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**Datasheet for the decision
of 4 April 2017**

Case Number: T 1868/13 - 3.2.07

Application Number: 09154162.3

Publication Number: 2098344

IPC: B27M1/08, B65G65/00

Language of the proceedings: EN

Title of invention:

Method and machine for machining wood components or the like

Patent Proprietor:

BIESSE S.p.A.

Opponent:

Homag Holzbearbeitungssysteme GmbH

Headword:

Relevant legal provisions:

EPC Art. 114(1), 84, 56, 111(1)

EPC R. 80

Keyword:

Late-filed document - (admitted)

Remittal to the departement of first instance - (no)

Clarity objection in opposition-appeal proceeding - (not open to examination)

Amendments occasioned by a ground of opposition - (yes)

Inventive step - (yes)

Decisions cited:

G 0003/14

Catchword:



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Case Number: T 1868/13 - 3.2.07

D E C I S I O N
of Technical Board of Appeal 3.2.07
of 4 April 2017

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Decision under appeal: **Interlocutory decision of the Opposition**
Division of the European Patent Office posted on
18 June 2013 concerning maintenance of the
European Patent No. 2098344 in amended form.

Composition of the Board:

Chairman G. Patton
Members: K. Poalas
G. Weiss

Summary of Facts and Submissions

- I. The appellant (opponent) lodged an appeal against the interlocutory decision maintaining European patent No. 2 098 344 in amended form.
- II. Opposition had been filed against the patent as a whole based on Article 100(a) EPC (lack of novelty and lack of inventive step).

The opposition division found that the set of claims filed as second auxiliary request with letter of 22 February 2013 met the requirements of the EPC.

- III. Oral proceedings took place before the board on 4 April 2017.

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

The respondent (patent proprietor) requested that the appeal be dismissed (main request) or alternatively that the decision under appeal be set aside and that the patent be maintained in amended form on the basis of the claims filed as second auxiliary request with the reply to the statement setting out the grounds of appeal.

- IV. The following documents filed during the opposition proceedings are referred to in the present decision:

E2 DE 100 30 997 A,
E3 EP 0 335 658 A,
E6 JP 2001 106 338 A.

Together with the statement setting out the grounds of

appeal the appellant filed

E11 DE 38 37 402 A.

V. Independent claims 1 and 7 of the main request according to the features analysis of the appellant read as follows :

"1. A method for machining wood components (2) or the like, in particular components (2) for door and window frames, in a machine comprising a base(3); a clamping device (23) for at least one component (2); an operating head (12) for machining components (2); and a gripping and conveying assembly (15, 25) for transferring the components (2) to be machined and/or the newly machined components (2) between at least a first feeding station (30, 33) and the clamping device (23); the method being characterized in that it comprises the steps of:

a) feeding the components (2) to be machined to the first feeding station (30, 33) by means of a first movable carriage (41) having a plurality of reciprocally overlapping resting planes (P3);
b) transferring each component (2) to be machined from the corresponding resting plane (P3) to a first lifting device (37) movable between the resting planes (P3);
and

c) transferring each component (2) to be machined from the first lifting device (37) to the gripping and conveying assembly (15, 25); and wherein

d) each resting plane (P3) of the first carriage (41) is defined by at least two belt conveyors (44) looped about respective pairs of pulleys (45) and provided with a pivoting supporting shaft (46) to which a pulley (45) of each belt conveyor (44) is mounted;
the method further comprising the steps of:

- e) connecting the supporting shaft (46) to an electric motor (47) mounted in said corresponding feeding station (30, 33); and
- f) actuating the electric motor (47) either for moving the components (2) to be machined in said corresponding feeding station (30, 33) or for releasing the newly machined components (2) from said corresponding feeding station (30, 33)".

"7. A machine for machining wood components (2) or the like, specifically components (2) for door and window frames, comprising

- 1. a base (3);
 - 2. a clamping device (23) for at least one component (2);
 - 3. an operating head (12) for machining components (2);
 - 4. at least one first feeding station (30, 33);
 - 5. and a gripping and conveying assembly (15, 25);
 - 5.1. the gripping and conveying assembly (15, 25) is for transferring the components (2) to be machined and/or the newly machined components (2) between the at least one first feeding station (30, 33) and the clamping device (23);
- and characterized in that it further comprises
- 6. a first carriage (41);
 - 6.1. the first carriage (41) has a plurality of reciprocally overlapping resting planes (P3);
 - 6.2. the first carriage (41) is movable to feed the components (2) to be machined to the first feeding station (30, 33);
 - 6.3. the first carriage (41) comprises, for each resting plane (P3), at least two belt conveyors (44);
 - 6.3.1. the belt conveyors (44) define a resting plane (P3);
 - 6.3.2. the belt conveyors (44) are looped about respective pairs of pulleys (45);

- 6.4. the first carriage (41) comprises at least one pivoting supporting shaft (46);
- 6.4.1. a pulley (45) of the (each) belt conveyor (44) is mounted to the at least one pivoting supporting shaft (46);
- 7. a first lifting device (37);
- 7.1. the first lifting device (37) is movable between the resting planes (P3) to transfer each component (2) to be machined from the corresponding resting plane (P3) to the gripping and conveying assembly (15, 25);
- 8. the (each) said first feeding station (30, 33) is provided with an electric motor (47);
- 8.1 the electric motor (47) has an outlet shaft (49);
- 8.1.1 the outlet shaft (49) is selectively connectable to the supporting shaft (46) of one of said resting planes (P3) either to displace the corresponding components (2) to be machined in said corresponding feeding station (30, 33) or to release the corresponding newly machined components (2) from said corresponding feeding station (30, 33)".

In view of the outcome of the present decision the text of the claims of the second auxiliary request is not relevant.

VI. The appellant's arguments may be summarised as follows:

Admission of document E11 into the proceedings

The filing of E11 together with the statement setting out the grounds of appeal was the appellant's earliest possible reaction to the opposition division's finding that E2, E3 and E6 were not to be considered as being in a position to question the presence of an inventive step in the subject-matter of the independent claims of the then second auxiliary request.

Objections based on Article 84 and Rule 80 EPC

The statement in claim 7 that the first lifting device is movable between the resting planes P3 is unclear since the latter have not been previously defined. According to figure 3, the first feeding station 30, 33 is part of the feeding assembly 25, the former being the "inlet station 30", the latter the "outlet station 33". In claim 7 however these structural parts are defined as being equivalent parts. The electric motor 47 is not mentioned in claim 7 as being part of the first lifting device 37, contrary to the description.

Claims 14 and 15 of the patent as granted refer to several first carriages. Referring now in independent claims 1 and 7 to only one first carriage does not comply with the requirements of Rule 80 EPC.

Inventive step

Combination of the teachings of documents E3 and E11

Claim 7

The gripping and conveying assembly is not further specified in claim 7. The dog 52 of the drive chain 50 of E3 is capable of engaging and moving the workpieces between two locations. Thus, it can be considered as a gripping and conveying assembly in the sense of claim 7.

Accordingly, in addition to features 1 to 4, E3 also discloses features 5 and 5.1 of claim 7.

E3 further discloses a first carriage (feature 6 of

claim 7), see column 1, line 41, which has a plurality of reciprocally overlapping resting planes (feature 6.1 of claim 7) and is movable to feed the components to be machined to the first feeding station (feature 6.2 of claim 7), the first carriage comprising at least one pivoting supporting shaft (feature 6.4 of claim 7).

The lifting device 22 of E3 is capable of moving between the resting planes in order to transfer components to be machined from the corresponding resting plane to the gripping and conveyor assembly (features 7 and 7.1 of claim 7).

E3 further implicitly discloses an electric motor with an outlet shaft (features 8 and 8.1 of claim 7) selectively connectable to the supporting shaft of one of the resting planes either to displace the corresponding components to be machined in the corresponding feeding station or to release the corresponding newly machined components from the corresponding feeding station (feature 8.1.1 of claim 7).

The only features of claim 7 which are not disclosed in E3 are features 6.3, 6.3.1, 6.3.2 and 6.4.1.

The above-mentioned features have the effect of loading and unloading the workpieces onto and out of the carriage by constant acceleration.

Thus, the problem to be solved can be seen in how to load and unload the workpieces onto and out of the carriage by constant acceleration.

E11 is directed to this problem, see column 1, lines 50 to 59 ("stoßfreies Einbringen").

Figure 3 of E11 shows two belt conveyors 9 (feature 6.3 of claim 7), which define a resting plane (feature 6.3.1 of claim 7) looped about respective pulleys 7, 8 (feature 6.3.2 of claim 7). According to figure 4 the pulley 8 is connected to the drive wheel 28 and inevitably mounted to a pivoting shaft (feature 6.4.1 of claim 7).

The motor 20, the coupling unit 26, the drive wheel 28 and the pulley 8 correspond to feature 8.1.1 of claim 7.

A combination of the teachings of E3 and E11 would therefore lead the skilled person to the subject-matter of claim 1 without the exercise of an inventive activity.

Claim 1

A method for machining wood components disclosing step a) of claim 1 is known from E3, see column 1, lines 8 to 10 and 31 to 40.

As shown in figure 1 of E3 the lifting device is formed by the sprockets 32 and the side plate 24 (step b)).

According to column 1, lines 31 to 40, of E3, there are means for moving the lifting device to the level of a table of the machining centre and means for loading the pallet from the transfer device onto the table, namely the drive chain 50 and the dog 52 which correspond to the gripping and conveying assembly of claim 1. Accordingly, step c) of claim 1 is known from E3 too.

Step f) is also known from E3, see column 3, lines 31

to 34, where a motor (not shown) for moving the sprockets 54 is referred to.

Steps d) and e) are not disclosed in E3.

The method step d) has the effect of loading and unloading the workpieces onto and out of the carriage by constant acceleration.

The method step e) has the effect that instead of a plurality of motors a single motor may be used.

Thus, the two partial independent problems to be solved can be seen in providing a transfer device enabling loading and unloading the workpieces onto and out of the carriage at a constant acceleration (step d)) and in reducing the number of motors needed for loading, i.e. how to achieve a cost reduction (step e)).

E11 is directed to a transfer device moving workpieces stored at different levels.

A first objective mentioned in E11 is the soft movement of workpieces into and out of the store 1 ("stoßfreies Einbringen"), see column 1, lines 54 to 57. A second objective mentioned in E11 is the reduction of the number of motors needed, see column 1, line 59.

Figures 1, 3 and 4 of E11 show that the two conveyor belts 5, 6 are provided with pulleys 7, 8 having inevitably pivoting supporting shafts. Step d) does not require that a pulley of each belt conveyor has to be mounted on the same pivoting supporting shaft. Accordingly, step d) is known from E11.

The motor 20 shown in figure 1 of E11 is used to rotate

the pulley 15, which is coupled via the coupling unit 26 to the pulley 8, see last line of claim 1. Accordingly, step e) is also known from E11.

E11 thus discloses the missing steps of E3 and deals with the two above-mentioned partial independent problems.

The skilled person seeking to solve the above-mentioned problems would combine the teachings of E3 and E11 and by replacing the store 10 known from E3 with the store known from E11 would arrive at the subject-matter of claim 1 without the exercise of any inventive activity.

Combination of the teachings of documents E2, E3 and E6

Claims 1 and 7

The question at stake is whether feature e) of claim 1 and feature 8.1.1 of claim 7 are disclosed in E6.

E6 discloses an automatic loading device provided with a plurality of belt conveyors 3a to 3e. According to figure 1 these belt conveyors have to be operated either by using a single motor per belt conveyor (alternative 1) or by using less than one single motor per belt conveyor (alternative 2).

Alternative 1 means that the electric motor is selectively actuated by the control unit of the machine so that it provides a connecting step to the supporting shaft of the corresponding belt conveyor. Alternative 2 means that a mechanical connecting step has to be performed between the motor and the supporting shaft of the respective belt conveyor. Hence, for both alternatives the outlet shaft of the electric motor is

"connectable" to the supporting shaft.

Neither claim 1 nor claim 7 explicitly claims that the connection is to be made mechanically.

Even if this were the case, it is merely a selection among only two existing alternatives, as there are no other alternatives. Feature e) of claim 1 and feature 8.1.1 of claim 7 are hence known from E6.

VII. The respondent's arguments may be summarised as follows:

Admission of document E11 into the proceedings and possible remittal of the present case to the opposition division

Since independent claims 1 and 7 of the present main request are based on claims of the granted patent, the appellant should already have attacked all claims of the granted patent with the available prior art during the nine-month opposition period. Furthermore, E11 is not *prima facie* highly relevant in terms of prejudicing the maintenance of the contested patent.

E11 therefore should not be admitted into the appeal proceedings.

In case the board decides to admit E11 into the proceedings, remittal of the case to the opposition division is requested.

Objections based on Article 84 and Rule 80 EPC

The resting planes P3 are clearly introduced in feature 6.1 and are then recalled in the following feature 7.1.

Thus, the reference in feature 7.1 does not lack an antecedent basis.

Feature 5.1 clearly relates to "a gripping and conveying assembly (15, 25) for transferring the components (2) to be machined and/or the newly machined components (2) between at least one first feeding station (30, 33) and the clamping device (23)".

The wording of claim 7 is an allowable generalisation of the various embodiments shown and disclosed in the patent specification.

Inventive step

Combination of the teachings of documents E3 and E11

Claim 7

E3 does not disclose at least features 5, 5.1, 6.3, 6.3.1, 6.3.2, 6.4, 6.4.1, 7.1 and 8.1.1 of claim 7.

E11 does not disclose at least features 1, 2, 3, 4, 5, 5.1, the features of group 6 (relating to a carriage, which is not shown and disclosed in E11), and feature 7.1 (relating to a lifting device for transferring the components from the resting planes of the store to a gripping and conveying assembly, which is not shown and disclosed in E11) and also feature 8.1.1 (relating to a pivoting supporting shaft to which a pulley of each belt conveyor is mounted) of claim 7.

Since neither E3 nor E11 discloses features 5, 5.1 and 7.1 of claim 7, it is evident that even if E3 were combined with E11, the resulting combination would in any case always lack the above-mentioned features of

claim 7.

Accordingly, the subject-matter of claim 7 involves an inventive step.

Claim 1

E3 does not disclose features c), d), e) and f) of claim 1.

E11 does not disclose features a), c) and d) of claim 1.

Since neither E3 nor E11 discloses features c) and d), it is evident that even if the teaching of E3 were combined with the teaching of E11, the resulting combination would in any case always lack the above-mentioned features, and the subject-matter of claim 1 therefore involves an inventive step.

Combination of the teachings of E2, E3 and E6

Claims 1 and 7

Even if the teachings of E2, E3 and E6 were combined with each other, the resulting method and the resulting machine would lack at least feature e) of claim 1 and feature 8.1.1 of claim 7.

Reasons for the Decision

1. *Admission of document E11 into the proceedings; remittal of the present case to the opposition division; the validity of the clarity objections and of the objections based on Rule 80 EPC raised by the appellant against the subject-matter of independent*

claims 1 and 7 of the main request

- 1.1 Having taken into consideration the arguments put forward until then by both parties in relation to the above-mentioned issues, the board under points 3 and 4 of its communication pursuant to Article 15(1) RPBA dated 8 February 2017 gave the following provisional opinion on the above-mentioned issues:

"3. As far as it concerns point a) above [admission of document E11 into the proceedings and remittal of the present case to the opposition division] the board comments as follows:

3.1 According to the established case law of the boards of appeal, filing new facts, documents and evidence with the statement of the grounds of appeal would be considered to be in due time, if the filing was occasioned by an argument or a point raised by another party or in the appealed decision and could not have been filed before under the circumstances of the case. Late filing is justifiable if it is an appropriate and immediate reaction to developments in the first-instance proceedings. The boards draw therefore a distinction between (a) the case of an opponent attempting to find further prior art when the opposition division had decided that the original citations did not warrant revoking or restricting the patent, and (b) the case of an opponent making a further search in response to substantial amendments of a claim or to comments from the opposition division regarding the missing link in the chain of argument. In the latter case, new documents can be admitted into the proceedings, instead of being regarded as late filed, see case law of the boards of appeal, 8th edition 2016, IV.C.1.3.6.

3.2 *In the present case, the filing of E11 can be regarded as the appellant's reaction to the opposition division's finding on the lack of inventive step argumentation line of the appellant presented during the opposition proceedings. Accordingly, the board is at the moment inclined to admit E11 into the proceedings.*

3.3 *It is established boards of appeal practice that where the board comes to the conclusion that a document filed for the first time in the opposition appeal proceedings and admitted into the proceedings by the board is not such as to prejudice the maintenance of the patent, the board may itself examine and decide the matter under Article 111(1) EPC, see case law of the boards of appeal, 8th edition 2016, IV.E.7.2.1.*

3.4 *In accordance with the finding under point 5 below the board is inclined not to remit the case to the opposition division.*

4. *As far as it concerns point b) above [validity of clarity objections and objections based on Rule 80 EPC] the board comments as follows:*

4.1 *According to G 3/14 (OJ EPO 2015, 102) in considering whether, for the purposes of Article 101 (3) EPC a patent as amended meets the requirements of the EPC, the claims of the patent may be examined for compliance with the requirements of Article 84 EPC only when, and then only to the extent that the amendment introduces non-compliance with Article 84 EPC.*

4.2 *The board notes that claims 1 and 7 of the main request correspond to claims 7 and 15 of the patent as*

granted with the only amendment that the term "said each carriage" has been replaced by the term "the first carriage". Given that the appellant did not challenge the non-compliance of the above-mentioned amendment with Article 84 EPC the other parts of said claims are not open to examination for compliance with Article 84 EPC.

4.3 Given that lack of inventive step objections had been filed against the claims of the patent as granted the filing of the amended claims of the second auxiliary request cannot be considered as not being occasioned by a ground for opposition under Article 100 EPC. The replacement of the term "said each carriage" by the term "the first carriage" seems therefore to be an obvious and indispensable adaptation of the text of the combined claims 1, 7, 8, 14 and 15 of the patent as granted. It seems therefore that said amendment complies with Rule 80 EPC.

4.4 The board cannot preliminarily find fault in the reasoning and the conclusion put forward in the impugned decision, point 23 (see statement setting out the grounds of appeal, page 8, fourth paragraph). Further, the ground for opposition pursuant to Article 100(c) EPC had not been raised, whereby the claims of the present main request are based on the claims of the patent as granted".

1.2 The parties did not comment on the above-mentioned parts of the provisional opinion of the board within the framework of the right to be heard granted to them, either during the written procedure following that communication or during the oral proceedings. At the request of the chairman, both parties referred exclusively to their written arguments during the oral

proceedings.

1.3 In these circumstances the board, having once again taken all relevant aspects of said issues into consideration, sees no reason to depart from the above preliminary opinion. The board therefore admits E11 into the proceedings in accordance with Article 114(1) EPC, does not remit the case to the opposition division in accordance with Article 111(1) EPC, and considers that claims 1 and 7 of the main request are not open to examination for compliance with Article 84 EPC and that the amendments to independent claims 1 and 7 comply with Rule 80 EPC.

2. *Main request - inventive step, Article 56 EPC*

Combination of the teachings of documents E3 and E11

2.1 *Claim 7*

2.1.1 In **E3** the pallets 40 are directly transferred from the corresponding resting planes 12 to the clamping device (48 + vacuum) through the lifting device 20, whereby the means for moving the pallets from the store 10 onto the lifting device and from the lifting device onto the clamping device may be a cam-driven hook, a pneumatic cylinder and/or a drive chain carrying for example a dog, see column 2, lines 19 to 24, and column 3, lines 31 to 34. None of the above-mentioned means develops any gripping on the pallets to be moved and, hence, cannot be considered as a **gripping** and conveying **assembly**.

2.1.2 E3 therefore does not disclose a **gripping and conveying assembly** for transferring the pallets 40 between the clamping device (48 + vacuum) and the lifting device

20.

- 2.1.3 Accordingly, E3 does not disclose the combination of a **gripping and conveying assembly** for transferring the pallets 40 between the clamping device (48 + vacuum) and the lifting device 20 (features 5 and 5.1 of claim 7) with a **lifting device** 20 movable between the resting planes 12 of the store 10 to transfer each pallet 40 from the corresponding resting plane 12 **to the gripping and conveying assembly** (feature 7.1 of claim 7).
- 2.1.4 It is undisputed that E3 does not disclose features 6.3, 6.3.1 and 6.3.2.
- 2.1.5 Since store (carriage) 10 is provided with a number of open (fixed) shelves 12 and does not show any resting plane defined by belt conveyors, store (carriage) 10 is not provided with any pivoting supporting shaft (feature 6.4 of claim 7) to which a pulley of each belt conveyor is mounted (feature 6.4.1 of claim 7). E3 thus does not disclose features 6.4 and 6.4.1 of claim 7.
- 2.1.6 Furthermore, in E3 neither the motor (not shown) for driving the chain 50, nor the motor 34 shows an outlet shaft **selectively connectable** to the pivoting supporting shaft of one of the resting planes. On the contrary, both motors are always connected to the same sprocket 54 and 32, respectively. Accordingly, E3 does not disclose feature 8.1.1 of claim 7.
- 2.1.7 From the above it follows that E3 does not disclose at least features 5, 5.1, 6.3, 6.3.1, 6.3.2, 6.4, 6.4.1, 7.1 and 8.1.1 of claim 7.
- 2.1.8 **E11** relates to a store 1 having a plurality of reciprocally overlapping resting planes 3, each of

which is defined by two belt conveyors 5, 6 and houses a workpiece. E11 further comprises a lifting device 12 movable between the resting planes 3 to transfer the stored workpieces between the resting planes 3 and the lifting device 12. Store 1 and lifting device 12 are arranged in a fixed frame 2.

2.1.9 Thus, E11 does not relate to the transfer of workpieces between a carriage and a lifting device, between the lifting device and a gripping and conveying assembly, and between the gripping and conveying assembly and a clamping device of the machine.

2.1.10 Since E11 does not disclose any movable carriage carrying the workpieces to be machined and any gripping and conveying assembly for transferring the workpieces between the lifting device 12 and a clamping device, it does not disclose at least features 1, 2, 3, 4, 5, 5.1 and 7.1 (relating to a lifting device for transferring the components from the resting planes of the store to a gripping and conveying assembly, which is not shown and disclosed in E11). Also, the features of group 6 (relating to a carriage, which is not shown and disclosed in E11) are not disclosed as such in E11. As far as specifically concerns features 6.4 and 6.4.1 of claim 7 concerning the presence of "at least one pivoting supporting shaft to which a pulley of **each** belt conveyor is mounted", the board notes that according to figure 4 and the corresponding passage on column 4, lines 47 to 51, of E11 no pivoting supporting shaft to which a pulley of each belt conveyor is mounted is disclosed in E11, contrary to the appellant's view. Moreover, since a pivoting supporting shaft according to features 6.4 and 6.4.1 of claim 7 is not disclosed in E11, then also feature 8.1.1 of claim 1 directed to the outlet of the electric motor being

selectively connectable to such a pivoting supporting shaft is not disclosed in E11.

2.1.11 A consequence of this is that even if the skilled person starting from the machine known from E3 and trying to solve the problem of loading and unloading the workpieces onto and out of the carriage by constant acceleration were to apply to it the teaching of E11, as argued by the appellant, such a combination of the teachings of E3 and E11 would fail to disclose at least features 5, 5.1, 6.4, 6.4.1, 7.1 and 8.1.1 of claim 7. In other words, even if the open (fixed) shelves 12 of E3 were replaced by the resting planes 3 of E11 and the drive chain 50 of E3 were replaced by the coupling unit 26 of E11, the resulting machine would in any case always lack a **gripping and conveying assembly** for transferring the components between the lifting device and the clamping device and a **lifting device** for transferring the components between the carriage and the gripping and conveying assembly.

2.1.12 Accordingly, the subject-matter of claim 7 involves an inventive step over the combination of the teachings of E3 and E11.

2.2 *Claim 1*

2.2.1 It is undisputed that features d) and e) are not disclosed in E3.

2.2.2 Furthermore, E3 discloses neither a **gripping and conveying assembly** for transferring the pallets 40 between the clamping device (48 + vacuum) and the lifting device 20 nor a **lifting device** 20 movable between the resting planes 12 of the store 10 to transfer each pallet 40 from the corresponding resting

plane 12 **to the gripping and conveying assembly**, see points 2.1.1 to 2.1.3 above. Accordingly, feature c) too is not known from E3.

2.2.3 Consequently, at least features c), d) and e) of claim 1 are not disclosed in E3.

2.2.4 E11 does not disclose any **movable carriage** carrying the workpieces to be machined, any **gripping and conveying assembly** for transferring the workpieces between the lifting device 12 and any clamping device, or any **lifting device** for transferring the components from the resting planes of the store to the gripping and conveying assembly, see point 2.1.10 above. Accordingly, features a) and c) of claim 1 are not disclosed in E11.

2.2.5 Step d) of claim 1 requires that **each resting plane** of the first carriage is defined by **at least two belt conveyors** looped about respective pairs of pulleys and **provided with a pivoting supporting shaft** to which **a pulley of each belt conveyor is mounted**. According to column 4, lines 47 to 51, of E11 each belt conveyor 18, 19 is provided with a driving wheel 24 at the pulley 15, which is coupled with the coupling wheel 25 of the coupling unit 26. The board considers that a pivoting supporting shaft on which the pulley 8 is mounted is implicitly disclosed in figure 4 of E11, as argued by the appellant. However, it shares the respondent's view put forward at the oral proceedings that a pivoting supporting shaft to which a pulley of **each** belt conveyor, i.e. pulleys 7 and 8, is mounted is not disclosed in E11. Accordingly, feature d) of claim 1 is also not disclosed in E11.

2.2.6 A consequence of this is that even if the skilled person starting from the method known from E3 and trying to solve the two independent partial problems of loading and unloading the workpieces onto and out of the carriage by constant acceleration and of using only a single motor instead of a plurality of motors were to apply to this the teaching of E11, as argued by the appellant, such a combination of the teachings of E3 and E11 would fail to disclose at least the method steps c) and d) of claim 1.

2.2.7 Accordingly, the subject-matter of claim 1 involves an inventive step over the combination of the teachings of E3 and E11.

Combination of the teachings of E2, E3 and E6

2.3 *Claims 1 and 7*

2.3.1 As stated by the appellant, see second paragraph, point 3.3.2 of its submissions dated 6 March 2017, the question at stake in terms of denying inventive step of the subject-matter of claims 1 and 7 when combining the teachings of E2, E3 and E6 is whether E6 directly and unambiguously discloses feature e) of claim 1 and feature 8.1.1 of claim 7.

2.3.2 E6 discloses an automatic loading device provided with a plurality of belt conveyors 3a to 3e. The board can follow the appellant's argument that, although not explicitly disclosed in E6, these belt conveyors have to be operated either by using a single motor per belt conveyor (alternative 1) or by using less than one single motor per belt conveyor (alternative 2).

- 2.3.3 This means in fact that E6 is silent on where the motor is to be mounted in the device and in any case that E6 comprises at least two alternatives for the motor's positioning and the nature of its connection with the supporting shaft, e.g. mechanical or electrical. This implies that there is no direct and unambiguous disclosure in E6 of a method step concerning "connecting the supporting shaft to an electric motor **mounted** in said corresponding **feeding station**" (emphasis added by the board) and of such electric motor having an outlet shaft "**selectively connectable** to the supporting shaft of one of said resting planes" (emphasis added by the board).
- 2.3.4 From the above it follows that feature e) of claim 1 and feature 8.1.1 of claim 7 are not disclosed in E6.
- 2.3.5 A consequence of this is that even if the skilled person had combined the teachings of E2, E3 and E6, such a combination would fail to disclose at least feature e) of claim 1 and feature 8.1.1 of claim 7 (impugned decision, point 25).
- 2.3.6 Accordingly, the subject-matter of claims 1 and 7 involves an inventive step over the combination of the teachings of E2, E3 and E6.
- 2.4 In view of the above, the subject-matter of claims 1 and 7 involves an inventive step.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



L. Malécot-Grob

G. Patton

Decision electronically authenticated