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**Datasheet for the decision
of 5 September 2008**

Case Number: T 0063/08 - 3.2.06

Application Number: 05106193.5

Publication Number: 1625899

IPC: B21D 11/02

Language of the proceedings: EN

Title of invention:

Apparatus and method for forming a beam into a three-dimensional shape

Applicant:

Accra Teknik AB

Opponent:

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Headword:

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Relevant legal provisions:

EPC Art. 123(2)

Relevant legal provisions (EPC 1973):

EPC Art. 76(1), 84, 54(1),(2), 111(1)

Keyword:

"Amendments - added subject-matter (no)"

"Novelty (yes)"

"Remittal (yes)"

Decisions cited:

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Catchword:

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Case Number: T 0063/08 - 3.2.06

D E C I S I O N
of the Technical Board of Appeal 3.2.06
of 5 September 2008

Appellant: Accra Teknik AB
(Applicant) Kabelgatan 9
SE-943 31 Öjebyn (SE)

Representative: Börnin, Maria
Albihns Stockholm AB
Box 5581
SE-114 85 Stockholm (SE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 24 July 2007
refusing European application No. 05106193.5
pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: P. Alting Van Geusau
Members: G. Kadner
W. Sekretaruk

Summary of Facts and Submissions

I. By decision of the examining division, posted on 24 July 2007, the European patent application 05106193.5, which is a divisional application of the earlier application 02741572.8, was refused for lack of novelty in view of

D1: DE-C-44 00 579.

II. An appeal was filed against this decision on 2 October 2007. The corresponding fee was paid on the same day, and a statement setting out the grounds of appeal was received by the European Patent Office on 3 December 2007.

III. Oral proceedings before the Board of Appeal took place on 5 September 2008.

IV. The appellant (applicant) requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1-4 of the request submitted during the oral proceedings.

V. The independent claims have the following wording:

"1. A method for forming a beam (5), the beam preferably being pre-formed and being preheated to a predetermined temperature before forming and quenched after forming, characterized in the steps of
- providing a support means and an actuation means wherein the support means has a number of support members (2,32,41,51,61) spaced about the longitudinal axis of the support means where each individual support

member locally defines an opening (4,35,43,53,63) for supporting a section of the beam and the position of adjacent openings relative to one another defines the overall form of the beam wherein the actuation means defines the position of each opening,

- forming the beam into a three-dimensional shape, said beam being curved in the longitudinal direction in more than one plane after said forming, the beam being formed locally by said support members, adjacent support members being positioned relative to one another to define the overall form of the beam, whereby the beam is first engaged by the support members and then formed into a desired overall form by adjustment of the individual support members by the actuation means, and

- quenching of the beam.

3. An apparatus for forming a beam, said beam being preheated and preferably being preformed, which apparatus comprises a support means and an actuation means for forming the beam into a three-dimensional shape, characterized in that the support means has a number of support members (2,32,41,51,61) spaced about the longitudinal axis of the support means where each individual support member locally defines an opening (4,35,43,53,63) for supporting a section of the beam and the position of adjacent openings relative to one another defines the overall form of the beam wherein the actuation means defines the position of each opening, and in that the apparatus comprises a quenching means for quenching the beam after forming."

VI. As a basis for the amended independent claims the appellant indicated the following passages of the

description as originally filed: page 1, lines 22-28, page 3, lines 8, 26-31 as well as page 4, lines 7/8 and 17/18.

Reasons for the Decision

1. The appeal is admissible.
2. The passages of the originally filed description indicated by the applicant disclose the claimed subject-matter. Furthermore, the description is identical with the description of the parent application. The Board is thus satisfied that the amended claims meet the requirements of Articles 123(2) and 76(1) EPC 1973.
3. *Novelty*
 - 3.1 D1 discloses a method and an apparatus for forming a beam. In a preferred embodiment, the beam is preheated before forming and quenched after forming (col. 3, lines 54-63).
 - 3.2 The subject-matter of claim 1 differs from the method disclosed in D1 by the provision of particular support members locally defining openings for supporting sections of the beam, where adjacent support members are positioned relative to one another to define the overall form of the beam and by the forming of the beam into a three-dimensional shape whereby the beam is first engaged by the support members and then formed into a desired overall form by adjustment of the individual support members by the actuation means.

Hence, the subject-matter of claim 1 is new over the disclosure of D1 (Article 54(1), (2) EPC 1973).

- 3.3 The subject-matter of independent claim 3 differs from the apparatus disclosed in D1 at least by the feature that the support means has a number of support members spaced about the longitudinal axis of the support means where each individual support member locally defines an opening for supporting a section of the beam and the position of adjacent openings relative to one another defines the overall form of the beam wherein the actuation means defines the position of each opening.

Therefore also the subject-matter of claim 3 is new over the disclosure of D1 (Article 54(1), (2) EPC 1973).

- 3.4 The remaining prior art cited in the European search report also does not anticipate the subject-matter of the claims.

4. According to Article 111(1) EPC 1973, the Board of Appeal may either exercise any power within the competence of the department which was responsible for the decision appealed or remit the case to that department for further prosecution. The examining division refused the application only for the reason of lack of novelty, whereas the requirement of inventive step has not yet been examined. Furthermore, the claims underwent substantial amendments during the appeal proceedings. Under these circumstances, the board of appeal considers it appropriate to remit the case to the examining division for further examination.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division for continuation of the examination proceedings

The Registrar:

The Chairman:

M. Patin

P. Alting van Geusau