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File Number: 420/91 - 3.2.5

Application No.: 84 308 629.9

Publication No.: 0 141 683

Title of invention: Printer ribbon cartridge loading system

Classification: B41J 33/10

DECISION
of 17 March 1993

Applicant: Becking, Paul E.

Opponent: SM Engineering AG
J. Ihle Maschinenbau GmbH

Headword:

EPC Article 56

Keyword: "Inventive step (yes)"



Case Number : T 420/91 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 17 March 1993

Appellant :
(Proprietor of the patent)

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Respondent :
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Decision under appeal :

Decision of the Opposition Division of the
European Patent Office dated 11 April 1991
revoking European patent No. 0 141 683 pursuant
to Article 102(1) EPC.

Composition of the Board :

Chairman : C.V. Payraudeau
Members : A. Burkhart
H.J. Seidenschwarz

Summary of Facts and Submissions

I. The Appellant appealed against the decision of the Opposition Division, by which the European patent No. 0 141 683 had been revoked on the ground that its subject-matter did not involve an inventive step having regard to the teachings of the following prior art documents:

D1: US-A-4 390 294

D2: "Spannzeuge im Baukastenstil - ein rationelles Fertigungsmittel für viele Bearbeitungsverfahren", from the journal "Feingerätetechnik", No. 7, July 1953, pp. 306-309

D3: DE-B-1 903 576

D4: "Vorrichtungen aus dem Raster-Spannsystem-Baukasten", from the journal "Werkstattstechnik, Zeitschrift für industrielle Fertigung", Vol. 71, No. 11, November 1981, pp. 675-678

D5: "ferra tools 83/84", brochure of ferra tools GmbH, Hamburg, published July 1983.

II. During the proceedings before the Opposition Division the Respondents (Opponents), besides referring to the aforementioned prior art documents D1 to D5 also referred to various documents in support of two alleged prior uses.

III. Claim 1 of the granted patent reads as follows:

"1. Apparatus (30) for loading ribbon into a cartridge (46), having a leader ribbon extending therethrough, comprising a plate means (50), means (32) for supplying ribbon, means (42) for supporting the cartridge, and means (322) for drawing ribbon into the cartridge, characterized in that said cartridge support means (42) comprises a

platen plate (324), at least first and second means (326, 328) attached to said platen plate for supporting the cartridge, means (344) for retaining against said platen plate the cartridge borne by said support means, and means (336) for changing the point of attachment of said support means on said platen plate to accommodate therewith a plurality of different cartridge configurations."

- IV. With his letter dated 19 February 1992, filed on 3 March 1992, the Respondent I (Opponent I) declared his withdrawal from the proceedings.
- V. With his letter dated 25 September 1992, filed on 30 September 1992, also the Respondent II (Opponent II) withdrew his opposition.
- VI. The Appellant (Patentee) requested that the decision under appeal be set aside and the patent be maintained as granted.

Reasons for the Decision

- 1. Prior use
 - 1.1 The Opposition Division has not commented on the alleged prior uses and has not taken into consideration the state of the art according to the prior uses alleged by the Respondents when assessing novelty and inventive step.
 - 1.2 The documents presented by the Respondents in support of the alleged prior uses do not prove that the devices referred to therein have been made available to the public before the priority date of the patent in suit. Therefore, the evidence so far on file in support of the prior uses alleged by the Respondents is insufficient.

Since the Board would not be able, without the help of the Respondents, to establish on its own whether these alleged prior uses were in fact made available to the public before the priority date of the patent in suit, these prior uses cannot be taken into account as constituting a state of the art in the meaning of Article 54(2) EPC.

2. Novelty

Document D1 discloses an apparatus for loading ribbon into a cartridge, having a leader ribbon extending therethrough, means for supplying ribbon and means for drawing ribbon into the cartridge, wherein the cartridge is supported by an adapter plate which comprises means for clamping the cartridge, and wherein at least two of such adapter plates for holding different types of cartridges are present, each one of which can be positioned at one of a plurality of adapter positions on a support surface.

The apparatus according to Claim 1 of the patent in suit differs from the apparatus known from document D1 in that it comprises a platen plate, at least first and second means attached to said platen plate for supporting a cartridge, means for retaining against said platen plate the cartridge borne by said support means, and means for changing the point of attachment of said support means on said platen plate to accommodate therewith a plurality of different cartridge configurations.

The documents D2 to D5 do not relate to devices for loading ribbon into a cartridge, but relate to assemblies for use with a machine tool.

Therefore, the subject-matter of Claim 1 of the patent in suit is new with respect to the prior art according to documents D1 to D5.

3. Inventive step

3.1 The Board cannot agree with the opinion of the Opposition Division expressed on page 7, first paragraph of its decision that, due to the fact that the adapter plates according to document D1 have to be manufactured by machine tools, the person skilled in the art would take into consideration the documents D2 to D5 relating to the technical field of machine tools. The fixing devices known from documents D2 to D5 are not part of every machine tool, but are rather special devices which are only known to the expert who is involved in the construction of machine tools.

In the case of the invention, the person skilled in the art is a person dealing with assembling or loading cartridges or cassettes to be used in printing devices, that means, that this person skilled in the art is experienced in printing technique and has knowledge in assembling ribbon containing cassettes.

The technical field of machine tools is neither a neighboured field nor a broader general field with respect to the field to which the invention belongs. The shaping of a workpiece by machine tools (metal cutting) is not subject of the invention. Therefore, the person skilled in the art wishing to improve the apparatus for loading ribbon into a cartridge according to document D1 could not be expected to take into account also the field of machine tools.

Consequently, documents D2 to D5 relating to the field of machine tools cannot be taken into consideration when assessing inventive step of the subject-matter of the contested patent.

In this respect, the Board refers also to the decision T 176/84 (OJ EPO 1986, 50), and more particularly to points 5.3 to 5.3.4 of the reasons for the decision.

- 3.2 The device according to document D1 underlies the same general problem as the subject-matter of Claim 1 of the patent in suit, namely to load cartridges of different shape and size on the same ribbon loading machine.

According to document D1, this problem is solved by using different adapter plates for different cartridge configurations, each adapter plate comprising means (pins 134, locking bar 130, locking knob 132) for clamping and holding the cartridge (see Figure 4).

The apparatus according to Claim 1 of the patent in suit solves this problem in a different manner, namely by using a single platen plate 324 on which supporting means 326, 328 are attached, the position of each of which can individually be changed by suitable means 336 for changing the point of attachment in order to comply with different cartridge configurations.

The device according to Claim 1 differs from the device known from document D1 in that it does not need using a series of specifically designed and relatively complicated adapter plates for any particular type of cartridge, but the adaptation to different cartridge configurations can be accomplished by a few and simple support means, like a single platen plate comprising a grid of boreholes which serve as changeable points of attachment for only two support cams.

There can be found no hint in document D1 which would incite the person skilled in the art to solve the above-mentioned general problem by an apparatus as defined in

Claim 1 of the patent in suit, which solution is quite different from the solution to the same problem as proposed in document D1.

- 3.3 Therefore, the subject-matter of Claim 1 of the patent in suit does involve an inventive step having regard to the teaching of document D1.
4. For the foregoing reasons, the subject-matter of Claim 1 of the patent in suit complies with Article 52(1) EPC.

Claims 2 to 12 of the patent in suit which are dependent on Claim 1 and relate to specific embodiments of the subject-matter of Claim 1 are also patentable.

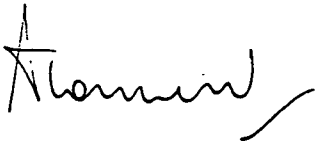
5. The patent can thus be maintained unamended.

Order

For these reasons, it is decided that:

1. The decision under appeal is set aside.
2. The patent is maintained as granted.

The Registrar:



A. Townend

The Chairman:



C. Payraudeau