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**Datasheet for the decision
of 30 September 2019**

Case Number: T 1045/15 - 3.5.07

Application Number: 08007024.6

Publication Number: 2109105

IPC: G11B15/07, G11B15/68,
G11B23/04, G11B23/087

Language of the proceedings: EN

Title of invention:

Testing device for magnetic tape cassettes with a passive RFID chip, comprising a reading device for RFID and for a barcode and an evaluation device

Applicant:

FUJIFILM Recording Media GmbH

Headword:

Testing device for magnetic tape cassettes/FUJIFILM RECORDING MEDIA

Relevant legal provisions:

EPC Art. 84, 123(2)

Keyword:

Amendments - extension beyond the content of the application
as filed (yes)

Claims - clarity - main request (no) - clarity - auxiliary
request (no)



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Case Number: T 1045/15 - 3.5.07

D E C I S I O N
of Technical Board of Appeal 3.5.07
of 30 September 2019

Appellant: FUJIFILM Recording Media GmbH
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Representative: Cohausz Hannig Borkowski Wißgott
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Decision under appeal: **Decision of the Examining Division of the
European Patent Office posted on 4 December 2014
refusing European patent application No.
08007024.6 pursuant to Article 97(2) EPC**

Composition of the Board:

Chairman R. Moufang
Members: C. Barel-Faucheux
R. de Man

Summary of Facts and Submissions

- I. The applicant (appellant) appealed against the decision of the Examining Division refusing European patent application No. 08007024.6 published as EP 2 109 105.
- II. The decision cited, *inter alia*, the following documents:

D3: EP 1 315 160 A, published on 28 May 2003
D5: "TapeAlert Specification" of Hewlett-Packard Company, published on 12 May 1999
- III. The Examining Division decided that the subject-matter of claim 1 of a main and an auxiliary request lacked an inventive step over the combination of the disclosure of document D3 with the disclosure of document D5 (Article 56 EPC).
- IV. With the statement of grounds of appeal, the appellant filed a main request and an auxiliary request and requested that the decision of the Examining Division be "reversed" and that a European patent be granted on the basis of one of the requests.
- V. In a communication under Article 15(1) RPBA accompanying a summons to oral proceedings, the Board expressed, *inter alia*, its provisional opinion that the subject-matter of claim 1 of the main request and the first auxiliary request did not fulfil the requirements of Articles 123(2) and 84 EPC. It informed the appellant that should these objections be overcome, whether claim 1 of the main request and of the first auxiliary request were inventive over a combination of the disclosures of documents D3 and D5 might be discussed during the oral proceedings.

VI. By telefax of 23 July 2019, the appellant withdrew its request for oral proceedings and requested that a decision be made "on the facts on file". It informed the Board that "neither representative nor members of applicant" would be present at the oral proceedings. It did not file any further submissions or arguments in reply to the summons.

VII. Oral proceedings were held as scheduled in the absence of the appellant. At the end of the oral proceedings, the chairman pronounced the Board's decision.

VIII. The appellant's final request was that the decision under appeal be set aside and that a patent be granted on the basis of the main or the auxiliary request filed with the grounds of appeal.

IX. Claim 1 of the main request reads as follows:

"A testing device for testing one magnetic tape cassette provided with a passive RFID chip and a barcode label, comprising:

- a reading device for RFID and for the barcode label, which is arranged in a housing, whereby a magnetic tape cassette to be checked as well as the RFID and barcode scanner are arranged in the housing, and comprising
- an evaluation device for the data obtained from the RFID chip and/or the barcode label and
- wherein the reading device has at least one holder for affixing the magnetic tape cassette across from the RFID and barcode

characterized in that

- the data on which the evaluation device performs the evaluation are the ones stored in a memory of the RFID and that in operation these data are read by the RFID

reading device and then transmitted to the evaluation device

- wherein the evaluation first consists in reading and transmitting the data received from the RFID chip and from the barcode and further independently consists in monitoring these data for data loss and issuing a warning prior to the occurrence of data loss and
- the RFID-reading device reads data other than VOLSER,
- the evaluation device comprises a database to collect, process, edit, sort, select and output the transmitted data for each magnetic tape cassette, for each cassette drive used and the data backup system employed, as well as means to output the data on a data output device,
- the evaluation device is adapted to process the number of times the cassette is loaded, EOD (end of DATA) information, the date of manufacture and the ID of the magnetic tape cassette and also error messages for the magnetic tape cassette, especially error information that cannot be corrected, delayed writing information, fatally delayed writing information as well as reading / writing repeat information.[sic]
- the evaluation device is adapted to perform an evaluation of the history as well as the current status of the magnetic tape cassette, wherein
- the data collected in the database for each magnetic tape cassette, for the cassette drive being used and the data backup system employed provide the history as well as the current status."

- X. Claim 1 of the first auxiliary request corresponds to claim 1 of the main request with the following additional feature at the end of the claim:
- "wherein the collected data about a magnetic tape cassette contains prognosis data on the service life of the magnetic tape cassette calculated from the written

data as well as from data of the magnetic tape cassette itself".

Reasons for the Decision

1. *Admissibility of appeal*

The appeal complies with the provision referred to in Rule 101 EPC and is therefore admissible.

The invention

2. The present invention relates to a testing device for magnetic tape cassettes (data cartridges) on the surfaces of which a passive RFID (radio frequency identification) chip and a barcode label are installed. The testing device comprises a reading device, for reading an RFID chip and a barcode label, and an evaluation device (description as originally filed, page 1, first paragraph, and page 3, first full paragraph).
3. Magnetic tape cassettes are often employed as backup media. Under unfavourable storage conditions or in the case of severe stress on the magnetic tape cassettes, a failure or total loss of data on a magnetic tape can occasionally occur. In these cases, the reason the backup failed is often unknown, be it a magnetic tape cassette that aged prematurely, or a streamer drive that was not running correctly, or some other reason (page 1, last paragraph).
4. It is thus desirable to provide a testing device for magnetic tape cassettes that detects problems ahead of time before data loss occurs and that possibly does so

before the expiration date guaranteed by the manufacturer (page 2, first paragraph).

5. The following paragraphs of the description state that the present invention relates to a testing device for magnetic tape cassettes with a passive RFID chip and a barcode label, comprising (i) a reading device for RFID and for a barcode, which is arranged in a housing whereby the magnetic tape cassette as well as the RFID and barcode scanner are arranged on top of the housing, and (ii) an evaluation device for the data obtained from the RFID chip and/or barcode (label).
6. The querying of this data is done in a contact-free manner so that the magnetic tape cassette containing the data is not subjected to additional mechanical stress (page 2, fourth paragraph).
7. The evaluation device's software derives the current status and historical data of each magnetic tape cassette from data received from the reading device. This data comprises detailed information on the status of the magnetic tape cassette, the cassette drive and the backup system itself. The data of each magnetic tape cassette is stored in a database (page 6, last paragraph).
8. RFID technology is, in theory, similar to the technology used for barcodes, although an RFID tag does not have to be scanned directly, nor does it require line-of-sight to a reader. An RFID transponder comprises an integrated circuit (e.g. a microprocessor) and an antenna connected to the integrated circuit. Stored in the integrated circuit, or in a memory of the RFID transponder connected to the integrated circuit, is a code which the RFID scanner is able to read as

soon as the RFID transponder is in the near field of the RFID scanner. A barcode scanner, on the other hand, generates a scanner beam that passes through a window of a component body to scan the barcode. It also generates a decoder signal in response to the scan.

9. The description discloses further that two types of scanner, an RFID scanner and a barcode scanner, are used and are located behind a scanner window (see page 8).

10. The paragraph of the description bridging pages 2 and 3 states that the testing device is provided as a "free-standing device onto which the magnetic tape cassette is placed". The first full paragraph of page 3 describes that "the surface of the magnetic tape cassette on which the barcode as well as the RFID chip are installed is arranged at a specific distance and at a specific angular range relative to the sensor window behind which the reading device for the RFID and barcode is located".

The appellant's requests

11. Claim 1 of the main request and the auxiliary request defines a testing device for testing a magnetic tape cassette provided with a passive RFID chip and a barcode label comprising, *inter alia*, the following features (itemised by the Board):
 - (A) a reading device for RFID and for the barcode label, which is arranged in a housing
 - (A1) whereby a magnetic tape cassette to be checked as well as the RFID and barcode scanner are arranged in the housing, and comprising

- (B) an evaluation device for the data obtained from the RFID chip and/or the barcode label and
- (C) wherein the reading device has at least one holder for affixing the magnetic tape cassette across from the RFID and barcode

Article 123(2) EPC

12. Claim 1 of both requests contains added subject-matter in violation of Article 123(2) EPC since feature A1 does not have a basis in the application as originally filed.

Claim 1 as originally filed specifies that "the magnetic tape cassette as well as the RFID and barcode scanner" are arranged "on top of the housing" in which the reading device for the RFID (memory) and the barcode (label) is arranged, whereas feature A1 specifies that the "magnetic tape cassette to be checked as well as the RFID and barcode scanner" are arranged "in the housing" in which the reading device for RFID and for the barcode label is arranged (see also feature A).

The description as originally filed, on page 2, lines 8 to 13, on page 4, lines 3 to 7, and on page 7, lines 13 to 17, as well as claims 4 and 18 as originally filed, also disclose - contrary to feature A1 - that "the magnetic tape cassette as well as the RFID and barcode scanner" are arranged "on top of the housing" (or "on the surface of the housing") where the reading device for RFID and for the barcode (label) is arranged.

13. Feature C also does not have a basis in the application as originally filed.

Feature C reads "the reading device has at least one holder for affixing the magnetic tape cassette across from the RFID and barcode", whereas claim 2 as originally filed reads "the reading device has at least one holder for affixing the magnetic tape cassette across from the RFID and barcode scanner".

Furthermore, the description as originally filed on page 3, penultimate paragraph, reads: "[...], the reading device has at least one holder for affixing the magnetic tape cassette next to the RFID and barcode scanner".

Since feature C refers not to an RFID and barcode scanner but to "the RFID and barcode", i.e. to an RFID chip and a barcode label, it introduces added subject-matter.

14. For these reasons, claim 1 of the main request and the auxiliary request does not fulfil the requirements of Article 123(2) EPC.

Article 84 EPC

15. Feature A1 specifies that "a magnetic tape cassette to be checked as well as the RFID and barcode scanner are arranged in the housing". Feature A refers to "a reading device for RFID and for the barcode label".

It is not clear how the "scanner" relates to a "reading device", for example whether they are the same entity or whether one is a component of the other.

16. Feature C specifies that "the reading device has at least one holder for affixing the magnetic tape cassette across from the RFID and barcode".

The Board notes that "the RFID and barcode" can only mean "the RFID chip and barcode label". But affixing the magnetic tape cassette, which is provided with the passive RFID chip and barcode label, across from the RFID chip and barcode label does not make sense. This creates a further lack of clarity.

17. Therefore, claim 1 of the main request and the auxiliary request does not fulfil the requirements of Article 84 EPC.

Conclusion

18. Since neither request is allowable, the appeal is to be dismissed.
19. There is therefore no need to discuss the other concerns raised by the Board in its communication.

Order

For these reasons it is decided that:

The appeal is dismissed

The Registrar:

The Chairman:



I. Aperribay

R. Moufang

Decision electronically authenticated