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**Datasheet for the decision  
of 4 May 2010**

**Case Number:** T 1257/07 - 3.2.05

**Application Number:** 98900844.6

**Publication Number:** 1058612

**IPC:** B29C 45/16

**Language of the proceedings:** EN

**Title of invention:**

Procedure and machinery for the moulding of an assembled object

**Patentee:**

GRAM, Jes Tougaard

**Opponent:**

FOBOHA GmbH Formenbau

**Headword:**

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**Relevant legal provisions:**

EPC Art. 54, 69, 113(1)

**Relevant legal provisions (EPC 1973):**

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**Keyword:**

"Novelty, main and auxiliary request (no)"

**Decisions cited:**

-

**Catchword:**

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Case Number: T 1257/07 - 3.2.05

**DECISION**  
of the Technical Board of Appeal 3.2.05  
of 4 May 2010

**Appellant I:**  
(Patent Proprietor) GRAM, Jes Tougaard  
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**Representative:** Jensen, Peter Kim  
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**Appellant II:**  
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**Representative:** Lagler, Louis  
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**Decision under appeal:** Interlocutory decision of the Opposition  
Division of the European Patent Office posted  
29 May 2007 concerning maintenance of the  
European patent No. 1058612 in amended form.

**Composition of the Board:**

**Chairman:** W. Zellhuber  
**Members:** W. Widmeier  
E. Lachacinski

## Summary of Facts and Submissions

- I. Appellant I (patent proprietor) and appellant II (opponent) lodged appeals against the interlocutory decision of the Opposition Division maintaining European patent No. 1 058 612 in amended form.

The Opposition Division held that the grounds of opposition under Article 100(a) EPC (lack of novelty, Article 54 EPC, and lack of inventive step, Article 56 EPC) and Article 100(c) EPC did not prejudice the maintenance of the patent in amended form.

- II. Oral proceedings before the Board of Appeal were held on 4 May 2010 in the absence of appellant I.

Appellant I had informed the Board on 28 April 2010 that he did not intend to be represented at the oral proceedings.

- III. Appellant I has requested in writing that the decision under appeal be set aside and that the patent in suit be maintained as granted and, as auxiliary measure, that the appeal of appellant II be dismissed.

- IV. Appellant II requested that the decision under appeal be set aside and that the European patent No. 1 058 612 be revoked in its entirety.

- V. Claim 1 of the main request (claim 1 as granted) reads as follows:

"1. Procedure for the production of one in at least two subsequent castings moulded object in a mould consisting of at least three mould parts, where at

least one middle part (3) are placed between the preferably stationary front part (1) and the movable back part (2), which middle part (3) after the moulding of the first part of the object (5) are turned at least one time 180 degrees around an axis/axle (4), preferably being at a right angle to the movement direction between the front part (1) and the back part (2), before the moulding of the following part of the object (10) characterized by holding-down the object in the mould at a following moulding more strongly than holding-down the object in the mould at the previous moulding, whereby it becomes possible to move the first part of the moulded object (5) in the direction from the front part (1) of the mould via the middle part (3) to the back part (2) of the mould."

Claim 1 of the auxiliary request (claim 1 as maintained by the Opposition Division) reads as follows:

"1. Procedure for the production of one in at least two subsequent castings moulded object in a mould consisting of at least three mould parts, where at least one middle part (3) are placed between the preferably stationary front part (1) and the movable back part (2), which middle part (3) after the moulding of the first part of the object (5) are turned at least one time 180 degrees around an axis/axle (4), preferably being at a right angle to the movement direction between the front part (1) and the back part (2), before the moulding of the following part of the object (10) wherein by holding-down the object in the mould at a following moulding more strongly than holding-down the object in the mould at the previous moulding, it becomes possible to move the first part of

the moulded object (5) in the direction from the front part (1) of the mould via the middle part (3) to the back part (2) of the mould, characterized in the material of the at least two moulded parts of the object (5) and (10) being the same thermo plastic material."

VI. In his notice of appeal appellant II has referred among other documents to document

D3: EP-B-0 249 703.

VII. In a communication attached to the summons for oral proceedings the Board hinted to document D3 as possibly novelty destroying for the subject-matter of claim 1 of the main request. Appellant I has had the opportunity to comment on the arguments brought forward by appellant II and the Board with respect to document D3 (Article 113(1) EPC). However appellant I neither responded to the notice of appeal of appellant II nor to said communication of the Board. Thus, appellant I has not presented any arguments as to document D3.

VIII. The arguments of appellant II in the written and oral proceedings can be summarised as follows:

Document D3 discloses a procedure for the production of one in at least two subsequent castings moulded object in a mould consisting of at least three mould parts (cf. column 1, lines 3 to 13), where at least one middle part is placed between a stationary front part and a movable back part (cf. column 6, starting from line 26, and figures 1 to 6), which middle part after the moulding of the first part of the object is turned

at least one time 180 degrees around an axis being at a right angle to the movement direction between the front part and the back part, before the moulding of the following part of the object (cf. column 8, line 30, to column 9, line 35). Document D3 further discloses that the first part of the object remains at the prismatic middle part while being transported from the first to the second moulding station and that it is then possible to eject the finished object from the mould-half of the back part (cf. column 1, lines 42 to 54, and column 9, lines 30 to 35). This is only possible if the object is transferred from the middle part to the mould-half of the back part. The patent in suit does not contain a limiting definition of the expression "same thermoplastic material". Thus, thermoplastic materials as described in document D3 which differ only in their colour or tint (cf. column 3, lines 12 to 15) fall under the corresponding wording of claim 1.

Thus, document D3 discloses all features of the subject-matter of claim 1 of the main and of the auxiliary request. The subject-matter of these claims therefore lacks novelty.

### **Reasons for the Decision**

1. Document D3 discloses the production of an object which is moulded in two subsequent steps (cf. column 5, lines 31 to 39). The moulding apparatus has a stationary front part 1, a middle part 13, and a movable back part 9 (cf. Figure 1). A first part of the object is moulded in mould-halves 3 and 21 which are fixed at the front part and the middle part,

respectively. After opening of the mould the first part of the object remains at mould-half 21 of the middle part 13. The middle part is rotatable about an axis 15 so that after a 180° rotation (two steps of 90°) of the middle part the first part of the moulded object is located in front of mould-half 10 of the movable back part 9. In a second moulding step the second part of the object and thus the finished object is moulded in mould-halves 10 and 21 (cf. column 8, line 30 to column 9, line 19). In one embodiment of document D3 the finished moulded object remains in form-half 10 when the form is opened and is ejected from there by an ejector (cf. column 9, lines 30 to 35). Thus, in this embodiment, the object remains at the form-half of the back part 9 after the second moulding step.

This movement of the object from the first form-half 3 via the rotatable middle part to the second form-half 10 and retaining it there is only possible if the object is hold down in form-half 3 by a force which is lower than the force by which the object is kept in form-half 21, and is hold down in form-half 10 by a force which is higher than the force in form-half 21. Consequently, the holding-down force in form-half 10 is also higher than the holding-down force in form-half 3.

The same relation of the holding-down forces is described in paragraph [0018] of the patent in suit. The corresponding definition in the characterising portion of claim 1 of the main request must be interpreted in the light of this part of the description (Article 69 EPC).

It follows that document D3 discloses, in accordance with the wording of claim 1 of the main request, a procedure for the production of one in at least two subsequent castings moulded object in a mould consisting of at least three mould parts, where at least one middle part (13) is placed between the stationary front part (1) and the movable back part (9), which middle part (13) after the moulding of the first part of the object is turned at least one time 180 degrees around an axis (15), being at a right angle to the movement direction between the front part and the back part, before the moulding of the following part of the object, wherein by holding-down the object in the mould at a following moulding more strongly than holding-down the object in the mould at the previous moulding it becomes possible to move the first part of the moulded object in the direction from the front part (1) of the mould via the middle part (13) to the back part (9) of the mould.

Consequently, the subject-matter of claim 1 of the main request lacks novelty with respect to document D3.

2. Claim 1 of the auxiliary request comprises the additional feature that the material of the two parts of the object is the same thermoplastic material. As the description of the patent in suit is silent about the meaning of the term "same thermoplastic material" this term is open for interpretation. As the claim does not require the "same material" in the two moulding steps, the use of, for example, the same thermoplastic material mixed with pigments of different colours falls under the scope of the definition in the characterising portion of claim 1 of the auxiliary request. Such a



material is disclosed in document D3 in the general part of the description (cf. column 3, lines 11 to 15). This disclosure is therefore also applicable in combination with the embodiment according to column 9, lines 30 to 35.

Consequently, also the subject-matter of claim 1 of the auxiliary request lacks novelty with respect to document D3.

## **Order**

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

The decision under appeal is set aside.

The patent is revoked.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber