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(B)  To Chairmen and Members  
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**D E C I S I O N**  
of 26 July 1994

**Case Number:** T 0044/94 - 3.2.1

**Application Number:** 91202874.3

**Publication Number:** 0486093

**IPC:** B62D 25/10

**Language of the proceedings:** EN

**Title of invention:**  
Body panel for a vehicle

**Applicant:**  
Hoogovens Groep B.V.

**Opponent:**  
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**Headword:**  
-

**Relevant legal norms:**  
EPC Art. 56, 111(1)

**Keyword:**  
"Inventive step - closest state of the art"  
"Decision re appeals - remittal (yes)"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0044/94 - 3.2.1

**D E C I S I O N**  
**of the Technical Board of Appeal 3.2.1**  
**of 26 July 1994**

**Appellant:** Hoogovens Groep B.V.  
P.O. Box 10.000  
NL-1970 CA IJmuiden (NL)

**Representative:** Van Breda, Jacobus, Mr. Ir.  
Hoogovens Groep B.V.  
P.O. Box 10.000  
NL-1970 CA IJmuiden (NL)

**Decision under appeal:** Decision of the Examining Division 2.3.06.079 of  
the European Patent Office dated 20 September 1993  
refusing European patent application  
No. 91 202 874.3 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** F. Gumbel  
**Members:** S. Crane  
B. Schachenmann

### Summary of Facts and Submissions

1. European patent application No. 91 202 874.3 was refused by a decision of the Examining Division dated 20 September 1993.
2. That decision was based on the application documents as originally filed which contained twelve claims.

Independent Claims 1 and 10 read as follows:

"1. Body panel for a vehicle intended for use as an exterior part of the vehicle, comprising a sheet (2) formed of one or more layers, and an elongate supporting structural member (3) of uniform cross-sectional shape along its length connected to the sheet (2) so as to follow the shape of the sheet, characterized in that as seen looking at a face of the sheet (2) the structural member has at least one bend (10, 11, 13) and portions extending away from said bend."

"10. Body panel for a vehicle intended for use as an exterior part of the vehicle comprising a sheet (2) comprising at least one layer, and an elongate supporting structural member (3) connected to the sheet for support of the sheet and mounting of the sheet to the vehicle, the supporting structural member (3) following the shape of the sheet (2) characterized in that as seen looking at a face of the sheet, the structural member (3) has along its length at least two bends (10, 11, 12) of opposite directions."

Dependent Claims 2 to 9, 11 and 12 relate to preferred embodiments of the body panel according to Claim 1 or 10 respectively.

The reason given for the decision was that the subject-matter of Claims 1 and 10 resulted in an obvious manner from the teachings of EP-A-0 146 716 (D1) when taken in conjunction with the common knowledge of the skilled man, so that this subject-matter lacked inventive step (Articles 52(1) and 56 EPC).

- III. An appeal against this decision was filed on 16 November 1993 and the appeal fee paid on the same date. The Statement of Grounds of Appeal was filed on 5 January 1994.

The Appellants (Applicants) requested that the contested decision be set aside and a patent granted on the basis of the application originally filed (main request), or in the alternative, on the basis of Claims 1 to 10 filed with the Statement of Grounds.

- IV. In support of their requests the Appellants argued that document D1 was not concerned with car body panels and did not address the problem with which the present invention was concerned of providing a body panel having the required strength and rigidity despite being of reduced weight.

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

1. The appeal complies with the requirements of Articles 106 to 108 and Rules 1(1) and 64 EPC. It is, therefore, admissible.
2. Document D1, which was introduced into the proceedings by the Examining Division in its first (and only) communication, relates to a space frame for a vehicle comprised of light metal extruded tubular members connected to each other by light metal junction pieces. From Figure 1 it is apparent that one of the tubular

members (designated with the reference numeral 49, but not mentioned in the description) is bent. Document D1 makes no reference to attachment of body panels to the space frame disclosed. However, it is argued in the contested decision that it is evident that when a body panel is attached to the bent tubular member 49 this will be done along the length of that member. Given the position of the tubular member 49 in the space frame, in which it apparently constitutes a rear door post, that contention of the Examining Division is probably correct. It is, however, then concluded in the contested decision that the attachment of a body panel to the tubular member 49 results in a body panel as defined in Claim 1 and 10 of the application. The Board cannot accept that view. Claims 1 and 10 are clearly directed to a body panel which is an entity comprising as an essential element thereof a supporting structural member suitable for mounting the panel on a vehicle. A notional conventional body panel attached to the tubular member 49 of document D1 clearly does not comprise such a supporting structural member, since the tubular member 49 is not an element of the body panel but of the space frame.

It must in any case be pointed out that as far as can be seen from Figure 1 of document D1, the tubular member 49 does not appear to be bent in such a way that this would be seen when looking at the face of the sheet of the body panel, as required by present Claims 1 and 10. It is much more likely that the bent form of the tubular member 49 is to accommodate a correspondingly curved form of the associated body panel, so that the tubular member would appear straight when looking at the face of the sheet of the body panel.

From the above it is apparent that the reasoning of the contested decision does not stand up to examination so that the decision must be set aside.

3. In the introductory description of the application four documents are mentioned as relating to relevant background art. One of these, JP-A-57178925 (D2), discloses a body panel for a vehicle with one or more reinforcing beams of uniform profile along their length adhesively secured to the inside of the body panel sheet. As shown in the drawings the beam or beams is/are straight when seen looking at the face of the sheet.

Although this is not expressly indicated in the application it would appear that the preambles of Claims 1 and 10 have been based on document D2 and that accordingly the Appellants are of the opinion that this document constitutes the most relevant state of the art. The Board shares that opinion. In order to evaluate the inventive step of the claimed invention it will therefore be necessary to establish the technical problem to be solved in relation to this state of the art and to determine, taking into account the other prior art documents in the proceedings and the common general knowledge of the skilled man, whether the solutions to this problem proposed in the independent claims are obvious. Since these essential steps for a proper evaluation of inventive step have not yet been undertaken by the Examining Division the Board makes use of its power under Article 111(1) EPC to remit the case in order to give the Appellants the opportunity, if needs be, to argue their case before 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 Examining Division for further prosecution.

The Registrar:

The Chairman:

J. Ruckerl

F. Gumbel

