Datasheet for the decision of 3 August 2007

Case Number: T 0282/05 - 3.4.03
Application Number: 97201818.8
Publication Number: 0822454
IPC: G03F 7/20
Language of the proceedings: EN

Title of invention:
Method and apparatus for making lithographic printing plates in an automated computer to plate imaging system

Patentee:
AGFA CORPORATION

Opponent:
Kodak IL Ltd
Lüscher AG Maschinenbau

Headword:
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Relevant legal provisions:
EPC Art. 54
RPBA Art. 10b (1)

Keyword:
"Main request: Novelty (no)"
"Auxiliary request: belated - clearly not allowable - not admitted"

Decisions cited:
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Catchword:
-
Case Number: T 0282/05 - 3.4.03

DECISION
of the Technical Board of Appeal 3.4.03
of 3 August 2007

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Composition of the Board:

Chairman: R. G. O'Connell
Members: V. L. P. Frank
          U. Tronser
Summary of Facts and Submissions

I. This is an appeal by opponent II as sole appellant against the maintenance of EP 822 454 in amended form on the basis of claims 1 to 6 as granted - other claims having been deleted (Article 102(3) EPC).

Grounds of opposition were inter alia lack of novelty and of inventive step (Article 100(a), 54 and 56 EPC).

II. The sole independent claim of the patent as maintained by the opposition division and as defended by the respondent proprietor on appeal as main request reads:

"1. A method for automating printing plate production in a plate production system (10) for preparing plates having a front-end server (12) for transferring digital data files, a platemaker (16) for receiving jobs from the front-end server (12) and making plates according to the jobs, the platemaker (16) comprising an imaging engine (20) for recording images onto printing plates (26) and a plate handler (18) for storing a plurality of stacks of printing plates (26) in a plurality of cassettes (24), the method comprising the steps of:

- sending job data from the front-end server (12) to the imaging engine (20) for making printing plates (26), said job data including information about what type of plate is required for the job; and

- sending commands from the imaging engine (20) to the plate handler (18) which include instructions to the plate handler (18) about what cassette (24) needs to be accessed to make
a printing plate (26), required for the job, available to the imaging engine (20)."

At the end of the oral proceedings before the board the respondent proprietor submitted an auxiliary request. Claim 1 of this request has the following text appended to claim 1 of the main request:

- exchanging information between the imaging engine (20) and the plate handler (18) about the quantity available of the plate size required by the job.

III. The following prior art document *inter alia* was cited in the opposition procedure:

E8: Service Manual Creo Platesetter 3244, Revision A, Revised October 10 1995

IV. In the decision under appeal the opposition division found that:

- Document E8 was available to the public before the priority date of the opposed patent and was therefore part of the state of the art (Article 54(2) EPC).

- None of the documents cited by the opponents disclosed the last feature of the method of claim 1 as granted, namely the step of "sending commands from the imaging engine to the plate ..." The method of claim 1 was thus considered to be new.
- The division further found that the claimed method involved an inventive step, as none of the prior art documents suggested transferring the operational control of the job from the front end server to the imaging engine. In the prior art systems all the job control information came from the front end server and there was no evidence that the platesetter itself took control over the job. The advantage of the imaging engine controlling the job was found to lie in the autonomy given to the platesetter, as the role of the front end server was minimized in the actual platemaking process.

V. Appellant opponent II argued essentially as follows:

- Document E8 disclosed a system in which a platemaster server commanded a plurality of platesetters in a digital platemaking system. These platesetters had all the apparatus features of the platemaker specified in claim 1, i.e., an imaging engine and a plate handler. The job data were sent from the front end server to the platemaker in Postscript language. E8 further disclosed that the job data were stored in a plurality of hot folders depending on the specific plate type to be used for the job. Thus the first feature of claim 1, namely sending job data from the front end server to the imaging engine, was disclosed in E8. The step of sending commands from the imaging engine to the plate handler was disclosed in the opposed patent by reference to workflow software. This software corresponded to the embedded control software disclosed in E8. Consequently, the second method step of claim 1, namely sending commands from the
imaging engine to the plate handler, was also disclosed in E8. The method for automating printing plate production of claim 1 was therefore not new over the disclosure of E8.

VI. The respondent proprietor argued essentially as follows:

- The SPI bus disclosed in document E8 worked on a master-slave basis. The master processor acted as the master of the bus sending commands to the different slave boards which controlled each subunit of the platesetter and polled them regularly requesting status information. It was therefore not the imaging engine which sent commands to the plate handler but the master processor. There was no direct communication between the imaging engine and the plate handler. It was moreover stated in E8 that it was the Allegro workstation which started the plate picking operation in the platesetter. The last method step of claim 1 was not disclosed by E8 and the claimed method was therefore novel.

VII. Appellant opponent II and opponent I, party as of right, requested that the decision under appeal be set aside and that the patent be revoked.

The respondent proprietor requested that the appeal be dismissed.

**Reasons for the Decision**

1. The appeal is admissible.
2. **Availability of document E8 (Article 54(2) EPC)**

The opposition division considered document E8 to have been available to the public before the priority date of the opposed patent (decision under appeal, reasons 4). This was not contested by the parties and the board sees therefore no reason for departing from or even reviewing the opposition division's assessment on this issue.

3. **Main request - Novelty (Article 54 EPC)**

3.1 The main issue in this appeal is whether the method of claim 1 is new over the platemaking system disclosed in document E8. To this effect it is necessary to enter into some detail on the working principle of this system (in the following the capitalized names, eg "PlateMaster Server", "PlateMaster System" and "Platesetter", are used to refer to the respective components mentioned in E8).

3.1.1 Document E8 is the Service Manual of the Creo 3244 Platesetter. It discloses a large, digital platemaking system, the PlateMaster System, comprising inter alia several preview computers, a file server (the PlateMaster Server), a hard copy proofing device and any number of Platesetters to expose the plates (Figure 1-4). Workflow in the PlateMaster system starts with the imposition software. Each job has a separate file containing the PostScript data for the image on the plate. When using composite PostScript files, one file can generate a plate for each required color, while a complete job may consist of any number of plates, depending on the number of pages to be printed. Because
of the large size and number of files in a job, and because many jobs need to be managed simultaneously, digital platemaking requires a file management system. The PlateMaster Server controls file management and file flow through the platemaking process. Once the files have been checked and approved, they are sent to a given Platesetter to be exposed onto a plate. The Platesetter sends status messages back to the PlateMaster Server to track successfully completed plates and warn about any failed plates (pages 1-9 and 1-10; Figures 1-4 and 1-5).

3.1.2 The image files are transferred to specific "hot folders" on a network's computer drive. The raster image processor (RIP) software polls the hot folders and rips any file found therein. Any individual hot folder can be mapped onto a specific type of plate, so that all the files in this folder are imaged on a specific plate type (page 1-8; Figure 1-3; page 3-21).

3.1.3 The Platesetter itself is formed by the Allegro workstation, the plate conveyor and the recorder. The recorder consists of the cassette bay, the autoloader and the engine (pages 1-3 to 1-5; Figure 2-2).

The cassette bay holds several cassettes with the possibility of each cassette holding a different type of unexposed plate (eg plates of different sizes, thickness, resolution, etc). The autoloader has the dual function of moving the plates from the cassette bay to the imaging drum and from the drum to the plate conveyor. The plate conveyor takes over the plates imaged in the engine and forwards them to a plate processor. The Allegro workstation is a unit separate
from the recorder and manages the job queues, processes
the images received from the PlateMaster Server
generating from them the corresponding data and
provides the operator with a software interface with
the recorder (Table 2-1, page 2-6 and 2-7).

3.1.4 The Platesetter recorder is controlled by a central
microprocessor which communicates with the other local
controllers in the unit. This controller, the Master
Processor, runs the operating system program that
controls the recorder, the Embedded Control Software.
This software *inter alia* controls the data
communication between all the devices in the recorder,
coordinates all plate motion functions and exchanges
control and status information between the recorder and
the workstation. The software in the operating system
is implemented as separate tasks. A workstation task
accepts commands from the workstation and starts an
image process for every plate requested by the
workstation, while an image task controls the sequence
of actions performed on a plate in the path from the
cassette to the processor. Three image tasks can be
active in the recorder at the same time (page 2-25;
Figure 2-11).

3.1.5 The Master Processor resides on the Master Processor
Electronics (MPE) Board which is one of the four boards
located in the Card Cage forming the heart of the
Platesetter's electronic system (page 2-63 and
Figure 2-28). These four boards communicate with each
other through the card cage backplane and with the rest
of the recorder through a network of data cables. A
Serial Peripheral Interface (SPI) bus is used for
communication between the MPE and the various satellite
boards including the engine, the plate picker electronics and the load/unload electronics (page 2-65; Figure 2-2). The SPI bus is a full-duplex, master-slave bus in which the MPE is the "master" and the satellites are the "slaves". Only the master can initiate a transaction and polls all the satellites on a regular basis (page 2-68).

3.1.6 Summarizing, there are four levels of "intelligence" in the system:

(a) the PlateMaster Server which receives the approved images files, stores and forwards them to one of the workstations of the Platesetter;
(b) the Allegro workstation which rips the image and starts the imaging process by forwarding them to the recorder;
(c) the Master Processor which runs the Embedded Control Software controlling the recorder; and
(d) the various satellite units which work under the commands of the Master Processor, but are controlled by their own "slave" boards.

3.2 The plate production system employed in the method of claim 1 consists of:

- a front end server (12) for transferring digital data files, and
- a platemaker (16) comprising
  - an imaging engine (20) for recording images onto the printing plates, and
  - a plate handler (18) for storing several stacks of printing plates.
The method for printing the plates comprises the steps of:

- sending **job data** from the front end server to the imaging engine, the job data including information on the type of plate required for the job and
- sending **commands** from the imaging engine to the plate handler including instructions to the plate handler about what cassette needs to be accessed.

3.3 It is undisputed that the device features of the plate production system specified in claim 1 correspond to the following components of the plate production system disclosed in document E8:

- the front end server (12) to the PlateMaster server;
- the platemaker (16) to the Platesetter 3244;
- the imaging engine (20) to the engine; and
- the plate handler (18) to the cassette bay/autoloader.

3.4 The description of the opposed patent discloses with more detail the plate production system. It comprises in addition to the components mentioned in claim 1 a raster image processor (14) and a control terminal (30) (Figure 1 of the patent). The functions of these two components (RIP and control terminal) are taken over in the PlateMaster system of E8 by the Allegro workstation.

3.5 The first method feature of claim 1, namely sending job data from the front end server to the imaging engine, the job data including information on the type of plate required for the job, is also disclosed in E8. It is the function of the PlateMaster Server to send the job
data to a specific Platesetter, ie to the imaging engine. The information on the type of plate required for the job is transmitted to the Platesetter by storing the job data in the hot folder associated with a specific type of plate.

3.6 The finding of the opposition division that the claimed method was novel was based on the second step of the method (decision under appeal, reasons point 5).

3.6.1 It is therefore to be decided whether the second method feature of claim 1, namely sending commands from the imaging engine to the plate handler including instructions to the plate handler about what cassette needs to be accessed, is disclosed in document E8.

3.6.2 The respondent proprietor argued that it was the Allegro workstation which controlled the plate flow within the platesetter and thus that it was the workstation which sent the command for accessing a given cassette. He referred in particular to the following sentence of E8 "The workstation begins to rasterize the incoming job while simultaneously starting a plate picking operation in the Platesetter" (page 1-6).

3.6.3 The board is however not persuaded that the conclusion drawn from this sentence by the proprietor is correct. This sentence is found in the general introduction to the system and means in the understanding of the board that the workstation informs the platesetter's operating system that a new job is waiting in the queue and that its processing should start. It is the Embedded Control Software, part of the operating system
running on the MPE Board, which receives this command from the workstation and starts a corresponding image task which from then on coordinates all the plate motion and decides when the plate picking command is sent to the autoloader (page 2-25). Although the initial command is sent by the Allegro workstation, it generates a cascade of commands in the recorder which ends with the picking of a plate by the plate picker.

3.6.4 This corresponds to the further steps of the plate flow disclosed in E8 (page 1-6). It is stated there that "If there is another image waiting in the workstation queue, the Platesetter picks another plate from the cassette bay. When the first plate is finished being exposed, it is unloaded from the drum and the next plate is loaded onto the drum to be exposed." Therefore, although the workstation gives the command to the platesetter to start a new job, it is the platesetter itself that decides when the plate is picked up, transferred to the drum, exposed and finally transferred to the plate processor. This is done under the control of the Embedded Control Software, which as mentioned before coordinates all plate motion functions (page 2-25).

3.6.5 The respondent proprietor also argued that in the system of E8 it was the Master Processor which controlled the different subunits via the SPI bus, as this bus did not allow a communication between subunits, but used a master/slave protocol in which the Master Processor was the "master".

3.6.6 Although there is no disclosure in the opposed patent on how the electronic control of the platemaker is implemented, reference is made to workflow software
which has great similarity in its functionality to the Embedded Control System disclosed in E8. In particular, it is specified that the plate handler 18 receives commands from the imaging engine 20 by workflow software and that the handler 18 in turn provides status information to the engine 20 through the workflow software to make full interaction with the system possible (column 4, lines 46 to 54 of the published patent) and that the engine 20 interfaces electrically with the handler 18 to exchange machine functional and operational data which is input into the workflow software (ibid column 5, lines 3 to 5).

3.6.7 It is clear from the disclosure of document E8 that there is a central control unit within the platemaker which oversees the whole processing of the plate, from the moment the plate is taken from a cassette up to when it is delivered to the plate conveyor. This central control is the operating system running on the MPE Board and, in particular, the Embedded Control System. Document E8 treats this central control unit as separate from the engine and the autoloader, while the opposed patent attributes the control of the process to the imaging engine. This, however, is just a different way of looking at the same thing, since the details of how the control is actually implemented in the imaging engine are not disclosed. Missing details in a patent's disclosure cannot justify a finding of novelty.

3.7 For the above reasons the board considers that the method of claim 1 lacks novelty over the disclosure of document E8.
4. **Auxiliary request**

4.1 At the end of oral proceedings before the board - just pre-empting the debate guillotine - the respondent proprietor submitted an auxiliary request in which the features of granted claim 4 were added to claim 1.

4.2 Among the criteria applied by the boards in exercising discretion pursuant to Article 10b (1) RPBA to admit a belated claim amendment request is that of *clear allowability*. This criterion can be applied in a stricter form as admitting a request only if it is *clearly allowable* or in a less strict form as not admitting a request if it is *clearly not allowable*. Although this was a case where the respondent proprietor did not seek to justify the lateness of the submission of the request other than to assert that the last second timing was in line with the practice of at least some boards, given the lack of complexity of the new subject-matter and the fact that it involved a combination of the claims maintained in the decision under appeal the board considered it appropriate to apply the above-mentioned criterion in its less strict form.

4.3 The feature added to claim 1 of the main request specifies an exchange of information about whether there are sufficient plates available in the cassette to meet the requirement of the job. It is, however, a matter of common sense to check if the parts needed for a job are available before starting it. If this would not be evident by itself, it would become evident once the situation actually occurred in the processing of a job. All that is required for solving this problem are
some lines of software code in the workflow software and the operator inputting on the workstation the initial number of plates in each cassette when it is put into the cassette bay. The board cannot recognize an inventive step either in posing the problem or in its solution.

4.4 Since for the above reasons the auxiliary request was clearly not allowable the board did not admit it into the proceedings.

Order

**For these reasons it is decided that:**

1. The decision under appeal is set aside.

2. The patent is revoked.

Registrar

Chair

S. Sánchez Chiquero

R. G. O'Connell