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**Datasheet for the decision
of 15 April 2020**

Case Number: T 1828/16 - 3.2.07

Application Number: 10720971.0

Publication Number: 2432699

IPC: B65B61/02, B41M1/04, B41M1/30,
C11D17/04

Language of the proceedings: EN

Title of invention:

A METHOD FOR PRINTING WATER-SOLUBLE FILM

Applicant:

The Procter & Gamble Company

Headword:

Relevant legal provisions:

EPC Art. 56, 113, 116
RPBA 2020 Art. 12(8)

Keyword:

Inventive step - (yes)

Decisions cited:

Catchword:



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Case Number: T 1828/16 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 15 April 2020

Appellant: The Procter & Gamble Company
(Applicant) One Procter & Gamble Plaza
Cincinnati, OH 45202 (US)

Representative: Gill Jennings & Every LLP
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 16 February
2016 refusing European patent application No.
10720971.0 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman I. Beckedorf
Members: A. Pieracci
A. Cano Palmero

Summary of Facts and Submissions

- I. This appeal, which was filed within the prescribed period and in the prescribed form, lies from the decision of the examining division to refuse European patent application No. 10 720 971.0 for lack of inventive step of the subject-matter of claim 1.
- II. The appellant essentially requests
- that the decision under appeal be set aside and that a patent be granted on the basis of the claims re-filed with the statement setting out the grounds of appeal on 24 June 2016.
- III. The present decision refers to the following documents, which are considered in the decision under appeal:
- D3: US 2003/0056667 A1;
D4: WO 02/40351 A1.
- IV. The appellant's line of argument contesting the decision of the examining division is dealt with in detail in the reasons for the decision.
- V. Independent claim 1, on which the decision under appeal and the present decision are based, reads:
- A method to produce a water-soluble detergent pouch, having a graphic printed thereon, said method comprising feeding a water-soluble film through,
a) at least one flexographic printing unit, optionally further comprising a drying unit (7); and then
b) a water-soluble detergent pouch producing unit;

characterized in that the water-soluble film is formed into pouches immediately after flexographic printing onto said water-soluble film without any interruptions or rewinding, wherein said water-soluble film comprises polyvinyl alcohol,
wherein the flexographic printing unit comprises, a printable material, a printable material tray (2), a printable material transfer roll (3), a design roll (4), an impression roll (5);
and wherein printable material is transferred from the printable material tray via the printable material transfer roll and the design roll to the water-soluble film,
and wherein the water-soluble detergent pouch producing unit comprises a mould (10), thermoforming means, vacuum forming means, and sealing means.

Reasons for the Decision

1. The decision is issued in written proceedings without oral proceedings.

According to Article 12(8) RPBA 2020, the Board may, subject to Articles 113 and 116 EPC, decide the case at any time after filing of the statement of grounds of appeal.

Given the findings and the order of the decision, the appellant's auxiliary request for oral proceedings "before any decision other than allowance of the application" has not become effective because the Board orders the grant of a patent on the basis of the appellant's sole set of claims.

The case is ready for decision on the basis of the extensive appellant's written submissions and the decision under appeal. For this reason, the issuing of the decision in written procedure without oral proceedings is in compliance with the requirements of Articles 113(1) and 116(1) EPC.

2. Inventive step of the subject-matter of claim 1 (Article 56 EPC)

2.1 The Board cannot share the opinion of the examining division that the subject-matter of claim 1 is not inventive in view of the teaching of document D4 in combination with the common general knowledge of the person skilled in the art for the following reasons.

2.2 The Board is of the opinion that the examining division did not correctly formulate the objective technical problem starting from document D4.

The problem was formulated in point 1.3 of the reasons for the decision as being

"...to provide a process suitable for continuously producing water-soluble pouches having a graphic printed thereon...".

However, this formulation of the technical problem contains both a pointer to the solution, due to the feature "continuously producing", and a feature of the solution, since "having a graphic printed thereon" is a feature of the claim which is not shown in document D4, thus a distinguishing feature, which as such should not be part of the formulation of the problem.

Since the objective problem was not identified correctly with respect to the distinguishing features of the subject-matter of the claim with respect to D4, the corresponding inventive step argumentation is not convincing.

- 2.3 Furthermore, the Board concurs with the appellant (see page 3, last paragraph - page 4, second paragraph of the statement setting out the grounds of appeal), that the person skilled in the art would not combine a generally known flexographic printing unit with the water-soluble pouch producing unit of document D4 so to arrive at the subject-matter of claim 1 without exercising an inventive skill.

Contrary to what argued by the examining division (see fourth and fifth paragraph of page 5 of the reasons for the decision), the combination of a generally known flexographic printing unit with the water-soluble pouch producing unit of document D4 as the mere juxtaposition of known devices functioning in their normal way would not lead to implement a process according to the subject-matter of claim 1, but rather to the two separated devices being operated next to each other, thus in a discontinuous way and thus not in such a way that "...the water-soluble film is formed into pouches immediately after flexographic printing onto said water-soluble film without any interruptions or rewinding....".

The Board shares the opinion of the appellant that the argument of the examining division can only be seen as the result of an *ex post facto* analysis (see paragraph 2, page 4 of the statement setting out the grounds of appeal).

- 2.4 The argument of the examining division that the subject-matter of claim 1 is not inventive in view of the teaching of D4 in combination with the common general knowledge, therefore, cannot be accepted.
- 2.5 The examining division explicitly indicated that they did not argue whether the skilled person would combine the teaching of documents D3 and D4 (see point 1.8, first paragraph, of the reason for the decision) and that D3 was only cited in order to show that flexographic printing is a well-known step for printing on polymeric films. In view of this, the Board sees no need to address the part of the decision dealing with document D3.

3. Conclusions

It is concluded that the appellant has convincingly shown that the examining division's objection of lack of inventive step with respect to the subject-matter of claim 1 is not correct.

Therefore, the findings of the examining division and the reasoning underlying the decision under appeal cannot be upheld by the Board. Consequently, the decision under appeal is to be set aside.

No further objections have been presented in the reasons for the decision by the examining division which would prejudice the granting of the present application.

The Board also does not see any reason to raise any further objection. In particular the Board sees no reason to question whether the requirements of Articles 84 and 123(2) EPC are not satisfied.

The Board therefore does not see any further issue which would prevent granting the patent application in suit. The Board notes, however, that the description needs to be adapted to the claimed subject-matter according to the amended claims for which the case is remitted to the examining division.

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 with the order to grant a patent with the following claims and a description to be adapted thereto:
 - Claims 1 to 11,
re-filed with the statement setting out the grounds of appeal on 24 June 2016.

The Registrar:

The Chairman:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated