

# Some questions about EP applications and EP patents



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- Practical example
- Amendments under EPC2000

- Situation of the application

- The applicant requested to file its own document.
- The first document was written in Spanish and the EP application was translated to English (Language of the proceedings).
- The description is short and inaccurate.
- The description do not clearly distinguish between the invention and the state of the art.
- The invention is described just in two paragraphs.



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- Official actions

- The EPO has communicated three different official actions.
- Answers to the official actions have proposals over the main claim including explanations of the inventor about how its invention works improving the state of the art and about what are the technical effect of those improvements.
- The EPO communicates an Oral Proceeding with a fourth official action.



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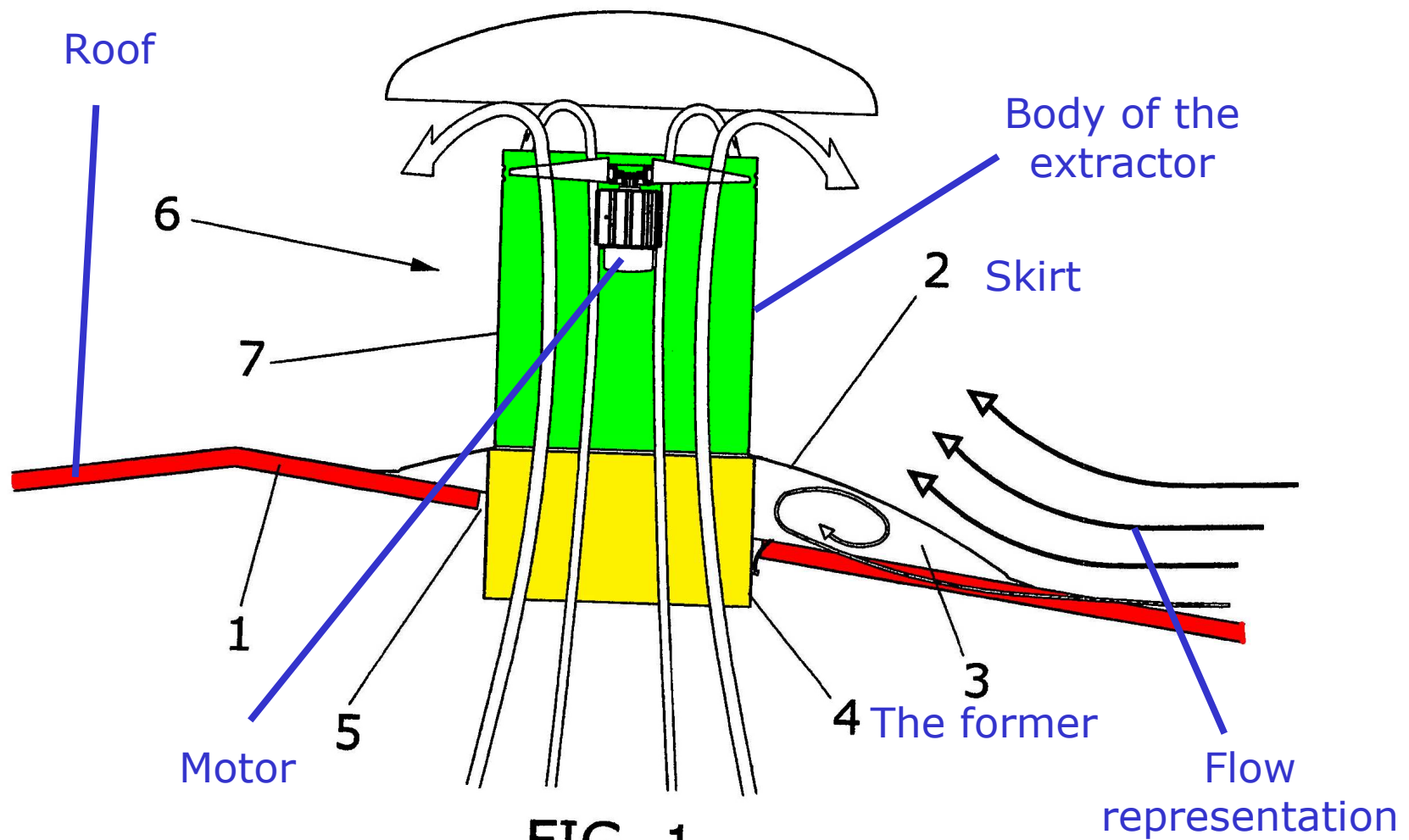
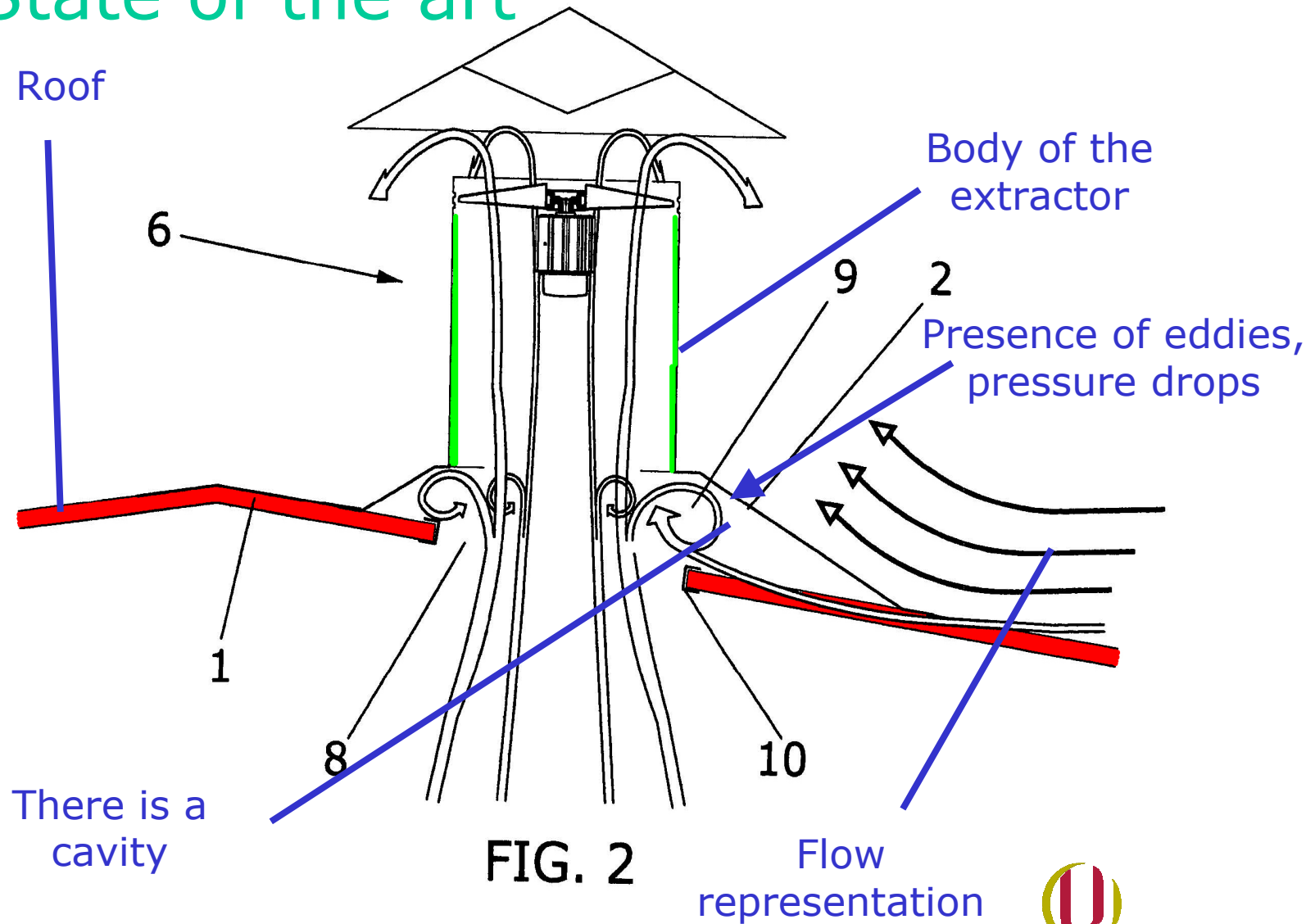


FIG. 1



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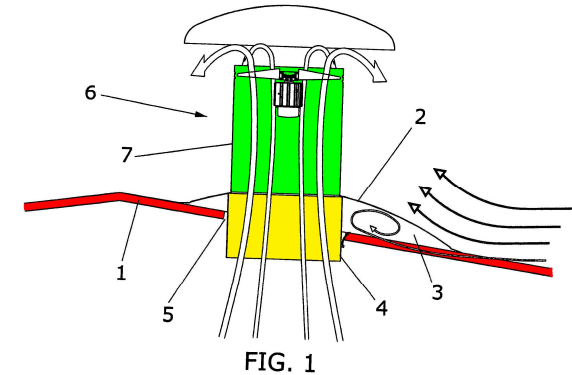
## State of the art



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Amendments under EPC2000

- Last version of the claim



- 1.- Roof-mounted extractor or impeller with an air chamber comprising a body (7) which at its lower end has a skirt (2)

- A former (4) is connected over the body (7) of the extractor or impeller unit (6) on its end extremity, having both identical shape while the other end of the former (4) pass through a perforation (5) done on the roof, having the perforation (5) and the former (4) similar geometry

**characterized in that**

- A chamber (3) is formed being delimited on its lower part by the roof itself, on its upper part by the skirt (2) whose perimeter edge leans on the roof and laterally by the former (4) itself, allowing the penetration of the air between the lower edge of the skirt (2) and the roof.



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## •Remarks

- In the claim, the roof is included to reference other parts, but, the roof do not owns to the claim. The claim can not be extended to the roof.
- The defense of Art 123(2) conformity was based on:
  - The description as filed did not include the wording of the last part of the claim.
  - Check that FIG 1 is the invention and FIG 2 is the state of the art.
  - Identify every part of the invention and the problem to solve in order to check the entrance of the air shower by the flow lines.



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- Objection #1

- Claim 1 appear to introduce subject-matter which extends beyond the content of the application as file, contrary to article 123(2) EPC. The text concerned is the following:

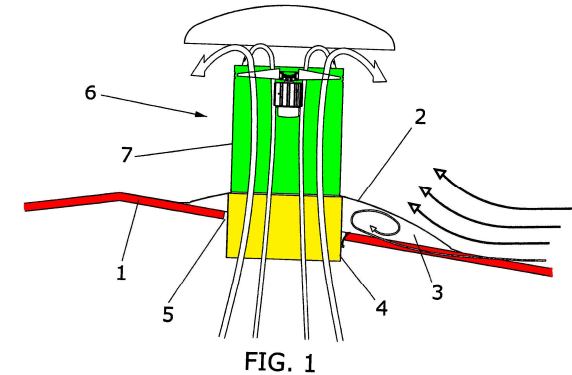
- “...allowing the penetration of the air between the lower edge of the skirt and the roof”.

- The original description does not describe such features. Nor can this feature be unambiguously interpret from the drawings.



**UDAPI & ASOCIADOS**

- Last version of the claim



- 1.- Roof-mounted extractor or impeller with an air chamber comprising a body (7) which at its lower end has a skirt (2)

- A former (4) is connected over the body (7) of the extractor or impeller unit (6) on its end extremity, having both identical shape while the other end of the former (4) pass through a perforation (5) done on the roof, having the perforation (5) and the former (4) similar geometry

**characterized in that**

- A chamber (3) is formed being delimited on its lower part by the roof itself, on its upper part by the skirt (2) whose perimeter edge leans on the roof and laterally by the former (4) itself, **allowing the penetration of the air between the lower edge of the skirt (2) and the roof.**



**Defense**

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Amendments under EPC2000



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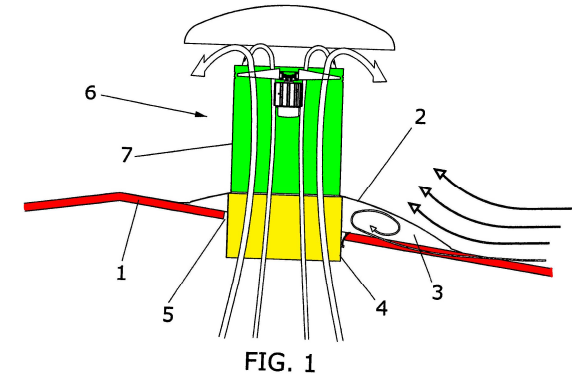
- Objection of the E.D.

- The entrance of the air “by the lower edge” of the skirt can not be interpreted by the drawings. Only a sectional view is shown, not the complete configuration; therefore, the lower part in the sectional view can not be interpreted as the lower edge of the skirt. (Only one point of the edge is represented using a sectional view).



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- First amendment



- 1.- Roof-mounted extractor or impeller with an air chamber comprising a body (7) which at its lower end has a skirt (2)

-A former (4) is connected over the body (7) of the extractor or impeller unit (6) on its end extremity, having both identical shape while the other end of the former (4) pass through a perforation (5) done on the roof, having the perforation (5) and the former (4) similar geometry

**characterized in that**

-A chamber (3) is formed being delimited on its lower part by the roof itself, on its upper part by the skirt (2) whose perimeter edge leans on the roof and laterally by the former (4) itself, **allowing the penetration of the air between the lower edge of the skirt (2) and the roof.**



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- Remarks

- The scope of protection is wider.
- It is supported by the description + drawings
- Objections must be answered in the oral proceeding in the same order as they appear in the official action.

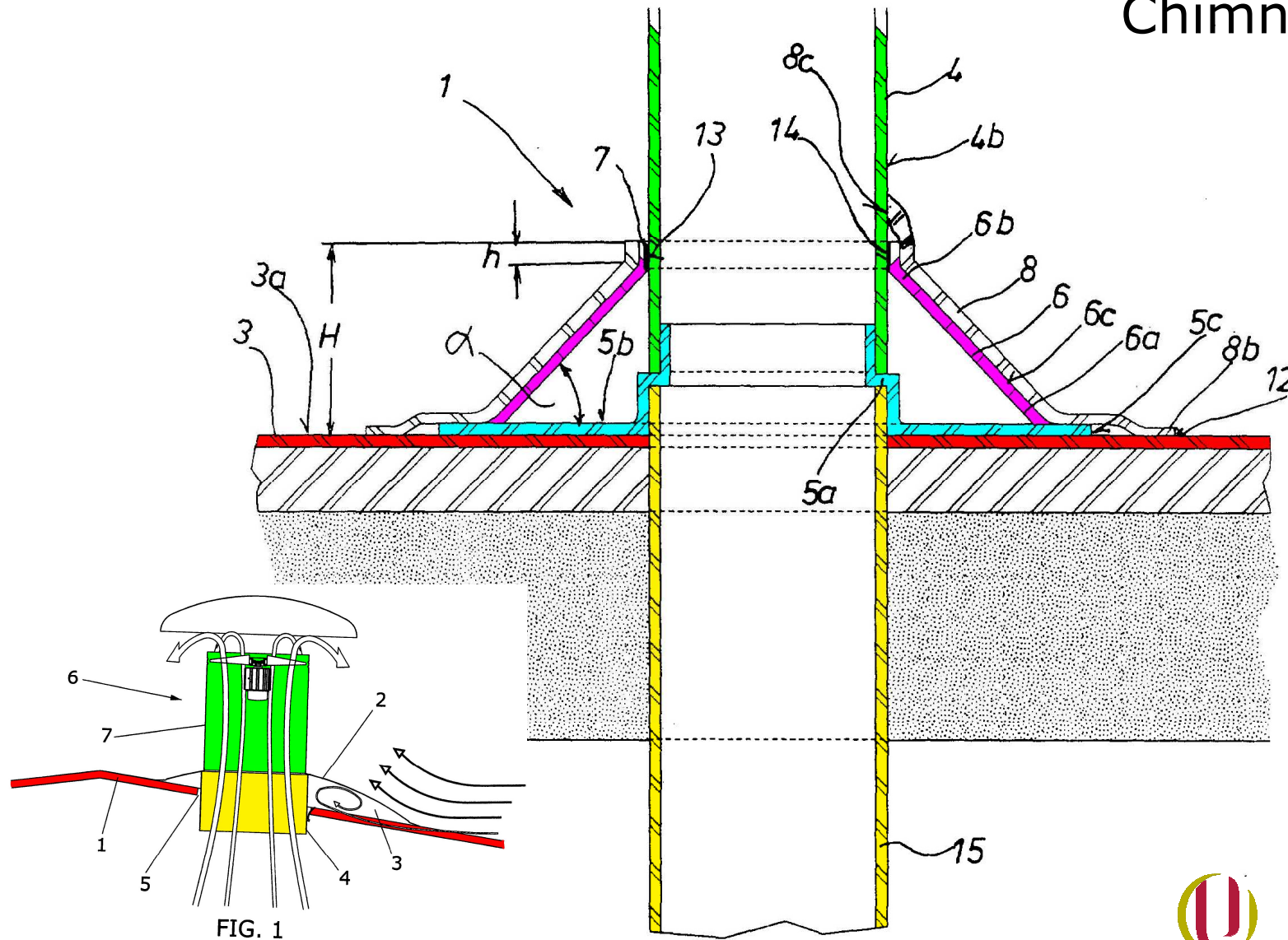


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- Objection #2

- Claim 1 is not new in the sense of Article 54(2) EPC. We have not discussed about novelty but this objection forces new amendments which are useful for our expositive purpose.
- D1 is considered as describing all the features of claim 1

# Chimney



Amendments under EPC2000

## •Opinion of E.D.

D1 pasive device/invention active device

Document D1 discloses in [ref] a roof-mounted **extractor or impeller** with an air chamber(10) comprising a body(4) which at **its lower end** has a skirt (6,8), —————→ **The skirt is not located at its lower end**

-A former (15) is connected **over** the body (4) of the extractor or impeller unit (100) on its and extremity, having both identical shape while the other end of the former (15) pass through a perforation done on the roof (3), having the perforation and the former (15) similar geometry, wherein

**There is an additional blue piece**

-A chamber is formed being delimited **on its lower part by the root itself (3)**, on its upper part by the skirt (6,8) whose perimeter edge leans on the roof (3) and **laterally by the former (15) itself**, allowing the penetration of the air between the lower edge of the skirt (6,8) and the roof.

**The former is not in contact with the chamber**



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- No novelty objections in view of D1
- The examining division agree with applicant arguments



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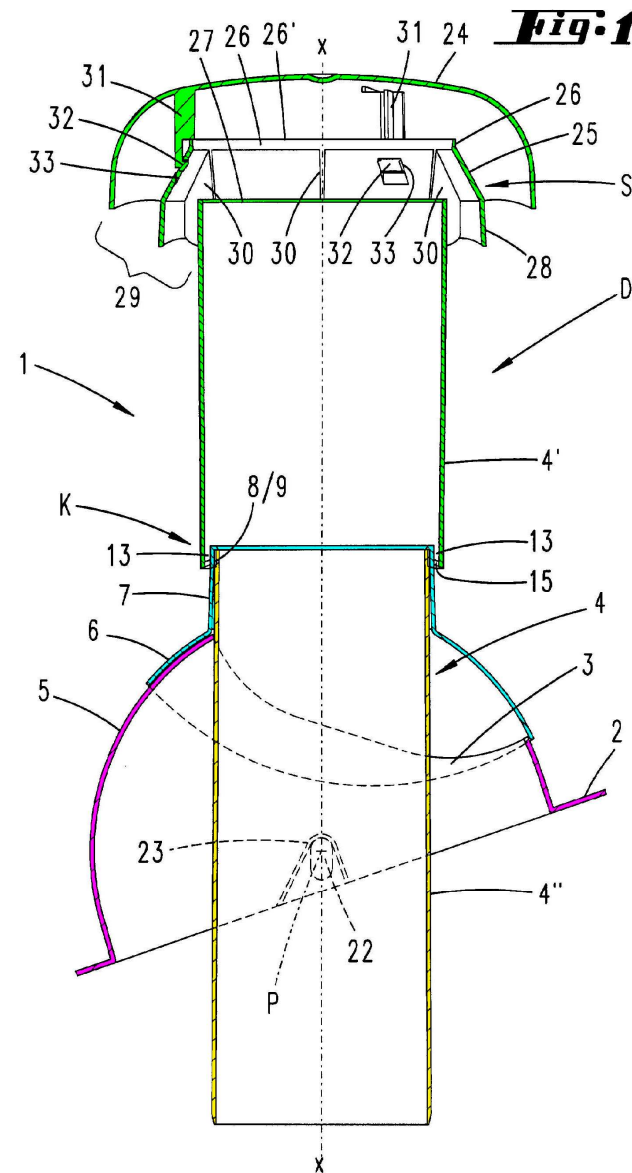
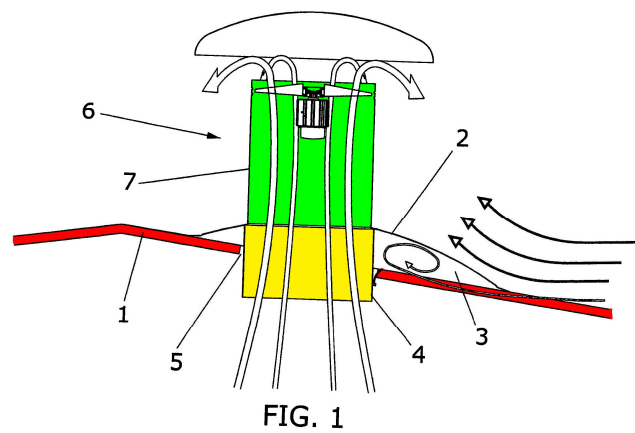
Amendments under EPC2000

- Objection #3

- Claim 1 is not new in the sense of Article 54(2) EPC.
- D2 is considered as describing all the features of claim 1



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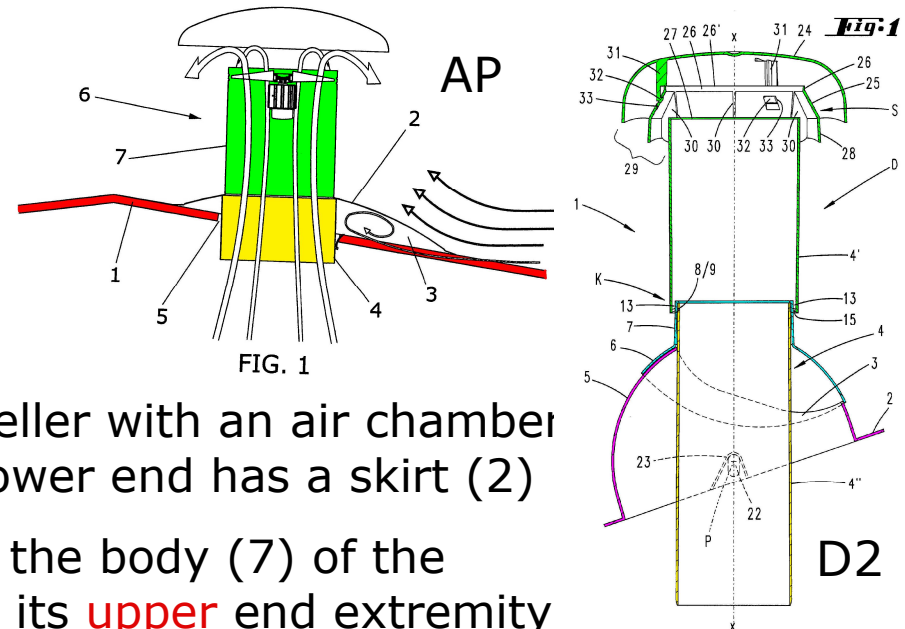
Chimney



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Amendments under EPC2000

- Second amendments on preamble



- 1.- Roof-mounted ~~extractor or~~ impeller with an air chamber comprising a body (7) which at its lower end has a skirt (2)
  - A former (4) is connected over the body (7) of the ~~extractor or~~ impeller unit (6) on its **upper** end extremity ~~having both identical shape while the other~~ lower end of the former (4) pass through a perforation (5) done on the roof, ~~having~~ the perforation (5) and the former (4) **having** similar geometry **and the former's lower end extremity being open**

**characterized in that**

- A chamber (3) is formed being delimited on its lower part by the roof itself, on its upper part by the skirt (2) whose perimeter edge leans on the roof and laterally by the former (4) itself, allowing the penetration of the air between the skirt (2) and the roof.



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