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**Datasheet for the decision
of 6 September 2011**

Case Number: T 1001/10 - 3.3.09

Application Number: 04724952.9

Publication Number: 1625015

IPC: B32B 37/22

Language of the proceedings: EN

Title of invention:

Method for manufacturing visual communication panels and
device used thereby

Applicant:

Polyvision, Naamloze Vennootschap

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 84, 123(2), 111(1)

Relevant legal provisions (EPC 1973):

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Keyword:

"New Main request in appeal: "Fresh case" - Remittal"

Decisions cited:

-

Catchword:

-



Case Number: T 1001/10 - 3.3.09

D E C I S I O N
of the Technical Board of Appeal 3.3.09
of 6 September 2011

Applicant: Polyvision, Naamloze Vennootschap
Appellant: Zuiderring 56
B-3600 Genk (BE)

Representative: Donné, Eddy
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Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 27 November 2009
refusing European patent application
No. 04724952.9 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: R. Menapace
Members: W. Ehrenreich
M. O. Müller

Summary of Facts and Submissions

- I. European patent application No. 04 724 952.9 filed on 1 April 2004 as international patent application No. PCT/BE2004/000047 in the name of Polyvision, Naamloze Vennootschap was refused by the examining division by its decision issued in writing on 27 November 2009.

The decision was based on an amended set of claims 1 to 25 filed with the letter dated 26 February 2009.

Independent claims 1 and 19 read as follows:

"1. Method for manufacturing visual communication panels of the type which mainly consists of a support (2), provided on at least one side with a coating (11) made of porcelain or vitreous enamelled metal, glazed at temperatures above 500°C, characterised in that it mainly consists in applying a continuous coating layer (11) of porcelain or vitreous enamelled metal on at least one side of a continuous support (2) in the form of a plate; in gluing the coating layer (11) on the support (2); in pressing the coating layer (11) against the support (2) to form a continuous panel with the required thickness; and finally, optionally, in sawing the obtained continuous panel into individual panels (25) with the required dimensions."

"19. Device for manufacturing visual communication panels (25) according to the method of one or several of the preceding claims, characterised in that it mainly consists of a transport table (1) for a continuous support (2); at least one roll (10) of a continuous coating layer (11) which is formed of a continuous layer of enamelled metal; a laminating

device (3) through which the above-mentioned support (2) and the coating layer (11) are led; means (17) for gluing the coating layer (11) to the support (2); and possibly a sawing device (23-24) downstream of the laminating device (3)."

Method claims 2 to 18 and device claims 20 to 25 were dependent claims.

II. In its decision the examining division argued that amendments to the claims did not comply with Article 123(2) EPC and that the method and device according to claims 1 and 19, respectively lacked an inventive step over a combination of the documents

D1 EP-A 0 315 066 and

D2 US-A 5 393 232.

Concerning the method of claim 1 the examining division essentially held that it was obvious for a skilled person to adapt the continuous production process for metallized sandwich panels disclosed in D1 to the visual communication panel according to D2 including a layer of enamelled metal.

As to claim 19 the examining division argued that the skilled person would specify the structure and material of the metal coating layer of the sandwich panel he wanted to manufacture with the device of D1. In particular he would obviously select enamelled metal if the aimed product was a visual communication panel according to D2.

III. On 26 January 2010 the applicant (hereinafter appellant) filed a notice of appeal against the decision of the examining division. The prescribed fee was paid on the same day. The statement of the grounds of appeal was received on 23 March 2010.

Enclosed with the letter setting out the grounds of appeal was a set of claims 1 to 24 and adapted description pages as the basis for a new main request.

IV. In preparation of the oral proceedings scheduled to take place on 6 September 2011 the board issued a communication dated 19 July 2011 in which preliminary observations were made on the issues of added subject-matter (Article 123(2) EPC) and inventive step (Article 56 EPC).

V. In response to the board's communication the appellant filed, with the letter dated 5 August 2011, 3 sets of claims as the basis for a new main request and auxiliary requests 1 and 2 including amendments taking account of the board's observations.

VI. During the oral proceedings the claims of the requests were discussed in respect of the provisions of Article 84 (clarity) and Article 123 (2) EPC (amendments). Thereafter, the appellant presented a main request consisting of claim 1 to 11, an auxiliary request 1 consisting of claims 1 to 4 and an auxiliary request 2 consisting of claims 1 to 10, replacing the previous requests.

VII. The appellant requested that the decision under appeal be set aside and the case be remitted to the examining

division for further prosecution on the basis of the main request, or alternatively, of either auxiliary request 1 or 2, all requests being presented in the oral proceedings.

Reasons for the Decision

1. The appeal is admissible.
2. Independent claims 1 and 7 of the main request submitted during the oral proceedings read as follows:

"1. Method for manufacturing visual communication panels of the type which mainly consists of a support (2), provided on at least one side with a coating (11) made of enamelled metal, glazed at temperatures above 500°C, **characterised in that** it mainly consists in applying a continuous coating layer (11) of enamelled metal on at least one side of a continuous support (2) in the form of a plate; in gluing the coating layer (11) on the support (2); in pressing the coating layer (11) against the support (2) to form a continuous panel with the required thickness, whereby for pressing on the coating layer or layers (11;28), the support (2) is synchronously led through a laminating device (3) together with the coating layer or layers (11;28), whereby the continuous coating layer or layers (11;28) are each unwound from a roll (10;27) and wherein the coating layer or layers (11;28) are heated before being led into the above-mentioned laminating device (3) and wherein between the support (2) and the coating layer (11), layers (11;28) respectively, is provided a layer of glue (26) consisting of a hot glue which melts under

the influence of heat and congeals again when cooled; and finally, optionally, in sawing the obtained continuous panel into individual panels (25) with the required dimensions."

"7. Device for manufacturing visual communication panels (25) according to the method of one or several of the preceding claims, characterised in that it mainly consists of a transport table (1) for a continuous support (2); at least one roll (10) of a continuous coating layer (11) which is formed of a continuous layer of enamelled metal; a laminating device (3) through which the above-mentioned support (2) and the coating layer (11) are led; means (17) for gluing the coating layer (11) to the support (2); and possibly a sawing device (23;24) downstream of the laminating device (3), the device further being provided with another roll (27) of a coating layer (28) whereby at least the coating layer (11) is formed of an enamelled metal, whereby the support (2) is led through the laminating device between the coating layers (11;28) and whereby the means (17) are provided to apply a layer of glue (26) between the support and each coating layer (11;28) and wherein the device is further equipped with heating appliances (16) which are provided opposite to each coating layer (11;28) to heat said layers (11;28)."

3. When comparing the subject-matter of claims 1 and 7 of the new main request with that of claims 1 and 19, on which the appealed decision was based, it has to be noted that the focus of the claimed invention has now shifted, in that the coating layer (11) or layers (11;28) and the support (2) are joined by means of a

hot glue which melts under the influence of heat applied to the layer (11) or layers (11;28), due to the following passages in claims 1 and 7:

"1. ... and wherein the coating layer or layers (11;28) are heated before being led into the above-mentioned laminating device (3) and wherein between the support (2) and the coating layer (11), layers (11;28) respectively, is provided a layer of glue (26) consisting of a hot glue which melts under the influence of heat and congeals again when cooled; ..."

"7 ... and whereby the means (17) are provided to apply a layer of glue (26) between the support and each coating layer (11;28) and wherein the device is further equipped with heating appliances (16) which are provided opposite to each coating layer (11;28) to heat said layers (11;28)."

In contrast thereto, claims 1 and 19 on which the appealed decision is based only mention the gluing step very generally by indicating "... in gluing the coating layer (11) on the support (2) ..." (claim 1) and "... means (17) for gluing the coating layer (11) to the support (2);" (claim 19).

As far as this general gluing step is concerned, the reasoning of the examining division in its decision denying inventive step of the method of claim 1 and the device of claim 19 over a combination of D2 with D1 is not objectionable. This all the more so as D1, pertaining to a method and a device for a continuous production of sandwich panels, only mentions very generally a "Klebstoff-Auftragevorrichtung" (7) and (15)

applying a glue onto the mineral wool mat (3) and the lower area of the metallic cover band (11) (column 1, line 47 to column 2, line 9).

However, in view of the limitation of the gluing step in claims 1 and 7 of the new main request to the application of a hot glue which melts under the influence of heat, whereby the heat is provided to the coating layers (11;28) by means of a heating appliance (16), a fresh case has arisen which has not yet been considered by the examining division.

The board, in exercising its discretion according to Article 111(1) EPC, therefore follows the request of the appellant.

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 further prosecution on the basis of claims 1 to 11 filed as main request during the oral proceedings before the board.

The Registrar

The Chairman

G. Röhn

R. Menapace