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**Datasheet for the decision
of 8 February 2017**

Case Number: T 2150/14 - 3.3.05

Application Number: 05792090.2

Publication Number: 1812150

IPC: B01F5/04, B01F5/06, B01F3/04,
B01F3/08

Language of the proceedings: EN

Title of invention:
MULTI FLUID INJECTION MIXER

Applicant:
Propure AS

Headword:
Injection mixer/PROPURE AS

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
Amendments - extension beyond the content of the application
as filed (no)

Decisions cited:

Catchword:



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Case Number: T 2150/14 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 8 February 2017

Appellant: Propure AS
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Representative: Hov, Espen
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 17 June 2014
refusing European patent application No.
05792090.2 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman E. Bendl
Members: J.-M. Schwaller
O. Loizou

Summary of Facts and Submissions

- I. This appeal lies from the decision of the examining division to refuse European patent application No. 05 792 090.2 on the grounds that claim 1 of the three requests then on file did not meet the requirements of Article 123(2) EPC.
- II. In its decision, the examining division held in particular that the word "onto" in the feature: "*at least one injection element [...] comprising a channel or apertures for injecting admixture fluid evenly onto said surface of the contacting element ...*" had no basis in the application as filed.
- III. With its statement of grounds of appeal dated 22 August 2014, the appellant filed five amended sets of claims, with claim 1 of the main request reading as follows:
- "1. Multi Fluid Injection Mixer for injecting gas and/or liquid as admixture fluid to gas and/or liquid flowing through a pipe, and homogeneously mixing the admixture fluids and pipe fluids, said injection mixer constituting a section of the pipe, characterized in that the injection mixer is comprising:*
- at least one contacting element having at least one contacting surface facing and deflecting some of the pipe fluid flow, forming a constriction to the internal cross-section of the pipe, such that the pipe fluid flow is accelerated and fluid flowing in the vicinity of said surface is deflected to flow along the surface until the surface ends over a sharp edge at the point of maximum constriction and flow velocity,*
- at least one injection element arranged with a fluid connection to said surface of the contacting element,*

such that admixture fluid can be injected onto said surface and along said surface be entrained by the flowing pipe fluid over the sharp edge, but for a contacting element formed as a contracting pipe section at least two injection elements are provided, wherein the injection element comprises a channel or apertures for injecting admixture fluid evenly over the contacting surface of the contacting element, upstream of the sharp edge."

- IV. The appellant argued that above claim 1 met the requirements of Article 123(2) EPC, as it consisted of the mere combination of claims 1 and 8 as filed.

Further, it requested that the decision under appeal be set aside and that a patent be granted on the basis of one of the sets of claims submitted as main and auxiliary requests 1 to 4 with the grounds of appeal. It also requested oral proceedings if the board could not accede to its requests.

- V. With a letter dated 6 February 2017, the appellant informed the board that it would also agree with a remittal of the case to the department of first instance without oral proceedings. Further, it modified claim 1 so that the expression "*such that the pipe fluid flow is accelerated and fluid flowing in the vicinity of said surface is deflected to flow along the surface until the surface ends over a sharp edge at the point of maximum constriction and flow velocity*" now reads "*such that the pipe fluid flow is accelerated and fluid flowing in the vicinity of said surface is deflected to flow along the surface until the surface ends over a sharp edge at the point of maximum constriction and flow velocity*".

A corresponding correction was carried out on page 6, line 9 of the description.

Reasons for the Decision

1. Main request - Allowability of the amendments

The board notes that the subject-matter of claim 1 as amended with letter of 6 February 2017 corresponds *mutatis mutandis* to the combination of claims 1 and 8 as filed, and so it does not extend beyond the content of the application as filed.

It is furthermore derivable from page 7, second paragraph as originally filed, that the feature concerning the design of the injection element described is not limited to a specific embodiment of the multi fluid injection mixer but rather that this teaching is considered to be more of a generic nature.

Further, the subject-matter of dependent claims 2 to 13 corresponds to that of dependent claims 2 to 7 and 9 to 14 as filed, respectively.

It follows from the above considerations that the claims of this request satisfy the requirements of Article 123(2) EPC.

2. As the contested decision is concerned only with the question whether the claimed subject-matter had a basis in the application as filed, the board exercises its discretion under Article 111(1) EPC and remits the case to the department of first instance for further prosecution.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the department of first instance for further prosecution on the basis of set of claims filed as main request with letter of 6 February 2017.

The Registrar:

The Chairman:



C. Vodz

E. Bendl

Decision electronically authenticated