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**Datasheet for the decision  
of 10 December 2010**

**Case Number:** T 1931/06 - 3.5.05

**Application Number:** 98308585.3

**Publication Number:** 0911723

**IPC:** G06F 3/12

**Language of the proceedings:** EN

**Title of invention:**

Printing control apparatus, printing control method, printing control system, and storage medium in which printing control program is stored

**Applicant:**

CANON KABUSHIKI KAISHA

**Headword:**

Printing control apparatus/CANON

**Relevant legal provisions:**

EPC Art. 84, 111(1), 123(2)

**Relevant legal provisions (EPC 1973):**

EPC Art. 106, 107, 108

**Keyword:**

"Clarity and support by the description - yes (after amendment)"

"Extension of subject matter - no (after amendment)"

"Remittal to the department of first instance for further prosecution"

**Decisions cited:**

J 0010/07

**Catchword:**

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Case Number: T 1931/06 - 3.5.05

**D E C I S I O N**  
of the Technical Board of Appeal 3.5.05  
of 10 December 2010

**Appellant:**

CANON KABUSHIKI KAISHA  
30-2, 3-Chome, Shimomaruko  
Ohta-ku  
Tokyo (JP)

**Representative:**

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**Decision under appeal:**

Decision of the Examining Division of the  
European Patent Office posted 6 July 2006  
refusing European patent application  
No. 98308585.3 pursuant to Article 97(1) EPC  
1973.

**Composition of the Board:**

**Chair:** A. Ritzka  
**Members:** P. Corcoran  
P. Schmitz

## Summary of Facts and Submissions

- I. This is an appeal against the decision of the examining division to refuse the European patent application No. 98 308 585.3 published as No. 0 911 723. The decision was announced in oral proceedings held on 31 May 2006 and written reasons were dispatched on 6 July 2006.
- II. The decision under appeal was based on a main request comprising claims 1-17 as filed with a letter dated 28 April 2004 and an auxiliary request comprising claims 1-6 filed during oral proceedings before the examining division.
- III. According to said decision, the application did not meet the requirements of Article 84 EPC because the independent claims of the main request were not clear. The decision further stated that claim 1 of the auxiliary request filed during oral proceedings comprised amendments for which the applicant had not indicated a basis in the application as filed. Claim 1 of the auxiliary request was thus found to comprise subject-matter extending beyond the content of the application as filed contrary to Article 123(2) EPC.
- IV. The minutes of the oral proceedings before the department of first instance record that during said oral proceedings the examining division proposed a version of claim 1 with amendments based on claim 3 of the then main request and on p.58 l.2-8 of the description as filed. The examining division considered that these amendments would overcome its previously raised objections against claim 1 of the main request

under Article 84 EPC (cf. minutes: item 6, p.2-3) but expressed the opinion that the document D1 (EP 0 653 700 A) which was introduced into the proceedings during a telephone consultation on 22 May 2005 appeared to be prejudicial to the inventive step of such an amended claim (cf. minutes: item 8, p.3-4). The examining division also indicated that it considered that D1 would be relevant to the inventive step of claim 1 of the auxiliary request filed during the oral proceedings should the objection under Article 123(2) EPC raised against said claim be overcome.

V. Notice of appeal was received on 7 September 2006 and the appeal fee was paid on the same date. A written statement setting out the grounds of appeal was received on 15 November 2006 along with an amended set of claims 1 to 15 to replace all of the existing claims. A precautionary request for oral proceedings was also submitted with said written statement.

VI. In a communication accompanying a summons to oral proceedings to be held on 8 December 2010 the board gave its preliminary opinion that the applicant's request was not allowable.

In particular, objections were raised against independent apparatus claim 1 due to a lack of clarity and support by the description (Article 84 EPC). The board was of the opinion that the correspondence between the types of data referred to in [0073] and [0141] of the published application, and the terms used in said claim was not clear. The specification in the claim of input data "transmitted via one logic [sic] channel" and a claim feature termed "process means"

appeared to lack support by the description. Moreover, the apparent lack of any basis in the application as filed for the aforementioned specification and claim feature also appeared to infringe Article 123(2) EPC. Corresponding objections were raised against the independent method claim 8.

VII. In its communication, the board also referred to what appeared to be an inconsistency between the summary characterisation of the invention in [0186] of the description and the more detailed disclosure of [0165] to [0184] due to uncertainty concerning the scope of the term "printing management data". A further apparent inconsistency was noted between the reference signs used in [0157] to [0164] of the description and those used in Fig. 18. The board expressed the preliminary opinion that these apparent inconsistencies rendered the disclosure unclear and raised the question as to whether the application complied with the requirements of Article 83 EPC.

VIII. The board further advised the appellant that it was inclined to remit the case to the department of first instance for further prosecution in the case that the objections it had raised were overcome.

IX. With a letter dated 6 October 2010, the appellant's representative requested a postponement of the oral proceedings scheduled for 8 December 2010 in view of his being impeded from travelling on that date and the unavailability of a sufficiently experienced substitute to represent the appellant in appeal proceedings. The board decided to allow the request for postponement and

- the proceedings were rescheduled to take place on 10 December 2010.
- X. With a letter dated 10 November 2010, the appellant filed a new main request and an auxiliary request to replace the request filed with the statement setting out the grounds of appeal.
- XI. The appellant submitted that claim 1 of the new main request was based on claim 1 as originally filed and incorporated amendments intended to address the objections raised in the board's communication. A table indicating the basis in the application as filed for the amendments to claim 1 was also provided.
- XII. With respect to the objections under Article 84 EPC, the appellant submitted, *inter alia*, that the "printing management data" and "print data" specified in claim 1 corresponded respectively to the "data for managing a print job" and the "document data to be printed" as referred to in the description (cf. [0073], [0141]). According to the appellant, the term "data for printing control" used in the aforementioned passages of the description denoted a further type of data which corresponded to the "job control commands"/"job control data" referred to elsewhere in the description (e.g. [0166], [0192]). This further type of data was designated in the claims by the term "job control data", e.g. in dependent claim 5.
- XIII. The appellant further submitted that in view of the long time that the case had been pending, and the fact that the claims of the main request were much closer now to the claims as originally filed which were

searched, a remittal to the first instance could be avoided and that this would be fairer to the appellant.

XIV. With a letter dated 3 December 2010, the authorised representative notified the board that he would represent the appellant at the scheduled oral proceedings and that an accompanying person from Canon Europe Ltd. would likewise attend the proceedings. A reformatted version of the table indicating the basis in the application as filed for the amendments to claim 1 was also submitted with said letter.

XV. During oral proceedings held as scheduled on 10 December 2010 the appellant filed a new request to replace the requests on file.

The appellant further submitted that the inconsistency between the reference signs used in [0157] to [0164] of the published application and those used in Fig. 18 which had been noted in the board's communication had in fact been resolved by the amendments to pages 43-46 of the description as filed with the letter dated 28 April 2006.

XVI. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of the claims 1-35 as filed during oral proceedings before the board.



The further documents on which the appeal is based are as follows:

Description, pages:

3-10, 17, 19, 21-24, 26-36, 38-42, 47, 49-53, 55, 56, 58, 60-66, 68-70, 72, 73, 75, 77 as originally filed;

1, 11, 16 as filed with the letter of 28 July 2004;  
2, 18, 20, 25, 37, 43-46, 48, 54, 57, 59, 67, 71, 74, 76, 78, 79 as filed with the letter of 28 April 2006;

Drawings, sheets: 1/23-23/23 as originally filed.

XVII. Claim 1 of the appellant's request reads as follows:

"A printing control apparatus adapted to be connected to a client (109) for analyzing a print job (301) received from the client in units of job packets and printing the print job, the print job (301) including printing management data (303, 305, 309) for managing the print job and also including print data (307) representing document data to be actually printed, and the printing management data of the print job being included in printing-management-data job packets and the print data of the print job being included in print-data job packets so that the printing management data and print data are set separately from one another in the job packets of the print job, and each said job packet having a packet header, the packet header (302, 304, 308) of each printing-management- data job packet including identification information for identifying the printing management data (303, 305, 309) included in

the job packet concerned, and the packet header (306) of each print-data job packet including identification information for identifying the print data (307) included in the job packet concerned;

the printing control apparatus (110) comprising:

input means (101) for receiving the job packets of such a print job (301);

analyzing means (1510) for analyzing the identification information included in the packet header (302, 304, 306, 308) of each input printing-data-management job packet and print-data job packet, the analyzing means being operable, when a result of the analysis of the identification information is that the received job packet is such a printing-management-data job packet, to analyse the printing management data (303, 305, 309) included in the received job packet and to store in management information storage means (1509) of the printing control apparatus printing management data (401-406) for controlling the print job on the basis of a result of the analysis of the printing management data included in the received job packet, and the analyzing means being further operable, when the analysis result of the identification information is that the received job packet is such a print-data job packet, to store the print data in a reception buffer (1511) without analysis of the print data, so that received print jobs whose said print data has not yet been analysed are controllable based on the printing management data (401-406) stored in said management information storage means (1509)."

Claim 18 of the request is a further independent claim directed towards a corresponding method of controlling a printing apparatus which is connected to a client.

Claim 34 of the request is directed towards a storage medium storing a computer-readable printing control program which causes a printing control apparatus to carry out all of the steps of the method of any one of claims 18 to 33.

Claim 35 of the request is an independent system claim which reads as follows:

"A printing control system including a host computer (109) and also including the printing control apparatus (109) [*sic*] of any one of claims 1 to 17, said host computer comprising:

generating means (1502) for generating a print job;  
and

a job packet generating unit (1507) for generating job packets of the print job, the generated job packets comprising said printing-management-data job packets, each including printing management data and identification information for identifying the printing management data, and the generated job packets also comprising said print-data job packets, each including print data and identification information for identifying the print data."

XVIII. At the end of the oral proceedings the chair announced the board's decision.

## Reasons for the Decision

### 1. *Admissibility*

1.1 The appeal complies with the provisions of Articles 106 to 108 EPC 1973, which are applicable according to J 10/07, point 1 (cf. Facts and Submissions, item V. above). Therefore it is admissible.

### 2. *Article 84 EPC*

2.1 The application discloses a printing control apparatus ("printing apparatus", 110) which is adapted to be connected to a client ("host computer", 109) and which receives a print job from the client in units of job packets and analyses and prints the print job (cf. published application: [0059], [0066], [0086]).

2.2 According to the description, the print job data includes, *inter alia*, "data for managing the print job" and "document data to be printed" (cf. [0073], [0081]). The board is satisfied on the basis of the appellant's submissions summarised under item XII. of the Facts and Submissions above that the two functionally distinct categories of data specified in claim 1, *viz.* "printing management data" and "print data", correspond respectively to the aforementioned "data for managing the print job" and "document data to be printed" disclosed in the description. The board also notes that the use of the terms "printing management data" and "print data" finds support in [0186] of the description.

2.3 Claim 1 specifies that the printing management data and print data are set separately from one another in the job packets of the print job and that each job packet has a packet header for identifying the corresponding data included in the job packet concerned. In the board's judgement this specification is clear and is supported by the description (cf. [0036], [0088]-[0100], [0186]).

2.4 Claim 1 further specifies that the printing control apparatus comprises "input means" for receiving the job packets of a print job and "analyzing means" for analyzing the identification information included in the packet header of each input printing-data-management job packet and print-data job packet. In the board's judgement, these claim features are clear and are supported by the description (cf. [0036], [0059], [0110], [0186]). The claimed "input means" evidently corresponds to the "input unit" 101 of the embodiment disclosed in [0057]-[0201] of the description (cf. for example [0059]) whereas the claimed "analyzing means" evidently corresponds to the "job pre-processor unit" 1510 of said embodiment (cf. [0110] and [0186]). Moreover, the terms "input means" and "analyzing means" are used in [0186].

2.5 The characterisation of the analyzing means to the effect that it is operable to perform specific processing actions based on the result of the analysis is likewise found to be clear and supported by the description (cf. for example, [0110], [0186]).

In particular, the disclosed job pre-processor unit, which corresponds to the claimed "analyzing means", is operable as claimed to analyse the printing management

data included in the received job packet and to store printing management data for controlling the print job in management information storage means ("device database unit", 1509) of the printing control apparatus when the result of the analysis of the printing management data included in the received job packet indicates that the received job packet is a printing-management-data job packet (cf. [0110], col.14 l.36-42; [0141]-[0152]).

When the analysis result of the identification information is that the received job packet is a print-data job packet, the disclosed job pre-processor unit is likewise operable as claimed to store the print data in a reception buffer ("reception buffer", 1511) without analysis of the print data so that received print jobs whose said print data has not yet been analysed are controllable based on the printing management data stored in said management information storage means (cf. [0110], col.14 l.42-44; [0146], [0153], [0186]).

2.6 In view of the foregoing the board is satisfied that the amendments to claim 1 of the appellant's request have clarified the matter for which protection is sought and defined said matter in a manner supported by the description such that the amended claim complies with the requirements of Article 84 EPC.

2.7 Claim 18 of the appellant's request recites similar subject-matter to claim 1 in the form of an independent method claim. Claim 34 of the request is directed to a storage medium and refers to the methods of claims 18-33. Said claims 18 and 34 are likewise found to comply with the requirements of Article 84 EPC.

2.8 Claim 35 of the appellant's request is directed towards a printing control system including a host computer and also including the printing control apparatus of any one of claims 1 to 17. In the board's judgement, the features of the claimed system, in particular those of the host computer, are clear and supported by the description.

With respect to the features of the host computer specified in said claim, it is noted that the "generating means" evidently corresponds to the disclosed printer driver unit 1502 which generates page description language (PDL) data that can be printed by the printing apparatus (cf. [0103]) and the "job packet generating unit" evidently corresponds to the disclosed job packet generating unit 1507 (cf. [0117]-[0132]).

The board thus concludes that claim 35 of the request also complies with the requirements of Article 84 EPC.

3. *Article 123(2) EPC*

3.1 Claims 1, 8, 34 and 35 of the request are found to be supported by passages of the description which form part of the content of the application as filed.

3.2 The board therefore concludes that said claims do not introduce subject-matter extending beyond the content of the application as filed (Article 123(2) EPC).

4. *Further observations*

4.1 The following observations are made with respect to the alleged inconsistencies in the disclosure which were noted in the board's communication (cf. Facts and Submissions, item VII. above).

4.2 On the basis of the appellant's written submissions summarised under item XII. of the Facts and Submissions above, the board is satisfied that the term "printing management data" used in [0186] of the description denotes a functionally distinct type of data to the "job control commands" referred to in [0165] to [0184] and therefore finds that there is no inconsistency in the disclosure in this regard.

4.3 On the basis of the appellant's oral submissions summarised under item XV. of the Facts and Submissions above, the board is satisfied that the amendments to pages 43 to 46 of the description as filed with the letter dated 28 April 2006 resolve the inconsistency between the reference signs used in [0157] to [0164] of the published application and those used in Fig. 18.

5. *Remittal*

5.1 The appellant requested that a remittal to the department of first instance be avoided, referring in particular to the long time that the case had been pending, and the fact that the amended claims of the main request were closer to the claims as originally filed which were searched.



- 5.2 The question of compliance with the requirements of Article 52(1) EPC, in particular the inventive step requirement thereof, is not addressed in the decision under appeal which only cites Articles 84 and 123(2) EPC as the grounds for the refusal of the application.
- 5.3 According to the minutes of the oral proceedings before the department of first instance, the examining division expressed an opinion that D1 (EP 0 653 700 A) would be prejudicial to the inventive step of a version of claim 1 which it proposed to overcome objections under Article 84 EPC (cf. Facts and Submissions, item IV. above).
- 5.4 However, the alleged correlation between the individual features of the claimed invention and the corresponding features of the system disclosed in D1 is not evident from either the summary of the inventive step objection to be found in item 8 of said minutes or from the reference in item 10 of said minutes to specific passages of D1 alleged to be of potential relevance to subject-matter of claim 1 of the auxiliary request on file at that time. Moreover, D1 was introduced into the first instance proceedings at a late stage, i.e. during a telephone consultation which took place shortly before the oral proceedings, and there is no indication in the minutes of the oral proceedings that the appellant was given an opportunity to present comments concerning said document before the department of first instance.
- 5.5 The aforementioned opinion expressed by the examining division related to a version of claim 1 whose wording differs somewhat from claim 1 of the present request and the board takes the view that it is only with the filing

of the present request that a claim set has been provided which defines the matter for which protection is sought with sufficient clarity to permit a meaningful examination concerning inventive step.

- 5.6 Under the given circumstances, the board finds that it would not be appropriate for the issue of inventive step to be decided upon in the context of the present appeal proceedings. Accordingly, the board decides to exercise its discretion to remit the case to the department of first instance for further prosecution in accordance with 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 department of first instance for further prosecution.

The Registrar:

The Chair:

K. Götz

A. Ritzka