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**Datasheet for the decision  
of 18 July 2023**

**Case Number:** T 2901/19 - 3.4.03

**Application Number:** 15782161.2

**Publication Number:** 3201865

**IPC:** G06Q30/06, G06Q10/10, G06F3/12

**Language of the proceedings:** EN

**Title of invention:**  
CUSTOMIZABLE FOOD FRESHNESS PRINTER STARTUP WIZARD

**Applicant:**  
Avery Dennison Retail Information Services LLC

**Headword:**

**Relevant legal provisions:**  
EPC Art. 52(1), 56, 123(2)

**Keyword:**  
Amendments - allowable (yes)  
Inventive step - (yes)

**Decisions cited:**

**Catchword:**



**Beschwerdekammern**  
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Case Number: T 2901/19 - 3.4.03

**D E C I S I O N**  
**of Technical Board of Appeal 3.4.03**  
**of 18 July 2023**

**Appellant:** Avery Dennison Retail Information Services LLC  
(Applicant) 8080 Norton Parkway  
Mentor, OH 44060 (US)

**Representative:** Müller-Boré & Partner  
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**Decision under appeal:** **Decision of the Examining Division of the  
European Patent Office posted on 2 July 2019  
refusing European patent application No.  
15782161.2 pursuant to Article 97(2) EPC.**

**Composition of the Board:**

**Chairman** T. Häusser  
**Members:** A. Böhm-Pélissier  
E. Mille

## Summary of Facts and Submissions

- I. The appeal is against the decision of the examination division to refuse the European patent application 15 782 161. The refusal was based on added subject-matter (Article 123(2) EPC) and lack of inventive step (Articles 52(1) and 56 EPC).
- II. Reference is made to the following **documents**:
- D1 = US 2004/193745 A1  
D2 = WO 01/16890 A2  
D3 = "LabelWriter® 450 Series Printers Technical Reference Manual", Sanford L.P., 10/2009, XP055544728, retrieved from the Internet:  
URL:[https://web.archive.org/web/20140827025453if\\_/http://download.dymo.com/dymo/technical-data-sheets/LW%20450%20Series%20Technical%20Reference.pdf](https://web.archive.org/web/20140827025453if_/http://download.dymo.com/dymo/technical-data-sheets/LW%20450%20Series%20Technical%20Reference.pdf)  
D4 = EP 2 551 775 A1  
D5 = EPSON 600 QUICK SETUP, Epson America Inc., 1997
- III. The appellant (applicant) **requested** at the end of the oral proceedings before the board that the decision under appeal be set aside and that a patent be granted in the following version:
- Claims: No. 1 to 12 of the main request filed with the statement setting out the grounds of appeal

Description: Pages 1 to 7 submitted by the appellant during oral proceedings before the board on 18 July 2023 at 11:15

Drawings: Sheets 1/3 to 3/3 as published.

IV. **Claim 1** according to the sole request (labelling (A), (B), ... inserted by the board):

(A) *A process for utilizing a printer startup wizard for a food fresh barcode printer, the barcode printer comprising a thermal print head (12), a stepper motor (14), a controller (16),*

*(B) and memory (20) storing software, the software configured to perform the steps of:*

*(C) powering the printer on to find a first power flag set to true or entering a menu from a system configuration menu;*

*(D) dropping down the display language setting prompt in the active language of the printer;*

*(E) selecting a new language if needed;*

*(F) proceeding to a next configuration selection;*

*(G) prompting a user to format time and date;*

*(H) displaying a current time prompt in the selected language;*

*(I) updating system time;*

*(J) prompting the user to load product information in a data base;*

*(K) determining next configuration item from a configuration file to modify behavior of the startup wizard on a customer-by-customer basis;*

*(L) prompting a user to view a help page for common problems;*

*(M) after selecting a help tip to display, then selecting a finish button to terminate the startup wizard; and*

(N) *exiting program.*

V. The appellant argued essentially as follows in relation to added subject-matter and inventive step:

- (a) Original claims 10, 11, and 15 as well as paragraphs [0002], [0005], [0007] and [0021] to [0023] of the description of the application disclosed that software routines were stored in the printer's memory and that the wizard was part of those routines and thus installed in the printer; no external device or storing unit was mentioned for setting up the printer;
- (b) D1 and D2 taught to use a standard printer and to set up the printer on a client computer; D1 and D2 did not disclose that the setup wizard was installed on the printer; Figures 26 to 32 and 34 in D2 showed the screen of a client computer and not a wizard installed on a printer;
- (c) none of D1 to D4 taught a stand-alone printer which could be configured without a client computer;
- (d) D4 taught to install only the printer driver on the printer;
- (e) combining the teachings of D1/D2 and D4 would lead the skilled person to a system where the printer driver was installed on the printer but the printer setup was done on a client computer.

## **Reasons for the Decision**

### **1. The invention as claimed**

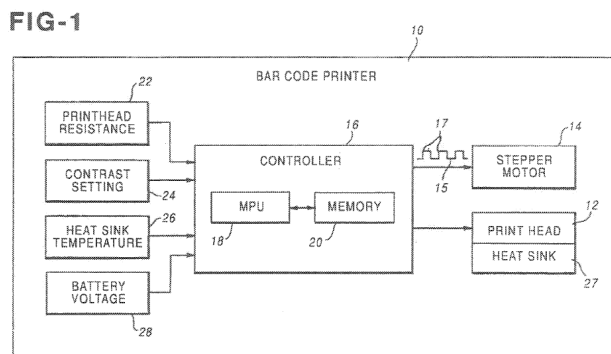
1.1 The invention relates to a startup wizard of a food freshness barcode printer. The startup wizard guides a user through the installation of the printer, enabling

the non-technical user to complete the installation in minimal time. The startup wizard prompts the user to select the language, date format, product database, network configuration, or other specific elements required for implementation.

1.2 It is the aim of the invention to provide a quick and effective setup. For this purpose the wizard is installed on the printer and not in the client computer.

**2. Amendments - Article 123(2) EPC**

2.1 The examining division held that the present application as originally filed did not disclose feature (B) ("*memory (20) storing software, the software configured to perform the steps of ...*"), i.e. that the startup wizard is installed in a memory of the printer and not in a client computer.



Application

2.2 The appellant argued that original claims 10, 11, 15 and paragraphs [0002], [0005], [0007], [0021] to [0023] disclosed feature (B).

2.3 The board is also of the opinion that paragraph [0021] defines that the software routines are stored in the memory 20 of the printer. It is clear from the context

of paragraph [0021] that the wizard is part of the software routines for the following reasons:

- 2.4 Paragraph [0022] discloses that the printer *comprises* the startup wizard. For a technical device, the term "comprise" cannot be interpreted so broadly that the wizard is provided via a separate data carrier or the Internet as the examining division has argued. The term "comprise" must be construed to mean that the wizard is part of the printer, i.e. installed on it.
- 2.5 Section [0002] and [0005] disclose precisely this, namely that the setup procedure of the printer takes place *on the printer*. In section [0023] it is disclosed that the active language can be selected in a system configuration menu on the printer at startup. This is exactly what is performed in the wizard. If the wizard were installed on an external computer, which the examining division assumed, it would not be possible to set up an active language on the printer itself.
- 2.6 Paragraphs [0021] to [0023] refer to steps (C) to (N) of claim 1, in particular paragraphs [0021] and [0022] describe the configuration file (feature (K)) and setting the language (features (D) and (E)), paragraph [0023] describes the remaining steps of claim 1. From the context of paragraphs [0021] to [0023] in combination with Fig. 1 ("memory 20") the skilled person directly and unambiguously understands that the wizard is part of "the software routines" and installed in the printer memory 20.
- 2.7 The skilled person thus understands without doubt that the setup wizard is installed on the printer and that the software routines are installed in its memory 20. From the context it is clear that the wizard is part of

the software routines. Consequently, the wizard is also stored in memory 20.

2.8 Consequently, claim 1 complies with the requirements of Article 123(2) EPC.

**3. Inventive step - Articles 52(1) and 56 EPC**

**3.1 Closest prior art**

D2 is considered the closest prior art, because it discloses both a barcode printer and a setup wizard. D1 discloses a graphical user interface for a printer setup, but does not disclose a barcode printer and that the startup wizard is installed in the printer. D3 discloses a user manual for a barcode printer with a thermal print head and a stepper motor. D4 teaches a printer driver installed in the memory of a printer.

**3.2 Disclosure of D2**

3.2.1 D2 discloses a barcode ink jet printer (Fig. 1, item 8; page 2, lines 2 to 5). D2 discloses in Figs. 25 to 34 a setup wizard for the printer.

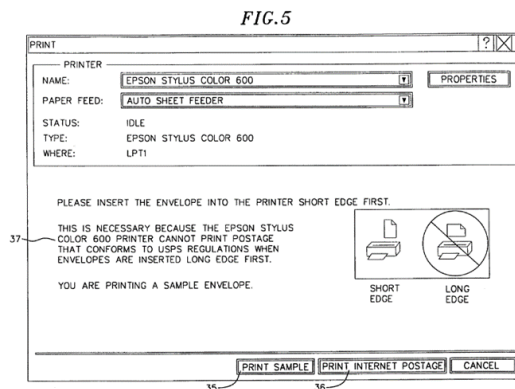
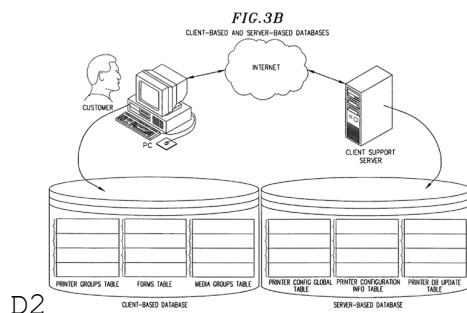
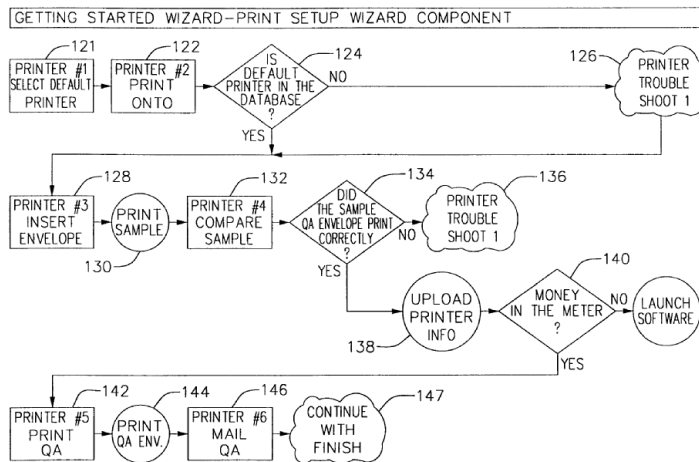


FIG.25



D2

3.2.2 D2 discloses on page 21, lines 26 to 27, that the setup wizard is stored "in a printer setup portion".

Figure 25 of D2 clearly shows that a printer is selected in the setup wizard (see also D2, page 22, lines 19 to 20). This would not make sense if the wizard was executed on a printer itself. Furthermore, D2 discloses in Figure 5 and on page 2, lines 3 to 4, and page 2, line 22, that a standard printer is used. In the example of Figure 5, the printer is the EPSON 600 (cf. D5), which must be set up on a client computer (e.g. customer PC in Figure 3B of D2) as shown in the user manual (D5, pages 8 to 10).

3.2.3 Consequently, D2 fails to disclose feature (B).

### 3.3 Disclosure of D1

D1 teaches a help button with a "tool tip function", which displays the function of each button or field to be filled in as shown in D1, Figure 12:

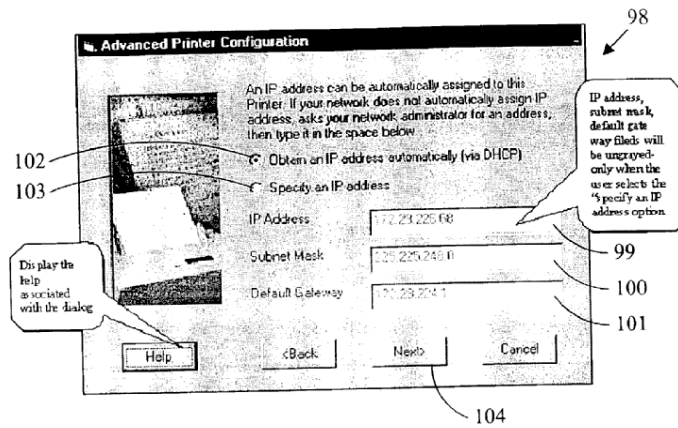


FIG. 12

D1

### 3.4 Disclosure of D3

D3 discloses a label printer. D3 teaches a thermal print head and a stepper motor (pages 7 and 9).



D3

### 3.5 Disclosure of D4

3.5.1 D4 teaches that the printer driver is installed in the memory of the printer as shown in Figure 4:

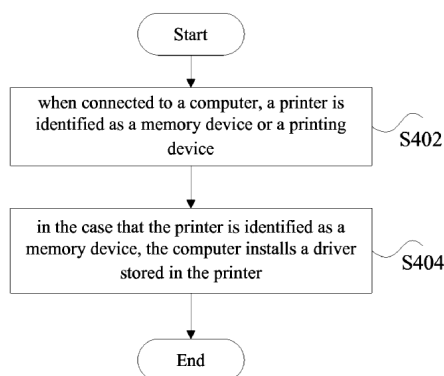


Fig. 4

D4

### 3.6 Disclosure of D2 with respect to claim 1

3.6.1 D2 therefore discloses (~~deletions~~ were added by the board, references with respect to D2):

- (A) *A process for utilizing a printer startup wizard for a ~~food fresh~~ barcode printer (however, the printer of D2 would be suitable as a food fresh barcode printer), the barcode printer comprising a ~~thermal~~ print head (implicit), ~~a stepper motor (14)~~, a controller (implicit),*
- (B) *~~and memory storing software, the software configured to perform the steps of~~*
- (C) *~~powering the printer on to find a first power flag set to true or entering a menu from a system configuration menu (Figs. 26 to 32 and 34);~~*
- (D) *~~dropping down the display language setting prompt in the active language of the printer;~~*
- (E) *~~selecting a new language if needed;~~*
- (F) *~~proceeding to a next configuration selection;~~*
- (G) *~~prompting a user to format time and date;~~*
- (H) *~~displaying a current time prompt in the selected language;~~*
- (I) *~~updating system time;~~*

(J) *prompting the user to load product information in a data base (Figure 25, items 134 and 138; page 22, lines 3 to 5, uploading print parameters on request);*

(K) *determining next configuration item from a configuration file to modify behavior of the startup wizard on a customer-by-customer basis (Figures 25 to 34) ;*

~~(L) *prompting a user to view a help page for common problems;*~~

~~(M) *after selecting a help tip to display, then selecting a finish button to terminate the startup wizard ("FINISH" button in Figure 32); and*~~

~~(N) *exiting program ("FINISH" button in Figure 32).*~~

3.6.2 D2 therefore fails to disclose

- (a) a thermal print head and a stepper motor;
- (b) setting time and date format, language and system time;
- (c) providing help on request;
- (d) the wizard being installed and executed on the printer.

### **3.7 Effects**

3.7.1 The appellant argued that the printer defined in claim 1 had the advantage of a) faster and improved installation of a barcode printer and b) the printer not requiring an external computer or server for setup.

3.7.2 The board is of the opinion that the following effects can be determined for features (a) to (d):

- (i) Feature (a) has the effect that no printer ink needs to be refilled.
- (ii) Feature (b) has the effect of setting certain parameters.

- (iii) Feature (c) has the effect of providing help when needed.
- (iv) Feature (d) has the effect of a simpler and faster printer setup.

### **3.8 Objective technical problem**

The problem to be solved therefore is to achieve these independent effects (i) to (iv).

### **3.9 Non-obviousness**

ad (iv)

- 3.9.1 D1, D2 and D4 all teach that standard printers are installed, i.e. printers controlled by a client computer, and that the installation of the standard printers is performed on that client computer. D4 teaches to install a printer *driver* which is stored in the printer's memory. However, D4 teaches that the printer setup is performed on a client computer.
- 3.9.2 Starting from D2, neither D2 itself nor D1 or D4 would provide any hint to the skilled person to perform the printer setup on the printer itself. D4 only teaches how to save the printer driver on the printer itself, but not how to save a setup wizard on the printer, and notably not how to run a setup wizard on the printer itself. On the contrary, D4 teaches to perform the setup wizard only on the client computer. This would lead the skilled person away from performing the printer setup on the printer itself. A standard printer has neither the need for nor any benefit from performing the printer setup on the printer itself, since the required hardware and software is provided by the client computer which otherwise would have to be provided on the printer.

3.9.3 D3 cannot contribute any useful teaching either. There (cf. e.g. figures on page 1), the label printers lack the appropriate hardware on the printers (e.g. the label printers do not have any input keys or displays).

3.9.4 Since none of the cited documents D1 to D4 give the skilled person any hint to install the setup wizard on the printer itself, but rather lead the skilled person away from it, it must be concluded that feature (d) is not obvious in view of these documents. Since label printers in general do not have the necessary hardware to run a printer setup wizard (cf. D3), the skilled person using only its common general knowledge would not come up with the idea of implementing feature (d) in a label printer such as disclosed in D3, especially in the specific context of features (a) to (c) (features (D) to (I) and (L) of claim 1).

ad (i) to (iii)

3.9.5 Consequently, it is irrelevant whether features (a) to (c) are obvious or not in view of the disclosures of D1 to D4.

3.9.6 Therefore, the solution to the above problem is not obvious in view of the teachings of D1 to D4 and their combination. Consequently, the subject-matter of claim 1 involves an inventive step (Article 52(1) EPC) within the meaning of Article 56 EPC.

#### 4. Summary

The subject-matter of claim 1 of the sole request fulfills the requirements of the EPC. The board notes that the description has been adapted to the claims.

Hence a patent is to be granted on the basis of this request.

## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the examining division with the order to grant a patent in the following version:

Claims: No. 1 to 12 of the main request filed with the statement setting out the grounds of appeal

Description: Pages 1 to 7 submitted by the appellant during oral proceedings before the board on 18 July 2023 at 11:15

Drawings: Sheets 1/3 to 3/3 as published.

The Registrar:

The Chairman:



S. Sánchez Chiquero

T. Häusser

Decision electronically authenticated