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**Datasheet for the decision
of 28 April 2026**

Case Number: T 0357/24 - 3.3.03

Application Number: 14881824.8

Publication Number: 3105054

IPC: C09J7/00

Language of the proceedings: EN

Title of invention:

LINERLESS WASHABLE LABEL, APPARATUS AND METHOD FOR PREPARING A LABEL

Patent Proprietor:

UPM Raflatac Oy

Opponent:

STRAWMAN LIMITED

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Amendments - extension beyond the content of the application as filed (yes)

Decisions cited:

G 0002/10, G 0001/16



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Case Number: T 0357/24 - 3.3.03

D E C I S I O N
of Technical Board of Appeal 3.3.03
of 28 April 2026

Appellant: STRAWMAN LIMITED
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Decision under appeal: **Interlocutory decision of the Opposition
Division of the European Patent Office posted/
electronically transmitted on 2 January 2024
concerning maintenance of the European Patent
No. 3105054 in amended fo rm.**

Composition of the Board:

Chairman D. Semino
Members: F. Rousseau
W. Ungler

Summary of Facts and Submissions

- I. The appeal of the opponent lies from the interlocutory decision of the opposition division according to which European patent No. 3 105 054 as amended according to the claims of the Main Request submitted with letter of 25 August 2022, a description adapted thereto and Drawing Sheets 1 to 8 met the requirements of the EPC.
- II. The opposition division held *inter alia* that having regard *inter alia* to the disclosure on page 26, lines 25 to 30 of the application as filed the subject-matter of claim 1 of the Main Request complied with the requirements of Article 123(2) EPC.
- III. An appeal against that decision was lodged by the opponent (appellant).
- IV. With its reply to the statement of grounds of appeal, the patent proprietor (respondent) submitted Auxiliary Requests 1 to 23.
- V. In preparation of the oral proceedings, a communication pursuant to Article 15(1) RPBA conveying the Board's provisional opinion was issued. Oral proceedings before the Board were held on 28 April 2026 in the course of which all Auxiliary Requests were withdrawn.
- VI. The final requests of the parties were as follows:

The appellant requested that the decision under appeal be set aside and the patent be revoked.

The respondent requested that the appeal be dismissed.

VII. The sole claim relevant to the present decision is claim 1 of the Main Request submitted with letter of 25 August 2022 which reads as follows (compared to claim 1 of the application as filed, added features are indicated by the Board in underlined):

"1. A washable printed linerless face laminate comprising the following layers in the following order:
-a release layer comprising a release agent,
-a second layer comprising a thermoplastic polymer,
-a second adhesive layer,
-a first layer comprising a thermoplastic polymer or fiber-based material, and
-a first adhesive layer comprising a pressure sensitive adhesive,
wherein the print is on one or more printable surface(s) between the first layer and the second layer, wherein the first layer or the second layer comprises a biaxially oriented film, and wherein a total thickness of the face laminate is in a range of 20-80 μm ."

VIII. The parties' submissions, insofar as they are relevant to the present decision, may be derived from the reasons for the decision below. Essentially, they concerned the question of whether, in view of the amendment that the total thickness of the face laminate was in a range of 20-80 μm , the subject-matter of claim 1 of the Main Request extended beyond the content of the application as filed.

Reasons for the Decision

1. The appellant contests the finding of the opposition division that the subject-matter of claim 1 of the Main Request is in keeping with the requirements of Article 123(2) EPC.

In accordance with the established Case Law of the Boards of Appeal of the EPO, the relevant question to be decided in assessing whether the subject-matter of an amended claim extends beyond the content of the application as filed, is whether after the amendment the skilled person is presented with new technical information (see G 2/10, point 4.5.1 of the Reasons and Case Law of the Boards of Appeal, 11th Edition, 2025, II.E.1.3.1). In other words, the above mentioned amendment is only allowable if the skilled person would derive the resulting claimed subject-matter directly and unambiguously, using common general knowledge, from the application as filed. This test referred to as the "gold standard" was confirmed in the context of disclosed disclaimers in decision G 1/16 (points 17 and 18 of the Reasons).

Whether new technical information results from an amendment in a particular case requires a technical assessment of the overall technical circumstances of the individual case under consideration, taking into account the nature and extent of the disclosure in the application as filed.

2. It is undisputed that operative claim 1 corresponds to claim 1 of the application as filed in which among others the feature "and and wherein a total thickness

of the face laminate is in a range of 20-80 μm " has been inserted.

3. In agreement with the Reasons of the contested decision, the respondent submits that this feature finds a direct and unambiguous disclosure in the passage on page 26, lines 25 to 30, which reads as follows:

"The total thickness of the face laminate, for example a face laminate having at least the first film, the second adhesive layer and the second film together may be in the range of 20-100 μm . In one embodiment the total thickness of the face laminate having at least the first film, the second adhesive layer and the second film together is in the range of 25-80 μm , for example 30-50 μm , or even 30-60 μm ".

The respondent also stressed during the oral proceedings that claim 29 as filed which was dependent on claim 1 defined that the total thickness of the face laminate is in the range of 20-100 μm . Having regard to the common language "total thickness of the face laminate" used in dependent claim 29 and on page 26, lines 25 to 30, the skilled person would understand that the thicknesses addressed on page 26, lines 25 to 30 concerned those of the face laminate comprising in addition to the print layer, the five layers recited in claim 1 as filed, i.e. including the release layer and the first adhesive layer. The respondent pointed out at the oral proceedings that a release layer was not mentioned on page 26, lines 25-30, because it was a mandatory component of the face laminate.

4. The appellant submits as a first argument that the passage on page 26, lines 25 to 30 does not constitute

a direct and unambiguous disclosure of a total film thickness of the face laminate of claim 1 as filed in a range of 20-80 μm .

In this regard, the appellant argues that the skilled person would read this passage on page 26 with the understanding that the release layer comprising a release agent and the first adhesive layer comprising a pressure sensitive adhesive, would add additional thickness thereby potentially pushing the total thickness of the face laminate over the 80 μm upper limit (statement of grounds of appeal, page 5, first paragraph). In other words, the total thicknesses disclosed on page 26, lines 25-30 might be understood to relate to the thickness of the first film, the second adhesive layer and the second film together, but not to the total thickness of the five layers defined in claim 1 as filed.

As a second argument, the appellant brings forwards that the range of 20-80 μm for the total thickness of the face laminate comprising all layers recited in claim 1 as filed is not disclosed in the context of a layer construction comprising a biaxially oriented film for the first layer or the second layer (statement of grounds of appeal, page 4, two last paragraphs).

5. Based on the following considerations, the Board does not find in the passage on page 26, lines 25-30 of the application as filed referred to by the respondent a direct and unambiguous disclosure that the face laminate defined in claim 1 as filed may have a total thickness in a range of 20-80 μm :

5.1 It can be agreed with the respondent that the wording "at least" in the passage on page 26, lines 25-30

indicates without any ambiguity that the face laminate given in this passage as an example and having at least the first film, the second adhesive layer and the second film together, whose total thickness is defined by giving various ranges, has three or more layers (rejoinder, page 10, fourth full paragraph).

This, however, results in an apparent disconnection between the passage on page 26, lines 25 to 30 and the wording of claim 1 as filed requiring the presence of at least five layers. This disconnection is also reinforced by the use of the term "for example", as the face laminate of claim 1 as filed must comprise the first film, the second adhesive layer and the second film.

In other words, doubts arise as to whether the face laminate whose total thickness is indicated in this passage is the face laminate defined in claim 1 as filed or possibly a part of it, to which the first adhesive layer and the release layer should be added to form the face laminate of claim 1 as filed, as submitted by the appellant.

These doubts are further reinforced by the use of the term "together", which would be superfluous if the intention beyond this formulation were to define the total thickness of the face laminate in accordance with claim 1 as filed, which is confirmed by the omission of term "together" in dependent claim 29 as filed concerning the total thickness of the face laminate of claim 1.

Moreover, the information that the thickness values concerns a laminate having at least the first film, the second adhesive layer and the second film together,

while not specifying the presence of the first adhesive layer and the release layer, is given both in the first and the second sentences of that passage. This repetition reinforces the understanding that this definition is intentional, as was submitted by the appellant during the oral proceedings.

Already on that basis, the passage on page 26, lines 25 to 30 when read in the light of claims 1 and 29 as filed does not provide a direct and unambiguous disclosure that the total thicknesses indicated in this passage are those of the face laminate defined in claim 1 as filed. As a consequence, extracting specific thickness values defined in said passage, such as 80 μm , for defining the maximum thickness of the face laminate of claim 1 as filed, which contains in addition a first adhesive layer and a release layer, results in new technical information within the meaning of G 2/10. This in itself would be sufficient to conclude that the subject-matter of operative claim 1 extends beyond the content of the application as filed.

5.2 Moreover, a reading of the sentence on page 26, lines 25-30 in the light of the application as filed as a whole, in particular of the next sentence in lines 30-32 which reads "*Thinner laminates (less than 20 μm) would not be stiff enough and might disintegrate in the wash, and thicker ones might have problems in the processability and in the handling of the laminates*" provides a reasonable and plausible technical explanation as to why the first adhesive layer and the release layer are not mentioned on page 26, lines 25-30, confirming the finding in point 5.1 above.

5.2.1 As far as laminates comprising two adhesive layers are described in the application as filed, the first

adhesive layer is consistently defined to be a pressure sensitive layer. It is referred in this regard to claim 1, in line with the passages on page 2, lines 29, page 3, lines 8 and 21, page 4, line 20, page 34, last full paragraph.

According to the application as filed, the purpose of using a pressure sensitive adhesive is twofold. While it can be transferred to the article (page 8, line 17; page 45, last paragraph) in order to adhere the label on the article, it is also sensitive to the washing conditions (last paragraph of page 15 and first and second paragraphs of page 16), so that under alkaline conditions and an increased temperature of at least 50°C the label will be detached from the item, for example a bottle (page 17, last sentence of the second paragraph and last paragraph).

The purpose of the second adhesive, however, is different. It is to adhesively join the integral units (page 43, last paragraph). Based on the passage on page 42, lines 9 to 17, the first full paragraph of page 59 and page 80, lines 4-8, the skilled person is taught that the nature of the second adhesive does not lead to delamination of the first and second layer of the label, these three layers providing stiffness to the label (page 46, first full paragraph describing Figure 4b).

- 5.2.2 Accordingly, based on the disclosure of the application as filed as a whole the skilled person understands that a reasonable explanation for referring on page 26, lines 25 to 32 to the first film, second adhesive layer and second film together in conjunction with the indication than thinner layers (less than 20 µm) would not be stiff enough is that the total thickness

indicated does not define the thickness of the face laminate having the five layers defined in claim 1 as filed, but the total thickness of the three layers explicitly mentioned in that passage of the description, which as part of the face laminate of claim 1 as filed bring about the stiffness required for such a product.

- 5.2.3 Moreover, as outlined by the respondent during the oral proceedings, the laminate defined in claim 1 as filed comprises a print on one or more printable surface(s) between the first and the second layer. It can be agreed with the respondent's indication provided during the oral proceedings that such a print constitutes an additional layer of the laminate. This is illustrated in Figure 4b of the application as filed representing a laminate having the five layers recited in claim 1 as filed and a print layer 106 (application as filed, drawing sheet 2/8 and page 45, lines 8-13), i.e. in total six layers.

In this respect, the application as filed teaches that the print is on a printable surface between the first layer and the second layer (page 7, lines 7-12), providing protection against any wearing or contamination during the production, storage, transportation and use and avoiding contamination of the washing solution and/or the recyclable materials. It can be also referred to the passage on page 42, lines 17-19 of the application as filed, according to which the first and second layer attached with the second adhesive will not be separated during the washing process so the print between the layers remains sealed and does not wash out to contaminate the washing solution.

For these reasons, the use of the term "at least" on page 26, line 26 is not understood by the skilled person to allow for the presence of a release layer comprising a release agent and a first adhesive layer comprising a pressure sensitive adhesive, but rather to allow for the presence of a print layer in the part of the face laminate of claim 1 bringing about the necessary stiffness required for such type of product. The fact that this part of the laminate may comprise in addition to the first film, the second adhesive layer and the second film, additional layers such as a print layer is consistently described the application as filed (page 7, lines 7-12; page 42, lines 17-19; page 45, lines 8-13 and Figure 4b).

- 5.2.4 Also for the reasons indicated in points 5.2.1. to 5.2.3, the respondent's submissions that the subject-matter of operative claim 1 does not extend beyond the content of the application as filed, because the total thickness values defined on page 26, lines 25 to 30 are those given in respect of the total thickness of the face laminate defined in claim 1 as filed, fail to convince.

- 5.3 The Board therefore concludes that the subject-matter of claim 1 of the Main Request extends beyond the content of the application as filed, in violation of Article 123(2) EPC.

- 6. On that basis the sole pending claim request is not allowable and the patent is to be revoked.

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. Hampe

D. Semino

Decision electronically authenticated