

Candidate's answer

Paper C-2011

Response to client questions

We cannot use the information regarding the change from “magnesium” to “manganese” to attack the patent, because a European application may be filed in any language (Art. 14(2) EPC). Throughout the proceedings before the EPO, the translation (of the original application into English) may be brought into conformity with the application as filed (i.e. the Spanish text) (Art. 14 (2) EPC, 2nd sentence). Hence, it is allowed to amend the English translation to conform with the original Spanish text.

Claim 6 was added during examination. We can use this to attack claim 6 (2 g/m² alternative) on the ground of added matter (Art. 123(2) EPC) – see the notice of opposition. We cannot attack the 4 g/m² alternative on the grounds of added matter, because 4 g/m² was disclosed in paragraph [0007] of the description. I have prepared an inventive step attack for claim 6 (4 g/m² alternative).

The last paragraph of the description in Annex 5 was not included in its priority document. Provided the filing fee has been paid for Annex 5 (need to check this), Annex 5 will be prior art under Art. 54(3) EPC (R165 EPC) – see the notice of opposition. However, only the subject matter that was present in the priority document of Annex 5 is entitled to the priority date of Annex 5 (GL, C-IV, 7.1.1).

The last paragraph of the description was not present in the priority document so is only entitled to the filing date (GL, C-IV, 7.1.1, Art. 89 EPC), 03.01.2008.

As the filing date (03.01.2008) of Annex 5 is after the priority date (09.02.2007) of Annex 1, the last paragraph of Annex 5 is not part of the state of the art for Annex 1. Therefore, we cannot use the last paragraph of Annex 5.

Also, the abstract of Annex 5 cannot be used, because the abstract is not part of the “content” of an Art. 54(3) document (GL, C-IV, 7.1), and cannot be taken into account for applying Art. 54(3) EPC (Art. 85 EPC).

It is not clear whether it is possible to hold the oral proceedings by video conference.

While oral proceedings before the examining division may be held by video conference (OJ 2006, 585), oral proceedings before the opposition division are usually public (Art. 116(4) EPC).

Therefore, for video conferencing to be allowed, it would be necessary to ensure that the use of video conferencing is reconciled with the requirement that oral proceedings before the opposition division are public (T1266/07, mutatis mutandis for proceedings before the opposition division).

I will request the use of video conferencing and see whether it is allowed.

Notice of opposition

A. Formal details

See form 2300

B. Effective date of claim objects

Claims 1-5, 7 and 8 were present in the priority document of EP2698132 (Annex 1, A1) so are entitled to an effective date of 09.02.2007 (Art. 89 EPC).

Claim 6 (2 g/m² alternative) adds matter contrary to Art. 123(2) EPC (see grounds for opposition, section D.6.1), so is not entitled to an effective date.

Claim 6 (4 g/m² alternative) is entitled to an effective date of 09.02.2007, because the value of 4 g/m² was present in the priority document in the last sentence of the paragraph corresponding to paragraph [0007] of A1.

C. Prior art relied on

Annexes 2, 3, 4 and 6 (A2, A3, A4, A6) were published before 09.02.2007, so are part of the state of the art according to Art. 54(2) EPC.

Annex 5 (A5) is a PCT application with a priority date of 05.01.2007 prior to the effective date of claims 1-5, 6 (4 g/m² alternative), 7 and 8 (09.02.2007) and a publication date of 10.07.2008 (after the effective date of claims 1-5, 6 (4 g/m² alternative), 7 and 8 of A1). A5 has been published in English (an official language of the EPO) (Art. 153(3) EPC) so, assuming the filing fee under R159(c) has been paid, A5 is state of the for A1 under Art. 54(3) EPC (R165EPC).

As A1 was filed on 08.02.2008, so was not pending at the entry into force of EPC 2000 on 13.12.2007, Art. 54(4) EPC 1973 and R23a EPC 1973 do not apply (Art. 7(1) of the Revision Act, Art. 1(1) of the Decision of the Admin. Council of 28 June 2001), so A5 applies as Art. 54(3) art for all contracting states.

Paragraph [0009] of A5 was not present in the priority document of A5, so is not entitled to the priority date of 05.01.2007. Since A5's filing date of 03.01.2008 is after the effective date of claims 1-5, 6 (4 g/m² alternative), 7 and 8 of A1, paragraph [0009] of A5 is not part of the state of the art.

D. Grounds for opposition

1. Claim 1 – lack of inventive step over A6 in combination with A2 (Art. 56 EPC)

A6 is the closest prior art for claim 1, because A6 is the only one of the cited documents which relates to the same purpose as claim 1, namely a process for manufacturing a fin using rollers to form corrugations, and because A6 discloses most of the features of claim 1.

A6 discloses a process for manufacturing a fin (page 1, lines 15-18, of A6 describes a process which results in “fins” (p.1 l.19 of A6), so this is a process for manufacturing a fin).

comprising the steps of:

passing a plate between a pair of rollers

(p.1 l.15-16 of A6: plate-shaped material is a plate, which is fed (i.e. passed) to a pair of rotating rollers (must be fed between the rollers since otherwise the rollers could not form the corrugations to form a sinusoidal plate))

having protusions

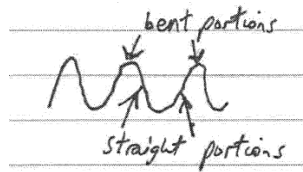
(the rollers have “teeth” (p.1 l.16 of A6), teeth are protusions because they protrude from the rollers and because they have the same function as the protusions – forming corrugations (a sinusoidal plate has corrugations as explained below) (see A1, p4 l. 2-3, and A6 p.1 l.16)

thereby forming a corrugated plate

(thereby obtaining a sinusoidal plate (A6, p.1 l.16), “corrugated” means “having bent portions and straight portions joining the bent portions” (A1 p.4 l.2-3) Although not being relied on as prior art for claim 1, A5 provides evidence as to what the skilled person would understand “sinusoidal” to mean.

A5 shows a set of sinusoidal fins 30 in Fig. 1. The fins are sinusoidal because they have the profile of a sine wave. Hence, the skilled person would interpret “sinusoidal plate” as disclosed by A6 as meaning a plate having the shape shown in Fig.1 of A5.

The sinusoidal shape shown in A5 has bent portions and straight portions joining the bent portions.



The skilled person would also understand the sinusoidal plate of A6 to have such bent portions and straight portions joining the bent portions.

Therefore, A6's sinusoidal plate has a "corrugated" shape as defined in A1, and is therefore a "corrugated plate".)

drying the corrugated plate thereby fixing the flux to its surface; and (drying the plate using e.g. infrared lamps after having been sprayed with flux – A6 p.1 l.16-18, it is known from A2 p.2 l.14-15 that drying causes the flux to adhere, i.e. fix to the surface.

Therefore, A6's drying inherently fixes the flux to the surface of the corrugated plate.).

cutting the plate to the desired length thereby forming the fin.

(p.1 l.18 of A6: cutting the dried sinusoidal plate into fins).

Therefore, claim 1 is distinguished from A6 in that the flux is applied to the corrugated plate by "immersing the corrugated plate into a bath containing flux and water", not by spraying with an aqueous solution of water and flux as in A6. (p.1 l.17 of A6).

There is no technical effect (other than the effect already achieved by A6) associated with this distinguishing feature, since spraying and immersion in a bath of water and flux achieve exactly the same results (p.2 l. 13-14 of A2).

Therefore, the objective technical problem addressed with respect to A6 is how to provide an alternative way of applying the flux to the plate.

Faced with this problem, the invention of claim 1 would be obvious to the skilled person from A2. Since A6 relates to brazing of metal components, and the flux is applied for the purpose of brazing (A6, p.1 l. 9-12), the skilled person faced with the problem of how to apply the flux in an alternative manner would look for information about brazing. A2 is an article on brazing, so it would be obvious to consider whether the disclosure of A2 would address the problem.

A2 discloses applying flux by “immersing parts to be brazed into a bath of water and flux” (p.2 l.12-13 of A2). It would be obvious that immersion is an alternative to spraying because A2 states that exactly the same results are obtained by spraying and dipping by immersion in a bath (A2, p.2 l.14). As A2 shows that immersion is known to be equivalent to spraying, the replacement of spraying by immersion is obvious (GL, C-IV, Annex, 1.1 (ii) – a difference merely in the use of well known equivalents is obvious).

Therefore, claim 1 is invalid for lack of inventive step (Art. 52(1) and 56 EPC).

2. Claim 2 (dependent on claim 1) – lack of inventive step over A6 in combination with A2 and A3 (Art. 56 EPC)

A6 is the closest prior art for claim 2 for the same reason as for claim 1.

Claim 2 differs from A6 in 2 features:

- 1 the flux is applied to the corrugated plate by immersion in a bath of water and flux (as for claim 1)
- 2 the process further comprises the step of changing the pitch of the corrugated plate after its formation.

(all other features of claim 2 are disclosed by A6 for the reasons given for claim 1).

These two distinguishing features do not interact synergistically to address a common technical problem. Instead, the 2 features address different problems independently from one another.

The first feature addresses the problem of how to apply the flux in an alternative way (see claim 1).

The second feature has the technical effect of enabling a fin of a particular pitch to be obtained without having to change the rollers which were used to form the corrugation. (A1, p.4 l.11-13).

Hence, the second feature addresses the problem of how to provide a process for manufacturing a fin having corrugations with a particular pitch, while using the same equipment to form the corrugations as for a fin having a different pitch.

Since the two distinguishing features do not interact to address a common technical problem, the invention of claim 2 may be considered to address the plurality of partial problems which may be considered separately (GL, C-IV, 11.5.2, last paragraph).

The solution to the first partial problem of providing an alternative way of applying the flux is obvious from A2 for the same reason as for claim 1.

The solution to the second partial problem is obvious from A3.

A6 states that the heat exchange efficiency is optimized by choosing a particular periodicity of the sinusoidal fin (A6 p.1 l.6-7). Therefore, the skilled person would look for ways of modifying the periodicity of the fin (i.e. manufacturing a fin with particular pitch – pitch means the distance between adjacent corrugations (p.4 l.6 of A1), i.e. same as periodicity of sinusoidal fin.)

A3 discloses a technique for allowing the distance between 2 corresponding portions of adjacent corrugations to be selected, (para [0005] of A3) so the skilled person would consider whether A3 solves the partial problem. A3 solves the problem by reducing the distance between corrugations after the corrugations have been formed (p.2 l. 22-24 of A3).

This has the advantage that a single stamping tool can be used to form plates with different distances between corrugations (pitch) (A3 p.2 l.25-28).

Although the stamping tool used by A3 is different to the rollers used by A6, the skilled person would realise that A3's technique of reducing the corrugation distance after formation of the corrugations (i.e. changing the pitch of the plate after formation (A1, p.4 l.6)) would be suitable in A6 because A3 states that this method has been found to be suitable for any type of metal plate (A3, p.2 l.25-28).

Therefore, the skilled person would find it obvious from A3 to modify A6's method to change the pitch of the corrugated plate after its formation, so as to address the second partial problem.

Therefore, the solutions to each partial problem are obvious, and so the invention as a whole is obvious. Therefore, claim 2 is invalid for lack of inventive step (Art. 52(1), Art. 56 EPC).

3. Claim 3 – lack of novelty over A6 (Art. 54(2))

Claim 3 is independent.

A6 discloses a corrugated fin ("sinusoidal fin" p.1 l.6, p.1, l.18 ("sinusoidal plate cut into fins" → i.e. sinusoidal fin). "Sinusoidal is the same as "corrugated" for the same reason as given for claim 1 in part D.1 above.)

A6 also discloses a corrugated fin obtainable by the process of claim 1. This is a product-by-process feature. The fins of A6 are produced by the method described at p.1 l.15-18 of A6. As described above for claim 1, the method of A6 is the same as the method of claim 1, except that the flux is applied by spraying in A6 (p.1 l.17) and by immersion in a bath containing flux and water in claim 1.

However, since immersing parts in a bath of water and flux achieves exactly the same results as spraying with an aqueous solution of flux (i.e. a mixture of water and flux) (A2, p.2 l.13-14), the fin produced by the method of claim 1 is identical to the fin produced by the method of A6, so A6 discloses the fin of claim 3. (A product is not rendered novel merely by the fact that it is produced by means of a new process (T150/82, GL, C-III,4.12).)

Therefore, A6 discloses the fin of claim 3.

Therefore, claim 3 is invalid for lack of novelty (Art. 52(1), Art. 54(1) and (2) EPC).

4.1 Claim 4 – lack of novelty over A5 (Art. 54(3) EPC)

A5 discloses an aluminium heat exchanger (components of heat exchanger made of aluminium or aluminium alloy – A5 p.3 l.6-7, (aluminium alloy = “aluminium” – A1 p.2 l.8) exchanger = either the condenser 10 or the radiator 20, which are both heat exchangers – A5 p.2 l.4-5)

comprising two tanks, (headers 11, 12 for condenser, headers 21, 22 for radiator – p.2 l.25 & 29, the headers are “tanks” because they have the same function as the tanks of A1, to allow first fluid to leave/enter the tubes (A1, p.2 l.27-28, A5 p.2 l.25-26 and 28-29).)

tubes extending between the tanks (tubes 13 for condenser & 23 for radiator of A5 p.2 l.25 & 29)

for the flow of a first fluid (tubes 13 are for refrigerant for condenser (p.2 l.25-26) tubes 23 are for water for radiator (p.2 l.29-31) i.e. both for flow of fluid) (fluid = liquid or gas A1 p.2 l.26 refrigerant and water are liquid)

corrugated fins between the tubes (sinusoidal fins 30 between condenser tubes 13 and radiator tubes 23 – p.3 l. 3-4 of A5, Fig.1 of A5 the sinusoidal fins are “corrugated” because they have “bent portions and straight portions joining the bent portions” as defined in A1, p.4 l.2-3.)

providing channels for the flow of a second fluid (air passing via fins 30 - A5 p.2 l.30, air is an example of the second fluid (p.2 l.29 of A1)) wherein the tubes, the fins and the tanks have been joined by brazing with a brazing alloy and a flux

(paragraph [0008] of A5 – fins fixed to tubes by brazing (p.3 l.7-8 of A5) and rest of heat exchanger assembly (i.e. including headers (tanks)) also joined by brazing (p.3 l.10-11), brazing alloy (p.3 l.8-9) and flux (p.3 l.9-10) are used for brazing

→ i.e. brazing with a brazing alloy and a flux)

Therefore, A5 discloses all the features of claim 4 (both for the condenser 10 and for the radiator 20).

Therefore, claim 4 is invalid for lack of novelty with respect to A5 (Art. 52(1), Art.54(1) and (3) EPC).

4.2 Claim 4 – lack of novelty over A6 (Art. 54(2) EPC)

A6 discloses an aluminium heat exchanger (p.1 l.21).

Since A6 states that “these developments are particularly important for aluminium heat exchangers” it is implicit that the preceding paragraphs of A6 describe techniques used for aluminium heat exchangers
 →i.e. l.21 of A6 implies the combination of the preceding paragraphs of A6 with an aluminium heat exchanger.

Hence, A6 discloses an aluminium heat exchanger comprising:

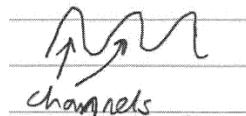
two tanks (two headers (p.1 l.5) – these are “tanks” for the same reason as explained in part D.4.1 for A5 – they have the function of supplying fluid to the tubes – i.e. A5 gives evidence that a “header” is a tank (see section D.4.1 above)

tubes extending between the tanks (parallel tubes connecting the headers – p.1 l.5-6 of A6)

providing channels for the flow of a first fluid (“for” = suitable for – GL, C-III, 4.13, the tubes are suitable for the flow of a first fluid because you can pass a fluid down any tube, (a “fluid” means a liquid or gas (A1, p.2 l.26). therefore, the tubes provide channels for the flow of fluid)

corrugated fins between the tubes (sinusoidal fins between the tubes – p.1 l.6, the sinusoidal fins are “corrugated” for the same reason as explained in section D.1 for claim 1)

providing channels for the flow of a second fluid (sinusoidal fins have channels between them



The channels are suitable for air to flow through, (see A3, p.1 l.18-19, which gives evidence that providing corrugations (i.e. a sinusoidal plate) allows for the flow of air, air is an example of the “second fluid” (A1 p.2 l.29). Therefore, the sinusoidal fins provide channels suitable for the flow of a second fluid).

wherein the tubes, the fins and the tanks have been joined by brazing (p.1 l.9-10 of A6 – brazing the metal components of a heat exchanger)

with a brazing alloy (p.1 l.11) and a flux (p.1 l.10-12).

Therefore, A6 discloses all the features of claim 4.

Therefore, claim 4 is invalid for lack of novelty (Art. 52(1), Art. 54(1) and (2) EPC).

5. Claim 5 (dependent on claim 4) – lack of inventive step (Art. 56 EPC) over A6 in combination with A4

A6 is the closest prior art for claim 5, because A6 relates to a similar purpose to that of claim 5 (an aluminium heat exchanger) and discloses the most features of claim 5.

Claim 5 is dependent on claim 4. A5 discloses all the features of claim 4 (see section 4.2 above).

Claim 5 is distinguished from A6 in that the tubes are pre-coated with an aluminium zinc alloy.

The technical effect of this feature is that, since the aluminium zinc alloy is more prone to corrosion than the material forming the tube, (e.g. aluminium alloy), corrosion would first affect the aluminium zinc alloy coating, and not the inner part of the tube (A1, p.3, l.5-8).

Therefore, the objective technical problem is how to avoid the formation of holes in the tube by corrosion in an application where the second fluid is corrosive (A1, p.3 l.2-4).

Faced with this problem, the skilled person would find the solution of pre-coating the tubes with an aluminium zinc alloy obvious from A4.

A4 relates to an aluminium tube for a heat exchanger, so is relevant to the problem of how to avoid the formation of holes in a tube of a heat exchanger by corrosion.

A4 states that corrosion resistance can be improved by using a sacrificial layer of aluminium zinc alloy (p.2 l.1-2).

A4 describes the same technical effect as described by A1 (A4, p.2 l.2-3).

A4 states that the sacrificial layer may be provided either on the inside or the outside of the tube depending on how corrosive the fluids flowing inside and outside are. (p.2 l.3-4).

Therefore, faced with the problem of avoiding corrosion in an application where the second fluid (i.e. the fluid outside the tubes) is corrosive, the skilled person would find it obvious to modify A6 to provide a layer of aluminium zinc alloy on the outside of the tubes as suggested by A4 (i.e. to coat the tubes).

The skilled person would pre-coat the tubes with the alloy, because A4 states that in the case that the alloy is applied to the outside of the tube, the brazing alloy is applied to the sacrificial layer (p.2 l.7-9) (i.e. apply coating before brazing, i.e. pre-coating).

Therefore, A3 would lead the skilled person to modify A6 to arrive at the solution of claim 5. Therefore, claim 5 is invalid for lack of inventive step (Art 52(1), Art. 56 EPC).

6.1 Claim 6 (2 g/m² alternative) – added matter, Art. 123(2) EPC

Claim 6 was added to A1 during examination. Claim 6 (2 g/m² alternative) is not directly and unambiguously derivable from the content of A1 as filed. The only disclosure in the application as filed of the zinc content of the aluminium zinc alloy is at paragraph [0007], last sentence, which describes a range of “from 1 g/m² to 4 g/m² of zinc”.

Claim 6 defines the alternatives “2 g/m² or 4 g/m² of zinc”.

The alternative of 2 g/m² of zinc is not directly and unambiguously derivable from the content of A1 as filed. The specific value 2 g/m² is not disclosed anywhere in A1 as filed. A disclosure of a general range does not directly and unambiguously disclose all values within it (T985/06), so 2 g/m² is not derivable from the disclosure of the general range 1 to 4 g/m². Therefore, claim 6 (2 g/m² alternative) extends beyond the content of A1 as filed and so is invalid according to Art 123(2) EPC.

6.2 Claim 6 (dependent on claims 5 and 4, 4 g/m² alternative) – lack of inventive step with respect to A6, in combination with A4 (Art. 56 EPC)

A6 is the closest prior art for claim 6, for the same reason as claim 5.

As shown in part 4.2 above, A6 discloses all the features of claim 4.

Claim 6 is distinguished from A6 in that the tubes are pre-coated with an aluminium zinc alloy which provides 4 g/m² of zinc.

The technical effect of this feature is that the aluminium zinc alloy corrodes before the material of the tubes, with better results than at other amounts of zinc (A1, p.3, lines 5-9).

Hence, the objective technical problem addressed with respect to A6 is how to avoid the formation of holes in the tubes by corrosion in applications in which the second fluid is corrosive, with better results (A1, p.3 l.2-5 and 8-9).

Faced with this problem, the skilled person would find it obvious from A4 to pre-coat the tubes with an aluminium zinc alloy, for the same reason as for claim 5 (see section D.5 above).

In doing so, the skilled person would obviously use an aluminium zinc alloy providing 4 g/m² of zinc, because A4 states that providing 40 g/m² of an aluminium zinc alloy having 10% by weight of zinc gives optimum results (A4, p.2, l.10-11). 10% of 40 g/m² is 4 g/m², so the skilled person would therefore provide 4 g/m² of zinc to achieve optimum results.

Therefore, the skilled person would find it obvious to modify A6 to arrive at the solution of claim 6 (4 g/m² alternative).

Therefore, claim 6 (4 g/m² alternative) is invalid for lack of inventive step (Art. 52(1), Art. 56 EPC).

7. Claim 7 (dependent on claim 4) – lack of novelty over A5 (Art. 54(3) EPC)

Claim 7 is dependent on claim 4. As shown above in part D.4.1, A5 discloses the heat exchanger according to claim 4.

Claim 7 further defines the heat exchanger being “for use with oil as first fluid and air as second fluid”. “For” is interpreted as meaning “suitable for” (GL, C-III, 4.13).

A5’s heat exchanger is suitable for use with air as the second fluid, because air is also the second fluid in A5 (A5, p.2 l.30).

A5’s heat exchanger is disclosed for use with either refrigerant (p.2 l.25 or water (p.2 l.29). However, A5’s heat exchanger is also suitable for oil as the first fluid.

The use of oil as the first fluid does not imply any particular limitations to the heat exchanger, because A1 states that fluids other than oil can also be used (p.3 l.23-24 of A1). Therefore, the use of oil as the first fluid does not limit claim 7, and so A5’s heat exchanger is also suitable for oil (oil could be used as the first fluid in A5’s exchanger).

Therefore, A5 discloses all the features of claim 7, and so claim 7 is invalid for lack of novelty (Art. 52(1), Art. 54(1) and (3) EPC).

8. Claim 8 – lack of inventive step over A4, in combination with A3 (Art.56 EPC)

A4 is the closest prior art for claim 8, because A4 relates to the same purpose as claim 8 (a tube for a heat exchanger – see title of A4), and discloses the most features of claim 8.

A4 discloses a tube for a heat exchanger (title of A4, p.1 l.10)

according to claim 4 (the tube is for a heat exchanger according to claim 4. “For” means “suitable for” (GL, C-III, 4.13), A4’s tube is suitable for the heat exchanger of claim 4 because it can be joined by brazing to another component of the heat exchanger (p.1 l.26-27 of A4), and so can be used

in the heat exchanger of claim 4 in which the tube is joined by brazing. Therefore, A4 discloses a tube for a heat exchanger according to claim 4).

and comprising an aluminium alloy including manganese (p.1 l.21-22 of A4).

Therefore, claim 8 is distinguished from A4 in that the tube has a planar surface. The technical effect of this feature is to facilitate fixing of a fin to the tube when assembling a heat exchanger, to provide a strong joint which is easy to achieve (p.3 l.16-20 of A1).

The objective technical problem is therefore how to provide a tube which facilitates joining of the tube to the fins when assembling a heat exchanger. Faced with this problem, the solution of providing the tube with a planar surface would be obvious from A3.

A3 states that it has long been known to use channels having a planar surface for facilitating joining of the corrugated metal plate to any kind of conduit or channel, not only for central heating radiators, but also for other types of heat exchangers (p.1, l.27-30 of A3).

The skilled person may therefore be assumed to be aware of this "long known" technique.

The "channels" of A3 are clearly analogous to the tubes of A4, since the channels convey the fluid within the heat exchanger (see A3, p.1 l.16-17).

Also, the "corrugated metal plate" of A3 has the same function as the fins, i.e. to improve heat exchange efficiency (A3, p.1 l.19-21, A2 p.2 l.5-6).

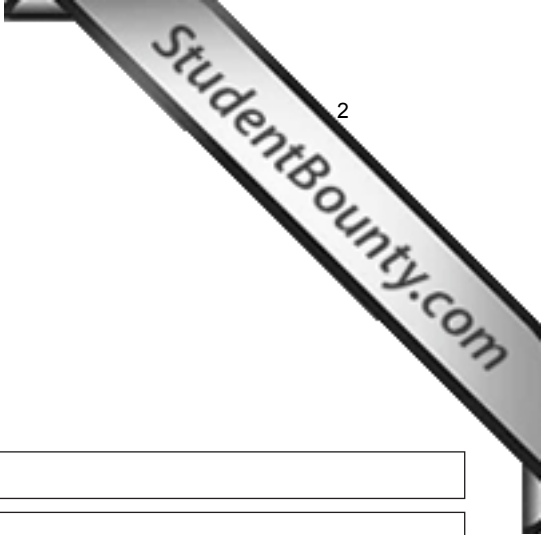
Therefore, faced with the problem of facilitating the join between the tube and fins, it would be obvious from A3 that the tube is provided a planar surface, since A3 states that the use of channels (i.e. tubes) may also be used in other types of heat exchangers, and so the skilled person would have no difficulty in adapting A4's tube to have a planar surface in an analogous way to the channels of A3.

Therefore, the invention of claim 8 would be obvious to the skilled person. Therefore, claim 8 is invalid for lack of inventive step (Art. 52(1) and 56 EPC).

E. Other matters

We request that the patent is revoked under Art. 101(2) EPC.

If this request cannot be granted, then we request oral proceedings under Art. 116(1) EPC. If oral proceedings are held, then we request that the oral proceedings are, if possible, held as a video conference.



Notice of opposition to a European patent

I. Patent opposed

Patent No.

Application No.

Date of mention of the grant in the European Patent Bulletin (Art. 97(3), Art. 99(1) EPC)

Title of the invention

II. Proprietor of the patent

first named in the patent specification

Opponent's or representative's reference (max. 15 keystrokes)

III. Opponent

Name

Address

State of residence or of principal place of business

Nationality

Telephone/Fax

Multiple opponents (see additional sheet)

IV. Authorisation

1. Representative (name only one representative or name of association of representatives to whom notification is to be made)

Address of place of business

Telephone/Fax

Additional representative(s) on additional sheet/see authorisation

2. Name(s) of employee(s) of the opponent authorised to act in these opposition proceedings under Art. 133(3) EPC

Authorisation(s) to 1./2. not considered necessary

has/have been registered under No.

is/are enclosed

V. Opposition is filed against

• the patent as a whole

• claim(s) No(s).

VI. Grounds for opposition:

Opposition is based on the following grounds:

(a) the subject-matter of the European patent opposed is not patentable (Art. 100(a) EPC) because:

• it is not new (Art. 52(1); Art. 54 EPC)

• it does not involve an inventive step (Art. 52(1); Art. 56 EPC)

• patentability is excluded on other grounds, i.e. Article

Art.

(b) the patent opposed does not disclose the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art (Art. 100(b) EPC; see Art. 83 EPC).

(c) the subject-matter of the patent opposed extends beyond the content of the application/of the earlier application as filed (Art. 100(c) EPC, see Art. 123(2) EPC).

VII. Facts (Rule 76(2)(c) EPC)

presented in support of the opposition are submitted herewith on a separate sheet (annex 1)

VIII. Other requests:

IX. Evidence presented

Evidence is enclosed
will be filed at a later date

A. Publications:

1
Particular relevance (page, column, line, fig.):

2
Particular relevance (page, column, line, fig.):

3
Particular relevance (page, column, line, fig.):

4
Particular relevance (page, column, line, fig.):

5
Particular relevance (page, column, line, fig.):

6
Particular relevance (page, column, line, fig.):

Continued on additional sheet

B. Other evidence

Continued on additional sheet

X. Payment of the opposition fee is made

- as indicated in the enclosed voucher for payment of fees and costs (EPO Form 1010)
- via EPO Online Services

XI. List of documents

Enclosure No.

- 0 Form for notice of opposition
- 1 Facts (see VII.)
- 2 Copies of documents presented as evidence (see IX.)
 - a Publications
 - b Other documents
- 3 Signed authorisation(s) (see IV.)
- 4 Voucher for payment of fees and costs (see X.)
- 5 Additional sheet(s)
- 6 Other

Number of sheets

Please specify here:

XII. Signature of opponent or representative

Place	SEVILLE
Date	03.03.2011
Signature	
Name (block capitals)	DE ULLOA, INÉS
In case of legal persons, signatory's position within company	

EXAMINATION COMMITTEE II

Candidate No.

Paper C 2011 - Marking Sheet

Category	Maximum possible	Marks awarded	
		Marker	Marker
Use of information	39	35	32
Argumentation	54	44	44
Legal aspects	7	6	6
Total	100	85	82

Examination Committee II agrees on 84 marks and recommends the following grade to the Examination Board:

PASS
(50-100)

COMPENSABLE FAIL
(45-49)

FAIL
(0-44)

29 June 2011

Chairman of Examination Committee II