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**D E C I S I O N**  
**of 16 July 2001**

**Case Number:** T 0482/97 - 3.3.5

**Application Number:** 94301072.8

**Publication Number:** 0616826

**IPC:** B01D 27/10

**Language of the proceedings:** EN

**Title of invention:**  
Water filter cartridges

**Applicant:**  
Amway Corporation

**Opponent:**  
-

**Headword:**  
Filter cartridge/AMWAY

**Relevant legal provisions:**  
EPC Art. 84  
EPC R. 67

**Keyword:**  
"Clarity - no"  
"Support by description - no"  
"Reimbursement of appeal fee - no"

**Decisions cited:**  
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**Catchword:**  
-



Case Number: T 0482/97 - 3.3.5

**D E C I S I O N**  
**of the Technical Board of Appeal 3.3.5**  
**of 16 July 2001**

**Appellant:** Amway Corporation  
7575 East Fulton Road  
Ada  
Michigan 49355-0001 (US)

**Representative:** Rees, David Christopher  
Kilburn & Strode  
20 Red Lion Street  
London WC1R 4PJ (GB)

**Decision under appeal:** Decision of the Examining Division of the  
European Patent Office posted 18 November 1996  
refusing European patent application  
No. 94 301 072.8 pursuant to Article 97(1) EPC.

**Composition of the Board:**

**Chairman:** R. K. Spangenberg  
**Members:** B. P. Czech  
J. H. van Moer

## Summary of Facts and Submissions

- I. The appeal is from a decision of the examining division refusing the patent application.
- II. Subsequent to the receipt of a first communication from the examining division, the applicant filed a reply comprising an amended set of claims and an amended description. Amended claim 1 reads as follows:
- "1. A water filter cartridge (10) comprising a substantially cylindrical pressure vessel (20) having a substantially part-spherical first end and a generally planar second end, the second end comprising an outlet (11) and an inlet (25) in fluid communication with the pressure vessel, characterised in that the outlet comprises a normally closed first ball check valve adapted to close the outlet when the cartridge is not in service, and the inlet comprises a normally closed second ball valve (27) adapted to open upon the application of water pressure to the inlet; the normally closed first ball check valve having a ball (16) which is adapted to be engaged by opening means (9) when the water filter cartridge is mounted in a water treatment system."
- III. In the contested decision, the examining division held that the claims as amended did not overcome some of the clarity objections raised in the first communication.
- IV. In his detailed grounds for appeal, the appellant submitted that the reply to the first communication of the examining division constituted a bona fide attempt to deal with all the issues raised, and comprised claims amended to overcome the objections. In his view,

the immediate refusal of the application amounted to a clear substantial procedural violation. He further commented on the reasons for carrying out the amendments to the claims in response to the first communication, and contested that the claims as amended would lack clarity.

V. He submitted the following requests:

- As main request, that the application be immediately passed forward to grant without any further amendments being necessary, and that the appeal fee be refunded in full.
- As first auxiliary request, that the application be remitted to the examining division for further prosecution, and that the appeal fee be refunded in full.
- As a second auxiliary request, the applicant requested oral proceedings.

VI. In the annex to the summons to oral proceedings, the board indicated

- (a) that the main and auxiliary requests would appear to be objectionable under Article 84 EPC, and
- (b) that the requirements of Rule 67 EPC would not appear to be met.

Some of the clarity objections as raised by the examining division were upheld and commented in detail. Moreover, the board raised additional objections, in particular concerning lack of clarity and support by

the description (Article 84 EPC).

- VII. Oral proceedings were held on 16 July 2001. After the opening of the oral proceedings, the board received a telefax dated 13 July 2001 indicating that the appellant had decided not to be represented at the oral proceedings. The proceedings therefore continued without the appellant's participation, in accordance with Rule 71(2) EPC.

### **Reasons for the Decision**

1. As set out in the annex to the summons to oral proceedings, independent claim 1 as amended lacks clarity (Article 84 EPC) for - *inter alia* - the following reasons:

The limitations - if any - to be implied by the feature "adapted to be engaged by opening means (9)" (concerning ball (16)) as used in amended claim 1 is unclear. In particular, it cannot be understood which particular properties of a ball check valve or which properties of the ball itself would make them "adapted to be engaged by opening means". No explanation has been offered by the applicant.

2. The subject-matter of amended claim 1 also lacks the required support by the description (Article 84 EPC):

As pointed out in the annex to the summons to oral proceedings, the "opening means (9)" referred to in claim 1 must not only "engage" the ball but must actually be suitable for **unseating** it (see e.g.

claim 11 and figures), in order to permit the functioning of the claimed device. The only "means" suitable for engaging and unseating the ball of the outlet check valve in order to open it, disclosed in the application as filed, consist of a pin that penetrates the outlet (valve) and unseats the valve ball. Any such "means" necessarily will have to be of a size and shape such that they can penetrate the outlet and the valve seat opening. Hence they will inevitably have to be in the shape of a pin. The applicant did not comment on this issue. The board therefore holds that there is no sufficient support in the application as filed for the broad expression "opening means" as used in amended claim 1.

3. Since, for the stated reasons, the appeal is not allowable, the reimbursement of the appeal fee cannot be ordered (Rule 67 EPC).

## **Order**

### **For these reasons it is decided that:**

The appeal is dismissed.

The Registrar:

The Chairman:

M. Dainese

R. Spangenberg