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Datasheet for the decision of 5 March 2026

Case Number: T 0206/24 - 3.4.02

Application Number: 15850385.4

Publication Number: 3187917

IPC: G02B27/01, G02B5/00, B32B17/10

Language of the proceedings: EN

Title of invention:
HEAD-UP DISPLAY SYSTEM

Patent Proprietor:
Fuyao Glass Industry Group Co., Ltd.

Opponents:
SAINT-GOBAIN GLASS FRANCE
AGC Glass Europe

Headword:

Relevant legal provisions:
EPC Art. 56, 100(a), 113(1)
RPBA 2020 Art. 12(6)

Keyword:
Right to be heard - oral proceedings before opposition division - substantial procedural violation (no)
Inventive step - common general knowledge - main request (no) - first and second auxiliary request (no)
Late-filed request - should have been submitted in first-instance proceedings (yes) - third auxiliary request

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0206/24 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 5 March 2026

Appellant: (Patent Proprietor)	Fuyao Glass Industry Group Co., Ltd. Fuyao Industrial Area II Fuqing Fuzhou, Fujian 350300 (CN)
Representative:	Maiwald GmbH Elisenhof Elisenstraße 3 80335 München (DE)
Respondent: (Opponent 1)	SAINT-GOBAIN GLASS FRANCE Tour Saint-Gobain 12 place de l'Iris 92400 Courbevoie (FR)
Representative:	Gebauer, Dieter Edmund Splanemann Patentanwälte mbB Rumfordstraße 7 80469 München (DE)
Respondent: (Opponent 2)	AGC Glass Europe Rue Louis Blériot 12 6041 Gosselies (BE)
Representative:	AGC Glass Europe Technovation Centre Intellectual Property Department Rue Louis Blériot 12 6041 Gosselies (BE)
Decision under appeal:	**Decision of the Opposition Division of the European Patent Office posted on 21 December 2023 revoking European patent No. 3187917 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	R. Bekkering
Members:	A. Hornung
	B. Müller

Summary of Facts and Submissions

I. The patentee appealed against the decision of the opposition division revoking European patent No. 3 187 917.

II. A first opposition had been filed by opponent O1 (Saint Gobain Glass France) against the patent as a whole and based on the grounds for opposition of Article 100(a), together with Articles 56 EPC.

A second opposition had been filed by opponent O2 (AGC Glass Europe) against the patent as a whole and based on the grounds for opposition of Article 100(a), together with Articles 54(1) and 56 EPC, Article 100(b) EPC and Article 100(c) EPC.

III. The opposition division decided to revoke the patent for lack of inventive step of the subject-matter of the claims according to a main request (patent as granted) and a first to sixth auxiliary request then on file. A seventh auxiliary request was not admitted to the proceedings by the opposition division.

IV. Oral proceedings before the board were held on 5 March 2026.

V. The patent proprietor, as final requests, requested that the decision under appeal be set aside and the patent be maintained as granted (main request) or in amended form on the basis of the claims according to any of auxiliary requests AR1, AR2 or AR4A, all filed with the statement of grounds of appeal of 19 April 2024. Only the main request and the auxiliary requests AR1 and AR2 were underlying the appealed decision.

VI. Opponent O1 requested that the appeal be dismissed and auxiliary request AR4A be not admitted to the proceedings.

Opponent O2 requested that the appeal be dismissed and auxiliary request AR4A be not admitted to the proceedings.

VII. The following documents, which were relied on in the first-instance opposition proceedings, are referred to in the present decision:

D1: EP 0 844 507 A1,
D2: WO 2005/010569 A2,
D3: US 5,143,796,
D16: US 5,053,755,
D19: US 7,864,431 B2,
D25: "Large area glass coating", G. Bräuer, Surface and Coatings Technology 112 (1999) 358 - 365.

VIII. The patentee's written submissions are designated as follows:
P1: statement of grounds of appeal dated 19 April 2024,
P2: letter dated 26 November 2024.

Opponent O1's written submission is designated as follows:
O1-1: letter dated 9 August 2024.

Opponent O2's written submissions are designated as follows:
O2-1: letter dated 12 July 2024,
O2-2: letter dated 3 February 2025.

IX. Independent claim 1 of the main request reads as follows (features are numbered **a)** to **f)** in line with point II.1.1 of the appealed decision):

"A head-up display system comprising:

a) a projection light source, and

b) laminated glass, wherein the laminated glass comprises:
an internal glass panel,
an external glass panel, and
an intermediate film sandwiched between the internal glass panel and the external glass panel,

c) wherein the head-up display system further comprises a transparent nanofilm comprising at least two dielectric layers and at least one metallic layer,

c1) each metallic layer being located between two dielectric layers;

d) wherein a difference between a refractive index of the intermediate film and a refractive index of the internal glass panel and the external glass panel is no more than 0.1;

e) wherein the projection light source is used for generating p-polarized light which is incident on a surface of the internal glass panel distal to the intermediate film, the light having an angle of incidence of 42 to 72 degrees; and

f) wherein the at least one metallic layer of the transparent nanofilm is configured to reflect part of the incident p-polarized light".

X. Claim 1 of the first auxiliary request AR1 differs from claim 1 of the main request in that it comprises the following feature **g)** at the end of claim 1:

"and wherein the transparent nanofilm is disposed on a surface of the internal glass panel contacting the intermediate film or on a surface of the external glass panel contacting the intermediate film".

XI. Claim 1 of the second auxiliary request AR2 differs from claim 1 of the first auxiliary request AR1 in that it comprises the following features **h1)**, **h2)** and **h3)** at the end of claim 1:

"**h1)** wherein when the transparent nanofilm comprises one metallic layer, the color of the p-polarized light generated by the projection light source is at least one color selected from a group consisting of red, green and blue;

h2) wherein when the transparent nanofilm comprises two metallic layers, the color of the p-polarized light generated by the projection light source is at least one color selected from a group consisting of green and blue; and

h3) wherein when the transparent nanofilm comprises three metallic layers, the color of the p-polarized light generated by the projection light source is at least one color selected from a group consisting of red, green and blue".

XII. Claim 1 of the third auxiliary request AR4A differs from claim 1 of the second auxiliary request AR2 in that feature **h1)** is deleted.

Reasons for the Decision

1. Right to be heard (Article 113(1) EPC)

Patentee's right to be heard was not violated by the opposition division's finding at the oral proceedings regarding the lack of inventive step of the subject-matter of claim 1 of the main request (patent as granted) in view of document D16 in combination with document D3.

1.1 The patentee submitted that its right to be heard was violated at the oral proceedings before the opposition division

According to the patentee, he was taken by surprise by the decision announced by the opposition division during oral proceedings that the subject-matter of claim 1 of the patent as granted did not involve an inventive step in view of a combination of documents that had not been discussed in writing or orally during the first-instance opposition proceedings, namely D16 in combination with D3 (P1, point B.1). The patentee conceded that D16 was considered as closest prior art (but in combination with D19) and that D3 was considered as a combination document (but in combination with D1 and D2 as closest prior art) (P1, points B.3 and B.5). However, "[t]he decision has been based on D16 + D3. This constitutes a violation of the right to be heard. The same holds for the reasoning in item 1.5.7 [of the decision]. The Patentee was taken by surprise. [...] For example, when being faced with the combination D16 + D3, Patentee might have had the chance to argue that the reflective properties of the coating for p-polarised light it [sic] could not be deduced from D3" (P1, point B.6).

At the oral proceedings before the board, the patentee argued that the opponents had never presented, neither in the first-instance written proceedings nor during the oral proceedings before the opposition division, a proper argument applying the problem-solution approach starting

from D16 as closest prior art and combining it with D3. In particular, in order to arrive at the subject-matter of claim 1, it would have been necessary to provide reasoning following a two-step process: first, why the skilled person would have combined two embodiments in D16 and, second, why the skilled person would specifically have been motivated to combine D16 with example 2 of D3. Without such an explanation, the objection relied on impermissible hindsight knowledge of the claimed invention.

1.2 The board is not convinced by the patentee's arguments.

Although the board does not approve the course of action followed by the opposition division, it finds that in the specific circumstances of the present case the patentee's right to be heard was not violated. Indeed, the opposition division's finding at the oral proceedings that the subject-matter of claim 1 of the main request lacked an inventive step in view of D16 in combination with D3 was based only on arguments previously put forward by the opponents. Moreover, all relevant counter-arguments of the patentee in favour of inventive step were adequately addressed in the opposition division's reasoning.

In particular, contrary to the patentee's submission, the patentee not only had the chance to argue about the lack of disclosure in D3 of p-polarised light and its reflective properties, but had in fact already argued that "D3 does not disclose the use of p-polarised light at the angle recited (as accepted by Opponent 1), and so also cannot disclose that the metallic layer of a nanofilm is configured to reflect part of the incident p-polarised light" (patentee's letter of 27 April 2022, page 14, fourth paragraph). The issue regarding the p-polarised light in D3 was also addressed in the opposition

division's communication annexed to the summons to oral proceedings, point 2.4.2.5.2, and in the letter of opponent O1, dated 8 September 2023, point 2.5.

Although the combination of the two documents D16 and D3 was not formally mentioned by the parties or the opposition division before the oral announcement of the opposition division's decision of lack of inventive step, a review of the opposition division's reasoning set out in point 1.5.6 of the appealed decision does not reveal any substantial argument on which the patentee had not had a chance to comment. First, as submitted by the opponents in their respective replies to the patentee's statement of grounds of appeal, the discussion of the distinguishing features of the claimed HUD with respect to the HUD of D16 is independent of whether the combination document is D19 or D3. Secondly, in the present case, the discussion as to whether the distinguishing features involve an inventive step in view of D3 as a combination document is independent of whether the closest prior art document is D1, D2 or D16. Indeed, in the present case, the combination document D3 is used only for the purpose of illustrating the common general knowledge that a thin metal layer is generally embedded between dielectric layers (in order to enhance the optical properties of the metal layer and to protect it against environmental effects). This teaching of D3 is generally valid and may be applied in the same way to the HUD of D1, D2 or D16.

Concerning the patentee's submission that the opposition division had not provided a proper argument applying the problem-solution approach, the board notes that this aspect is of a substantive nature and is not related to the procedural question of whether the right to be heard was violated.

Furthermore, it is to be noted that in relation to the subject-matter of claim 1 of the auxiliary requests then on file, which, as discussed at the oral proceedings before the opposition division, was considered obvious in view of D16 in combination with D3 by the opposition division, the patentee relied solely on the arguments already made for the main request. This confirms that the alleged surprise had not affected the patentee's ability to present all relevant arguments in favour of inventive step of the subject-matter of claim 1 of the main request and further supports that its right to be heard was not infringed.

In conclusion, the substance of the opposition division's reasoning does not violate the patentee's right to be heard. The reasoning cannot objectively have surprised the patentee.

2. Main request - Inventive step

The subject-matter of claim 1 lacks an inventive step in view of D16 and common general knowledge (Article 100(a) and 56 EPC).

2.1 Closest prior art and distinguishing features

2.1.1 It was undisputed between the parties that D16 could be considered as closest prior art document.

2.1.2 The subject-matter of claim 1 differs from the head-up display (HUD) of D16 in that it comprises features **c)**, **c1)** and **d)**.

More precisely, since D16 discloses a metallic coating which implicitly comprises a metallic layer, the difference between the claimed HUD and the HUD of D16 is

merely that the metallic layer of the claimed HUD is located between two dielectric layers (indeed, D16 is silent about the exact layer structure of the metallic coating).

Concerning feature **b)**, the board is of the opinion that it is implicitly disclosed in D16, column 2, lines 38 to 40, which describes that the metallic "coating would be applied [...] between the layer**s** of the windshield". Indeed, it is implicit that the layer**s** of the windshield of D16 (corresponding to the claimed glass panels) must be bonded together by an intermediate film sandwiched between the internal and the external glass panels, as defined in feature **b)**. In fact, D16, column 4, line 26, explicitly mentions such an adhesive layer in safety windshields (which consist of two laminated glass panels).

2.2 Technical effect and objective technical problem

2.2.1 Concerning the distinguishing features **c)** and **c1)**, the board concurs with opponent O1 that the technical effect of sandwiching the metallic layer between dielectric layers is to enable the tuning of the optical properties of the metallic layer and/or to protect it against corrosion.

Therefore, the objective technical problem related to features **c)** and **c1)** is to enable the tuning of the optical properties of the metallic layer and/or to protect it against corrosion.

2.2.2 The technical effect of feature **d)** is to minimise any parasitic reflections at the interface between the intermediate film and the glass panels.

The objective technical problem related to feature **d)** is to minimise parasitic reflections.

2.2.3 In the absence of any synergy between these two technical effects, inventive step is assessed based on two corresponding partial problems.

2.3 Solution of the objective technical problem

2.3.1 Features **c)** and **c1)**

Features **c)** and **c1)** are an obvious solution to the objective technical problem mentioned in point 2.2.1 above for the following reason:

Starting from the HUD of D16, the skilled person is taught to use a combiner element (11; figure 1) comprising a partially reflecting beamsplitter coating comprising a metallic coating located between the two glass panels of the windshield (D16, column 2, lines 34 to 41). However, D16 is silent about the exact constitution of the semi-transparent metallic coating. Therefore, when trying to put the HUD of D16 into practice, the skilled person is confronted with the problem of providing a beam combiner with a metallic coating having optimised optical properties and/or protecting the metallic layer against corrosion.

The board concurs with the opponents that the solution to this problem, namely the provision of features **c)** and **c1)**, is obvious, since it forms part of the common general knowledge to arrange the metal layer of a semi-transparent metallic coating between two dielectric layers to optimise the optical properties of the metal layer and/or to protect it against corrosion (see e.g. O1-1, page 11, third paragraph; O1-1, page 12, fifth paragraph; O1-1,

page 13, penultimate paragraph; notice of opposition of O1, page 7, second paragraph).

Indeed, it is part of the inherent knowledge of the person skilled in the field of optics and thin-film technology that the optical properties of a metal layer can be controlled by adjacent dielectric layers. By appropriately selecting the refractive index and thickness of these dielectric layers, the transmission and reflection of the metal layer can be precisely adjusted. As submitted by opponent O1, this common general knowledge is exemplified in a large number of patent documents (see the list of documents D28 to D53 in the table of O1-1, page 13).

Moreover, document D25, a scientific review article describing the state of the art in 1999 in sputtering technology for large area glass coating, discloses that in order "to protect the silver from corrosion, additional anti-reflective and protective layers of high refractive materials (e.g. SnO2, ZnO, Si3N4, TiO2) have to be employed" (page 360, right-hand column, lines 2 to 6). As a review article summarising established coating technologies, D25 confirms that the use of dielectric layers to protect a metal layer against corrosion formed part of the common general knowledge in the relevant technical field.

2.3.2 Feature **d)**

The amount of reflected light at an optical interface depends on the difference between the refractive indices of the adjoining media. Therefore, in order to minimise parasitic reflections at the interfaces between the glass panels and the intermediate film, the skilled person would select a material for the intermediate film whose

refractive index closely matches that of the glass panels, i.e. such that the difference between the refractive indices is as small as possible, in particular less than 0.1. Incidentally it is noted that document D16 already indicates that the indices of refraction of the adhesive and the glass are very closely matched (column 4, lines 25 to 28).

2.3.3 It follows that, when putting the HUD of D16 into practice, the skilled person would arrive at the subject-matter of claim 1 in an obvious manner based solely on common general knowledge.

2.4 Patentee's arguments for inventive step

2.4.1 According to the patentee, in addition to features **c)**, **c1)** and **d)**, feature **b)** was also novel over D16. During oral proceedings before the board, the patentee submitted that D16, in particular in column 2, lines 34 to 41, did not unambiguously disclose that the windshield was a laminated windshield comprising two glass panels and an intermediate film sandwiched between the glass panels.

The board cannot follow this argument. In column 2, lines 38 to 40, D16 explicitly discloses that a coating is applied between the layers of the windshield. This clearly implies that the windshield is not formed of a single glass panel but comprises two glass panels. Moreover, in order to bond these two glass panels together, it is implicit that a bonding layer sandwiched between them is present. Therefore, feature **b)** is implicitly disclosed in D16.

2.4.2 During oral proceedings before the board, the patentee argued that D16, column 2, lines 34 to 41, disclosed exactly two embodiments of a combiner element, namely a

multi-layer dielectric coating and a metallic coating. In other words, the first embodiment (a multi-layer dielectric coating) did not comprise a metallic coating, and the second embodiment (a metallic coating) did not comprise dielectric layers. According to the patentee, this excluded a third embodiment combining the first two embodiments to comprise both dielectric layers and a metallic coating.

The board cannot agree with the patentee. The expression "metallic coating" is not equivalent to a single metal layer. In its broadest meaning, "metallic coating" is a multilayer coating comprising at least one metal layer but not excluding further layers, such as dielectric layers.

2.4.3 In letter P2, points 24 to 26, the patentee commented on the documents that opponent O1 had submitted as evidence of the common general knowledge. The patentee argued that "[a]ll those documents are by far too general. Particularly, there was no common general knowledge that thin layers as described in the textbooks were suitable for HUD purposes" (P2, point 26).

The board cannot follow the patentee's argument, since D16, column 2, lines 34 to 41, already discloses the use of a metallic coating sandwiched between two laminated glass panels. For this fact, no further documents are required as evidence. The documents submitted by opponent O1 serve only the purpose of showing that it was part of the common general knowledge that a metal layer was generally arranged between dielectric layers to enhance the optical properties of the metal layer and/or to protect it against corrosion.

2.4.4 During oral proceedings, the patentee argued that documents D28 to D53 listed on page 13 of letter O1-1 were

patent documents and therefore did not constitute evidence of common general knowledge. D25 was a single scientific article and therefore also did not constitute evidence of common general knowledge. Moreover, even if it was common general knowledge that dielectric layers are able to enhance the optical properties of a metal layer and to protect it against corrosion, the use of such a combination of dielectric layers and a metal layer in a HUD was not part of the common general knowledge.

The board is not convinced by the patentee's arguments. It is established case law that a large number of patent documents may be considered evidence of common general knowledge. The same is true for a scientific review article. Moreover, the technical effect of dielectric layers adjoining a metal layer, namely enhancing the optical properties of the metal and to protect it against corrosion, is independent of the type of use of the multilayer coating comprising these layers.

2.4.5 It follows that none of the patentee's arguments for inventive step is convincing.

3. First auxiliary request AR1 - Inventive step

The subject-matter of claim 1 lacks an inventive step in view of D16 and common general knowledge (Article 56 EPC).

3.1 Claim 1 of the first auxiliary request differs from claim 1 of the main request by feature **g)**.

3.2 D16, column 2, lines 34 to 41, discloses that the metallic coating (comprising the metallic nanofilm) is located "between the layers of the windshield" and that implicitly the two glass panels of the safety windshield are bonded together by an intermediate bonding film. In other words,

the nanofilm of D16 is disposed on one of the (inner) surfaces of the internal or external glass panel in contact with the intermediate film. Therefore, feature **g)** is implicitly disclosed in D16 and the subject-matter of present claim 1 lacks an inventive step for the same reasons as the subject-matter of claim 1 of the main request.

3.3 During oral proceedings before the board, the patentee asserted that feature **g)**, which defines that the nanofilm was further sealed, was not disclosed in D16. Moreover, the patentee repeated (see point 2.4.2 above) that the paragraph in D16, column 2, lines 34 to 41, disclosed only a multi-layer dielectric coating and a metallic coating, but not a combination of these two types of coatings.

3.4 In view of the unambiguous disclosure in D16, column 2, lines 34 to 41, that the metallic coating is applied between the two glass panels, the board is not convinced by the patentee's argument.

4. Second auxiliary request AR2 - Inventive step

The subject-matter of claim 1 lacks an inventive step in view of D16 and common general knowledge (Article 56 EPC).

4.1 Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that three alternative features **h1)**, **h2)** and **h3)** have been added.

Features **h1)**, **h2)** and **h3)** define three alternative nanofilms, which differ in the number of metallic layers they comprise.

It is implicit that the metallic coating disclosed in D16, column 2, lines 34 to 41, comprises at least one metallic

layer. A metallic coating with a single metallic layer is one of the possible embodiments. In that configuration of the metallic coating with a single metallic layer, feature **h1)** requires that the p-polarized light (reflected by the one metallic layer according to feature **f)**) is red, green and/or blue. This is necessarily the case since "[a]ny projection light source projecting visible light must contain at least one of the three basic colours" (appealed decision, point 4.3.2) and since for at least one of these colours "the metallic materials are indeed capable of reflecting p-polarized light" (O2-1, page 5, third paragraph).

Therefore, feature **h1)** is implicitly disclosed in D16 and the subject-matter of claim 1 of the second auxiliary request lacks an inventive step for the same reasons as the subject-matter of claim 1 of the first auxiliary request.

4.2 At the oral proceedings before the board, the patentee essentially relied on its written submissions in section F.5 of its statement of grounds of appeal. In essence, the patentee argued that the suitability of the HUD of D16 for a use as a multi-colour HUD as claimed could not be deduced from D16.

The patentee's arguments are not convincing. As submitted by the opponents during oral proceedings before the board, claim 1 does not imply that the claimed HUD is a multi-colour HUD. In view of feature **h1)**, the claimed HUD could well be a monochromatic HUD.

4.3 The patentee further argued that "[w]ithout experiments, we believe those skilled could not predict whether a reflective structure has suitable property for HUD, especially for p-polarized light HUD. Optics is a typical

experimental science. Given an optical system with known structure, those skilled would not easily predict its performance only based on theory, as the interference, reflection, transmission and refraction within various materials and at various material interfaces are commonly unknown and unpredictable. Thus, those skilled have to rely on experiments to test and conform the actually optical performance of a given optical system" (P1, point 59).

The board cannot agree with the patentee's assertions. Contrary to the patentee's characterization, the design of metallic multilayer coatings is not a "typical experimental science" but rather a deterministic discipline grounded in well-established physical principles, such as thin-film interferences and the Fresnel equations. These principles have been rigorously taught and applied in optical engineering for decades. In particular, reflection and transmission coefficients for any given wavelength, angle of incidence and polarization state can be accurately calculated using widely available commercial simulation tools. When performed with due care and expertise by the skilled person, both the design and fabrication of metallic coatings result in good agreement between theoretical predictions and experimental measurements. Therefore, predicting whether a reflective structure consisting of a metallic coating with one (or more) metal layer(s) and providing a specific spectral reflectance has suitable properties for a p-polarized light HUD is considered to be within the normal capability of the skilled person.

5. Third auxiliary request AR4A - Admittance

The board exercises its discretion under Article 12(6) RPBA by not admitting the third auxiliary request AR4A,

filed with the statement of grounds of appeal, to the proceedings.

5.1 According to Article 12(2) RPBA, a party's appeal case, in view of the primary object of the appeal proceedings to review the decision under appeal in a judicial manner, has to be directed to the requests, facts, objections, arguments and evidence on which the decision under appeal was based. In the present case, claim 1 of the third auxiliary request has been amended so that it differs from claim 1 of any of the requests filed during the first-instance opposition proceedings.

5.2 Under Article 12(6) second sentence RPBA, the board shall not admit requests which should have been submitted in the proceedings leading to the decision under appeal, unless the circumstances of the appeal case justify their admittance.

In the board's view, the question of lack of inventive step of claim 1 was discussed throughout the first-instance opposition proceedings, not least in view of the technical teachings disclosed in D16. Therefore, the third auxiliary request could and should have been submitted in the first-instance proceedings.

5.3 According to the patentee, the "specific situation [of the violation of the right to be heard] constitutes a scenario wherein amendments (new requests and new arguments) to the appeal case appear to be justified" (P1, point 7). No further argument was presented by the patentee at the oral proceedings before the board.

For the reasons given in point 1. above, the board is of the opinion that the patentee's right to be heard has not been violated and no such violation therefore justified

filing amendments. The board does also not see any other circumstances within the meaning of Article 12(6) RPBA which would justify the filing of the third auxiliary request for the first time in the appeal proceedings.

6. For the above reasons, the board comes to the conclusion that all of the patentee's requests are either not allowable or not admitted into the proceedings. The appeal must therefore be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

L. Gabor R. Bekkering

Decision electronically authenticated