

**Third Party Observation for application Number
EP20040758381**

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Title: HIGH EFFICIENCY AMPLIFIER AND METHOD OF DESIGNING SAME

Publication Number: EP1609239

Applicant: ANDREW CORP[CH]

Date of publication: 28.12.2005

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These observations have been filed by:

Anonymous

1. Facts and evidence

1.1. Reference is made to the following documents

PL1

1.2. Observations concerning the public availability of the non-patent literature

NPL1

2. Prior Use

2.1. Prior use (1)

When did the prior use occur?

What was made available?

Where was it made available?

How and to whom was it made available?

3. Common General Knowledge

4. Novelty (Article 54 EPC)

4.1. Novelty (1)

5. Inventive step (Article 56 EPC)

5.1. Inventive step (1)

Features known from the prior art:

Novel features not known from the prior art:

The technical effect caused or technical problems solved by the novel features:

Reasons why it would be obvious to the skilled persons to combine the features as set in the independent claim:

6. Any further Observations, e.g. Articles 52(2), 53, 57, 76, 83, 84, 123(2) EPC, validity of the priority date

6.1. Unallowable amendments (Articles 76 and 123 EPC)

6.2. Sufficiency of disclosure (Article 83 EPC)

6.3. Clarity (Article 84 EPC)

6.4. Further observations

On June 4, 2021, the French Constitutional Court declared that videoconference without the consent of a party does not comply with the French Constitution. (Decision 2021-911/919, available here:https://www.conseil-constitutionnel.fr/decision/2021/2021911_919QPC.htm)

Section 10 of the Decision reads:

"Il résulte de tout ce qui précède que, eu égard à l'importance de la garantie qui peut s'attacher à la présentation physique de l'intéressé devant la juridiction pénale et en l'état des conditions dans lesquelles s'exerce le recours à ce moyen de télécommunication, ces dispositions portent une atteinte aux droits de la défense que ne pouvait justifier le contexte sanitaire particulier résultant de l'épidémie de covid-19 durant leur période d'application. Sans qu'il soit besoin d'examiner les autres griefs, elles doivent donc être déclarées contraires à la Constitution."

Since oral proceedings before EPO bodies correspond to penal hearing before national penal courts, and since the EPC does not give the power to the President of the EPO to impose procedures to French nationals that would be contrary to their Constitution, the question referred to the Enlarged Board in G1/21 can only be answered by the negative.

It is highlighted that the French Constitutional Court insists that even during pandemic situation, one court cannot impose videoconference without consent of a party.