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**Datasheet for the decision
of 27 March 2008**

Case Number: T 1040/05 - 3.3.09

Application Number: 98938856.6

Publication Number: 1017563

IPC: B32B 7/04

Language of the proceedings: EN

Title of invention:

Laminated fibrous structure and method for manufacturing same

Patentee:

THE PROCTER & GAMBLE COMPANY

Opponent:

SCA Hygiene Products AB

Headword:

-

Relevant legal provisions:

EPC Art. 56

Relevant legal provisions (EPC 1973):

-

Keyword:

"Inventive step (no)"

Decisions cited:

-

Catchword:

-



Case Number: T 1040/05 - 3.3.09

DECISION
of the Technical Board of Appeal 3.3.09
of 27 March 2008

(Opponent)

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(Patent Proprietor)

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Decision under appeal:

Interlocutory decision of the Opposition
Division of the European Patent Office orally
announced 11 May 2005 and posted 14 June 2005
concerning maintenance of European patent
No. 1017563 in amended form.

Composition of the Board:

Chairman: P. Kitzmantel
Members: W. Ehrenreich
K. Garnett

Summary of Facts and Submissions

- I. Mention of the grant of European patent No. 1 017 563 in respect of European patent application No. 98 938 856.6 filed on 28 August 1998 as International application No. PCT/IB98/01344 in the name of *The Procter & Gamble Company*, was announced on 23 April 2003 (Bulletin 2003/17).

The patent, entitled "*Laminated fibrous structure and method for manufacturing same*" was granted with twelve claims, independent Claims 1 and 10 reading as follows:

"1. A laminated fibrous structure 10, comprising at least a first sheet 11 and a second sheet 21, said sheets being joined together in a face-to-face relationship such that at least a portion of said first sheet 11 is movable relative to a corresponding portion of said second sheet 21 without tearing of either said first sheet or said second sheet, a [sic] by any one of the following methods:

(1) creating upstanding fibers 41 on the first sheet 11 and upstanding fibers 42 on the second sheet 21, and then making the fibers 41 mechanically engage the fibers 42 such as to make the sheets 11 and 21 to join each other and, at the same time, remain movable relative each other after the laminated structure 10 has been created; and

(2) creating the portions of the upstanding fibers 41 and/or 42 on one or both of the sheets 11 and 21, and then joining the sheets 11 and 21 by using both the bonding material 51 and/or 52 and the upstanding fibers 41 and/or 42."

"10. A process for manufacture of a laminated fibrous structure 10, which process comprises the steps of:

providing at least a first fibrous sheet 11 and a second fibrous sheet 21; and
joining said first and second sheets in a face-to-face relationship such that at least a portion of said first sheet 18 is movable relative to a corresponding portion of said second sheet 21 without tearing of either one of said first and second sheets;
a [sic] providing a bonding material; and
depositing said bonding material 51, 52 on at least one of said first and second sheets, and/or
creating portions of upstanding fibers 41, 42 on at least one of said first and second sheets; and
disposing said at least first and second sheets in a face-to-face relationship such that said upstanding fibers 41 on said first sheet engage said second sheet to create said laminated fibrous structure."

Claims 2 to 9 were, either directly or indirectly, dependent on Claim 1 and Claims 11, 12 were, either directly or indirectly, dependent on Claim 10.

II. Notice of opposition was filed by

SCA Hygiene Products AB

on 23 January 2004.

The Opponent based its opposition on the grounds according to Article 100(a) EPC and submitted that the claimed invention was not novel and did not involve an

inventive step. Revocation of the patent in its entirety was requested.

In support of its objections the Opponent cited, *inter alia*, the following documents:

D1 GB-A 2 251 578

D3 WO-A 97/11228.

III. With its interlocutory decision orally announced on 11 May 2005 and issued in writing on 14 June 2005 the Opposition Division maintained the patent in amended form on the basis of Claims 1 to 6 according to auxiliary request 3 filed with the letter dated 11 April 2005.

Claim 1 of this request corresponded to granted Claim 1 with the addition of the following two features after method (2):

"wherein said first sheet and said second sheet of said laminated structure are embossed",

and

"wherein said first sheet and said second sheet are joined together in a knob-to-knob pattern".

Claim 5 corresponded to granted Claim 10 with the insertion of the feature "*embossing said first and second sheets to create embossments*" in line 4 after "...fibrous sheet 21; and", and of the feature "*in a knob-to-knob pattern*" in line 5 after "in a face-to-face relationship".

Granted Claims 2 to 6 and 11 were deleted. The remaining Claims 7 to 9 and 12 were renumbered accordingly.

The subject-matter according to auxiliary request 3 was considered to be new over the disclosure in D1 because the general information therein of the possibility to combine webs by embossing did not anticipate the claimed knob-to-knob arrangement of the pre-embossed sheets.

The subject-matter of Claim 1 was also held to be inventive over this disclosure because there was no suggestion there that a more flexible product could be obtained by providing upstanding fibres on top of the preformed knobs leading to the fibre engagement depicted in figure 2B of the patent.

IV. Notice of appeal was filed

- by the *Opponent* on 4 August 2005 and
- by the *Patent Proprietor* on 16 August 2005.

The *Opponent's* Statement of the Grounds of Appeal was filed on 14 October 2005.

The *Proprietor* did not file separate grounds of appeal. In its notice of appeal it merely stated that "*The grounds of appeal are those, which were originally provided with the reasons to maintain the Above [sic] European patent in opposition, and reference is herewith made to the submissions during the opposition proceedings and the documentation submitted therein.*"

By a communication of the Board dated 12 July 2006 the Proprietor was informed that this statement in the notice of appeal did not constitute sufficient grounds within the meaning of Article 108 EPC and that it was therefore to be expected that the Proprietor's appeal would be rejected as inadmissible pursuant to Article 108 EPC in conjunction with Rule 65(1) EPC 1973 (corresponding to Rule 101(1) EPC 2000).

With its letter dated 13 March 2008 the Proprietor withdrew its appeal.

- V. In its Grounds of Appeal the Opponent (hereinafter: the Appellant) did not raise any objections as to lack of novelty but considered the subject-matter of the claims according to auxiliary request 3 as allowed by the Opposition Division to be non-inventive when starting from D1 as the closest prior art.

Moreover, objections under Articles 83 and 123(2) were raised for the first time.

- VI. With a letter dated 8 June 2006 the Patent Proprietor (hereinafter: the Respondent) defended the patent on the basis of this auxiliary request 3 and filed two further sets of claims as bases for auxiliary requests 4 and 5.

In response to a communication of the Board submitted by fax on 13 March 2008, in which the Board *inter alia* referred to inconsistencies between the product-by process features in Claim 1 and the process features in Claim 5 owing to the link between the process steps in Claim 5 by the term "and/or" (point 6. of the

communication), the Respondent, with the letter of the same day, filed four further sets of claims numbered as auxiliary requests 1, 2, 5, 6. Auxiliary request 3 as allowed by the Opposition Division became the main request and auxiliary requests 4 and 5 submitted with the letter dated 8 June 2006 were renumbered to read "auxiliary requests 3 and 4".

Claims 1 and 5 of the main request read as follows:

"1. A laminated fibrous structure 10, comprising at least a first sheet 11 and a second sheet 21, said sheets being joined together in a face-to-face relationship such that at least a portion of said first sheet 11 is movable relative to a corresponding portion of said second sheet 21 without tearing of either said first sheet or said second sheet, by any one of the following methods:

(1) creating upstanding fibers 41 on the first sheet 11 and upstanding fibers 42 on the second sheet 21, and then making the fibers 41 mechanically engage the fibers 42 such as to make the sheets 11 and 21 to join each other and, at the same time, remain movable relative each other after the laminated structure 10 has been created; and

(2) creating the portions of the upstanding fibers 41 and/or 42 on one or both of the sheets 11 and 21, and then joining the sheets 11 and 21 by using both the bonding material 51 and/or 52 and the upstanding fibers 41 and/or 42, wherein said first sheet and said second sheet of said laminated structure are embossed, and wherein said first sheet and said second sheet are joined together in a knob-to-knob pattern" (emphasis by the Respondent).

"5. A process for manufacture of a laminated fibrous structure 10, which process comprises the steps of:

providing at least a first fibrous sheet 11 and a second fibrous sheet 21; and embossing said first and second sheets to create embossments, and joining said first and second sheets in a face-to-face relationship in a knob-to-knob pattern, such that at least a portion of said first sheet 18 is movable relative to a corresponding portion of said second sheet 21 without tearing of either one of said first and second sheets; a [sic] providing a bonding material; and depositing said bonding material 51, 52 on at least one of said first and second sheets,

and/or

creating portions of upstanding fibers 41, 42 on at least one of said first and second sheets; and disposing said at least first and second sheets in a face-to-face relationship such that said upstanding fibers 41 on said first sheet engage said second sheet to create said laminated fibrous structure" (emphasis by the Respondent).

The claims according to auxiliary requests 1 to 6 differed from those of the main request by the following amendments:

Auxiliary request 1:

The "and/or" link in process Claim 5 was replaced by "and";.

Auxiliary request 2:

All process claims (Claims 5 and 6) were deleted;

Auxiliary request 3:

The following feature was inserted at the end of Claims 1 and 5: *"such as to allow the embossments (23) of the sheet (21) to laterally move relative the corresponding embossments (13) of the sheet (11)."*;

Auxiliary request 4:

The following feature was inserted at the end of Claims 1 and 5: *"wherein said first sheet (11) has the portions of the upstanding fibers (41), and the second sheet (21) have the portions of the upstanding fibers (42), which portions are located in the mutually corresponding surface areas of said first sheet (11) and said second sheet (21), respectively, such that when said first sheet (11) and said second sheet (21) are being joined together, their respective portions of the upstanding fibers (41, 42) generally coincide."*;

Auxiliary request 5:

All product claims (Claims 1 to 4) were deleted.
Process Claims 5 and 6 were renumbered to 1 and 2.

Auxiliary request 6:

All product claims (Claims 1 to 4) were deleted and the link "and/or" in the process Claim 5 - now Claim 1 - was replaced by "and". Process Claim 6 became Claim 2.

In the same letter the Respondent also referred to the Appellant's Grounds of Appeal and argued that process Claim 5 of the main request was an independent claim which was not originally attacked by the Appellant and was therefore not part of the appeal.

Auxiliary requests 1 and 2 were filed in case the Board found that Claim 5 was part of the appeal proceedings and that there were issues with this claim that prejudiced the maintenance of the patent (point 3. of the letter).

The Respondent also considered the Appellant's objections under Articles 83 and 123(2) EPC to amount to fresh opposition grounds which had not been originally raised, contrary to the provisions of Rule 55(c) EPC 1973 (corresponding to Rule 76 (2)(c) EPC 2000) and did not agree with their introduction (point 2 of the letter dated 13 March 2008).

VII. On 27 March 2008 oral proceedings were held, which the Respondent did not attend. With its letter dated 10 March 2008 the Respondent had informed the Board that it would not be represented at the oral proceedings.

During the proceedings the issue of inventive step of the subject-matter of all requests was discussed. At the request of the Appellant the discussion was extended in this respect to the subject-matter of the process claims.

The issue of fresh opposition grounds (Article 100 (b) and (c) EPC) was not discussed because this matter had no influence on the outcome of the appeal proceedings.

VIII. The arguments of the Appellant may be summarised as follows:

In the notice of opposition the whole patent, including the subject-matter of granted Claims 1 and 10 (ie the product and the process), was attacked and the revocation of the patent in its entirety was requested. The process Claim 10 was also the subject of the appealed decision, see paragraph 1 on page 5. The fact that revocation of the patent as a whole was requested in the letter accompanying the grounds of appeal implied that it was the Appellant's intention to attack the subject-matter not only of the product claims but also of the claimed process. Consideration of inventive step of the process in the oral proceedings was therefore justified.

- (a) Inventive step of the product claimed in Claim 1 of each of the main request and auxiliary requests 1, 2 and 4

The time of embossing the laminated structure, either prior to or after the creation of the upstanding fibres (41) and/or (42), was not indicated in method (1) of Claim 1. Therefore, the wording of the claim "*wherein said first and said second sheet of said laminated structure are embossed*" included embodiments of a laminated structure resulting from the steps of

- (i) creating the upstanding fibres of the first and second sheet, laminating the sheets, followed by embossment
or
- (ii) embossment of the sheets in a first step prior to creating the upstanding fibres on top of the embossments and thereafter

laminating the sheets in accordance with figure 1A of the patent specification.

D1 was representative of the closest prior art. This document disclosed a two-ply laminated fibrous structure with increased bulk or bulk softness obtained by the following method:

- creating upstanding fibres by brushing at least one surface of each of the plies;
- bringing the brushed surfaces into contact with each other to form a two-ply laminated product;

according to page 7 lines 5 to 7, the combination of the webs could be accomplished by conventional embossing. The resulting structure corresponded to that obtained by method (1) of Claim 1, when applying step (i) above.

The claimed laminated structure differed therefrom only in that the embossed sheets were arranged in a knob-to-knob pattern.

As the Respondent, however, itself stated in paragraphs [0007] and [0008] of the patent specification with reference to US-A 3 414 459, it was well known in the prior art that multi-ply paper products of improved softness have a knob-to-knob arrangement of the laminated sheets. Such an arrangement, therefore, belonged to the general common knowledge of a skilled person.

Consequently, a skilled person starting from the disclosure in D1 and intending to arrange the laminated sheets in a knob-to-knob pattern would arrive at the product according to Claim 1 of the

main request and auxiliary requests 1 and 2 without an inventive effort.

The same observations applied to the structure according Claim 1 of the auxiliary request 4 because the required condition that the upstanding fibres of the first and second sheets be located in mutually corresponding surface areas of said first and second sheets and coincide after joining the sheets was automatically fulfilled when brushing and joining the sheets in accordance with figures 1B and 2B of D1.

- (b) Inventive step of the product according to Claim 1 of auxiliary requests 3

The provision according to Claim 1 that the lateral movement of the sheets relative to each other is also maintained on top of the embossments in a knob-to-knob arrangement would also be considered by a skilled person in the light of the disclosure in D1 at page 7, line 35 to page 8, line 2. It was disclosed there that by the engagement of the outwardly-extending fibres of the brushed sheet surfaces a too-close contact of the sheets would be prevented.

- (c) Inventive step of the process according to Claim 1 of auxiliary request 5

Owing to the link by the term "and/or" between the process steps concerning the application of a bonding material and the creation of upstanding fibres, the "or"-variant of the claim also

embraced a process in which the first and second sheets are joined solely by way of a bonding material. This rigid bonding, however, was known in the prior art and did not solve the problem posed, namely the provision of a freedom for relative movement of the sheets, as the Respondent indicated in paragraphs [0012] and [0014] of the patent specification. Accordingly, use of a bonding material without fibre engagement was not in accordance with the invention, see paragraph [0042] of the patent specification.

A method which did not solve the problem posed could not, however, involve an inventive step.

- (d) Inventive step of the process according to Claim 1 of auxiliary request 6

In contrast to Claim 1 of auxiliary request 5 the term "and" in auxiliary request 6 requires the joining of the two sheets by a combination of a bonding material and the engagement of upstanding fibres.

The joining of fibrous sheets by a bonding agent in addition to mechanical engagement by surface roughness was, however, known from D3. Therefore, a skilled person would also arrive at the process claimed in auxiliary request 6 by combining D1 with D3.

- IX. The written arguments of the Respondent presented with its letter dated 8 June 2006 may be summarised as follows:

There was no suggestion in D1 that a selection of a knob-to-knob arrangement from the numerous possible patterns in the prior art (such as nested embossing, knob-to-knob, continuous patterns, dual-ply lamination) would provide a soft, strong and flexible laminated structure allowing relative movement of the layers. A skilled person would also not combine D1 with D6 (DE-A 195 34 812, which essentially corresponds to D3 cited within the opposition period), because the latter solved a different problem, namely an increase of the calliper, softness and strength by introducing a non-embossed intermediate layer. By the same token D6 did not qualify as closest prior art.

- X. The Appellant requested that the decision under appeal be set aside and that the patent be revoked.

- XI. The Respondent requested that the Opponent's appeal be dismissed, alternatively that the decision under appeal be set aside and the patent be maintained on the basis of (1) the first auxiliary request filed with the letter of 13 March 2008, or (2) the second auxiliary request filed with the said letter, or (3) the fourth auxiliary request filed with the letter of 8 June 2006, or (4) the fifth auxiliary request filed with its said letter of 8 June 2006, or (5) the fifth auxiliary request filed with the letter of 13 March 2008, or (6) the sixth auxiliary request filed with the said letter of 13 March 2008.

Reasons for the Decision

1. The Opponent's appeal is admissible.
2. The Board accepts that, although not explicitly addressed in the Statement of Grounds of Appeal, the process claims, properly attacked before the Opposition Division (opposition statement page 5, first paragraph under point 2 and the last two lines under point 3) and dealt with in the decision under appeal (Reasons, points I and II-1) are open to consideration of inventive step in these appeal proceedings, as requested in the oral proceedings (point VIII).

The Board observes in this regard that the product claims are formulated by way of product-by-process features including the process steps according to "method (1)" and "method (2)" which essentially correspond to the steps given in the process claims. Arguments regarding these features therefore concern the product as well as the process claims.

Inventive Step

3. The subject-matter of the patent in suit

The patent is concerned with a multi-ply laminated fibrous structure and a process for preparing it, having an enhanced softness, caliper and flexibility, wherein the laminated sheets are movable relative to each other (paragraphs [0001] and [0013, 14] of the patent specification).

According to one embodiment (method (1)) of Claims 1 according to the main request and auxiliary requests 1 to 4 the laminated structure is characterised by the product-by-process step:

- (a) upstanding fibres (41) and (42) are created on the first sheet (11) and second sheet (21);
- (b) the fibres (41) of the first sheet are made to mechanically engage the fibres (42) of the second sheet such that
 - (i) the sheets (11) and (21) are joined each other and
 - (ii) they remain movable relative each other after lamination;

and is further characterised

- by the embossment of the first and second sheet and
- by the arrangement of the first and second sheet in a knob-to-knob pattern.

Claim 1 of auxiliary request 4 further indicates:

- that both the first and second sheets have the portions of the upstanding fibres;
- that the portions of upstanding fibres are located in the mutually corresponding surface areas of the sheets such
- that the respective portions of fibres coincide after joining the first and second sheets (this feature is, in the Board's judgment, merely of descriptive nature and automatically fulfilled when applying method (1) of the claim).

Claim 1 of auxiliary request 3 contains as an additional feature the freedom of lateral movement of the embossments (23) of the sheet (21) relative to the embossments (13) of the sheet (11).

This implies that the mechanical engagement of the upstanding fibres of each of the embossed sheets (11) and (21) takes place on top of the knobs in the knob-to-knob arrangement of the sheets.

Claims 1 of auxiliary requests 5 and 6 are directed to the preparation of the laminated fibrous structure.

One embodiment according to Claim 1 of auxiliary request 5 relates (in addition to the embossment and the knob-to-knob arrangement) to the lamination of the sheets only by way of a bonding agent. The process step of providing a bonding material and depositing it on at least one of the sheets is indicated as an independent measure not necessarily combined with the step of creating upstanding fibres owing to the "and/or" link between the steps.

These steps are linked by the term "and" only according to Claim 1 of auxiliary request 6.

4. The closest prior art

D1 is considered representative of the closest prior art for the subject-matter of all requests.

Document D1 is concerned with a multi-ply tissue of increased bulk and surface softness, in the form of a laminated fibrous structure, which is prepared by the following method:

- (a) brushing one surface of a first and a second sheet, thereby creating upstanding fibres on the surface;
- (b) joining the brushed surfaces of the sheets, thereby making the fibres mechanically engage each other

(Claims 1 and 7 in conjunction with page 6, lines 14 to 16, page 7, lines 2 to 5 and figures 1B and 2B).

According to page 7, line 35 to page 8, line 2 "*As the two plies are brought together, the outwardly-extending fibers of each ply contact those of the other ply and impede the extent to which the two plies can be brought into closer contact*". This clearly implies that a certain distance between the sheets has to be kept, which leads to the possibility of a relative movement of the sheets by the bending of the upstanding fibres under the action of external force.

It is further indicated at page 7, lines 5 to 7 of D1 that the formation of the two-ply product can be accomplished by embossing. Accordingly, the embossing is performed after lamination of the brushed sheets. The resulting laminate as well as the constituent plies thus exhibit an embossed "nested" pattern.

- 5. Inventive step of the fibrous structures claimed in Claim 1 of each of the main request and auxiliary requests 1, 2 and 4

- 5.1 General remark

Because, as stated in point 3, the feature added to Claim 1 of auxiliary request 4 is purely descriptive,

its scope is not changed vis-à-vis Claims 1 according to the main request and auxiliary requests 1 and 2.

It is therefore considered appropriate to consider inventive step of the subject-matter of Claims 1 of the main request and auxiliary requests 1, 2 and 4 together.

5.2 The problem to be solved

The subject-matter of the above claims differs from the disclosure in D1 only in that in an embossed laminate whose plies have been brought into contact via the engagement of upstanding fibres on the opposing ply/sheet surfaces the embossments are arranged in a knob-to-knob pattern.

Therefore, the problem to be solved is merely seen in the provision of laminated fibrous structures wherein the embossments of the sheets are arranged in an alternative "not-nested" pattern.

5.3 Obviousness

As the Respondent, however, itself states in paragraphs [0007] and [0008] of the patent specification, it was well known in the papermaking art to use a knob-to-knob pattern of embossed laminated paper structures to increase softness and bulk of household paper products. In column 2, lines 20 to 25 of the patent specification, specific reference is made with regard to such an arrangement to document US-A 3 414 459.

In the light of the above and in view of the desired increased softness, the skilled person would therefore also contemplate a knob-to-knob arrangement of the embossed laminated sheets prepared in accordance with D1. This all the more so as the Respondent has not shown any additional non-predictable effect caused by such an arrangement.

The subject-matter of Claims 1 of the main request and auxiliary requests 1, 2 and 4 does therefore not involve an inventive step.

The requests are not allowable.

6. Inventive step of the fibrous structure claimed in Claim 1 of auxiliary request 3

As stated in point 3, the feature that the embossments (23) of the sheet (21) can laterally move relative to the corresponding embossments (13) of the sheet (11) implies a mechanical engagement of the upstanding fibres on top of the knobs.

Since the first part of the claim already requires that at least a portion of the first sheet is movable relative to a corresponding portion of the second sheet, this additional feature is nothing more than a rewording of the same requirement because this relative movement can only happen if the areas of the respective plies in contact have the upstanding fibres.

The conclusions drawn above are therefore equally valid for the subject-matter of Claim 1 of auxiliary request 3, which therefore cannot be allowed either.

7. Inventive step of the process according to Claim 1 of auxiliary request 5

Claim 1 of this request embraces the embodiment of joining the first and the second sheets merely by way of a bonding agent. This leads to a rigid association of the laminated sheets not allowing a movement of the laminated sheets relative to each other, which, however, is an essential prerequisite for enhanced flexibility of the laminated structure (paragraphs [0013/14] of the patent specification).

In this context it is indicated in paragraph [0012] of the patent specification that "*lamination/embossing of the prior art tends to reduce flexibility of the resulting laminated structure because the adhesive ... joining utilized by the prior art to bind two or more laminae together forms a rigid connection between the two or more laminae.*" Likewise, it is stated in column 13 of the patent specification that joining of the sheets by using only bonding material is not in accordance with the invention (lines 23, 24).

In view of these statements, a "rigid connexion" does not solve an essential problem underlying the invention, namely an increase in the flexibility of the laminated structure. The subject-matter of Claim 1 of auxiliary request 5 does not therefore involve an inventive step.

Auxiliary request 5 is therefore not allowable.

8. Inventive step of the process according to Claim 1 of auxiliary request 6

In contrast to auxiliary request 5, auxiliary request 6 requires joining the sheets via a combination of applying a bonding agent on at least one of the sheets and creating upstanding fibres on at least one of the sheets.

The wording of Claim 1:

"providing a bonding material; and depositing said bonding material ... on at least one of said first and second sheets,

and

creating portions of upstanding fibers ... on at least one of said first and second sheets; and disposing said at least first and second sheets in a face-to-face relationship such that said upstanding fibers ... on said first sheet engage said second sheet ..."

includes a mutual engagement between upstanding fibres, an engagement of upstanding fibres and a bonding agent and a mutual engagement of a bonding agent on parts of the inwardly faced sheet surfaces. In other words, the claim also allows a zone-wise rigid bonding between the laminated sheets as long as the relative movement of the laminated sheets, due to the fibre-engagement on other sheet areas, is not affected.

Such a zone-wise adhesion, which is limited to certain areas of the tissue surface in order maintain the relative movement of the plies of the tissue ("zonenweise Lagenverleimung"), is disclosed in D3 (page 2, paragraph 2 and page 7, last paragraph).

A skilled person intending to prepare an embossed laminated two-ply structure in accordance with D1 in a common knob-to-knob arrangement would therefore, with regard to D3, contemplate a bonding by adhesion on certain limited areas of the brushed surfaces (eg. on top of certain knobs) such that the relative movement of the plies would be maintained.

Thus, the subject-matter of Claim 1 of auxiliary request 6 is rendered obvious by a combination of D1 with D3.

Auxiliary request 6 is therefore not allowable.

9. In conclusion, none of the requests is allowable, owing to lack of inventive step of the subject-matter claimed.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar

The Chairman

D. Sauter

P. Kitzmantel