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**Datasheet for the decision
of 24 July 2025**

Case Number: T 1382/24 - 3.3.05

Application Number: 06842403.5

Publication Number: 2086755

IPC: B32B15/00, C21D9/46

Language of the proceedings: EN

Title of invention:

COATED STEEL STRIPS, METHODS OF MAKING THE SAME, METHODS OF
USING THE SAME, STAMPING BLANKS PREPARED FROM THE SAME,
STAMPED PRODUCTS PREPARED FROM THE SAME, AND ARTICLES OF
MANUFACTURE WHICH CONTAIN SUCH A STAMPED PRODUCT

Patent Proprietor:

ArcelorMittal

Opponents:

Salzgitter Flachstahl GmbH
Tata Steel IJmuiden B.V.
Volkswagen Aktiengesellschaft
ThyssenKrupp Steel Europe AG
Muhrr und Bender KG

Headword:

Coated Steel/ArcelorMittal/Description

Relevant legal provisions:

EPC Art. 123(2)

Keyword:

Amendments - allowable (yes)

Decisions cited:

T 0938/20, G 0002/10, G 0001/12

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 1382/24 - 3.3.05

D E C I S I O N
of Technical Board of Appeal 3.3.05
of 24 July 2025

Appellant:
(Opponent 2)

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Representative:

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Respondent:
(Patent Proprietor)

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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted on
1 October 2024 concerning maintenance of the
European Patent No. 2086755 in amended form.

Composition of the Board:

Chair R. Winkelhofer
Members: G. Glod
T. Burkhardt

Summary of Facts and Submissions

- I. The opponent 2's (appellant's) appeal concerns the opposition division's decision finding that the patent in amended form based on the description as filed on 5 May 2023, (the only) claim 1 of the main request filed on 12 October 2021 as auxiliary request 105, and the drawings 1 to 4 of the patent as granted, met the requirements of the EPC.
- II. In the appeal, the opponent argued that the requirements of Article 123(2) EPC were not met in view of the change made in paragraph [0040] of the patent as granted.
- III. The patent proprietor (respondent) replied thereto and submitted an auxiliary request 1.
- IV. The parties as of right (opponents 1, 3, 4 and 5) did not make any submissions.
- V. By submission of 5 June 2025, the appellant indicated that they would not be represented at the scheduled oral proceedings.
- VI. Consequently, the decision is given in writing.
- VII. The appellant requests that the decision under appeal be set aside and amended such that the patent be revoked.

The respondent requests that the appeal be rejected as inadmissible, alternatively that the appeal be dismissed, further alternatively that the patent be

maintained in amended form on the basis of auxiliary request 1, submitted with the reply to the appeal.

Reasons for the Decision

1. Article 108 EPC

The respondent claims that the appeal was inadmissible, because the appellant "did not maintain their objections against the amended description" during the opposition proceedings, by not replying to a communication of the opposition division, and was therefore not adversely affected by the decision and not entitled to appeal.

However, it is undisputed that the opposition division's decision to maintain the patent as amended fell short of the appellant's request to revoke the patent as then opponent in the opposition proceedings. There can thus be no doubt that they are adversely affected by the decision, and entitled to appeal. There are also no further reasons why the appeal would be inadmissible.

2. Article 123(2) EPC

2.1 The appellant argues that the introduction of the sentence "*The pre-coating of the invention comprises from 8% to 11% silicon by weight, from 2% to 4% iron by weight, the remainder being aluminium and impurities inherent in processing.*" in paragraph [0040] of the patent as granted offended Article 123(2) EPC.

This is not convincing.

In decision T 938/20, concerning a first appeal in these opposition (appeal) proceedings, this board in a different composition decided that claim 1 met the requirements of Article 123(2) EPC (Reasons 4). In particular, it was found that the feature labelled 1.3b (*"the pre-coating comprising from 8% to 11% silicon by weight, from 2% to 4% iron by weight, the remainder being aluminum and impurities inherent in processing"*) was directly and unambiguously derivable from the application as filed (Reasons 4.1). It was noted that in that case the coating composition and the metal bath composition were considered identical. Therefore, the fact that some diffusion of Fe might take place, so the metal bath composition might not necessarily be absolutely identical to the pre-coating composition was considered irrelevant in the specific context of the application underlying the patent.

That feature labelled 1.3b is now present in the description. Since it was decided that it was allowable under Article 123(2) EPC in the claim, its introduction in paragraph [0040] of the patent in suit, which does not alter its meaning compared to its presence in the claim, cannot be considered as offending Article 123(2) EPC.

The appellant's reference to prior art, which allegedly shows that the composition of the coating differs from the metallic bath, is not relevant in the case in hand, as is evident from the cited passage of T 938/20.

- 2.2 The appellant also argued that there was a mistake/typing error in paragraph [0040] of the patent, and likewise in the application as filed, as well as the description as amended, because all contained the identical wording "Typical composition of Al-Si coating

is: Al-9,3%Si-2,8%Fe". Instead of "coating", it should read "bath".

According to G 2/10 (Reasons 4.3) any amendment to the parts of a European patent relating to the disclosure (the description, claims and drawings) is subject to the mandatory prohibition on extension laid down in Article 123(2) EPC and can therefore, irrespective of the context of the amendment made, only be made within the limits of what a skilled person would derive directly and unambiguously, using common general knowledge, and seen objectively and relative to the date of filing, from the whole of these documents as filed.

This requirement is fulfilled in the current case, since the wording "Typical composition of Al-Si coating is: Al-9,3%Si-2,8%Fe" is identical in the application as filed and in the patent.

The question whether there is a mistake is irrelevant for Article 123(2) EPC in the present case. For corrections, Rule 139 EPC applies. No request for correction was made. Therefore it does not need to be decided whether the conditions laid down in G 1/12 (Reasons 37) for such a correction are fulfilled.

- 2.3 In summary, the opposition division was right that the amendments made in the description fulfil the requirements of Article 123(2) EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chair:



C. Vodz

R. Winkelhofer

Decision electronically authenticated