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**Datasheet for the decision
of 25 April 2012**

Case Number: T 0939/11 - 3.2.05

Application Number: 05724938.5

Publication Number: 1729947

IPC: B29C 47/00

Language of the proceedings: EN

Title of invention:

Thermoplastic molding process and apparatus

Applicant:

LRM Industries International, Inc.

Opponent:

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Headword:

-

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

"Extension beyond the application as filed - yes"

Decisions cited:

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Catchword:

-



Case Number: T 0939/11 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 25 April 2012

Appellant: LRM Industries International, Inc.
(Applicant) 135 Gus Hipp Boulevard
Rockledge, FL 32955 (US)

Representative: FDST Patentanwälte
Nordostpark 16
D-90411 Nürnberg (DE)

Decision under appeal: Decision of the Examining Division of the
European Patent Office posted 2 December 2010
refusing European patent application
No. 05724938.5 pursuant to Article 97(2) EPC.

Composition of the Board:

Chairman: M. Poock
Members: H. Schram
M. J. Vogel

Summary of Facts and Submissions

- I. The appeal is against the decision of the Examining Division dated 2 December 2010, by which European patent application No. 05 724 938.5 was refused on the grounds that the subject-matter of claims 1 and 18 of the sole request of the appellant (applicant) was not new (Article 54 EPC).
- II. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 34 filed on 7 April 2011.
- III. In a communication dated 10 February 2012 annexed to the summons to attend oral proceedings the Board expressed its provisional opinion (see point 5.1) that it appeared that the subject-matter of claim 1 of the sole request did not meet the requirements of Article 123(2) EPC.
- IV. In reply to the summons the appellant informed the Board on 2 April 2012 that it had decided neither to attend nor to be represented at the oral proceedings.
- V. Oral proceedings were held before the Board on 25 April 2012. For the appellant, who had been duly summoned, there was, as announced, no one present.
- VI. Claim 1 according to the sole request reads as follows:

"1. A process for preparing a molded thermoplastic article comprising a fibrous material embedded in a thermoplastic resin matrix, controlling the steps of:

a) melt compounding a mixture of a thermoplastic resin, the fibrous material, and any optional additives using a single screw extruder, wherein the lengths of the fibers of the fibrous material before molding are about 0.5-3 inches long, and the fibrous material comprises 5-55% of the total weight of the compounded mixture; the single screw having thread spacing that is larger than the length of the fibers;

b) transferring the resin/fibrous material mixture through a transfer pipe prior to extrusion;

c) extruding the mixture through a sheet extrusion die at a temperature in the range of 300°F-700°F, wherein the extrusion is conducted through a multigated, horizontally mounted sheet extrusion die with independently controlled gates capable of varying the thickness of the mixture extruded through each gate;

d) gravity depositing the extruded mixture into a first half of a horizontally-movable matched mold so as to form a molten net near shaped laydown of the molded thermoplastic article; and

e) compression molding the molten net near shaped laydown with the second half of the matched mold, at pressures in the range of 100-1.000 psi; and wherein

f) the article is prepared with a length in at least the x- and y-planes greater than the lengths of the fibers, to obtain a molded article, wherein the lengths of the fibers of the fibrous material in the molded article are greater than about 60% of their pre-molded lengths, and wherein the mechanical properties of the molded article in the x-, y-, and z-planes are within 20% of each other."

Reasons for the Decision

1. *Allowability of the amendments, Article 123(2) EPC*

The wording "low shear" in claim 1 as filed (cf step a)) is no longer present in claim 1 of the sole request.

In the communication cited in point III above, the Board stated that a feature can only be omitted from an independent claim, when the skilled person can derive the subject-matter of the amended claim directly and unambiguously, using common general knowledge, from the totality of the application documents as filed.

In the present case step a) of claim 1 of the sole request, viz "melt compounding a mixture of a thermoplastic resin, the fibrous material, and any optional additives ...", is only disclosed for the case that a low shear single screw (extruder) is being used.

Claim 1 of the sole request therefore does not meet the requirements of Article 123(2) EPC.

The appellant has neither disputed this, nor filed amendments but instead informed the Board on 2 April 2012 that a decision based on the current file status was requested.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

R. Schumacher

M. Poock