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**Datasheet for the decision  
of 11 March 2026**

**Case Number:** T 1157/24 - 3.2.02

**Application Number:** 18204617.7

**Publication Number:** 3459578

**IPC:** A61M15/00

**Language of the proceedings:** EN

**Title of invention:**  
DISPENSING DEVICE

**Patent Proprietor:**  
Pfizer Limited

**Opponent:**  
Glaxo Group Limited

**Headword:**

**Relevant legal provisions:**

EPC Art. 54(2)  
RPBA 2020 Art. 12(8)

**Keyword:**

Novelty - (no)

**Decisions cited:**

T 0401/22

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
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Case Number: T 1157/24 - 3.2.02

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.02**  
**of 11 March 2026**

**Appellant:** Glaxo Group Limited  
(Opponent) 980 Great West Road  
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**Representative:** Hoffmann Eitle  
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**Respondent:** Pfizer Limited  
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**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
5 July 2024 concerning maintenance of the  
European Patent No. 3459578 in amended form.**

**Composition of the Board:**

**Chairman** M. Alvazzi Delfrate  
**Members:** A. Martinez Möller  
C. Schmidt

## **Summary of Facts and Submissions**

- I. The appeal was filed by the opponent against the opposition division's interlocutory decision finding that the request before it designated auxiliary request 11 met the requirements of the EPC.
- II. The appellant/opponent requested that the decision under appeal be set aside and that the patent be revoked.
- III. The respondent/patent proprietor did not reply to the statement setting out the grounds of appeal.
- IV. The board summoned the parties to oral proceedings. The respondent then submitted that they did not intend to attend the oral proceedings. The oral proceedings were subsequently cancelled.
- V. Claim 1 of auxiliary request 11, which was found by the opposition division to meet the requirements of the EPC, reads as follows.

"A device for dispensing individual doses of powder from respective pockets of a carrier (12), the device housing the carrier (12) comprising a plurality of pockets with individual doses of powder, the device including:  
an indexing mechanism for indexing the carrier (12) between respective pockets;  
a first counter ring (130) having an indication of unit counts on a first display surface, the first counter ring (130) being rotatable about a counter axis;  
a second counter ring (131) having an indication of tens counts on a second display surface, the second

counter ring (131) being rotatable about the counter axis; and  
a mechanism for rotating the second counter ring (131) between consecutive tens counts when the first counter ring (130) rotates between two predetermined consecutive unit counts, the first counter ring (130) being driven with the indexing mechanism; wherein the first and second counter rings (130, 131) are positioned one within the other, with the first and second display surfaces adjacent each other, wherein the counter axis is perpendicular to the first and second display surfaces, and wherein the first and second display surfaces are planar."

VI. The following documents are relevant to the present decision:

D3: US 6,076,521

D10: EP 0 069 715 A1

VII. The appellant's arguments, where relevant to the present decision, can be summarised as follows.

*Novelty over D3*

The subject-matter of claim 1 lacked novelty over D3, which incorporated D10 by reference.

D10 disclosed a perforated membrane 4 which anticipated by itself a carrier comprising a plurality of pockets with individual doses of powder, as required by claim 1. This was in agreement with decision T 401/22 in a related case.

## **Reasons for the Decision**

1. Patent

1.1 Inhalers can be used to administer pharmaceuticals for the treatment of conditions such as asthma or chronic obstructive pulmonary disease. Dry-powder inhalers are an alternative to pressurised inhalers using propellants.

1.2 The patent relates to a device for dispensing individual doses of powder from respective pockets of a carrier (e.g. blister packs). The device includes two counter rings, an indexing mechanism and a mechanism for rotating the second counter ring. The first counter ring has an indication of unit counts and the second counter ring has an indication of tens counts. The counter rings can be used for example to count the doses dispensed or the doses remaining.

2. Novelty over D3

2.1 Document D3 deals with a dose indicating device constructed for use with an inhalator. Since the respondent did not reply to the statement of grounds of appeal, the board has no reason to deviate from the findings in the contested decision that:

1) D10, mentioned in column 4, line 13, of D3 is incorporated by reference in D3 as to the internal structure of the inhalator part B of the inhalator of Figure 10 of D3 (see point 32.13 of the contested decision)

2) D3 in view of D10 discloses all of the features of claim 1 except at most the feature "the device housing the carrier comprising a plurality of pockets with

individual doses of power" (see points 32.10 and 16.5 to 16.13 of the contested decision)

- 2.2 D10 discloses a device suitable for dispensing individual doses of powder from respective perforations of a perforated membrane 4 (page 1, lines 3 to 6 and page 8, lines 19 to 21 of D10; see also Figures 1 to 3).
- 2.3 The opposition division found that pockets within the meaning of claim 1 were not anticipated by the perforations of the membrane 4 of D10, but only by these perforations together with the plate 13 (see points 32.13 to 32.16 of the contested decision). The opposition division referred in this context to page 6, line 34, to page 7, line 9, of D10. The opposition division thus concluded that D3 did not disclose the feature "the device housing the carrier comprising a plurality of pockets with individual doses of power".
- 2.4 The conclusion reached by the board differs from this. A "pocket" in claim 1 refers to a receptacle that can hold a dose of powder. It is not limited to a configuration with just one opening.
- 2.5 As explained in decision T 401/22, point 13.4, the passage on page 6, line 34, to page 7, line 9, of D10 must be read in its context. The plate 13 prevents the active compound from passing through the perforations in the membrane while the perforations are being loaded using scrapers 15 which press against the membrane (see page 5, lines 22 to 26, and page 6, lines 18 to 38 as well as Figures 2 and 3). Once the active compound is loaded, it also remains in the respective perforations when the membrane is rotated and the perforations are placed in the air conduit 6. It is only upon activation

by the air flow generated by inhalation by the patient that the active compound is released from the perforations, entrained upon inhalation and carried through the nozzle 2 (see e.g. page 3, lines 7 to 9; page 5, lines 15 to 20, and page 7, lines 26 to 34 of D10). Hence the membrane with perforations (by itself, i.e. without the plate 13) anticipates a carrier with pockets within the meaning of claim 1.

2.6 It follows that, in view of D10, D3 discloses the feature "the device housing the carrier comprising a plurality of pockets with individual doses of power". Since it is undisputed that all the other features of claim 1 are disclosed in D3, the subject-matter of claim 1 is not novel over D3.

3. Therefore, contrary to the finding of the decision under appeal, the patent cannot be maintained on the basis of auxiliary request 11. As there are no other claim requests, the patent is to be revoked.

4. Since the above conclusion corresponds to the appellant's main request and the respondent submitted that they did not intend to attend the oral proceedings, oral proceedings would serve no purpose. Accordingly, the decision is taken without oral proceedings pursuant to Rule 12(8) RPBA.

## **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