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Datasheet for the decision of 25 September 2025

Case Number: T 2010/23 - 3.3.02

Application Number: 17187192.4

Publication Number: 3447098

IPC: C09D11/322, B44F9/02, C09D11/324, C09D11/40

Language of the proceedings: EN

Title of invention:
AQUEOUS INKJET INK SETS AND INKJET PRINTING METHODS

Patent Proprietor:
AGFA NV

Opponent:
Arcolor AG

Relevant legal provisions:
EPC Art. 56
RPBA Art. 12(4)

Keyword:
Inventive step - (no)

Decisions cited:
G 0007/93, T 1570/20

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Case Number: T 2010/23 - 3.3.02

D E C I S I O N
of Technical Board of Appeal 3.3.02
of 25 September 2025

Appellant: (Patent Proprietor)	AGFA NV Septestraat 27 2640 Mortsel (BE)
Representative:	Strijckers, Hans Louis P. AGFA NV Intellectual Property Department Septestraat 27 2640 Mortsel (BE)
Respondent: (Opponent)	Arcolor AG Urnäscherstrasse 50 9104 Waldstatt (CH)
Representative:	Hepp Wenger Ryffel AG Friedtalweg 5 9500 Wil (CH)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 24 October 2023 revoking European patent No. 3447098 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	M. O. Müller
Members:	P. O'Sullivan
	R. Romandini

Summary of Facts and Submissions

I. The appeal of the patent proprietor (hereinafter appellant) lies from the decision of the opposition division according to which European patent 3 447 098 was revoked.

II. An opposition was filed *inter alia* on the grounds for opposition under Article 100(a) EPC in combination with Articles 54 and 56 EPC.

III. The following documents *inter alia* were submitted during opposition proceedings:

D7 Order number 0002161938
D8 "Produktions - Versandliste"
D9 Invoice number 8000005636
D10 Dispatch invoice 4000005261
D25 EP 2 865 528 A1
D34 Declaration of Klaus Breuer dated 15 October 2018

IV. According to the contested decision, claim 1 of the main request (patent as granted) was novel over the prior use represented by documents D7 to D15. Inventive step starting from the prior use as closest prior art was denied. Claim 1 of auxiliary requests 1 and 2 lacked inventive step for the same reason as claim 1 of the main request. Claim 1 of auxiliary request 3 also lacked inventive step over the prior use. The set of claims of auxiliary request 4 was not admitted into the proceedings.

V. With the grounds of appeal the appellant submitted the following document:

D56: Experimental report

VI. With the reply to the grounds of appeal the opponent (hereinafter respondent) submitted the following document:

D57: Magdassi: The chemistry of inkjet inks, 2010, 22-31

VII. In a communication pursuant to Article 15(1) RPBA, the board provided its preliminary considerations.

VIII. Oral proceedings by videoconference took place as scheduled on 25 September 2025 in the presence of both parties.

IX. Requests

The appellant requested that the contested decision be set aside and that the patent be maintained on the basis of the main request (patent as granted), or alternatively on the basis of one of the sets of claims of auxiliary requests 1 to 6, of which auxiliary requests 1 to 4 were submitted during opposition proceedings, and auxiliary requests 5 and 6 were submitted with the appellant's grounds of appeal.

The respondent (opponent) requested that the appeal be dismissed, implying that the revocation of the patent become final.

The respondent also requested that auxiliary requests 4 to 6 not be admitted into appeal proceedings.

X. For the relevant party submissions, reference is made to the reasons for the decision set out below.

Reasons for the Decision

Main request (patent as granted) - Inventive step, Articles 100(a) and 56 EPC

1. The patent relates to aqueous inkjet inks and inkjet printing therewith for manufacturing decorative panels, such as flooring, kitchen, furniture and wall panels (paragraph [0001]).

1.1 Claim 1 of the main request reads as follows:

"*A pigmented aqueous inkjet ink set for manufacturing decorative panels comprising:*

a) optionally a cyan aqueous inkjet ink containing a copper phthalocyanine pigment;

b) a red aqueous inkjet ink containing a red pigment selected from the group consisting of C.I. Pigment Red 254, C.I. Pigment Red 176 and mixed crystals thereof;

c) a yellow aqueous inkjet ink containing a pigment C.I Pigment Yellow 150 or a mixed crystal thereof; and

d) a black aqueous inkjet ink containing a carbon black pigment; wherein the aqueous inkjet inks contain a surfactant."

1.2 According to the contested decision, the subject-matter of claim 1 of the main request was novel over the public prior use represented by documents D7 to D15, denoted as "prior use 1" by the appellant, hereinafter referred to simply as "the prior use". In particular, the opposition division concluded that although the prior use disclosed inks b), c) and d) of claim 1 (ink a) being optional and therefore not a requirement of claim 1), it failed to disclose the individual inks as part of an ink set as required by claim 1, line 1 (decision page 6, fourth paragraph).

1.3 The opposition division decided that the subject-matter of claim 1 lacked inventive step starting from the prior use. This conclusion was challenged by the appellant in appeal.

1.4 The public prior use represented by documents D7 to D15 concerns the sale of certain inks from the respondent (Arcolor AG) to the company Schattdecor. These inks are included among those listed in order forms and associated bills D7 to D10. D12 to D15 provide information on the nature of the inks listed in D7 to D10.

2. Closest prior art - Suitability of the prior use as starting point in the assessment of inventive step

2.1 The appellant contested the suitability of the public prior as a starting disclosure in the assessment of inventive step on the basis that the selection of inks made by Schattdecor as represented by D7 to D10 was part of its in-house process and did not represent information which had been made available to the public in the sense of Article 54(2) EPC.

2.2 Invoice D9 discloses a list of inks ordered by Schattdecor, and comprises all of the information comprised within documents D7 to D10 forming the basis for the respondent's objection based on the public prior use. D9 also formed the basis for the discussions on the disclosure of the prior use during oral proceedings before the board. Henceforth, in the interest of simplicity, the board refers exclusively to D9 in the context of the issue of public availability.

2.3 The appellant argued that D9 had not been made available to the public before the priority date of the patent, and that as a consequence, the public prior use was not a suitable starting point in the assessment of inventive step. Specifically, it argued that it was reasonable to infer the existence of an implicit confidentiality agreement between the seller, Arcolor, and the purchaser Schattdecor. In particular, the limited amount of the respective inks purchased according to D9 (6 kg) indicated that they were not intended for commercial large-scale use, but were rather intended for testing purposes. Furthermore, for the seller, there was the prospect of securing a new customer, and hence an interest for both parties in maintaining confidentiality. Document D34f, a press release referring to new Schattdecor products, was indicative of the commercial interest involved.

2.4 The board does not find the appellant's arguments convincing, in particular in view of declaration D34 dated 15 October 2018 and bearing the signature of Mr Klaus Breuer, an employee of Schattdecor. In the declaration, Mr Breuer explicitly states that the "invoice number 8000005636", which corresponds to D9, concerned a normal sale without any obligation to

confidentiality (page 1, second paragraph; "ohne jegliche Geheimhaltungsverpflichtung"). This declaration is evidence that there was no implicit confidentiality agreement, and the board finds it more convincing than the appellant's unsupported circumstantial allegations to the contrary.

2.5 Consequently, D9 is considered to have been made available to the public in the sense of Article 54(2) EPC before the date of filing of the present patent.

2.6 With no further objections to its suitability and no other reasons speaking against it, the public prior use is regarded as a suitable starting point for assessing inventive step.

3. Distinguishing features

3.1 The appellant did not dispute that the prior use rendered inks c) and d) of claim 1 available to the public before the priority date of the patent.

3.2 It argued, in line with the contested decision, that the subject-matter of claim 1 was distinguished from the prior use (represented by D9) in that the prior use did not disclose that the individual inks sold according to the prior use (D9) represent an inkjet ink set.

3.3 The board agrees. For novelty, a direct and unambiguous disclosure, whether explicit or implicit, is required in order for this feature to be considered disclosed in the prior use. Even though a list of inks is provided in D9, there is no direct and unambiguous disclosure - either explicit or implicit - that the inks in question

form, or may form, an inkjet ink set. Therefore, the public prior use does not disclose an inkjet ink set as required by claim 1. Whether the skilled person would recognise that certain inks can be combined into an ink set is a question relating to inventive step, and not novelty.

3.4 The appellant also argued that claim 1 was distinguished from the prior use in that the red inks of the prior use did not correspond to the red ink b) of the ink set of claim 1.

3.5 In detail, the appellant argued that the ink set of the prior use comprised two red inks, namely AR DECJET Rot Fussboden 3038/13 and 3060/13 (see D9). Both of these inks contained two red pigments, namely C.I. Pigment Red 254 and C.I. Pigment Red 207 (as evidenced by D14 and D14a (for the former) and D14d and D14a (for the latter)). This was not disputed by the respondent.

3.6 In contrast, the red aqueous inkjet ink b) of claim 1 was defined as "containing a red pigment selected from the group consisting of C.I. Pigment Red 254, C.I. Pigment Red 176 and mixed crystals thereof". Due to the "consisting of" language defining the pigments present in red ink b) of claim 1, Pigment red 207 comprised within both red inks according to D9 was excluded. The term "containing" in red ink b) of claim 1 allowed the presence of other components of an ink, such as surfactants, but did not cover additional pigments. Hence the only red pigments which could be present in the red ink b) of claim 1 were those defined subsequently in a closed sense. Therefore the mixture of two red inks in the prior use (D9) did not correspond to the red ink b) of claim 1. Hence, the absence in the prior use of this red ink b) according

to claim 1 was a further feature distinguishing claim 1 over the prior use.

3.7 To the appellant's advantage, it is accepted for the sake of argument that the prior use does not disclose a red ink b) according to claim 1, for the reasons provided by the appellant.

3.8 Hence component b) of claim 1 is a further distinguishing feature over the prior use.

4. Objective technical problem

4.1 In support of the technical effects linked to the distinguishing features, the appellant referred to paragraphs [0012] and [0026] of the patent. Paragraph [0012] states that an important advantage of the invention is that the aqueous inkjet ink set exhibited high printing reliability and high productivity. According to paragraph [0026], the advantage of using only the specific four CRYK inkjet inks (of claim 1) is that a less expensive inkjet printing device can be made and used and consequently also cheaper maintenance is obtained, although an excellent reproduction of wood motif colour images is still achieved. Furthermore, example 2 of the patent demonstrated that true reproduction of wood colours could be obtained with the inkjet set of claim 1. The objective technical problem was therefore how to manufacture decorative surfaces with high productivity by not requiring complex inkjet printers and image processing software for a true reproduction of wood colours.

4.2 The board acknowledges that using a single red ink according to claim 1 will lead to less complexity than using both red inks disclosed in D9, and that a true

reproduction of wood colours is achieved with the claimed ink set as demonstrated in example 2 of the patent.

4.3 Hence, the objective technical problem as formulated by the appellant above is accepted.

5. Obviousness

5.1 As argued by the respondent, the solution to this problem as set out in claim 1 would have been obvious to the skilled person.

5.2 First, CMYK and CRYK inkjet sets were well known to the skilled person as standard in decorative printing, as set out in paragraph [0004] of the patent, and not disputed by the appellant. The appellant's only defence according to which the skilled person would not have selected and assembled the inks of D9 into an inkjet set was that D9 was not available the public. As set out above however, this was not accepted by the board, and D9 is considered to have been publicly available.

5.3 Second, as stated by the respondent, seeking to reduce complexity, it would have been obvious to the skilled person, having selected a red, yellow and black ink from the inkjet inks of D9 to reduce the number of pigments present in the red inks disclosed in D9 from two to one, in particular in view of *inter alia* D25.

5.4 Similarly to the patent, patent document D25 discloses the provision of inkjet ink sets for manufacturing decorative surfaces, and in particular for the production of wood colour patterns (D25, paragraph [0025]). Claim 8 of D25 is directed to an aqueous

inkjet ink for manufacturing decorative surfaces including "a red ink containing C.I. pigment red 254".

5.5 Since the ink set of claim 8 of D25 is intended for the production of wood colours, it would be a trivial matter for the skilled person seeking to reduce the complexity of the red inks in D9 to choose pigment red 254 as a single pigment in a red inkjet ink. The skilled person would do this either by retaining pigment red 254 in the inks listed in D9 and removing pigment red 207 from the red inks of D9, or alternatively by replacing the red inks listed in D9 with a red ink consisting solely of pigment red 254, such as that used in the examples of D25 (e.g. table 6, page 16).

5.6 The appellant's counterarguments failed to convince the board. It was argued that claim 8 of D25, by virtue of the term "containing", did not exclude the presence of further red inks other than pigment 254. However, as stated by the respondent, the skilled person starting at the inks of the prior use represented by D9 and seeking to reduce complexity according to the objective technical problem set out above, would choose a single red pigment, and not seek to add further pigments thereto.

5.7 It follows that claim 1 of the main request lacks inventive step.

5.8 Consequently, the ground for opposition under Article 100(a) EPC in combination with Article 56 EPC prejudices the maintenance of the patent as granted.

Auxiliary requests 1 and 2 - inventive step, Article 56 EPC

6. The respective claim 1 of both auxiliary requests 1 and 2 is identical to claim 1 of the main request. Consequently, the same conclusions apply.

6.1 The subject-matter of the respective claim 1 of auxiliary requests 1 and 2 consequently lacks inventive step.

Auxiliary request 3

7. Compared to claim 1 of the main request, claim 1 of auxiliary request 3 was amended from "A pigmented aqueous inkjet ink set for manufacturing decorative panels **comprising**" inks a) to d) to "**consisting of**" inks a) to d). Hence, further inks not listed in claim 1 may no longer be present in the claimed ink set.

7.1 The amendment in claim 1 however does not change the distinguishing features over the prior use D9 compared to claim 1 of the main request, as set out above. Hence, the effects, the objective technical problem, and the obviousness of the solution also remain the same. Consequently, the same conclusion set out above for claim 1 of the main request applies equally to claim 1 of auxiliary request 3 for the same reasons.

7.2 The subject-matter of claim 1 of auxiliary request 3 consequently lacks inventive step.

Auxiliary request 4 - Admittance

8. Claim 1 of auxiliary request 4 reads as follows:

"An inkjet printing method for manufacturing decorative panels comprising the steps of:

a) providing a paper substrate including one or more ink receiving layers;

b) jetting a colour image with one or more pigmented aqueous inkjet inks from a pigmented aqueous inkjet ink set on the paper substrate including one or more ink receiving layers; and
c) drying the jetted colour image;

wherein the ~~A~~ pigmented aqueous inkjet ink set for manufacturing decorative panels ~~comprising~~ **consisting of:**
a) ~~optionally~~ a cyan aqueous inkjet ink containing a copper phthalocyanine pigment;
b) a red aqueous inkjet ink containing a red pigment selected from the group consisting of C.I. Pigment Red 254, C.I. Pigment Red 176 and mixed crystals thereof;
c) a yellow aqueous inkjet ink containing a pigment C.I Pigment Yellow 150 or a mixed crystal thereof; and
d) a black aqueous inkjet ink containing a carbon black pigment; wherein the aqueous inkjet inks contain a surfactant.

(Text added and deleted compared to claim 1 of the main request in bold and strike through, respectively.)

8.1 With auxiliary request 4 therefore, claims directed to an inkjet ink set have been deleted. Claim 1 of auxiliary request 4 differs from independent method

claim 6 of the main request in that the ink set is defined as in claim 1 of auxiliary request 3, i.e. with closed "consisting of" language, and with the deletion of "optional" for the cyan aqueous inkjet ink a), compared to claim 1 of the main request.

8.2 Auxiliary request 4 was submitted during oral proceedings before the opposition division, and was not admitted into the proceedings (contested decision, point 5.1). The appellant requested that this decision be overturned and that auxiliary request 4 be admitted into appeal proceedings. The respondent requested that auxiliary request 4 not be admitted.

8.3 According to established case law, the board may only overturn a discretionary decision of the opposition division if it comes to the conclusion that the discretion was exercised according to the wrong principles or in an unreasonable way (see e.g. G 7/93, point 2.6 of the Reasons).

8.4 In the contested decision the opposition division reasoned that the request was late filed. With reference to the Guidelines for Examination (E-VI, 2.2.3), it decided not to admit the request into the proceedings on the basis that it was not prima facie allowable. Specifically, it was noted that in opposition proceedings preceding the filing of auxiliary request 4, the appellant based inventive step of the method claim solely on features attributable to the ink set, rather than the features of the method per se (referring to the respondent's letter dated 17 July 2023, page 14). Since it had already been concluded at oral proceedings that the inkjet set of the respective claim 1 of each of the main request and auxiliary requests 1 to 3 lacked inventive step, any

conceivable argument based on the method steps of claim 1 of auxiliary request 4 would have had to be addressed for the first time at oral proceedings. However, this was not compatible with the concept of clear allowability.

8.5 Furthermore, the opposition division noted that due to the expression "jetting a colour image with **one or more** pigmented aqueous inkjet inks...", claim 6 of the main request did not require that all inks of the set were used for printing; rather a single ink sufficed. This matter was discussed at oral proceedings (decision, 2.1.2) and addressed in the preliminary opinion accompanying the summons to oral proceedings (point 10). The expression "one or more" however remained in claim 1 of auxiliary request 4. Therefore, even if a technical effect were accepted for an individual ink of the ink set such as pigment yellow 150 (as then argued by the appellant), it could not be taken into account for the assessment of inventive step of claim 1. Specifically, even though the presence of the entire ink set was required by the claim, the yellow ink 150 (or any other ink) did not necessarily actively take part in the printing method. For these reasons, the opposition division decided, based on the facts on file and discussed during oral proceedings, that auxiliary request 4 was not clearly allowable under inventive step. Consequently, it was not admitted into the proceedings.

8.6 The appellant argued that the late filing of auxiliary request 4 was justified by a change in the preliminary opinion of the opposition division in relation to claim 1 of the main request, which was found novel and inventive over the prior use in the preliminary opinion, but found to lack inventive step during oral

proceedings before the opposition division. During oral proceedings, the opposition division applied the same conclusions to claim 1 of auxiliary requests 1 to 3.

Furthermore, claim 6 of the main request was found to lack novelty according to the preliminary opinion, but was found to be novel during oral proceedings before the opposition division. This change of opinion for claim 6 rendered auxiliary requests 2 and 3 obsolete, as the amendments made in claim 6 of each request, intended to overcome the novelty objection, were no longer needed.

8.7 The board notes that after the opposition division concluded that the subject-matter of the respective claim 1 of the main request and auxiliary requests 1 and 2 lacked inventive step over the prior use, the appellant was provided with the opportunity to file a new auxiliary request, which it duly did at approximately 15:00, as auxiliary request 3 (minutes, point 4). At approximately 16:00, after the opposition division concluded that claim 1 of auxiliary request 3 lacked inventive step over the prior use, the appellant filed a further request as auxiliary request 4. The opposition division considered auxiliary request 4 to be late-filed.

8.8 A point at issue is therefore whether it was unreasonable for the opposition division to qualify the filing of auxiliary request 4 as late.

8.9 The board takes the view that the stage of the procedure at which the filing took place plays a role: the afternoon of single-day oral proceedings can only be considered as a very late stage and indeed the very

final stage of opposition proceedings. Hence, one hour at this stage of the proceedings is not insignificant.

If the opposition division were to have admitted auxiliary request 4 on the basis that it was not late-filed, the rationale behind this finding would be that it was filed only one hour after a timely-filed request. However, if auxiliary request 4 were also found not to be allowable, the question arises as to whether a further new auxiliary request, filed after the opposition division's conclusion in this regard was announced, would, by the same rationale, also not be considered late-filed.

Projecting further, at which point in time would a subsequently filed claim request ultimately be considered late-filed? Considering all subsequently filed auxiliary requests as timely reactions would allow a party, in the absence of any discretion on the part of the opposition division, to sequentially file auxiliary requests as needed. This would represent an undesirable situation which would run contrary to the need for procedural economy, and in particular the need to bring the proceedings to a close within a reasonable timeframe.

8.10 For these reasons the board does not consider the opposition division's conclusion that auxiliary request 4 was late-filed as unreasonable.

8.11 In this regard, the board also cannot see any flaw in the opposition division's conclusion under prima facie allowability. As correctly stated by the opposition division, the sole basis for the appellant's defence of inventive step of the method claim, namely the inkjet ink set, was found to lack inventive step. Since there

were no arguments on file according to which inventive step could be attributable to the method steps of claim 1 of auxiliary request 4 per se (i.e. unrelated to the inkjet ink set), claim 1 of auxiliary request 4 was not clearly allowable under inventive step.

8.12 Consequently, the board comes to the conclusion that the opposition division did not exercise its discretion according to the wrong principles or in an unreasonable way.

8.13 Therefore, the board decided not to overturn the decision of the opposition division. Furthermore, the board did not see any circumstance in appeal justifying admittance of this request, and none was mentioned by the appellant. Auxiliary request 4 was therefore not admitted into appeal proceedings.

Auxiliary requests 5 and 6 - Admittance

9. These requests were submitted by the appellant with the grounds of appeal. Auxiliary requests 5 and 6 correspond to auxiliary request 4 wherein the same amendment has been introduced as for claim 6 of auxiliary requests 1 and 2.

9.1 More specifically, compared to claim 1 of auxiliary request 4 set out above, step b) of claim 1 of auxiliary request 5 was amended by deletion of "one or more" as follows:

"*b) jetting a colour image with ~~one or more~~ pigmented aqueous inkjet inks from a pigmented aqueous inkjet ink set on the paper substrate including one or more ink receiving layers;*"

9.2 Similarly, compared to claim 1 of auxiliary request 4 set out above, step b) of claim 1 of auxiliary request 6 was amended by deletion of "one or more pigmented aqueous inkjet inks from" as follows:

"*b) jetting a colour image with ~~one or more pigmented aqueous inkjet inks from~~ a pigmented aqueous inkjet ink set on the paper substrate including one or more ink receiving layers;*"

9.3 The respondent requested that auxiliary requests 5 and 6 not be admitted into appeal proceedings.

9.4 Since these requests were submitted with the appellant's grounds of appeal, Article 12(4) RPBA applies. According to this provision, any part of a party's appeal case which does not meet the requirements in paragraph 2 (i.e. that it is directed to *inter alia* requests on which the decision under appeal was based) is to be regarded as an amendment. Any such amendment may be admitted only at the discretion of the Board. The party shall clearly identify each amendment and provide reasons for submitting it in the appeal proceedings. In the case of an amendment to a patent application or patent, the party shall also indicate the basis for the amendment in the application as filed and **provide reasons why the amendment overcomes the objections raised**. The Board shall exercise its discretion in view of, inter alia, the complexity of the amendment, **the suitability of the amendment to address the issues which led to the decision under appeal**, and the need for procedural economy. (emphasis added by the board).

9.5 The appellant argued that auxiliary requests 5 and 6 were filed as a precautionary measure in view of how the board might interpret the wording "one or more".

9.6 The board notes that with the statement of grounds of appeal, the appellant failed to address the issues under clear allowability forming the basis for the opposition division's decision not to admit auxiliary request 4 into the proceedings. Specifically, and as set out above, throughout opposition and appeal proceedings, the appellant had relied on inventive step of the inkjet ink set as a basis for acknowledging inventive step of the method claim corresponding to claim 6 of the main request. According to the decision under appeal and as confirmed by the board above, the inkjet ink set of claim 1 of the main request, as well as the inkjet ink set defined in respective claim 1 of auxiliary requests 1 to 3, lacks inventive step over the prior use.

9.7 The amendments in claims 1 of auxiliary requests 5 and 6 attempt to overcome a different problem, namely the interpretation of claim 6 of the main request set out in the contested decision under point 2.1.2, which was different from the interpretation provided in the preliminary opinion of the opposition division. Specifically, in point 10 of the preliminary opinion, the opposition division provided the view that the expression "jetting a colour image with one or more pigmented aqueous inkjet inks from the pigmented aqueous inkjet ink set claimed in claim 1", by virtue of the expression "one or more" required only one ink of the inkjet set to be present. In the contested decision, the opposition division decided in view of T 1570/20 (in which the interpretation of the same feature was addressed) that while "one of more" was

still to be interpreted in the sense that only a single ink needed to be jetted, the entire ink set needed to be present in the sense that it was available (decision, point 2.1.2).

9.8 Hence, the amendments in claims 1 of auxiliary requests 5 and 6 attempt to overcome the issue that inventive step cannot be acknowledged for a method in which a single ink is jetted, the corollary being that if the method included jetting of the entire ink set (as a consequence of the deletion of "one or more"), inventive step could be acknowledged by virtue of the inventiveness of the ink set. However, even if it were assumed that the amendments achieved this goal, i.e. that claim 1 of auxiliary requests 5 and 6 requires the jetting of all inks of the inkjet ink set, the fact remains that the inkjet ink set lacks inventive step as addressed above. Hence it cannot contribute to the acknowledgement of inventive step for the method claim of auxiliary request 5 and 6, even assuming that this claim requires the jetting of all inks of the ink set.

9.9 Independently, the board notes that neither claim request appears to achieve its intended goal of requiring that all inks of the inkjet set are jetted in the claimed method. Specifically, step b) of claim 1 of auxiliary request 5 requires "*jetting a colour image with pigmented aqueous inkjet inks from a pigmented aqueous inkjet ink set*", which, by virtue of jetting "inks", requires that at least 2 inks are jetted. The inkjet set defined in claim 1 comprises four different inks, and therefore not all inks of the inkjet ink set are necessarily involved in the jetting step, and therefore in the claimed method. Similarly, step b) of claim 1 of auxiliary request 6 requires "jetting a colour image with a pigmented aqueous inkjet ink set",

which does not stipulate that any more than one of the inks of the inkjet set need to be involved in the jetting step, and therefore in the claimed method.

9.10 Hence, the amendments in auxiliary requests 5 and 6 are not suitable for addressing the issues which led to the decision under appeal as required by Article 12(4) RPBA, and the board decided not to admit auxiliary requests 5 and 6 into proceedings for this reason.

10. It follows that none of the appellant's requests are admissible and allowable, and the appeal is to be dismissed.

11.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

A. Vottner M. O. Müller

Decision electronically authenticated