

Internal distribution code:

- (A) [] Publication in OJ
(B) [] To Chairmen and Members
(C) [X] To Chairmen

D E C I S I O N
of 24 July 1998

Case Number: T 0771/96 - 3.2.5

Application Number: 92118013.9

Publication Number: 0545055

IPC: B29C 51/14

Language of the proceedings: EN

Title of invention:

Process for producing shaped articles by starting from reinforced thermoplastic sheets

Applicant:

Montell Italia S.p.A.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 54, 111(1)

Keyword:

"Novelty (yes), remittal to first instance (yes)"

Decisions cited:

-

Catchword:

-



Europäisches
Patentamt

European
Patent Office

Office européen
des brevets

Beschwerdekammern

Boards of Appeal

Chambres de recours

Case Number: T 0771/96 - 3.2.5

DECISION
of the Technical Board of Appeal 3.2.5
of 24 July 1998

Appellant: Montell Italia S.p.A.
Via Pergolesi 25
20124 Milano (IT)

Representative: Zanoli, Enrico
Montell Italia S.p.A.
Intellectual Property
Patents and Trademarks
Via Pergolesi, 25
20124 Milano (IT)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 1 April 1996
refusing European patent application
No. 92 118 013.9 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. Burkhart
Members: C. G. F. Biggio
M. K. S. Aúz Castro

Summary of Facts and Submissions

- I. The appellant (applicant) lodged an appeal against the decision of the examining division refusing the application No. 92 118 013.9.

The examining division held that the subject-matter of claim 1, as filed by the applicant with letter dated 3 May 1995 (received on 5 May 1995), was not novel with respect to the disclosure of document D1: FR-A-2 627 127.

- II. Claim 1 reads as follows:

Process for vacuum-thermoforming or blow-moulding reinforced thermoplastic sheets to form hollow manufactured articles, **characterized** in that said process comprises the steps of endowing at least one sheet with gas tightness characteristics, position said gas-tight, heated, sheet on a half-mould provided with at least one hollow, and give said gas-tight sheet the desired end form inside the mould hollow, by means of a pressure differential between the two opposite faces of said sheet.

- III. The Appellant argued essentially as follows:

In the process disclosed by document D1, the starting material for forming the hollow manufactured articles was a "nappe" impregnated with duroplastic material. Such a "nappe" lacked consistency and was not self-supporting and, therefore could not be construed as sheet material.

Since the feature of Claim 1, according to which "reinforced **thermoplastic sheets**" were used as the starting material, was not contained in the process according to document D1, the process claimed by Claim 1 was novel with respect to this prior art process.

- IV. The Appellant requested that the decision under appeal be set aside and the case be remitted to the first instance for further examination on inventive step.

Reasons for the Decision

1. *Novelty*

Document D1 (see: claim 7) discloses a process for vacuum or blow-moulding an air-permeable material to form hollow manufactured articles, comprising the step of covering the air-permeable material with a layer or a sheet, which is non-permeable to air, placing said layered material in a half-mould provided with at least one hollow, heating said layered material and applying positive or negative pressure on said layered material in order to produce the desired end form of the material within the mould hollow.

The air-permeable starting material used in this process for forming the final hollow articles consists of a soft, flabby, fleece-like body comprising fibres impregnated with duroplastic resins or a foam of polyurethane (see: page 1, lines 25 to 34 of D1). Such a soft, flabby, fleece-like body of fibres cannot be construed as a sheet material implying the properties of consistence and self-support.

The process according to claim 1 of the present application differs from the process according to document D1 in that the starting material for forming the final hollow articles is a reinforced **thermoplastic sheet**. Therefore, the process according to claim 1 is novel with respect to the process disclosed by document D1.

2. *Remittal to the first instance*

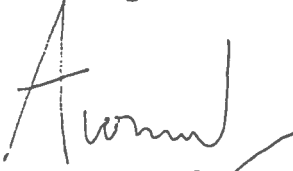
Since in the present case the examining division has not yet examined the issue of inventive step with respect to claim 1, the Board exercises its discretion under Article 111(1) EPC to remit the case to the examining division for further prosecution.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance for further prosecution.

The Registrar:


A. Townend

The Chairman:


A. Burkhart

