Case (+ hyperlink)	Date	Board	1st OA	Claim	Summary	Outcome	Main Grounds at issue	Claim Type	1st Instance Decision	BoA Decision	More lenient than previous decision?	Agree with Preliminary Opinion?
28/03/2023	T 0835/21	3.3.08	OD	Claims to a monoclonal antibody or Ab-binding fragment against LRP6, defined by an epitope a.a. sequence, capable of antagonising the Wnt signalling pathway, and inhibits Wnt3- and Wnt3a-specific signalling, for use in treating cancer.	OD rejected opposition against the (divisional) application and maintained the patent as granted. Two opponents had raised objections on the grounds of lack of novelty and inventive step, sufficiency and added subject matter. The first opponent withdrew their opposition. The second opponent maintained their objections and appealed the decision, requesting the patent be revoked. In its PO, the BoA disagreed with the OD's interpretation of claim 1, and instead considered that the claimed Ab should specifically inhibit Wnt3- and Wnt3a-specific signaling, without affecting signaling through other Wnt ligands. This raised sufficiency concerns due to the absence in the patent of a proposed screening method for producing antibodies with the desired functional features. Suggested the patent would likely be revoked. The appellant didn't attend oral proceedings. At appeal, the respondent replaced the main request with AR1 but claim 1 remained unchanged. The BoA interpreted claim 1 differently than they had in their PO. They stated that the term "specific" meant to the SKP that the Ab was only required to inhibit Wnt3/Wnt3a signalling to a significantly higher degree than that initiated by other ligands and that complete inhibition went against scientific knowledge. They took the view that whilst the patent didn't disclose the structure or sequences of their 2 example Abs, A83 does not require an application to contain a reproducible example and it is generally routine for the SKP to produce Abs against a known target, regardless of whether or not it is "tedious".	The decision under appeal was set aside and the case remitted to the OD with the decision to maintain the patent on the basis of claims 1 to 9 of the main request (files as AR1 in reply to appeal) and a description possibly to be adapted thereto.	A83 A54 A56 A123(2) A 76(1)	Antibody Product by epitope	Patent maintained as granted.	Patent upheld with amended claims.	No	No
16/02/2023	T 0654/20	3.3.04	OD	Claims to a composition comprising c-kit signaling-interfering antibody for use in a method for stem cell engraftment.	The patent was maintained in an amended form by the OD on the basis of the amended claims in the Patentee's main request in which the subject-matter of granted claims 4-6 was introduced into claim 1 - i.e. the treatment of human patients through the introduction of exogenous hematopoietic stem cells. Ab interferes with c-kit signaling and selectively ablates endogenous hematopoietic stem cells (HSCs) in bone marrow (New claim 1). The opponent appealed. The PO from the BoA was negative with respect to sufficiency, and lack of novelty and inventive step for the main request (which was the request upheld by the OD). In response to the PO, the Patentee amended their main request to be the claims of previous AR11. The Opponent did not attend the oral proceedings. The BoA concluded that limiting the claims to a subset of human severe combined immunodeficiency (SCID) patients addressed their concerns.	The decision under appeal was set aside and the case remitted to the OD with the decision to maintain the patent on the basis of the new main request.	A54 A56 A83 A123(2)	Medical Use	Patent upheld in amended form.	Patent upheld in a further amended form.	No	Yes
25/04/2023	T 1394/21	3.3.04	OD	Claims to an anti-VISTA Ab for use in treating cancer wherein said use comprises administering an anti PD-L1 Ab.	At opposition, the OD revoked the patent in its entirety on the grounds that the main request and ARs 1-5 a) didn't sufficiently disclose the antagonistic anti-VISTA antibody, 13F3 (the only Ab disclosed in the patent), and b) that an Ab with the same properties could not be identified without undue burden. The patentee appealed against the decision of the OD and requested the decision be set aside on the basis of the main request or 5 ARs. In its PO, the BoA indicated it was inclined to reach a different conclusion to the OD. Whilst they agreed that the 13F3 Ab was not sufficiently disclosed, they disagreed that the SKP wouldn't be able to arrive at an antagonistic anti-VISTA Ab suitable for the indicated use without undue burden. In agreement with its PO, the BoA found the patent didn't contravene A83. They concluded that with the teaching provided in the application as filed, and the CGK available at the time, the SKP would be able to perform routine experimentation and provide the requisite antagonistic anti-VISTA antibodies.	The decision under appeal was set aside and the case remitted to the OD for further prosecution to deal with objections under novelty and inventive step.	A83 A111(1)	Medical Use	Patent revoked	Remitted to the OD for further prosecution.	Yes	Yes
26/05/2023	T 1675/20	3.3.04	ED	Claims to a pharmaceutical combination of compositions for use in a medical treatment, the first composition comprising dendritic cells (DCs) associated with a target antigen, and the second composition comprising a co-stimulatory antibody selected from anti-CD137, anti-CD40, anti-OX40, anti-ICOS, anti-CD27, anti-CD28, anti-GITR and anti-TIMI.	The ED refused the application finding that the main request and both ARs were not clear (claim 1 lacked essential features), that they weren't sufficiently disclosed, and constituted added matter. The patentee appealed the decision and requested it be set aside on the basis of the same main request, ARs 1-2, or additional ARs 3-5. In its PO, the BoA had a mixed response to the ED's decision. It considered the main issue to be that the experimental results disclosed in the application couldn't be generalised to all the Abs covered in the claims and therefore, that the application wasn't sufficiently disclosed. Particularly, the application contained an example where the co-stimulatory Ab against CD278 had the same effect as the control with respect to antigen-specific T-cell responses. In agreement with its PO, the BoA dismissed the appeal, finding that A83 wasn't satisfied. It stated that the application must disclose suitability of the product for the claimed therapeutic use. They considered that the application claimed embodiments for which, in the board's view, no therapeutic effect had been demonstrated.	The appeal was dismissed and the application refused.	A83	Medical Use	Application Refused	Appeal Dismissed	Same	Yes
04/07/2023	T 2347/19	3.3.07	OD	Claims to the glucocorticoid (GC) for use in a method of prophylaxis of adverse events caused by the administration of a CD3 binding domain.	The patent was opposed by two opponents. The OD rejected the main request on the ground of insufficiency but upheld the patent in amended form according to AR1, where the CD3 binding domain was limited to a CD19xCD3 bispecific single chain Ab. Both the patentee and one opponent (other withdrew) appealed against the decision. The patentee requested the decision be set aside and the patent be maintained in an amended form. It submitted 3 new ARs between the MR and AR1 of the opposition which became AR4. The opponent requested the patent be set aside in it's entirety. In its PO, the BoA took a similar view to the OD. They disagreed with the appellant-patent proprietor's submissions that CD3 binding domains in general caused neurological effects and also indicated it would likely reject the opponent's objections. The BoA remained consistent with its PO in finding that the main request lacked sufficiency. It also refused to admit ARs 1-3 into proceedings as they should have been filed during opposition. It deemed that AR4 (previously AR1) however, satisfied the requirements of the EPC and rejected the appellant-opponents objections.	Both appeals dismissed, patent upheld in amended form.	A83 A56	Medical Use	Patent upheld in amended form.	Appeal Dismissed	Same	Yes
14/09/2023	T 0885/21	3.3.07	OD	Claims to an antibody-conjugate for use as a medicament wherein the antibody specifically binds a cancer antigen.	Opposition was raised by 3 opponents on the grounds of lack of novelty, inventive step, sufficiency and that the subject-matter extended beyond the content of the application as filed. The OD revoked the patent. The patentee appealed requesting the patent be maintained as granted, or on the basis of 15 ARs, 1-5 of which were filed at appeal. In its PO, the board indicated that the MR appeared to lack novelty and IS. They considered that the prior art anticipated the trimming the Ab of glycans to the core GlcNAc with endoglucosidases prior to their conjugation with a cytotoxin. The claims of AR1 however, were to an antibody-conjugate for use as a medicament, wherein the "molecule of interest" was limited to a cytotoxin, and the Ab binds specifically to cancer antigens. The board suggested that AR1 likely met the requirements of the EPC. The patentee withdrew its main request and renumbered AR1 as the MR. The BoA in keeping with its PO, held that the new main request dealt with sufficiency, IS and novelty objections. They formulated the objective technical problem as providing optimized glycan-linked conjugates of a cancer antigen-binding antibody with a cytotoxin for therapy and concluded that none of the prior art provided the SKP with a reasonable expectation that the subject-matter as claimed would solve it.	The decision under appeal was set aside and the case was remitted to the OD with the order to maintain the patent on the basis of claims 1-8 of the main request (previously filed as AR1).	A54 A56 A123(2) A83 A84 A114(2)	Medical Use	Patent revoked	Remitted to the OD for further prosecution in amended form.	Yes	Yes
05/07/2023	T 0047/22	3.3.04	OD	Claims to a method of designing an immunoglobin (Ig) library for optimisation of a biological property of a first lead Ig.	The patent was maintained in an amended form on the basis of amended claims in the patentee's main request. The opponent appealed the decision on the grounds of inventive step and sufficiency, and requested the patent be revoked in its entirety. The patent proprietor requested the patent be maintained as granted as its main request and filed an additional 39 ARs. In its PO, the BoA refuted the opponent's sufficiency objection that the SKP wouldn't be able to identify somatic hypermutation hot spots (SHHs), a requisite of claim 1c), and wouldn't be able to determine if variations in the Ig sequence arose at these sites only by comparing a.a. sequences of only two Igs. The board didn't give a clear opinion in relation to IS. The BoA deviated from its PO and found that the MR was in fact not sufficiently disclosed as the respondent failed to show that identifying SHHs was part of the CGK. In AR1, the patentee had amended claim 1 such that it required the comparison of at least 20 related Igs. The board was then convinced, in view of the CGK, that this would allow identification of SHHs and thus was sufficiently disclosed. Inventive step objections against AR1 were also dismissed.	The appeal was set aside and remitted to the OD on the basis that the patent be maintained according to AR1.	A83 A56 A113	Method claim	Patent upheld in amended form.	Patent upheld in a further amended form.	No	No

26/09/2023	T 1345/20	3.3.08	OD	Claims to an in vitro method of diagnosing Gaucher's disease comprising detecting free lyso-Gb1, including by immunoassay.	The OD rejected opposition and maintained the patent as granted. It was opposed on the grounds of lack of novelty, inventive step and sufficiency. The opponent appealed the decision and requested the patent be revoked in its entirety. The BoA took an alternative stance to the OD. The patent referred to the use of immunoassays for detecting lyso-Gb1 but there was no description or suggestion on how to obtain an Ab that would be suitable for this approach. Lyso-Gb1 was anticipated to be a challenging target and lacked suitable recognition epitopes necessary for the design of an Ab with sufficiently high specificity and affinity. The BoA rejected the patentee's assertions that it was routine in the art to generate such Abs. In this instance the target was particularly challenging. They stated it is only considered that the raising and screening of Abs is routine for an unconventional target antigen, only if both the antigen for raising the desired Abs and the process for selecting them are known. They therefore, viewed that since no such Abs were available, that their generation would amount to undue burden for the SKP and thus the patent prejudiced A83. With respect to the burden of proof for an objection of insufficiency, the Board noted that the patent contains no experimental evidence and/or information on how to obtain the above antibodies. It was therefore enough for the appellant to establish a lack of sufficiency of disclosure by merely raising serious doubts, e.g. by comprehensive and plausible arguments that the common general knowledge and the patent provide insufficient information to reliably obtain an anti-lyso-Gb1.	The decision under appeal was set aside and the patent revoked in its entirety.	A83	Method claim	Patent maintained as granted.	Patent revoked	No	Yes
02/06/2023	T 1478/18	3.3.04	OD	Claims to an antibody preparation suitable for intravenous administration comprising IgG, IgA and IgM antibodies.	The OD upheld the patent in an amended form according to AR2. It found that claims 13 and 14 of the main request and AR1 contained added matter and as a result these requests were refused. Both the patentee and opponent appealed against the decision, with the former requesting the decision be set aside and the patent maintained as granted, whilst the opponent requested the patent be revoked in its entirety on the grounds of added matter, sufficiency and lack of novelty and inventive step. The BoA agreed with all aspects of the OD's decision. It considered claims 13 and 14 of the main request and AR1 constituted added matter since they weren't limited to an essential feature of the Ab preparation as disclosed in the application. It also disagreed with all the objections put forward by the appellant-opponent in their appeal. In keeping with its PO, the BoA dismissed both appeals. They found AR2 (upheld by the OD) didn't add subject-matter and overcame the objections raised against the main request and AR1, and further, that it overcame the objections raised by the appellant-opponent.	Both appeals dismissed, patent upheld in amended form.	A54 A56 A84 A83 A123(2) A125	Pharmaceutical composition claim	Patent upheld in amended form.	Appeal Dismissed	Same	Yes
20/09/2023	T 1087/19	3.3.04	OD	Sole claim to a pharmaceutical composition for use in treating a patient afflicted with paroxysmal nocturnal haemoglobinuria (PNH), wherein the composition is a 300 mg eculizumab single-use dosage form comprising 30 ml of a 10 mg eculizumab/ml sterile, preservative free solution	The patent was opposed by two opponents. The OD considered that the invention was sufficiently disclosed but that it lacked inventive step and as a result the patent was revoked. The patent proprietor appealed the decision and filed a new AR1 and renumbered ARs 1-8 as 2-9. In its PO, the BoA agreed with the findings of the OD and endorsed the arguments put forward by the opponents. They further agreed that the post-published data in D33 couldn't be taken into account to (re-) formulate the OTP as confirmed in G2/21. They stated the appeal would likely be dismissed. At proceedings, the Board reconsidered the issue of sufficiency. The appellant's arguments centred around the fact that the leader sequence for light chain SEQ ID 4 had been erroneously included (see decision above). They argued the SKP would recognise this and be able to obtain the antibody used in the TRIUMPH trial. However, the Board disagreed, taking the view that there was no reason the SKP would be alerted to the error from the disclosure of the patent and consequently would fail to obtain the eculizumab Ab used in the trial and that therefore, that the invention wasn't sufficiently disclosed.	Appeal was dismissed and the patent remained revoked.	A83 A112a	Pharmaceutical composition claim	Patent revoked	Appeal Dismissed	Same	Yes
21/09/2023	T 1435/20	3.3.04	ED	A pharmaceutical composition comprising an antibody that binds C5 in a 300mg single unit dosage form comprising 30 ml of a 10 mg/ml sterile, preservative free solution, wherein the antibody comprises a heavy chain consisting of SEQ ID NO: 2 and a light chain consisting of residues 23 to 236 of SEQ ID NO: 4, for use in treating a patient suffering from paroxysmal nocturnal haemoglobinuria (PNH).	The ED refused the patent application on the grounds of added matter for claim 1 of the MR and ARs 1,2,4 and 6 and claim 1 of ARs 3 and 5 for lacking inventive step. The patentee appealed the decision. In its PO, the BoA set out that they agreed with the OD and that the requests would likely be dismissed for added matter or sufficiency. The BoA took the same stance as it had in its PO and the appeal was dismissed. Request rejected for lack of sufficiency on the basis that the SKP wouldn't recognise the erroneous inclusion of the signal peptide. Requests rejected for added matter on the basis of a limitation to specific residues.	Appeal dismissed, patent remained revoked.	A123(2) A83 A84 A76(1)	Pharmaceutical composition claim	Application Refused	Appeal Dismissed	Same	Yes
21/09/2023	T 1515/20	3.3.04	ED	Claims to an Ab (eculizumab) that binds C5 comprising a heavy chain consisting of a SEQ ID NO:2 and a light chain consisting of residues 23-214 of SEQ ID NO:4	The ED refused the MR and ARs 1-3 of the grandchild divisional application for added matter. They considered that the limitation imposed by defining the specific residues of the light chain sequence extended beyond the content of the AAF. The patentee argued this decision during prosecution, stating that the reason for the limitation was that the original sequence "erroneously" included a leader sequence used in the purification process and that it was an obvious error. However, the ED disagreed, stating it would not be obvious to the SKP which residues amounted to this leader sequence. The patentee appealed. The patentee submitted a new main request and 11 ARs. In its PO, the board indicated that they agreed with the ED and that the appeal would likely be dismissed. The Board noted that ARs 5 and 11 might comply with A76(1) and 123(2) but raised concerns under A83. The BoA refused the MR and ARs 1-4 on the grounds of added matter, as it had discussed in its PO. They rejected the appellant's argument that limiting the sequence to specific residues corrected an obvious error which met the requirements of Rule 139 EPC. They took the view that the arguments put forward by the appellant failed to satisfy the two-step criterion for correction set out in G 3/89 as they considered the error made in the application wouldn't have been immediately obvious to the SKP. Regarding AR5, the board considered that it complied with A76(1) and A123(2) since it removed the limitation imposed on the light chain sequence. The patentee further convinced the board that the peptide leader sequence was sufficiently distanced from the CDRs that it wouldn't the SKP would dissuade the SKP from having doubts that the Ab would bind C5. Therefore, it was found AR5 was sufficiently disclosed and met all the requirements of the EPC.	Decision under appeal set aside, case remitted to ED with an order to grant the patent in amended form.	A123(2) A83 A54 A56 A76(1)	Product claim	Application Refused	Decision under appeal set aside, case remitted to ED with an order to grant the patent in amended form.	Yes	No
06/12/2023	T 1927/22	3.3.04	OD	Claim to a pharmaceutical composition comprising a PCSK9 inhibitor for use in reducing lipoprotein(a) (Lp(a)) in a patient who exhibits serum Lp(a) above 30 mg/ml and who is diagnosed with or identified at being at risk of developing cardiovascular disease or thrombotic occlusive disease and wherein the PCSK9 inhibitor is an antibody or antigen-binding fragment that binds to PCSK9.	The OD maintained the patent in amended form following objections from two opponents on the grounds of novelty, inventive step, sufficiency and added matter. The OD held that auxiliary request 12a satisfied the requirements of the EPC. Both the patentee and opponent 1 appealed the decision. Opponent 2 withdrew its appeal. The patentee requested the decision under appeal be set aside and the patent be maintained based on the main request. Opponent 1 requested the decision under appeal be set aside and the patent revoked in its entirety. In its opinion, the board considered the dispute between the parties about whether claim 1 (of all requests) was a purpose-limited product claim or whether it was directed to a product per se, e.g. a pharmaceutical composition. The board took the view that the patient group in the claim was not limiting since the point in time of, and the type of, diagnosis / identification is not defined. They further stated that since there was no evidence of a non-medical application of reducing Lp(a) levels, this would be excluded by the provisions of A 53(c) and consequently would allow the claim to be formulated instead as a purpose-limited product under A 54(5). D110 was considered the CPA and suggested that PCSK-9 can lower Lp(a) levels but without experimental evidence. The question was then whether this disclosure would have led the SKP to test this with a reasonable expectation of success. In the boards opinion, there were no conceivable hurdle to this experimentation as PCSK-9 Abs were already approved and therefore, that the subject matter of claim 1 (all requests) would lack IS. Agreeing with its PO, the BoA viewed claim 1 as a purpose-limited product claim, determining the patient group was not limiting. They found the claim novel because a patient group with Lp(a) levels of at least 30 mg/dL was not in the prior art. The definition of the patient subgroup was deemed non-arbitrary, given the correlation between elevated cardiovascular disease and plasma Lp(a) levels over 30 mg/dL. Under Article 12(4) RPBA, the BoA allowed additional arguments from the patent proprietor, which highlighted an error by the OD in interpreting key experimental data. Consequently, the BoA disagreed with the OD, ruling that the claims sufficiently disclosed the invention under Article 100(b). On inventive step, the patent proprietor convinced the BoA that there was no consensus in the art on how Lp(a) levels are regulated. Disclosures in D110 and D22 were isolated suggestions without supporting data. Thus, the SKP would have lacked a reasonable expectation of success that using PCSK-9 inhibitors would decrease Lp(a) levels, leading the BoA to consider the claimed subject matter inventive.	The decision under appeal was set aside and the patent was maintained as granted.	A56 A54 A83	Medical Use	Patent upheld in amended form.	Appeal set aside and patent to be maintained as granted.	Yes	No

15/01/2024	T 0025/23	3.3.04	OD	Claims to bevacizumab for use in a method of treating a patient diagnosed with a platinum-resistant primary peritoneal carcinoma.	The criteria established in the case law of the EPO boards of appeal for deciding on whether or not a claimed second medical use is sufficiently disclosed are that the application must credibly show that the claimed therapeutic use is achieved. In this decision, this was a particular consideration since a group of three diseases were listed in the claim. There were questions as to whether these diseases represented a "single group of diseases" and whether there was any "mismatch" between the patient group in the example and the patient group in the claim. On the first point, the board agreed with the OD and found that the skilled person would have regarded the 3 diseases defined in the claim as a single group, to be treated in the same way in terms of treatment and outcome. This view was supported by the set-up of the clinical trial reported in the example in the patent, which recruited patients with these cancer types. The board found no intention in the example to differentiate between these patients, but instead that the example implies that they were to be treated as a group. Furthermore, patients with these cancer types had been treated as a group in other clinical trials. However, their ultimate conclusion differed from that of the OD in that the board said it cannot be understood why, having concluded that no distinction was made between the 3 diseases and these were treated together as a group, it should then be necessary for the patent to provide results where these conditions are stratified separately. Rather, the board found that for a single group of diseases, the reported results are applicable to the group as a whole. On the second point, the board also did not agree with the OD that the skilled reader would consider that there was a mismatch between the inclusion and exclusion criteria in the example and the disease conditions specified in the claim. They said there is "nothing in these criteria" that would lead the skilled person to doubt that the results reported in the application are not applicable to patients diagnosed with one of the claimed diseases. The decision highlights the particular considerations for sufficiency of disclosure when individualising diseases in a claim. At the time of drafting, careful thought should be given as to whether the data provided supports all individualised diseases. One should pressure test an argument that the data does not support all individualised diseases and anticipate what the response to such an argument would be. If the argument relies on technical knowledge that might not be common general knowledge, then suitable references should be provided in the application as filed to refer to this since sufficiency of disclosure is assessed against the disclosure of the patent in combination with the common general knowledge at the relevant date.	Decision under appeal set aside and case remitted to the OD for further prosecution.	A123(2) A83 A111(1) A113(1)	Medical Use	Patent revoked	Decision under appeal set aside.	Yes	Yes
20/06/2024	T 1103/22	3.3.04	OD	Claims to a molecule that specifically binds factor XI, for use in treating a pathological thrombosis or preventing a thrombosis in a subject who is at increased risk of developing thrombosis... wherein the binding molecule is a monoclonal antibody or a factor XI-binding monoclonal antibody fragment.	Board of Appeal 3.3.04 has again clarified the sufficiency requirements for claiming Abs with the functional feature of binding a specific region. The Ab was defined as specifically binding FXI at the active site located in the light chain region and inhibiting the activity of FXIa in a chromogenic assay. For sufficiency of the "binding at the active site" feature, it was key whether an Ab that inhibits of the activity of FXIa (which did not "pose any particular difficulties") could be assumed also to specifically bind at the active site of FXIa i.e. whether the "inhibiting" feature necessarily leads to the "binding at the active site" feature. The board decided it could not - they agreed with the opponent that it was possible Abs could inhibit the activity of FXIa by modes other than binding at the active site, such as allosteric inhibition. The board rejected the Patentee's argument that the SKP would have understood "binding at" the active site to encompass allosteric inhibition by "binding near", or "binding close to", the active site. Following the finding that the "inhibiting" feature does not necessarily lead to the "binding at the active site" feature, the board then assessed whether the SKP could have identified an Ab binding at the active site. Since there was no suitable assay disclosed for doing so, the board concluded that the active site needed to have been defined structurally in order to obtain the Ab. This decision is consistent with the EPO Guidelines which confirm that an Ab may be defined by reference to its epitope, but that (as for any function feature) the application must enable the person skilled in the art to produce further antibodies having the claimed functional property without undue burden, and the definition of the epitope must be clear (normally including the relevant characteristics of the method used to determine the functional property)(See also T 1911/17).	Decision under appeal set aside and the patent revoked.	A83	Medical Use	Patent upheld in amended form.	Patent revoked	No	Yes
01/08/2024	T 0326/22	3.3.08	OD	Claims to a pool of functionally defined human CD47 monoclonal antibodies and fragments.	This decision confirms the EPO's approach to sufficiency for functionally defined Ab claims. In line with the criteria that was considered in previous decisions T 1394/21 (where sufficiency was acknowledged) and T 1345/20 (where sufficiency was not acknowledged), the BoA in T 0326/22 came to their conclusion on the basis that the patent application provided the SKP with: 1) The antigen, 2) the epitope (which was a feature of this claim), 3) the assays needed for selecting antibodies with the claimed properties and for assessing the antibodies' binding to the claimed epitope, 4) structural information of several exemplary antibodies. In doing so, the claim to a "pool" of functionally defined human CD47 Abs and fragments was found to be sufficient. In relation to inventive step, D1 (which disclosed the full length Ab) provided no pointers for the SKP to select the claimed epitope in order to achieve no cell agglutination (a feature of claim 1). D13 disclosed anti-CD47 ScFv monomers and dimers and taught that the epitope bound by the Ab imposes different functional properties on these Ab depending on their format: full-length Abs agglutinate cells, while ScFvs do not. Even though the epitope was the sole distinguishing feature compared to the D13 ScFv, the BoA considered the selection of the epitope was not arbitrary because it removed restrictions on the format of the antibody whereas claim 1 imposed functional properties irrespective of the Ab format.	Appeal Dismissed	A56 A83	Antibody Product by epitope	Patent upheld in amended form.	Appeal Dismissed	Same	Yes