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**Datasheet for the decision
of 13 September 2010**

Case Number: T 2074/08 - 3.2.05

Application Number: 01949138.0

Publication Number: 1294553

IPC: B29C 45/27

Language of the proceedings: EN

Title of invention:
Thermally balanced hot runner nozzle

Patentee:
MOLD-MASTERS LIMITED

Opponent:
SFR Formenbau GmbH

Headword:

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Relevant legal provisions:
EPC Art. 56, 111(1), 123(2)(3)

Relevant legal provisions (EPC 1973):

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Keyword:
"Amendments (allowable)"
"Novelty (yes)"
"Remittal to the department of first instance (yes)"

Decisions cited:

-

Catchword:

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Case Number: T 2074/08 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 13 September 2010

Appellant: MOLD-MASTERS LIMITED
(Patent Proprietor) 233 Armstrong Avenue
Georgetown
Ontario L7G 4X5 (CA)

Representative: Grünecker, Kinkeldey, Stockmair &
Schwanhäusser
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Leopoldstraße 4
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 14 August 2008
revoking European patent No. 1294553 pursuant
to Article 101(3)(b) EPC.

Composition of the Board:

Chairman: W. Zellhuber
Members: P. Michel
E. Lachacinski

Summary of Facts and Submissions

- I. The appellant (patent proprietor) lodged an appeal against the decision of the Opposition Division revoking European Patent No. 1 294 553 on the ground of lack of novelty.

The appellant requested that the decision under appeal be set aside and the case be remitted to the department of first instance, on the basis of a set of claims, filed as main request on 9 April 2009. Alternatively, it is requested that the patent in suit be maintained on the basis of sets of claims filed as auxiliary requests I to IV on 9 April 2009.

The opponent (SFR Formenbau GmbH) withdrew the opposition on 13 July 2010.

- II. Claim 1 of the main request of the appellant reads as follows:

"1. A nozzle (20) for a molding machine comprising:
a nozzle body (22) defining a melt channel (24), the nozzle body (22) having an outer surface and comprising a continuous channel (40) defined in the outer surface;
and

a heater (42) connected to said nozzle body (22) along at least a portion of the length of said nozzle body (22), the heater (42) is disposed within the continuous channel (40);

characterized in further comprising at least one heat distributor (60), said heat distribution (sic) (60) is disposed on and directly contacts said nozzle body (22) along at least a portion of the length of said nozzle

body (22), said heat distributor (60) being formed of a conductive material for distributing heat from said heater (42) along said nozzle body (22)."

III. The following document is referred to in the present decision:

D8: DE-A-2 250 778.

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

The additional features included in claim 1 of the main request are disclosed in the application as filed. The amendments thus comply with the requirements of Article 123(2) and (3) EPC.

None of the cited documents discloses a nozzle for a molding machine having the features of claim 1. In particular, in the nozzle of document D8, there is a space between the core and sleeve, and the sleeve does not directly contact the nozzle core along the length of the nozzle body. The subject-matter of claim 1 is thus new.

Reasons for the Decision

Main Request

1. *Amendments*

Claim 1 includes all the features of claim 1 as granted and has been amended by the inclusion of additional

features. These features are disclosed in the application as filed in claims 2 and 3 and in the description at page 3, line 30 to page 4, line 6 and page 4, lines 19 to 27 (referring to international publication WO 01/96090).

The amendments thus comply with the requirements of Article 123(2) and (3) EPC.

2. *Novelty*

Claim 1 requires that the heat distributor directly contacts the nozzle body along at least a portion of the length of the nozzle body.

In the nozzle depicted in Figure 3 of document D8, a sleeve (28) of mild steel has an internal diameter which is somewhat larger than the external diameter of the core (21) (see page 7, line 32 to page 8, line 2). During assembly of the nozzle, the core (21) is screwed into the sleeve (28) (page 8, lines 15 and 16), the cable (31) acting as a screw thread. As disclosed at page 8, lines 22 to 29, the very small play between the cable and the core and the sleeve results in an effective heat transfer between the cable sheath and the core on one hand and between the cable sheath and the sleeve on the other hand. There is, however, no mention of heat transfer occurring directly between the sleeve and the core.

Whilst a face of a flange (30) of the sleeve (28) abuts against a step provided between the body of the core and an outlet portion (22) of the core (21) having a smaller cross-section (see page 8, lines 16 to 18),

this is not regarded as constituting contact "along at least a portion of the length of the nozzle body", as required by claim 1.

The description thus indicates that the sleeve is not in direct contact with the core along at least a portion of the length of the nozzle body. It cannot be assumed from the sectional view of Figure 3 that the sleeve is in direct contact with the core along at least a portion of the length of the nozzle body, since the drawing must be regarded as being of a schematic nature.

There is thus no clear and unambiguous disclosure in document D8 of a heat distributor which directly contacts the nozzle body along at least a portion of the length of the nozzle body.

Similarly, none of the remaining cited documents disclose a nozzle for a molding machine having all the features of claim 1 in combination.

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

3. *Remittal*

The opposition division has not yet had the opportunity of considering the question of inventive step. It is therefore appropriate to remit the case to the department of first instance in order to enable this issue to be considered, if necessary, at two instances.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber