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**Datasheet for the decision
of 14 November 2025**

Case Number: T 0777/24 - 3.2.04

Application Number: 19157439.1

Publication Number: 3504990

IPC: A24F40/40, A61M15/06, H05B1/02,
H02J7/00, A61M11/04

Language of the proceedings: EN

Title of invention:
VAPORIZATION DEVICE SYSTEMS AND METHODS

Patent Proprietor:
Juul Labs International Inc.

Opponents:
Nicoventures Trading Limited
Smokeless.world GmbH

Headword:

Relevant legal provisions:
EPC Art. 100(c), 76(1)

Keyword:

Grounds for opposition - subject-matter extends beyond content of earlier application (yes)

Divisional application - subject-matter extends beyond content of earlier application (yes)

Decisions cited:

G 0002/10

Catchword:



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Case Number: T 0777/24 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 14 November 2025

Appellant: Juul Labs International Inc.
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Decision under appeal: **Decision of the Opposition Division of the
European Patent Office posted on 26 April 2024
revoking European patent No. 3504990 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman A. Pieracci
Members: G. Martin Gonzalez
 C. Heath

Summary of Facts and Submissions

I. The proprietor appeals the decision of the opposition division to revoke their patent.

II. The division held inter alia that claim 1 of the main request (granted claims) and of all auxiliary requests before it extended beyond the content of the grandparent application as filed, and revoked the patent.

III. The appellant proprietor requests that the decision under appeal be set aside and the patent maintained as granted (main request) or auxiliary to maintain the patent according to one of auxiliary requests 1 to 80, 1a to 78a, 1b to 78b, and to remit the case to the opposition division if the Board finds any request compliant with the ground of added subject-matter.

The respondents opponents request that the appeal be dismissed.

The opponent 2 has not filed any reply to the proprietor's appeal.

IV. In preparation for oral proceedings the board issued a communication setting out its provisional opinion on the relevant issues.

Oral proceedings by videoconference before the Board were held on 14 November 2025.

V. Claim 1 of the requests relevant to this appeal reads as follows:

(a) Main request (patent as granted)

"A device for generating an inhalable aerosol comprising:

a detachable cartridge (30) comprising

a fluid storage compartment,

a heater affixed to a first end of the fluid storage compartment; and

a mouthpiece affixed to a second end of the fluid storage compartment, wherein the heater comprises a first condensation chamber and the mouthpiece comprises a second condensation chamber, and

a device body (20) comprising:

a cartridge receptacle (21) with an open end configured for insertion of the cartridge (30) and a notched body, wherein the device is configured to leave exposed a channel air inlet (50) when the cartridge (30) is inserted into the notched body of the cartridge receptacle (21); and

a pressure sensor (27) configured for sensing a user's puffing action,

wherein upon insertion of the cartridge (30) into the cartridge receptacle (21), first heater contact tips (33a) on first heater contacts (33) of the cartridge contact second heater contacts (22) of the device body; and

wherein the cartridge receptacle and the detachable cartridge form a separable coupling."

(b) Auxiliary request 1 (Amendment A1)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...wherein upon insertion of the cartridge (30) into the cartridge receptacle (21), exposed first heater contact tips (33a) on first heater contacts (33) of the cartridge contact second heater contacts (22) of the device body; and..."

(c) Auxiliary request 2 (Amendment A2)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a device body (20) comprising:
a cartridge receptacle (21) with an open end configured for insertion of the cartridge (30) by a first end of the cartridge (30) and a notched body,
...
wherein upon insertion of the cartridge (30) by the first end of the cartridge (30) into the cartridge receptacle (21), first heater contact tips (33a) on first heater contacts (33) of the cartridge located at the first end of the cartridge (30) contact second heater contacts (22) of the device body located in the cartridge receptacle (21); and..."

(d) Auxiliary request 3 (Amendment A3)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a heater affixed to a first end of the fluid storage compartment such that the heater is attached to a first end of the cartridge; and

a mouthpiece affixed to a second end of the fluid storage compartment such that the mouthpiece is attached to a second end of the cartridge,..."

(e) Auxiliary request 4 (Amendment A4)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a detachable cartridge (30) comprising

...

a channel (40) integral to an exterior surface of the cartridge (30);

...

a device body (20) comprising:

a cartridge receptacle (21) with an open end configured for insertion of the cartridge (30), and a notched body, wherein the channel (40) integral to the exterior surface of the cartridge (30) and an internal surface of the cartridge receptacle (21) form an air inlet passage (51) when the cartridge (30) is inserted into the cartridge receptacle (21), wherein the device is configured to leave exposed a channel air inlet (50) through which air enters the air inlet passage (51) when the cartridge (30) is inserted into the notched body of the cartridge receptacle (21), and wherein the notched body has a notch, wherein a size of the channel air inlet (50) is defined by a configuration of the notch,..."

(f) Auxiliary request 5 (Amendment A5)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a detachable cartridge (30) comprising

...

wherein the cartridge (30) comprises an airflow path, the airflow path comprising:

a channel (40) comprising a portion of an air inlet passage (51); a second air passage (41) in fluid communication with the channel (40);

a heater chamber (37) in fluid communication with the second air passage (51), wherein the first condensation chamber is in fluid communication with the heater chamber (37) and wherein the second condensation chamber is in fluid communication with the second condensation chamber; and

an aerosol outlet (47) in fluid communication with the second condensation chamber;

a device body (20) comprising:

a cartridge receptacle (21) with an open end configured for insertion of the cartridge (30) and a notched body,

wherein the device is configured to leave exposed a channel air inlet (50) through which air enters the air inlet passage (51) when the cartridge (30) is inserted into the notched body of the cartridge receptacle (21)..."

(g) Auxiliary request 6 (Amendment A6)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...wherein the heater further comprises a heater chamber (37), the first pair of heater contacts (33), a fluid wick (34), and a resistive heating element (35) in contact with the wick."

(h) Auxiliary request 7 (Amendment A7)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a pressure sensor (27) formed by a pressure switch configured for sensing a user's puffing action,..."

(i) Auxiliary request 8 (Amendment A8)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...wherein the cartridge receptacle and the detachable cartridge form a separable coupling, wherein the separable coupling comprises a magnetic assembly."

(j) Auxiliary requests 9-58

These requests are based on different combinations of amendments A1 to A8.

Auxiliary requests 9 to 18 are based on different combinations of amendments A1 to A4.

Auxiliary requests 19 to 25 are based on different combinations of amendments A1 to A3 with amendments A4 and A5.

Auxiliary requests 26 to 46 correspond to combinations of auxiliary requests 1 to 4 and 9 to 25, respectively, with amendment A6.

Auxiliary requests 47 to 50 are based on combinations of amendments A1 to A6 and involve in addition amendment A7.

Auxiliary requests 51 to 54 are based on combinations of amendments A1 to A6 and involve in addition amendment A8.

Auxiliary requests 55 to 58 are based on combinations of amendments A1 to A6 and involve in addition amendments A7 and A8.

(k) Auxiliary request 59 (Amendment A9)

Claim 1 as in the main request with the following amendment (emphasis by the Board to indicate added text):

"...a detachable cartridge (30) comprising:
a fluid storage compartment,
a channel (40) integral to an exterior surface of the cartridge (30);
a heater affixed to a first end of the fluid storage compartment with a snap-fit coupling; and
a mouthpiece affixed to a second end of the fluid storage compartment with a snap-fit coupling,
...
a device body (20) comprising:
...when the cartridge (30) is inserted into the notched body of the cartridge receptacle (21), and wherein the notched body has a notch, wherein a size of the channel air inlet (50) is defined by a configuration of the notch; and
...

wherein the device comprises an air inlet passage (51) formed by the channel (40) and an internal surface of the cartridge receptacle (21) when the cartridge (30) is inserted into the cartridge receptacle (21); wherein the channel (40) integral to the exterior surface of the cartridge (30) forms a first side of the air inlet passage (51), and an internal surface of the cartridge receptacle (21) forms a second side of the air inlet passage (51);
wherein upon insertion of the cartridge (30) into the cartridge receptacle (21), exposed first heater contact tips (33a) on first heater contacts (33)..."

(l) Auxiliary request 60 (Amendment A10)

Claim 1 as in auxiliary request 59 (Amendment A9) with the following further amendment (emphasis by the Board to indicate added text):

"...a heater affixed to a first end of the fluid storage compartment with a snap-fit coupling such that the heater is attached to a first end of the cartridge (30); and
a mouthpiece affixed to a second end of the fluid storage compartment with a snap-fit coupling such that the mouthpiece is attached to a second end of the cartridge (30),..."

(m) Auxiliary request 61 (Amendment A11)

Claim 1 as in auxiliary request 59 (Amendment A9) with the following further amendment (emphasis by the Board to indicate added text):

"...a heater affixed to a first end of the fluid storage compartment with a snap-fit coupling, wherein

the heater encloses a first end of the cartridge (30) and the first end of the fluid storage compartment; and a mouthpiece affixed to a second end of the fluid storage compartment with a snap-fit coupling, wherein the mouthpiece encloses a second end of the cartridge (30) and the second end of the fluid storage compartment, ..."

(n) Auxiliary request 62 (Amendment A12)

Claim 1 as in auxiliary request 59 (Amendment A9) further combining the limitations according to amendments A10 and A11.

(o) Auxiliary requests 63 to 80

These requests are based on different combinations of amendments A9 to A12 with amendments A6 to A8, wherein amendments A9 to A12 are only used as alternatives.

(p) Auxiliary requests 1a to 78a (Amendment A13)

Claim 1 as in auxiliary requests 1 to 78. Amendment A13 only concerns dependent claims.

(q) Auxiliary request 1b to 78b (Amendment A14)

Claim 1 as in auxiliary requests 1 to 78. Amendment A14 only concerns dependent claims.

VI. In the present decision, reference is made to the following document:

(D12) WO 2015/100361 A1 - grandparent application

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

During the oral proceedings of the present case, both appellant proprietor and opponent 1 essentially referred to their submissions made during the oral proceedings held on 20 October 2025 for the parallel case with number **T 1318/24** originating from the same grandparent application, insofar as they relate to the feature "a heater affixed to a first end of the fluid storage compartment; and a mouthpiece affixed to a second end of the fluid storage compartment".

Reasons for the Decision

1. Background

The invention relates to electronic inhalable aerosol devices, or electronic vaping devices, see specification para 0001. The general teaching of the opposed patent refers to cartridges and device bodies for inhalable aerosol generating devices. The devices include a body with a receptacle for a cartridge and a detachable cartridge that can be inserted into the open end of the receptacle. The detachable cartridge includes a fluid storage compartment holding a vaporizable material, which is vaporized to produce an aerosol vapour that delivers an active ingredient to the user.

2. Main request - Added subject-matter

2.1 The appellant proprietor contests the opposition division's finding that features:

- the heater is attached to a first end of the fluid storage compartment; and
- the mouthpiece is attached to a second end of the fluid storage compartment

in claim 1 add subject-matter over the disclosure of the grand-parent application (published as WO 2015/100361 A1, and also referred to as D12, PCT or original disclosure in the decision under appeal and in this decision), see appealed decision section 4.4, "Deficiency 2".

The appellant proprietor also referred to their submissions in parallel case **T 1318/24**, based on the same original PCT application and having the same contested feature.

Having considered the parties' arguments and submissions, the Board shares the opposition division's conclusions.

2.2 In deciding the question of allowability of a divisional application, i.e. whether it presents subject-matter which extends beyond the content of the earlier application as filed, the Board, following well established practice, must consider whether the amendments with respect to the earlier application are within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge and seen objectively and relative to the date of filing from the application documents of that earlier application. This is the "gold standard" (see **G 2/10**, reasons 4.3) according to which amendments are assessed and which is also to be applied to the issue of added subject-matter with respect to the earlier

application (see the Case Law of the Boards of Appeal (CLB), 11th edition 2025, II.F.2.1.2)

2.3 The appellant proprietor submits that the combination of original claims 149 and 156, along with features of original paragraphs 00169 to 00171 of the grandparent application constitutes a valid starting point for identifying the basis of granted claim 1. The features of granted claim 1 that

- the heater is attached to a first end of the fluid storage compartment ("FSC") and
- the mouthpiece is attached to a second end of the fluid storage compartment ("FSC")

are not present in any of the cited passages.

They are therefore amendments to the combination of original claims and description passages.

2.4 There is no literal disclosure in the original documents of a heater or a mouthpiece attached or affixed to opposite ends of a fluid storage compartment.

2.5 The appellant proprietor argues that the original documents disclose that a heater is attached to a first end of the cartridge and a mouthpiece is attached to the second end of the cartridge, citing original paragraphs 0021-0023, 0038-0041, 00171, 00173, 00181, 00182, 00187, 00234-00235, 00240-00241 and original claims 89, 95, 100, 109, 139, 140, 144 and 145. They contend that the FSC is the structural component forming the cartridge body, as allegedly shown in the figures, so that these passages disclose the contested features of a heater and a mouthpiece attached to opposite ends of the FSC.

This argument is not convincing. The description does not consistently establish that the FSC is a structural component forming the cartridge body. Although some figures show the FSC as a prominent internal part, it is never identified as the cartridge body. The application instead also presents the FSC as merely a subordinate part of the cartridge or within the tank. For example, paragraph 00175 of the original PCT application states that the cartridge comprises an enclosure, the enclosure comprises a tank, and the tank comprises an interior fluid storage compartment (32). Accordingly, the application does not unambiguously equate the FSC with the cartridge body or attribute to it structural boundaries comparable to cartridge "ends". Thus, identifying "opposite ends of the FSC" with "opposite ends of the cartridge" is not directly and unambiguously derivable from the original application.

- 2.6 The proprietor further argues that the original disclosure provides a general teaching of the disputed features, relying in particular on the fabrication method (e.g. original paragraphs 00172-00179) and citing several passages and figures, including Figures 7B and 9. The passages where the disclosure is ambiguous because it is not specified whether the "first" and "second" ends belong to the cartridge or to the FSC, the proprietor submits that this ambiguity should be resolved by construing the ends as those of the FSC.

These arguments are not convincing. The assembly method described in paragraphs 00172-00179 involves steps such as orienting the FSC, positioning heater components, and fitting the mouthpiece. However, these steps do not state that the heater or the mouthpiece is affixed to

the ends of the FSC. They merely indicate that components are placed "on" or "fitted on" the FSC, which suggests assembly proximity rather than direct attachment to its ends. Accordingly, an attachment to an end of the FSC is not directly and unambiguously derivable from Figures 7B and 9 or their associated description, including the manufacturing method.

As regards the argument based on passages said to be ambiguous - because they do not specify whether the "first" and "second" ends belong to the cartridge or to the FSC (for example original method claim 158) - the Board accepts that there is an ambiguity but does not agree with the conclusion proposed by the appellant. The expressions "first end" and "second end" are undefined and could equally refer to the ends of the cartridge. Nothing in the cited passages excludes that interpretation.

By contrast, other passages of the application explicitly disclose only the alternative configuration, namely that the heater is attached to a first end of the cartridge (see, for example, original claim 89). No explicit disclosure of attachment to the ends of the FSC is found in the original documents.

- 2.7 The appellant proprietor also relied on an alternative interpretation of the expression "attached to" in granted claim 1 and in the original disclosure. This issue was discussed in detail during the oral proceedings in parallel case **T 1318/24**. According to the appellant, the cited original embodiment of the original description (Figures 7B and 9 and associated description) would directly and unambiguously disclose the disputed feature of granted claim 1 when the term "attached to" is construed correctly.

According to the appellant, it is not decisive whether a *direct* attachment of the heater to the first end of the FSC can be derived from the drawings or the description in the ordinary sense of that expression. Rather, they submit that the cited passages and drawings convey a general teaching that the heater and mouthpiece are positioned at respective ends of the FSC, irrespective of the specific structural means of affixation. On this basis, the appellant argues that "attached to" in the wording of a claim (e.g. as in original claim 89 "attached to a first end of the cartridge") - read in the context provided by the whole description and drawings relating to Figures 7B and 9 - should be understood as an indication of location, not of physical attachment. This interpretation would be consistent with the findings of the UPC Court in the parallel case concerning the same patent of **T 1318/24** (UPC decision CFI 316/2023, section 8.23). Accordingly, the appellant proprietor maintains that, on this reading, the feature is directly and unambiguously derivable from the embodiment of Figures 7B and 9.

The Board cannot accept this argument. It agrees that claims and patent documents must be interpreted with a mind willing to understand and in their context. However, the claims define the matter for which protection is sought (Article 84 EPC) and are to be read in their broadest technically sensible meaning, without restricting its scope by reading into it features appearing only in the description (see Case Law of the Boards of Appeal, 11th edition 2025, II.A. 6.3.1 and 6.3.4).

In its ordinary meaning, the expression "attached to" encompasses a configuration in which the heater is

directly affixed to the relevant object (the first end of the cartridge or of the FSC). While the embodiment of the description relied upon by the appellant may illustrate a variant in which the heater is merely located at that position but affixed elsewhere, such an embodiment does not restrict the ordinary reading of the claim wording - i.e. directly affixed to the end of the object. Such embodiments are technically sensible and consistent with the overall teaching that the heater is positioned at that end. When interpreted consulting the description, the claim thus covers both possibilities.

The original application discloses support only for (i) a heater located at the first end of the FSC and cartridge but affixed elsewhere (from the cited embodiment and figures), and (ii) a heater located at and directly affixed to the first end of the cartridge (e.g. original claim 89 read in its broad sense). It however does not disclose a configuration in which the heater is both located at and affixed to a first end of the FSC. The latter embodiment is introduced only by the wording of granted claim 1 and is not directly and unambiguously derivable from the original disclosure.

2.8 The appellant proprietor further argued regarding this feature, in their last written submission of 30 October 2025 and by reference to the UPC Court of Appeal's general approach on added matter, that a claim need not reproduce verbatim the wording of the original application and that an applicant or proprietor must be permitted to amend the patent so as to further specify a feature - here, to specify the structural component of the cartridge to which the heater and mouthpiece are affixed. The Board agrees with these general principles. However, they do not alter its conclusion.

While a literal basis is not required, there must nevertheless be a direct and unambiguous disclosure in the original application, irrespective of its form. As set out above, the Board is not persuaded that the contested feature has such a basis. In the absence of a direct and unambiguous original disclosure, an amendment introducing this specification of the claimed feature is not permissible, as it would amount to a new teaching that originally has not been so disclosed.

- 2.9 In conclusion, the appellant proprietor has not convinced the Board that the opposition division erred in finding that the feature of claim 1 of the main request - requiring that the heater is attached to a first end of the fluid storage compartment - adds subject-matter. The Board thus upholds the decision of the opposition division that granted claim 1 contains added subject-matter.
3. Auxiliary requests 1-80, 1a-78a and 1b-78b
 - 3.1 The same conclusion applies to claim 1 of all auxiliary requests.
 - 3.2 Amendments A3, A9, A10, A11 and A12 (see section V. above of Facts and Submissions for the auxiliary requests including these amendments) introduce additional limitations relating to the attachment of the heater or the mouthpiece. The inclusion of further features - "such that the heater is attached to a first end of the cartridge" (A3, A10, A11, A12), a snap-fit coupling for affixing the heater (A9, A10, A12), or a configuration in which the heater encloses a first end of the cartridge and the first end of the FSC (A11, A12) - does not change the above assessment for the main request. Despite these added features, the

respective claims maintain the requirement that the heater is "attached to a first end" of the FSC. They therefore continue to encompass subject-matter in which the heater is not merely located at the first end of the FSC but is affixed to it (additionally to the added features) - a configuration for which the Board finds no direct and unambiguous original disclosure.

3.3 The other amendments (A1, A2, A4-A8, A13 and A14) do not address deficiency 2 as identified in the appealed decision (the added subject-matter objection upheld by the Board for the main request). They also maintain the feature that the heater is attached to a first end of the fluid storage compartment, without introducing any amendment relevant to overcome this objection.

3.4 The Board thus confirms the decision of the opposition division that auxiliary requests 1-80, 1a-78a, 1b-78b (see sections 6-87 of the appealed decision, and section 5.2 for the re-numbering of the requests by the opposition division) contain added subject-matter, Art 76(1) EPC.

4. In conclusion, the appellant proprietor has not convinced the Board to depart from the opposition division's decision. The appealed decision is therefore upheld.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Magouliotis

A. Pieracci

Decision electronically authenticated