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**Datasheet for the decision
of 4 August 2009**

Case Number: T 1381/07 - 3.2.05

Application Number: 02077207.5

Publication Number: 1249354

IPC: B44F 1/06

Language of the proceedings: EN

Title of invention:

Display unit and methods of displaying an image

Applicant:

MINNESOTA MINING AND MANUFACTURING COMPANY

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 54, 123(2)

Relevant legal provisions (EPC 1973):

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Keyword:

"Novelty (claim 1, main request, no)"

"Subject-matter extending beyond the content of the
application as filed (auxiliary request, yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 1381/07 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 4 August 2009

Appellant: MINNESOTA MINING AND MANUFACTURING COMPANY
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Representative: Bergen, Katja
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 14 February 2007
refusing European application No. 02077207.5
pursuant to Article 97(1) EPC 1973.

Composition of the Board:

Chairman: W. Zellhuber
Members: P. Michel
M. J. Vogel

Summary of Facts and Submissions

- I. The appellant (applicant) lodged an appeal against the decision of the Examining Division refusing European patent application No. 02 077 207.5. The Examining Division considered that claim 1 was not clear and lacked an inventive step.
- II. Oral proceedings took place on 4 August 2009 in the absence of the appellant, who informed the Board that the oral proceedings would not be attended by telefax on 3 July 2009.
- III. The following document is referred to in this decision:
- D1: EP-A-0 170 472
- IV. The appellant requested that the decision under appeal be set aside and that a patent be granted in the following version:
- claims 1 - 12, submitted as main request, or, as an auxiliary measure,
 - claims 1 - 12, submitted as subsidiary request, all requests filed on 18 June 2007.
- V. Claim 1 of the main request reads as follows:
- "1. An article having
a transparent substrate (17,21,41,63,110,312,412) being conformable to a surface and comprising:
a colorant receptor layer (111-112) and
a light restricting layer (2,42,43,64,65) on said substrate,

said light restricting layer being subdivided into a plurality of first transparent or translucent areas (6, 34,48,67) and a plurality of light restricting areas."

Claim 1 of the auxiliary request reads as follows:

"An article having
a transparent substrate (17,21,41,63,110,312,412) being conformable to a surface and comprising:
a light restricting layer (2,42,43,64,65) and
a design layer (7-10,7'-10',44-47) on said substrate, said design layer including at least one colour layer, said light restricting layer being subdivided into a plurality of first transparent or translucent areas (6,34,48,67),
said design layer being subdivided into a plurality of second transparent or translucent areas (6,34,48,67),
and
said first and second transparent or translucent areas are aligned,
characterized in that the light restricting layer comprises a white layer (43) and a black layer (42) and that the transparent or translucent areas (48) of the white layer are slightly smaller than those in the design layer (44-47) and that the transparent or translucent areas (48) of the black layer are slightly smaller than those in the white layer."

VI. The appellant has argued substantially as follows in the written procedure:

Document D1 does not disclose an article having the combination of layers specified in claim 1. In particular, document D1 does not disclose an article

having a colorant receptor layer. In the article disclosed in document D1, the colour layers are brought to the substrate, e.g. by printing (see page 14). Details of the printing process are not described.

The subject-matter of claim 1 according to the main request is thus new.

The subject-matter of claim 9 according to the main request is disclosed in the application as filed at paragraph [0126], page 7, line 44.

Reasons for the Decision

1. *Main Request*

1.1 Novelty

Figure 5 of document D1 shows an article having a transparent substrate (10) which may be conformable to a surface (see page 1, lines 4 to 10). To this substrate are applied sequentially a design layer (30), a dark pattern layer (26), a light pattern layer (25) and a design layer (28) (see page 45, lines 1 to 6).

The dark pattern layer (26) constitutes a light restricting layer in the terms of claim 1 of the application, being divided into transparent or translucent areas and light restricting areas. The light pattern layer (25) constitutes a colorant receptor layer in the terms of claim 1 of the application, since it is possible to apply a design (28)

thereto. It is not the case that the design layer is applied directly to the substrate.

The subject-matter of claim 1 according to the main request is thus not new.

2. *Auxiliary Request*

Claim 1 is restricted to the feature that "the light restricting layer comprises a white layer (43) and a black layer (42) and that the transparent or translucent areas (48) of the white layer are slightly smaller than those in the design layer (44-47) and that the transparent or translucent areas (48) of the black layer are slightly smaller than those in the white layer." This feature is only disclosed in the application as filed in the embodiment of Figure 10 (see paragraph [0069] of the published version of the application).

An article having "a hydrophilic, microporous, polymeric membrane (212)" is only disclosed in the embodiment of Figure 12, referred to as the "eighth embodiment" (see paragraphs [0126] and [0131] of the published version of the application).

The application as filed does not, however, disclose an article having both these features. Accordingly, there is no disclosure of an article as claimed in claim 9, which is appendant to claim 1.

The requirements of Article 123(2) EPC are accordingly not satisfied.

It may be noted that the attention of the appellant was drawn to this issue in the annex to the summons to oral proceedings under point 5. However, the appellant did not comment on this matter, or attempt to amend the claims so as to comply with the requirements of Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

C. Moser

W. Zellhuber