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D E C I S I O N
of 19 July 2005

Case Number: T 1150/04 - 3.2.5

Application Number: 99125203.2

Publication Number: 1013461

IPC: B41M 1/26

Language of the proceedings: EN

Title of invention:

Method for reproducing images or text on a metalized
holographic 2D, 3D colored film

Applicant:

VENETA DECALCOGOMME S.R.L

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 83

Keyword:

"Sufficiency of disclosure (no) "

Decisions cited:

-

Catchword:

-



Case Number: T 1150/04 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 19 July 2005

Appellant: VENETA DECALCOGOMME S.R.L.
Via Albettoniera, 44
IT-35030 Bastia di Rovolon (PADOVA) (IT)

Representative: Jorio, Paolo, Dr. Ing.
Studio Torta S.r.l.,
Via Viotti, 9
IT-10121 Torino (IT)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 24 March 2004
refusing European application No. 99125203.2
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: W. Moser
Members: P. E. Michel
W. R. Zellhuber

Summary of Facts and Submissions

I. The appellant (applicant) lodged an appeal against the decision of the Examining Division refusing European patent application No. 99 125 203.2.

The Examining Division held that the application lacked a sufficient disclosure and hence did not comply with the requirements of Article 83 EPC.

II. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the following documents filed on 17 June 2005:

(i) claims 1 to 8 as main request; or

(ii) claims 1 to 8 as first auxiliary request.

III. Oral proceedings before the Board of Appeal took place on 19 July 2005.

IV. The following documents are referred to in the present decision:

E1: explicative drawings, filed on 12 September 2003

E2: translation of Court Appointed Technical Report,
Padova court

E3: Abstract of JP-A-63 295 255

E4: Abstract of JP-A-62 138 282

V. Claim 1 of both the main request and the first auxiliary request of the appellant reads as follows:

"1. A method for reproducing images or text on a metalized holographic film, characterized in that said method comprises the steps of coupling, by laminating, a bottom metalized holographic film to a second film, having an adhesive mass coated thereon, spreading on said bottom film a copolymeric primer, printing an activated basic substance thereon, removing, by stages, by demineralized water and decanting, a formed crystallized material, forcibly drying in a hot bed air system, reinforcing the thus made material, and printing thereon said images or text by using polymeric colors."

VI. In connection with the issue of whether or not the requirements of Article 83 EPC are satisfied, the appellant has argued substantially as follows.

In spite of the presence of some errors and obscurities and a lack of detail in the description, it is nevertheless possible for the person skilled in the art to reproduce the invention without an undue burden of experimentation.

From the introduction to the description, the person skilled in the art would understand that the application relates to the field of transfers for reproducing images on objects.

Paragraph [0016] of the description discloses that the method according to the invention involves the removal of metalized or holographic portions. It is evident that it is the printing of the basic substance which causes the removal of unwanted metalized portions.

The person skilled in the art knows that the only appropriate printing method is screen printing. There are two alternative methods of screen printing available. One involves applying the primer as a continuous layer, portions of which are subsequently removed. The other involves applying the primer through a masked screen, so that the primer is applied as a negative image, as shown in document E1. The person skilled in the art reading the application would know that the second method is intended.

The term "spreading" does not necessarily mean that a continuous layer is formed. The dictionary definition of the word refers to scattering and does not exclude the formation of a discontinuous layer.

The term "activated basic substance" is clear, the term "activated" referring to an increase in chemical reactivity. It is not relevant in what manner the substance has been activated, for example, by heating, with the presence of a catalyst or otherwise.

The only substance mentioned which is capable of removing the unwanted metalized portions is the basic substance. It is clear to the person skilled in the art that the crystallized material mentioned in claim 1 is formed from the reaction between the basic substance and the metalized holographic film. Any basic substance may be used.

The presence of sodium chloride in the basic substance is merely to increase the viscosity of the substance. Whilst carboxylic acid may be present, the pH value of the substance would still be greater than 7.

The use of etching inks is a routine matter for the person skilled in the art as demonstrated by documents E3 and E4.

The person skilled in the art would realize that a conventional method for reproducing images or text on a metalized holographic film is intended, with the differences that a basic substance rather than an acid is to be used together with 28% sodium chloride, and a copolymeric primer is used to delimit the etching zones.

The application thus discloses the invention in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, so that the requirements of Article 83 EPC are satisfied.

Reasons for the Decision

1. Main Request

- 1.1 Claim 1 refers to "spreading on said bottom film a copolymeric primer". According to the explicative drawings constituting document E1, in order to obtain an image, it is necessary to print the primer on the bottom film in a manner corresponding to a negative of the desired image, that is, in a discontinuous layer. This is not disclosed in the application. Paragraph [0019] of the description states that "On the bottom film a copolymeric vinylchloride-vinylacetate primer is coated, with a deposition rate of 28 grams/m²". There is nothing in the application as filed to indicate that the layer of primer is not continuous,

and, in the absence of such an indication, it can only be understood that a continuous layer of a copolymer is formed by spreading. The dictionary definition of the term "spread" does not contradict this interpretation. Whilst the term can refer to scattering of discrete objects, when used to refer to a liquid or paste, it will be understood as forming a substantially continuous layer.

- 1.2 Claim 1 further refers to "printing an activated basic substance thereon". Firstly, it is noted that the basic substance is to be printed as opposed to be spread. In contrast with the disclosure of the mode of application of the primer, this could be understood as referring to an application of the substance in a discontinuous manner corresponding to an image or pattern.

It is, however, not clear what is to be understood by the term "activated basic substance". The term "activated" does not have a clear meaning in the art. Insofar as the term should be understood as referring to an increased chemical activity, it is not clear what chemical reaction is concerned. Paragraph [0020] of the description, as amended according to the main and first auxiliary requests, indicates that the desired activation can be achieved by the addition of carboxylic acid. This does not, however, amount to a teaching which would enable the person skilled in the art to utilise an "activated basic substance".

There is no clear disclosure of the composition of the basic substance and, in particular, of a component which renders the substance basic. If it were to be assumed that the primer is discontinuously applied,

then it would be necessary that the substance does not dissolve the primer whilst being capable of dissolving the metalized layer. On the other hand, if it were to be assumed that the primer is continuously applied, then it would be necessary that the substance dissolves the primer as well as the metalized layer.

It is thus not possible to accept the argument that it is not relevant that the application does not make it clear whether or not the primer is continuously or discontinuously spread, since the two methods require different basic substances.

Paragraph [0020] of the description of the application as filed indicates that "a basic substance containing therein 28% of 99% sodium chloride is printed thereon by activating it in carboxylic acid and isoprotenylacetate and by diluting it in 1-4N methylpyrrolidone-methylbutyldactone with a deposition of 11.4 grams/m² while crystallizing at 40°C under a forced air flow". In the corresponding paragraph according to both the main and first auxiliary requests, the words "and isoprotenylacetate and by diluting it in 1-4N methylpyrrolidone-methylbutyldactone" have been deleted. In any case, this description is not sufficient to enable a person skilled in the art to prepare a suitable basic substance.

Whilst, according to document E2, expert witnesses understood that a degreasing agent referred to by the trade name "Autopaste" was intended, the Board does not accept that the person skilled in the art, exercising ordinary skill and knowledge, and having read the application with a will to understand the teaching

thereof, would appreciate that this compound should be used.

Whilst reference has been made to documents E4 and E5 as showing acid and basic etching inks, there is nothing in the application which would lead the person skilled in the art to apply the teaching of these documents. These documents, being abstracts of Japanese patent applications, further cannot be regarded as representing the general knowledge of the person skilled in the art.

1.3 When following the series of steps as set out in claim 1 and referring to the remainder of the specification for possible clarification or explanation of these steps, the person skilled in the art does not obtain instructions enabling the reproduction of images or text on a metallised holographic film. In particular, the steps of spreading on said bottom film a copolymeric primer, and printing an activated basic substance thereon are not disclosed in a manner sufficient for the person skilled in the art to carry out the invention.

1.4 The application according to the main request thus does not satisfy the requirements of Article 83 EPC.

2. *Auxiliary Request*

2.1 The amendments contained in the first auxiliary request as compared with the main request are restricted to claims 3 and 4 and do not affect the arguments set out above in respect of the main request.

2.2 The reasons for considering that the requirements of Article 83 EPC are not satisfied in respect of the main request thus also apply to the auxiliary request.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Sauter

W. Moser