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**Datasheet for the decision  
of 11 February 2022**

**Case Number:** T 2596/18 - 3.2.07

**Application Number:** 13811706.4

**Publication Number:** 2938779

**IPC:** D21F1/00, B29C65/08

**Language of the proceedings:** EN

**Title of invention:**

INDUSTRIAL FABRIC AND METHOD OF WELDING SEAM AREA USING  
ULTRASONIC WELDING

**Applicant:**

Albany International Corp.

**Headword:**

**Relevant legal provisions:**

EPC Art. 84, 111(1), 123(2)  
RPBA 2020 Art. 11, 12(2)

**Keyword:**

Amendments - allowable (yes)  
Claims - clarity after amendment (yes)  
Remittal - (yes)

**Decisions cited:**

T 1966/16

**Catchword:**



**Beschwerdekammern**  
**Boards of Appeal**  
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Case Number: T 2596/18 - 3.2.07

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.07**  
**of 11 February 2022**

**Appellant:** Albany International Corp.  
(Applicant) 216 Airport Drive  
Rochester, NH 03867 (US)

**Representative:** Rossier, Thomas  
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Route du Coutset 18  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 18 June 2018  
refusing European patent application No.  
13811706.4 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** I. Beckedorf  
**Members:** S. Watson  
A. Cano Palmero

## **Summary of Facts and Submissions**

- I. An appeal was filed by the applicant (appellant) in the prescribed form and within the prescribed period against the decision of the examining division refusing European patent application No. 13811706.4.
- II. In its decision the examining division found that claims 1 and 15 of the sole request (main request) contravened Article 123(2) EPC and that claim 27 was not clear.
- III. In preparation for oral proceedings the Board gave its preliminary assessment of the case by means of a communication pursuant to Article 15(1) RPBA 2020 dated 13 September 2021. The Board indicated that the appeal was likely to be dismissed.
- IV. In response to the Board's communication, the appellant filed written submissions and auxiliary requests 1 and 2 on 2 February 2022.
- V. Oral proceedings before the Board took place by videoconference on 11 February 2022. At the end of the oral proceedings the decision was announced. For further details of the oral proceedings reference is made to the minutes.
- VI. The final requests of the appellant are  
  
that the decision under appeal be set aside, and that a patent be granted on the basis of the set of claims according to auxiliary request 1 filed with letter of 2 February 2022.

VII. Independent claim 1 of auxiliary request 1 reads as follows:

"A method for seaming an industrial fabric (100) woven from synthetic polymeric resin MD and CD yarns and having a length and a width, the method comprising the steps of:  
overlapping a first edge (10, 12) of the fabric with a second edge (10, 12) of the fabric (100) by a predetermined distance;  
placing at least a portion of the overlapped area between an ultrasonic horn (20) and an anvil (30);  
and  
welding the portion of the overlapped area by applying ultrasonic energy,  
wherein a fabric contacting surface of the horn (20) and/or anvil (30) is textured or patterned, the texture or pattern being an impression mirroring or mimicking a weave pattern in a body portion of the fabric (100), and wherein the welded seam area has a caliper equivalent to that of a body portion of the fabric."

Independent claim 13 of auxiliary request 1 reads as follows:

"A method for seaming an industrial fabric comprising the steps of:  
weaving a plurality of synthetic polymeric resin MD yarns with a plurality of synthetic polymeric CD yarns to form a flat woven fabric having two MD edges and two CD edges;  
forming seaming loops at the CD edges of the fabric by folding back a length of the fabric at each CD edge around a pin and raveling out a plurality of CD yarns at the fold such that when the fabric end

is folded back the raveled are allows the MD yarns to form loops;  
placing at least a portion of the folded back area of the fabric between an ultrasonic horn and an anvil; and  
welding the portion of the folded back area by applying ultrasonic energy, and  
wherein a fabric contacting surface of the horn and/or anvil is textured and patterned."

Claim 25 of auxiliary request 1 reads as follows:

"The method of claim 18, wherein the industrial fabric further comprises nonwovens, films, MD or CD yarn arrays, or a combination of these structures."

## **Reasons for the Decision**

### *1. Transitional provisions*

The appeal proceedings are governed by the revised version of the Rules of Procedure which came into force on 1 January 2020 (Articles 24 and 25(1) RPBA 2020), with the exception of Article 12(4) to (6) RPBA 2020, instead of which Article 12(4) RPBA 2007 remains applicable (Article 25(2) RPBA 2020).

### *2. Auxiliary request 1*

#### *2.1 Article 123(2) EPC - claim 1*

In the decision under appeal (point 2.1.1), the examining division found that the feature "a woven industrial fabric including synthetic polymeric resin

MD and CD yarns" was not disclosed in the application as originally filed. The passage of the description on page 5, lines 16 to 17 on which this amendment was based did not disclose that the fabric could comprise further MD and CD yarns of another material than synthetic polymeric resin.

The deletion of the word "including" overcomes this objection.

2.2 *Article 123(2) EPC - claim 13*

Claim 13 of the present request corresponds to claim 15 of the main request decided upon in the decision under appeal.

2.2.1 The examining division found that the addition of the feature in claim 15 that the texture or pattern of the horn and/or anvil was "an impression mirroring or mimicking a weave pattern in a body portion of the fabric" was not disclosed in the application as originally filed in combination with the further features of claim 15 (see decision under appeal, 2.1.2).

The deletion of this feature overcomes this objection.

2.2.2 The examining division further found that the introduction of the feature "the welded area has a caliper equivalent to that of a body portion of the fabric" in the then claim 15 contravened the requirements of Article 123(2) EPC. The embodiment disclosed on page 15, lines 6 to 15, of the application as originally filed, which the appellant argued was the basis for the amendment, was not disclosed in

combination with an embodiment with the features of the then claim 15 (see decision under appeal, 2.1.3).

The deletion of this feature has overcome this objection.

2.3 *Article 84 EPC*

In the decision under appeal (see point 2.2), the examining division found that the term "industrial fabric substrate" was in contradiction to the subject-matter of claim 1 which related to a method for seaming a woven industrial fabric. In addition it was not clear what was meant by the term "industrial fabric substrate".

This objection has been overcome by deleting the term "industrial fabric substrate".

2.4 None of the findings of the examining division in the decision under appeal in relation to Articles 84 and 123(2) EPC hold against the claims of auxiliary request 1, therefore the decision under appeal should be set aside.

3. *Remittal*

3.1 The Board notes that the decision under appeal only dealt with the requirements of Articles 84 and 123(2) EPC.

3.2 Pursuant to Article 111(1) EPC, the Board may continue with the examination, or may remit the case to the examining division for further prosecution. According to Article 11 RPBA 2020, a Board should only remit



cases for further prosecution if special reasons present themselves.

The existence of such special reasons has to be assessed on a case-by-case basis.

It is established case law that if essential questions regarding the patentability of the claimed subject-matter have not been examined and decided upon by the examination division then special reasons exist and the case can be remitted. See, for example, T 1966/16, Reasons 2.2.

In the present case, as only Articles 123(2) and 84 EPC have been decided upon, fulfilment of the other requirements of the EPC, including but not limited to, novelty and inventive step of the subject-matter of the independent claims, still needs to be fully examined.

The Board would have to deal with these issues for the first time in the appeal proceedings, although according to Article 12(2) RPBA 2020 the primary object of the appeal proceedings is to review the decision under appeal in a judicial manner.

- 3.3 The appellant did not object to remitting the case and gave no reasons against such a remittal.
- 3.4 The Board therefore judges it appropriate to remit the case to the examining division for further prosecution according to Article 111(1) EPC.

## 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 for further prosecution.

The Registrar:

The Chairman:



G. Nachtigall

I. Beckedorf

Decision electronically authenticated