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**Datasheet for the decision
of 1 August 2007**

Case Number: T 1161/05 - 3.2.05

Application Number: 95306188.4

Publication Number: 0700786

IPC: B41J 2/21

Language of the proceedings: EN

Title of invention:
Image recording apparatus

Patentee:
CANON KABUSHIKI KAISHA

Opponent:
Océ-Technologies B.V.

Headword:
-

Relevant legal provisions:
EPC Art. 54

Keyword:
"Novelty (no)"

Decisions cited:
-

Catchword:
-



Case Number: T 1161/05 - 3.2.05

DECISION
of the Technical Board of Appeal 3.2.05
of 1 August 2007

Appellant: CANON KABUSHIKI KAISHA
(Patent Proprietor) 30-2, 3-chome, Shimomaruko,
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Respondent: Océ-Technologies B.V.
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Representative: van Meeteren, Arend Anthonie
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
11 July 2005 concerning maintenance of the
European Patent No. 0700786 in amended form.

Composition of the Board:

Chairman: W. Zellhuber
Members: P. Michel
M. J. Vogel

Summary of Facts and Submissions

- I. The appellant (patentee) lodged an appeal against the decision of the Opposition Division maintaining European Patent No. 0 700 786 in amended form.
- II. Oral proceedings were held before the Board of Appeal on 1 August 2007.
- III. The appellant requested that the decision under appeal be set aside and that the patent be maintained on the basis of claims 1 to 16, filed on 2 July 2007.

The respondent (opponent) requested that the appeal be dismissed.

- IV. The following document is referred to in the present decision:

D1: US-A-4,959,684

- V. Claim 1 of the main request of the appellant reads as follows:

"1. An apparatus for controlling the recording of an image on a recording medium (5) using a recording means (9), said apparatus comprising:

 a memory for storing a plurality of recording conditions;

 control means (22, 27) for controlling the recording of input image data on the recording medium (5) in accordance with a recording condition stored in the memory;

means for selecting a desired recording condition from said memory, said selected recording condition corresponding to a respective type of recording medium; and

means for setting the selected recording condition as the recording condition for the control means (22, 27),

characterised in that the memory stores a preset recording condition which is stored during manufacture and corresponds to a type of recording medium and said apparatus further comprises:

input means (25) for inputting medium data conveying a recording condition characteristic of a type of recording medium (5) which is different from the type of recording medium corresponding to the preset recording condition; and

means (27) for registering the recording condition corresponding to said input medium data in the memory in addition to the preset recording condition so that the selecting means is operable to select from the plurality of recording conditions the preset recording condition or the recording condition corresponding to medium data input by said input means."

VI. The appellant has argued substantially as follows in the written and oral proceedings:

The subject-matter of claim 1 of the main request is distinguished from the disclosure of document D1 in that document D1 does not disclose a memory which stores a preset recording condition which is stored during manufacture and corresponds to a type of recording medium. In the apparatus of document D1, the OFF mode may be used for any type of recording medium

if size matching is not required, and represents average values for a wide range of recording materials. According to the invention, new data may be added to the memory by the user, and does not replace data stored during manufacture.

The subject-matter of claim 1 of the main request is thus new.

VII. The respondent has argued substantially as follows in the written and oral proceedings:

The feature of claim 1 of the main request, according to which the memory stores a preset recording condition which is stored during manufacture and corresponds to a type of recording medium does not serve to distinguish the subject-matter of claim 1 from the disclosure of document D1.

Claim 1 is directed to an apparatus per se, so that whether or not data was stored during manufacture or subsequently is not relevant. Similarly, the preset recording condition is merely a setting and the question of whether or not it corresponds to a type of recording medium cannot characterise the apparatus. In the apparatus of document D1, the data corresponding to the OFF condition also remains when the data for the other stored conditions is changed.

The subject-matter of claim 1 of the main request is thus not new in view of the disclosure of document D1.

Reasons for the Decision

Novelty of claim 1 of the main request

Document D1 discloses an apparatus in the form of a copying machine, as illustrated in Figure 1, for controlling the recording of an image on a recording medium (31,33) using a recording means. The image recording apparatus comprises a memory in the form of a RAM (212) which is capable of storing two kinds of correction magnifications which can be adjusted by the user at MO 1 and MO 2, and a fixed copy magnification stored at MO 3 (Figure 4(a) and column 6, lines 21 to 24).

Control means in the form of CPUs (201,215) control the recording of input image data on the recording medium in accordance with a recording condition stored in the memory. Means in the form of an input key (133) are provided for selecting a desired recording condition from the memory, the selected recording condition corresponding to a respective type of recording medium. As disclosed at column 11, lines 19 to 29, values for normal paper are stored at MO1 and for tracing paper at MO2. Means are provided for setting the selected recording condition as the recording condition for the control means, this step occurring at steps S72a and S72b of the flow chart shown in Figure 17.

The memory stores a preset recording condition at MO3. In this connection it is noted that claim 1 is directed to an apparatus *per se* which includes stored data. It is not possible to distinguish between data stored during manufacture and data subsequently entered and

stored by a user. Accordingly, the reference in the claim to the point in time at which a preset recording condition is stored (i.e. during manufacture) is not relevant to consideration of the question of novelty of the claim. In addition, it is similarly not possible to distinguish between a set of data which corresponds to a particular type of recording medium and a set of data which corresponds to average values for a range of recording media.

The apparatus of document D1 further comprises input means for inputting medium data conveying a recording condition characteristic of a type of recording medium, as illustrated in Figure 3, which is different from the type of recording medium corresponding to the preset recording condition. It is regarded as being implicit that the values stored at M01 and M02 are different from those stored at M03, since, if they were not, it would not be necessary to store identical values at different locations of the RAM 212.

As shown in the flow chart of Figure 13 and discussed in the paragraph at column 9, lines 33 to 56, of document D1, means are provided for registering the recording condition corresponding to the input medium data in the memory in addition to the preset recording condition so that the selecting means is operable to select from the plurality of recording conditions the preset recording condition or the recording condition corresponding to medium data input by the input means.

The subject-matter of claim 1 of the sole request (main request) of the appellant is thus not new.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber