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**Datasheet for the decision
of 30 March 2017**

Case Number: T 1100/13 - 3.4.02

Application Number: 10186442.9

Publication Number: 2312382

IPC: G02F1/1335, G01N21/896

Language of the proceedings: EN

Title of invention:

Information storing, readout and calculation system for use in a system for continuously manufacturing liquid-crystal display elements, and methods for producing the same

Applicant:

Nitto Denko Corporation

Headword:

Relevant legal provisions:

EPC Art. 54

Keyword:

Novelty - (no)

Decisions cited:

Catchword:



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Boards of Appeal
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Case Number: T 1100/13 - 3.4.02

D E C I S I O N
of Technical Board of Appeal 3.4.02
of 30 March 2017

Appellant: Nitto Denko Corporation
(Applicant) 1-1-2, Shimohozumi
Ibaraki-shi, Osaka 567-8680 (JP)

Representative: Gill Jennings & Every LLP
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Decision under appeal: **Decision of the Examining Division of the European Patent Office posted on 2 January 2013 refusing European patent application No. 10186442.9 pursuant to Article 97(2) EPC.**

Composition of the Board:

Chairman R. Bekkering
Members: A. Hornung
T. Karamanli

Summary of Facts and Submissions

I. The applicant (appellant) appealed against the decision of the examining division refusing European patent application No. 10186442.9 on the basis of Article 97(2) EPC because the requirements of Article 56 EPC were not fulfilled.

II. With the statement setting out the grounds of appeal, the appellant filed a set of claims according to a main and sole request and requested that the decision of the examining division be set aside and a patent be granted on the basis of this set of claims. As an auxiliary measure, oral proceedings were requested.

III. In a communication annexed to the summons to oral proceedings the board gave a preliminary assessment of the appellant's case on appeal. In particular, as regards the main request the board raised objections under Article 54 and 56 EPC.

IV. In reply to the summons to oral proceedings, the appellant withdrew its request for oral proceedings.

The oral proceedings were then cancelled.

V. The present decision refers to the following documents:

D1 : WO 2009/096388 and

D1': EP 2 244 244 A1.

VI. Independent claim 1 reads as follows:

"An information storage-readout-calculation system adapted for use in a manufacturing system for continuously manufacturing liquid-crystal display elements by laminating sheets of polarizing composite film from a continuous

optical film laminate on to respective ones of a plurality of liquid-crystal panels each having a predefined width and a predetermined length, the information storage readout-calculation system (1) comprising;

a roll (R) of a continuous inspected optical film laminate (10) having a width equal to either the width or length of the liquid-crystal panel (W) and comprising a continuous polarizing composite film having an adhesive layer thereon and a continuous carrier film releasably laminated to the adhesive layer;

an information storage medium (800) storing information of position of at least one defect detected through a preliminary inspection of the continuous polarizing composite film (11) included in the continuous optical film laminate (10); and

a slitting position calculation means (415) for determining defective-polarizing-sheet slitting positions and normal-polarizing-sheet slitting positions characterized in that the roll (R) of continuous inspected optical film laminate is provided with at least one identification means (20) comprising machine readable indicia for identifying the specific roll of continuous inspected optical film laminate from other rolls of continuous inspected optical film laminate, in that said information of position of at least one defect stored in said information storage medium (800) is associated with the identification means provided to the roll of a continuous inspected optical film laminate, and in that said slitting positive [sic] calculation means (415) is adapted to determine defective-polarizing-sheet slitting positions and normal-polarizing-sheet slitting positions by using position information read out from the information storage medium based on the at least one identification means and length measurement data calculated based on a feed

length of the continuous inspected optical film laminate (10) fed out from the roll (12), the defective-polarizing-sheet slitting positions and the normal-polarizing-sheet slitting positions defining positions of at least one defect-containing polarizing sheet ($X\beta$) having at least one defect and defect free polarizing sheets ($X\alpha$) having no defect, respectively."

Reasons for the Decision

1. Interpretation of the claim wording

The roll of claim 1 "is provided with at least one identification means comprising machine readable indicia for identifying the specific roll [...] from other rolls". The identification means of claim 1 are thus defined via a structural feature, i.e. "machine readable indicia", and a functional feature, i.e. "for identifying the specific roll [...] from other rolls". The scope of the functional feature is so broad that it covers any means which are suitable to differentiate one roll from another roll, independently from the actual or initial purpose of the differentiation means.

2. Novelty

2.1 The subject-matter of claim 1 lacks novelty with respect to the disclosure of D1 (Article 54(1) and (2) EPC).

During the first-instance proceedings, the appellant and the examining division considered document D1', belonging to the same patent family as document D1 but being published after the priority date of the present application, as being a valid English translation of D1. The board sees no reason to

put this assumption into question. Therefore, when citing text passages of document D1, the text of document D1' is actually referred to.

As acknowledged by the appellant in its statement of grounds of appeal, the key differences between the subject-matter of claim 1 and the disclosure of D1 relate to the identification means provided to the roll of the optical film laminate. See point 23 of the statement of grounds enumerating key differences (a) to (d) as follows:

"The key differences between claim 1 of the patent in suit and D1 are:

(a) the roll of continuous inspected optical film laminate is provided with at least one identification means for identifying the specific roll of continuous inspected optical film laminate from other rolls of continuous inspected optical film laminate,

(b) the at least one identification means comprises machine readable indicia,

(c) the information of position of at least one defect stored in the information storage medium is associated with the identification means provided to the roll of continuous inspected optical film laminate, and

(d) that the slitting position calculation means is adapted to determine slitting positions by using information read out from the information storage medium based on the at least one identification means and length measurement data calculated based on the amount of optical film laminate fed out from the roll."

D1 discloses an embodiment in which the defect inspection does not form part of the in-line manufacturing system but is carried out separately (see e.g. [0041], [0050] and [0110]). In this embodiment, the defect data may be attached, as a bar code or the like, directly to the sheet product (see [0050] and [0110]). This bar code is made of machine readable indicia and comprises information of the position of the defects located on the roll. Furthermore, this bar code is suitable for identifying the specific roll from other rolls since each roll has different defects located at different positions and, hence, is provided with a unique bar code. Thus, the bar code of D1 falls under the scope of the identification means of claim 1 and anticipates the key differences (a), (b) and (c) mentioned by the appellant in its statement of grounds.

Furthermore, D1 discloses a controller (1) which is supplied with the defect data (see column 13, line 45) and constructed to make the cut on the basis of this defect data (see column 14, lines 11 and 12) and on the feed distance of the optical film laminate (see disclosure of the measured feed distance calculating means (307, 308) in [0066] and [0068]). Thus, the key difference (d) mentioned by the appellant in its statement of grounds is also anticipated.

The board sees no further distinguishing features between the system of claim 1 and that of D1.

- 2.2 According to point 38 of the statement of grounds, the appellant is of the view that the information stored in the bar code was "to identify particular defect data already on the film and had nothing whatsoever to do with identifying a film itself".

This argument is not found convincing by the board since a bar code as such is generally merely a series of black and

white parallel bars with variable thickness, aligned along a row and separated by a variable distance from each other. Any specific purported purpose or information is not intrinsically inherent to the bar code as such. The purpose or information carried by a bar code represents merely an intention which does not belong to the subject-matter of claim 1. Therefore, whether the bar code of D1 is used for providing information about defects in a roll, identifying a serial number of a roll or fulfilling any other purpose is not a technical feature of the bar code as such.

2.3 Therefore, the system of claim 1 lacks novelty in view of the embodiment of D1 in which the defect data is stored as a bar code attached to the roll of optical film laminate. Since the present request does not fulfil the requirements of Article 54(1) and (2) EPC the appeal must be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



M. Kiehl

R. Bekkering

Decision electronically authenticated