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**Datasheet for the decision  
of 13 February 2007**

**Case Number:** T 0967/05 - 3.2.06

**Application Number:** 98952630.6

**Publication Number:** 1017894

**IPC:** D06B 5/16

**Language of the proceedings:** EN

**Title of invention:**  
Plant for processing yarn on reels

**Patentee:**  
Loris Bellini S.p.A.

**Opponent:**  
MASTER S.a.s

**Headword:**  
-

**Relevant legal provisions:**  
EPC Art. 56

**Keyword:**  
"Inventive step (yes)"

**Decisions cited:**  
-

**Catchword:**  
-



Case Number: T 0967/05 - 3.2.06

**D E C I S I O N**  
of the Technical Board of Appeal 3.2.06  
of 13 February 2007

**Appellant:**  
(Opponent)

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**Decision under appeal:**

**Decision of the Opposition Division of the  
European Patent Office posted 21 June 2005  
rejecting the opposition filed against European  
patent No. 1017894 pursuant to Article 102(2)  
EPC.**

**Composition of the Board:**

**Chairman:** P. Alting van Geusau  
**Members:** G. Pricolo  
W. Sekretaruk

## Summary of Facts and Submissions

I. The appeal is from the decision of the Opposition Division posted on 21 June 2005 to reject the opposition filed against European patent No. 1 017 894 granted in respect of European patent application No. 98 952 630.6.

Claim 1 as granted reads as follows:

"1. A plant for dyeing and processing of yarns on reels comprising a plurality of processing stations with a processing device receiving reels stacked on vertical rods (25, 125) and having an upper opening for loading and unloading the reels, characterized in that the vertical rods (25, 125) are engaged in a removable manner in seats (41, 141) in said device and in that the plant comprises a rod-grasping unit (15, 115) movable vertically and horizontally to be arranged above the opening in the processing device to grasp the rods and hoist them with the reels thereon out of the device and insert them in place in the device, the rod-grasping unit (15, 115) having clamping means (26, 126) to grasp the rods loaded with reels and move the rods from one station to the other".

II. In coming to its decision the Opposition Division held that the claimed subject-matter was novel and inventive over the available prior art including:

D1 (respectively D1A, D1B): Article "Hydroblock System", published in "Nuova Selezione Tessile", November/December 1991, pages 165-168, and brochure

"Hydroblock System" published by the company Loris Bellini;

D4 (respectively D4A, D4B, D4C, D4D): Brochures of a plant of Krantz GmbH published for ITMA in 1987;

D5: FR-A-2 283 976.

The Opposition Division held that the claimed subject-matter was novel and inventive even when taking into consideration the alleged public prior use by Master s.a.s of a plant for dyeing and processing of yarns, in support of which the following documents were filed:

D2: technical drawing dated September 1991, photos 1 to 5 of a dyeing machine "AM/FR7" of Master s.a.s. and relative certificate of inspection dated 1991;

D2A: photos 1 to 7 of the dyeing machine "AM/FR7" and of a centrifugal hydroextractor manufactured by the company Pozzi, technical drawing of the dyeing machine;

D2A': control and function certificate of the "Pozzi" centrifugal hydroextractor dated 1980;

D19: declaration of Mr Greco dated 1 June 2005.

III. The appellant (opponent) lodged an appeal against this decision, received at the EPO on 29 July 2005, and simultaneously paid the appeal fee. With the statement setting out the grounds of appeal, received at the EPO on 21 October 2005, the appellant filed additional evidence in support of the alleged prior use, namely:

D2B1, D2B2: photos of the plant;

D2C1, D2C2, D2C3: certificates of testing of the grasping units present in the plant.

Furthermore, the appellant filed the following additional documents:

D21 : pages 225 and 226 extracted from a book published by "Zittauer Maschinenfabrik & Eisengiesserei";

D22 : Single page showing "Machines and plants patented for dyeing" by "Obermaier & Cie";

D23 : Brochure "Macchine per tintoria" by Leopoldo Pozzi;

D24 : Brochure "Tupulsar unexcelled rapid dyeing system" published by the company "Brückner";

D25 : "Galvanin" General Catalogue;

D26 : Brochure "Centrifughe Essiccatoi Accessori" published by "Officine Minnetti Italia srl".

Documents D21 to D26 were discussed in detail in a letter (annexed to the part of the grounds of appeal drafted by the professional representative) signed by Mr Francesco Ronchi, representing the appellant in its quality of general partner ("accomandatario"). In its letter Mr Ronchi additionally cited the following documents filed during the first instance's proceedings:

D3 (respectively D3A, D3B, D3C) : brochures describing the "BRM" plant of Master s.a.s. published in 1983 for ITMA; extract of a book of F. Corbani entitled "Nobilitazione dei tessili", published in 1990 by Centro Tessile Cotoniero, pages 410 and 411;

D7 : US-A-3 760 614;

D12 : article "KBK automatizzato per una tintoria industriale", published in "MD notizie" by Mannesmann Demag, October 1990;

D13 (respectively D13A, D13B) : Brochure of a dryer plant "SRM" by Master s.a.s; extract of the book of F. Corbani entitled "Nobilitazione dei tessili", published in 1990 by Centro Tessile Cotoniero, pages 449 to 451;

D14 : Technical drawing dated 1960 concerning an hydroextractor of ILMA s.p.a.;

D16 : G. Prelini, "Sbianca Tintura Stampa Finitura dei tessili", published in 1957 by Hoepli, pages 138 and 139.

IV. With letter dated 12 January 2007 the appellant filed the additional document:

D27 : EP-B1-0 136 371.

V. Oral proceedings, at the end of which the decision of the Board was announced, took place on 13 February 2007.

The appellant requested that the decision under appeal be set aside and that the European patent be revoked.

The respondent (patentee) requested that the appeal be dismissed.

After opening the oral proceedings, the Board handed over to the parties a written note in which it informed the parties of its provisional opinion. In the written note it was stated that, even taking into consideration the additional evidence submitted in the appeal proceedings, it appeared that the alleged prior use (D2) was not prejudicial to the novelty of the claimed subject-matter. Indeed, the main claim of the patent in suit required clamping means which clamped each individual rod and such clamping means were not present in the allegedly known plant. Moreover, it appeared that in this plant the rods taken from the dyeing machine could not be inserted in place in the Pozzi hydroextractor without human intervention, since the rods were inserted in the Pozzi hydroextractor in a position different from that in which they were when held by the transfer unit.

As regards the plant according to D4, it comprised a rod-grasping which, it appeared, was not provided with clamping means to grasp the rods, but hooks. Furthermore, it appeared that the rod-grasping unit did not move the rods from one processing station to the other, but from a magazine to a processing device and vice-versa. As regards D5, it disclosed a device for dyeing reels comprising a processing station with a processing device receiving reels stacked on vertical rods and having an upper opening for loading and unloading the reels, wherein the vertical rods were engaged in a removable manner in seats in said device.

However, it appeared that D5 neither disclosed what kind of grasping unit could be used nor a further processing station.

The Board further stated that none of the documents D3, D7, D13, D14 and D16 disclosed a plant having all the features of claim 1 of the patent in suit, that D21 to D27 did not appear more relevant than the documents already on file and therefore should not be taken into consideration pursuant to Article 114(2) EPC, and that the plant according to D1 appeared to represent the closest prior art.

The oral proceedings were interrupted and the parties were given sufficient time to study the written note.

VI. During the oral proceedings the appellant no longer contested the novelty of the claimed subject-matter, which was objected to in the statement of grounds of appeal on the basis of the alleged prior use (D2) and of the prior art according to D4, and only submitted that the claimed subject-matter did not involve an inventive step in view of the combination of D1 with either D4 or D5. The appellant did not pursue its lines of argumentation on lack of inventive step based on the combination of D1 and the alleged prior use and the combination of the alleged prior use and D4, which were submitted in the statement of grounds of appeal, nor referred to the argumentation submitted in the letter signed by Mr Ronchi.

The appellant essentially argued as follows:

Claim 1 of the patent in suit required the presence of a plurality of processing stations. In accordance with



the disclosure of paragraph [0008] of the description, the term "processing station" encompassed not only a dyeing, centrifugation or drying stations, but also a holding or parking station. D1, which represented the closest prior art, disclosed a plant having a plurality of processing stations and a grasping unit movable vertically and horizontally between the stations to grasp a yarn package carrier of the "candelabrum" type. The skilled person wishing to avoid the use of such a yarn package carrier would consider the teaching of D4 to provide a rod-grasping unit which individually grasped the rods and then transferred them from a parking station to a processing device where the rods were engaged in corresponding seats, thereby arriving in an obvious manner at a plant falling within the scope of claim 1. Similarly, starting from D1, the skilled person would arrive at the claimed subject-matter in view of the teaching of D5. D5 disclosed a processing device having a cover for clamping each individual rod, whereby the rods could be hoisted out of, or inserted in, the device by grasping the cover.

According to the submissions filed with the letter signed by Mr Ronchi, dyeing plants which permitted the manual or automatic handling of reels between different processing stations were running since tens of years, as documented by D1, D2, D3, D5, D7, D12, D13, D14, D16, and D21 to D26. Accordingly, the patent in suit had been invalidly granted.

VII. The respondent's reply can be summarized as follows:

Claim 1 related to a plant having a plurality of processing stations with a processing device and thus

made clear that each processing station was provided with a processing device. The holding or parking stations mentioned in the description were not provided with a processing device and therefore were not processing stations in the sense of claim 1. Document D1, which represented the closest prior art, related to a plant in which a yarn package carrier was automatically transferred from one processing device to the other. There was no hint in the prior art to replace the yarn package carrier disclosed in D1 by a mechanism in which each individual rod was clamped. Although D4 disclosed to grasp each rod with a hook, it related to a plant of a different kind because it required manual intervention during each loading/unloading step, in particular in the step of unloading the rods from the parking station to load them into the hydroextractor. In the processing device according to D5, the cover for clamping each individual rod remained into the device during the processing of the yarns. Accordingly, the cover and the rods formed a yarn package carrier analogously to D1. Furthermore D5 disclosed a single processing station and was silent about transferring the rods from a processing station to another.

### **Reasons for the Decision**

1. The appeal is admissible.
  
2. *Novelty*

Since the novelty of the subject-matter of claim 1 is no longer in dispute among the parties, nor is it

doubted by the Board, it is not necessary to consider this matter in detail.

3. *Inventive step*

3.1 The problem underlying the patent in suit (see par. [0005]) is to provide a plant for processing yarns on reels which would allow automatic reel handling with low complexity and limited space occupied and costs.

3.2 The plant designated "Hydroblock System" disclosed by D1 (see in particular the last page of D1b) undisputedly represents the closest prior art. D1 indeed relates to a plant in which reel handling between the processing station is automatic. The known plant for dyeing and processing of yarns on reels comprises a plurality of processing stations (for dyeing, extracting, and drying) with a processing device receiving reels stacked on vertical rods and having an upper opening for loading and unloading the reels. The vertical rods are not engaged in a removable manner in seats in the processing device because they are part of a yarn package carrier. The plant comprises a grasping unit movable vertically and horizontally to be arranged above the opening in the processing device to grasp the carrier and hoist it with the reels thereon out of the device and insert it in place in the device, and move the carrier from one station to the other.

3.3 The subject-matter of claim 1 is distinguished therefrom in that the vertical rods are engaged in a removable manner in seats in said device, and in that the grasping unit is a rod-grasping unit to be arranged

above the opening to grasp the rods and having clamping means to grasp the rods loaded with reels and move the rods from one station to the other.

The distinguishing features imply that each rod is individually positioned in the processing device and individually grasped by a clamping means of the rod-grasping unit. The individual positioning and clamping of the rods allows to dispense of the rods carrier shown in D1.

Accordingly, the technical problem solved can be seen in providing an alternative manner of handling the rods from one station to the other.

- 3.4 The plant of Krantz GmbH according to D4 (as shown in documents D4a to D4d) is for dyeing and processing of yarns on reels. It comprises (see D4c) a plurality of processing stations with a processing device (dyeing device, hydroextractor and dryer) receiving reels stacked on vertical rods and having an upper opening for loading and unloading the reels. The plant comprises a rod-grasping unit (see D4c) movable vertically and horizontally to be arranged above the opening in the processing device to grasp the rods and hoist them with the reels thereon out of the device and insert them in place in the device. The rod-grasping unit does not have clamping means to grasp the rods loaded with reels, but hooks (apparently snap-hooks). Moreover, the unit does not move the rods from one processing station to the other, but from a magazine to a processing station and vice-versa. Contrary to the appellant's submissions, the magazines shown in D4c cannot be regarded as processing stations in the sense

of claim 1: indeed, not only no processing step is carried out there, but these magazines are also not provided with a processing device having an upper opening. In this respect it is noted that, contrary to the appellant's submissions, there is no basis in the description to read claim 1 of the patent in suit such that the term "processing station" encompasses a parking or a holding station. Par. [0008] referred to by the appellant recites that "*the plant comprises at least one processing station with a processing device receiving reels 24 stacked on vertical rods 25. For example in the figure are shown two dyeing stations 11, one centrifugation station 12, one drying station 13 and a plurality of holding or parking stations 14 which allow storage and support of the rods in the vertical position*". This text does not necessarily imply that all the stations, in particular the holding or parking stations, are to be considered as processing stations. In fact, it is clear for the skilled reader that the processing stations of the plant shown in the figure are the dyeing stations, the centrifugation station and the drying station only.

Finally, D4 does not disclose that the processing devices (dyeing device, hydroextractor and dryer) comprise seats for the vertical rods. In fact, as shown in D4c, the rods are inserted in the dyeing station whilst being on a yarn package carrier ("porte-matière"), then they are removed from the package carrier for being inserted in the hydroextractor which, as shown in D4a and D4b, has part-cylindrical seats on its periphery corresponding to the diameter of the reels (the reels are either removed pairwise and inserted directly in the hydroextractor as shown in D4b

or removed and then stored in a magazine before being inserted in the hydroextractor as shown in D4c), and finally the reels are put into the drying device (either individually as shown in D4c or alternatively, as shown in D4a and D4b, as a package of reels on horizontally directed rods).

Accordingly, D4 does not contain any indication suggesting an individual positioning and clamping of the rods by the rod-grasping unit in the processing devices.

- 3.5 D5 discloses (see Fig. 1) a device for dyeing reels comprising a processing station with a processing device receiving reels (11) stacked on vertical rods (10) and having an upper opening for loading and unloading the reels, wherein the vertical rods are engaged in a removable manner in seats (8) in said device (see page 4, lines 14 to 17). The upper ends of the rods are clamped in seats (35, see Fig. 3) of a holding device (30) which has a circular shape (circular cover). By grasping a hook (32) of the holding device (30) by means of a grasping unit, all the rods can be hoisted out or inserted into the processing device (see page 3, lines 22 to 28 and page 6, lines 4 to 17) as a unit. The holding device remains in the processing device during the dyeing process as part of this unit (see Fig. 1). Thus, during the steps of inserting the reels in the processing device, processing them, and removing them from the device, the unit constituted by the holding device, the rods, and the reels, is functionally equivalent to the yarn package carrier of D1. Therefore, D5 does not disclose a rod-grasping unit to be arranged above the

opening in the processing device having clamping means to grasp the rods and thus does not suggest the alternative manner of handling the rods in accordance with claim 1 of the patent in suit.

3.6 As regards the allegedly prior used plant (D2), the appellant did not contest the Board's view (see above section V) that it does not comprise clamping means for clamping each individual rod and that the transfer from a processing station to the other requires human intervention because the rods are positioned differently within each processing station. Accordingly, irrespective of whether the prior use effectively took place, the prior used plant does not suggest an alternative manner of handling the rods from one station to the other in which each rod is individually clamped and which is suitable for the plant of D1 where the rods are always at a fixed position relative to each other because part of a yarn package carrier.

3.7 The other documents cited, including the documents D21 to D26 filed with the grounds of appeal and referred to by Mr Ronchi in his letter (see above section VI), and document D27 filed shortly before the date of oral proceedings, do not disclose or suggest the combination of the feature of individually positioning the vertical rods in the processing device with the feature of individually clamping the rods by means of a rod-grasping unit.

3.8 From the above it follows that the subject-matter of claim 1 involves an inventive step over the available prior art, even in the assumption that the alleged prior use (D2) forms part of the prior art. The

subject-matter of dependent claims 2 to 22 likewise involves an inventive step.

4. Therefore, the Opposition Division's decision to reject the opposition must, in effect, be confirmed.

## **Order**

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

The appeal is dismissed.

The Registrar:

The Chairman:

M. Patin

P. Alting van Geusau