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**Datasheet for the decision
of 6 November 2025**

Case Number: T 1469/24 - 3.4.03

Application Number: 20197305.4

Publication Number: 3812870

IPC: G05D7/06, E03B7/00, E03B7/07,
E03B7/08, F24D19/10

Language of the proceedings: EN

Title of invention:
FLOW CONTROL SYSTEM

Patent Proprietor:
Belparts Group N.V.

Opponent:
Bauer, Clemens

Headword:
Flow Control System

Relevant legal provisions:
EPC Art. 99(1)
EPC R. 76(2)

Keyword:
Opposition by straw man
Admissibility of opposition - (yes)

Decisions cited:

G 0003/97, G 0004/97

Catchword:

While G 3/97 and G 4/97 may not explicitly state that any opposition by a straw man is admissible, in the board's reading, they essentially conclude that opposition filed by a straw man on behalf of an anonymous party is not objectionable merely because the opponent is acting as a straw man.

(Reasons 4.5)



Beschwerdekammern

Boards of Appeal

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Case Number: T 1469/24 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 6 November 2025

Appellant: Belparts Group N.V.
(Patent Proprietor) Wingepark 4
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Respondent: Bauer, Clemens
(Opponent) Schlehbuschstr. 28
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Representative: Müller Schupfner & Partner
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
3 December 2024 concerning maintenance of the
European Patent No. 3812870 in amended form.**

Composition of the Board:

Chairman T. Bokor
Members: M. Stenger
A. Böhm-Pélissier

Summary of Facts and Submissions

- I. The appeal concerns the interlocutory decision of the opposition division to maintain European patent no. EP 3812870 B1 in amended form according to the then main request of the proprietor, filed with letter dated 18 September 2024.
- II. Notices of appeal were filed in time by both the proprietor (16 December 2024) and the opponent Mr. N.N., a private person (19 December 2024).
- III. The opponent withdrew its appeal with letter dated 20 March 2025. The proprietor is thus the sole appellant and the opponent is a party as of right to the appeal proceedings.
- IV. The appellant-proprietor submitted its statement setting out the grounds for appeal with letter dated 3 April 2025. It requested that the decision of the opposition division "concerning the admissibility of the opposition" be set aside, that the opposition filed by Mr. N.N. be declared inadmissible because it did not meet the requirements of Articles 99(1) EPC and that the patent be maintained as granted.

Should the board consider that the opposition was admissibly filed, the appellant requested that the patent be maintained in amended form based on the main request which was allowed by the opposition division.
- V. The board issued a preliminary opinion under Article 15(1) RPBA dated 30 June 2025, indicating that the appeal was likely to be dismissed, for reasons

essentially corresponding to the reasons of the present decision.

- VI. The opponent-respondent requested with letter dated 30 July 2025 to dismiss the appeal of the proprietor. In case the board deviated from its preliminary opinion (as expressed in the board's communication), the opponent requested a referral to the Enlarged Board of Appeal on certain procedural issues raised in the board's communication.
- VII. With letter dated 27 October 2025, the appellant indicated that they would not attend the oral proceedings before the board scheduled on 27 November 2025. The board thereafter cancelled the oral proceedings.
- VIII. The submissions of both the appellant and the respondent essentially relate to whether filing an opposition by a "straw man" would be admissible in this case. The detailed arguments are set out below.

Reasons for the Decision

1. The appeal is admissible.
2. Submissions of the appellant

The appellant submits that according to decisions G 3/97 and G 4/97, although an opposition is not inadmissible purely because the person named as the opponent is acting on behalf of a third party, such an opposition may still not circumvent the law by abuse of due process.

In the present case, subsequent to the contested decision, the proprietor had initiated infringement proceedings before the UPC against a group of companies.

Mr. N.N. now acted as the representative of the German subsidiary of the group in a central revocation action against the contested patent at the UPC, initiated in reaction to the infringement proceedings.

Thus, one of the subsidiaries of the group of companies had instructed Mr. N.N. to file the opposition against the patent. He had therefore not been the real opponent, but had acted as a straw man for the group. In that manner, the real opponent avoided being identified as the party challenging the patent. This was a misuse of the opposition procedure, which was intended to allow genuine opponents to challenge patents in a transparent manner. Thus, the use of a straw man in this case was a clear attempt to circumvent the law by abuse of due process.

In addition, the straw man, being a patent attorney, did not have a legitimate interest in the outcome of the opposition proceedings.

For these reasons, the opponent had in fact not been correctly identified, so that the requirements of Article 99(1) and Rule 76(2) EPC were in fact not met and the opposition was inadmissible.

3. Main submissions of the respondent

The respondent submitted that even if the opposition was filed in a wrong name, this did not render the opposition inadmissible, since in decisions G 3/97 and

G 4/97, it had been decided that in principle a "straw man" opposition was not inadmissible.

In addition, filing an opposition was a right every person had, except the proprietor, and in the present case, the opponent had not acted on behalf of the proprietor (i.e. the appellant).

4. Position of the board with respect to admissibility
 - 4.1 For an opposition in which the person named as opponent is acting on behalf of a third party, decision G 3/97 identifies two cases where the law is circumvented by abuse of process, namely that the opponent is acting on behalf of the proprietor or on behalf of a client in the context of activities which, taken as a whole, are typically associated with professional representatives, without possessing the relevant qualifications required by Article 134 EPC (headnote, points 1(b) and 1(c)). The first case does not apply as submitted by the respondent. The second case can not apply because Mr. N.N. possesses the qualifications required by Article 134 EPC, as also noted by the appellant.
 - 4.2 The board is aware that these two cases do not constitute an exhaustive list. Nevertheless, decision G 3/97 comprises some further considerations, in particular considerations as to what is not considered a circumvention of the law by abuse of process.
 - 4.3 For instance, in points 3.2.1 of the Reasons, it is set out that "Though the patent proprietor may have an economic interest in finding out who is trying to attack his patent, such an interest is not legally protected by the legislative arrangements for the opposition procedure". That is, even if in the present case a legal person like the group of companies

involved in the infringement action actually had avoided to be identified as challenging the patent by having Mr. N.N. act on their behalf, this would not have constituted an attempt to circumvent the law by abuse of due process within the meaning of decision G 3/97.

4.4 Moreover, still according to point 3.2.1 of the Reasons of decision G 3/97, "the EPC legislator explicitly designed the opposition procedure as a legal remedy in the public interest which, according to Article 99(1) EPC, is open to "any person", as also pointed out by the respondent. The Enlarged Board further observed that "It would be incompatible with this to require that the opponent show an interest, of whatever kind, in invalidating the patent". In point 3.2.2 of the Reasons, finally, the Enlarged Board spells out that "therefore, it cannot be required that the opponent have an interest in the revocation of the patent". That is, in the present case, it is irrelevant whether Mr. N.N. had a genuine personal interest in the outcome of the opposition proceedings. Thus the "legitimate interest" of the opponent Mr. N.N., argued by the appellant to be missing, need not be demonstrated.

4.5 In summary, while G 3/97 and G 4/97 may not explicitly state that any opposition by a straw man is admissible, in the board's reading, they essentially conclude that opposition filed by a straw man on behalf of an anonymous party is not objectionable merely because the opponent is acting as a straw man. While the Enlarged Board maintains that abuse of process cannot be tolerated, it also holds that an abuse of process needs not be assumed in those cases where the third party instructing the presumed straw man ("the principal" in the following citation) could have filed an opposition

itself (see Reasons 3.2.2, second paragraph: "... as long as the legal system has no objection to the filing of an opposition by the principal himself, no objection can be made to his inciting a straw man to file an opposition").

- 4.6 These two decisions also do not state that the opposition division would be required to investigate *ex officio* whether any of the identified situations that could be considered an abuse of due process might be present and concealed by the formally named opponent. On the contrary, Headword 4 of G 4/97 holds that the burden of proof is borne by the person alleging that the opposition is inadmissible. From this it follows that in the present case the appellant patent proprietor must bring clear and convincing evidence that the law has been circumvented by abuse of process. Presently the board does not see any such evidence in the file. The appellant also did not argue that the presumed principal of the opponent would have been barred from filing the opposition itself.
- 4.7 Thus, the reasons submitted by the appellant why the opposition is inadmissible are not convincing. Instead, the board holds that the requirements of Article 99(1) and Rule 76(2) EPC were met. Even if the opponent were acting as a straw man, this does not lead to the inadmissibility of the opposition.
5. Accordingly, the proprietor's appeal must be dismissed. The opponent's conditional request for a referral to the Enlarged Board of Appeal is moot.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Bokor

Decision electronically authenticated