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**Datasheet for the decision
of 10 March 2020**

Case Number: T 0149/16 - 3.3.09

Application Number: 02797024.3

Publication Number: 1448738

IPC: C09J4/06

Language of the proceedings: EN

Title of invention:

ADHESIVES FOR BONDING COMPOSITES

Patent Proprietor:

IPS CORPORATION

Opponent:

Scott Bader Company Ltd.

Headword:

Adhesives for bonding composites/IPS

Relevant legal provisions:

Keyword:

Sole request by respondent consisting only of claim 1 held allowable by the opposition division - no objections by appellant (allowable: yes)

Decisions cited:

Catchword:



Beschwerdekammern
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Case Number: T 0149/16 - 3.3.09

D E C I S I O N
of Technical Board of Appeal 3.3.09
of 10 March 2020

Appellant: Scott Bader Company Ltd.
(Opponent) Wollaston
Wellingborough
Northamptonshire NN29 7RL (GB)

Representative: Mewburn Ellis LLP
City Tower
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London EC2V 5DE (GB)

Respondent: IPS CORPORATION
(Patent Proprietor) 455 W. Victoria Street
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Representative: Hoefler & Partner Patentanwälte mbB
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
10 November 2015 concerning maintenance of the
European Patent No. 1448738 in amended form.**

Composition of the Board:

Chairman A. Haderlein
Members: N. Perakis
D. Rogers

Summary of Facts and Submissions

- I. This decision concerns the appeal filed by the opponent against the opposition division's interlocutory decision that the European patent No. 1 448 738 as amended - according to claims 1 to 15 of the 1st auxiliary request underlying the impugned decision - meets the requirements of the EPC.

The request held allowable by the opposition division comprised independent claims 1 and 2 of which claim 1 reads as follows:

"1. An adhesive composition comprising a mixture of 1 percent to 50 percent by weight of a chlorinated polymer, 0.5 percent to 45 percent by weight of a nitrogen-containing elastomer, a thermoplastic acrylonitrile copolymer or mixtures thereof, and 25 percent to 90 percent by weight of an alkyl acrylate or methacrylate monomer, wherein the chlorinated polymer used is a chlorinated elastomeric polyethylene, provided that the chlorinated elastomeric polymer is not a chlorosulfonated polyethylene."

- II. The opponent (appellant) appealed the opposition division's interlocutory decision and requested that the interlocutory decision be set aside and that the patent be revoked in its entirety. In the statement setting out the grounds of appeal and throughout the appeal proceedings, the appellant raised objections only with respect to claim 2.
- III. With its reply to the appeal, the patent proprietor (respondent) filed as the main request a set of claims identical to the set of claims held allowable by the

opposition division together with eight auxiliary requests. The respondent requested that the appeal be dismissed, or alternatively that the patent be maintained in accordance with one of the 1st to 8th auxiliary requests.

- IV. Oral proceeding took place on 10 March 2020. During these oral proceedings, the respondent withdrew the main request and all auxiliary requests on file and submitted a new main request consisting exclusively of claim 1 as held allowable by the opposition division. The appellant objected to neither the admissibility nor the allowability of that request.

Reasons for the Decision

1. The opposition division considered that claim 1 of the then 1st auxiliary request underlying the impugned decision, identical to claim 1 of the respondent's new main request, satisfied the requirements of the EPC (see point I above).
2. The appellant did not raise any objections in the appeal proceedings against the subject-matter of claim 1 as held allowable by the opposition division, this being the sole claim of the respondent's new main request on appeal. Thus, the board sees no reasons to overturn the opposition division's decision in this respect. Under these circumstances the board concludes that claim 1 is not objectionable with the consequence that the respondent's new main request is allowable.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the opposition division with the order to maintain the patent with the following claim and a description to be adapted:
Claim: No. 1 of the new main request received during the oral proceedings of 10 March 2020.

The Registrar:

The Chairman:



K. Exner

A. Haderlein

Decision electronically authenticated