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**Datasheet for the decision
of 21 June 2022**

Case Number: T 0685/19 - 3.4.03

Application Number: 12788322.1

Publication Number: 2760680

IPC: B42D15/00, B32B37/20,
B42D25/328, B42D25/355,
B42D25/00

Language of the proceedings: EN

Title of invention:

METHOD FOR PRODUCING A COMPOSITE WEB AND SECURITY DEVICES
PREPARED FROM THE COMPOSITE WEB

Patent Proprietor:

Crane Security Technologies, Inc.

Opponent:

Leonhard Kurz Stiftung & Co. KG

Headword:

Relevant legal provisions:

EPC Art. 52(1), 54, 56, 83, 111(1), 123(2)
EPC R. 80

Keyword:

Novelty - main request (yes)

Inventive step - main request (yes)

Sufficiency of disclosure - main request (yes)

Amendments - added subject-matter (no)

Amendment occasioned by ground for opposition - (yes)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 0685/19 - 3.4.03

D E C I S I O N
of Technical Board of Appeal 3.4.03
of 21 June 2022

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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted on
3 January 2019 concerning maintenance of the
European Patent No. 2760680 in amended form.**

Composition of the Board:

Chair T. Häusser
Members: M. Papastefanou
T. Bokor

Summary of Facts and Submissions

I. The appeal of the opponent is against the decision of the opposition division maintaining the European patent EP 2 760 680 B1 in amended form.

II. The opposition was based on the grounds for opposition according to Article 100(a) EPC (lack of novelty and inventive step) and Article 100(b) EPC (insufficient disclosure). In the decision under appeal, the opposition division came to the conclusion that the main request filed by the patent proprietor during the oral proceedings before it fulfilled the requirements of the EPC and maintained the patent on that basis.

III. Reference is made to the following documents:

E1: EP 1 273 705 A1

E6: WO 2011/069631 A2.

IV. At the end of the oral proceedings before the board the parties' requests were as follows:

The appellant-opponent ("opponent") requested that the decision under appeal be set aside and that the patent be revoked in its entirety.

The respondent-patent proprietor ("proprietor") requested, as a main request, that the appeal be dismissed. As an auxiliary measure, the proprietor requested that the decision under appeal be set aside and the patent be maintained according to one of auxiliary requests 1-17 or 21-26 filed with letter dated 19 September 2019, or according to one of auxiliary requests 18-20, 2A, 7A, 8A, 11A, 16A, 17A,

20A, 23A, 26A, filed with letter dated 20 May 2022.

V. The independent claims of the main request are worded as follows:

Claim 1:

A method for producing a composite web for making composite security devices for partially embedding within a sheet material, or mounting on or embedding within a surface of a sheet material, the method comprising:

- (a) providing a first polymer film in the form of a first continuous web, wherein the first polymer film constitutes or embodies one or more first security features in the form of at least one high value material;*
- (b) providing a second polymer film in the form of a second continuous web, wherein the second polymer film constitutes, embodies, or is coated with one or more second security features;*
- (c) optionally applying one or more additional security features and/or one or more adhesives to one or opposing surfaces of the first and second continuous webs;*
- (d) in-line slitting the first continuous web into a number of relatively narrow width high value threads or strips;*
- (e) introducing separation between these relatively narrow width high value threads or strips;*
- (f) positioning and attaching the separated high value threads or strips to a surface of the second continuous web to form a continuous composite web; and optionally,*
- (g) laminating one or more protective layers to one or opposing surfaces of the continuous composite web.*

Claim 3:

A composite security device in the form of a security thread or strip that comprises:

- (a) a first polymer film that constitutes or embodies one or more first security features in the form of at least one high value material, the first polymer film having a width or diameter; and*
- (b) a second polymer film that constitutes, embodies, or is coated with one or more second security features, the second polymer film having a width or diameter greater than the width or diameter of the first polymer film;*

wherein the first polymer film is positioned on and adhered to a surface of the second polymer film;

wherein the one or more second security features are of the same value as the at least one high value material, wherein

the first polymer film and the second polymer film are color shift films, with each color shift film exhibiting a different color shift spectrum, or the first polymer film is a micro-optic film material that projects synthetic images and the second polymer film is a film coated with an optically variable material,

the first polymer film and the second polymer film are color shift films with optically variable regions,

the first polymer film is a micro-optic film that projects synthetic images and the second polymer film is a diffraction grating film, or

the first polymer film is a color shift film and the second polymer film is a holographic film.

Claim 4:

A composite security device that comprises:

- (a) a first polymer film that constitutes or embodies one or more first security features in the form of at least one high value material, the first polymer film having a width or diameter; and
- (b) a second polymer film that constitutes, embodies, or is coated with one or more second security features, the second polymer film having a width or diameter greater than the width or diameter of the first polymer film,

wherein the first polymer film is positioned on and adhered to a surface of the second polymer film; the composite security device further comprising:

- (c) a color shift thread exhibiting a range of colors and having a width that is printed with text or other indicia;
- (d) a metalized thread that has been demetalized using a tinted resist to match one of the colors exhibited by the color shift thread, the demetalized thread having a width larger than the width of the color shift thread, wherein the color shift thread is positioned on and adhered to a surface of the demetalized thread;
- (e) optionally, magnetic bar code incorporated between the color shift thread and the demetalized thread; and
- (f) optionally, an obscuring layer applied to a back side of the demetalized thread.

VI. The wording of the claims of the auxiliary requests is not relevant for this decision.

VII. The parties' relevant arguments can be summarised as follows:

On Rule 80 EPC

The **opponent** argued that the introduction of a new,

additional independent claim based on a combination of granted claims and features from the description did not constitute an amendment occasioned by a ground for opposition and violated Rule 80 EPC.

According to the **proprietor**, both independent claims 3 and 4 were limited with respect to claim 3 as granted and fell under its scope. They were thus legitimate reactions to a ground of opposition (lack of novelty and/or inventive step) and Rule 80 EPC was thus complied with.

On added-subject matter

According to the **opponent**, the feature added in the preamble of claim 1 of the main request constituted an unallowable intermediate generalisation. The feature added in the preamble of claim 3 was not supported by the originally filed application, either.

The **proprietor** pointed to claim 15 as originally filed for support for the feature added in claim 1. As to the new feature of claim 3, it pointed to paragraph [0015] of the originally filed application for basis.

On sufficiency of disclosure

The **opponent** objected that the skilled person could not find a "consistent meaning" of several terms of the claims such as *security device*, *security document*, *sheet material or thread or strip*, and could thus neither carry out the method of claim 1 nor provide the security device of claims 3 and/or 4.

According to the **proprietor** this was an objection of lack of clarity rather than lack of disclosure. Since lack of clarity was not a ground for opposition it should not be considered. Moreover, the patent provided

definitions for these terms such that the skilled person would understand their meaning.

On lack of novelty

The **opponent** argued that E1 disclosed all features of claim 1 of the main request while E6 disclosed those of claim 3. The subject-matter of claims 1 and 3 was therefore not new.

The **proprietor** argued that E1 did not disclose a security device comprising two polymer films. E6 did not disclose a security device in the form of a strip/thread. Hence, the subject-matter of claims 1 and 3 was new.

On lack of inventive step

The **opponent** argued that the subject-matter of claim 1 of the main request was obvious to the skilled person starting from E1 in view of common general knowledge or the teaching of E6. Regarding claims 3 and 4, their subject-matter was obvious in view of a combination of E6 with the common general knowledge of the skilled person.

According to the **proprietor**, the opponent's conclusions were based on hindsight and the subject-matter of claims 1, 3 and 4 involved an inventive step.

Reasons for the Decision

1. The claimed invention
- 1.1 The invention of the opposed patent relates to security devices and a method for the production of such security devices.

- 1.2 The security devices are embedded within or mounted on the surface of security documents such as bank notes, identity cards, etc. and their purpose is to prevent copying and/or falsification.
- 1.3 The claimed security device comprises two polymer films. They both comprise security features and one film is adhered onto the other. The security features of the films can take various forms: colour shift materials, optically variable materials projecting different images depending on the viewing angle, micro-optic arrays that project synthetic images, diffraction grating patterns or holograms (see e.g. Figure 2 of the patent).
- 1.4 Regarding the manufacturing method, the first polymer film is produced as a continuous web constituting or embodying the corresponding security features. The second polymer film is also produced as a continuous web constituting or embodying the corresponding security features. The first continuous web is slit (cut) in-line into relatively narrow threads or strips and separations are introduced between them. These threads/strips are attached to the surface of the second continuous web to form a continuous composite web. This composite web can be laminated and in the end it is slit again so that the produced security devices have the form of narrow threads/strips (see e.g. Figure 3).

Main request - the patent as maintained by the opposition division

2. Amendments - Rule 80 EPC
- 2.1 The granted patent comprised two independent claims, claim 1 directed to a method for producing a composite

web, and claim 3 directed to a composite security device.

The set of claims of the patent as maintained by the opposition division, which also constitutes the current main request of the proprietor, comprises three independent claims:

- Claim 1, directed to a method for producing a composite web, which is a limited version of claim 1 as granted. Claim 1 has been amended by adding features from the description.
- Claim 3, directed to a composite security device, which is a limited version of claim 3 as granted, consisting of a combination of granted claims 3 and 10, and additional features from the description.
- Claim 4, directed to a composite security device, which is also a limited version of claim 3 as granted, consisting of a combination of granted claims 3 and 14.

2.2 The opponent objected to the introduction of an additional independent claim in relation to the fact that claim 3, besides the features of granted claims 3 and 10, comprised also features from the description. According to the opponent, under these circumstances, claims 3 and 4 did not constitute alternative embodiments falling under the scope of granted claim 3, since claim 3 comprised features from the description, which were not part of the granted claims.

2.2.1 The opponent argued further that Rule 80 EPC set strict limitations as far as amendments during opposition were concerned in that any amendment must be occasioned by a ground for opposition. The replacement of a granted claim with more than one independent claims consisting of combinations of the replaced independent claim with

granted dependent claims was only permitted as an exception to the condition set by Rule 80 EPC. In the present case, since amended independent claim 3 did not consist only of a combination of the granted independent claim with granted dependent claims, this exceptional situation did not arise and the general restriction of Rule 80 EPC applied. The main request therefore violated Rule 80 EPC.

2.3 The board notes that Rule 80 EPC does not provide any detailed provisions about how granted claims should be amended. It only prescribes that the claims (and the drawings) of a patent can be amended, *provided that the amendments are occasioned by a ground for opposition under Article 100 EPC, even if that ground has not been invoked by the opponent.*

2.3.1 It is generally accepted that, in case a claim is attacked for lack of novelty and/or inventive step, limiting the claim further by adding features is a legitimate reaction which is generally considered compliant with Rule 80 EPC. The additional limiting features can come from the description or from other claims. In general, both taking features from the description and from other claims are considered accepted practices that constitute amendments occasioned by a ground for opposition.

In the present case, claim 1 has been limited with features from the description, something that neither the opponent nor the opposition division objected to.

2.3.2 The opponent's objection is based on the fact that granted claim 3 was replaced by two independent claims, i.e. a new independent claim was added.

It is generally accepted that replacing an independent claim with two or more independent claims which are more limited than the replaced claim and fall under its scope can be considered an amendment occasioned by a ground for opposition as the proprietor tries to protect embodiments that fall under the scope of the replaced claim.

2.3.3 In the present case, both claims 3 and 4 are based on combinations of granted claim 3 with additional limiting features. The board considers that both claims 3 and 4 define embodiments which fall under the scope of granted claim 3, since they define more limited versions of granted claim 3.

2.3.4 In the board's view it is not decisive where the added limiting features are taken from, the description or other claims. As mentioned earlier, both adding features from the description and from the claims are accepted practices. Since the new independent claims represent embodiments falling under the scope of granted claim 3, the board is satisfied that the amendments are occasioned by a ground for opposition and the requirements of Rule 80 EPC are complied with.

3. Amendments - Article 123(2) EPC

3.1 The opponent argued that the feature added in claim 1 of the main request:

for partially embedding within a sheet material, or mounting on or embedding within a surface of a sheet material

constituted an intermediate generalisation which was not supported by the originally filed content of the application.

- 3.2 Both the proprietor and the opposition division referred to claim 15 and paragraph [0052] of the application as originally filed as basis for this feature (see published application).
- 3.3 The opponent pointed out that original claim 15 depended on claim 3, which, besides the fact that it defined a security device and not a method, did not mention *a composite web for making composite security devices* at all. Claim 1 of the main request related to a specific form of security devices, namely those made by a composite web, and this specification was absent from the combination of claims 3 and 15 as originally filed. Original Claim 15 was thus not an appropriate basis for the contested features.
- 3.3.1 Moreover, paragraph [0052], taken together with paragraph [0051], described that the composite web was slit to produce composite threads or strips, which were then partially incorporated in fibrous sheet materials. Even if it were to be accepted that the slitting of the web to obtain threads or strips was included in claim 1 of the main request (see feature (d)), paragraph [0052] mentioned only fibrous materials and not generally "sheet materials" as in the contested feature. Paragraph [0053] contained a more general mention of "fibrous and non-fibrous materials", but this related only to the mounting of the composite thread or strip on a surface of such a material, either during or post manufacture. Such limitations were, however, not present in claim 1 of the main request.
- 3.4 The beginning of claim 1 including the contested feature reads as follows:

A method for producing a composite web for making

composite security devices for partially embedding within a sheet material, or mounting on or embedding within a surface of a sheet material, the method comprising ...

- 3.4.1 According to the established rules for claim interpretation, especially in relation to the term "for", the above passage is to be understood as follows:

A method for producing a composite web *suitable for* making composite security devices *suitable for* partially embedding within a sheet material, or mounting on or embedding within a surface of a sheet material, the method comprising....

In other words, the claim defines a method for producing a composite web, which (the web) is suitable for making composite security devices, which in turn (the security devices) are suitable for partially embedding within a sheet material, etc.

- 3.5 In view of this interpretation the board considers that the contested feature is not a feature of the claimed method but a feature of the products produced by the method (i.e. the composite web) at best. It follows that it is a device feature and not a method feature.

Regarding the composite web missing from original claims 3 and 15, the board notes that claim 1 defines a method for producing a composite web for making composite security devices. In the board's understanding, the composite web is not a feature of the security devices but a product that is used to make the security devices. Hence, the board does not see any problem in that original claims 3 and 15 do not

comprise any composite web.

3.5.1 The board is thus convinced that claim 15 as originally filed provides the necessary basis for the contested feature.

3.6 The opponent objected also to the features added to claim 3. More particularly, the opponent argued that the addition that the composite security device was "in the form of a security thread or strip" was not supported by the content of the originally filed application.

3.6.1 The board in this case follows the opposition division and the proprietor that support for this feature can be found at least in paragraph [0015] of the originally filed application. Even if, as the opponent remarked, this paragraph states that security devices according to the application should not be limited only to the form of threads or strips, the board considers it clear that security devices in the form of threads or strips are considered to be the main embodiment of the claimed security devices.

3.7 The board's conclusion is thus that the claims of the main request comply with Article 123(2) EPC.

4. Sufficiency of disclosure (Article 83 EPC)

4.1 The opponent argued that the skilled person could not understand what was meant by "security device" and "security threads or strips" in the claims. In particular, the opponent argued that the skilled person was not able to find a "consistent meaning" for terms such as "security device", "security document", "sheet material", "thread or strip" in the application as a

whole and thus could not carry out the method of claim 1 or obtain the security device of claims 3 and/or 4.

4.2 The board takes the view that these objections of the opponent do not relate to sufficiency of disclosure but rather to clarity and possible lack thereof. Lack of clarity is not a ground for opposition and the board notes that all of these terms were present in the granted claims (see claims 1 to 3, 15 and 16 of the patent as granted).

4.3 Moreover, as the proprietor also noted, the patent provides definitions for these terms in paragraphs [0003] and [0011]. The skilled person would thus find any clarifications needed in relation to these terms in the patent and is in a position to carry out the claimed invention.

4.4 The board therefore concludes that the main request complies with the requirement of sufficiency of the disclosure (Article 83 EPC).

5. Novelty

5.1 Claim 1 with respect to E1

5.1.1 The opponent argued that E1 disclosed all the features of claim 1 of the main request.

5.1.2 E1 describes security devices ("safety elements" in E1) in the form of tapes (threads/strips) of relatively small width and how they are brought onto substrates. The safety elements are produced in the form of a continuous film which is cut into stripes shortly before being applied (embedded/adhered/transferred)

onto a substrate (see e.g. Figure 1).

5.1.3 According to the opponent, the substrate in E1 constituted a first polymer film and the safety element constituted a second polymer film in the sense of the claims. Following this interpretation, a bank note, described in one embodiment of E1 could be considered a security device in the sense of the patent. According to the opponent, a bank note could be brought onto a sheet material. Similar arguments were also presented for stamps (second embodiment in E1), whereby the stamp (comprising a substrate and a security element) corresponded to a security device and an envelope to the sheet material onto which such a security device would have been attached.

5.1.4 The board cannot follow the interpretation of E1 suggested by the opponent. E1 describes safety elements which are brought onto substrates and makes repeatedly the distinction between the security element ("Sicherheitselement") and substrate ("Substrat"), see for example paragraphs [0012] and [0015] and claim 1. Moreover, the film of such a safety element is made of plastic and the substrate is mainly of paper (see e.g. paragraphs [0015], [0031] and claims 7 and 10). In addition, with respect to the first embodiment of E1 relating to the bank note, the board holds that the skilled person would not consider the whole bank note as a security device which can be brought onto a sheet material. Rather, the bank note constitutes the final product, i.e. the security document, which comprises the sheet material (bank note paper) and the security element/device. Similar conclusions apply also to the second embodiment directed at stamps. Even it has to be considered common to adhere stamps onto envelopes, the security document itself, i.e. the one that has a value

that has to be protected is the stamp and not the envelope. Hence, it is the stamp that has to comprise the security device/element in order to protect its value and not the envelope.

The board, thus, takes the view that the substrate of E1 cannot be seen to correspond to the first polymer film of the claims of the main request, contrary to the opponent's interpretation.

5.1.5 Consequently, there is no disclosure in E1 of a safety element (security device) comprising a first and second polymer film as the one produced by the method according to claim 1 of the main request. A vague reference to the possibility that a safety element may comprise more than one plastic films (paragraph [0016]), is not considered sufficient to anticipate the features of claim 1.

5.1.6 Thus the board holds that claim 1 is novel over E1.

5.2 Claim 3 with respect to E6

5.2.1 E6 describes a security element ("Sicherheitselement") for security documents such as bank notes. The security element comprises a substrate ("Substrat") with a recession ("Substratkammer") and a film ("Folienelement") which is adhered onto the substrate. Both the substrate and the film comprise security features ("Merkmalbereich"), which combine to provide the desired security image (see e.g. Figure 2 and page 2, line 7 to page 8, line 8).

5.2.2 The parties agreed that the substrate was part of the security element, but disagreed whether E6 disclosed a security element in the form of a thread/strip.

E6 describes that the film ("Folienelement") can be in the form of a strip ("Folienstreifen"; see first lines on page 8), but there is no corresponding mention for the substrate.

According to the opponent, it was implicit that the substrate and therefore the whole security element would also have to be in the form of a strip/thread. The board is not convinced, however, that this is the case. It is noted that in the detailed description of the manufacturing method (starting on page 16) there is no mention of any slitting (cutting) of the film ("Folienelement") or the substrate. There is only a general mention that the film can also be in the form of a stripe (or thread) or a patch ("Das Folienelement 60 kann ein Folienstreifen oder auch ein Folienpatch sein"; page 17, lines 17-18). The board cannot conclude from this disclosure that the substrate is (or can be) necessarily also in the form of a strip/thread.

5.2.3 Since there is at least one feature of claim 3 (the preamble) which is not disclosed in E6, claim 3 is new over E6.

5.3 In view of the above the board concludes that the claimed subject-matter is new (Articles 52(1) and 54(1) and (2) EPC).

6. Inventive Step

6.1 Claim 1 starting from E1

6.1.1 According to the opponent, the skilled person, when starting from E1, would have had a security element (device) with one polymer film and would be faced with

the technical problem of increasing/improving the security of this security element. The opponent argued that the skilled person would have arrived at the idea to add a second polymer film to the security element in an obvious manner, either using only their common general knowledge or the teaching of E6.

- 6.1.2 The board is not persuaded by this argument of the opponent. The technical problem of improving the security of the security element of E1 can be solved in many different ways and the board is not convinced that the skilled person would consider the addition of a second film to the security element as an obvious solution using only common general knowledge. Moreover, claim 1 of the main request defines a method for producing a composite web with rather specific features. E1 does not disclose or suggest a corresponding method. In the board's view, even if the skilled person were to come up with the idea to add a second film to the security element of E1 there is nothing in E1 or in common general knowledge that would suggest that such a security element would be manufactured according to the method of claim 1.
- 6.1.3 As to the teaching of E6, the board notes that the security element in E6 comprises two films/layers which operate in combination to achieve the desired security effect (see for example Figures 7 to 10 and page 26, lines 14 to 18). Since the two films operate in combination with each other, it is not obvious why the skilled person would take only one of layers/films in isolation and add it to the security device of E1 without taking the other.
- 6.1.4 Moreover, the structure and production of the security element in E6 is significantly different from the one

in E1 so that it cannot be considered to be obvious for the skilled person to combine their teachings.

6.1.5 The board therefore concludes that the subject-matter of claim 1 of the main request involves an inventive step over E1 in combination with the skilled person's common general knowledge and the teaching of E6.

6.2 Claim 3, starting from E6

6.2.1 As concluded in the discussion on novelty, there is at least one feature of claim 3 not disclosed in E6 (see points 5.2.2 and 5.2.3 above), namely that the security element/device is formed as a thread or strip.

6.2.2 According to the opponent, providing a security element in form of a strip/thread, was merely a design choice/alternative, since a security element in the form of a strip/thread did not provide any technical advantages over one in the form of a patch, as disclosed in E6. Moreover, E6 mentioned also security elements in the forms of a strip (see page 1, lines 11 to 14), so that the skilled person had already a hint in that direction. In addition, since E6 disclosed that the (second) film ("Folienelement") could be in the form of a strip, the skilled person would also consider to provide the substrate (corresponding to the first film of the claims) in the same form.

6.2.3 These arguments do not persuade the board. The structure and operation of the security element in E6 are different from those in the patent and they would not lead the skilled person to the conclusion that the substrate should also be in the form of a strip.

As a first point the board notes that the passage on

page 1 of E6 cited by the opponent refers to the state of the art and cannot be seen as an indication that the security element described in E6 could or should be also in the form of a thread or strip.

Secondly, in the first embodiment of the security element of E6, the substrate is the security document itself ("Datenträger"). As it can be seen in Figure 2, the chamber ("Substratkammer" 24) is a recession in the bank note paper ("Banknotenpapier 20"). Hence, in this embodiment the substrate is in fact the bank note (security document) and the skilled person would never consider providing a security document in the form of a strip or thread.

Moreover, the board notes that the security element of E6 consists of a transparent "window" over a recession (see reference sign "12" in Figure 1). Both the transparent window and the recession under it comprise security features (22 and 32 in Figure 2) which combine to provide the security effect. E6 does not provide any details about the production of the film ("Folienelement") or the substrate in the way the patent does. In that context there is no mention of any continuous web of the film or the substrate, for example. The rather schematic Figure 1 does not give the impression of a security element in the form of a thread or strip. The dimensions for the recession ("Substratkammer") indicated in E6 (8x15 or 3x5 mm²; see page 28, lines 9 to 11) do not imply a strip, either; nor does the indication that additional information such as the denomination of the bank note can be printed onto the substrate on periphery of the security element ("Information ... die ... im umgebenden Bereich des Sicherheitselements auf dem Substrat angeordnet ist"; see page 26, lines 22 to 23).

The board thus takes the view that E6 rather teaches away from a substrate in the form of a thread or strip.

- 6.2.4 Regarding the question of whether this feature is a mere design choice without any technical effect, the board notes that the patent describes a detailed production method for the security device (element). The two polymer films are provided in the form of respective continuous webs, which in the course of production are cut (slit) into strips/threads. In the board's opinion, this particular form of the security device as a strip/thread relates to the described production method. In the board's view, this is not a mere design choice but rather a technical feature of a security device that has been produced or can be produced by the production method described.
- 6.2.5 The board's conclusion is therefore that the identified distinguishing feature is not obvious for the skilled person starting from E6. Since there is at least one distinguishing feature that is found to be inventive, there is no need to assess any other features that may distinguish the subject-matter of claim 3 from E6.
- 6.2.6 The board's conclusion is that the subject-matter of claim 3 is inventive with respect to E6.
- 6.3 Claim 4, starting from E6
- 6.3.1 The opponent argued that E6 disclosed all the non-optional features of claim 4 of the main request except features (c) and (d). The problem the skilled person was facing was to improve the security of the security element of E6. In view of that problem the identified distinguishing features would be obvious to the skilled

person based only on common general knowledge.

- 6.3.2 The board does not follow the opponent with respect to this argument, either. It sides rather with the proprietor, who argued mainly that features (c) and (d) were defined in such detail that they could not be considered part of common general knowledge.

It is also to be noted that E6 mentions a selection of various possible security features that could be used for the substrate and the film, none of which suggests the specific features defined in (c) and (d) (see e.g. claims 12 to 18 of E6). In the board's view, nothing in E6 would lead the skilled person towards features (c) and (d), which are thus held to be inventive.

- 6.4 For the above reasons the board concludes that the claimed subject-matter involves an inventive step (Articles 52(1) and 56 EPC).

7. Since none of the arguments of the opponent convinced the board to set the decision under appeal aside, the appeal cannot succeed (Article 111(1) EPC).

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated