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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:
-

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:
-

Catchword:
-

Case Number: T 0282/05 **-** 3.4.03

D E C I S I O N
of the Technical Board of Appeal 3.4.03
of 3 August 2007

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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
8 December 2004 concerning maintenance of the
European Patent No. 0822454 in amended form.

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, ie 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.

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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

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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 Plateseter 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
Plateseter'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.

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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

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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

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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

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