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**Datasheet for the decision
of 25 February 2026**

Case Number: T 0242/24 - 3.2.04

Application Number: 16892527.9

Publication Number: 3415129

IPC: A61F13/15, A61F13/49,
A61F13/494, A61F13/496,
A61F13/551

Language of the proceedings: EN

Title of invention:
PANTS-TYPE ABSORBENT ARTICLE

Patent Proprietor:
Unicharm Corporation

Opponent:
Procter & Gamble, Inc.

Headword:

Relevant legal provisions:
EPC Art. 100(a), 54, 56, 123(2)
RPBA 2020 Art. 13(2)

Keyword:

Grounds for opposition - lack of patentability (yes)
Novelty - main request (no) - auxiliary requests 1 to and 5
(no)
Inventive step - auxiliary request 7 (yes)
Amendments - auxiliary requests 4 and 6 - added subject-matter
(yes)
Amendment after notification of Art. 15(1) RPBA communication
- deletion of dependent claims - taken into account (yes)

Decisions cited:

G 0001/19

Catchword:



Beschwerdekammern

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Case Number: T 0242/24 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 25 February 2026

Appellant: Procter & Gamble, Inc.
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 19 December
2023 rejecting the opposition filed against
European patent No. 3415129 pursuant to Article
101(2) EPC.**

Composition of the Board:

Chairman A. Pieracci
Members: P. Cipriano
M. Millet

Summary of Facts and Submissions

- I. The appellant (opponent) filed an appeal against the decision of the opposition division rejecting the opposition against European patent No. 3 415 129 (hereinafter "the patent"). They requested that the decision under appeal be set aside and the patent revoked.
- II. The respondent (patent proprietor) requested as a main request that the appeal be dismissed, auxiliarily that the patent be maintained on the basis of one of auxiliary requests 1-6 filed with the reply to the statement of the grounds of appeal, auxiliary request 7a filed during oral proceedings of 25 February 2026, or auxiliary requests 7-11 filed with the reply to the grounds of appeal.
- III. The following documents, referred to by the appellant in its statement of grounds of appeal, are relevant to the present decision:
- D1 US 2002/0123730 A1
D8 US 2004/0129592 A1
D9 EP 2 301 500 A1
- IV. The Board issued a communication under Article 15(1) RPBA containing its provisional opinion, in which it indicated *inter alia* that the subject-matter of claim 1 of the main request and of auxiliary requests 1-3 and 5 was not novel, that claim 1 of auxiliary requests 4 and 6 did not meet the requirement of Article 123(2) EPC, and that none of the prior art disclosed any of the features added to claim 1 of auxiliary request 7 or the

technical effect disclosed in the opposed patent as being linked to them.

- V. Oral proceedings were held by videoconference, during which the respondent filed auxiliary request 7a.

At the close of the oral proceedings, the parties confirmed their initial requests. The respondent also confirmed auxiliary request 7a filed during oral proceedings.

- VI. Claim 1 of the main request and of auxiliary request 1 reads as follows:

"A pull-on absorbent article (1) having a height direction, a lateral direction, and a front-back direction intersecting with each other, and comprising:

an absorbent main body (10) configured to absorb excrement;

a front exterior member (30) arranged at one end side of the absorbent main body; and

a back exterior member (40) arranged at another end side of the absorbent main body, with the front exterior member and the back exterior member joined together at a pair of join portions (1ewr, 1ewl), wherein:

at least a portion of the front exterior member (30) and the back exterior member (40) is folded in from outside to inside in the lateral direction;

each of the pair of join portions (1ewr, 1ewl) where the front exterior member and the back exterior member are joined together is respectively positioned further outside in the lateral direction than an inside end (70Le, 70Re) in the lateral

direction of the folded-in front exterior member (30) and the folded-in back exterior member (40); and side flaps (70) are configured by the front exterior member (30) and the back exterior member (40), the side flaps being folded in at positions different to positions of the pair of join portions (1ewr, 1ewl)."

- VII. Claim 1 of auxiliary request 2 differs from claim 1 of the main request in that the following features were appended at the end of the claim:
"at least one of the front exterior member (30) and the back exterior member (40) includes a portion in the height direction where many layers of material are stacked and a portion in the height direction where few layers of material are stacked".
- VIII. Claim 1 of auxiliary request 3 differs from claim 1 of auxiliary request 2 in that the following features were appended at the end of the claim:
"the absorbent main body (10) is contracted in the lateral direction by the elastic region that stretches and contracts along the lateral direction; and an amount of contraction in the lateral direction of the absorbent main body at the back side is different to an amount of contraction in the lateral direction of the absorbent main body at the front side".
- IX. Claim 1 of auxiliary request 4 differs from claim 1 of auxiliary request 3 in that the following features were appended at the end of the claim:
"the fold-in positions of the side flaps in the lateral direction being different at the back side and the front side when the side flaps are folded in along lateral direction edge profiles of the absorbent main

body, such that an external appearance profile of the pull-on absorbent article is different at the front side to at the back side."

- X. Claim 1 of auxiliary request 5 differs from claim 1 of auxiliary request 3 in that the following features were appended at the end of the claim:

"a surface area of a portion where the front exterior member (30) and the back exterior member (40) are folded in between a front side and back side of the absorbent main body (10) in the front-back direction at a waist opening side in the height direction, is larger than a surface area of a portion where the front exterior (30) member and the back exterior member (40) are folded in between a front side and back side of the absorbent main body (10) in the front-back direction at a crotch side in the height direction."

- XI. Claim 1 of auxiliary request 6 differs from claim 1 of auxiliary request 5 in that the following features were inserted before the features added to claim 1 of auxiliary request 5:

"the fold-in positions of the side flaps in the lateral direction being different at the back side and the front side when the side flaps are folded in along lateral direction edge profiles of the absorbent main body, such that an external appearance profile of the pull-on absorbent article is different at the front side to at the back side".

- XII. Claim 1 of auxiliary request 7a differs from claim 1 of auxiliary request 5 in that the following features were appended at the end of the claim:

"the pull-on absorbent article further comprises a portion where the front exterior member (30) and the back exterior member (40) folded in from outside to

inside in the lateral direction at one side in the lateral direction, overlaps in the front-back direction with the front exterior member (30) and the back exterior member (40) folded in from the outside to the inside in the lateral direction at another side in the lateral direction; and the pair of join portions (1ewr, 1ewl) are positioned outside in the lateral direction of the portion where the front exterior member (30) and the back exterior member (40) folded in from the outside to the inside in the lateral direction at one side of the lateral direction overlaps in the front-back direction with the front exterior member (30) and the back exterior member (40) folded in from the outside to the inside in the lateral direction at the other side of the lateral direction."

XIII. The parties' arguments relevant to the decision are discussed in detail in the Reasons for the decision.

Reasons for the Decision

1. Main request - Article 100(a) EPC and Article 54 EPC

Interpretation of the feature "each of the pair of join portions (1ewr, 1ewl)... is respectively positioned further outside in the lateral direction than an inside end (70Le, 70Re) in the lateral direction of the folded-in front exterior member (30) and the folded-in back exterior member (40)"

- 1.1 This feature refers to a join portion provided laterally outwardly of an inside end of the folded-in front exterior member or of an inside end of the folded-in back exterior member (i.e. with the front and back exterior members considered collectively).

However, this expression also covers the possibility of each join portion being provided laterally outwardly of an inside end of the folded-in front exterior member and of an inside end of the folded-in back exterior member (i.e. both exterior members have respective inside ends which are positioned laterally inwardly of the join portion).

- 1.2 This interpretation was discussed in items 2.2 to 2.3 of the preliminary opinion, and neither party contested it.
- 1.3 The appellant contested the opposition division's finding that document D1 does not deprive the subject-matter of claim 1 of the patent as granted of novelty.

- 1.4 The respondent argued that the embodiments of Figure 4 and Figure 12 of D1 did not disclose the following features:
- A) **"a front exterior member** (30) arranged at one end side of the absorbent main body; and **a back exterior member** (40) arranged at another end side of the absorbent main body"
 - B) that the absorbent article was a "pull-on absorbent article"; and
 - C) that "each of the pair of join portions (1ewr, 1ewl) where the front exterior member and the back exterior member are joined together is respectively positioned further outside in the lateral direction than an inside end (70Le, 70Re) in the lateral direction of the folded-in front exterior member (30) and the folded-in back exterior member (40)"
- Feature A)
- 1.5 The respondent argued for the first time during the oral proceedings that feature A) was not disclosed in D1. They contended that the front panel 35 and the back panel 135 did not correspond to a front and a back exterior member.
- 1.6 According to Article 13(2) RPBA any amendment to a party's appeal case made after notification of a communication under Article 15, paragraph 1 shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.
- 1.7 The respondent itself could not indicate any exceptional circumstances, and the Board cannot find any either.

1.8 In the absence of any exceptional circumstances, the late arguments relating to the missing disclosure of feature A) in D1 are not taken into account by the Board.

Feature B)

1.9 The respondent argued that a pull-on article is an article in which the side seams must be permanently joined such that its waist dimension cannot be adjusted, and that D1 did not disclose such an article. According to the respondent, it was not directly unambiguously derivable that the diaper of D1 was a pull-on diaper, since D1 referred to two different types of diaper: one having adhesive or mechanical fasteners on the sides for donning and removal, and the other relying on a stretchable waist opening and leg openings to slide on and off the wearer (see paragraph [0002] of D1). The respondent concluded that the embodiments of D1 were of the former type as they had mating fastening components.

1.9.1 The Board does not agree. D1 discloses that the side seams are pre-fastened in paragraph [0001]. D1 also discloses that the fasteners are "less likely to disengage during product application and wear" (see paragraph [0008]; see also paragraph [0065], "making the fasteners less likely to disengage during product application and wear", or paragraph [0004], "pop open during application"). Since the side seams of the garment product in D1 are pre-fastened, the expression "product application" in paragraphs [0008] and [0065] can only refer to the process of putting the garment on.

The same applies to the term "application" in paragraph [0004], since it is encompassed in the more general "application and wear" expression in a sentence whose subject is the "product". The product cannot refer specifically to the side seams, as these can be applied but cannot be worn. Therefore the subject product must refer to the whole garment. Contrary to the respondent's arguments, the term "application" in paragraph [0004] cannot thus refer specifically to seam application, even though the paragraph deals with refastenable side seams and their problems.

- 1.9.2 The fact that fasteners are less likely to "disengage" during product application (see paragraph [0008]) implies that the fasteners must already be engaged at this stage, i.e. the garment is applied to the wearer in its closed-form, pant-like state, having a waist opening and two leg openings. This possibility is disclosed beyond doubt in D1.
- 1.9.3 The additional ability to put on the same garment by unfastening and refastening the side seams would not lead the skilled person to conclude that the garment cannot be considered a pull-on garment. This is also supported, for example, by paragraph [0027] of D9, where both possibilities are explicitly described for one and the same diaper, which is described as being "shaped into pull-on pants".
- 1.9.4 The respondent pointed out that paragraphs [0073] and [0077] of D1 did not disclose any adaptations to the elasticity that would enable the garment to be used as a pull-on diaper. However, the respondent did not specify what such an adaptation should be. The skilled person would not recognise any specific differences in the elasticity requirements of a pull-on diaper

compared with one whose seams are opened when being put on. They would consider that any suitable elastic panel is also suitable to be used on a pull-on garment, since all garments need to exert enough pressure to prevent them from falling off during use.

1.9.5 The skilled person reading paragraph [0002] of D1 therefore does not conclude that there are two mutually exclusive types of diaper, as the respondent argued. Quite to the contrary, they would conclude that the passage should be interpreted as two possibilities that the user may rely on when trying to put on the same diaper.

1.10 D1 therefore discloses a pull-on absorbent article in accordance with feature B).

Feature C)

1.11 At the oral proceedings before the Board the respondent merely referred to its written submissions in respect of feature C). The Board, having reconsidered all the legal and factual issues of the case, sees no reason to alter its provisional opinion, which is hereby confirmed. This is explained below.

1.12 As stated in point 2.5 of the Board's preliminary opinion, at least Figures 4 and 12 of D1 disclose that the pair of join portions is respectively positioned further outside in the lateral direction than an inside end of the fold(s). As the appellant argued in the second paragraph of page 8 of their grounds, the resilient fastening components should lie flat in a plane parallel to the planes of the front and back waist portions, so that they do not become creased and crushed. Paragraphs [0100] and [0104] of D1 also

confirm this. For this to happen, the resilient components in Figure 4 of D1 must necessarily be outside the fold.

1.13 As stated in point 2.5.1 of the Board's preliminary opinion, the Board does not see any reason to interpret the expression "an inside end" in claim 1 as referring exactly to one end either. The resilient fastening components in Figure 12 of D1 are positioned further outside in the lateral direction than the two inside ends (one belonging to the front exterior member and one to the back), but this is not excluded by the wording of claim 1. As long as the resilient fastening component is positioned further outside than at least one end, the feature is disclosed.

1.14 Point 2.5.2 of the Board's preliminary opinion then concludes that D1 also discloses, in Figures 4 and 12, a pair of join portions 82, 84 where the front exterior member and the back exterior member are joined together and positioned further outside in the lateral direction than an inside end in the lateral direction of the folded-in front exterior member and the folded-in back exterior member.

1.15 It thus follows from all the above that the subject-matter of claim 1 lacks novelty over D1. Therefore the ground for opposition under Article 100(a) EPC is prejudicial to maintenance of the patent as granted.

2. Auxiliary requests 1 to 6

2.1 During the oral proceedings before the Board the parties referred to their written submissions and did not present further arguments on auxiliary requests 1 to 6. The Board, having reconsidered all the legal and

factual issues of the case, sees no reason to alter its provisional opinion, which is hereby confirmed, as explained below.

2.2 As explained in point 6.1 of the Board's preliminary opinion, the subject-matter of claim 1 of auxiliary request 1 is the same as claim 1 of the main request and therefore is not novel over D1 (Article 54 EPC).

2.3 As explained in points 7.1 and 7.2 of the Board's preliminary opinion, Figure 3 of D1 discloses the subject-matter of the originally filed claim 2, which has been added to claim 1 of auxiliary request 2. In this embodiment the waist elastics do not extend over the whole height of the exterior member to which they are applied, thus creating two portions. The front exterior member and the back exterior member depicted comprise an area having waist elastics and an area free of waist elastics that will necessarily have fewer stacked layers.

The subject-matter of claim 1 of auxiliary request 2 is therefore not novel over D1 (Article 54 EPC).

2.4 As explained in points 8.1 and 8.1.1 of the Board's preliminary opinion, the feature from the originally filed claim 11 added to claim 1 of auxiliary request 3 is disclosed in D1. D1, paragraph [0096] and Figures 2 and 3, discloses a different leg opening geometry with different leg end edges 70 at the front side and at the back side, which implies the disclosure of the added feature.

The subject-matter of claim 1 of auxiliary request 3 is therefore not novel over D1 (Article 54 EPC).

2.5 As explained in points 9.2 and 9.3 of the Board's preliminary opinion, paragraph [0030] of the application as filed (provided as basis for the amendments to claim 1 of auxiliary requests 4 and 6) relates to "such a pull-on absorbent article". This refers to the pull-on article described in the previous paragraph [0029], which describes "the elastic region" of "this pull-on absorbent article". "This" article is the article defined in paragraph [0019], where the elastic region is first disclosed. However, the elastic region disclosed in paragraph [0019] is more specific than that defined in claim 1.

2.5.1 There is thus no basis for the level of generalisation of claim 1 in the application as filed. Claim 1 of auxiliary requests 4 and 6 does not meet the requirement of Article 123(2) EPC.

2.6 As explained in points 10.1 to 10.3 of the Board's preliminary opinion, claim 1 of auxiliary request 5 in addition to claim 1 of auxiliary request 3 specifies that a surface area of a waist opening side "portion" is larger than a surface area of a crotch side "portion".

The physical boundary between these two portions is not specified in the amended claim. This means that the "portions" boundary is arbitrary and nothing goes against setting this boundary such that the surface area is larger at the waist opening side than at the crotch side. This results in the additional feature of the claim being disclosed in D1.

The subject-matter of claim 1 of auxiliary request 5 is therefore not novel (Article 54 EPC) with regard to D1.

- 2.7 It follows that auxiliary requests 1 to 6 are not allowable.
3. Admittance of auxiliary request 7a
- 3.1 Auxiliary request 7a was filed by the respondent during the oral proceedings before the Board. It differed from auxiliary request 7 in that the dependent claims 5 and 6 were deleted.
- 3.2 According to Article 13(2) RPBA any amendment to a party's appeal case made after notification of a communication under Article 15, paragraph 1 shall, in principle, not be taken into account unless there are exceptional circumstances, which have been justified with cogent reasons by the party concerned.
- 3.3 The appellant argued that there were no exceptional circumstances since, contrary to the respondent's argument, the lack-of-clarity objection (an/the elastic region) in items 12.3 and 12.4 of the preliminary opinion had not been raised for the first time in the preliminary opinion - the appellant had already addressed it in, for example, items 7.2, 7.23 and 7.24 of their grounds of appeal.
- 3.4 The Board does not agree. Regardless of whether the issue had been raised by the Board for the first time or was already in the proceedings, in the case of deletion of claims, the boards have in several decisions come to the conclusion that exceptional circumstances were present and admitted the requests, even if these could have been filed earlier in the proceedings. The reasons given for this were - among other things - that the reduced claim set did not change the scope of the appeal but simplified the

proceedings, that it enhanced procedural economy without disadvantaging the opponent, that the principles of procedural economy and procedural fairness were safeguarded, that the factual and legal scope of the proprietor's case was not altered and the opponent was not faced with any new subject-matter, and that there was no need to reassess the subject-matter of the proceedings (see Case Law of the Boards of Appeal, 11th edition, 2025, V.A.4.5.4.j, second paragraph).

3.4.1 All these criteria are met by the new auxiliary request 7a as the deletion of dependent claims 5 and 6 does not change the factual and legal framework of the appeal. This deletion simply eliminates an issue to be debated without introducing new ones and thus enhances procedural economy. The argument that the opponent is disadvantaged since it has not filed further objections in view of the objection of lack of clarity being already present cannot lead to a different conclusion. It is up to a party to structure its case in the best way for it. The Board notes that no further objection has been submitted by the opponent at the oral proceedings anyway. In the Board's opinion, following the line of the case law outlined above, there are exceptional circumstances justified by cogent reasons as per Article 13(2) RPBA 2020.

3.5 The appellant also argued that there was a problem of convergence with regard to auxiliary request 6, since claim 1 of auxiliary request 7a did not contain the added features with basis in paragraph [0030] of the description that were present in claim 1 of auxiliary request 6.

This argument is not persuasive. Claim 1 of auxiliary request 7a is identical to claim 1 of auxiliary request 7, the request that followed auxiliary request 6 in the reply to the grounds of appeal. Thus this specific lack of convergence was already present in the respondent's complete appeal case and is not the result of any amendment.

3.6 Auxiliary request 7a is therefore admitted into the proceedings.

4. Auxiliary request 7a - Article 56 EPC

4.1 It was not contested that the embodiments of Figures 15 and 16 of D1 disclosed all the features of claim 1 with the exception of the added features:

D) the pull-on absorbent article further comprises a portion where the front exterior member (30) and the back exterior member (40) folded in from outside to inside in the lateral direction at one side in the lateral direction, overlaps in the front-back direction with the front exterior member (30) and the back exterior member (40) folded in from the outside to the inside in the lateral direction at another side in the lateral direction; and

E) the pair of join portions (1ewr, 1ewl) are positioned outside in the lateral direction of the portion where the front exterior member (30) and the back exterior member (40) folded in from the outside to the inside in the lateral direction at one side of the lateral direction overlaps in the front-back direction with the front exterior member (30) and the back exterior member (40) folded in from the outside to the

inside in the lateral direction at the other side of the lateral direction.

4.2 The Board finds that the embodiment of Figure 15 also discloses feature D). The front panel 35 and the back panel 135 seen in Figures 15 and 16 correspond to a front and back exterior member as defined in claim 1, respectively. The skilled person would also derive directly and unambiguously from Figures 15 and 16 that there is an overlap between the folds as defined in feature D), since a portion of the front side panels 34 and of the back side panels 134 shown extend over each other. This is also disclosed in the related paragraph [0106] of D1 ("the refastenable seams 80 are overlapped").

4.3 However, D1 does not disclose feature E). The refastenable seams 80 in Figures 15 and 16 are not positioned outside in the lateral direction of the overlapping regions. This has not been contested by the appellant either.

4.4 The appellant argued that feature E) did not provide a technical effect. The appellant acknowledged that paragraph [0031] of the patent credits feature E) with the effect of enabling the side flaps to be folded thinner and, ultimately, a more compact packaging, but argues that this effect is only achieved for certain embodiments and not across the whole scope of the claim. According to the appellant, a thinner folding depended on several other parameters, such as the thickness of the materials involved (e.g. the flaps could be thicker than the join portions) and whether the fasteners were in the position that defined the thickness of the article (i.e. the position where the thickness is greatest, usually a position that overlaps

the absorbent core). In the absence of a specific effect, the appellant considered that the objective problem was thus simply to provide a suitable location for the join portions.

These arguments are not persuasive. Conceptually, the join portions of absorbent articles are positioned at the outmost lateral points of an absorbent article, such as the flaps. These join portions thus represent an additional layer or sheet of material on the folds that increases their thickness. This also corresponds to the depiction that can be seen in the figures of D1 and of the contested patent. In theory, nothing stands in the way of making another region of the flaps thicker than the region with the join portion, but the skilled person would not consider this technically sensible and the appellant has not cited any example in the prior art showing such a fold either. Even in articles where the waist elastics extend onto the flaps such as in D9, as the appellant argued, the elastics extend across the whole width such that in this case too the join portions represent an additional layer or sheet of material on the folds that also increases their thickness.

The same applies to the position of the fasteners in relation to the article's overall thickness. As the appellant argued, the edges of the absorbent core may not extend to the edges of the absorbent main body since the former is contained within the latter. However, absorbent cores always extend over a large part of the main body, such that it would not make technical sense to provide an absorbent core that somehow did not overlap the folded overlapping side flaps. This also corresponds to the depiction that can be seen in the figures of D1 and of the contested

patent, and the appellant has not cited any example in the prior art showing such an absorbent body either. In any case, even if the absorbent core did not overlap the folds, moving the join portions to a region with fewer overlapping layers of the flaps would always result in a local reduction in the thickness of the side flap folding arrangement, even if there were a thicker region elsewhere in the absorbent article.

Only marginal, hypothetical embodiments therefore do not show this technical effect, i.e. substantially all embodiments encompassed by the claim show the desired effect (see G 1/19, Reasons 82).

- 4.5 The appellant also argued that the objective problem could not be related to a reduction in thickness, as this was contradicted by the overlapping of the side flaps defined in feature D) of claim 1. According to the appellant, an increase in the number of contacting layers resulted in an increase in frictional force, as explained in paragraph [0029] of the description, but also necessarily in an increase in thickness due to the overlapping of the layers, and this counteracted the effect of feature E).

This argument is not convincing. The specific positioning of the join portions defined in feature E) only provides the specific effect of thickness reduction in the event that there is an overlap between the folds as defined in feature D). In the absence of a fold overlap, the position of the join portion would not have an impact on the thickness (provided the join portions not positioned at the inside ends, as also defined in claim 1). There is thus no contradiction between the features, but rather a complementarity.

- 4.6 The objective problem solved by feature E) can thus be seen as being to enable the side flaps to be folded thinner and, ultimately, a more compact packaging as also suggested in paragraph [0031] of the patent.
- 4.7 The appellant argued that it would be routine trial and error for the skilled person to position the join portions anywhere besides the fold lines and that Figure 5 and paragraph [0047] of D8 disclosed the claimed solution.

The Board does not agree. The prior art does not disclose join portions placed outside the overlapping area of the folds nor, more generally, any problems or advantages relating to the positioning of the join portions in overlapping folding arrangements. Figure 5 and paragraph [0047] of D8, cited by the appellant, disclose overlapping folds, but the join portions lie in the area in which the folds overlap. There is thus no indication for the skilled person in the available prior art that would lead them to place the join portions outside the overlapping region.

As discussed above, the claimed solution enables more compact folding and packaging, such that the claimed positioning of the join portions is not arbitrary. Even if it were argued that this is one of a number of possible choices that the skilled person could make or arrive at through trial and error, as the appellant did, the Board sees no reason to deviate from the could-would approach. In other words, the question is not whether the skilled person could have carried out the invention, but whether they would have done so in the expectation of solving the underlying technical problem or in the expectation of some improvement or advantage. The appellant did not present any incentives

that would prompt the skilled person to do so, and the Board does not see any either.

The only way for the skilled person to make the requisite modification of Figure 15 (or 16) of D1 and reach the claimed subject-matter is seen to be through hindsight of the invention as claimed.

4.8 Consequently, the combination of features according to claim 1 of auxiliary request 7a is not derivable in an obvious manner from the combination of D1 with common general knowledge or with D8. The Board thus concludes that the subject-matter of claim 1 of auxiliary request 7a involves an inventive step (Article 56 EPC).

4.9 During the oral proceedings the appellant stated that there were no further objections to this request. The Board holds that the claims of auxiliary request 7a meet the requirements of the EPC, and that a patent amended in accordance with this request can be maintained pursuant to Article 101(3)(a) EPC, the description still requiring adaptation to the amended claims.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the opposition division with the order to maintain the patent in amended form with the following claims and a description to be adapted thereto:

claims 1 - 4 of auxiliary request 7a filed during oral proceedings of 25 February 2026.

The Registrar:

The Chairman:



G. Magouliotis

A. Pieracci

Decision electronically authenticated