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**Datasheet for the decision
of 11 December 2024**

Case Number: T 2143/22 - 3.2.04

Application Number: 15728627.9

Publication Number: 3175025

IPC: D01H13/32

Language of the proceedings: EN

Title of invention:

METHOD FOR MONITORING PHYSICAL PARAMETERS OF TEXTILE MACHINERY

Patent Proprietor:

Camozzi Digital S.r.l.

Opponents:

Maschinenfabrik Rieter AG
Trützschler Group SE
Saurer Spinning Solutions GmbH & Co. KG

Headword:

Relevant legal provisions:

EPC Art. 100(c)
RPBA 2020 Art. 12(6)

Keyword:

Grounds for opposition - added subject-matter (yes)
Late-filed request - should have been submitted in first-
instance proceedings (yes)

Decisions cited:

Catchword:



Beschwerdekammern

Boards of Appeal

Chambres de recours

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Case Number: T 2143/22 - 3.2.04

D E C I S I O N
of Technical Board of Appeal 3.2.04
of 11 December 2024

Appellant:
(Patent Proprietor)

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(Opponent 1)

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Respondent:
(Opponent 3)

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Decision under appeal:

**Decision of the Opposition Division of the
European Patent Office posted on 15 July 2022
revoking European patent No. 3175025 pursuant to
Article 101(3) (b) EPC.**

Composition of the Board:

Chairman A. Pieracci
Members: G. Martin Gonzalez
 C. Heath

Summary of Facts and Submissions

- I. The proprietor appeals the decision of the opposition division to revoke their patent.
- II. The opposition division decided inter alia that the main request (patent as granted) contained added subject-matter.
- III. In preparation for oral proceedings scheduled for the 17 January 2025, the Board issued a communication setting out its provisional opinion on the relevant issues.

With letter of 29 November 2024, the appellant proprietor withdrew their request for oral proceedings, announced that they would not participate in the planned oral proceedings and requested that the Board decides the case on the basis of the written submissions.

The Board cancelled the oral proceedings.

- IV. The appellant proprietor requests that the decision under appeal be set aside and the patent maintained as granted (rejection of the three oppositions) as the main request or alternatively to maintain the patent according to one of auxiliary requests 1-11, all filed with the grounds of appeal of 15 November 2022.

The three respondent opponents request dismissal of the appeal.

V. The independent claim of the main request (as granted) reads as follows:

"Method of identification of malfunctions or degradation of the operation of a textile machine, comprising the steps of:

- providing in a spinning line (1) at least one textile machine (2,4,6,8) provided with a control unit for processing management and with at least one detection device (20) for detecting a physical value of a component of the textile machine, for example an operating parameter, constituting detected data, wherein the detection device provides

i) a temperature value of support structures of moving organs of the machine; or

ii) a pressure value in suction ducts of the machine; or

iii) an acceleration value of the component; or

iv) a distance value between two organs of the machine; or

v) a current value of electric motors of the machine; or

vi) a force value of tensioned belts of the machine; or

vii) images relating to the machine or organs thereof;

- providing main storage means (60), placed in a control room remote with respect to the spinning line (1), for storing detected data or status data of the spinning line (1) or of said machine;

- providing remote transmission/reception means (70) for the transmission of collected data and/or status data from the detection device (20) to the main storage means (60);

- providing remote processing means (80) operatively connected with the main storage means (60) for processing the collected data and/or the status data stored;
- correlating between them the trend of the collected data and/or status data of said machine to implement a predictive maintenance based on a huge amount of data, namely Big Data."

VI. The wording of the independent claims of the auxiliary requests is not reported here as it is not relevant for the decision.

VII. The parties' arguments relevant to the decision are discussed in detail in the Reasons for the Decision.

Reasons for the Decision

1. Background

The invention is directed at a method for monitoring physical parameters of textile machinery in a spinning line. The purpose of the invention is to provide a method for the implementation of a reliable predictive maintenance system, see patent specification para 0007. Predictive maintenance makes it possible to intervene before a breakdown occurs, see para 0004. The textile machine is provided with detection devices for detecting a physical value of the machine, e.g. an operating parameter, a temperature of support structures, a pressure value in suction ducts, an acceleration value, etc., see paras 0013-0021. The system transmits the data to a main storage means in a remote control room, see para 0027. The system allows collecting, storing and analysing a huge amount of data, namely Big Data, i.e., a collection of data so extensive in terms of volume, speed and variety as to require specific technologies and analytical methods for the extraction of value. The system thus allows effectively implementing predictive maintenance, see specification paras 0079-0085.

2. Main request (claims as granted) - Added subject-matter

2.1 In its statement of grounds grounds, the proprietor contests the conclusion of the opposition division that granted claim 1 contained added subject-matter (see appealed decision, Reasons for the Decision, section 1).

2.2 In its communication in preparation for the oral proceedings, see section 5, the Board gave its preliminary opinion on this issue in particular in point 5.1 and 5.3 as follows:

"5.1 It appears that granted claim 1 contains added subject-matter, as also held by the opposition division."

"5.3 Granted claim 1 was also amended before grant to include the detection of a temperature value of support structures of moving organs. This feature is only originally disclosed as performed during normal processing of the machine, see original disclosure on p. 5, ln. 3-9 or claim 10. This limitation has been omitted in the claim. Thus, the claim scope includes temperature measurements, e.g. during shut-down, that were not originally disclosed."

The appellant submits in this respect that the claim is directed at a method of identification of malfunction or degradation of the operation of a machine. This however does not imply that measurements are necessarily only performed during normal operation and that measurements during machine stops are excluded. They also submit that various original description passages on pages 8-21 describe location of temperature sensors in different specific machines without specifying that measurements are during normal processing. However, these are specific embodiments of the general concept disclosed on p. 5, ln. 3-9 and therefore need to be read in combination, which implies that the measurements are taken during normal operation."

2.3 The appellant proprietor did not file any reaction to this provisional opinion. Absent any further submissions and after reconsidering its preliminary opinion and all the relevant aspects of the case, the Board sees no reason to change its point of view. It therefore confirms the conclusion of the opposition division that granted claim 1 contains added subject-matter, Art 100(c) EPC.

3. Auxiliary requests 1-11 - Admission

3.1 In its written preliminary opinion, the Board set out its preliminary view regarding admissibility of auxiliary requests 1-11, see section 7.1, as follows:

"These request are new in appeal and thus represent an amendment to the appellant's case. The admission of such requests lies within the discretion of the Board, as outlined in Article 12(4) RPBA. Additionally, the Board shall not admit requests which should have been submitted in the proceedings leading to the decision under appeal, unless the circumstances of the appeal case justify their admittance, Art 12(6) RPBA.

These requests aim to address objections related to added subject matter and insufficiency in the decision under appeal. These include issues such as the use of different data type names in the claim, the lack the omitted specific limitation during temperature measurement (during processing), and the inclusion of image acquisition as a detection device. Furthermore, an attempt is made to establish novelty over D1 by removing the option of detecting electric motor currents.

However, it is noted that these issues were already present at the outset of the opposition proceedings, as evidenced by the objections raised by the opponents in their notices of opposition, see e.g. opponent 1 notice p. 5-13 or opponent 2 notice sections 4 and 5, and by the preliminary opinion of the opposition division (see communication dated 1 September 2021). The Board sees no justification for the proprietor's decision to address these objections by amendment for the first time at the appeal stage rather than earlier. Nor does the Board see any circumstances of the appeal that justify their late admission, since nothing has changed in the underlying facts giving rise to the objections. Thus, the auxiliary requests do not appear to be admissible, Art 12(6) RPBA."

- 3.2 In the absence of further submissions from the appellant proprietor on this issue, and having reconsidered its preliminary opinion and all the relevant aspects of the case, the Board sees no reason to change its view. It therefore decides not to admit auxiliary requests 1-11 into the proceedings under Art 12(6) RPBA.
4. In summary, the Board upholds the opposition division's conclusion that granted claim 1 contains added subject-matter, while not admitting the appellant's auxiliary requests. Consequently, the appeal fails.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:



G. Magouliotis

A. Pieracci

Decision electronically authenticated