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**Datasheet for the decision  
of 29 April 2014**

**Case Number:** T 1061/11 - 3.3.05

**Application Number:** 07111458.1

**Publication Number:** 2008973

**IPC:** C02F1/42, C02F9/00

**Language of the proceedings:** EN

**Title of invention:**  
Purification of waste water from cleaning of facade walls

**Applicant:**  
Ekofasad AB

**Headword:**  
FACADE CLEANING/EKOFASAD

**Relevant legal provisions:**  
EPC Art. 54(1), 54(2)  
EPC R. 103(1)(a)

**Keyword:**  
Reimbursement of appeal fee - (no)  
Novelty - main request (no) - auxiliary request (no)

**Decisions cited:**

**Catchword:**



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Case Number: T 1061/11 - 3.3.05

**D E C I S I O N  
of Technical Board of Appeal 3.3.05  
of 29 April 2014**

**Appellant:** Ekofasad AB  
(Applicant) Ragnaröksvägen 1  
182 64 Djursholm (SE)

**Representative:** Pierrou, Mattias  
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**Decision under appeal:** **Decision of the Examining Division of the European Patent Office posted on 28 December 2010 refusing European patent application No. 07111458.1 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman:** G. Raths  
**Members:** J.-M. Schwaller  
C. Vallet

## Summary of Facts and Submissions

I. This appeal lies from the decision of the examining division refusing European patent application No. 07 111 458.1 because independent claims 1 and 3 then on file lacked inventive step over document

D1: EP 0 331 136 A1.

Independent claims 1 and 3 read as follows:

*"1. A method for purifying used aqueous cleaning liquid resulting from washing of a facade wall, comprising:*

*(a) allowing said used cleaning liquid to leave said facade wall;*

*(b) collecting said used cleaning liquid of step (a) in a storm drain located in the vicinity of said facade wall;*

*(c) pumping said collected liquid of step (b) out of said storm drain;*

*(d) subjecting the liquid resulting from step (c) to removal of particulate matter; and*

*(e) subjecting the liquid resulting from step (d) to removal of organic compounds and heavy metals.*

*3. A system for purifying used aqueous cleaning liquid, comprising:*

*a collecting device (300) for collecting used cleaning liquid, wherein said collecting device is comprising a trough (301) and a flange (302) for maintaining said trough in a storm drain (400);*

*a purification device (100) for removing particulate matter, organic compounds and heavy metals from said collected, used cleaning liquid; and*

*a pump device (200) for pumping collected, used*

*cleaning liquid from said collecting device to said purification device (100)."*

- II. With the grounds of appeal dated 27 April 2011, the appellant filed a set of amended claims as an auxiliary request, including in particular an independent claim 3 which was identical to claim 3 underlying the contested decision (see point I. above). It also requested reimbursement of the appeal fee, because the examining division had based its refusal on arguments on which the appellant had had no opportunity to comment.
  
- III. In a communication accompanying the summons to oral proceedings, the board expressed in particular the preliminary opinion that the subject-matter of independent claim 3 of the main request lacked novelty under Article 54(1)(2) EPC and that the appeal fee could not be reimbursed as there had been no substantial procedural violation by the department of first instance.
  
- IV. Without providing any counter-argument to the above preliminary opinion, the appellant declared in a letter dated 14 April 2014 that it withdrew its request for oral proceedings and that it requested a decision on the state of the file.
  
- V. From the written submissions, the board establishes that the appellant has requested that the contested decision be set aside and that a patent be granted on the basis of the claims underlying the contested decision (main request), or alternatively on the basis of the set of claims filed as an auxiliary request on 27 April 2011.

## Reasons for the Decision

1. Main request - novelty

1.1 In the board's view, the subject-matter of independent claim 3 lacks novelty in the light of document D1 for the following reasons.

1.2 The "system" according to claim 3 is defined as comprising:

- a purification device (a) for removing particulate matter, organic compounds and heavy metals;
- a collecting device (b) comprising a trough and a flange for maintaining said trough in a storm drain;
- a pump device for pumping the liquid from the collecting device (b) to the purification device (a).

1.3 In the board's view, the above three devices are disclosed as follows in D1:

The **purification device (a)** is embodied in D1 by the combination of

- the strainer (19) which removes solid particulates (D1; column 5, lines 26 to 27);
- the flocculation device (84) which removes heavy metals (D1, column 3, lines 54 to 56, claim 20 and Figures);

- the activated carbon filter (92) which implicitly has the function of eliminating organic contaminants, since the present application also uses this material for this specific purpose (see application, page 3, lines 25 and 26).

The **collecting device (b)** is seen in D1 in the collapsible sheeting trough and in the device (4,5,6) which includes a sealing strip (4) (D1; column 6, line 54, to column 7, line 4), with the latter in the board's view being a "flange" in the sense of the application, since it can be used *per se* for maintaining the trough in the storm drain.

The **pump device (c)** is embodied in D1 by the pump (10) which has the purpose of pumping the liquid from the collecting device (b) to the purification device (a).

- 1.4 The board observes that the storm drain does not belong to the system according to claim 3 at issue, since it belongs to the street. It is thus not taken into account for assessing the novelty of said claim.
  - 1.5 It follows from the above considerations that the subject-matter of claim 3 at issue is anticipated by the apparatus known from D1, with the consequence that claim 3 does not meet the requirements of Article 54(1) (2) EPC and that the main request is not allowable.
2. Auxiliary request - novelty

Since claim 3 of this request is identical to claim 3 of the main request, this request is not allowable for the same reasons as those indicated in point 1. above.

3. Request for reimbursement of the appeal fee

One prerequisite for reimbursing the appeal fee under Rule 103(1) (a) EPC is that the board deems the appeal to be allowable.

This being not the case, since all the requests on file have been found not to be allowable, the appeal fee is not to be reimbursed.

**Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:



C. Vodz

G. Rath

Decision electronically authenticated