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Date
27.02.2025

Reference 24OPPO574 OPPO 01	Application No./Patent No. 20830321.4 - 1017 / 4072364
Applicant/Proprietor Dainese S.p.A.	

Summons to attend oral proceedings pursuant to Rule 115(1) EPC

You are hereby summoned to attend oral proceedings concerning the above European patent as detailed in the box below. The matters to be discussed are set out in the communication accompanying this summons (EPO Form 2906).

The oral proceedings will be public and will take place before the opposition division

on 09.10.25 at 09.00 hrs (CET) as a videoconference.
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The date of the oral proceedings can only be changed for serious reasons (see OJ EPO 2009, 68). If you do not appear as summoned, the oral proceedings may continue without you (R. 115(2) EPC; see also OJ EPO 2008, 471).

Please see Rule 4 EPC as regards the language of the oral proceedings, and the decision of the President of the EPO dated 8 July 2024 on the signing and filing of authorisations (OJ EPO 2024, A75).

Please provide us with the name and telephone number of a person we can contact about the oral proceedings and an email address to which we can send the details for connecting to the videoconference.

The final date for making written submissions and/or amendments (R. 116 EPC) is 08.08.25

1st Examiner: van Voorst, Frank
2nd Examiner: van Woerden, Nikolau
Chairman: Hartnack, Kai

For the Opposition Division



Annexes:
Rule 4 EPC (EPC Form 2043)
Communication (EPO Form 2906)
Consolidated list of documents

Registered Letter

EPO Form 2310Z 11.24 [ORAL03=8888] 20/02/25

ORAL4

page 1 of 1 **ALPINESTARS**

Ex. 1024, Page 1

Wichtige Hinweise zur mündlichen Verhandlung

Das Europäische Patentamt verfügt über keine eigenen Dolmetscher. Diese müssen im Bedarfsfall von außerhalb, teilweise sogar aus anderen Ländern, beigezogen werden, was mit einem hohen Aufwand an Kosten und organisatorischen Vorbereitungen verbunden ist. Muss ein Verhandlungstermin kurzfristig abberaumt werden, können Kosten für bestellte Dolmetscher nicht mehr vermieden werden.

Es wird daher gebeten, eine Simultanübersetzung nur bei wirklichem Bedarf in Anspruch zu nehmen. Es wäre wünschenswert, wenn sich die Beteiligten (zweckmäßigerweise gleichzeitig mit der Terminabstimmung) auf die Benutzung einer Amtssprache einigen könnten. Bei Verständigungsschwierigkeiten sind die Mitglieder der Einspruchsabteilung bereit zu helfen.

Nachstehend führen wir den Zeitpunkt auf, bis zu dem die Verfahrensbeteiligten aus organisatorischen Gründen gebeten werden, ihre bevorzugte (abgestimmte) Verhandlungssprache mitzuteilen. Bis dahin bitten wir auch bei Bedarf eine Simultanübersetzung zu beantragen. Regel 4 (1) EPU bleibt hiervon unberührt.

☐ Verfahrenssprache ist **Deutsch**

Von der/dem/den Einsprechenden wurde

☐ Englisch

☐ Französisch benutzt.

Es wird um eilige Mitteilung, möglichst per Online Filing (OLF), gebeten.

Important information concerning oral proceedings

The European Patent Office has no interpreters of its own. When interpreters are needed they have to be brought in from outside, sometimes even from other countries, which is costly and involves considerable organisation. If oral proceedings have to be cancelled at short notice, the cost of interpreters already engaged still has to be borne.'

Please therefore make use of simultaneous interpreting facilities only where strictly necessary. If possible the parties should agree on an official language for the proceedings, preferably at the time when they arrange a date. The members of the Opposition Division will be willing to help should any communication problems arise.'

For organisational reasons, we ask parties to inform us by the date specified below of their preferred (agreed) language for the oral proceedings. We also ask them to request any simultaneous interpreting required by the same date. This does not affect application of Rule 4(1) EPC.

☒ Language of the proceedings is **English**

The language used by the opponent/s was **English**

☐ German

☐ French.

Please inform us urgently, where possible by Online Filing (OLF).

Tres important Procédure orale

L'Office européen des brevets ne dispose pas de son propre service d'interprètes. Aussi faut-il appel le cas échéant à des interprètes de l'extérieur, qui viennent même parfois de l'étranger, ce qui occasionne des frais élevés et demande un grand travail d'organisation. Si la date d'une procédure orale doit être annulée au dernier moment, il n'est plus possible d'éviter les frais d'interprètes.

Les parties à une procédure sont donc priées de ne demander une traduction simultanée qu'en cas de réel besoin. Il serait souhaitable qu'elles puissent se mettre d'accord en même temps qu'elles conviennent de la date sur l'utilisation d'une langue officielle comme langue des débats. Si les parties éprouvent des difficultés de compréhension lors des débats, les membres de la division d'opposition sont disposés à leur prêter leur assistance.

Est indiquée ci-dessous la date jusqu'à laquelle, pour des raisons d'organisation, les parties sont priées de communiquer leur langue préférée (sur laquelle elles se sont préalablement mises d'accord). Les parties sont également priées, le cas échéant, de demander une interprétation simultanée avant cette date. La règle 4(1) CBE ne s'en trouve pas affectée.

☐ La langue de la procédure est le **français**

La langue utilisée par l'opposant/les opposants était

☐ l'allemand

☐ l'anglais.

Prière d'indiquer d'urgence par dépôt en ligne (OLF) si possible.

möglichst bis

Datum 08.08.25

if possible by

Date 08.08.25

si possible jusqu'au

Date 08.08.25

1. welche Sprache(n) Sie in der mündlichen Verhandlung verwenden (**Speak**)

2. aus welcher Sprache Sie eine Simultanübersetzung benötigen (**Hören**).

1. which language(s) you intend to use during the oral proceedings (**Speaking**)

2. from which language you need simultaneous interpretation (**Listening**).

1. quelle(s) langue(s) vous utiliserez au cours de la procédure orale (**pour parler**)

2. à partir de quelle langue vous aurez besoin d'une traduction simultanée (**pour écouter**).

Sollten Sie Ihren Antrag auf mündliche Verhandlung zurückziehen oder zum anberaumten Verhandlungstermin nicht erscheinen wollen bzw. aus wichtigem Grund daran gehindert sein, werden Sie gebeten,

Should you decide to withdraw your request for oral proceedings or not wish to attend on the date set, or if for some special reason you are unable to do so, you are requested

Si vous retirez votre requête tendant à recourir à la procédure orale ou si vous ne souhaitez pas vous présenter à la date fixée pour la procédure orale ou ne pouvez vous y présenter pour une raison sérieuse, veuillez

- unverzüglich das Amt - möglichst per Online Filing (OLF) - davon zu benachrichtigen, wobei das Schriftstück mit einem deutlichen Vermerk "Dringend, mündliche Verhandlung am..." oder sinngemäß gekennzeichnet sein sollte

- to notify the EPO immediately, where possible by Online Filing (OLF), marking the document clearly with the words "Urgent, oral proceedings on ..." or similar

- en faire avis sans retard à l'Office, par dépôt en ligne (OLF) si possible, en partant sur votre communication clairement la mention "Urgent, procédure orale le..." ou une indication similaire;

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- in urgent cases (less than one month before the date set for the proceedings), additionally to notify the other party/parties and/or their representative(s) direct as rapidly as possible.

- dans les cas urgents (moins d'un mois avant la date fixée pour la procédure orale) en faire avis également directement pas la voie la plus rapide à autre/aux autres partie(s) ou bien à son/leurs mandataire(s).

In jedem solchen Fall obliegt der Einspruchsabteilung die Entscheidung, ob die Verhandlung durchgeführt oder abberaumt wird. Es wird jedoch darauf hingewiesen, dass einem Verfahrensbeteiligten, der eine nicht rechtzeitige oder unterbliebene Benachrichtigung zu verantworten hat, die dadurch den anderen Beteiligten verursachten Kosten auferlegt werden können (Art. 104 EPU).

In all such cases the Opposition Division will decide whether the proceedings are to go ahead or be cancelled. You should however note that costs incurred by the other parties may be charged to a party who either fails to notify them or does not do so in good time (Article 104 EPC).

Il appartient alors à la division d'opposition de décider si la procédure orale aura lieu ou non. Il est néanmoins souligné que les frais causés aux autres parties par une partie qui est responsable de l'omission d'un tel avis ou de ce que cet avis n'a pas été fait en temps utile peuvent être mis à la charge de cette partie (art. 104 CBE).

Hinweis auf Regel 4 EPÜ

Attention is drawn to Rule 4 EPC

Rappel de la Règle 4 CBE

Regel 4

Sprache im mündlichen Verfahren

Rule 4

Language in oral proceedings

Règle 4

Langues admissibles lors de la procédure orale

(1) Jeder an einem mündlichen Verfahren vor dem Europäischen Patentamt Beteiligte kann sich anstelle der Verfahrenssprache einer anderen Amtssprache des Europäischen Patentamts bedienen, sofern er dies dem Europäischen Patentamt spätestens einen Monat vor dem angesetzten Termin mitgeteilt hat oder selbst für die Übersetzung in die Verfahrenssprache sorgt. Jeder Beteiligte kann sich einer Amtssprache eines Vertragsstaats bedienen, sofern er selbst für die Übersetzung in die Verfahrenssprache sorgt. Von diesen Vorschriften kann das Europäische Patentamt Ausnahmen zulassen.

(1) Any party to oral proceedings before the European Patent Office may use an official language of the European Patent Office other than the language of the proceedings, if such party gives notice to the European Patent Office at least one month before the date of such oral proceedings or provides for interpretation into the language of the proceedings. Any party may use an official language of a Contracting State, if he provides for interpretation into the language of the proceedings. The European Patent Office may permit derogations from these provisions.

(1) Toute partie à une procédure orale devant l'Office européen des brevets peut utiliser une langue - officielle de l'Office européen des brevets autre que la langue de la procédure, à condition soit d'en aviser l'Office européen des brevets un mois au moins avant la date de la procédure orale, soit d'assurer l'interprétation dans la langue de la procédure. Toute partie peut utiliser une langue officielle de l'un des Etats contractants à condition d'assurer l'interprétation dans la langue de la procédure. L'Office européen des brevets peut autoriser des dérogations aux présentes dispositions.

(2) Die Bediensteten des Europäischen Patentamts können sich im mündlichen Verfahren anstelle der Verfahrenssprache einer anderen Amtssprache des Europäischen Patentamts bedienen.	(2) In the course of oral proceedings, employees of the European Patent Office may use an official language of the European Patent Office other than the language of the proceedings	(2) Au cours de la procédure orale, les agents de l'Office européen des brevets peuvent utiliser une langue officielle de l'Office européen des brevets autre que la langue de la procédure.
(3) In der Beweisaufnahme können sich die zu vernehmenden Beteiligten, Zeugen oder Sachverständigen, die sich in einer Amtssprache des Europäischen Patentamts oder eines Vertragsstaats nicht hinlänglich ausdrücken können, einer anderen Sprache bedienen. Erfolgt die Beweisaufnahme auf Antrag eines Beteiligten, so werden die Beteiligten, Zeugen oder Sachverständigen mit Erklärungen, die sie in einer anderen Sprache als in einer Amtssprache des Europäischen Patentamts abgeben, nur gehört, sofern dieser Beteiligte selbst für die Übersetzung in die Verfahrenssprache sorgt. Das Europäische Patentamt kann jedoch die Übersetzung in eine seiner anderen Amtssprachen zulassen.	(3) Where evidence is taken, any party, witness or expert to be heard who is unable to express himself adequately in an official language of the European Patent Office or of a Contracting State may use another language. Where evidence is taken upon request of a party, parties, witnesses or experts expressing themselves in a language other than an official language of the European Patent Office shall be heard only if that party provides for interpretation into the language of the proceedings. The European Patent Office may, however, permit interpretation into one of its other official languages.	(3) Lors de l'instruction, les parties, témoins ou experts appelés à être entendus, qui ne possèdent pas une maîtrise suffisante d'une langue officielle de l'Office européen des brevets ou d'un Etat contractant, peuvent utiliser une autre langue. Si la mesure d'instruction est ordonnée sur requête d'une partie, les parties, témoins ou experts qui s'expriment dans une langue autre qu'une langue officielle de l'Office européen des brevets ne sont entendus que si cette partie assure l'interprétation dans la langue de la procédure. L'Office européen des brevets peut toutefois autoriser l'interprétation dans l'une de ses autres langues officielles.
(4) Mit Einverständnis aller Beteiligten und des Europäischen Patentamts kann jede Sprache verwendet werden.	(4) If the parties and the European Patent Office agree, any language may be used.	(4) Sous réserve de l'accord des parties et de l'Office européen des brevets, toute langue peut être utilisée.
(5) Das Europäische Patentamt übernimmt, soweit erforderlich, auf seine Kosten die Übersetzung in die Verfahrenssprache und gegebenenfalls in seine anderen Amtssprachen, sofern ein Beteiligter nicht selbst für die Übersetzung zu sorgen hat.	(5) The European Patent Office shall, if necessary, provide at its own expense interpretation into the language of the proceedings, or, where appropriate, into its other official languages, unless such interpretation is the responsibility of one of the parties.	(5) L'Office européen des brevets assure à ses frais, en tant que de besoin, l'interprétation dans la langue de la procédure, ou, le cas échéant, dans ses autres langues officielles, à moins que cette interprétation ne doive être assurée par l'une des parties.
(6) Erklärungen von Bediensteten des Europäischen Patentamts, Beteiligten, Zeugen und Sachverständigen, die in einer Amtssprache des Europäischen Patentamts abgegeben werden, werden in dieser Sprache in die Niederschrift aufgenommen. Erklärungen in einer anderen Sprache werden in der Amtssprache aufgenommen, in die sie übersetzt worden sind. Änderungen einer europäischen Patentanmeldung oder eines europäischen Patents werden in der Verfahrenssprache in die Niederschrift aufgenommen.	(6) Statements by employees of the European Patent Office, parties, witnesses or experts, made in an official language of the European Patent Office, shall be entered in the minutes in that language. Statements made in any other language shall be entered in the official language into which they are translated. Amendments to a European patent application or European patent shall be entered in the minutes in the language of the proceedings.	(6) Les interventions des agents de l'Office européen des brevets, des parties, témoins et experts faites dans une langue officielle de l'Office européen des brevets sont consignées au procès-verbal dans cette langue. Les interventions faites dans une autre langue sont consignées dans la langue officielle dans laquelle elles sont traduites. Les modifications apportées à une demande de brevet européen ou à un brevet européen sont consignées au procès verbal dans la langue de la procédure.

1 Facts and Submissions

- 1.1 European patent 4 072 364 having the title "PROTECTIVE DEVICE AND METHOD FOR MAKING SAID PROTECTIVE DEVICE" is based upon European patent application No. 20 830 321.4 filed on 09-12-2020. It claims priority of IT 201900023958, IT 201900023961 and IT 201900023964 all filed on 13-12-2019. The mention of the grant of the patent has been published in the European Patent Bulletin of 03-01-2024. Proprietor of the patent is Dainese S.p.A.
Via Louvigny, 35
36064 Colceresa (Vicenza)
IT.
- 1.2 On 03-10-2024 a notice of opposition has been filed by Alpinestars S.p.A.
Viale Enrico Fermi 5
31011 Asolo (TV)
IT
- The opponent requests revocation of the patent in its entirety based on the grounds of lack of novelty (Art 100(a) in combination with Article 54 EPC) and lack of inventive step (Art 100(a) in combination with Article 56 EPC). In case the opposition division does not intend to revoke the patent in its entirety, oral proceedings are requested.
- 1.3 The consolidated list of documents cited during the opposition procedure is annexed to this summons. The parties are requested to adhere to the numbering referred therein.
- 1.4 In the observations received on 29-01-2025, the proprietor requests the maintenance of the patent based on the main request or alternatively on any of auxiliary requests 1-18. Oral proceedings are requested in case the opposition division envisages partial or total revocation of the patent.

1.5 The wording of independent claim 1 of the main request broken down in features is as follows:

- a)** Protective device (10, 110) for the protection of a user,
- b)** said protective device (10) comprising a mesh structure (11, 111) comprising a first mesh portion (18, 118) and a second mesh portion (19, 119) and a plurality of tie elements (5), wherein
- c)** said first mesh portion (18, 118) and said second mesh portion (19, 119) are opposite one another and are connected one another by the plurality of tie elements (5); wherein
- d)** the first mesh portion, the second mesh portion and the tie elements define one or more inner housings of the mesh structure (11, 111);
- e)** wherein the protective device (10, 110) includes a casing body (40, 42, 43) arranged at least in an inner housing of said one or more inner housings,
- f)** wherein said casing body is configured to assume a deflated condition and an inflated condition in the at least one inner housing of the mesh structure (11, 111),
- and wherein
- g)** in said deflated condition, the casing body (40, 42, 43) occupies a first space or first region,
- and wherein
- h)** in said deflated condition a second region or second space of said at least one inner housing lacks a casing body,
- i)** and wherein in said inflated condition the casing body occupies the second region or second space,
- j)** and wherein the tie elements define a plurality of housings between the first mesh portion (18, 118) and the second mesh portion (19, 119) and
- k)** the casing body (40, 42, 43) comprises a plurality of portions (40a) each arranged in a corresponding housing of said housings
- l)** and wherein the casing body (40, 42, 43) has a hand or comb shape.

2 Preliminary opinion of the opposition division

Any opinion set out in the following observations is only provisional and should not be considered as binding the opposition division in any way.

2.1 Procedural matters - admissibility of the opposition

The opposition division preliminarily considers that the opposition is admissible since it seems to meet all the requirements of Article 99(1) and 100 EPC and of Rules 3(1) and 76 EPC. The proprietor seems not to contest these findings.

main request

2.2 Admissibility

2.2.1 The main request is considered admissible.

2.2.2 The main request is submitted in response to the notice of opposition letter received on 03-10-2024 within the time limit set in the communication under Rule 79(1) EPC. Claim 1 of the main request is further limited by the addition of features **j)**, **k)** and **l)**. Dependent claims 5, 7, and 14 were deleted. Independent method claim 15 and its dependent claims 16-19 were deleted. The amendment is occasioned by at least one ground of opposition i.e. Art 100(a) EPC lack of novelty (Art 54 EPC) and therefore meets the requirements of Rule 80 EPC.

2.3 Amendments (Art 123(2) EPC and Art 123(3) EPC)

2.3.1 The amendments are considered allowable under Article 123(2) EPC.

2.3.2 Claim 1 is based on the combination of features of originally filed claims 1, 5 and 7, therefore, the subject matter of amended claim 1 does not extend beyond the application as originally filed.

2.3.3 The amendment limits the scope of protection and is therefore allowable under Article 123(3) EPC.

2.4 Priority

2.4.1 Priority for the subject matter of claims 1, 3, 5 and 8 is considered to be validly claimed.

2.4.2 According to the opponent the priority document IT201900023958 (P1) is the only document relating to the subject matter of the opposed patent. According to the opponent feature h) is not disclosed in priority document P1. In particular the opponent argues that while it is well known that an airbag increases its volume

- when inflated, this does not necessarily imply that the expansion of the airbag takes place in a region which is free of the airbag before the inflation of the airbag itself. A second space of the inner housing lacking a casing body would, therefore, not be disclosed.
- 2.4.3 The opposition division considers that figures 2-5 of the priority document correspond to figures 2-5 of the patent and contain the same technical information. In figures 4 and 5 the casing body is in a deflated condition and occupies a first space or first region. In figures 2 and 3 the casing body is in an inflated state and occupies a second space or second region. The text of P1 discloses: "in which the casing body (40, 42, 43) occupies a first space in the deflated condition to allow a passage of air between the first mesh portion and the second mesh portion and occupies, in the inflated condition, a second space larger or larger than the first space (claim 3 of P1)". Taken together this implies that in the deflated condition the casing body occupies less space in the housing and, therefore, part of the housing lacks a casing body. This can be seen in figures 4 and 5. Therefore the wording "in said deflated condition a second region or second space of said at least one inner housing lacks a casing body" which is not literally present in P1 does not present the skilled person with technical information that was not present in P1.
- 2.4.4 The opposition division further notes that claim 1 of the main request further contains the features of dependent claims 5 and 7 of the patent as granted. These claims according to the opponent do not add further subject matter not present in the priority document.
- 2.4.5 With respect to claim 3 the opponent argues that "wherein in said inflated condition the casing body completely occupies the second region or second space and the first region or first space of the inner housing." only finds support in par. [0010], which is not included in P1.
- 2.4.6 The opposition division considers that figures 4 and 5 of P1 show the deflated state and the first space or region and figures 2 and 3 show the inflated state and the second space or region. In these figures it can be seen that in the inflated state the casing body occupies the second space or region and the first space or region. Claim 3 does, therefore, not contain any technical information that was not present in P1.
- 2.4.7 The opponent argues that with respect to claim 5 (claim 6 in the patent) "in inflated condition, the casing bodies are inflated against each other so as to form a planar structure". Such a claim 6 finds support in par. [0036], which is not included in P1.

2.4.8 The opposition division considers that these features are disclosed in paragraph [0047] of P1 which discloses the planar shape and page 10 lines 1-5 which discloses the casing body portions 40a which are side by side between rows of tie elements 5 allows to obtain a substantially flat final configuration of the inflatable element". Claim 5 does, therefore, not contain any technical information that was not present in P1.

2.4.9 With respect to claim 8 (claim 10 of the patent) the opponent argues that In the specification of the opposed patent, and consequently in P1, no reference can be found to the fact that a passage of air passes through the second region of the housing.

2.4.10 The opposition division considers that paragraphs [0014] and [0045] of P1 provides basis for the first and second mesh portions allowing passage of air. From figures 4 and 5 it is clear that this air passes through the second space or region which is not occupied by the inflatable element in the deflated condition. Claim 8 does, therefore, not contain any technical information that was not present in P1.

2.5 **Novelty (Art 54 EPC)**

Claim 1 of the main request combines the features of claims 1 and 5 and the part of claim 7 which requires the casing body to have a hand or comb shape. The opponent has attacked this particular combination only on the basis of documents D3 and D8. D4 is only used against the alternative "tubular shape in a serpentine way", which is not part of claim 1 of the main request. For this reason only the attacks based on documents D3 and D8 will be discussed below.

2.5.1 **Claim 1 in view of D3**

2.5.1.1 The opposition division is of the preliminary opinion that D3 does not prejudice the novelty of the subject matter of claim 1 (Article 54(2) or 54(3) EPC).

2.5.1.2 The opponent argues that document D3 discloses a protective device for the protection of a user comprising features **a)-j)** (granted claim 1) and feature **k)** (granted claim 5). In addition the opponent argues that the casing body according to figures 6a and 6b of D3 has a hand shape.

2.5.1.3 The opposition division does not agree with this argumentation. Document D3 discloses a housing 2 with surfaces 4 and 6 that can be made of a mesh material, surfaces 4 and 6 can be connected with tie members (see page 4 last line to page 5 line 6 and figures 6a and 6b). Figures 6a and 6b show an embodiment having one housing (2) in which one inflatable bag (12) is present.

Therefore, document D3 does not disclose features **j)** and **k)**. In addition the opposition division does not recognize a hand shape in figure 6a as required by feature **l)**.

2.5.1.4 The opposition division further notes that in view of the preliminary opinion, that priority for claims 1, 3, 5 and 8 is considered to be validly claimed, document D3 only forms part of the prior art under Article 54(3) EPC.

2.5.2 **Claim 1 in view of D8**

2.5.2.1 The opposition division is of the preliminary opinion that D8 does not prejudice the novelty of the subject matter of claim 1 (Article 54(2) EPC).

2.5.2.2 The opponent argues that document D8 discloses a protective device for the protection of a user comprising features **a)-j)** (granted claim 1) and feature **k)** (granted claim 5) and feature **l)** (granted claim 7). In particular the opponent argues that D8 discloses that the outer bag “does not necessarily have to be fluid-impermeable, since the inner bag is capable of expanding the outer bag”.

2.5.2.3 The opposition division does not agree with this argumentation. The expression “The outer bag 22 does not necessarily have to be fluid-impermeable, since the inner bag 21 is capable of expanding the outer bag 22” of Paragraph [0031] of D8 does not imply that the external bag is made of a mesh structure. This opposition division considers that this expression merely indicates that the bag does not need to be constructed such that it is fluid-impermeable. For example by further sealing the seams such that they become airtight. This does not suggest that other materials such as a mesh material should be used.

2.6 **Inventive step**

2.6.1 **Claim 1 in view of D1 and D11**

2.6.1.1 The opposition division is of the preliminary opinion that the subject-matter of claim 1 involves an inventive step within the meaning of Article 56 EPC, when starting from D1 as closest prior art combined with D11.

2.6.1.2 The opponent considers document D1 as the closest prior art for the subject matter of claim 1. According to the opponent document D1 discloses:

a) Protective device (10, 110) for the protection of a user,

e) wherein the protective device (10, 110) includes a casing body (40, 42, 43) arranged at least in an inner housing of said one or more inner housings,

f) wherein said casing body is configured to assume a deflated condition and an inflated condition in the at least one inner housing of the mesh structure (11, 111),

and wherein

g) in said deflated condition, the casing body (40, 42, 43) occupies a first space or first region,

and wherein

h) in said deflated condition a second region or second space of said at least one inner housing lacks a casing body,

i) and wherein in said inflated condition the casing body occupies the second region or second space,

According to the opponent the subject-matter of claim 1 therefore differs from this known protective device in that

b) said protective device (10) comprising a mesh structure (11, 111) comprising a first mesh portion (18, 118) and a second mesh portion (19, 119) and a plurality of tie elements (5), wherein

c) said first mesh portion (18, 118) and said second mesh portion (19, 119) are opposite one another and are connected one another by the plurality of tie elements (5); wherein

d) the first mesh portion, the second mesh portion and the tie elements define one or more inner housings of the mesh structure (11, 111);

The opposition division further notes that D1 also does not disclose the features:

j) and wherein the tie elements define a plurality of housings between the first mesh portion (18, 118) and the second mesh portion (19, 119) and

k) the casing body (40, 42, 43) comprises a plurality of portions (40a) each arranged in a corresponding housing of said housings

l) and wherein the casing body (40, 42, 43) has a hand or comb shape.

According to the opponent the objective technical problem can be formulated as how to control the expansion of the inflatable member 100 of D1 during its inflation.

According to the opponent a solution to this technical problem was already known from D11 and the skilled person would see the advantages of the teachings of D11 and would have applied such teachings to the airbag of D1 so as to control the expansion of the inflatable member.

2.6.1.3 The opposition division does not agree with this argumentation. The skilled person would understand from D1 paragraph [0042] that the at least one portion, or first portion, of a transpiring material and/or material allowing air to flow through it, corresponds to or at least comprises the so-called second region 20b of the seat 20 for receiving the inflatable member 100. Starting from this passage it would be within the capabilities of the skilled person to use a breathable fabric or mesh to construct the regions 20b of the garment. This would, however, not result in introducing a plurality of tie elements connecting the first and second mesh portions such that the tie elements define a plurality of housings between the first mesh portion and the second mesh portion. Furthermore, the skilled person would not consider to provide a casing body comprising a plurality of portions (40a) each arranged in a corresponding housing of said housings, wherein the casing body has a hand or comb shape.

There is no reason why the skilled person would replace the inflatable members with the shapes as shown in figures 3 and 4 of D1 which correspond to the shape of the chest and shoulders of a user wearing the protective garment of D1 by an inflatable member of an inflatable bed/mattress according to D11. Not only the shape of this inflatable member does not correspond to the shape of the body of a wearer also the function of the bed/mattress of D11 is not to protect the body of a user from impacts or falls. The skilled person would thus not consider D11 in order to further improve the protective garment of D1.

2.6.2 **Claim 1 in view of D11 and common general knowledge**

2.6.2.1 The opposition division is of the preliminary opinion that the subject-matter of claim 1 involves an inventive step within the meaning of Article 56 EPC when starting from D11 combined with the common general knowledge.

2.6.2.2 According to the opponent claim 1 differs from D11 only in that the pressure-bearing inflatable product does not have specifically a protecting function (feature a). The opponent further argues that in paragraph [0027] of D11 it is specified that “the inflatable product finally obtained is fully capable of withstanding the pressure and impact caused by human body sitting, lying, leaning, riding, etc.”. Consequently, a skilled person would see the advantages offered by the inflatable product disclosed in D11 in withstanding impacts and the skilled person would have no difficulty to embody such an inflatable product as a protective device for the protection of a user, so as to protect the user’s body from impacts.

2.6.2.3 The opposition division does not agree with this argumentation. The fact that the inflatable product of D11 is capable of withstanding the pressure and impact caused by human body sitting, lying, leaning, riding, etc. is what may be

expected from an inflatable product, in particular to an inflatable bed/mattress, an inflatable sofa and an inflatable swimming ring that need to bear human body weight from the technical field of D11 (see paragraph [0002]). The fact that the skilled person would have no difficulty to embody such an inflatable product as a protective device for the protection of a user does not imply that he would do so in order to solve a particular problem associated with the inflatable products of D11.

2.7 Further remarks

- 2.7.1 The opposition division notes that the numbering of the claims of auxiliary requests 5, 8, 12 and 15 is not consecutive. The proprietor is requested to correct the numbering.

2.8 Concluding remarks

- 2.8.1 The opposition division is of the preliminary opinion that the main request meets the requirements of the EPC. The patent is, therefore, likely to be maintained in amended form based on the main request.
- 2.8.2 In accordance with Rule 116(1) EPC, last sentence, written submissions in preparation for the oral proceedings should be submitted by the date indicated on the first page of the summons. Under Rule 116 EPC, new facts and evidence presented after that date need not be considered unless admissible on the grounds that the subject-matter of the proceedings has changed.

EP20830321.4

CONSOLIDATED LIST - KONSOLIDIERTE LISTE - LISTE RÉCAPITULATIVE

P: Dainese S.p.A.

1: Alpinestars S.p.A.

	CITATIONS-ENTGEGENHALTUNGEN-CITATIONS	P	1
D1	EP 3498117 A1		D1
D2	EP 4051041 A0		D2*
D3	EP 3890537 A0		D3
D4	Spidi DPS 03 Jacket		D4
D4A	Test report of Lart laboratory		D4A
D4B	Overview of the tested areas of the Spidi jacket		D4B
D5	Inflation video of the airbag of Spidi DPS 03 Jacket		D5
D6	Additional documentation concerning the prior use of Spidi DPS 03 Jacket		D6
D7	EP 2879536 B1		D7
D8	EP 2621297 B1		D8
D9	EP 4171302 A0		D9*
D10	CN 111671174A		D10
D10A	Automatic English machine translation of CN 111671174 A		D10A
D11	CN 110123064A		D11
D11A	Automatic English machine translation of CN 110123064 A		D11A
D12	EP3835140 A1		D12*
D13	Video		D13
D14	Video		D14
D15	Photo		D15
D16	Photo		D16
D17	Photo		D17
D18	Photo		D18
D19	Photo		D19
D20	Photo		D20
D21	Photo		D21
D22	Photo		D22
D23	Photo		D23
D24	Photo		D24
D25	Photo		D25
D26	Photo		D26
D27	Photo		D27
D28	Photo		D28
D29	German landmark decision on validity of the priority claim		D29
D30	German landmark decision on validity of the priority claim		D30