

GERMANY

Inventive step and application of general knowledge

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In its decision “Farbversorgungssystem” (X ZR 130/10) the Federal Supreme Court discussed the requirements for applying a technical solution generally known to the person skilled in the art but not disclosed in conjunction with the specific application in question to a prior art teaching in the assessment of inventive step.

In the case at issue a process for the series coating of articles was claimed which differed from the prior art in supply means for transporting containers from filling means to the spray means which are able to hold at least two containers simultaneously. Such supply means were not specifically disclosed in the cited prior art in conjunction with this specific process.

The Federal Patent Court ruled that the modification at issue is generally known in engineering and is routinely used in various different processes. In such a case the skilled person does not need a specific incentive to apply this modification to a process hitherto not applied to, that is a concrete disclosure in conjunction with series coating processes is not required.

On the contrary, it is sufficient in case applying such a generally known modification to a new process is generally feasible, no technical obstacles exist for its application and, furthermore, the advantages are immediately evident. Moreover, technical needs for the application to a further process are not mandatory; therefore non-technical demands can be sufficient.

Hence, specific reasons that the skilled person would have consulted disclosures in related or remote technical fields to solve the problem are not required. This is usually the case if the differentiating feature is not disclosed in combination

with the application in question.

In the case at issue the disclosure in three patent applications was considered sufficient as proof for general knowledge.