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Bezeichnung der Erfindung: Improved flexible manufacturing system
Title of invention:
Titre de l'invention :

Klassifikation / Classification / Classement : G05B 19/417

ENTSCHEIDUNG / DECISION
vom / of / du 3 October 1989

Anmelder / Applicant / Demandeur : KEARNEY & TRECKER CORPORATION

Patentinhaber / Proprietor of the patent /
Titulaire du brevet :

Einsprechender / Opponent / Opposant :

Stichwort / Headword / Référence :

EPÜ / EPC / CBE Article 123(2) EPC

Schlagwort / Keyword / Mot clé : "Flexible manufacturing system. Amendment
allowed"

Leitsatz / Headnote / Sommaire

Europäisches
Patentamt

Beschwerdekammern

European Patent
Office

Boards of Appeal

Office européen
des brevets

Chambres de recours



Case Number : T 308/88 - 3.5.1

D E C I S I O N
of the Technical Board of Appeal 3.5.1
of 3 October 1989

Appellant : KEARNEY & TRECKER CORPORATION
11000 Theodore Trecker Way
West Allis Wisconsin 53214 (US)

Representative : Baillie, Iain Cameron et al.
c/o Ladas & Perry
Isartorplatz 5
D-8000 München 2 (DE)

Decision under appeal : Decision of Examining Division 062
of the European Patent Office
dated 18.12.1987 refusing European
patent application No. 81 105 757.9
pursuant to Article 97(1) EPC

Composition of the Board :

Chairman : P.K.J. van den Berg
Members : C.G.F. Biggio
J.A. Stephens-Ofner

SUMMARY OF FACTS AND SUBMISSIONS

- I. European patent application No. 81 105 767.9 was filed at the EPO on 21 July 1981 claiming a right of priority under patent application No. 170 820 filed on 21 July 1980 in the United States of America, was published on 27 January 1982 as EP-A-0 044 565 and was refused by a decision dated 18 December 1987 of the Examining division No. 2.2.06.062.

Said decision was based on Claim 1 filed on 23 October 1987, and dependent Claims 2 to 6 filed on 3 May 1984.

Claim 1, as refused, reads as follows:

"A flexible manufacturing system capable of automated production of machined parts including a plurality of machine tools (26) each of said machine tools having a computerized numerical control (30); and a separate memory (128) associated with each of said machines and connected to store part programs for execution by the numerical control of its associated machine; a supervisory control computer system (39) connected to exercise supervisory control over the entire system and to transmit program information to said separate memory (128) of said machine tools (26);

a transport system for transporting workpieces from one machine tool to another so that a sequence of machining operations can be performed on the workpiece;

and

identifying means (36) arranged to identify each particular workpiece as it is moved by said transport system to the machine for performance of a work operation;

characterized in that the program information consists of a number of part programs, one for each machining operation needed to be performed by a particular machine tool (26) and a part program map containing an indication of the location of the part program in the separate memory for the machining operation appropriate to the particular workpiece at the particular machine; and there are provided;

means (124) responsive to the identifying means to refer to said part program map for determining the location of the part program corresponding to the machining operation appropriate for that workpiece in said separate memory (128) and retrieving said part program for execution by the numerical control."

- II. The reason given for the refusal was that the application had been amended in such a way as to offend Article 123(2) EPC.
- III. On 29 February 1988 the Applicant filed an appeal against said decision and simultaneously paid the appeal fee.

In his Grounds of Appeal, filed on 28 April 1988, the Appellant contended that independent Claim 1, as filed on 23 October 1987, had been amended in such a way as not to offend Article 123(2) EPC.

He requested, by way of his main request, that the impugned decision be reversed and that a patent be granted containing Claim 1 as filed on 23 October 1987.

He furthermore requested oral proceedings, in the event that the Board intended to refuse his appeal.

As a further auxiliary request, he requested the grant of a patent on the basis of a further amended Claim 1, filed with the Grounds of Appeal, and Claims 2 to 6 filed on 3 May 1984.

- IV. In a communication issued on 18 July 1989, the Board pointed out that, in its view, the invention disclosed in the application, as originally filed, was limited to the combination of all the features comprised in Claim 1 as originally filed, which properly represented the invention disclosed in the application, so that any later amendment to said claim, by excision of any of the therein mentioned features, would provide for the definition of an invention which was not originally disclosed.

The Board's communication was based on the following facts:

1. The same combination of features as stated in original Claim 1 is summed up, as constituting the invention, in the statement of invention on page 3, line 25 to page 4, line 36 of the description as originally filed;
2. In the entire application, as originally filed, there is not the slightest hint, that one or more of said features may be left out without changing the scope of the invention as originally disclosed.

The Board pointed out further that an analytical comparison between Claim 1 as originally filed and Claim 1 as filed on 23 October 1987 showed that some identified features, comprised in said originally filed Claim 1, no longer occurred in Claim 1 as filed on 23 October 1987, said identified features having been either fully or partially excised, and concluded that:

- (1) the invention according to Claim 1 as filed on 23 October 1987 would have been novel against that disclosed by the application as originally filed, had the latter been prior art, and consequently,
- (2) the application amended so as to comprise Claim 1 as filed on 23 October 1987, had to be considered as containing additional subject-matter and thus as offending Article 123(2) EPC.

The Board accordingly indicated to the Appellant its inclination to refuse the appeal and, pursuant to Article 116(1) EPC, granted the Appellant's subsidiary request for oral proceedings.

- V. At the oral proceedings, on 3 October 1989, the Appellant withdrew all his previous requests, and requested that the decision under appeal be set aside and that a patent be granted on the basis of Claim 1 as originally filed.
- VI. Said Claim 1, as originally filed, reads as follows:

"A flexible manufacturing system capable of automated production of machined parts comprising a plurality of computer numerically controlled machining centers which are each provided with a plurality of sets of machine NC programs and a program map, each said computer numerically controlled machining center executing a selected one of said sets of machine NC programs in accordance with said program map in response to machine tool commands and in absence of machine tool commands, in response to operator entered machine commands; a transport system having at least one load/unload station where unfinished parts are entered and finished parts are discharged, said transport system moving parts from each said load/unload station to said computer numerically controlled machining centers in

accordance with electrical signals supplied to said transport system and said transport system generating data indicative of the part location during part movement; at least one data entry and display unit located in proximity with a respective one of said load/unload stations for transmitting data entered thereto by an operator indicative of the part type entered at said respective one of said load/unload stations; a supervisory control computer system coupled to each of said computer numerically controlled machining centers for supplying each said computer numerically controlled machining center with said selected sets of machine NC part programs and said program map, and said supervisory control computer system coupled to each said data entry and display unit for processing data therefrom to generate routing data indicative of the desired path of parts from said load/unload station to said computer numerically controlled machining centers; and a material handling system controller coupled to said supervisory control computer system to receive said routing data therefrom, said material handling system controller being coupled to said transport system for supplying said transport system with said electrical signals to cause movement of parts in accordance with said routing data and in absence of said routing data in accordance with manually entered routing data and manually entered transport system commands, said material handling system coupled to each said computer numerically controlled machining center and in accordance with said data generated by said transport system indicative of part location, said material handling system controller supplying said machine tool commands to said computer numerically controlled machining centers."

VII. The features that the Board identified as missing in Claim 1 of 23 October 1987, with regard to Claim 1 as

originally filed, are the following:

"... in response to machine tool commands and in absence of machine tool commands, in response to operator entered machine commands; ...",

"... a transport system having at least one load/unload station where unfinished parts are entered and finished parts are discharged, ...",

"... said transport system moving parts from each said load/unload station to said computer numerically controlled machining centers in accordance with electrical signals supplied to said transport system ...",

"... said transport system generating data indicative of the part location during part movement; ...",

"... at least one data entry and display unit located in proximity with a respective one of said load/unload stations for transmitting data entered thereto by an operator indicative of the part type entered at said respective one of said load/unload stations; ...",

"... and said supervisory control computer system coupled to each said data entry and display unit for processing data therefrom to generate routing data indicative of the desired path of parts from said load/unload station to said computer numerically controlled machining centers; ...",

"... and a material handling system controller coupled to said supervisory control computer system to receive said routing data therefrom, ...",

"... said material handling system controller being coupled to said transport system for supplying said transport system with said electrical signals to cause movement of parts in accordance with said routing data and in absence of said routing data in accordance with manually entered routing data and manually entered transport system commands ...",

"... said material handling system coupled to each said computer numerically controlled machining center and in accordance with said data generated by said transport system indicative of part location, said material handling system controller supplying said machine tool commands to said computer numerically controlled machining centers.".

REASONS FOR THE DECISION

1. The appeal complies with Articles 106 to 108 and Rule 64 EPC, taking into account that 28 February 1988 was a Sunday, and is therefore admissible.
2. The sole reason given for the appealed decision was that the application, amended so as to comprise independent Claim 1 as filed on 23 October 1987, had been amended in such a way as to offend Article 123(2) EPC.
3. The Board considers that the only question it has to answer is whether or not that reason still applies to the application as amended according to the Appellant's last request made during the oral proceedings on 3 October 1989, i.e. in which Claim 1 has been restored to its originally filed text.

4. Since an independent claim having the exact wording of Claim 1 as originally filed cannot, by definition, offend Article 123(2) EPC, Claim 1 now on file satisfies the requirements of that Article.
5. Therefore, the decision of the Examining Division No. 2.2.06.062 dated 18 December 1987 must be set aside, in accordance with the Appellant's last request.
6. After refusing the application as offending Article 123(2) EPC, the Examining Division dealt obiter with one additional matter.

This was that, in the view of the Examining Division, the oral proceedings held before them had made it clear that a claim of the scope of original Claim 1 and revised to meet the objections pursuant to Article 84 EPC raised in their first communication, would have been novel and inventive, having regard to the state of the art cited in the European search report.

The Board concludes from this that the Examining Division has not yet considered, in detail, in how far the subject-matter of Claim 1, as originally filed, meets all further formal and substantial requirements laid down by the EPC and that, in particular, the Examining Division has not yet had a specific text of an allowable Claim 1 before them.

Therefore the Board considers it under the circumstances as appropriate to remit, within its competence under Article 111(1) EPC, this case to the Examining Division for further examination.

The Board is satisfied that there was no need for the Examining Division to examine the application any further,

once they had raised the objection pursuant to Article 123(2) EPC.

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 for further prosecution of the application on the basis of Claim 1 as originally filed.

The Registrar:

The Chairman:

S. Fabiani

P.K.J. van den Berg