

**Internal distribution code:**

- (A) [ ] Publication in OJ  
(B) [X] To Chairmen and Members  
(C) [ ] To Chairmen

**D E C I S I O N**  
**of 8 April 1997**

**Case Number:** T 0114/95 - 3.2.1

**Application Number:** 88101117.5

**Publication Number:** 0276818

**IPC:** B60T 8/32

**Language of the proceedings:** EN

**Title of invention:**  
Anti-lock control method for vehicle

**Patentee:**  
HONDA GIKEN KOGYO KABUSHIKI KAISHA

**Opponent:**  
WABCO Standard GmbH  
Robert Bosch GmbH

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 56, 108  
EPC R. 55(c)

**Keyword:**  
"Admissibility of the opposition (yes)"  
"Form of appeal: admissible (yes)"  
"Main request: inventive step (yes)"

**Decisions cited:**  
G 0009/91, T 0926/93

**Catchword:**  
If an opponent requests revocation of the patent in its entirety, it is sufficient to substantiate the ground(s) of opposition in respect of at least one claim of the patent for the requirements of Rule 55(c) EPC to be met (reasons 1.4, see also T 926/93).



Case Number: T 0114/95 - 3.2.1

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.1  
of 8 April 1997

**Appellant:**  
(Opponent 02)

Robert Bosch GmbH  
Postfach 30 02 20  
70442 Stuttgart (DE)

**Representative:**

-

**Other party:**  
(Opponent 01)

WABCO Standard GmbH  
Euskirchener Str. 80  
D-53121 Bonn (DE)

**Representative:**

Schrödter, Manfred, Dipl.-Ing.  
WABCO Standard GmbH  
Postfach 91 12 80  
30432 Hannover (DE)

**Respondent:**  
(Proprietor of the patent)

HONDA GIKEN KOGYO KABUSHIKI KAISHA  
1-go, 1-ban, Minami-Aoyama 2-chome  
Minato-ku  
Tokyo 107 (JP)

**Representative:**

Herzog, Markus, Dipl.-Phys. Dr.  
Patentanwälte  
Weickmann und Partner  
Postfach 86 08 20  
81635 München (DE)

**Decision under appeal:**

Interlocutory decision of the Opposition Division  
of the European Patent Office posted 29 November  
1994 concerning maintenance of the European  
patent No. 0 276 818 in amended form.

**Composition of the Board:**

**Chairman:** F. A. Gumbel  
**Members:** P. Alting van Geusau  
J.-C. Saisset

## Summary of Facts and Submissions

I. European patent No. 0 276 818 was granted on 23 October 1991 on the basis of European patent application No. 88 101 117.5.

II. Oppositions against the granted patent were filed by the appellant (opponent 02) and the other party (opponent 01). They requested revocation of the patent in its entirety on the grounds that its subject-matter lacked novelty and/or inventive step with respect to the state of the art reflected *inter alia* by the following prior art documents:

D1: DE-C-2 717 457  
D2: EP-A-0 163 941  
D3: US-A-3 832 008.

In support of its request for revocation of the patent, the appellant's arguments were limited to the subject-matter of the granted claim 1, whereas the other party attacked both granted independent claims 1 and 4.

III. In its decision given at the oral proceedings on 22 September 1994 and issued in writing on 29 November 1994, the Opposition Division held that the patent was to be maintained in amended form on the basis of the claims 1 to 5 filed during the oral proceedings.

The Opposition Division was of the opinion that the subject-matter of independent claim 1 (amended) and independent claim 4 (maintained in its granted form) was novel and inventive over the cited prior art, in particular since the cited documents did not disclose

or hint at the particular manner of distinguishing whether the driving wheel was judged to be out of the racing state specified in claim 1 or at the feature for keeping the estimated vehicle speed constant according to claim 4.

- IV. An appeal was filed against this decision by the appellant on 2 February 1995 and the appeal fee paid at the same time. The appellant requested that the decision under appeal be set aside and the patent revoked in its entirety.

In the statement of grounds of appeal filed on 10 April 1995, the appellant cited

D4: GB-A-2 176 557

and submitted that the subject-matter of both the independent claims 1 and 4 lacked an inventive step.

- V. In its response dated 3 November 1995 the respondent contested the appellant's view and also argued that the appellant's opposition with respect to the independent claim 4 was inadmissible and that the appeal was therefore also to be considered inadmissible as far as claim 4 was concerned. In support of its arguments, reference was made to decision G 9/91 (OJ 1993, 408) of the Enlarged Board of Appeal.

- VI. In a communication issued in preparation for oral proceedings, the Board expressed the provisional opinion that there was no reason to consider the appeal inadmissible with respect to the granted claim 4. The Board could not see any basis in decision G 9/91 for refusing to consider subject-matter the patentability

of which was contested in due time and form by a further opponent which did not appeal. In G 9/91 the term "opposition" appeared instead to cover the oppositions filed by several opponents as an entity.

The Board drew attention to the fact that D4 was filed late and did not appear to be of more relevance than the documents already on file. In accordance with the case law of the Boards of Appeal, the Board intended to disregard this document (Article 114(2) EPC).

If D1 was taken as the closest prior-art anti-lock control method, the question to be discussed during the oral proceedings would be whether the skilled person was encouraged by the cited documents or his common knowledge to change the known manner of combining the first and second reference speeds and, if so, whether he would then arrive at the subject-matter of claims 1 and 4, respectively.

VII. Oral proceedings before the Board were held on 8 April 1997 in the presence of the appellant and respondent. The other party had informed the Board in a letter dated 17 March 1997 that they would not attend the oral proceedings.

During the oral proceedings the respondent submitted a new set of claims 1 to 4 and an amended description.

The respondent requested that the appeal be dismissed and that the patent be maintained

as a main request:

on the basis of the set of claims 1 to 4 and the amended description filed during the oral proceedings together with the drawings as granted,

as a first auxiliary request:

on the basis of the main request limited to claims 1 and 2,

as a second auxiliary request:

on the basis of the main request limited to claims 3 and 4.

Claim 1 of the main request reads:

"1. An anti-lock control method for a vehicle equipped with wheels including a driving wheel and a follower wheel, the method comprising the steps of detecting a wheel speed ( $V_{wf}$ ,  $V_{wr}$ ), estimating a vehicle speed ( $V_v$ ) based on an integral of said wheel speed ( $V_{wf}$ ,  $V_{wr}$ ), comparing said wheel speed ( $V_{wf}$ ,  $V_{wr}$ ) with a reference value ( $V_{r_1}$ ,  $V_{r_2}$ ) derived from said estimated vehicle speed ( $V_v$ ) to judge whether the wheels are entering a locked state, and reducing a brake pressure to a wheel brake ( $B_{lf}$ ,  $B_{rf}$ ,  $B_{lr}$ ,  $B_{rr}$ ) when said wheels are entering a locked state, wherein said estimated vehicle speed ( $V_v$ ) comprises a first estimated vehicle speed ( $V_{vf}$ ) and a second estimated vehicle speed ( $V_{vr}$ ), said first estimated vehicle speed ( $V_{vf}$ ) being estimated on the basis of an integral of a speed ( $V_{wf}$ ) of a wheel including at least said driving wheel, said second estimated vehicle speed ( $V_{vr}$ ) being estimated on the basis of an integral of the speed ( $V_{wr}$ ) of said follower wheel, wherein said driving wheel is judged to be in a racing state when the difference ( $V_{vf} - V_{vr}$ ) between said first estimated vehicle speed ( $V_{vf}$ ) and said second estimated vehicle speed ( $V_{vr}$ ) rises above a

first predetermined value ( $K_1$ ), and in that said driving wheel is judged to be out of a racing state when the difference ( $V_{wf} - V_{vf}$ ) between the speed ( $V_{wf}$ ) of said driving wheel and said first estimated vehicle speed ( $V_{vf}$ ) drops below a second predetermined value ( $K_2$ ), thereby utilizing the result of said judgment in controlling of said brake pressure, wherein, when said driving wheel is judged to be in a racing state, said first estimated vehicle speed ( $V_{vf}$ ) is kept constant and such constant vehicle speed ( $V_{vf}$ ) is used to determine said reference value ( $V_{r1}, V_{r2}$ )."

The independent claim 3 reads as follows:

"3. An anti-lock control method for a vehicle equipped with wheels including a driving wheel, the method comprising the steps of detecting a wheel speed ( $V_{wf}, W_{wr}$ ), estimating a vehicle speed ( $V_{vf}$ ) based on the wheel speed ( $V_{wf}, W_{wr}$ ), comparing said wheel speed ( $V_{wf}, W_{wr}$ ) with a reference value ( $V_{r1}, V_{r2}$ ) derived from said estimated vehicle speed ( $V_{vf}$ ) to judge whether the wheels are entering a locked state, and reducing a brake pressure to a wheel brake ( $B_{lf}, B_{lr}, B_{rf}, B_{rr}$ ) when said wheels are entering a locked state, wherein said vehicle speed ( $V_{vf}$ ) is estimated on the basis of a speed ( $V_{wf}$ ) of a wheel including at least said driving wheel, characterised in that said estimated vehicle speed ( $V_{vf}$ ) is kept constant at the current value when said driving wheel is in a racing state, and such constant vehicle speed ( $V_{vf}$ ) is used to determine said reference value ( $V_{r1}, V_{r2}$ ) as far as the racing state of said driving wheel is present."

VIII. In support of its request for revocation of the patent the appellant relied essentially on the following submissions:

The respondent's grounds for non-admissibility of the appeal in respect of the granted claim 4 were not convincing. In the notice of opposition the appellant had requested revocation of the patent in its entirety and the EPC did not require that all the claims of the patent should be addressed individually in the notice of appeal.

With respect to the inventive step of the subject-matter of the amended claims 1 and 3, the prior art known from D1 concerned an anti-lock control method for a vehicle from which the skilled person derived most of the features of claim 1. In fact a slip control signal  $\lambda_{VR}$  (see page 9, lines 33 to 35) was initiated if, due to slippage of the driven wheels, the vehicle reference speed ( $V_{Ref}$ ) in the term  $\lambda_{VR} = (V_{Ref} - V_{VR}) / V_{Ref}$  rose above a predetermined level. It clearly followed from the graph in Figure 2 at time  $t_1$  after which the vehicle speed was kept constant, as was clearly at least visible from the drawing, that indeed a threshold value was involved. Such comparison was in principle similar to the comparison of the first and second estimated vehicle speeds in claim 1 of the patent for judging whether the driving wheel was in a racing state. Similar considerations applied to the determination whether the driving wheel was out of the racing state when considering the slip control term  $\lambda_{HR} = (V_{Ref} - V_{HR}) / V_{Ref}$  for a driven wheel, which followed also from the text in column 10, lines 1 to 5 of D1. Thus, since D1 disclosed the principles involved and the minor differences between the control claimed in claim 1 and the method known from D1 were nothing more than obvious alternative method steps, the skilled person did not need any inventive ingenuity to arrive at the subject-matter of claim 1.



D1 already disclosed that when spinning of a driving wheel was detected the vehicle reference speed should be related to the follower wheel speed which was essentially constant. Keeping the estimated vehicle speed constant was also known from D3.

When, therefore, the control known from D1 was applied to a four-wheel driven vehicle it would need no inventive activity to keep the vehicle reference speed constant in such a vehicle lacking follower wheels. Consequently the method of claim 3, which embraced four-wheel driven vehicles, was nothing more than an obvious development of the system known from D1 and could therefore not be upheld for lack of inventive step of its subject-matter.

IX. The respondent contested the appellant's views and its arguments can be summarised as follows:

The appellant's opposition was not substantiated in respect of granted claim 4.

In its decision G 9/91 the Enlarged Board of Appeal had come to the conclusion that the power of an Opposition Division or a Board of Appeal to examine and decide on the maintenance of a European Patent depends upon the extent to which the patent is opposed in the notice of opposition. Applying this principle to the present case the appellant's notice of opposition had to be deemed inadmissible with respect to granted claim 4.

Consequently, its appeal was also inadmissible with respect to the granted claim 4 corresponding in substance to the present claim 3.

The other document D4 cited by the appellant was of no great relevance and since it was filed late should not be allowed into the appeal proceedings.

The interpretation of the prior art disclosed in D1 as given by the appellant was to a large extent based on hindsight and even included a wrong conclusion as regards the obviousness of keeping the vehicle speed constant if wheel spin was detected. D1 disclosed neither a comparison of actually sensed wheel speeds nor the use of different predetermined values for determining a driving wheel racing condition or an out-of-racing condition of the driving wheel. Moreover, D1 disclosed that when racing was detected, only the follower wheel speed was used to derive therefrom the vehicle reference speed, whereas in claim 1 a constant value was taken based on the driving wheel speed at the moment of detecting a racing condition.

Neither D1 nor any of the other cited documents gave a hint of the integration of the sensed wheel speeds so as to avoid misjudgments due to fluctuations in the wheel speeds, which helped to ensure that a relatively simple comparison of speeds resulted in a reliable anti-lock control.

As regards the subject-matter of claim 3, none of the cited documents disclosed or hinted at the idea of keeping the reference vehicle speed, based on the driving wheel speed, constant if wheel racing was detected.

## **Reasons for the Decision**

### **1. *Admissibility of the appeal***

- 1.1 In respect of the admissibility of the appeal, the respondent was essentially of the opinion that the appeal was not admissible in respect of the granted independent claim 4, because the appellant had not

substantiated any reasons in accordance with Article 100 EPC in its notice of opposition against the subject-matter of this claim.

- 1.2 It can be seen from the file that the appellant requested in its notice of opposition (facsimile dated 23 July 1992) revocation of the patent in its entirety for non-compliance with the provisions of Article 100(a) and (b) EPC and that reasons were given why the subject-matter of the granted claim 1 was not novel and in so far as it appeared to differ from the known system of D1 did not solve the problem stated in the patent.

The opposition is therefore considered substantiated in respect of the grounds of opposition raised.

- 1.3 The point raised by the respondent goes further in that Rule 55(c) EPC, in particular, is interpreted in such a way that the notice of opposition should at least be substantiated with respect to the subject-matter of each independent claim if revocation of the patent in its entirety is requested. Consequently, if only one independent claim of a number of independent claims is attacked, the opposition should be considered admissible only in respect of the subject-matter claimed in that claim.

The Board cannot find support in the EPC for such an interpretation. Rule 55(c) EPC does not refer to claims but rather requires that the notice of opposition should contain a statement of the extent to which the patent is opposed, the grounds on which the opposition is based and a substantiation in support of those grounds. It is apparent from the above that these requirements are fulfilled by the notice of opposition filed by the appellant.

1.4 In an attempt to substantiate its objection further, the respondent referred to decision G 9/91 of the Enlarged Board of Appeal which limits the power of an Opposition Division or a Board of Appeal to examine and decide on the maintenance of a European patent to the extent to which the patent is opposed in the notice of opposition pursuant to Rule 55(c) EPC.

However, this decision explicitly concerns the situation in which it is clear from the statement under Rule 55(c) EPC that the patent is opposed only to a certain extent (see point 8 of the reasons) and gives no basis for the assumption that an opposition is not sufficiently substantiated if only one claim of a set of claims including more than one independent claim is substantiated in the notice of opposition.

In this respect, the Board draws attention to the established practice of the EPO referred to in decision T 926/93 of 1 October 1996 (to be published in the OJ) that if any claim of a set of claims in a request is held not to be allowable, the other claims in such request fall with the unallowable claim, and consequently the entire request is unallowable (reasons, point 3).

In the Board's opinion, the consequence of such a procedural system is that it suffices for an opponent to substantiate an attack under Article 100 EPC on only one claim of the patent proprietor's request and that there is no obligation under the EPC to object to any of the claims at the stage of filing the notice of opposition.

1.5 In the Board's opinion, there is also no limitation set by the EPC to allowing an opponent whose opposition is considered admissible to support and use grounds, evidence and arguments for revocation of the patent that were submitted by other opponent(s). Therefore, in the present case the appellant is allowed to rely on submissions for lack of inventive step brought forward against the granted claim 4 by the other party.

1.6 For these reasons, the appellant's opposition meets the formal requirements of the EPC and is therefore admissible. Since clearly the appellant is adversely affected by the decision under appeal and the other formal requirements mentioned in Articles 106 and 108 and Rule 64 EPC are also fulfilled, the appeal is admissible.

2. *Amendments (main request)*

2.1 Claim 1 combines the features of the granted claims 1 and 3 and additionally includes the features that the estimated speeds are based on an integral of the sensed speed and further method steps for judging that the driving wheel is out of a racing state.

This subject-matter is disclosed in the originally filed claims 1 and 3 and the description of the preferred embodiment disclosed in relation to Figure 3 (see also the originally filed description page 14, line 9 to page 16, line 7), in particular the function of the first (56) and second (57) substractors depicted in this figure.

Claim 2 is a repetition of the granted claim 2 which is a repetition of the originally filed claim 2.

- 2.2 The independent claim 3 is based on the granted independent claim 4 - which is identical to the originally filed claim 4 - with the further specification of the feature that the estimated vehicle speed is kept constant **at the current value** when the driving wheel is in a racing state.

The subject-matter of this claim concerns a broader concept disclosed in the application as originally filed and is supported by the disclosure of the preferred embodiment. In this embodiment the vehicle speed estimated on the basis of the speed of a driving wheel (V<sub>wf</sub>) is kept constant at the current value (V<sub>vf</sub>) when it is detected that the driving wheel is in a racing state (see page 16, line 14 to page 17, line 12 of the originally filed description or column 8, lines 51 to column 9, line 19 of the granted patent).

Claim 4 is a repetition of the granted claim 5 which is a repetition of the originally filed claim 5.

- 2.3 The patent description was amended to take into account the closest prior art, as this is represented by D1. Furthermore, the description was brought into agreement with the subject-matter now claimed.

- 2.4 In view of these assessments no objections to the current patent documents arise under the EPC, in particular Article 123(2) or (3) EPC.

3. *Late-cited document D4*

- 3.1 In accordance with the case law of the Boards of appeal, a late-filed prior art document will be taken into account only if it is clearly more relevant than the documents already on file.

3.2 In its communication dated 2 August 1996, the Board explained why the disclosure of D4 was not considered relevant and since the appellant did not dispute the Board's findings and in fact did not rely on D4 further in the submissions given during the oral proceedings, the Board has decided to disregard this document in accordance with Article 114(2) EPC.

4. *Novelty (main request)*

The novelty of the subject-matter of the independent claims 1 and 3 can be confirmed because none of the prior art documents in the proceedings discloses an anti-lock control method in which the vehicle reference speed based on an integral of the driving wheel speed is kept constant at the value it had when the driving wheel was found to enter a racing state.

The novelty of the subject-matter of the current claims was in fact not contested by the appellant.

4. *Inventive step (main request)*

4.1 It is undisputed that document D1 constitutes the closest prior art in respect of the subject-matter of both independent claims 1 and 3.

In this known anti-lock control method (see the embodiment disclosed with respect to Figures 1 and 2), the vehicle reference speed value used for comparison with the individual wheel speed values to determine the wheel slip values during braking is determined on the basis of the highest sensed speed of the non-driven front wheels and driven rear-wheels of a vehicle. If the driven wheels enter a racing state (no braking is

carried out), the vehicle reference speed is either based on the non-driven wheel speed only or, in a second embodiment not considered by the appellant, on the non-driven wheel speed and a predetermined amount of the driven wheel speed.

Switching the means to change the determination of the reference vehicle speed from the first to the second mode may be activated by the slip control signal or acceleration-control signal for the vehicle wheels resulting from the sensed speed and acceleration differences (see column 9, lines 29 to 51) and may be deactivated by a signal indicative of a brake pressure control initiation.

The anti-lock control methods according to the present patent have as their object the provision of such anti-lock methods which can be conducted accurately and reliably by determination of the reference vehicle speed in a reliable manner (see also page 2, second paragraph, of the amended description).

- 4.2 The anti-lock control method claimed in present claim 1 differs from the control method known from D1 essentially in that the first and second estimated reference vehicle speeds are estimated on the basis of an integral of the speed of the respective wheel speeds and in that specific conditions for comparing the first and second estimated vehicle speeds as well as the driving wheel speed and the first estimated vehicle speed are defined for judging whether the driving wheel is in or out of a racing state and in that when the driving wheel is judged to be in a racing state the estimated reference vehicle speed based on the speed of a wheel, including at least the driving wheel, is kept constant. Such constant value is used as the reference



vehicle speed in the determination of the reference values for establishing whether the vehicle wheels are entering a locked state, thereby utilizing the result of the judgments in control of the brake pressure.

None of the available documents discloses such specific additional control method steps.

- 4.3 The appellant argued that the skilled person would be led by the disclosure of D1 to consider a direct comparison of the estimated vehicle speeds and driving wheel speed in the manner claimed in the amended claim 1, since the slip control signal responsible for switching switch 22 in Figure 1 of D1 and thereby changing the basis for the estimation of the vehicle speed to the non-driven wheels, was determined by the same comparison and only if a threshold value was exceeded was the slip control signal output. It could further be derived from Figure 2 that the new reference value was a constant value.

In respect of the integration of the wheel speed signal the appellant was of the opinion that such a measure was well known to the skilled person and also hinted at in D1 because of the circuits 12 and 16 shown in Figure 1 of D1.

However, in the Board's opinion, these submissions are based on mere speculations based on hindsight and are not supported by the facts.

D1 is silent as to how the slip control signal  $\lambda_{VR}$ , referred to in D1 in column 9, line 34, is determined and it is not necessarily calculated in the manner suggested by the appellant. Moreover, a slip control signal clearly cannot be considered as an equivalent of a "slip signal" as the appellant did during the oral proceedings.

Although indeed the estimated vehicle speed  $V_{VR}$  in Figure 2 of D1 appears to be constant, the sensed speed is related to the non-driven wheels which, given the time scale of the figure, does not change appreciably in the time interval shown but is in reality a floating value. Therefore, considering the disclosure of D1 in an objective manner, the skilled person would not derive any hint at considering the use of a constant speed value in this known anti-lock control.

Moreover, when the driving wheel is judged to be in a racing state, according to the method of claim 1 under discussion the estimated vehicle speed is kept constant but is related to the driving wheel speed at the moment of detecting racing and is not at any instance related to the follower wheel speed such as in the system disclosed in D1.

- 4.4 In respect of the obviousness of keeping the estimated vehicle speed constant when racing of a driving wheel is detected, the appellant also referred to the anti-skid control system known from D3. There, if the wheel speed was in an unstable range, a memory circuit for determining the reference vehicle speed was switched from a low to a higher time constant and the result of such higher time constant was that the reference value became virtually constant. It would therefore be obvious to the skilled person to apply this teaching to the control known from D1 and arrive in an obvious manner at the control defined in the amended claim 1 or in claim 3.

However, the Board sees a principal difference between switching to a different time constant on the one hand and keeping an actual wheel speed value constant on the other. The system according to D3 is also different in that it essentially relates to the control during braking so that the voltage stored in the memory

circuit at the moment of switching to a higher time constant is permitted to drop only very slowly, i.e. so slowly that the dropping corresponds to only a vehicle deceleration on a roadway with a low coefficient of friction, preferably that which could be expected from a very smooth surface such as ice (see column 6, lines 19 to 33 of D3).

However, in the control according to the present claims 1 and 3 of the patent in suit it is avoided that the estimated vehicle speed is estimated too high rather than too low as in D3 and, moreover, is not allowed to change during racing of the driving wheel.

Furthermore, the electronic circuit of the system disclosed in D3 is not compatible with that disclosed in D1 and the skilled person would therefore not find any incentive to combine parts of the control system disclosed in D1 with that of D3.

The appellant was further of the opinion that the integration of the speed signal was an obvious treatment of such a signal to avoid "noise". However, the appellant failed to substantiate its allegation by reference to documents.

In any case, in view of the respondent's explanations, integration of the wheel speed in the control system defined in claim 1 has the function of further improving the reliability of the determination of a reference vehicle speed to be used as a basis for the calculation of the individual wheel slip values for the anti-lock brake control and as such is to be judged in combination with the other features of claim 1 and not as a feature having no bearing on the achievement of the object of the invention.

4.5 As regards the subject-matter of the independent claim 3, this claim is also based on the idea of keeping the value of the estimated vehicle speed constant if the driving wheel is in a racing state and thus of relating the constant vehicle reference speed to the driving wheel speed from the moment when racing is detected.

Also with respect to claim 3, the appellant essentially relied on the submission that since both D1 and D3 gave the skilled person at least a "visual hint" at keeping the reference speed constant racing of a driving wheel was detected. It would be obvious to use a constant vehicle reference speed in the event of wheel racing, particularly in a four-wheel drive vehicle where no switching to a follower wheel was possible.

However, as was already mentioned above, neither D1 nor D3 nor any of the other available documents, disclose or lead the skilled person in an obvious manner to the step of keeping the estimated vehicle speed based on the driving wheel constant at the value which is present just when driving wheel racing is detected. Many different possibilities are available in the state of the art to determine a vehicle reference speed and there is neither an obvious need nor a hint for the skilled person to further develop the system disclosed in D1 for a two-wheel drive vehicle to arrive at a four-wheel drive vehicle satisfying the wording of claim 3.

Therefore, the subject-matter of claim 3 also involves an inventive step within the meaning of Article 56 EPC.

4.6 To sum up, in the Board's opinion, the proposed solutions to the technical problem underlying the invention as defined in the independent claims 1 and 3 comprise an inventive step and therefore these claims

as well as their respective dependent claims 2 and 4, relating to particular embodiments of the invention in accordance with Rule 29(3) EPC are allowable.

The grounds of opposition do not prejudice maintenance of the patent in amended form on the basis of the respondent's main request and it is therefore not necessary to consider the auxiliary requests.

### Order

For these reasons it is decided that:

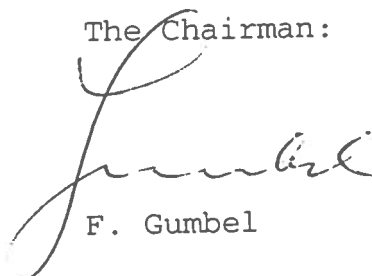
1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent in amended form on the basis of the following documents:
  - set of claims 1 to 4 and description both filed at the oral proceedings,
  - drawings (Figures 1 to 4) as granted.

The Registrar:



S. Fabiani

The Chairman:



F. Gumbel

