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**Datasheet for the decision
of 3 April 2014**

Case Number: T 0571/12 - 3.3.01

Application Number: 07114640.1

Publication Number: 1897920

IPC: C09D11/02, B05D5/06, C09D5/29

Language of the proceedings: EN

Title of invention:
Transparent Ink and Method for Printing the Same

Applicant:
Samsung Electronics Co., Ltd.

Headword:
Printing method using transparent ink / SAMSUNG ELECTRONICS

Relevant legal provisions:
EPC Art. 84

Keyword:
Clarity - (no) - "two-
liquid type ink" not part of common general knowledge

Decisions cited:
T 0412/09, T 1641/11

Catchword:



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Case Number: T 0571/12 - 3.3.01

D E C I S I O N
of Technical Board of Appeal 3.3.01
of 3 April 2014

Appellant: Samsung Electronics Co., Ltd.
(Applicant) 129, Samsung-ro
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Representative: Crussius, André
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 10 October 2011 refusing European patent application No. 07114640.1 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman: A. Lindner
Members: J. Ousset
O. Loizou

Summary of Facts and Submissions

- I. An appeal was filed against the decision of the examining division rejecting European patent application No. 07 114 640.1.
- II. The examining division found that the then pending main request contravened Article 123(2) EPC and that the then pending auxiliary request contravened Articles 84 and 83 EPC.
- III. Relevant prior art is represented by the following cited documents:
- (9) US 2003/0116055
 - (10) US-B-6 824 262
 - (11) EP-A-1 834 997
 - (12) EP-A-1 099 731
- IV. Together with the statement setting out the grounds of appeal, the appellant filed a new main request and two auxiliary requests.
- V. In the annex to the invitation to oral proceedings, the board notified the appellant in its non-binding opinion that objections based on Articles 123(2), 84 and 83 were still pending. More particularly, the board mentioned that the expression "two-liquid type ink" was to be interpreted as describing an ink containing two liquid whatever the nature of the said liquids might be.
- VI. With its response of 28 February 2014, the appellant provided further arguments and a new main request and two auxiliary requests superseding the requests filed with its statement setting out the grounds of appeal.

Claim 1 of the main request reads as follows:

"1. A method for printing transparent ink (100), the method comprising the steps of:
preparing a two-liquid type ink;
manufacturing a transparent ink (100) by mixing a hardening agent and a thinner with the two-liquid type ink;
printing the transparent ink (100) on a surface of an object on which a color paint (10) is printed; and
drying the surface of the object,
wherein the transparent ink (100) comprises an acryl resin."

Claim 1 of auxiliary request 1 differs from claim 1 of the main request only in that the feature "wherein the color paint (10) comprises a semi-transparent paint" has been added to the wording of claim 1 of the main request.

Claim 1 of auxiliary request 2 differs from claim 1 of the main request only in that the feature "wherein the color paint (10) comprises a transparent paint" has been added to the wording of claim 1 of the main request.

VII. The appellant's arguments can be summarised as follows:

- a) The expression "two-liquid type ink" has a more restricted meaning than the one mentioned by the board in its communication annexed to the summons to oral proceedings. This expression refers to an ink containing a reaction liquid. This definition was common knowledge which was illustrated by the disclosure of documents (9) to (12).

b) The reaction liquid is a liquid which can initiate a chemical reaction.

c) The transparent ink, subject-matter of claim 7 in all requests, was the film obtained after deposition and drying on a surface.

VIII. The appellant requests the decision under appeal be set aside and that a patent be granted on the basis of the new main request or alternatively the new auxiliary requests 1-2 as filed with the appellant's submissions of 28 February 2014.

IX. At the end of the oral proceedings, the decision of the board was announced.

Reasons for the Decision

1. The appeal is admissible.

2. Main request - Clarity

2.1 Regarding the specific meaning which the skilled person allegedly attributes to the expression "two-liquid type ink" (see point VII above), the board notes that documents (9) to (12) cited by the appellant in support of this assertion are patent specifications and thus can normally not be considered as reflecting common general knowledge (see T 1641/11, point 3.6). The board is aware that, in exceptional cases, this common general knowledge can be established on the basis of patent specifications (see T 412/09, point 2.1.3, not published) when a consistent meaning is found therein. This is not the case here, since although documents (9), (10) and (12) mention an ink and either a

"reaction liquid" (see (9), page 1, fifth line of point [0005] and (10), column 1, line 34) or a "treating liquid reactive" (see (12), page 3, lines 32 to 33), document (11) refers only to a first and a second liquid having different compositions from each other (see page 3, line 36). Hence, that the expression "two-liquid type ink" means "an ink and a reaction liquid" is not part of common general knowledge.

2.2 In view of the fact that the expression "two-liquid type ink" has different meanings in the state of the art and is not defined in the application as originally filed, claim 1 of the main request does not fulfil the requirements of Article 84 EPC.

2.3 Since this unclear feature (see point 2.2 above) is also present in the method described in claim 1 of auxiliary request 1 and 2, these requests must also be refused for lack of clarity.

Order

For these reasons it is decided that:

1. The appeal is dismissed.

The Registrar:

The Chairman:



G. Nachtigall

A. Lindner

Decision electronically authenticated