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**Datasheet for the decision
of 22 June 2026**

Case Number: T 0270/25 - 3.2.01

Application Number: 16186363.4

Publication Number: 3290312

IPC: B62J1/16, B62J1/18

Language of the proceedings: EN

Title of invention:

CHILD BIKE SEAT

Patent Proprietor:

Thule Sweden AB

Opponents:

BELLELLI S.r.l.
Polisport Plásticos S.A.

Headword:

Relevant legal provisions:

EPC Art. 83, 84, 54, 56
RPBA 2020 Art. 12(6)

Keyword:

Sufficiency of disclosure - (yes)
Claims - lack of clarity no ground for opposition
Late-filed objection - should have been submitted in first-
instance proceedings (yes)
Novelty - (yes)
Inventive step - (yes)

Decisions cited:

G 0003/14, T 0553/11, T 0681/01, T 1404/05, T 0881/01

Catchword:



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Case Number: T 0270/25 - 3.2.01

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 22 June 2026

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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted/
electronically transmitted on 9 December 2024
concerning maintenance of the European Patent
No. 3290312 in amended form.**

Composition of the Board:

Chairman G. Pricolo
Members: J. J. de Acha González
 A. Jimenez

Summary of Facts and Submissions

- I. The appeal of the opponent 1 is directed against the interlocutory decision of the Opposition Division, according to which the patent, as amended according to auxiliary request 1a filed during the oral proceedings, complied with the requirements of the EPC.
- II. The following evidence is relevant for the present decision:
- D3:** US 6,305,744 B1;
D4: US 5,542,587 A;
D10: US 3,910,634 A;
D11: US 2006/0267386 A1;
D12a: Screenshots from YouTube video "Meet the Bobike ONE bicycle safety seats", published on 18 May 2016; and
- D15:** NL 1036383 C2.
- III. The Opposition Division decided among others that the auxiliary request 1a underlying the decision under appeal met the requirements of Articles 83, 54 and 56 EPC.
- IV. Summons to oral proceedings before the Board were sent on 4 November 2025. In its communication under Article 15(1) RPBA (Rules of Procedure of the Boards of Appeal) on 8 May 2026, the Board informed the parties of its preliminary assessment of the case. Given that the assessment was negative for the appellant, the Board pointed out among others that if the appellant withdrew

their request for oral proceedings, a decision in the sense of the communication would be issued.

- V. By letter of 14 May 2026 the appellant withdrew their request for oral proceedings.

As a consequence, the oral proceedings were cancelled and the present decision is issued.

- VI. The appellant (opponent 1) requested that the decision of the Opposition Division be set aside and the patent be revoked.

The respondent (patent proprietor) requested that the opponent's appeal be dismissed, or, in the alternative, that the patent be maintained in amended form according to any of the auxiliary requests 1 to 9 filed with the reply to the statement of grounds of appeal.

The party as of right (opponent 2) did not made any submissions in the appeal proceedings.

- VII. Claim 1 of the main request reads as follows (feature numbering according to the contested decision):

- 1.1 *Bicycle child seat (2) comprising*
- 1.2 *a seat body (4) for accommodating a child therein, and*
- 1.3 *a fixation means (10) for coupling the bicycle child seat (2) to a bike,*
characterised in that
- 1.4 *said seat body (4) comprises a multi-layer structure with at least a first layer (6) and a second layer (8)*
- 1.5 *made from different materials,*
- 1.6 *wherein said first layer (6) is structured as an outer seat shell and*
- 1.7 *said second layer (8) is structured as an inner seat*

shell

- 1.8 *accommodated in and provided adjacent said outer seat shell, and in that*
- 1.9 *said first layer (6) is adapted to at least partially cover said second layer (8) and*
- 1.10 *to at least partially support said second layer (8) on said fixation means (10) such that a movement of said first layer (6) relative along said second layer (8) is substantially prevented,*
- 1.11 *wherein each layer is integrally formed and comprises side walls (40, 42), a bottom portion (44, 46) and a back portion (48, 50) jointly forming side walls, a bottom portion and a back portion of said seat body (4), wherein the Young's modulus of the second layer (8) is smaller than the Young's modulus of the first layer (6), wherein said second layer (8) is formed from a foam material.*

Independent claims 14, 15 and 16 differ from claim 1 in that feature 11 of these claims respectively reads as follows:

- 14.11 *wherein the second layer (8) at least partially surrounds an edge portion of the first layer (6).*
- 15.11 *wherein said first layer (6) and said second layer (8) are fixable to said fixation means (10) by pressing the second layer (8) towards said fixation means (10), wherein said bicycle child seat (2) further comprises a pressing member (16) arranged on said second layer (8) such that said second layer (8) and said first layer (6) are positioned between said pressing member (16) and said fixation means (10), said pressing member (16) being adapted to engage with at least said second layer (8) and to exert a pressing force towards said fixation means (10) onto said second layer (8).*

16.11 *wherein each layer is integrally formed, preferably by injection molding, and comprises side walls (40, 42), a bottom portion (44, 46) and a back portion (48, 50) jointly forming side walls, a bottom portion and a back portion of said seat body (4), wherein said first layer (6) and said second layer (8) are mechanically attached to each other at their back portions (48, 50), wherein said first layer (6) comprises protrusions (37) in said back portion (48) protruding into mating openings (43) formed in said second layer (8) and fixedly mounted to said second layer (8) using receiving elements (74) fixed on said protrusions (37) by means of a snap-fit connection, wherein said receiving elements (74) are shoulder hole caps which also function as an attachment for shoulder straps so that additional protruding parts do not interfere with a back of a child.*

Reasons for the Decision

1. The main request corresponds to the version found allowable by the Opposition Division, i.e. auxiliary request 1a filed during the oral proceedings before the Opposition Division.

It has 4 independent claims: 1, 14, 15 and 16.

2. *Sufficiency of disclosure*

- 2.1 The patent discloses the invention according to claim 1 in a manner sufficiently clear and complete for it to

be carried out by a person skilled in the art (Article 83 EPC).

- 2.2 The appellant contested the decision in this respect solely as regards point II.c.ii of the decision under appeal. Namely, that the skilled person could not carry out the subject-matter of claim 1 in which the second shell was an inner seat shell formed from a foam material.

According to them, it is settled case law of the Boards of Appeal that a claim must be construed on the basis of the ordinary meaning of its wording in the relevant technical context, without reading additional limitations into the claim from the description. The description might not be used to rewrite the claim or to exclude subject-matter that fell within the plain meaning of its terms. In particular, features that were not suggested by the explicit wording of the claim could not be implied for the purposes of assessing novelty, inventive step or sufficiency (see, inter alia, T 553/11, T 681/01, T 1404/05, T 881/01 and the Case Law of the Boards of Appeal of the EPO, 11th edition, 2025, II.C.4.1).

Claim 1 contained no qualification of the term "foam material" in feature 1.11. The feature therefore covered any foam material. The ordinary meaning of the term, as confirmed by standard dictionaries, was broad and encompassed both rigid and soft foams in which gas cells were enclosed by a solid or liquid matrix.

The Opposition Division's view that the combination of feature 1.7 ("structured as an inner seat shell") with the term "foam material" necessarily implied that only foams possessing "a degree of rigidity" were covered

lacked any objective basis in the claim wording. The claim did not require the second layer to be structured beforehand or separately from the outer shell, nor did it impose any limitation on the physical properties of the foam. The second layer may be soft and still be formed so as to mate with the outer shell. The feature "a degree of rigidity" was not inherent in the claim language.

The Opposition Division's reliance on the description was equally misplaced. Paragraph [0035] of the patent merely gave examples of materials that may be used for the inner layer; it did not limit the claim to rigid foams. Paragraph [0019] expressly stated that the second layer "may be less rigid compared to the first layer". It was common general knowledge that expanded polypropylene and polyurethane foams could be soft and flexible while still providing shock absorption. The term "shock" was itself ambiguous and did not denote rigidity. Moreover, the parameters "rigid" or "some degree of rigidity" were indefinite; the patent provided no definition, no measurement method and no indication of what degree of rigidity would be sufficient.

Moreover, the features "preferably formed from a foam material" and "preferably solid" originated in dependent claim 8 of the granted patent, where they were expressly optional and accompanied by the clearer limitation that the Young's modulus of the second layer was smaller than that of the first layer. These limitations were not carried over into claim 1 of auxiliary request 1a. The term "solid" itself admitted of multiple meanings, including materials that were firm yet still capable of conforming to the shape of the outer shell.

2.3 The board shares however the Opposition Division's conclusions for the following reasons.

The opponent's argument relies on strict claim construction case law that is primarily relevant to novelty and inventive step, but not for sufficiency of disclosure. For sufficiency the skilled person reads claim 1 in the context of the entire patent specification and common general knowledge. The key functional limitation – that the second layer is "structured as an inner seat shell accommodated in and provided adjacent said outer seat shell" – inherently requires a foam material that can be integrally formed into a stable, self-supporting shell shape with side walls, bottom, back, and precise interlocking features. This excludes slump-prone or overly soft foams that could never perform that role.

The description provides clear enabling guidance: it consistently points to expanded polypropylene (EPP) at 60–80 g/l, optionally reinforced, with a lower Young's modulus than the rigid outer shell, and mentions workable alternatives such as polyurethane foam. The Opposition Division correctly concluded that the skilled person understands that the claim does not cover literally every conceivable foam. The opponent's dictionary-based "any foam" reading and insistence on undefined "rigidity" therefore overstates the claim scope.

2.4 *Article 84 EPC*

2.4.1 The appellant's clarity objection directed to claim 8 is not open for examination.

2.4.2 The Appellant submitted that claim 8 lacked clarity under Article 84 EPC.

Claim 8 of the granted patent, original claim 9, required that the Young's modulus of the second layer be smaller than that of the first layer, with the second layer being "preferably" formed from a foam material and "preferably" solid. The term "preferably" was optional and non-limiting. Consequently, the granted claim covered second layers made of materials other than foam and in forms other than solid.

Claim 1 now required that the second layer be formed from a foam material, while amended claim 8 required that this foam layer "is solid". This constituted an A-type amendment within the meaning of G 3/14 and was therefore open to examination under Article 84 EPC.

The term "solid", when used in relation to a foam material, was ambiguous. It admitted of several known meanings, including "firm and stable in shape", "not liquid or gas", and "without spaces or holes". It was entirely unclear what limiting effect the word "solid" actually had on claim 1. In particular, it was not apparent whether claim 1 was intended to cover non-solid (for example liquid or fluid) foam layers, or whether the amendment was meant to exclude them. The lack of clarity in claim 8 was already raised by Opponent 1 during the opposition proceedings.

2.5 However, bearing in mind the above interpretation of the second layer as an inner seat shell formed from a foam material, the clarity of claim 8 is not open to examination. Even though the respondent has taken only part of granted claim 8 into claim 1, leaving "wherein said second layer (8) is preferably solid" as new

dependent claim 8 and omitting "preferably" with regard to the foam, the wording to which the objection is raised was already present in the granted patent in dependent claim 8 because granted claim 8 includes the possibility of the second layer being formed from foam and solid material. The respondent has limited claim 8 to the option included in granted claim 8, by excluding the terms "preferably". Accordingly, the amendment does not introduce non-compliance with Article 84 EPC that was not already present in the granted patent (see decision of the Enlarged Board of Appeal G 3/14).

3. *Admissibility - clarity objection to the description*

3.1 The Board exercising its discretion under Article 12(6) RPBA does not admit the appellant's clarity objection against the description of the main request.

The appellant raised this objection for the first time in appeal (see point B.3 of their statement of grounds of appeal).

3.2 Under the second sentence of Article 12(6) RPBA, the Board shall not admit objections which should have been submitted, or which were no longer maintained, in the proceedings leading to the decision under appeal, unless the circumstances of the appeal case justify their admittance.

3.3 The appellant provided no justification whatsoever for filing this objection with their appeal.

3.4 In line with the respondent's arguments, the Board judges that the appellant could and should have raised this objection during the oral proceedings before the Opposition Division. However, the appellant (opponent

1) chose not to do so (see the minutes of the oral proceedings, page 6).

4. *Novelty*

4.1 The subject-matter of claim 1 is new over D4 and that of claim 14 is new over D3.

4.2 The appellant maintained the lack of novelty of the subject-matter of claim 1 in view of D4 based on their view under Article 83 EPC that features 1.4 to 1.8 do not have the inherent/implicit effect to necessarily require only foams that can be structured as shells and thus have a degree of rigidity, as alleged by the Opposition Division.

4.2.1 Since as presented above under sufficiency of disclosure this is not the case, the Opposition Division's conclusions are correct.

D4 does not disclose that the soft resilient foam lining is formed as a shell. This lining is not a separate structural layer, nor is it structured as an inner seat shell (i.e. a distinct, integrally formed foam component with its own side walls, bottom, back, and positive-fit features accommodated inside an outer shell). D4 shows a rigid plastic shell with thin internal padding.

4.3 The appellant also raised for the first time a novelty objection to the subject-matter of claim 14 over D3. They essentially argued that the feature of claim 14:

14.11 *wherein the second layer (8) at least partially surrounds an edge portion of the first layer (6).*

did not provide a technical effect, as acknowledged by the Opposition Division, and was consequently to be ignored for assessing novelty, in accordance with the Case Law of the Boards of Appeal (see 11th edition, 2025, I.C.5.2.8).

4.3.1 Irrespective of the admissibility of this new objection and even if the feature allegedly did not have any technical effect, the feature is a technical feature which is not disclosed in D3. The question of providing a technical effect is a question for inventive step and the passages of the Case Law of the Boards of Appeal referred to by the appellant relate to technical and non-technical features, and not to whether the technical features provide a technical effect for the invention claimed.

5. *Inventive step*

5.1 *Claim 1*

5.1.1 The subject-matter of claim 1 is not rendered obvious by the combination of D3 together common general knowledge as shown in D4, D11, D12a and D15 (Article 56 EPC).

5.1.2 When starting from D3, the appellant considered that the subject-matter of claim 1 only differed from the seat of D3 on account of feature 1.11. The respondent did not dispute this.

5.1.3 The Opposition Division formulated the objective technical problem as increasing comfort (point II.d.i. 11) and the appellant as improving/enhancing the shock absorption/cushioning properties of the inner protective layer (see page 11 of the statement of

grounds of appeal). The respondent did not contest the formulation of the objective technical problem either.

- 5.1.4 The appellant essentially argued that starting from D3 as the closest prior art, the skilled person, faced with said objective technical problem, would readily modify the arrangement of D3 to form the inner protective layer from a foam material. Foam materials were well known in the art as effective shock-absorbing materials that could be readily structured for this purpose. The skilled person would also be aware of the explicit teachings in D4, D11, D12a and D15 concerning the advantageous use of foam for structuring inner shock-absorbent protective layers in child safety seats.

D3 itself taught, at column 4, lines 52-60, the provision of an additional inner (third) layer in the form of a detachable upholstered lining with a seat cushion. This third layer was expressly described as being provided in addition to the shock-absorbing second layer, in order to adapt the seat to occupants of different physique.

The Opposition Division's reasoning that the skilled person would not be motivated to combine D3 with D11, D12a or D15, or that any such combination would not result in the claimed two-layer structure with a foam inner shell, was therefore irrelevant and without objective basis. The second layer (shock-absorbing inner shell) and the third layer (upholstered lining) in D3 served clearly different purposes.

- 5.1.5 When considering D12a, EVA is disclosed therein as a soft, flexible, closed-cell foam material. While it provides excellent cushioning and comfort, it has lower

rigidity than materials such as expanded polypropylene (EPP). It is also unclear from figure 3 of D12a which parts of the seat are made of EVA. In comparison, pages 4 and 6 of D12 depict the seat cushion as being made of the comfortable, water-repellent material, and the belt padding as being made of EVA.

The second layer (the inner seat shell) of the patent must be 'structured as an inner seat shell' - meaning it needs to be integrally formed with side walls, a bottom and a back, and it must remain stable under a child's weight. In general, EVA material is unsuitable for this structural role because it can be formed into a very soft material that would deform and compress excessively, failing to maintain the required shape or positive-fit connection.

In the patent itself, EVA is only explicitly used for the soft covering member/seat cushion 38 (claim 7 and paragraphs [0018], [0048]), while the inner shell (second layer) is made of EPP foam, which is chosen for its balance of lightness, rigidity, and shock absorption. While EVA is ideal for soft, moulded cushions or padding, it cannot generally replace the semi-rigid foam inner seat shell described in the patent.

Therefore, it cannot be derived directly and unambiguously from D12a that the EVA part of the seat is structured as a shell.

Accordingly, D12a would not teach the skilled person to make the protective shell 15 from EVA foam.

5.1.6 Similarly, D4 does not disclose the foam layer as a shell either (see above under novelty).

5.1.7 D11, which relates to car child seats rather than bicycle or motorbike child seats, shows a different

configuration. Rather than a foam shell, it features a foam body (50) that is not formed as a shell. The only shell present in D11 is the protective cover shell 60, which is adhered to the foam body and is not made of foam. Therefore, D11 cannot give any hint to the skilled person to make the protective shell 15 as a foam.

5.1.8 D15 is in Dutch and no translation has been filed. It discloses a 8 mm thick seat bucket/shell made of an EVA copolymer foam that is specified as shape-retaining – not just any EVA foam. However, this seat is formed as a single shell with a tubular frame, not a two-shell structure. The Board agrees with the respondent that there is nothing in D15 that would lead a skilled person to use the material of the main seat shell in isolation as the material for shock-absorbing layer 15 of D3.

5.1.9 Consequently, none of D4, D11, D12a or D15 provides evidence of common general knowledge that would lead the skilled person to make the shock-absorbing shell layer of D3 from foam material. Therefore, the skilled person would find no motivation in their common general knowledge to make the intermediate shell of D3 from foam material specifically.

5.2 *Claim 14*

5.2.1 The subject-matter of claim 14 is not rendered obvious by the combination of D3 or D4 with D12a (Article 56 EPC).

5.2.2 Both appellant's lines of attack were based on the assumption that figure 4 of D12a discloses feature 14.11.

5.2.3 However, figure 4 of D12a does not directly and unambiguously disclose an inner and outer shell, let alone that the red coloured part of the seat in figure 4 surrounds an edge portion of the black part of the seat. Said edge is not shown in figure 4 of D12a.

Consequently, the inventive step objections of the appellant cannot succeed.

5.3 *Claim 15*

5.3.1 The subject-matter of claim 15 is not rendered obvious by D3 in combination with document D12a (Article 56 EPC).

5.3.2 The appellant argued that D12a disclosed a pressing member arranged on said second layer such that said second layer and said first layer were positioned between said pressing member and said fixation means, said pressing member being adapted to engage with at least said second layer and to exert a pressing force towards said fixation means onto said second layer (feature 15.11). In particular, Figure 4 of D12a clearly illustrated the operation of the fixation means, in which the user pushed down on the upper side wings of the second layer to exert a force that pressed the fixation means on the second layer towards the first layer via the pressing member located between the two layers. Contrary to the Opposition Division's view, the rapid and simple manner of operation of the fixation means disclosed in D12a constituted a strong incentive for the skilled person to modify the seat arrangement of D3 by adopting this fixation system. Such a modification would be straightforward and would

lead directly and obviously to the subject-matter of claim 15.

- 5.3.3 However, the Opposition Division and the respondent are correct that D12a does not disclose such pressing member.

Feature 15.11 requires a specific functional arrangement in which a discrete pressing member is arranged on the second (inner) layer such that, in the assembled state, both the second layer and the first (outer) layer are positioned between that pressing member and the fixation means, with the pressing member exerting a pressing force onto the second layer toward the fixation means.

Document D12a does not disclose or suggest this configuration. The seat cushion and side wings visible in the video frames of D12a form part of the comfort padding and do not function as a structural pressing member that clamps both layers to the fixation means in the manner required by the claim. The appellant's reading of Figure 4 goes beyond what is directly and unambiguously shown.

Accordingly, neither D3 nor D12a discloses feature 15.11, so the appellant's objection cannot succeed.

5.4 *Claim 16*

- 5.4.1 The subject-matter of claim 16 is not rendered obvious by D12a in combination with document D3 and D10 (Article 56 EPC).
- 5.4.2 Although the appellant's objection regarding the lack of inventive step of the subject-matter of claim 16 was

neither clearly formulated nor substantiated in their statement of grounds of appeal (see pages 13 and 14), the Board concludes that the appellant maintained the attack underlying the decision under appeal, i.e. D12a in combination with document D3 and D10.

In their submissions on this matter, however, the appellant did not address the respondent's argument that none of D12a, D3 or D10 disclosed or suggested a snap-fit coupling of two shells according to feature 16.11.

5.4.3 As the Board pointed out in its communication under Article 15(1) RPBA, the respondent is correct in stating that neither D12a nor D3 or D10 discloses a snap-fit connection between the first and second shells, as defined by feature 16.11. Such connections involve flexible, protruding elements (such as hooks, barbs or cantilever arms) that deflect during assembly and then 'snap' resiliently into an undercut or recess, providing a positive mechanical lock. This type of connection between two shells is not disclosed in any of these documents.

6. It follows from the above that the appeal of opponent 1 is not allowable.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



M. Schalow

G. Pricolo

Decision electronically authenticated