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D E C I S I O N
of 28 June 2002

Case Number: T 1003/98 - 3.2.5

Application Number: 92108069.3

Publication Number: 0513756

IPC: B41F 13/28

Language of the proceedings: EN

Title of invention:

Printing pressure adjusting apparatus of printing cylinders

Patentee:

Komori Corporation

Opponent:

DE LA RUE GIORI S.A.

Headword:

Relevant legal provisions:

EPC Art. 54, 56

Keyword:

"Novelty (yes)"
"Inventive step (yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 1003/98 - 3.2.5

D E C I S I O N
of the Technical Board of Appeal 3.2.5
of 28 June 2002

Appellant: Komori Corporation
(Proprietor of the patent) 11-1, Azumabashi 3-chome
Sumida-ku
Tokyo (JP)

Representative: UEXKÜLL & STOLBERG
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Respondent: DE LA RUE GIORI S.A.
(Opponent) 4 rue de la Paix
CH-1003 Lausanne (CH)

Representative: Jörchel, Dietrich R.A.
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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 16 July 1998
revoking the European patent No. 0 513 756
pursuant to Article 102(1) EPC.

Composition of the Board:

Chairman: W. Moser
Members: P. E. Michel
V. Di Cerbo
H. M. Schram
A. Burkhart

Summary of Facts and Submissions

- I. The appellant (patentee) lodged an appeal against the decision of the Opposition Division revoking patent No. 0 513 756.

Opposition had been filed against the patent as a whole based on Article 100(a) EPC (lack of novelty and inventive step).

The Opposition Division was of the opinion that the subject-matter of claim 1 of the sole request of the appellant for maintenance of the patent as granted is not novel in view of the prior use of a printing machine of the type Koebau- Giori- De La Rue Super-Simultan 212. In addition to documents relating to the alleged prior use, the following documents were mentioned in the decision under appeal:

D1: Patent Abstracts of Japan, vol. 14, No. 305
(M-992) (4248) and JP-A-2098444

D2: JP-A-63-132504.

- II. The appellant requests that the decision under appeal be set aside and that the patent be maintained on the basis of the following documents:

(a) claims 1 to 4 filed on 17 November 1998, claim 1 being amended as requested on 13 November 2001 by substituting the feature "stop means (59)" for the feature "stopper means (59)";

- (b) description: columns 1, 2, 8 and 9 as granted; and columns 3 to 7 filed on 17 November 1998, column 7, line 38 being amended as requested on 13 November 2001 by substituting the term "stopper 59" for the term "stripper 59; and
- (c) drawings: Figures 1 to 6 as granted.

As an auxiliary request, the appellant further requests that oral proceedings be held.

The respondent (opponent) requests a decision on the state of the file.

III. Claim 1 filed on 17 November 1998 and amended as requested on 13 November 2001 reads as follows:

- "1. A printing pressure adjusting apparatus of printing cylinders of a printing press in which a plurality of second cylinders (66) revolve in contact with one first cylinder (53), said printing pressure adjusting apparatus, comprising: an eccentric bearing (52) revolvably fitted on a frame (51) of said printing press and revolvably supporting said first cylinder (53) in an eccentric state; eccentric sleeves (67) revolvably fitted in positions opposite to said first cylinder (53) on said frame (51) of said printing press and revolvably supporting said second cylinders (66) in an eccentric position; a stop means (59) for adjustably regulating the revolving position of said eccentric bearing (52); a stopper (71) for adjustably regulating the revolving position of said eccentric sleeves (67); and an interlock mechanism for constantly maintaining the

state of contact between said first (53) and second (66) cylinders by simultaneously changing each stopper (71) in adjusting the stop means (59); said interlock mechanism being provided with a disk (72) rotatably disposed on the eccentric bearing (52) of the first cylinder (53) through which disk (72) the stopper (71) and the stop means (59) move in cooperation."

IV. The appellant argues essentially as follows:

Support for the amendments to claim 1 is found in column 6, lines 12 to 37 of the application as filed (published version).

The prior art machine does not include an interlock mechanism provided with a disk rotatably disposed on the eccentric bearing of the first cylinder through which disk the stopper and the stop means move in cooperation. The subject-matter of claim 1 is thus novel and involves an inventive step.

V. The respondent refrained from raising any arguments.

Reasons for the Decision

1. *Admissibility of the amendments*

Claim 1 is restricted to the feature that the interlock mechanism is provided with a disk rotatably disposed on the eccentric bearing of the first cylinder through which disk the stopper and the stop means move in cooperation. This feature is disclosed in the published version of the application as filed at column 6,

lines 11 to 35. Whilst the term "eccentric metal" as used in the application as filed has been replaced by the term "eccentric bearing" throughout, it is clear from the description and drawings as filed that the term "eccentric metal" does, in fact, refer to a bearing, so that the term "eccentric bearing" more accurately describes this component.

In addition, the amendment does not extend the protection conferred and is made in order to overcome a ground of opposition.

The amendments made to the claims thus comply with the requirements of Articles 123(2) and (3) as well as Rule 57a EPC.

2. *Novelty*

Claim 1 is rendered novel over the the printing pressure adjusting apparatus of the machine of the type Koebau- Giori- De La Rue Super-Simultan 212 as well as over the disclosure of documents D1 and D2 as cited in the procedure before the Opposition Division by the provision of an interlock mechanism provided with a disk rotatably disposed on the eccentric bearing of the first cylinder through which disk the stopper and the stop means move in cooperation.

In the prior used machine, the interlock mechanism does not include a disc rotatably mounted on the eccentric bearing (see drawing Z2). Instead, the connecting rods are mounted on projections of the eccentric of the blanket cylinder, the projections being fixed relative to the eccentric. The subject-matter of claim 1 is thus new.

3. *Inventive step*

The closest prior art is represented by the printing pressure adjusting apparatus of the machine of the type Koebau- Giori- De La Rue Super-Simultan 212. The Board finds no reason to doubt the finding of the Opposition Division at paragraph 2 of the decision under appeal that this machine was made available to the public before the priority date of the patent in suit. In addition, this finding was not contested in the appeal proceedings.

The problem to be solved starting from this prior art is to facilitate adjustment of the pressure exerted by the second cylinders on the first cylinder.

According to the invention, this problem is solved by the provision of an interlock mechanism provided with a disk rotatably disposed on the eccentric bearing of the first cylinder through which disk the stopper and the stop means move in cooperation.

This solution is not suggested by the cited prior art. Neither D1 nor D2 suggests such an arrangement.

The subject-matter of claim 1 thus involves an inventive step. Claims 2 to 4 are appendant to claim 1 and relate to preferred features of the apparatus of claim 1. These claims thus also involve an inventive step.

4. Since the patent can thus be maintained in the form requested by the appellant, it is not necessary to hold oral proceedings.

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 maintain the patent on the basis of the following documents:
 - (a) claims 1 to 4 filed on 17 November 1998, claim 1 being amended as requested on 13 November 2001 by substituting the feature "stop means (59)" for the feature "stopper means (59)";
 - (b) description: columns 1, 2, 8 and 9 as granted; and columns 3 to 7 filed on 17 November 1998, column 7, line 38 being amended as requested on 13 November 2001 by substituting the term "stopper 59" for the term "stripper 59"; and
 - (c) drawings: Figures 1 to 6 as granted.

The Registrar:

The Chairman:

M. Patin

W. Moser