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D E C I S I O N
of 5 February 1999

Case Number: T 0933/95 - 3.2.5

Application Number: 90904485.1

Publication Number: 0455750

IPC: B42D 15/00

Language of the proceedings: EN

Title of invention:

Nonreplicable document and method for making same

Applicant:

Wicker, Ralph, C.

Opponent:

-

Headword:

-

Relevant legal provisions:

EPC Art. 56, 84, 123(2)

Keyword:

"Inventive step (yes)"

"Clarity (yes)"

"Allowability of Amendments (yes)"

Decisions cited:

-

Catchword:

-



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Boards of Appeal

Chambres de recours

Case Number: T 0933/95 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 5 February 1999

Appellant: Wicker, Ralph, C
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Decision under appeal: Decision of the Examining Division of the European Patent Office posted 18 July 1995 refusing European patent application No. 90 904 485.1 pursuant to Article 97(1) EPC.

Composition of the Board:

Chairman: A. Burkhardt
Members: P. E. Michel
V. Di Cerbo

Summary of Facts and Submissions

- I. The appellant lodged an appeal against the decision of the Examining Division refusing the application No. 09 904 485.1.

The Examining Division was of the opinion that claim 1 of the sole request of the applicant lacked an inventive step. The following documents were relied on:-

D1: DE-C-3 602 563

D2: GB-A-1 138 011

D3: EP-A-0 046 327

- II. In a communication pursuant to Article 11(2) of the Rules of Procedure of the Boards of Appeal, objections were raised to the claims of the request in force at that time under the headings of admissibility of the amendments, clarity and inventive step.

- III. Oral Proceedings were held before the Board of Appeal on 5 February 1999.

- IV. During the course of the oral proceedings, the applicant amended his request to grant of a patent on the basis of an amended set of claims 1 to 4, claim 1 of which reads as follows:

"A method of making a document that is not faithfully replicable by scanning-type copying devices, the document using a visible original image (10, 40)

comprising art, pictures and/or image forms made of curvilinear lines, dots and/or swirls, the method comprising the steps of determining the scanning pitch distance (p) and width of the scanning lines (36) of the copying devices; producing a grid pattern of parallel lines (32) having a pitch distance (d) minutely more or less than the scanning pitch distance (p), the difference between the pitch distance (d) of the parallel lines and the scanning pitch distance (p) being within a range from about one-half the width of the scanning lines to about one-half the scanning pitch distance (p); and overlaying the grid pattern on the original image to produce on the document a printed image which comprises the original image having a superimposed transmitted or obstructed print pattern conforming to the grid pattern and in which the print pattern normally is not discernible by the naked eye, such that the original image and the printed image appear to the naked eye to be generally the same, the print pattern causing visibly discernible interference (e.g., moire) patterns and/or false tones, colors or omissions to be produced in the printed image in copies of the document made by the copying devices."

V. The applicant argued essentially as follows:

The closest state of the art is represented by D1 or D2. The problem to be solved is to maintain the appearance of the existing images on documents, whilst preventing counterfeit reproductions of those images. In the methods of the prior art, it is necessary to provide areas of the document which are solely printed with lines intended to produce Moiré fringes when

copied on a scanning colour copier. This requirement restricts the freedom of the designer. Whilst the drawings of Figure 2 do not illustrate "art, pictures and/or image forms made of curvilinear lines, dots and/or swirls", this figure nevertheless shows the principle whereby distortion occurs in a reproduction.

Reasons for the Decision

Admissibility of the amendments

1. Claim 1 is restricted to the feature that the grid pattern consists of parallel lines (32) having a pitch distance (d) minutely more or less than the scanning pitch distance (p), the difference between the pitch distance (d) of the parallel lines and the scanning pitch distance (p) being within a range from about one-half the width of the scanning lines to about one-half the scanning pitch distance. This feature is disclosed in the application as filed as being an essential feature and is present at page 16, lines 10 to 13 of the published version of the application as filed. The amendments made to the claims thus comply with the requirements of Article 123(2) EPC.

Clarity

2. Claim 1 refers to "determining the scanning pitch distance (p) and width of the scanning lines (36) of the copying devices", thus rendering clear the references in the claim to the scanning pitch distance of the copier. In addition, the claim includes all the

features which are essential to achieving the desired result, that is, to make a document that is not faithfully replicable by a scanning type copying device, in particular the feature referred to in paragraph 1. above.

Novelty

3. The question of novelty has not been put at issue in the present proceedings and, indeed, claim 1 is rendered novel over the disclosures of the cited documents by the presence of the feature that a grid pattern is overlaid on an original image to produce on the document a printed image which comprises the original image having a superimposed transmitted or obstructed print pattern conforming to the grid pattern and in which the print pattern normally is not discernible by the naked eye.

Inventive step

- 4.1 The closest prior art is represented by document D2.
- 4.2 The problem to be solved starting from the disclosure of this document is to allow the appearance of the existing images on documents to be retained, whilst preventing counterfeit reproductions of those images. In the method of D2, as illustrated by Figure 15 of this document, it is necessary to provide areas of the document which are solely printed with lines intended to produce Moiré fringes when copied on a scanning copier. This requirement restricts the freedom of the designer.

- 4.3 According to the invention, this problem is solved in that a grid pattern is overlaid on an original image to produce on the document a printed image which comprises the original image having a superimposed transmitted or obstructed print pattern conforming to the grid pattern and in which the print pattern normally is not discernible by the naked eye. The designer of the document is thus freed from the necessity to provide areas of the document solely bearing printed patterns intended to produce interference patterns when scanned. Instead, the interference patterns in a counterfeit copy occur in the art, pictures and/or image forms made of curvilinear lines, dots and/or swirls which are present on the document.
- 4.4 This solution is not suggested by the cited prior art. The closest the prior art comes to making such a suggestion is the passage in D2 at page 5, lines 91 to 94 which suggests "it is possible to combine regular line configurations even in representations of physical objects such as portraits and scenes from nature." This passage is, however, construed to mean that it is nevertheless necessary to provide areas of the document solely bearing printed patterns intended to produce interference patterns when scanned, but that such areas could form a part of an image, for example, the background thereof.
- 4.5 The subject-matter of claim 1 thus involves an inventive step. Claims 2 to 4 are appendant to claim 1 and similarly involve an inventive step.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to grant a patent with the following documents:

claims: 1 to 4 as presented during the oral proceedings;

description: pages 1, 2, 3, 5, 6, 9, 12 to 17 and 19 according to the PCT publication; and pages 4, 7, 8, 10, 11, 18, 20 as presented during the oral proceedings;

drawings: as originally filed.

The Registrar:

The Chairman:

A. Townend

A. Burkhart