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**Datasheet for the decision  
of 30 July 2009**

**Case Number:** T 1765/07 - 3.2.05

**Application Number:** 03814578.5

**Publication Number:** WO-A 2004/061219

**IPC:** D21F 11/00

**Language of the proceedings:** EN

**Title of invention:**

Method of fabricating a belt and a belt used to make bulk tissue and towel, and nonwoven articles and fabrics

**Applicant:**

ALBANY INTERNATIONAL CORP.

**Headword:**

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**Relevant legal provisions:**

EPC Art. 54, 123(2)

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

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**Keyword:**

"Novelty (yes)"

"Extension beyond the content of the application as filed  
(no)"

**Decisions cited:**

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**Catchword:**

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Case Number: T 1765/07 - 3.2.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.05  
of 30 July 2009

**Appellant:** ALBANY INTERNATIONAL CORP.  
1373 Broadway  
Albany, New York 12204 (US)

**Representative:** Bugnion Genève  
Bugnion S.A.  
Conseils en Propriété Industrielle  
Case Postale 375  
CH-1211 Genève 12 (CH)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 29 May 2007  
refusing European patent application  
No. 03814578.5 pursuant to  
Article 97(1) EPC 1973.

**Composition of the Board:**

**Chairman:** W. Zellhuber  
**Members:** P. Michel  
M. J. Vogel

## Summary of Facts and Submissions

I. The appellant (applicant) lodged an appeal against the decision of the Examining Division refusing European patent application No. 03 814 578.5.

The Examining Division considered that the subject-matter of claim 1 of a sole request was not new.

II. The following documents are referred to in this decision:

D1: US-A-6,358,594

III. Oral proceedings before the Board of Appeal took place on 30 July 2009.

IV. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1-29, filed as auxiliary request 1 on 29 June 2009 (main request) or either of the sets of claims filed as auxiliary requests 2 and 3 on 29 June 2009.

V. Claim 1 of the main request reads as follows:

"1. A method for manufacturing a belt for use in the production of bulk tissue and towel, and of nonwoven articles and fabrics, said method comprising the steps of;

- a) providing a base substrate (12) for the belt;
- b) depositing polymeric resin material (52) onto said base substrate (12) in a controlled manner so as to control the x, y, z dimensions of the material

deposited to create a predetermined pattern of deposits, wherein this step comprises building up each deposit using droplets of polymeric resin material; and  
c) at least partially setting said polymeric resin material."

VI. The appellant has argued substantially as follows in the written and oral procedure:

Claim 1 of the main request is based on claim 1 as originally filed as well as on the originally filed description. The amendments are thus in accordance with Article 123(2) EPC.

Claim 1 specifies that the step of depositing the polymeric resin material involves building up each deposit using droplets of polymeric resin material. The claim is thus distinguished over the disclosure of document D1, which only discloses deposition by extrusion.

## **Reasons for the Decision**

1. Main Request

1.1 Amendments

Claim 1 has been amended so as to specify that the step of depositing polymeric resin material onto the base substrate "comprises building up each deposit using droplets of polymeric resin material". This feature is directly and unambiguously derivable from the disclosure of the application as filed and is disclosed

in the application as filed (published version) in particular at page 12, lines 6 to 24.

The amendment to claim 1 thus complies with the requirement of Article 123(2) EPC.

## 1.2 Novelty

Document D1 discloses a method for manufacturing a belt for use in the production of bulk tissue and towel in which a polymeric resin material is deposited onto a base substrate by extrusion, as disclosed at column 2, lines 55 to 67. This includes the discrete protuberances shown in the embodiment of Figure 10. There is no suggestion of any alternative method of deposition.

However, claim 1 specifies that the step of depositing polymeric resin material onto the base substrate "comprises building up each deposit using droplets of polymeric resin material", and thus excludes extrusion.

The subject-matter of claim 1 is thus new.

## 2. Remittal to the department of first instance

In the decision under appeal, it was decided that the subject-matter of claim 1, in the version then under consideration, lacked novelty. The issue of inventive step was not considered in connection with this claim.

The Board accordingly considers it to be appropriate to remit the case to the department of first instance in

order to maintain the right of the appellant to have this issue considered by a second instance.

It may be noted that the present decision does not concern dependant claims 2 to 29, or the question of consistency of the description with claim 1, including the question of whether or not the illustrated embodiments of the invention fall within the scope of amended claim 1.

## **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:

The Chairman:

D. Meyfarth

W. Zellhuber