

FEDERAL CIRCUIT PATENT LAW CASE UPDATE

Sorensen v. Int'l Trade Comm'n, 05-1020 (Fed. Cir. Oct. 31, 2005) (Rader, J.)

Disagreeing with the ITC's claim construction for the amendment-introduced term "different characteristics" in Sorensen's patent for a method of spacing injection molding sections, the court vacated the determination that injection-molded laminated tail lights on imported Mercedes-Benz automobiles did not infringe. The second molding section needed to use plastic with different characteristics. The ITC overly limited this phrase by holding that the second materials "must differ in some characteristic other than color."

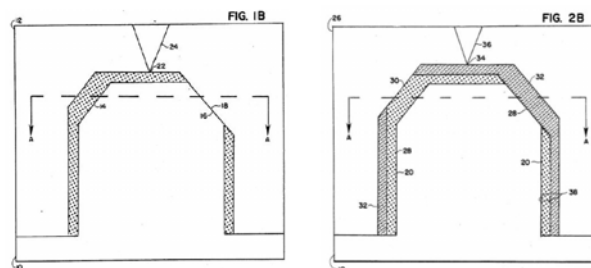
Sorensen owns U.S. Pat. No. 4,935,184, claiming "a method of spacing mold sections during sequential steps of plastic injection molding. . . . The unique geometry of the inventive method aligns the first casting with the second mold and stabilizes both."

The claim term at issue, "different characteristics", was introduced by amendment and described the plastic used in the second molding step.

The Commission's administrative judge found that the term "different characteristics" refers to plastics that have different molecular properties, but could not refer to different colors of the same material. Mercedes' accused product is an automobile tail light lens that is a lamination of two plastics that are different only in color. Hence, under this claim construction, the administrative judge found that this accused product did not satisfy the "different characteristics" limitation.

The court reversed this construction.

The claim does not limit these differences to any particular sub-set of the broad term "characteristics." In other words, according to the claim language any difference in characteristics between the two injected materials would satisfy the claim language. Thus, a difference in color alone would satisfy the "different characteristics" limitation. The color would be the characteristic that differs. In the context of the invention, the primary point of a sequential molding method would seem to call for some differences in the separately molded materials. Obviously a product made of a single uniform material could be produced in a single molding step. As long as the sequential materials differ in some respect, however, the patent does not specify any particular characteristic that must differ to satisfy the "different characteristics" limitation. The breadth of the claim language suggests that any difference in characteristics



justifies the sequential molding process. As long as the characteristics differ, the patent does not specify further the nature of the difference. To reinforce this interpretation of the claim language, the specification of the '184 patent states: "The first and second plastic materials may be either the same material or different materials." '184 patent, col. 9, ll. 17-18. This passage emphasizes that the material injected into the molds may be "the same." This reference suggests again that the first and second injection could use plastic with the same molecular structure. In that case, the "different characteristics" limitation would require some difference other than molecular structure, such as color.

In the specification the inventor also offers examples of a number of characteristic differences in materials that would justify separate molding steps. One of these is transparency. See '184 patent, col. 3, ll. 11-43. Differences in transparency, like differences in color, are differences that may or may not be associated with molecular structure. Thus, the inventor made clear in the examples as well that a difference characterizable in terms other than molecular structure would satisfy the "different characteristics" limitation.

In addition to this analysis, there was no disclaimer or disavowal of claim scope in the specification or prosecution history.