pursuant to Articles 101(3)(a) and 106(2) EPC.
- II. The opposition division held that the patent as amended according to Auxiliary Request 3 and the invention to which it related met the requirements of the EPC, having regard to, *inter alia*, the following pieces of evidence:
- D30: WO 2013/000967 A1
D37: D. L. Davis, M. T. Nielsen:
"TOBACCO Production, Chemistry and Technology"
CORESTA, 1999, chapter 11B, pages 352-387
- III. The opponents 1 and 2 as appellants request that the impugned decision be set aside and that the patent be revoked in its entirety. They also request the non-admittance of the patent proprietor's auxiliary requests 4-18 into the proceedings.
- IV. The proprietor also had lodged an appeal against this decision. At the end of the oral proceedings before the board they withdrew their appeal. The proprietor as respondent to the opponent's appeal requests that the patent be maintained on the basis of Auxiliary Request 3 underlying the impugned decision, New Auxiliary Request 4 filed during oral proceedings before the Board, or Auxiliary Requests 5-18 re-filed with their grounds of appeal.

V. In preparation for oral proceedings the Board issued a communication pursuant to Article 15(1) RPBA setting out its provisional opinion on the relevant issues. Oral proceedings were duly held on 13 June 2025 in the presence of the proprietor and opponents 1 and 2.

VI. Independent claim 1 of the requests read as follows:

Auxiliary Request 3

Claim 1 is as granted but with the following amendments (additions highlighted by the Board):

"A filter (4, 24, 44, 64, 84) for a smoking article (1, 21, 41, 61, 81) comprising:

a first discrete filter section (6, 26, 46, 66, 86) comprising filter material (7, 27, 47, 67,87) and a smoke modifying additive disposed in an axial region thereof, the first discrete filter section being wrapped in a first plug wrap; and

a second discrete filter section (10, 30, 50, 70, 90) connected to said first filter section, the second filter section comprising filter material (11, 31, 51, 71, 91) and at least one channel (12, 32, 52, 72, 92) located in an axial region of the filter material, for directing smoke, in use, through the axial region of the first filter section in which the smoke modifying additive is disposed, wherein the smoke modifying additive is disposed only in said axial region of the filter material (7, 27, 47, 67,87) of the first filter section (6, 26, 46, 66, 86) or in a greater concentration in said axial region than in non-axial regions of the filter material of the first filter section, wherein the second filter section (10, 30, 50, 70, 90) is configured, in use, to direct a greater

portion of smoke through the axial region of the first filter section than through non-axial regions of the first filter section, and wherein the second discrete filter section is a tubular filter section formed from cellulose acetate tow and wrapped in a second plug wrap;

wherein the second filter section (10, 30, 50, 70, 90) is connected to said first filter section (6, 26, 46, 66, 86) so as to make the second filter section immediately downstream of said first filter section when incorporated into a smoking article, and wherein the smoke modifying additive comprises an encapsulated additive or wherein the smoke modifying additive is disposed on a carrier material (28, 88) and wherein the carrier material (28, 88) comprises a thread."

New Auxiliary Request 4

Claim 1 is as claim 1 for Auxiliary Request 3 but with the following amendment (deletion highlighted by the Board):

"... wherein the smoke modifying additive is disposed ~~only in said axial region of the filter material (7, 27, 47, 67, 87) of the first filter section (6, 26, 46, 66, 86) or~~ in a greater concentration in said axial region than in non-axial regions of the filter material of the first filter section, wherein the second filter section (10, 30, 50, 70, 90) is configured, in use..."

Auxiliary Requests 5 and 13

Claim 1 is as claim 1 for Auxiliary Request 3 but with the following amendments (additions and deletion highlighted by the Board):

"A smoking article (1, 21, 41, 61, 81) comprising a filter (4, 24, 44, 64, 84), the filter comprising: a first discrete filter section (6, 26, 46, 66, 86) comprising filter material (7, 27, 47, 67, 87) and a smoke modifying additive disposed in an axial region thereof, the first discrete filter section being wrapped in a first plug wrap, wherein the axial region of the filter material of the first filter section is centred on the axis of the smoking article and has a radius of 2.5mm; and ... wherein the second filter section (10, 30, 50, 70, 90) is connected to said first filter section (6, 26, 46, 66, 86) so as to make the second filter section immediately downstream of said first filter section ~~when incorporated into a smoking article,~~ and wherein the smoke modifying additive comprises an encapsulated additive or wherein the smoke modifying additive is disposed on a carrier material (28, 88) and wherein the carrier material (28, 88) comprises a thread."

Auxiliary Requests 6 and 14

Claim 1 is as claim 1 for Auxiliary Request 5 but with the following amendments (addition and deletion highlighted by the Board):

"... wherein the axial region of the filter material of the first filter section is centred on the axis of the smoking article and has a radius of ~~2.5mm~~ 3mm; and..."

Auxiliary Requests 7 and 15

Claim 1 is as claim 1 for Auxiliary Request 6 but with the following amendment (highlighted by the Board):

"A smoking article (1, 21, 41, 61, 81) which is a heat-not-burn product, the smoking article comprising a filter (4, 24, 44, 64, 84), the filter comprising:..."

Auxiliary Requests 8 and 16

Claim 1 is as claim 1 for Auxiliary Request 7 but with the following features added at the end of the claim:

"wherein the smoke modifying additive is contained within a capsule (8, 48, 68) which is located within the first filter section (6, 46, 66) at a position other than a longitudinally central position within the first filter section (6, 46, 66) or wherein the smoke modifying additive is disposed on a carrier material (28, 88) and wherein the carrier material (28, 88) comprises a thread formed from cotton or cellulose acetate fibres and loaded with between 0.2 and 2mg of flavourant."

Auxiliary Requests 9 and 17

Claim 1 is as claim 1 for Auxiliary Request 7 but with the following feature added at the end of the claim:

"wherein the smoke modifying additive is contained within a capsule (8, 48, 68) which is located within the first filter section (6, 46, 66) at a position other than a longitudinally central position within the first filter section (6, 46, 66)."

Auxiliary Requests 10 and 18

Claim 1 is as claim 1 for Auxiliary Request 7 but with the following feature added at the end of the claim:
"wherein the smoke modifying additive is disposed on a carrier material (28, 88) and wherein the carrier material (28, 88) comprises a thread formed from cotton or cellulose acetate fibres and loaded with between 0.2 and 2mg of flavourant."

Auxiliary Request 11

Claim 1 is as claim 1 for Auxiliary Request 3.

Auxiliary Request 12

Claim 1 is as claim 1 for Auxiliary Request 3 but with the following amendments (addition and deletion highlighted by the Board):

"A smoking article (1, 21, 41, 61, 81) comprising a filter (4, 24, 44, 64, 84) for a smoking article (1, 21, 41, 61, 81), the filter comprising:..."

VII. The relevant submissions of the parties are discussed in detail in the reasons for the decision.

Reasons for the Decision

1. *Validity of the priority claim*

1.1 The opponents dispute the decision's finding that the priority claim is valid, see paragraph 7 of the impugned decision. In particular, they challenge the validity of the priority claim for the alternative "wherein the smoke modifying additive is disposed only in said axial region of the filter material of the first filter section" in the feature directed to the location of the smoke modifying article in claim 1 of Auxiliary Request 3.

1.2 The Board concurs with the proprietor that the drawings in the priority document (PCT/GB/2013/052813) are specifically intended to show the location of the smoke modifying additive, see page 5, second paragraph of their reply of 22 August 2023. In fact, figures 1-5 of the priority document depict various types of additive located in the central region of a filter section. For example, in figures 1 and 4, a capsule is located in an axial region of a first filter section, see page 5, lines 28 and 29 of the priority document. In figures 2 and 5, the absorbent material has an additive carrying thread disposed therein in an axial region, see page 7, lines 19 and 20, or page 10, lines 21 and 22. In figure 3, the absorbent material 47 has a plurality of microcapsules disposed therein in an axial region thereof, see page 8, lines 21 and 22. However, none of these passages contains a statement to the effect that the depicted smoke modifying additive is the only additive in the filter. In the Board 's view, these drawings therefore can only serve as a basis for a positive feature directed to the presence of such

additive in a central region of the filter. Such a positive feature does not rule out the presence of some further, non-depicted additive in another region of the filter.

- 1.3 In contrast to that, the Board construes the feature "only in the axial region" as a negative feature which is directed to the absence of any smoke modifying additive from other regions of the filter, e.g. its peripheral region. In accordance with established jurisprudence, see Case Law of the Board s of Appeal of the European Patent Office ("CLBA"), 10th edition 2022, II.E.1.13.3, a negative feature, i.e. the absence of not depicted elements, usually cannot be derived from drawings. This is aggravated in the present case by the disclosure in the priority document, which explicitly states that there can be additive - though at a lower concentration - in non-axial regions of the filter, see page 1, lines 31 and 32 or claim 6. In the light of this explicit disclosure in the priority document which does not contradict the drawings and the corresponding explanations to the drawings in the description, the respondent's argument that the skilled person would interpret the drawings as such, rather than entertaining the notion that they omit to illustrate some smoke modifying additive (see page 5, second paragraph of their reply of 22 August 2023), does not convince the Board. As a consequence, the Board does not consider the feature directed to the the smoke modifying additive being disposed **only** in the axial region of the first filter section to be an implicit feature of the priority document. Claim 1 of Auxiliary Request 3 therefore cannot validly claim priority.

- 1.4 A feature directed to the smoke modifying additive being only present in an axial region of the filter is disclosed in the application as filed, see claim 1. As a consequence of the invalid priority claim, the effective priority date of claim 1 of Auxiliary Request 3 is the filing date of the application underlying the patent in suit. Document D30 was published before the filing date and therefore belongs to the state of the art under Article 54(2) EPC.
- 1.5 Independent claim 1 of Auxiliary Requests 5 to 18 also contains the alternative "wherein the smoke modifying additive is disposed only in said axial region of the filter material of the first filter section". The above conclusions therefore apply to these requests *mutatis mutandis*.
2. *Auxiliary Request 3 - Inventive step*
 - 2.1 The appellants challenge inventive step of the subject-matter of claim 1 of the Auxiliary Request 3 starting from document D30.
 - 2.2 Document D30 discloses a smoking article 10 with a filter 20. The filter comprises a cylindrical filtration region 21 and tubular filtration region 22. Tubular filtration region 22 is divided into an upstream portion 22A close to filtration region 21 and a downstream region 22B at the bucal end 11 of the smoking article, see page 7, lines 8 to 11 in combination with figure 11. A filter insert unit 30 comprising tobacco and a flavourant is inserted into tubular filtration region 22, see page 9, lines 24 to 26 of the document. Upon insertion, it is pushed into upstream section 22A, while downstream section 22B acts

as retaining means for the filter insert unit, see page 14, lines 4 to 14. The cylindrical filtration unit 21 and tubular filtration unit 22 , i.e. upstream portion 22A and downstream portion 22B, are jointly wrapped in plugwrap 23. Plugwrap 23 is surrounded by tipping paper 24 for attaching the filter to a tobacco rod, see figure 11 and page 7, lines 30 to 33 of D30.

2.3 It is common ground that the bucal end of downstream section 22B contains a hollow, empty channel after insertion of the filter insert unit 30, see the respondent's reference to a smaller diameter of the downstream portion 22B compared to portion 22A on page 9, second paragraph of their reply of 24 January 2024. The Board agrees, because D30 explicitly states that the downstream portion 22B may act as a lip in a similar fashion to the lip 35 of figure 10, and that the filter insert unit 30 may be pushed past the lip 35 upon insertion, see page 9, lines 5, 13 and 14 of D30. Therefore, a substantial part - if not all - of tubular downstream section 22B towards the bucal end of the smoking article remains empty after insertion of filter insert unit 30.

2.4 In order to establish the distinguishing features of claim 1 of Auxiliary Request 3 over document D30 the Board must examine whether document D30 also discloses that the second filter section 22B is configured, in use, to direct a greater portion of smoke through the axial region of the first filter section 22A than through non-axial regions of the first filter section. This is contested by the respondent, see page 9, second paragraph of their reply of 24 January 2024. As this feature is directed to the configuration of the second filter section, i.e. hollow downstream portion 22B in document D30, it must be assessed independently from

the structure of upstream portion 22A, and particularly from its material properties such as the densities of certain elements therein. The patent in suit attributes the claimed effect of directing a greater portion of smoke to the presence of a hollow passageway in the second filter section, see paragraph 0006 and claim 3. As the centre of hollow downstream portion 22B is empty, this effect inevitable occurs also in the filter disclosed in document D30. It is therefore immaterial whether the tubular region 22, and particularly its upstream portion 22A has a lower density than filter insert 30, as argued by the respondent in the last paragraph on page 9 of their reply of 24 January 2024. That notwithstanding, the Board is not convinced by this argument, because the very reason for providing filter insert unit 30 in document D30 is customization of the smoke profile by means of the smoke modifying substance in filter insert unit 30. It is therefore not credible that only a smaller portion of smoke should be directed through filter insert unit 30 in the axial region of upstream filter segment 22A.

- 2.5 It can be left undecided whether the tipping paper may also be considered a plugwrap such that there are two plugwraps, which could be assigned to upstream portion 22A or downstream portion 22B as first or second plug wraps, respectively.
- 2.6 Thus the only distinguishing feature in claim 1 of Auxiliary Request 3 that may remain is that each filter section 22A, 22B is wrapped in its own plug wrap. As the patent in suit is silent on the technical effect of that feature, the objective technical problem may be formulated as providing an alternative configuration of the filter. The solution, individual plug wraps for each filter section 22A, 22B, is known in the art of

smoking articles, see figure 11.7 on page 365 of the text book D37 which discloses a dual filter arrangement where two filters are each surrounded by individual plugwraps and then joined by a combination wrap.

2.7 For these reasons, the subject-matter of claim 1 of Auxiliary Request 3 does not involve an inventive step over a combination of D30 and D37, Article 56 EPC.

3. *New Auxiliary Request 4*

3.1 During the oral proceedings before the Board, the respondent filed New Auxiliary Request 4. Claim 1 of that request differs from Auxiliary Request 3 in that the alternative that the smoke modifying additive is disposed only in said axial region of the filter material of the first filter section has been deleted. The respondent justified the late filing of this request with the Board's negative conclusions on the priority claim and on inventive step for that alternative.

3.2 Pursuant to Article 13(2) RPBA, an amendment to a party's appeal case after notification of a summons to oral proceedings shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons. In the present case, the respondent conceded during the oral proceedings that the Board's negative conclusions on the priority claim and on inventive step are in line with its preliminary opinion in the communication pursuant to Article 15(1) RPBA. Further, in accordance with established jurisprudence, see CLBA, V.A.4.5.6 c) where all objections addressed in a board's communication had already been raised earlier on in the proceedings, the communication cannot be regarded as

creating exceptional circumstances within the meaning of Article 13(2) RPBA. In the present case, the objection against the validity of the priority claim and inventive step starting from D30 had already been set out in detail in items 19 to 43 of the appellant opponent 1's statement of grounds of appeal, as well as in paragraph 7 of the appellant opponent 2's statement of grounds of appeal. Further, objections against inventive step starting from D30 were raised in items 123 to 131 of the appellant opponent 1's statement of grounds of appeal, as well as in paragraph 10.9 of the appellant opponent 2's statement of grounds of appeal. The Board thus concludes that the respondent proprietor had already had ample opportunity before the notification of the summons to oral proceedings to respond to these existing objections by filing precautionary auxiliary requests. In addition to that, and also in accordance with established jurisprudence, see CLBA, V.A.4.5.6 h), it is irrelevant for the purposes of Article 13(2) RPBA whether the opinion in the Board's communication (in the present case, that on validity of the priority claim) differs from the contested decision (which confirmed the priority claim), because the very purpose of appeal proceedings is to review the contested decision.

3.3 For these reasons, the Board decided not to admit the New Auxiliary Request 4, Article 13 (2) RPBA.

4. *Auxiliary Requests 5-18*

4.1 With their statement of grounds of appeal, the patent proprietor had re-filed *inter alia* Auxiliary Requests 5 to 18. While the statement of grounds of appeal contained a table with a summary of the auxiliary requests and their relation with the requests as filed

during opposition proceedings, see pages 3 to 7, these requests were not substantiated in the statement of grounds of appeal. Instead, the substantiation was only filed with the patent proprietor's letter of 24 January 2024, see pages 17 to 21.

- 4.2 In accordance with established jurisprudence, see CLBA, V.A.4.2.2 i), Article 12(3) RPBA requires that the parties to appeal proceedings set out their complete case in their initial submissions, i.e. in their statement of grounds of appeal and in the reply thereto. In the present case, the patent proprietor had filed a timely reply to the opponent's statements of ground of appeal with their letter of 22 August 2023. The patent proprietor also did not dispute that their letter of 24 January 2024 was no longer a reply to the opponents' statements of grounds of appeal within the meaning of Article 12(3) RPBA.
- 4.3 The Board emphasizes that with respect to the filing of a new set of claims, in the case in hand, Auxiliary Requests 5 to 18 on which the opposition division did not decide in the impugned decision, it is necessary to explicitly state why the amendments in these requests overcome the objections which are raised by the opponents.
- 4.4 Such lower-ranking requests will be necessary if the higher-ranking requests fail. Accordingly, when the claims deemed allowable by the Opposition Division are deemed not allowable by the Board, it will be the patent proprietor who must formally request that the impugned decision be set aside and the patent maintained in a version different from the one upheld. In this case, therefore, it is primarily the patent proprietor who must provide arguments as to why the

lower-ranking requests may still be patentable, in order to counter the opponents' usual request for revocation as an automatic consequence of the upheld request lacking patentability. As the lower-ranking requests have not been examined by the Opposition Division, there is no initial assumption that they are patentable (in this case, the onus would be on the opponent to prove otherwise).

- 4.5 In the present case, the appellant opponents in their respective statements of grounds of appeal contest the positive conclusion of the impugned decision on inventive step for the higher ranking Auxiliary Request 3, see the objection starting from document D30 in items 123 to 131 of the appellant opponent 1's statement of grounds of appeal, as well as in paragraph 10.9 of the appellant opponent 2's statement of grounds of appeal. Unless the purpose of the amendments in respect of overcoming an objection was self-explanatory, if reasons explaining why the new claims overcome an outstanding objection are filed after the statement of grounds of appeal or the reply, as in the present case with the further reply of 24 January 2024, these reasons constitute an amendment to the respondent proprietor's appeal case. In the case in hand, the amendments in Auxiliary Requests 5 to 18 are not self-explanatory in the sense that the Board could understand without further investigation why these requests overcome the objection against inventive step starting from document D30, nor this has been argued by the respondent proprietor. Therefore, in line with established jurisprudence of the boards, Auxiliary Requests 5 to 18 became effective only at the date on which they were substantiated, i.e. on 24 January 2024. Thus these requests are amendments to the respondent

proprietor's appeal case within the meaning of Article 13(1) RPBA.

- 4.6 Pursuant to Article 13(1) RPBA, any amendment to a party's appeal case after it has filed its reply is subject to the party's justification for its amendment and may be admitted only at the discretion of the Board. The Board shall exercise its discretion in view of, *inter alia*, in the case of an amendment to a patent application or patent, whether the party has demonstrated that any such amendment, *prima facie*, overcomes the issues raised by another party in the appeal proceedings.
- 4.6.1 The respondent proprietor argues that the amendment to claim 1 of Auxiliary Requests 5 and 6 further distinguish the claim from document D30, see the penultimate paragraph on page 18 or the second paragraph on page 19 of their reply of 24 January 2024. The Board understands this argument in the sense that the amendment renders the subject-matter of these claims "more novel". However, as novelty is a necessary but not a sufficient condition for the presence of inventive step, this does not suffice to demonstrate that the amendment *prima facie* overcomes the objection of lack of inventive step raised by the appellants against claim 1 Auxiliary Request 3.
- 4.6.2 In relation to auxiliary request 7 the respondent argues that the person skilled in the art would not implement the smoking article of D30 in the form of a heat-not-burn product "in addition to arriving at all the remaining features of claim 1", see the last paragraph at page 19 of their reply of 24 January 2024. Since this allegation remains unsubstantiated it does not convince the Board that the objection of lack of

inventive step for auxiliary request 3 is prima facie overcome.

- 4.6.3 With regard to the amendments in Auxiliary Requests 8 to 10, the respondent argues that the skilled person from the starting point of D30 would need to make a further adaptation which they would not do, see the penultimate paragraph on page 20 of their reply of 24 January 2024. In the Board's view, this is not an explanation, but a mere allegation, which does not suffice to demonstrate that the amendment prima facie overcomes the objection of lack of inventive step raised against claim 1 Auxiliary Request 3.
- 4.6.4 With regard to the amendments in Auxiliary Requests 11 to 18, the respondent refers to their arguments for Auxiliary Requests 3 to 10. The Board's argumentation in the above two paragraphs therefore applies to these requests *mutatis mutandis*. For auxiliary request 12, reference is made by the respondent to the arguments in favour of auxiliary request 4 filed with the grounds of appeal, for which however no indication is given as to why the objection of lack of inventive step starting from D30 against auxiliary request 3 should be overcome, see the last paragraph at page 16 of the respondent's reply of 24 January 2024. The Board is thus not convinced that auxiliary request 12 prima facie overcomes the objection of lack of inventive step raised by the appellants against claim 1 of Auxiliary Request 3.

- 4.7 Summarizing the above, the respondent proprietor did not demonstrate that the amendments in Auxiliary Requests 5 to 18 prima facie overcome the objection against inventive step starting from document D30. The Board therefore decided not to admit these requests into the appeal proceedings, Article 13 (1) RPBA.
5. In conclusion, the Board holds that the application underlying the patent in suit was not filed in respect of the same invention for the alternative "wherein the smoke modifying additive is disposed only in said axial region of the filter material of the first filter section" of claim 1 of Auxiliary Request 3, and thus, the patent proprietor shall not enjoy a right of priority for this alternative. As a consequence, document D30 belongs to the prior art under Article 54(2) EPC for this alternative. Further, the subject-matter of claim 1 of Auxiliary Request 3 does not involve an inventive step, Article 56 EPC, and thus, the impugned decision must be set aside. Furthermore, New Auxiliary Request 4 and Auxiliary Requests 5 to 18 were not admitted into the proceedings, Articles 13 (2) and 13 (1) RPBA.
6. Since all requests fail, the patent must be revoked.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



G. Magouliotis

A. Pieracci

Decision electronically authenticated