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**Datasheet for the decision  
of 2 October 2025**

**Case Number:** T 0374/24 - 3.2.02

**Application Number:** 15731701.7

**Publication Number:** 3148356

**IPC:** A41D13/018

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**Title of invention:**

GARMENT WITH AN INFLATABLE PROTECTIVE DEVICE

**Patent Proprietor:**

Alpinstars Research S.p.A.

**Opponent:**

Dainese S.p.A.

**Headword:**

**Relevant legal provisions:**

EPC Art. 123(2)

**Keyword:**

Amendments - added subject-matter (yes) - intermediate  
generalisation - allowable (no)

**Decisions cited:**

G 0002/10

**Catchword:**



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Case Number: T 0374/24 - 3.2.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 2 October 2025**

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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
5 January 2024 concerning maintenance of the  
European Patent No. 3148356 in amended form.**

**Composition of the Board:**

**Chairman** M. Alvazzi Delfrate  
**Members:** T. Rosenblatt  
J. Hoppe  
P. Cipriano  
W. Ungler

## **Summary of Facts and Submissions**

- I. The appellant (opponent) filed an appeal against the interlocutory decision of the opposition division in which it was found that European patent No. 3 148 356 in amended form as according to auxiliary request 1 of 23 October 2023 met the requirements of the EPC.
- II. The parties were summoned to oral proceedings before the Board of Appeal. In a communication pursuant to Article 15(1) of the Rules of Procedure of the Boards of Appeal (RPBA), the parties were informed of the Board's provisional opinion.
- III. Oral proceedings before the Board were held on 2 October 2025.
- IV. The appellant requested that the decision under appeal be set aside and that the European patent be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed (main request), i.e. that the patent be maintained in amended form based on auxiliary request 1 as found allowable by the opposition division, and as an auxiliary measure it requested that the patent be maintained in amended form based on one of auxiliary requests 2 to 8 as submitted with the reply to the statement of grounds of appeal.

It should be noted that the submitted copies of the auxiliary requests use abbreviated ordinal numbering (2nd, 3rd...) while cardinal numbers are used for the requests above and also in the following.

- V. Independent claim 1 according to auxiliary request 1 underlying the impugned decision (which is the **main request** on appeal but is labelled "1st Auxiliary Request" in the reply to the appeal) reads as follows.

*"Garment (10) provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of at least one tie (14) which connects a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said at least one tie (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the at least one tie (14) is removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and in that said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user."*

Claim 1 of **auxiliary request 2** reads as follows.

*"Garment (10) suitable for being worn by a motorcyclist, provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest*

*configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the motorcyclist; and in that:*

*(i) the perimetral portion (16) of the inflatable bag (13) intended to protect the flanks and the ribs of the motorcyclist is connected by means of the ties (14) to the portion of the garment (10) arranged opposite the motorcyclist's chest; and*

*(ii) the perimetral portion (16) of the inflatable bag (13) intended to protect the hips of the motorcyclist, is connected by means of two ties (14) to the portions of the garment (10) intended to be arranged, during use, above the stomach and the thighs of the motorcyclist."*

Claim 1 of **auxiliary request 3** reads as follows.

"Garment (10) suitable for being worn by a motorcyclist, provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;

the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the motorcyclist;  
and in that:

(i) the perimetral portion (16) of the inflatable bag (13) intended to protect the shoulders, the flanks and the ribs of the motorcyclist is connected by means of the ties (14) to the portion of the garment (10) arranged opposite the motorcyclist's chest; and

(ii) the perimetral portion (16) of the inflatable bag (13) intended to protect the hips

*of the motorcyclist, is connected by means of two ties (14) to the portions of the garment (10) intended to be arranged, during use, above the stomach and the thighs of the motorcyclist."*

Claim 1 of **auxiliary request 4** reads as follows.

*"Garment (10) provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and in that said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user."*

Claim 1 of **auxiliary request 5** reads as follows.

*"Garment (10) provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment,*

*designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and in that said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user, wherein*

*the ties (14) are made of an elastic material, said ties (14) being designed to return autonomously into an untensioned condition when the inflatable bag (13) returns from its active configuration into its rest configuration."*

Claim 1 of **auxiliary request 6** reads as follows.

*"Garment (10) suitable for being worn by a motorcyclist, provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an*

*inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the motorcyclist;  
and in that:*

*(i) the perimetral portion (16) of the inflatable bag (13) intended to protect the flanks and the ribs of the motorcyclist is connected by means of the ties (14) to the portion of the garment (10) arranged opposite the motorcyclist's chest; and*

*(ii) the perimetral portion (16) of the inflatable bag (13) intended to protect the hips of the motorcyclist, is connected by means of two ties (14) to the portions of the garment (10) intended to be arranged, during use, above the stomach and the thighs of the motorcyclist, wherein*

*the ties (14) are made of an elastic material, said ties (14) being designed to return*

*autonomously into an untensioned condition when the inflatable bag (13) returns from its active configuration into its rest configuration."*

Claim 1 of **auxiliary request 7** reads as follows.

*"Garment (10) suitable for being worn by a motorcyclist, provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the motorcyclist; and in that:*

*(i) the perimetral portion (16) of the inflatable bag (13) intended to protect the shoulders, the flanks and the ribs of the motorcyclist is connected by means of the ties (14) to the portion of the garment (10)*

*arranged opposite the motorcyclist's chest; and*

*(ii) the perimetral portion (16) of the inflatable bag (13) intended to protect the hips of the motorcyclist, is connected by means of two ties (14) to the portions of the garment (10) intended to be arranged, during use, above the stomach and the thighs of the motorcyclist, wherein*

*the ties (14) are made of an elastic material, said ties (14) being designed to return autonomously into an untensioned condition when the inflatable bag (13) returns from its active configuration into its rest configuration."*

Claim 1 of **auxiliary request 8** reads as follows.

*"Garment (10) suitable for being worn by a motorcyclist, provided with an inflatable protection device (12) comprising a single inflatable bag (13), arranged inside the garment, designed to assume alternately a rest configuration, in which it is in a deflated state, and an active configuration, in which it is in an inflated state; said inflatable bag (13) being fixed to the garment (10) by means of ties (14) which connect a portion (15) of the garment (10) to a perimetral portion (16) of said inflatable bag (13), said ties (14) being intended to assume alternately an untensioned condition and a tensioned condition when said inflatable bag (13) assumes its rest configuration and its active configuration, respectively;*

*the garment being characterized in that the*

*ties (14) are removably fixed to the perimetral portion (16) of said inflatable bag (13) by means of releasable fixing means (20) and said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the motorcyclist; and in that:*

*(i) the ties (14) connect the perimetral portion (16) of the part (113A) of the inflatable bag (13) arranged above the shoulders to the portion of the garment (10) arranged opposite the motorcyclist's chest;*

*(ii) the perimetral portion (16) of the part (113B) of the inflatable bag (13) intended to protect the flanks and the ribs of the motorcyclist is connected by means of the ties (14) to the portion of the garment (10) arranged opposite the motorcyclist's chest; and*

*(iii) the perimetral portion (16) of the part (113C) of the inflatable bag (13) intended to protect the hips of the motorcyclist, is connected by means of two ties (14) to the portions of the garment (10) intended to be arranged, during use, above the stomach and the thighs of the motorcyclist, wherein*

*the ties (14) are made of an elastic material, said ties (14) being designed to return autonomously into an untensioned condition when the inflatable bag (13) returns from its active configuration into its rest configuration."*

In the following, the term "airbag" will be used synonymously with the designation "inflatable bag" as used in the claims.

VI. The arguments of the appellant can be summarised as follows.

*Main request - Article 123(2) EPC*

The amendment of claim 1 by which it was specified that the garment comprises a single inflatable bag, arranged inside the garment and designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user, resulted in subject-matter extending beyond the content of the application as filed. The (underlined) added features were literally based on lines 32 to 34 on page 6 of the application and related to the specific embodiment of Figures 2 to 6 that was described starting from line 29 on page 6. The passage on page 7 in lines 2 to 20 made explicit reference to Figure 2 and therefore continued to describe this embodiment. According thereto, a plurality of ties, in particular several pairs of ties, which connect each portion of the airbag to respective portions of the garment, were required to maintain the respective portion of the inflated airbag in the required position, thereby protecting the respective zones of the user's body. Moreover, the ties of this embodiment were of elastic material (see page 7, line 27, to page 8, line 7). Amended claim 1 also related to a garment with a single airbag for protecting the plurality of body zones (shoulders, back, flanks, hips, and ribs), but the expression "at least one tie" contained therein also covered an embodiment comprising just a single tie. An embodiment comprising a single airbag and only one tie was not disclosed in the

application as filed, however. According to the rationale of the opposition division in section 18.2.1 of the impugned decision, the person skilled in the art would have derived from the application as filed that a single tie member connecting the single airbag with the garment could provide protection for all the specific body zones mentioned but that the claimed solution may not be the best solution, and optimum protection could be obtained by using multiple tie members. The rationale of the opposition division was, however, contrary to the gold standard (G 2/10), as the only disclosure of protection for all the specific zones mentioned (shoulders, back, flanks, hips, and ribs) with a single inflatable airbag was combined with the use of multiple ties as according to the preferred embodiment.

*Auxiliary requests 2 to 8*

The auxiliary requests should not be admitted.

None of the amended independent claims of the auxiliary requests defined the use of pairs of ties as disclosed in Figures 2 and 3. For example, with respect to added feature (ii) in auxiliary request 2, the embodiment disclosed in Figure 2 comprised four ties connecting the perimetral portion of the inflatable bag intended to protect the hips of the motorcyclist to the garment. The definition of a plurality of ties in auxiliary request 2 did not imply that these ties were arranged in pairs.

VII. The arguments of the respondent can be summarised as follows.

*Main request - Article 123(2) EPC*

The disclosure in the description on page 6, lines 32 to 34, related to one of two general embodiments disclosed independently of Figure 2. The two general embodiments of a garment disclosed in this part of the description comprised an inflatable protection device for protecting multiple body zones, namely either a garment where protection was obtained with a single airbag, as disclosed in the cited passage, or with multiple airbags, as disclosed in the paragraph immediately following this passage (page 6, line 35, to page 7, line 1). This understanding was supported by the last sentence in the preceding paragraph (page 6, line 31), according to which the claimed garment may have different embodiments, not necessarily represented by Figures 2 and 3, two of which embodiments were, for instance, disclosed by the following two paragraphs. Moreover, these two paragraphs did not refer to Figures 2 and 3, whereas the description otherwise always made explicit reference to the respective figures if it concerned that specific embodiment. Figures 2 and 3 disclosed only one possible way (i.e. not the only one) of connecting the perimetral portion of the single airbag, which was disclosed in detail in the first four paragraphs on page 7, to the garment. In these paragraphs, the arrangements of the ties were only disclosed as preferred options, as indicated by, for instance, the term "preferably" used in these passages. That other ways of obtaining a garment according to the first general embodiment disclosed in the paragraph on page 6, lines 32 to 34, were available was confirmed by the fifth paragraph on page 7 (lines 24 to 26), which stated that different embodiments and different arrangements of the ties were possible. The use of a single tie in combination with a single airbag - which in any case only ensured a better

positioning of the airbag, in particular when compared with a situation in which no tie was provided - was already covered by granted claim 1, irrespective of the size and positioning of the airbag. Moreover, whether the use of multiple ties was considered an essential feature of a garment comprising a single airbag for protecting all the cited body zones related to the clarity of the claim rather than to the requirement of Article 123(2) EPC.

Moreover, a basis for amended claim 1 could be found in the application as filed in claim 1 together with the disclosure on page 5, lines 25 to 28, the fifth paragraph on page 1, and claim 6. Without relying at all on the disclosure in the figures, the skilled person would have derived from these passages a garment comprising a single airbag inside. As in original claim 1, the paragraph on page 1 referred "to at least one airbag". The skilled person would therefore have understood that two general embodiments of a garment were possible, namely a first embodiment comprising a single airbag, as referred to in the cited passage on page 5, and a second embodiment comprising multiple airbags. With a mind willing to understand (see T 190/99), the skilled person would have understood from claim 6 that a single airbag was intended to provide protection for all the cited zones together, despite the use of the conjunction 'or' between them, since such garments were used by motorcyclists, who require maximum protection for the body. The expression "at least one tie" was already present in original claim 1 and covered embodiments with a single tie, as also disclosed with respect to the general embodiment described on page 6, line 15, as well as embodiments with multiple ties. Moreover, it was clear to the skilled person that the embodiment of a single airbag

protecting all the body zones mentioned in original claim 6 technically made no sense at all and therefore it implied the presence of multiple ties. Since the human body is essentially symmetrical, it was also implicit that, in the implied presence of multiple ties, the ties had to be arranged in pairs.

As regards the elastic property of the ties, this was only disclosed as an option.

*Auxiliary request 2*

Claim 1 was limited, *inter alia*, to ties (plural) and by added features (i) and (ii), which were based on page 7, lines 8 to 11 and 14 to 17, and on Figures 2 and 3 of the application as filed. Due to the symmetry of the user's body, the plural form used in added feature (i) implied the presence of pairs of ties. This was corroborated by the specification of "two ties" in added feature (ii), referring to the hips. The specification of pairs of ties would be redundant. It would not make technical sense to connect with a single tie the perimetral portion of the inflatable bag intended to protect either the shoulders (that are two) or the flanks and the ribs (that are also two), to the portion of the garment (10) arranged opposite the motorcyclist's chest. With a mind willing to understand (see T 190/99), the skilled person would therefore read claim 1 as implicitly and necessarily referring to pairs of ties.

*Auxiliary requests 3 to 8*

The considerations set out with respect to auxiliary request 2 in regard to the plurality of ties specified in the respective amended claims, without having to

specify pairs of ties, also applied to auxiliary requests 3 to 8. The further amendments made in these requests were not sufficient for overcoming the objection based on the absence of an explicit reference to pairs of ties.

## **Reasons for the Decision**

The subject-matter of the amended independent claim of the patent in suit is directed to a garment provided with an airbag which is intended to protect the user of the garment from injury when falling and hitting an object or the ground. Such garments may be used, for example, by motorcyclists during a race. The airbag of the garment according to the claim is intended to protect several zones of the user's body. In order to secure the position of the airbag in the garment with respect to the body zones intended to be protected, ties are used, which connect the portions of the airbag to the garment.

*Main request - Article 123(2) EPC*

1. Contrary to the conclusion reached by the opposition division, the Board considers the subject-matter of amended claim 1 to extend beyond the content of the application as filed.
- 1.1 The question to be examined is whether amended claim 1 is directed to subject-matter which is directly and unambiguously derivable by a skilled person, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of the documents as filed ("gold standard", see, for example,

Reasons 4.3 of decision G 2/10 of the Enlarged Board of Appeal, OJ EPO 2012, 376).

In the case of a claim being amended by the introduction of a feature derived from a specific embodiment disclosed in the description and/or the figures of the application as filed and covered by the claim prior to its amendment, the question that frequently arises is whether such a feature can be isolated from the other features of this embodiment with which it is disclosed in combination in the application as filed (intermediate generalisation). If, when applying the gold standard, the feature would be understood by the skilled person to be structurally and functionally linked in this specific embodiment to other features thereof, the subject-matter resulting from its introduction into the claim constitutes an unallowable intermediate generalisation of the subject-matter of the (unamended) claim and the specific embodiment which is considered not directly and unambiguously derivable from the application as filed.

- 1.2 Claim 1 has been amended to specify that the garment comprises a single inflatable bag (instead of "at least one" as in granted claim 1), which is arranged inside the garment and "said inflatable bag (13) is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user."

According to claim 1, "at least one" tie is removably fixed to the perimetral portion of the airbag. Hence, two alternatives are claimed: one with only one tie and another with more than one tie. Therefore, the claim resulting from the amendments is directed, *inter alia*, to an embodiment with only a single tie connecting a portion of the garment to a perimetral portion of the

single airbag designed to protect all named body zones. A garment comprising a single tie together with a single airbag is, however, not directly and unambiguously derivable from the application as filed (gold standard), as will be explained in the following.

- 1.3 A literal basis for the added features directed to the airbag's design for protecting the multiple body zones is found only on page 6, lines 32 to 34, of the description of the application as filed, as pointed out by the appellant. Together with the preceding and immediately following paragraphs, the relevant passage of the description reads as follows.

*"Reference is now made to Figures 2 and 3 in which a first embodiment of the garment 10 according to the invention is shown. This garment 10 is a motorcyclist's riding suit. However, as already mentioned, the garment 10 may have different configurations" (page 6, lines 29 to 31).*

*"The garment 10 is provided with an inflatable protection device 12 which comprises a single inflatable bag 13 arranged inside the garment. This bag 13 is designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user" (page 6, lines 32 to 34).*

*"According to alternative embodiments of the invention, not shown in the attached drawings, the garment 10 may be provided with a plurality of inflatable bags, independent of each other, and each designed to be positioned opposite a portion of the body which is to be protected" (page 6, line 35, to page 7, line 1).*

Figures 2 and 3 show a garment with a single inflatable bag that protects the shoulders, the back, the flanks, the hips and the ribs of the user. As is visible in Figure 2, the fixation of the single airbag to the garment is realised by means of a plurality of ties. Figure 2 shows, for example, two ties 16 in a symmetrical arrangement connecting respectively the left and right wing of the airbag's shoulder portion to the garment. A similar symmetrical arrangement of a pair of ties is shown also for the flanks and the ribs, whereas the perimetral portion of the part of the airbag intended to protect the hips comprises two ties on each hip side.

1.4 As pointed out by the appellant, a plurality of ties arranged in pairs for each of the zones to be protected is disclosed in the embodiment of Figure 2 for fixing the single airbag that protects different parts of the body to the garment and holding it in position, as recited in the present claim 1. The arrangement in pairs is linked, as also acknowledged by the respondent, to the symmetry of the human body. Hence, in the embodiment of Figures 2 and 3 the added features are structurally and functionally linked to features omitted from the claims, namely, *inter alia*, to the use of a plurality of ties in pairs.

1.4.1 The Board considers that contrary to the respondent's view, the disclosure in the description on page 6, lines 32 to 34, does not relate to one of two general embodiments disclosed independently of Figure 2.

In fact, and as also argued by the appellant, the paragraph on page 6, lines 29 to 31, comprises a direct reference to Figures 2 and 3 of the application as filed. These figures indeed show a garment which is a

motorcyclist's riding suit. The paragraph's opening statement ("*reference is now made...*") indicates to the skilled person that what follows in the paragraphs further down will be a description of this specific first embodiment of the garment, i.e. a motorcyclist's suit, as shown in these figures. The adverb "now" would otherwise make no sense if the reference to Figure 2 were strictly limited to the content of this single paragraph. The final sentence of the paragraph states that the garment may have different configurations, without specifying any details as to the extent to which the configurations may be different. The beginning of the immediately following paragraph on page 6, lines 32 to 34 ("*the garment 10 is provided...*"), can then only be understood to refer to the specific garment of the cited figures mentioned at the beginning of the preceding paragraph. Thus, contrary to the conclusions of the opposition division, the two paragraphs together relate to the same and specific garment shown in Figures 2 and 3, which comprises a single airbag designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user, as illustrated in these figures.

The immediately following paragraph on page 6, line 35, to page 7, line 1, relates indeed to an alternative embodiment, which is not shown in the drawings. According to this embodiment, which is thus not the embodiment illustrated in Figures 2 and 3, instead of a single airbag a plurality of airbags may be provided, independently of each other, with each being designed to be positioned opposite a portion of the body to be protected. This embodiment is not covered by the present claim 1.

Although the Board can accept the respondent's view

that the two paragraphs on page 6, line 32, to page 7, line 1, can be understood to concern two types of "general" embodiments of a garment, the first embodiment (single airbag) referred to in lines 32 to 34 on page 6 is nevertheless disclosed in the context of the specific garment illustrated in Figures 2 and 3. There is no disclosure of a single airbag for protecting the plurality of body zones independently of the specific embodiment shown in Figure 2.

- 1.4.2 The description continues on page 7, line 2, by giving further details of the specific embodiment shown in Figure 2, notably with respect to the connection of the perimetral portion(s) of the single airbag arranged above the shoulders to the garment.

*"With reference to Figure 2, it can be noted how preferably the ties 14 connect the perimetral portion 16 of the bag 113A arranged above the shoulders to the portion of the garment 10 arranged opposite the motorcyclist's chest. These ties are provided such that for example the bag 113A arranged above the shoulders expands continuing to surround the motorcyclist's shoulders, without undergoing undesirable displacements towards the zone of the neck or the back" (lines 2 to 7 on page 7 of the description).*

Figure 2 shows two ties 16 in a symmetrical arrangement connecting respectively the left and the right wing of the airbag's shoulder portion to the garment. The particular configuration of the ties s (emphasis added) described in the first sentence of the above-mentioned paragraph and illustrated in Figure 2 is disclosed to provide the effects described in the second sentence of the paragraph ("*...provided such that for example the*

*bag ... arranged above the shoulders expands continuing to surround..., without ... undesirable displacements...*"). The Board cannot find any indication that the (two) ties shown in Figure 2 are only optional in this specific embodiment.

Despite the absence in the immediately following second paragraph (lines 8 to 13 on page 7) of an explicit reference to Figure 2, the skilled person understands from the similarity of the wording used ("*[s]imilarly, it can be noted how preferably also the perimetral portion...*"), and from the immediately following third paragraph (lines 14 to 20), which again refers explicitly to the embodiment of Figure 2, that also these paragraphs relate to the description of the specific embodiment of a garment illustrated in Figure 2, as also argued by the appellant. Similarly to the first full paragraph on page 7 (see above), the second and third paragraphs disclose corresponding connections by multiple (pairs of) ties of the other perimetral portions of the airbag in the regions of the flanks and ribs and in the region of the hips, respectively, to the garment, as further pointed out by the appellant. For example, the left and right airbag portions covering the hips are each connected by two ties to the garment. In total, the single airbag portion(s) designed to protect the hips are thus connected by four ties (arranged in two pairs) to the garment.

- 1.4.3 Therefore, the garment referred to in lines 32 to 34 on page 6, and relating to the specific embodiment shown in Figure 2 of the application as filed, comprising a single airbag designed to protect the shoulders, the back, the flanks, the hips and the ribs of the user, is disclosed only in combination with multiple (pairs of)

ties connecting the corresponding perimetral portions of the airbag with the garment.

- 1.5 The Board appreciates that, as argued by the respondent, the passages from page 7 referred to above indicate that Figure 2 shows "how preferably the ties" (emphasis added) connect the respective perimetral portions of the bag protecting the shoulders, flanks and ribs, implying indeed that what is shown is a preferred embodiment of the garment in regard to the ties' connections. The Board is not, however, convinced by the respondent's contention that this would indicate to the skilled person that the number of ties used for the connections is an optional feature of the illustrated embodiment, let alone that only a single tie could also be used in a garment comprising a single airbag for protecting the plurality of cited body zones. The statement refers to "the ties", such that the term "preferably" in front of it cannot be read as relating to the number thereof but rather as relating to the connection arrangement. The skilled person is only faced with the illustration of a garment according to Figure 2, comprising the particular number (and arrangement) of ties for connecting the respective airbag's perimetral portions to the garment (and this, moreover, in order to achieve the particular technical effects mentioned at the end of the respective paragraph).

The content of the fifth paragraph (lines 24 to 26) on page 7 of the application as filed, also referred to by the respondent, according to which different embodiments and different arrangements for the ties were possible, does not alter the Board's conclusion. It remains vague as to what aspects could be meant. At best it can be learnt from this passage that other

embodiments may be possible in order to satisfy different requirements, but not that the number of ties shown for the single airbag designed to protect the zones mentioned on page 6, lines 32 to 34, and illustrated in Figures 2 and 3, could be different, let alone one.

The respondent's reference to the passage of the description starting in line 15 on page 6, referring to "the tie or ties" (emphasis added), does not lead to a different conclusion either. The passage taken in its context pertains to different aspects of the garment and its components, namely the transition from a rest configuration to an active configuration. It may indeed be considered to relate to the description of a general embodiment of a garment comprising an (or at least one) airbag. It has not, however, been specified which portion of the body should be protected by this airbag in this general embodiment. It cannot be excluded that for such general embodiments, in the absence of a specification as to which body part is to be protected, a single tie as suggested might be used. However, this does not support a direct and unambiguous disclosure of a single tie used with a single airbag designed to protect the specific multiple body zones defined in the amended claim, either on its own or in combination with any of the other passages referred to by the respondent.

- 1.6 The above-mentioned parts of the application as filed do not disclose a garment comprising a single airbag for protecting the entirety of said body zones with at least one tie, which includes an embodiment with only a single tie, as specified by amended claim 1.

1.7 In a second line of argument, the respondent argued that in fact, the subject-matter of amended claim 1 did not have to rely on the specific embodiment of Figure 2 at all. The garment according to amended claim 1 was instead disclosed in the general part of the description of the application as filed, and was derivable notably from certain passages on pages 1 and 5 and claims 1 and 6 of the application as filed. However, this line of argument is not convincing for the reason alone that none of the passages referred to by the respondent discloses a single airbag designed to protect the shoulders, the back, the flanks, the ribs and the hips of the user.

Claim 6 as filed reads as follows.

*"Garment (10) according to Claim 1, characterized in that the at least one inflatable bag (13) is positioned in a portion of the garment (10) which, during use, is designed to cover the shoulders or the back or the flanks or the hips or the ribs of the user"* (emphasis added).

Claim 6 thus discloses the plurality of body regions as alternative zones to be covered by the at least one inflatable bag positioned in a portion of the garment. The Board is not convinced by the respondent's further argument that the skilled person, with a mind willing to understand, would have directly and unambiguously understood that all these zones should be covered together by a single airbag. Even if such an embodiment may be particularly advantageous in certain cases, like in a suit for a motorcyclist, as argued by the respondent, claims 1 and 6 do not disclose such a suit, as it cannot be excluded that multiple airbags could be used for protecting the plurality of zones. A garment

comprising a single airbag designed to cover all the mentioned zones is therefore neither directly nor unambiguously derivable from claims 1 and 6. The other passages cited by the respondent in this context, i.e. on page 1, which refers to the prior art rather than to the claimed invention, and on page 5, which does not mention any zones to be covered, do not alter this conclusion since they do not add anything in this respect.

- 1.8 The respondent's argument according to which the skilled person would have recognised that an embodiment with a single tie would also work with a single airbag designed for protecting the multiple body zones specified in claim 1, even if it did not provide an optimum solution, is not convincing either. Whether or not the skilled person would recognise the advantages of such a further potential embodiment is of no relevance, since, as explained above, such a potential embodiment is not directly and unambiguously derivable from the application as originally filed.
- 1.9 For the reasons set out above, the Board concludes that claim 1 of the main request does not comply with the requirements of Article 123(2) EPC, prejudicing the maintenance of the patent in this form. Consequently, the respondent's main request, i.e. that the appeal be dismissed, cannot be allowed.
- 1.10 Under these circumstances, the appellant's further objection of added subject-matter based on the alleged omission of the ties of "elastic material" does not require further consideration.

*Auxiliary request 2 - Article 123(2) EPC*

2. The further amendments to claim 1 according to auxiliary request 2 do not overcome the specific deficiency referred to above under Article 123(2) EPC either.
  - 2.1 In addition to the amendments in auxiliary request 1 as found allowable by the opposition division (now the main request), the suitability of the garment for being worn by a motorcyclist has been incorporated into claim 1 of auxiliary request 2. Furthermore, features (i) and (ii) have been added at the end of the claim's characterising portion; these are based on page 7, lines 8 to 11 and 14 to 17, respectively. Moreover, all previously used expressions relating to "at least one tie" have been replaced by the plural form "ties".
  - 2.2 Although this amendment excludes the embodiment of a garment with a single airbag designed to protect the multiple body zones as specified in the claim and connecting the airbag's perimetral portion to the garment by a single tie, the resulting subject-matter still constitutes, as in the case of the main request, an unallowable intermediate generalisation between the subject-matter of the original claim 1 and the embodiment of Figure 2 on which the amendment is based.

As explained under point 1.4 above, the feature that the airbag is fixed to the garment by pairs of ties cannot be omitted when amending the claim on the basis of the specific embodiment of Figure 2.
  - 2.3 The respondent's argument that the skilled person, with a mind willing to understand, would understand the

wording of features (i) and (ii) to imply the presence of respective pairs of ties, and that therefore this allegedly missing feature was not in fact omitted, is not convincing. There is no doubt that the human body is essentially symmetrical with respect to its vertical median plane and that a garment suitable to be worn by a motorcyclist essentially has a similar symmetrical configuration. However, this does not mean that the ties defined in feature (ii) of claim 1, for example, necessarily have to be arranged in symmetrical pairs. There is no technical reason why such an arrangement would necessarily be required; an embodiment having only the two ties in the hip region as specified by feature (ii) of claim 1 of this request is still technically meaningful. Moreover, as also argued by the appellant in writing (see page 6 in the appellant's letter dated 18 August 2025), other configurations comprising a plurality of ties which do not involve the use of pairs of ties and for which there is no disclosure in the application as filed are possible and technically reasonable. Therefore, the claim still omits the feature that the ties are provided as pairs.

- 2.4 Since claim 1 of auxiliary request 2 does not comply with the requirements of Article 123(2) EPC either, the respondent's request for the maintenance of the amended patent in this form cannot be allowed and the question of admittance does not need to be addressed.

*Auxiliary requests 3 to 8 - Article 123(2) EPC*

3. Irrespective of the question of admittance, the further amendments to claim 1 of auxiliary requests 3 to 8 do not overcome the objection considered above, either.

3.1 In auxiliary request 3, feature (i) added in auxiliary request 2 has been further amended to recite also "the shoulders". Claim 1 of auxiliary request 4 is based on claim 1 of auxiliary request 1 as found allowable by the opposition division (here the main request) and has been amended by replacing the previously used expression "at least one tie" by the plural form "ties". In claim 1 of auxiliary request 5, in addition to the amendments in auxiliary request 4, the features of dependent claim 2 have been added, which specify that the ties are of elastic material. In claim 1 of auxiliary request 6, in addition to the amendments of auxiliary request 5, the amendments introduced in auxiliary request 2 have been added (suitability for motorcyclist, features (i) and (ii)). In auxiliary request 7, claim 1 has been further amended based on auxiliary request 6, by specifying also "the shoulders" in added feature (i). Finally, in claim 1 of auxiliary request 8, former feature (i) of auxiliary request 7 has essentially been split up to recite the ties' connections for the portion above the shoulders separately from the ties' connections to the portions protecting the flanks and ribs, as according to the wording of lines 2 to 4 and 8 to 11, respectively, on page 7 of the description as filed. None of these amendments address the issue of the omitted feature relating to the pairs of ties. Hence, these amendments do not change the conclusion of the Board set out under point 2.3 above concerning the respondent's unconvincing contention that claim 1 implicitly defines pairs of ties, and therefore the subject-matter as claimed still comprises an unallowable intermediate generalisation.

3.2 The respondent also confirmed that the amendments in auxiliary requests 3 to 8 were not suitable for

overcoming the objection under Article 123(2) EPC. The respondent did not submit any further arguments on this issue.

- 3.3 For these reasons, the respondent's request for the maintenance of the patent in amended form according to any of auxiliary requests 3 to 8 cannot be allowed.
4. In the absence of any set of claims which meets the requirements of the EPC, the appellant's request for revocation of the patent is granted.

## Order

### For these reasons it is decided that:

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

The Registrar:

The Chairman:



A. Chavinier-Tomsic

M. Alvazzi Delfrate

Decision electronically authenticated