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**D E C I S I O N**  
**of 30 June 1994**

**Case Number:** T 0671/91 - 3.2.2

**Application Number:** 87306637.7

**Publication Number:** 0255329

**IPC:** C03B 9/353

**Language of the proceedings:** EN

**Title of invention:**

Apparatus for holding mould side portions in a glassware forming machine

**Patentee:**

Emhart Industries, Inc.

**Opponent:**

(OI) Firma Hermann Heye  
(OII) Ruhrglas GmbH

**Headword:**

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**Relevant legal norms:**

EPC Art. 56

**Keyword:**

"Inventive step - (no) "

**Decisions cited:**

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**Headnote/Catchword:**

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Case Number: T 0671/91 - 3.2.2

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.2  
of 30 June 1994

**Appellant:**  
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**Decision under appeal:** Decision of the Opposition Division of the  
European Patent Office dated 30 July 1991 revoking  
European patent No. 0 255 329 pursuant to  
Article 102(1) EPC.

**Composition of the Board:**

**Chairman:** H. Seidenschwarz  
**Members:** P. Dropmann  
J. Van Moer

## Summary of Facts and Submissions

- I. The Appellant (Proprietor of the patent) lodged an appeal against the decision of the Opposition Division revoking patent No. 0 255 329.

The Opposition Division held that the grounds for opposition mentioned in Article 100(a) EPC prejudiced the maintenance of the patent, having regard essentially to documents

(D1) EP-A-0 059 573, and

(D6) DE-C-3 419 873 (apparently DE-A-3 419 873 was meant since DE-c-3 419 873 was published after the priority date of the contested patent).

- II. The Appellant requested that the decision under appeal be set aside and the oppositions rejected.

- III. The Respondents (Opponents OI and OII) requested that the appeal be dismissed.

- IV. Claim 1 of the contested patent reads as follows:

"Apparatus for holding mould side portions in a glassware forming machine, the apparatus being arranged to hold the side portions of three equally-spaced moulds, the apparatus comprising a first holder (2) by which a first side portion of each mould is held, a second holder (4) by which a second side portion of each mould is held, and moving means operable to move the first and the second holders towards one another into a closed position thereof, in which each mould side portion held by one of the holders engages a side portion held by the other holder and cooperates therewith in defining a mould cavity, or into an open

position thereof, in which the mould side portions are separated from one another, characterised in that the first holder comprises a support (12) on which the moving means acts, a first carrier (16) arranged to carry one mould side portion, and a second carrier (18) arranged to carry two mould side portions, the first carrier being pivotally mounted on the support and the second carrier being pivotally mounted on the first carrier (16); the pivotal connection (20) between the support and the first carrier, when the holders are in their closed positions, being substantially on a line (32) extending normally to a line joining the centres (5, 6, 7) of the moulds and passing through the centre (6) of the centre mould and the pivotal connection (26) between the first carrier and the second carrier being substantially on a said line (36) extending normally to a line joining the centres of the moulds and passing through a point halfway between the centre (6) of the centre mould and the centre (7) of the other mould whose side portion is carried by the second carrier (18)."

V. The Board issued a communication pursuant to Article 110(2) EPC. This communication dated 21 April 1994 and reflecting the provisional opinion of the Board read as follows:

"1. It appears that the mechanism described on the cover page of document EP-A-0 059 573 (D1), when compared by a skilled person with the figure of the contested patent, essentially anticipates the subject-matter of Claim 1 of said patent, the support (12), first carrier (16) and second carrier (18) of the claimed apparatus corresponding to the links 28, 34 and 46 respectively, of the prior art mechanism (cf. Figure 2) and the conditions mentioned in Claim 1 and concerning the pivotal connections being fulfilled (cf. D1, page 6,

lines 11 to 15 and 29 to 34, page 7, line 1 and Figure 2). In this context, it is pointed out that Claim 1 of the contested patent is not restricted to an apparatus in which the holders move arcuately about a common pivot and that the mechanism disclosed in D1 is not restricted to machines in which the holders move in a straight line (cf. D1, summary and page 2, lines 16 to 32).

Furthermore, a comparison of Claim 1 with the disclosure of D1 (cf. in particular Figures 1 and 2) shows that the only difference between the claimed apparatus and that of the prior art seems to result from the fact that the feature of Claim 1, that the carriers 16, 18 are arranged to carry mould side portions, may be understood to mean that the carriers are arranged to carry **directly** the mould side portions, whereas the links 34, 46 of the prior art mechanism are connected to the mould side portions via links and levers.

In the light of the disclosure of document D1 alone and, in particular, the mechanical principle described in D1 of equalising the mould closing pressures of three moulds, it appears that the apparatus according to Claim 1 does not meet the requirements of Articles 52(1) EPC in combination with Article 56 EPC or, depending on the interpretation of Claim 1 (see the preceding paragraph), even with Article 54(1) and (2) EPC.

2. Even if Claim 1 were to be restricted to an apparatus comprising arcuately moveable holders and carriers **directly** carrying the mould side portions, such an apparatus would appear not to involve an inventive step (Article 56 EPC). Starting from an apparatus for holding the mould side portions of

three equally-spaced moulds as known, for example, from documents US-A-3 472 639 (D2), US-A-3 607 207 (D4) or GB-A-1 337 292 (D5), and being faced with the objective problem of improving pressure equalisation, the skilled person would, without exercising any inventive skill, modify the prior art apparatus by utilising the mechanical principle (system of links) clearly set out in document D1 as means for equalising the mould closing pressures of three moulds.

3. Hence, it appears that the appeal cannot be allowed."

VI. In response to the communication, the Appellant informed the Board with the letter of 6 June 1994 that it did not wish to file any further observations.

#### **Reasons for the Decision**

1. The appeal is admissible.
2. The Board has reconsidered its arguments set out in the communication of 21 April 1994 (cf. point V above). It has come to the same conclusion, i.e. that the apparatus according to Claim 1 does not meet the requirements of Articles 52(1) EPC in combination with Article 56 EPC or, depending on the interpretation of Claim 1, even Article 54(1) and (2) EPC.

The Appellant, indicating that it did not wish to file any further observations, did not refute the arguments of the Board.

3. Hence, the grounds for opposition mentioned in Article 100(a) EPC prejudice the maintenance of the contested patent.

**Order**

**For these reasons, it is decided that:**

The appeal is dismissed.

The Registrar:



S. Fabiani

The Chairman:



H. Seidenschwarz

