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**Datasheet for the decision
of 15 January 2026**

Case Number: T 0396/24 - 3.2.03

Application Number: 19720139.5

Publication Number: 3791112

IPC: F22B37/24, F22B37/14, F22B37/20

Language of the proceedings: EN

Title of invention:
BOILER COMPRISING A SUPPORT ASSEMBLY

Patent Proprietor:
Valmet Technologies Oy

Opponent:
Sumitomo SHI FW Energia Oy

Headword:

Relevant legal provisions:
EPC Art. 54(3)
RPBA 2020 Art. 11

Keyword:
Novelty - (yes) - main request (yes) - implicit disclosure (no)
Remittal - (no) - special reasons for remittal

Decisions cited:

G 0002/24

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0396/24 - 3.2.03

D E C I S I O N
of Technical Board of Appeal 3.2.03
of 15 January 2026

Appellant: Valmet Technologies Oy
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 6 February 2024
revoking European patent No. 3791112 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman C. Herberhold
Members: R. Baltanás y Jorge
N. Obrovski

Summary of Facts and Submissions

- I. European patent No. 3 791 112 B1 relates to a boiler comprising a support assembly.
- II. An opposition was filed against the patent based on Article 100(c) and (a) EPC in conjunction with Articles 54 and 56 EPC. However, the only ground for opposition substantiated in opposition proceedings was that based on Articles 100(a) and 54(3) EPC (see impugned decision, point II.1).
- III. The present appeal is against the decision of the opposition division to revoke the patent on grounds of lack of novelty (Article 54(3) EPC).

This decision was appealed by the patent proprietor (appellant).

- IV. In a communication pursuant to Article 15(1) RPBA, the Board indicated its preliminary opinion.

Oral proceedings were held on 15 January 2026.

- V. Requests

The appellant requested that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the main request refiled with the statement of grounds of appeal or, as an auxiliary measure, that the patent be maintained in amended form on the basis of one of the first or second auxiliary requests filed with the statement of grounds of appeal. The appellant also requested that, if the Board considered the subject-matter of the claims of

the main request novel but did not consider maintaining the patent on that basis, the case be remitted to the opposition division to examine inventive step.

The opponent (respondent) requested that the appeal be dismissed.

VI. Main request

Claim 1 of the main request, including the labelling of its features as adopted by the parties, reads as follows:

- 1a** *A boiler comprising a support assembly for supporting a furnace (22) of the boiler (10) to a support frame (12) of the boiler,*
- 1b** *- wherein the furnace (22) comprises four vertical, planar water tube walls (72, 74, 76, 78) which are joined together and which, in a horizontal plane, define a rectangular cross section with four corner sections, two of the water tube walls being joined in each corner section, the four corner sections including a first corner section at which a first water tube wall (78) and a second tube wall (76) that are transverse to each other are joined, and*
- 1c** *- wherein the boiler (10) further comprises at least one vertically extending pipe (18) that is for the transport of water and/or steam and situated outside the furnace (22), the pipe being close to the first corner section, characterized in that:*
 - 1c1** *- the boiler (10) further comprises a cyclone separator (24) connected to the furnace (22) for separating solid particles from flue gases coming*

from the furnace, wherein the cyclone separator is supported to the support frame (12),

1d - *the support frame (12) further comprises at least two horizontal supporting beams (26, 28, 30, 32) which are separated from the water tube walls and include a first supporting beam (32) and a second supporting beam (30) that are transverse to each other,*

1e - *wherein the support assembly (40) close to the first corner section comprises*

1e1 - *a first assembly part (56) that attaches the pipe (18) to the first supporting beam (32) or to a third supporting beam (88) supported to the first or second supporting beam (30, 32), wherein the first assembly part defines, at the first or third supporting beam (32, 88), a first point of support (52) where loads incurred by the weight of the pipe and the furnace attached to the pipe are transmitted to the first or third supporting beam (32, 88), and*

1e2 - *a second assembly part (58) that attaches the same pipe (18) to the second supporting beam (30) or to a fourth supporting beam (86) supported to the second supporting beam, wherein the second assembly part defines, at the second or fourth supporting beam (30, 86), a second point of support (54) where loads incurred by the weight of the pipe and the furnace attached to the pipe are transmitted to the second or fourth supporting beam (30, 86).*

Independent claim 2 of the main request, including the numbering of its features as adopted by the parties, reads as follows:

- 2a** A boiler comprising a support assembly for supporting a furnace (22) of the boiler (10) to a support frame (12) of the boiler,
- 2b** - wherein the furnace (22) comprises four vertical, planar water tube walls (72, 74, 76, 78) which are joined together and which, in a horizontal plane, define a rectangular cross section with four corner sections, two of the water tube walls being joined in each corner section, the four corner sections including a first corner section at which a first water tube wall (78) and a second tube wall (76) that are transverse to each other are joined, and
- 2c** - wherein the boiler (10) further comprises at least one vertically extending pipe (18) that is for the transport of water and/or steam and situated outside the furnace (22), the pipe being close to the first corner section, characterized in that:
- the support frame (12) further comprises
- 2d** - at least two horizontal supporting beams (26, 28, 30, 32) that are separated from the water tube walls and include a first supporting beam (32) and a second supporting beam (30) that are transverse to each other, and
- 2e** - a connecting supporting beam (84) that is separated from the water tube walls and comprises a first end attached to the first supporting beam (32) or to a third supporting beam (88) supported to the first or second supporting beam (30, 32), and a second end attached to the second supporting beam (30) or to a fourth supporting beam (86) supported to the second supporting beam,
- 2e1** - wherein the connecting supporting beam (84) is oblique in relation to the first and second supporting beams (30, 32), and

- wherein the support assembly (40) close to the first corner section comprises

2f1 - a first assembly part (56) that attaches the pipe (18) to the connecting supporting beam (84), wherein the first assembly part defines, at the connecting supporting beam, a first point of support (52) where loads incurred by the weight of the pipe and the furnace attached to the pipe are transmitted to the connecting supporting beam (84), and

2f2 - a second assembly part (58) that attaches the same pipe (18) to the connecting supporting beam (84), wherein the second assembly part defines, at the connecting supporting beam, a second point of support (54) where loads incurred by the weight of the pipe and the furnace attached to the pipe are transmitted to the connecting supporting beam (84).

VII. Prior art

The following document has been cited, both in the statement setting out the grounds of appeal and during the opposition proceedings, and is relevant to this decision:

D1: WO 2019/076427 A1

Document D1 is prior art under Article 54(3) EPC.

The respondent has cited the following document in the reply to the appeal:

D5': "Internal Recirculation Circulating Fluidized-Bed Boilers", The Babcock & Wilcox Company, 2021, retrievable at <https://www.babcock.com/>

[assets/PDF-Downloads/Steam-Generation/
E101-3148-CFB-Boilers-Babcock-Wilcox.pdf](#)

Document D5' has a publication date later than the filing date of the patent.

The appellant filed the following document for the first time with its letter dated 25 September 2024:

D6: US 5,343,830 A

VIII. The appellant's arguments relevant to this decision can be summarised as follows:

(a) Main request, novelty of claim 2

D1 did not show a connecting supporting beam oblique in relation to the first and second supporting beams as defined in feature 2e1. The embodiments comprising multiple horizontal auxiliary beams were disclosed in detail in this document (see paragraphs [0041] and [0042]), and the skilled person would therefore take into account these and not the "single beam" embodiment allegedly mentioned in paragraph [0018].

Even if the skilled person took the "single beam" embodiment into consideration, it was not clearly and directly derivable from D1 how this could be implemented, in particular in view of the desire to avoid extra bends in the downcomer pipe explicitly mentioned at the end of paragraph [0042].

(b) Main request, novelty of claim 1

D1 did not disclose a cyclone separator as defined in feature 1c1, either explicitly or implicitly, since

other particle separators were a known and suitable solution within the same technical context, as shown in D6. Furthermore, contrary to what was specified in feature 1c1 of claim 1, D1 did not disclose a particle separator directly connected to the furnace and supported to the support frame.

IX. The respondent's arguments relevant to this decision can be summarised as follows:

(a) Main request, novelty of claim 2

A single horizontal auxiliary support beam was explicitly envisaged as a possible embodiment in paragraph [0018] of D1.

The skilled person implementing the "single beam" embodiment would contemplate a straight shape of the horizontal auxiliary beam, since this was the simplest way when starting from a situation as shown in Figure 3a, irrespective of the content of paragraph [0042], which related to a completely different embodiment.

(b) Main request, novelty of claim 1

D1 implicitly disclosed a cyclone separator since this was the standard particle separator in the context of circulating fluidised bed boilers (CFB boilers), as shown in D5'. The skilled person would thus understand from paragraphs [0002] and [0015] that D1 comprised a cyclone separator. The term "cyclone separator" (feature 1c1) encompassed all separators working on the principle of vortex separation.

Moreover, claim 1 did not require a direct connection between the furnace and the cyclone separator, and did not define how the cyclone separator was supported to the support frame. Therefore the "external cyclone primary separator" shown in Figure 1 of D6 corresponded to such a standard particle separator.

It was noted that added feature 1c1 (cyclone separator) was not technically related to the other features of claim 1, so that if this feature had been present in the original version of claim 1 and then deleted during examination its deletion would have been permissible.

Reasons for the Decision

1. Main request, novelty - Article 54(3) EPC

1.1 Claim 2

1.1.1 Feature "oblique connecting supporting beam"

Feature 2e defines a connecting supporting beam that is separated from the water tube walls and comprises a first end attached to the first supporting beam (or to a third supporting beam supported to the first or second supporting beam), and a second end attached to the second supporting beam (or to a fourth supporting beam supported to the second supporting beam).

Feature 2e1 specifies that the connecting supporting beam is oblique in relation to the first and second supporting beams.

1.1.2 Embodiment shown in Figures 3a and 3b

The embodiment shown in Figures 3a and 3b of D1 (reproduced below) discloses, as correctly stated by the opposition division, hanger rods (48) connected at their upper ends to the horizontal main support beams (38), these beams being arranged transversely to each other (see paragraph [0040]).

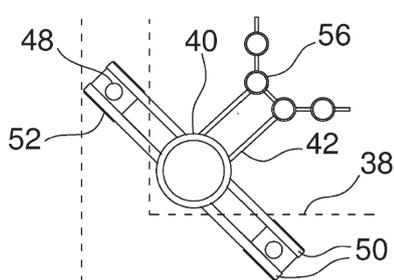


Fig. 3a

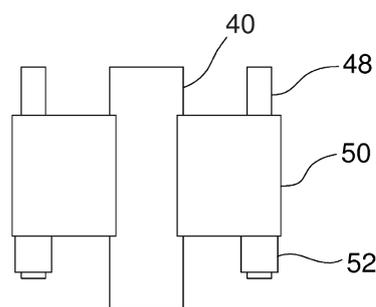


Fig. 3b

The lower ends of the hanger rods (48) are fixed by nuts (52) to a pair of support lugs (50) attached to each of two opposite sides of the vertically extending pipe (40).

The support lugs (50) (see Figures 3a and 3b reproduced above) cannot form the "oblique connecting supporting beam" within the meaning of features 2e and 2e1 since they are not attached to any of the supporting beams (38) as defined therein. This interpretation was never argued by the opposition division, contrary to what might be understood from the submissions of the appellant in point 3 of its letter dated 25 September 2024.

1.1.3 "Multiple beams" embodiment

Paragraph [0041] of D1 discloses that "*[i]n practice it may be useful to fix the upper ends of the hanger rods 48 to suitable auxiliary horizontal beams, not shown in Fig 3a, arranged, for example, above two opposite sides of the corner column 40 and supported to the horizontal main support beams 38*" (emphasis added).

The opposition division argued that "*[t]his means that the auxiliary horizontal beams, located above the support lugs so that the hanger rod are fixed to it [sic], are oblique and attached to the main support beams*", thus disclosing features 2e and 2e1 (see last two paragraphs of point II.7.2 of the contested decision). For the opposition division, it was thus "inevitable" that the auxiliary horizontal beam was oblique and fixed to the main support beams in the context of Figure 3a.

In other words, the opposition division considered features 2e and 2e1 to be implicitly disclosed in D1 on the basis of Figure 3a and paragraph [0041].

According to established case law (Case Law of the Boards of Appeal, 11th edition, 2025, I.C.4.3), an alleged disclosure can only be considered "implicit" if it is immediately apparent to the skilled person that nothing other than the alleged implicit feature forms part of the subject-matter disclosed. The information needs to be necessarily implied, i.e. it is information which a reader skilled in the art would unequivocally gather from the overall context of the cited document.

Such an implicit disclosure is not present in the case at hand as feature 2e specifies that **a single**

particular connecting supporting beam comprises a first end attached to the first supporting beam **and** a second end attached to the second supporting beam, whereas the cited passage of paragraph [0041] refers to "beams" - i.e. multiple beams - attached in a completely undefined manner to the main support beams (including e.g. in a cantilevered manner, which is not unusual in this technical field: see paragraph [0006] and Figure 6 of D1, or Figure 11 of the impugned patent). The skilled person thus will not infer directly and unambiguously from the vague information provided that **each** of the "auxiliary horizontal beams" mentioned in paragraph [0041] has to be connected to **two** mutually transverse supporting beams, let alone that any of the "auxiliary horizontal beams" - of an undefined shape - would necessarily be oblique to said supporting beams.

1.1.4 "Single beam" embodiment

The appellant argued that the skilled person would not contemplate the possibility of using a single "horizontal auxiliary support beam" since D1 as a whole gave preference to the use of multiple such beams, as shown in the embodiment described in paragraph [0041]. Such a selection, according to the appellant, would be "cherry picking", and thus not a valid argument for lack of novelty.

This is not persuasive, since the expression "*at least one horizontal auxiliary support beam*" in the last sentence of paragraph [0018] explicitly discloses the embodiment consisting of the lower possible value, i.e. one single beam. The skilled person would thus understand that this is an embodiment disclosed in D1, regardless of its level of detail.

The opposition division argued that the last sentence of paragraph [0018] would be regarded by the skilled person as corresponding to the same structure discussed in paragraph [0041] since "*[t]hey are described in the exact same way connecting the hanger rods 48 to the main support beams 38*". According to the opposition division, since it is disclosed in paragraph [0018] that "*[a]ccording to an especially preferable embodiment of the present invention, each of the vertical corner columns is hanging from at least one horizontal auxiliary support beam supported by two adjacent beams of the horizontal main support beams*", the auxiliary support beam must be oblique to the main support beams (see point II.7.4 of the contested decision).

The respondent agreed, and argued that the skilled person implementing the "single beam" embodiment would contemplate a straight shape of the horizontal auxiliary beam since this was the simplest way of doing it. According to the respondent, paragraph [0042] of D1 related to a completely different embodiment and would not limit the skilled person in their implementation task relating to the "single beam" embodiment. The respondent also argued that, looking at Figure 3a, the skilled person would notice that, if the main support beams (38) had to be arranged further away from the water tube walls (18), the "single beam" embodiment described in paragraph [0018] would be directly usable to support the downcomer pipe without the need for support lugs (50) having an excessive length.

This is not persuasive.

The skilled person reading paragraph [0018] will understand that the option of using **at least one**

horizontal auxiliary support beam is mentioned in the section of the description explaining the invention in its broadest terms. No details are provided there e.g. about the angle formed by the horizontal main support beams - which are only disclosed as being "adjacent" - or the shape of the at least one horizontal auxiliary support beam(s) which allegedly should result - in combination with the orientation of the horizontal main support means - in an "oblique" arrangement. Thus it cannot be considered that the combination of features 2e and 2e1 is implicitly disclosed in paragraph [0018] of D1.

The skilled person, rather, will understand from the embodiment of Figure 3a that the second sentence of paragraph [0041] implements the general teaching of paragraph [0018] ("**at least one** horizontal auxiliary support beam") in the particular case of this embodiment, which is well-detailed for a number of features such as the number of horizontal main support beams, their relative orientations, the construction of the lugs (50), etc. The skilled person would understand from paragraph [0041] that, in the context of the embodiment shown in Figure 3a, auxiliary horizontal beams - i.e. more than one - are to be used (see above).

The alternative consisting of one (and only one) auxiliary horizontal beam discussed in the introductory portion of D1 in connection with the invention in more general terms is not so clearly and unambiguously disclosed as to be applied in the particular construction of the embodiment shown in Figure 3a, for which paragraph [0041] states that multiple auxiliary horizontal beams are to be used. The skilled person would need to apply the general teaching discussed in a

broader context to the particular embodiment for which a different solution is explicitly disclosed. This could be the subject of a hypothetical discussion about inventive step - from which D1 is excluded since it is prior art under Article 54(3) EPC - but is not an implicit disclosure (see discussion of the case law above) of said feature.

Even if the skilled person considered the "single beam" embodiment within the context of the construction shown in Figure 3a, paragraph [0042] warns against making extra bends to the downcomer pipe (see last sentence of paragraph). This is a general teaching relating to the construction of the downcomer pipe, irrespective of the reasons for needing such undesirable extra bends (in the case of paragraph [0018], a spatial conflict with the horizontal support beams). Arranging a horizontal auxiliary support beam supported by two adjacent beams of the horizontal main support beams (as taught in paragraph [0018]) in a construction such as that of Figure 3a implies that, if the horizontal auxiliary support beam were straight (and therefore "oblique" within the meaning of feature 2e1), it would conflict with the downcomer pipe. Since the skilled person will know from D1 that extra bends in the downcomer pipe are to be avoided, they would have to consider other shapes (e.g. L-shaped) for the horizontal auxiliary support beam which do not necessarily result in a beam which is "oblique in relation to the first and second supporting beams". This feature is thus not implicitly disclosed even if a modification of Figure 3a in the light of paragraph [0018] is considered.

1.1.5 Conclusion

In view of the above, features 2e and 2e1 are not disclosed in D1, and the subject-matter of claim 2 is thus novel over this document.

1.2 Claim 1

1.2.1 No remittal - Article 11 RPBA

Since it sufficed for the opposition division to consider the alleged lack of novelty of independent claim 2 in order to reach a conclusion on the allowability of the main request and of the only auxiliary request, the contested decision did not discuss any objection against claim 1.

The respondent argued in its reply to the statement of grounds of appeal that the subject-matter of claim 1 was not novel over D1.

The appellant replied to this with its letter dated 25 September 2024.

None of the parties requested remittal of the case to the opposition division to discuss this objection. The Board notes that the subject-matter of claim 1 largely overlaps with that of claim 2, and that the prior art forming the basis of the only objection raised is the same as that which had to be analysed already with respect to claim 2. Consequently, the Board sees no special reasons to remit the case, and deals with the objection in the appeal proceedings (Article 11 RPBA).

- 1.2.2 Feature 1c1 ("*the boiler further comprises a cyclone separator connected to the furnace for separating solid particles from flue gases coming from the furnace, wherein the cyclone separator is supported to the support frame*")

The respondent argued that feature 1c1 was implicitly disclosed in D1 in view of the content of paragraphs [0002], last sentence ("*The boiler pressure body is advantageously a furnace, but it can alternatively be another structural part of the boiler formed of planar watertube walls, such as a particle separator, a convection cage or an empty pass*") and [0015] ("*Watertube walls of a boiler pressure body can in practice by [sic] supported solely through vertical corner columns attached to their corner sections [...] suitable to support, for example, the furnace of a circulating fluidized bed boiler...*"). According to the respondent, these paragraphs of D1 made it clear that the invention at issue was directly and unambiguously applicable to the support of circulating fluidised bed boilers (CFB boilers) and their corresponding particle separators connected to the furnace. The respondent alleged that energy professionals were well aware that the particle separator used in CFB boilers had to be a cyclone separator as defined in feature 1c1 since "cloth filters or ESP" (electrostatic precipitators) were not suitable to collect the kind of particles generated in such boilers. The respondent submitted that the "multi-cyclone dust collector" shown in pages 2 and 3 of D5' proved the typical presence of cyclone separators in CFB boilers.

This is not persuasive.

The respondent's arguments about the alleged need for a cyclone separator in combination with a CFB boiler are mere unsubstantiated allegations. Document D5' relates to a particular device and does not prove that cyclone separators are inevitably used in the context of the invention of D1.

Indeed, document D6 - submitted by the appellant with its letter dated 25 September 2024 in reply to the objection against claim 1 raised by the respondent - shows different particle separation systems used in combination with a CFB boiler (see Figures 1 to 3 and column 1, lines 42 to 63), thus confirming that the mere reference to a generic "particle separator" in D1 would not be understood by the skilled person as an implicit (i.e. inevitable, see discussion of case law in point 1.1.3 above) disclosure of a cyclone separator as defined in feature 1c1.

1.2.3 Cyclone separator of D6

The respondent argued that the term "cyclone separator" in feature 1c1 encompassed all separators working on the principle of vortex separation, and that claim 1 did not further define the kind of connection between the furnace and the cyclone separator or how the latter was supported on the support frame. Therefore, according to the respondent, the "external cyclone primary separator" shown in Figure 1 of D6 would correspond to such a standard separator.

The Board agrees that the "external cyclone primary separator" shown in Figure 1 and described in column 1, line 56 of D6 corresponds to a cyclone separator connected to a furnace within the meaning of feature 1c1.

However, this cannot alter the fact that D6 shows other particle separation systems, such as "impact type particle collectors" (see Figure 2 and column 1, lines 59 to 61), used in combination with a CFB boiler (see preceding point), such that the "particle separator" described in general terms in D1 (see paragraph [0002]) cannot be assumed to be an implicit disclosure of a cyclone separator.

It is noted that D6 is a piece of evidence relating to the type of particle separators envisaged by the skilled person in the context of CFB boilers. It is not used as a combination document in the context of an inventive-step objection (which would not be possible anyway since D1 is just a document relevant under Article 54(3) EPC), but as evidence that other particle separators are used in the field, a cyclone-type separator thus not being implicitly disclosed in D1.

1.2.4 Relationship of feature 1c1 with other features

The respondent argued that added feature 1c1 (cyclone separator) was not technically related to the other features of claim 1, so that, if this feature had been present in the original version of claim 1 and then deleted during examination, its deletion would have been permissible. The respondent considered that overcoming an Article 54(3) EPC objection by adding such a technically unrelated feature did not seem fair in view of the nature of the amendment.

This is not persuasive, since Article 54(1) and (3) EPC only requires an invention not to form part of the state of the art in order to be considered new. There is no further requirement in those legal provisions

according to which a claim feature which establishes novelty would have to have a certain functional or structural relationship with other claimed features. Hence the respondent's argument has no legal bearing.

The added feature aims at (and indeed succeeds in) establishing novelty over document D1. It is thus, as required by Rule 80 EPC, an amendment occasioned by a ground for opposition, namely by the ground under Article 100(a) EPC in combination with Article 54(3) EPC.

2. Main request, further objections against the claims

The contested decision did not deal with any objection of inventive step (Article 56 EPC).

In addition, no objection of lack of inventive step was substantiated in the opposition proceedings. Indeed, the respondent-opponent explicitly acknowledged in the notice of opposition that none of the documents cited as prior art under Article 54(2) EPC - i.e. those which, unlike D1, could be considered for the purpose of inventive step - showed all the features of any of the independent claims of the patent (see point 4.3.1 of the notice of opposition, in particular last paragraph, and also point 4.3.2).

No objection of lack of inventive step was raised by the respondent in the appeal proceedings either.

In fact, the only objection raised in the appeal proceedings concerns lack of novelty over D1, a document only relevant as prior art under Article 54(3) EPC and therefore not to be considered in

deciding whether there has been an inventive step (Article 56, second sentence EPC).

The primary object of the appeal proceedings is to review the decision under appeal in a judicial manner (Article 12(2) RPBA), and the scope of such review is primarily determined by the decision under appeal, the appellant's requests submitted with the notice of appeal and the statement of grounds of appeal, and, in *inter partes* proceedings, the submissions of the other party in reply to the appellant's statement of grounds of appeal (G 2/24, Reasons 34(3)). Against this background, and without any inventive-step objection having been submitted by the respondent, inventive step is not to be assessed in the present opposition appeal proceedings.

3. Main request, adapted description

The respondent had no objection to the description adapted to the main request as filed by the appellant on 6 November 2025.

The Board does not see any reason to object thereto either.

4. Article 101(3) (a) EPC

In view of the above, taking into consideration the amendments made by the appellant, the patent is to be maintained as amended on the basis of the main request (Article 101(3) (a) EPC).

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 as amended in the following version:
 - claims 1 to 15 in accordance with the main request refiled with the statement of grounds of appeal
 - adapted description pages 1 to 16 filed on 6 November 2025
 - figures of the patent specification

The Registrar:

The Chairman:



C. Spira

C. Herberhold

Decision electronically authenticated