

**Internal distribution code:**

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

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

**Case Number:** T 1159/23 - 3.4.02

**Application Number:** 19200884.5

**Publication Number:** 3633341

**IPC:** G01M1/22

**Language of the proceedings:** EN

**Title of invention:**

Balancing device and process for a rotating body

**Applicant:**

Balance Systems S.r.L.

**Relevant legal provisions:**

EPC Art. 108

EPC R. 99(2), 101(1)

**Keyword:**

Inadmissibility of appeal - Statement of grounds - Sole ground  
for refusal not addressed



**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 1159/23 - 3.4.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.02**  
**of 6 June 2025**

**Appellant:** Balance Systems S.r.L.  
(Applicant) Viale Cassiodoro 3  
20145 Milano (IT)

**Representative:** Lunati & Mazzoni S.r.L.  
Via Carlo Pisacane, 36  
20129 Milano (IT)

**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 17 January 2023  
refusing European patent application  
No. 19200884.5 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** G. Decker  
**Members:** C.D. Vassoille  
H. Bronold

## **Summary of Facts and Submissions**

- I. The appeal of the appellant lies against the decision of the examining division refusing European patent application no. 19 200 884.5.
- II. The examining division concluded in the decision under appeal that the subject-matter of claim 1 of the sole request then on file did not meet the requirements of Article 84 EPC.
- III. With the statement setting out the grounds of appeal, the appellant filed a set of new claims 1 to 7. The appellant requested in writing that the decision under appeal be set aside and that a patent be granted on the basis of the new set of claims.
- IV. In a communication under Article 15(1) RPBA, annexed to the summons to oral proceedings, the Board informed the appellant that it was inclined to reject the appeal as inadmissible pursuant to Rule 101(1) EPC, due to a failure to address the sole ground for refusal in the statement of grounds of appeal.
- V. Oral proceedings before the Board were held on 6 June 2025 in the format of a videoconference. As indicated in the appellant's letter dated 5 June 2025, no one was present on behalf of the appellant.

## **Reasons for the Decision**

### **Inadmissibility of the appeal (Article 108 EPC, Rule 99(2) and 101(1) EPC)**

1. According to Rule 99(2) EPC, the appellant shall indicate in the statement of grounds of appeal the reasons for setting aside the contested decision, or the extent to which it is to be amended, and the facts and evidence on which the appeal is based. Furthermore, according to Rule 101(1) EPC, the Board shall reject the appeal as inadmissible, if the appeal does not comply with Rule 99(2) EPC, unless any deficiency has been remedied before the relevant period under Article 108 EPC has expired.
2. According to the settled case law of the Boards of Appeal, the statement setting out the grounds of appeal has to deal with all the main reasons for the contested decision in order to be considered sufficient for the purposes of admitting an appeal (see Case Law of the Boards of Appeal, 10th edition 2022, V.A.2.6.3.c)).
3. In the present case, the statement of grounds of appeal fails to explicitly or implicitly address the sole ground for refusal under Article 84 EPC as discussed in the decision under appeal. Instead, the statement of grounds of appeal focuses solely on arguments concerning the allowability of the amendments under Article 123(2) EPC and the appellant's view that the subject-matter of claim 1 involves an inventive step within the meaning of Article 56 EPC.
4. Furthermore, the appellant has filed new claims with the statement of grounds of appeal. However, it is not

apparent, nor has the appellant argued, that the amended claims overcome the ground for refusal under Article 84 EPC.

5. The Board recognises that the appellant has deleted the partial feature "perpendicular to said balancing axis (3a)" in independent claims 1 and 6 of the new set of claims. However, it is clear that the examining division's objection under Article 84 EPC related more generally to the fact that claim 1 defines a selection of vibratory stresses based on the position of the device. This definition was considered to be technically impossible by the examining division, since the device itself contains the acquisition means (2), the balancing means (3) and the processing means (5) (see paragraph 5 of the grounds of the contested decision).
6. The new claims do not overcome this objection (thereby implicitly addressing the ground for the decision), because they still contain a reference to the positions of the device selecting said vibratory stresses. In conclusion, it is not clear from the statement setting out the grounds of appeal on what reasons the appellant is seeking to set aside the decision under appeal, contrary to the requirement of Rule 99(2) EPC.
7. In the absence of any submission from the appellant in this regard, the appeal must be rejected as inadmissible in accordance with Rule 101(1) EPC.

**Order**

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

The appeal is rejected as inadmissible.

The Registrar:

The Chairman:



L. Gabor

G. Decker

Decision electronically authenticated