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D E C I S I O N
of 24 September 2001

Case Number: T 0495/01 - 3.2.6

Application Number: 96115242.8

Publication Number: 0767129

IPC: B65H 67/06

Language of the proceedings: EN

Title of invention:
Bobbin supply system

Applicant:
Murata Kikai Kabushiki Kaisha

Opponent:
-

Headword:
-

Relevant legal provisions:
EPC Art. 123(2)

Keyword:
"Amended feature derivable from the drawings - yes"
"Remittal - yes"

Decisions cited:
-

Catchword:
-



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Boards of Appeal

Chambres de recours

Case Number: T 0495/01 - 3.2.6

D E C I S I O N
of the Technical Board of Appeal 3.2.6
of 24 September 2001

Appellant:

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Decision under appeal:

**Decision of the Examining Division of the
European Patent Office posted 21 November 2000
refusing European patent application
No. 96 115 242.8 pursuant to Article 97(1) EPC.**

Composition of the Board:

Chairman: P. Alting van Geusau
Members: G. Pricolo
M. Tardo-dino

Summary of Facts and Submissions

- I. European patent application No. 96 115 242.8 published under No. 0 767 129 was refused by the Examining Division by decision dated 21 November 2000.
- II. The Examining Division held that the subject-matter of claim 1 of the main request filed at oral proceedings held on 12 October 2000 did not involve an inventive step in the light of the closest prior art disclosed in document
- D1: JP-A-05-221512;
- and that claim 1 of the auxiliary request also filed at the oral proceedings did not meet the requirements of Article 123(2) EPC. With respect to the auxiliary request, the Examining Division considered that, although the originally filed application disclosed that there was "an inclination of the magazine in the extension of an axis parallel to the axis of the supply line 9 outwards of the machine", as shown in Figure 2, it did not disclose the claimed feature that the magazine was inclined towards the side of the operator's operating space.
- III. On 25 January 2001 the Appellant (applicant) lodged an appeal against this decision and paid the prescribed appeal fee. The statement setting out the grounds of appeal was received on 2 April 2001.
- IV. During a personal consultation with the Rapporteur of the Board, held on 6 September 2001, the Appellant filed a new claim 1, requested that the decision under appeal be set aside, and that a patent be granted on

the basis of the following documents:

Claim: 1 filed on 6 September 2001;

Description: pages 1 to 9 as originally filed;

Drawings: sheets 1/5 to 5/5 as originally filed

Claim 1 reads as follows:

"A bobbin supply system comprising a tray supply line that transports trays to each winding unit of a winding machine from a bobbin supply device (1) that supplies full bobbins (Bf) at a time through a chute (18) to the trays (2); a return line (6,8) that transports the trays from the winding unit to the bobbin supply device (1); said bobbin supply device (1) having a magazine (20) which is rotatable around a rotating axis and which stocks the full bobbins (Bf); said magazine (20) comprising a cylindrical bobbin insertion member (42) having cylindrical insertion holes (37) and a fixed bobbin reception member (43) with a bobbin delivery opening (38) associated with the top of the chute (18), whereby a full bobbin (Bf) can drop by gravity from the bobbin delivery opening (38) for being loaded onto a tray (2) after passing through the chute (18); characterized in that at the rearward end of the bobbin supply system and next to the magazine (20) an operating space (S) and a storage box (19) for storing full bobbins (Bf) are provided, in such a position that full bobbins (Bf) can be manually and individually inserted from said storage box (19) through said operator's operating space (S) into said insertion holes (37); and in that said magazine (20) is inclined in rearward direction."

V. In essence, the Appellant's arguments in support of the request are as follows:

In its decision, the Examining Division pointed out that Figure 2 of the original application showed an inclination of the magazine in the extension of an axis parallel to the axis of the supply line outwards of the machine. Since claim 1 as amended during the personal consultation essentially defined a corresponding feature, namely that the magazine was inclined rearwards, it no longer contained subject-matter extending beyond the content of the application as filed and, consequently, met the requirements of Article 123(2) EPC.

Novelty of the subject-matter of claim 1 could be established because D1 did not disclose the features defined in the characterising portion of the claim. The subject-matter of claim 1 also involved an inventive step, because the whole construction of the bobbin supply system was easier and its operation more reliable. Indeed, in contrast to the bobbin supply system known from D1, the claimed system did not require a horizontal feeder. Moreover, the characterising features provided a practical system for use by an operator. In particular, insertion of a full bobbin in the magazine was easy due to the rearward inclination thereof.

Reasons for the Decision

1. The appeal is admissible.

2. *Amendments*

2.1 The following features of claim 1 can be directly derived from original claim 1:

a bobbin supply system comprising a tray supply line that transports trays to each winding unit of a winding machine from a bobbin supply device that supplies bobbins at a time to the trays, said bobbin supply device having a magazine which stocks the bobbins.

Furthermore, the following features can be directly derived from original dependent claims 2 and 3:

- a return line that transports the trays from the winding unit to the bobbin supply device; and
- the magazine is rotatable around a rotating axis.

Support for the following features of claim 1 can be found in the original description (the references in parentheses indicate the corresponding passages in the originally filed application):

- full bobbins are supplied at a time through a chute to the trays (page 4, 3rd paragraph);
- the magazine comprises a cylindrical bobbin insertion member having cylindrical insertion holes and a bobbin reception member with a bobbin delivery opening associated with the top of the

chute (page 5, last paragraph - page 6, first paragraph),

- whereby a full bobbin can drop by gravity from the bobbin delivery opening for being loaded onto a tray after passing through the chute (page 7, 2nd paragraph).

Although the feature that the bobbin reception member is fixed is not explicitly described, it is apparent for a skilled person that the bobbin reception member must be a non-rotating part of the magazine, since the bobbin delivery opening 38 of the bobbin reception member must always remain directly above the bobbin chute (see page 6, first line).

The features defined in the characterising portion of claim 1 can be derived from the first full paragraph of page 5 and Figures 1 and 2. Indeed, the storage box and the operating space are described in said paragraph and are shown in Figure 1. Said paragraph of page 5 also discloses that full bobbins can be manually and individually inserted from said storage box through said operator's operating space into the insertion holes. Figures 2 and 3 unambiguously show that the magazine 20, comprising insertion member 42 with insertion holes 37 and bobbin reception member 43 with bobbin delivery opening 38, is inclined in rearward direction. The rearward direction is clearly identified in claim 1, since the rearward end of the bobbin supply system is the end next to the magazine where the operating space and the storage box are positioned.

Therefore, all the features claimed were disclosed, in combination, in the application as originally filed.

2.2 Moreover, none of the features defined in original independent claim 1 has been omitted from claim 1.

2.3 In view of the above, claim 1 does not contain subject-matter extending beyond the content of the application as filed and thus, the application meets the requirements of Article 123(2) EPC.

3. *Remittal to first instance*

3.1 Before the filing of the claim according to the auxiliary request refused by the Examining Division, no specific relevance had been given in the present patent application to the inclination of the magazine, a corresponding feature being neither present in the claims nor mentioned in the description. Furthermore, the Examining Division considered the claim according to the auxiliary request as not allowable due to the presence of added subject-matter, without expressing a final opinion with respect to the other requirements of the EPC.

3.2 Therefore, the Examining Division has neither considered the question of whether the feature relating to the inclination of the magazine may confer an inventive character to the claimed subject-matter, nor the question of whether the presence of said feature may necessitate an additional search. Further, if the present claim should be found allowable, adaptation of the description would still be necessary. For all these reasons, the Board considers it appropriate to remit the case to the Examining Division for further examination, making use of its powers under Article 111(1) 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 examination on the basis of claim 1 filed on 6 September 2001.

The Registrar:

The Chairman:

M. Patin

P. Alting van Geusau