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Datasheet for the decision of 4 March 2026

Case Number: T 0694/24 - 3.2.05

Application Number: 17733264.0

Publication Number: 3475531

IPC: F01D5/00, F01D5/18, B23P6/00

Language of the proceedings: EN

Title of invention:
Method for repairing a gas turbine airfoil trailing edge

Patent Proprietor:
General Electric Company

Opponent:
Ansaldo Energia Switzerland AG

Relevant legal provisions:
EPC Art. 56, 83, 100(b), 123(2)

Keyword:
Grounds for opposition - insufficiency of disclosure (yes) - added subject-matter (no)
Sufficiency of disclosure - auxiliary request 5 (yes)
Inventive step - could-would approach - auxiliary request 5 (yes)

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Decisions cited:
G 0001/24

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Beschwerdekammern

Boards of Appeal

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Case Number: T 0694/24 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 4 March 2026

Appellant I: (Patent Proprietor)	General Electric Company 1 River Road Schenectady, NY 12345 (US)
Representative:	Grünecker Patent- und Rechtsanwälte PartG mbB Leopoldstraße 4 80802 München (DE)
Appellant II: (Opponent)	Ansaldo Energia Switzerland AG Haselstrasse 18 5400 Baden (CH)
Representative:	Studio Torta S.p.A. Via Viotti, 9 10121 Torino (IT)
Decision under appeal:	**Interlocutory decision of the Opposition Division of the European Patent Office posted on 15 March 2024 concerning maintenance of European patent No. 3475531 in amended form.**

Composition of the Board:

Chairman	P. Lanz
Members:	M. Dorfstätter
	J. Hoppe

Summary of Facts and Submissions

I. Appeals were filed by both the opponent and the patent proprietor against the interlocutory decision of the opposition division finding that, account being taken of the amendments made by the patent proprietor during the opposition proceedings, European patent No. 3 475 531 met the requirements of the EPC.

Since both parties appealed, they are referred to in the following as 'the opponent' and 'the patent proprietor', respectively.

II. The following documents are relevant for the present decision:

D1 EP 2 495 397 A2
D2 WO 2016/015 920 A1

III. The Board issued a summons to oral proceedings and a subsequent communication under Article 15(1) RPBA in which it indicated, *inter alia*, that Article 100(b) EPC was prejudicial to the maintenance of the patent as granted due to the subject-matter of claims 7 and 8 not being workable, and that claim 1 as granted seemingly did not contain subject-matter that extended beyond the content of the application as filed. The Board also expressed its view that documents D1 and D2 rendered obvious the subject-matter of claim 1 as granted.

IV. Oral proceedings were held before the Board on 4 March 2026.

V. At the end of the oral proceedings, the parties confirmed their requests as follows.

The opponent requested that the decision under appeal be set aside and that the European patent be revoked.

The patent proprietor requested that the decision under appeal be set aside and that the patent be maintained as granted (main request), or that the patent be maintained in amended form on the basis of one of auxiliary requests 1.1 - 1.5, 2, 2.1 - 2.5, 3, 3.1 - 3.5, 4, 4.1 - 4.5, 5, 5.1 - 5.3, or that the opponent's appeal be dismissed, i.e. that the patent be maintained in amended form on the basis of auxiliary request 5.4, or that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of one of auxiliary requests 5.5, 6, 6.1 - 6.5, 7, 7.1 - 7.5, 8, 8.1, all of which were filed with the patent proprietor's statement of grounds of appeal, or that the patent be maintained in amended form on the basis of auxiliary request 8.2 as filed with the reply to the opponent's statement of grounds of appeal.

With respect to auxiliary request 5, the proprietor also relied on an adapted description (columns 1 to 7) as filed during the oral proceedings before the board on 4 March 2026.

VI. Claim 1 of the main request, i.e. claim 1 as granted, reads as follows (including a feature-by-feature analysis as used by the parties).

1 "A method (90) of repairing a trailing edge (15) of a gas turbine airfoil (6), the method comprising

1.1 removing (92) a portion of the trailing edge (15) of the airfoil (6) to form an intermediate component (50),
1.2 wherein the portion of the trailing edge (15) removed defines at least one trailing edge bleed slot
1.3 located on a pressure side (22) of the airfoil (6),
1.4 wherein the trailing edge bleed slot includes a diffusion section (24)
1.5 defined by an inner surface (25) of the suction side wall (26)
1.6 that extends beyond a slot end (21) of a pressure side wall (28) of the airfoil (6); and
1.7 forming (94) a replacement portion (72) to form a repaired airfoil (70),
1.8 directly onto the intermediate component
1.9 using additive manufacturing
1.10 wherein the replacement portion (72) defines at least one trailing edge ejection slot (76) defined between terminal ends of a pressure side wall and a suction side wall at the trailing edge of the airfoil."

VII. Dependent claim 6 of the main request, i.e. claim 6 as granted, reads as follows.

"The method (90) of claim 1, wherein applying using additive manufacturing a replacement portion on the intermediate component comprises forming the replacement portion directly onto the intermediate component through additive manufacturing."

VIII. Dependent claim 7 of the main request, i.e. claim 7 as granted, reads as follows.

> "The method (90) of claim 1, wherein applying using additive manufacturing a replacement portion on the intermediate component comprises:
>
> forming the replacement portion using additive manufacturing; and
>
> thereafter, bonding the replacement portion onto the intermediate component to form the repaired component."

IX. Each of auxiliary requests 1.1-1.5, 2, 2.1-2.5, 3, 3.1-3.5, 4, 4.1-4.5 includes a dependent claim corresponding to claim 7 as granted.

X. With regard to auxiliary request 5, claim 1 is identical to that of the main request but compared with the main request, dependent claims 7 and 8 have been deleted.

XI. The opponent's arguments, where relevant to the decision, are summarised as follows.

Main request - Article 100(b) EPC

The definitions in claim 7 as granted contradicted features 1.7, 1.8 and 1.9 of claim 1. 'Forming the replacement portion directly onto the intermediate component' and 'forming' it and 'thereafter bonding' it 'to the intermediate component' constituted two mutually exclusive alternatives. The patent thus did not disclose the invention as claimed in claim 7 in a

manner sufficiently clear and complete for it to be carried out by the person skilled in the art.

Auxiliary requests 1.1-4.5 - Article 83 EPC

Auxiliary requests 1.1-4.5 contained the same contradictions in the respective dependent claims corresponding to claim 7 of the main request. The subject-matter of these claims was thus not disclosed in a manner sufficiently clear and complete for it to be carried out by the person skilled in the art, for the same reasons as those set out above with respect to the main request.

Auxiliary request 5 - Article 123(2) EPC

Claim 1 of auxiliary request 5 included a definition that the trailing edge bleed slots were located on the pressure side. This feature had been added to claim 1 during the examination proceedings and was based on paragraph [0025] of the application as filed. However, the further feature described in that paragraph, namely that the trailing edge bleed slots were located 'slightly inward' from the trailing edge, was omitted from the claim. The definition of the bleed slots being located on the pressure side, without defining their location relative to the trailing edge, thus constituted an unallowable intermediate generalisation of the bleed slots described in the application. Claim 1 of auxiliary request 5 thus encompassed subject-matter extending beyond the content of the application as filed.

Auxiliary request 5 - Article 56 EPC

Moreover, the subject-matter of claim 1 of auxiliary request 5 did not involve an inventive step. It related to a well-known method of repairing an airfoil using additive manufacturing, a procedure that was well known for being highly flexible. The objective technical problem was, as correctly identified by the opposition division, to improve heat resistance, which was also a common aim when dealing with turbine engines. The skilled person knew that maintenance was an opportunity to improve. Changing a design that has proven faulty was normally taken into consideration during repair, in particular when maintenance was very costly, as was the case in the field of turbine engines. The skilled person would have realised that the configuration of document D2 solved their problem and was directly applicable. The fact that the skilled person knew that ejection slots provided a more effective way of cooling was motivation enough to change the design; potential side effects would not have deterred them from doing so. Furthermore, there was the expectation that any negative side effect could well be compensated for by the foreseeable benefits due to the possibility of operating the turbine at higher temperatures.

XII. The patent proprietor's arguments, where relevant to the decision, are summarised as follows.

Main request - Article 100(b) EPC

Claim 7 as granted did not contradict claim 1. The granted claims encompassed the possibility that the replacement portion could be formed directly onto the intermediate component and yet be bonded after its formation, thereby establishing a further bond. The

description in paragraph [0021] of the patent also included this possibility, since the step of 'subsequently bonding' referred to both alternatives mentioned in that paragraph. Thus, no further information was needed for the invention to be carried out.

Auxiliary requests 1.1-4.5 - Article 83 EPC

Each of auxiliary requests 1.1-4.5 fulfilled the requirement of Article 83 EPC. The arguments under Article 100(b) EPC that are set out above with respect to the main request also applied to these requests.

Auxiliary request 5 - Article 123(2) EPC

Claim 1 of auxiliary request 5 did not constitute an unallowable intermediate generalisation. The allegedly missing definition of the bleed slots being located slightly inward from the trailing edge did not add anything to the claim. It was not conceivable that a 'trailing edge bleed slot' would *not* be located in that way. The fact that the bleed slots were located close to the trailing edge was implicit not least due to the designation 'trailing edge bleed slots'.

Auxiliary request 5 - Article 56 EPC

The subject-matter of claim 1 of auxiliary request 5 involved an inventive step. Despite additive manufacturing being a well-known method of repairing an airfoil, the skilled person would not have thought of altering the geometry upon repair. Since the objective technical problem must not contain any pointer to the solution, it could not be seen as being to improve heat resistance. Instead, the formulation of the objective

technical problem had to be shifted to a more abstract level, such as to improve the cycle times of the turbine engine and thereby to reduce maintenance costs. Contrary to what the opponent alleged, maintenance was not commonly used for adapting the design. On the contrary, during repair it was common practice for a broken part to be rebuilt to its original dimensions. There was no evidence, or even the slightest indication, to support the opponent's allegation that the skilled person would have realised that they could use additive manufacturing during repair to change the geometry of the airfoil. Such thinking was based purely on hindsight. As there were other alternatives available and as there was no incentive or pointer to change anything during repair, the skilled person would not have altered the geometry of the slot without hindsight or without the involvement of an inventive step.

Reasons for the Decision

1. Main request - Article 100(b) EPC

The ground for opposition under Article 100(b) EPC prejudices the maintenance of the patent as granted.

1.1 Claim construction

Before a decision could be taken on whether claims 1 and 7 are contradictory, several terms and features had to be interpreted. In its conclusion, the Board does not follow the construction of claim 7 as proposed by the patent proprietor. In particular, it does not share the view that "forming the replacement portion using additive manufacturing and thereafter, bonding ..." includes the possibility of establishing a first bond

at a forming step, followed by a second bonding step, thereby improving the bond.

1.1.1 Firstly, based on what is stated in the description and contrary to what has been argued by the patent proprietor, there is no indication anywhere in the patent of a two-step bonding process. In this regard, the patent proprietor referred to paragraph [0021], the relevant first sentence of which reads as follows.

> *"In order to form the repaired component 70, the replacement portion 72 is formed via an additive manufacturing process, either directly onto the intermediate component 50 (e.g. applied layer by layer directly onto the surfaces 54 of the cavity 52) or formed separately from the intermediate component 50 and subsequently bonded onto the surfaces 54 of the cavity 52"* (emphasis added by the Board).

The patent proprietor argued that this sentence had to be understood as defining the two alternatives of directly forming the replacement portion, or forming it separately, and that in each of these alternatives the replacement portion could be subsequently bonded onto the surfaces of the cavity. In other words, the last step of subsequently bonding referred to both alternatives as previously mentioned.

The Board does not agree, however. The Board takes the view that a skilled reader would understand from paragraph [0021] that they can *either* form the replacement portion directly onto the intermediate component (this being the first alternative), *or* form it separately and subsequently bond this separately-formed component onto the surfaces of the cavity (the entire half-sentence forming the second alternative). The logical understanding is considered to be that in

the first alternative the bond is established upon forming the replacement portion. Since in the patent reference is made only to one kind of bonding, there is no basis for the patent proprietor's interpretation of a first, potentially weak, bond being created upon forming, and a further, and thus stronger, bond being established subsequently. The creation of two kinds of bonds in the method of the patent is entirely speculative.

The Board thus concludes that the step of subsequently bonding is only part of the second alternative described in paragraph [0021] in which the replacement portion has been previously formed separately.

1.1.2 Secondly, and based on the wording of the claims, the skilled person would not understand, at least not when reading the claims in an unbiased manner, that a two-step bonding process could be covered by the language of claim 7. In this claim, there are clearly two separate steps, i.e.

- forming the replacement portion, and
- thereafter bonding it onto the intermediate component.

This understanding is further corroborated by the formatting of the claim, with separate paragraphs being used for the two steps.

If the patent proprietor's understanding were to be followed, there could be two bonding steps when forming the replacement portion directly onto the intermediate component according to claim 1. Again, there is no basis for such an understanding in the other claims or indeed anywhere in the patent. On the contrary, the claims, notably claims 6 and 7, set out the same two alternatives as those described in paragraph [0021].

There is no indication that these alternatives could be used together, nor would this be apparent to a skilled reader. When trying to make sense of what is defined in claims 6 and 7, the skilled person would thus come to the same conclusion as when reading paragraph [0021], namely that either the bonding is established when forming the insert in place (claim 6, and as also defined in features 1.7-1.9 of claim 1), or that the insert is formed outside and is bonded into the cavity only thereafter (claim 7).

1.2 There are thus two concepts claimed in claim 1 (and again in claim 6), and in claim 7. As set out in the Board's communication under Article 15(1) RPBA, and as discussed in the oral proceedings before the Board, the two concepts are mutually exclusive alternatives and claiming the combination, as in claim 7, establishes subject-matter that is objectively and technically not workable. The subject-matter of claim 7, and of claim 8 since it is dependent thereon, is thus not (and cannot be) disclosed in a manner sufficiently clear and complete for it to be carried out by the skilled person. Therefore, Article 100(b) EPC is prejudicial to the maintenance of the patent as granted.

The main request is thus not allowable.

2. Auxiliary requests 1.1-1.5, 2, 2.1-2.5, 3, 3.1-3.5, 4, 4.1-4.5 - Article 83 EPC

Auxiliary requests 1.1-1.5, 2, 2.1-2.5, 3, 3.1-3.5, 4, 4.1-4.5 do not fulfil the requirements of Article 83 EPC for the same reasons as those set out above with respect to the main request under Article 100(b) EPC.

Each of these auxiliary requests includes a dependent claim corresponding to claim 7 as granted. The definitions therein are thus in contradiction with features 1.7-1.9 of claim 1 of each of these requests, rendering the subject-matter defined in these requests unworkable.

Thus, none of auxiliary requests 1.1-1.5, 2, 2.1-2.5, 3, 3.1-3.5, 4, 4.1-4.5 is allowable.

3. Auxiliary request 5 - Article 83 EPC

Compared with the main request, dependent claims 7 and 8 have been deleted in auxiliary request 5, and therefore the objection against these claims under Article 83 EPC does not prejudice the allowability of the claimed subject-matter of auxiliary request 5.

4. Auxiliary request 5 - Article 123(2) EPC

Claim 1 of auxiliary request 5 does not define subject-matter extending beyond the content of the application as filed and thus meets the requirement of Article 123(2) EPC.

Claim 1 of auxiliary request 5 is identical to claim 1 as granted. The claim was amended during the procedure up to grant, introducing a reference to a trailing edge bleed slot located on a pressure side of the airfoil in features 1.2 and 1.3. The opposition division found that the added features had a literal basis only in paragraph [0025] of the application as filed. Since this paragraph further describes that the trailing edge bleed slots are located "slightly inward from the trailing edge" and since this further definition was not incorporated into the claim when the amendment was

made, the opposition division held that this amounted to an unallowable intermediate generalisation and that claim 1 of auxiliary request 5 thus contravened Article 123(2) EPC (see the contested decision, Reasons 16.1.3 and 16.2.3).

The opponent argued that the definition in claim 1 covered film cooling slots which were configured to cool the trailing edge but which might be located further away from that edge (and thus not just "slightly inward from the trailing edge"). It further argued that the wording of claim 1 did not require the trailing edge to extend beyond the entire trailing edge bleed slot, although this was the only example in the patent. Instead, the claim covered a trailing edge bleed slot terminating precisely at the trailing edge, something that was also not derivable from the application as filed.

This is not convincing, however. The patent proprietor correctly argued that the allegedly missing definition of the bleed slots being 'located slightly inward from the trailing edge' did not add anything to the claim. The Board interprets this as meaning that claim 1 implicitly includes this feature. This, in turn, means that it is inconceivable that a 'trailing edge bleed slot' is *not* located slightly inward from the trailing edge. The Board concludes that this is indeed the case, for the following reasons.

The term 'trailing edge bleed slot' already includes a reference to the trailing edge. Claim 1 does not refer to any undefined kind of 'bleed slot'; it only refers to a 'trailing edge bleed slot'. It is thus necessary to interpret claim 1 in view of this terminology. A skilled reader will understand from the wording alone

that a bleed slot that is not at least somehow related to the trailing edge is not what is meant. In order to arrive at a viable positive interpretation of this term, the skilled reader will further consult the description of the patent (which must always be done in any case, see G 1/24). In doing so, and even though there is no explicit definition of a 'trailing edge bleed slot', they will learn that this term is used to denominate a first kind of slot through which cooling air can be exhausted and which is shown in Figure 2. The alternative form referred to in the description and shown in Figure 8 is a so-called 'trailing edge ejection slot'. A skilled reader will understand that a 'trailing edge ejection slot' within the meaning of the patent is located exactly at the trailing edge, whilst a 'trailing edge bleed slot' within the meaning of the patent is located on the surface of the airfoil on its pressure side, and that it is located close to the trailing edge. A skilled reader will also understand that a 'trailing edge bleed slot' cannot be located exactly at the trailing edge, since this would render it a 'trailing edge ejection slot' within the meaning of the patent. Likewise, a skilled reader will understand that a 'trailing edge bleed slot' cannot be located remote from the trailing edge, as this would contradict the term 'trailing edge bleed slot'.

A skilled reader would thus understand that the 'trailing edge bleed slot' is arranged close to, but not precisely at, the trailing edge. Given this understanding at which the skilled person will arrive when interpreting the terminology already in the claim, there is indeed no additional information provided by the wording 'slightly inward from the trailing edge'. The subject-matter defined in claim 1 necessarily already features a bleed slot arranged 'slightly inward

from the trailing edge'. The fact that this explicit wording was not incorporated when the amendments were made in the examination proceedings thus does not lead to an intermediate generalisation, nor indeed to an unallowable one.

The requirement of Article 123(2) EPC is thus fulfilled.

5. Auxiliary request 5 - Article 56 EPC

The subject-matter of claim 1 of auxiliary request 5 involves an inventive step (Article 56 EPC).

5.1 The Board accepts the opponent's argument that claim 1 relates to a well-known method of repairing an airfoil using additive manufacturing, as is described for example in document D1. The procedure is well known for being highly flexible, as also argued by the opponent. The claimed method differs from that of D1 merely in that, during the repair, the geometry is changed from a 'trailing edge bleed slot' to a 'trailing edge ejection slot'. This will lead to a repaired airfoil having all the advantages and disadvantages inherent to the design of a trailing edge ejection slot. One of those advantages is better resistance against heat.

5.2 Also in line with the view of the opponent, the Board is of the opinion that the objective technical problem is 'to improve heat resistance'. This is not only a common aim when dealing with turbine engines (as was argued by the opponent) but also a directly recognisable effect achieved by the distinguishing features.

The Board accepts the patent proprietor's argument that the objective technical problem must not contain any pointer to the solution. However, the Board disputes that the formulation of the problem as being 'to improve heat resistance' includes a pointer to changing the geometry from a 'trailing edge bleed slot' to a 'trailing edge ejection slot'. The problem as formulated by the opponent does not contain a pointer to make any changes in the design, let alone the design of the cooling air slots in particular. There is thus no need to make the formulation of the objective technical problem more abstract, as proposed by the patent proprietor.

On the contrary, if the more abstract problem as formulated by the patent proprietor were used (i.e. 'to improve the cycle times of the turbine engine and thereby to reduce the costs for maintenance'), this would lead to an unmanageable number of possible ways for the skilled person to solve it. They would be faced with an extensive range of potential solutions, all of which would, in principle, be viable and may point in different directions, and therefore without hindsight, it would not be possible to make a reasoned judgement as to whether or not the skilled person *would* have chosen the claimed solution from among these many options. It would also be inconsistent with the aim of the problem-solution approach, which is to determine whether the skilled person would (and not just could) have arrived at the claimed invention when faced with a specific problem. The latter must thus be defined in such a way that it objectively reflects what the claimed subject-matter actually achieves compared to the state of the art (and not just 'to make it better'). The inventive-step assessment could risk becoming arbitrary if its outcome could be steered

merely by shifting the formulation of the technical problem to such an abstract level that the skilled person would arguably no longer be able to identify the relationship between the problem and the solution.

5.3 However, regardless of the exact formulation of the objective technical problem, the skilled person would not have arrived at changing the geometry from a 'trailing edge bleed slot' to a 'trailing edge ejection slot' under the circumstances defined in the claim, i.e. when repairing the airfoil, without involving an inventive step.

Even though the skilled person might have realised that maintenance could offer an opportunity to improve (as argued by the opponent), this is not the standard option. It cannot be said that the skilled person, who in the present case may be an engineer instructed to find ways to restore the turbine to working order, would have instantly thought of refining its design. On the contrary, repairing a turbine means, first and foremost, putting it back to its original state and function. It is common practice that the broken part is rebuilt to its original dimensions, as was also argued by the patent proprietor.

5.4 The opponent further argued that, if changing the design were not considered common practice under all circumstances, the skilled person would at least have taken into consideration changing a design that has proven faulty, in particular when maintenance was very costly, as in the field of turbine engines.

This is not convincing either, however. According to long-standing case law, it is not sufficient to prove that the skilled person *could* have implemented a

particular feature that improves properties in a particular situation in order to consider this obvious. What is needed is some sort of evidence that the skilled person *would* have actually done so. However, in the present case, there is no evidence, no proof, or even the slightest indication that the skilled person, when faced with the objective technical problem of improving heat resistance of the airfoil, would have realised that they could use additive manufacturing during repair to change the geometry of the trailing edge bleed slots such that they become trailing edge ejection slots. Neither the opposition division nor the opponent presented any evidence in that respect. That the skilled person *would* have changed the design of the slots is thus a mere allegation.

5.5 The further arguments of the opponent that the skilled person would have realised that the configuration of document D2 solved their problem, that it was directly applicable, and that their knowledge that ejection slots provided more effective cooling was motivation enough, cannot change the Board's finding.

Once the skilled person had realised that they can change the design of the 'trailing edge bleed slot' during repair, it was certainly straightforward for them to figure out how to do so and which alternative design to use. After realising the potential to change the design, they would have been aware that the design of a 'trailing edge ejection slot' as described in document D2 solves their problem and they would have taken this design into consideration. However, in order to arrive at the invention, the skilled person first had to realise the potential to change the design of the 'trailing edge bleed slot'. The allegation that they would indeed have realised this is not based on

credibly shown facts or indications, but on a mere assumption that is based on hindsight.

5.6 The opponent's argument that potential side effects would not have deterred the skilled person from changing the design is thus irrelevant. It may be true that the skilled person would not have been deterred by the potential downsides of the 'trailing-edge-ejection-slot' design (notably its lower efficiency). However, they could only pursue the idea if they had had it in the first place, and there is no indication that they actually had it.

5.7 It therefore cannot be concluded that the skilled person would have thought of altering the geometry of the trailing edge bleed slot when repairing the airfoil without hindsight or without involving an inventive step.

The Board has thus concluded that the subject-matter of claim 1 of auxiliary request 5 fulfils the requirement of Article 56 EPC.

6. Auxiliary request 5 - adaptation of description

The patent proprietor submitted an adapted description which corresponds *verbatim* to the one underlying the impugned decision (i.e. the version in which the opposition division intended to maintain the patent). The parties agreed that the amendments made therein were sufficient to address any inconsistencies between the description and the claims according to auxiliary request 5. The Board is also satisfied that this is the case.

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 based on claims 1 to 12 of auxiliary request 5 as filed with the patent proprietor's statement of grounds of appeal on 15 July 2024, the description (columns 1 to 7) as filed in the oral proceedings before the Board on 4 March 2026, and the drawings of the patent specification.

The Registrar: The Chairman:

N. Schneider P. Lanz

Decision electronically authenticated