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D E C I S I O N
of 6 March 2003

Case Number: T 0201/00 - 3.2.5

Application Number: 91109020.7

Publication Number: 0487817

IPC: B29C 45/76

Language of the proceedings: EN

Title of invention:

A press for injection molding plastics materials

Patentee:

OIMA S.p.A

Opponent:

Battenfeld GmbH

Headword:

-

Relevant legal provisions:

EPC Art. 83, 56

Keyword:

"Sufficiency of disclosure (yes)"

"Inventive step (no)"

Decisions cited:

T 0003/90

Catchword:

-



Case Number: T 0201/00 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 6 March 2003

Appellant: OIMA S.p.A.
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I-31040 Signoressa di Trevignano (TV) (IT)

Representative: Cantaluppi, Stefano
Jacobacci & Partners S.p.A.
Via Berchet, 9
I-35131 Padova (IT)

Respondent: Battenfeld GmbH
(Opponent) Scherl 10
D-58540 Meinerzhagen (DE)

Representative: Gosdin, Michael, Dr.
Battenfeld Service GmbH
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 11 April 2000
revoking European patent No. 0 487 817 pursuant
to Article 102(1) EPC.

Composition of the Board:

Chairman: W. Moser
Members: W. Widmeier
H. M. Schram

Summary of Facts and Submissions

- I. The appellant (patent proprietor) lodged an appeal against the decision of the Opposition Division revoking European patent No. 0 487 817.

Notice of opposition had been filed against the patent as a whole based on Article 100(a) EPC (lack of novelty and lack of inventive step) and Article 100(b) EPC.

The Opposition Division held that both the ground for opposition of lack of inventive step (Articles 100(a), 56 EPC) and the ground for opposition of lack of sufficient disclosure (Articles 100(b), 83 EPC) prejudiced the maintenance of the patent as amended during the opposition procedure.

- II. The appellant requested that the decision under appeal be set aside and that the patent be maintained on the basis of claim 1 filed on 24 June 1998. As an auxiliary measure, the appellant further requested oral proceedings.

The respondent (opponent) requested that the appeal be dismissed and, as an auxiliary measure, that oral proceedings be held.

- III. Oral proceedings were scheduled for 29 October 2002. On 9 September 2002, the appellant informed the Board that he would not take part at the oral proceedings.

- IV. By a communication dated 30 September 2002, the Board informed the parties that (i) the written declaration of the appellant to the effect that he would not take part at oral proceedings was to be interpreted as a

withdrawal of his auxiliary request for oral proceedings in accordance with decision T 3/90 (OJ EPO 1992, 737), that (ii) the subject-matter of the single claim of the patent in suit did not involve an inventive step for the reasons given in the communication, that (iii) the appeal would probably have to be dismissed, and that (iv) under the circumstances oral proceedings would be cancelled and the appeal proceedings continued in writing with the final decision. The appellant did not reply to the communication.

V. By a communication dated 15 October 2002, the Board informed the parties that oral proceedings had been cancelled. The appellant did not file any observations.

VI. The single independent claim reads as follows:

"1. A press (1) for injection molding plastics materials, comprising:

- machine operational members (3) to be operated by an electric control apparatus (4) to carry out the steps of the molding cycle in conformity with respective adjustable parameters,
- a power sensor (6) associated with an electric power supply line (5) to said apparatus (4), and effective to take on a continuous basis a measurement of the power draw by said machine operational members (3),
- a computer (10) supplied with said power measurement and a display (13) associated with said computer,

characterized in that said computer (10) is continuously supplied with said power measurement to output an energy measurement, and said display (13) is

supplied with said energy measurement to have it displayed during the molding cycle, thereby said parameters can be adjusted to suitable values to minimize the amount of energy delivered to the cycle."

VII. The following document was in particular referred to in the appeal procedure:

D1 "Energiesparen beim Spritzgießen",
PLASTverarbeiter 33, 1982, no. 5, pages 549 to 553

VIII. The appellant argued essentially as follows:

Unlike the device described in document D1, the device according to claim 1 of the patent in suit displays the consumed energy rather than the power consumption. This constitutes a significant difference and offers the advantage of an easier and better adjustment of the machine parameters. Document D1 teaches to display power consumption. For this reason this prior art solution does not allow the same machine adjustment as the device of the patent in suit.

Furthermore, the patent in suit clearly and unambiguously teaches to display the energy measurement so that the requirements of Article 83 EPC are fulfilled.

IX. The respondent argued essentially as follows:

Claim 1 of the patent in suit specifies that respective adjustable parameters can be adjusted to suitable values. However, the patent in suit does not supply sufficient information about these parameters and their suitable values. It is not clear for a skilled person

which parameters are the adjustable ones and which values of the parameters are the suitable ones. A skilled person is therefore not able to carry out the claimed subject-matter so that the requirements of Article 83 EPC are not met.

Document D1 refers explicitly to a measurement of the energy consumption of the injection moulding device. The respective measurement device comprises a display which shows at the end of a machine cycle the energy consumed during this cycle. The subject-matter of claim 1 of the patent in suit differs therefrom only in that it displays the energy consumption already during the cycle. This difference, however, is not inventive because also the measurement device of document D1 has to sense power during the complete cycle so that it would be possible to display the consumed energy also at a time within the cycle.

Reasons for the Decision

1. *Sufficiency of disclosure*

The patent in suit describes in general terms that a power sensor delivers a signal to a computer which calculates the consumed energy. The result of the calculation is displayed on a video screen. Thus, the operator is able to see, at the end of, or during a moulding cycle, how much energy has been consumed up to the end of the cycle or up to a certain time within the cycle. He then can adjust those parameters of the press which have an influence on the energy consumption. The person skilled in the art of injection moulding knows from his common general knowledge which parameters are

relevant in that respect, and, by trial and error, the operator can find a combination of parameters which leads to a minimum energy consumption.

The Board is therefore satisfied that the person skilled in the art is able to carry out the claimed subject-matter without undue burden so that the requirements of Article 83 EPC are met.

2. *Novelty*

Document D1 discloses a press for injection moulding plastics material (cf. page 549, Figure 1), comprising machine operational members to be operated by an electric control apparatus to carry out the steps of the moulding cycle in conformity with respective adjustable parameters (cf. page 550, left column, first complete paragraph to page 553, right column, second paragraph). Document D1 also discloses a measurement device which displays the energy consumption at the end of a production cycle (cf. page 553, right column, chapter "Wirkleistungsmeßgerät ..."). In order to perform this function, the measurement device must comprise a power sensor to continuously measure the power drawn the press, and a calculating device to output the energy measurement. By means of this measurement device it is possible to adjust the adjustable parameters to suitable values to minimize the amount of energy delivered to the cycle (cf. page 553, right column, last paragraph).

The subject-matter of claim 1 of the patent in suit differs therefrom in that a computer is defined which is continuously supplied with the power measurement and that the energy measurement is displayed during the

moulding cycle.

3. *Inventive step*

The Board considers document D1 to be the closest prior art. Document D1 does not explicitly state that a computer is used. However, the use of a computer to replace a conventional calculating device is an obvious modification, because already at the relevant date of the patent in suit it was common general practice to replace conventional calculating and/or measurement devices for obvious reasons by computers or computerized devices.

Document D1 is silent about whether or not the energy consumption can be read during a cycle. However, this does not mean that reading the energy consumption during a cycle is impossible. Figures 3 to 8 of document D1 show that it is of interest to consider the various phases of a moulding cycle with respect to their energy consumption. It is therefore obvious to read the energy consumption during a cycle and, if necessary, to modify the measurement device of document D1 accordingly. Consequently, the further difference of the subject-matter of claim 1 of the patent in suit with respect to document D1, namely that the energy measurement is displayed during the moulding cycle, is an obvious one.

Thus, the features which distinguish the subject-matter of claim 1 of the patent in suit from document D1 are not based on an inventive step (cf. Article 56 EPC).

4. *Procedural matter*

Based upon the facts of the case as set out under points II to V above, oral proceedings could be dispensed with.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

E. Görgmaier

W. Moser