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**Datasheet for the decision
of 18 November 2008**

Case Number: T 0269/07 - 3.2.05

Application Number: 95201876.0

Publication Number: 0679539

IPC: B43M 3/04

Language of the proceedings: EN

Title of invention:

Scanning documents in a method and in systems for assembling postal items

Patentee:

Hadewe B.V.

Opponents:

Böwe Systec AG
Pitney Bowes Inc.

Headword:

-

Relevant legal provisions:

EPC Art. 56

Relevant legal provisions (EPC 1973):

-

Keyword:

"Inventive step - no"

Decisions cited:

T 0929/01

Catchword:

-



Case Number: T 0269/07 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 18 November 2008

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Decision under appeal: Decision of the Opposition Division of the
European Patent Office posted 8 December 2006
revoking European patent No. 0679539 pursuant
to Article 102(1) EPC 1973.

Composition of the Board:

Chairman: P. E. Michel
Members: H. Schram
E. Lachacinski

Summary of Facts and Submissions

I. The appeal is against the decision of the Opposition Division posted on 8 December 2006 revoking European patent No. 0 679 539 on the grounds that independent claims 1 and 15 of the sole request of the appellant (patent proprietor) did not involve an inventive step, Article 56 EPC. The patent stems from European patent application 95 201 876.0 which was filed as a divisional application of European patent application 93 200 450.0 (publication Nr. EP-A 0 556 922).

In an earlier decision posted on 21 May 2001, the Opposition Division had revoked the patent in suit on the grounds that the independent claims of the sole request of the appellant lacked novelty, Article 54 EPC. In decision T 929/01, dated 30 September 2004, of Board of Appeal 3.2.05 (in a different composition than the present Board) said earlier decision was set aside and the case was remitted to the Opposition Division for further prosecution.

II. Oral proceedings were held before the Board of Appeal on 18 November 2008.

The representative of respondent I (opponent 01) had informed the Board on 23 July 2008, that neither respondent I, nor his representative, would attend the oral proceedings. Respondent I did not file any request during the appeal proceedings.

III. The appellant requested that the decision under appeal be set aside and that the patent in suit be maintained on the basis of the following documents:

- main request: claims 1 and 15 filed as fourth auxiliary request on 30 September 2004, and claims 2 to 14 and 16 to 22 of the patent as granted,
- auxiliary request: claims 1 and 15 filed as auxiliary request on 18 April 2007, and claims 2 to 14 and 16 to 22 of the patent as granted.

Respondent II (opponent 02) requested that the appeal be dismissed.

IV. The following documents were inter alia referred to in the appeal proceedings:

D1 US-A 4,972,655

D13 US-A 5,054,757

D14 US-A 4,255,651

D15 US-A 4,559,451

D16 US-A 4,741,526

V. Claims 1 and 15 of the main request (which corresponds to the fourth auxiliary request, which was held to meet the requirements of Articles 54, 84 and 123 EPC in the aforementioned decision T 929/01, see points 2 and 3.4 of the Reasons) read as follows:

"1. A method for assembling a postal item using a system comprising a first delivery station (1), at least one next delivery station (1, 2) and a folding

station (32), in which documents (47) are delivered by said delivery stations (1, 2) to a supply track (44), the delivered documents are transported along the supply track (44), and at least some of the delivered documents are gathered and aligned into a stack having aligned document edges (46) on one side, wherein aligning the delivered documents is carried out by moving the documents relative to each other in an area downstream of said delivery stations (1, 2) until the document edges (46) on one side of the documents are in alignment, characterized in that at least some of the transported documents are scanned along said supply track, downstream of the delivery stations (1, 2), said scanning including scanning of characters, the length or the thickness from the scanned documents, and the stack is supplied from said area downstream of said delivery stations (1, 2) to the folding station (32)."

"15. A system for assembling postal items, comprising transport means (3, 4) for transporting delivered documents, a first and at least one next delivery station (1, 2) for delivering documents to a supply track, a gathering and aligning station (16) downstream of the delivery stations (1, 2), said gathering and aligning station (16) being arranged for gathering separately supplied documents into a stack and for displacing the documents of a set relative to each other until the document edges located on one side of the stack are aligned, and a folding station (32), characterized by scanning means (64) along said supply track, downstream of said delivery stations (1, 2), for scanning characters, the length or the thickness of delivered documents in said supply track, the folding

station (32) being arranged downstream of the aligning station (16, 116) for folding the stack of documents."

Claims 1 and 15 of the auxiliary request differ from the corresponding claims 1 and 15 of the main request in that the expressions "characters, the length or the thickness from" and "characters, the length or the thickness of", respectively, are replaced in each of said claims by the expression "characters from".

VI. The arguments of the appellant, in writing and during the oral proceedings, can be summarized as follows:

Document D1 - rather than document D13 - constituted the closest prior art, since document D1 disclosed scanning means for scanning characters. The optical mark reading sensor 8 was however not located along a supply track downstream of the delivery stations. The person skilled in the art, starting from the system for assembling postal items known from document D1, would not find a hint or suggestion in either document D1 or document D13 (which did not disclose scanning means) to position such scanning means along a supply track downstream of the delivery stations in order to obtain the required data regarding documents from all delivery stations using the same scanning means. Conversely, the person skilled in the art, starting from the system for assembling postal items known from document D13, would not find a hint or suggestion in document D1 to position scanning means for scanning characters along a supply track downstream of the delivery stations, and would also not find a hint or suggestion in any of the documents D1, D14, D15 and D16 to position scanning means for obtaining the length or the thickness of

delivered documents along a supply track downstream of the delivery stations. The subject-matter of claim 15 of the main request was therefore not obvious to the person skilled in the art.

The system according to claim 15 of the auxiliary request was restricted to the first alternative in the expression "for scanning characters, the length or the thickness of delivered documents" of claim 15 of the main request, namely "for scanning characters". The subject-matter of claim 15 of the auxiliary request involved an inventive step for the same reasons as given for the main request.

VII. The arguments of respondent II, in writing and during the oral proceedings, can be summarized as follows:

Since the very early days of paper handling machines it was known to provide scanning means downstream of document delivery stations for scanning characters, the length or the thickness of delivered documents, with a view to detect a malfunction condition, or to check a proper operation of the machine, viz. to check that a document that should be fed had indeed been fed, and/or to control the operation of the machine.

For example, it was known to "measure" the thickness, ie to compare a "thickness signal" with a standard thickness signal, for detecting the presence of double feeds or no feed (see document D14, column 2, line 60, to column 3, line 2, and document D16, column 2, lines 3 to 1). It was also known to measure the length of a document, for example for detecting a shingling situation (see document D14, column 2, lines 17 to 21,

to column 3, line 2, and document D16, column 1, line 51, to column 2, line 2). Document D1 taught to use an OMR (optical mark reading) sensor 8, which read the identification encode mark 99 printed on intermediate elements 92, for generating instructions to group and gather said elements as per addresses and addressees and to selectively insert additional inserting elements (see column 6, line 23ff).

Document D13, which was the closest prior art, disclosed optical sensors serving for detecting the presence of documents. The output signal of such optical sensors, viz. the detected light intensity, contained information representing the length of the detected documents. The scanning means defined in claim 15 of the main request differed therefrom in that the output signal of said scanning means was interpreted to correspond to a particular length. The person skilled in the art knew however that the detected light intensity and the length of a document were proportional, and knew how to "calibrate" this proportionality. The subject-matter of claim 15 of the main request did therefore not involve an inventive step with respect to document D13 and common general knowledge or in combination with any of the documents D1, D14 D15, and D16.

The subject-matter of claim 15 of the auxiliary request was obvious to the person skilled in the art in view of documents D13 and D1.

Reasons for the Decision

Main request

1. *Objection of lack of inventive step, Article 56 EPC*

For the purpose of assessing inventive step, document D13 can be taken as the closest prior art. In decision T 929/01 of 30 September 2004, point 3.2 of the Reasons, it was stated:

"This document discloses a method for accumulating and folding sheets for producing a sealed mail piece (see column 5, line 36, to column 7, line 3, and Figures 3, 6, 7A and 7B). Documents (sheets or envelope forms) are supplied from laser printer trays T1, T2 and/or trays T3, T4, and gathered/aligned in the nip of the accumulator folder 106 by urge rollers 104 and 128, respectively. If the gate G2 is opened, the (three-thirds) sheets are driven into the buckle chute 112 and are folded to a two-thirds length and exit the accumulator folder 106 through the nip of rollers 800, 806. The envelope form 10, which is normally the first item, is not folded by accumulator folder 106. The laser printed envelope form 10, the folded sheets of two-thirds length coming from accumulator folder 106 are (again) accumulated in the nip of accumulator folder assembly 140, possibly together with two- or one-third sheets coming from trays T3 or T4. In the accumulator folder assembly 140 the complete stack is folded again. If a laser printed envelope form 10 is not fed to the accumulator folder assembly 140, a business reply envelope may be supplied from tray T3 or T4 instead. After the folding step in accumulator

folder assembly 140, the flaps of the envelope are moistened, folded and sealed, thus completing a sealed mail piece. Figure 6 is a schematic diagram of the sensors S1 to S13, motors and gates in a preferred embodiment of the invention (see column 8, lines 3 to 37). The optical sensors S3, S4, S10 to S13 and the sensors S4 to S9 detect whether a document is present in the path of the sensor or not.

Document D13 does not disclose that any of the sensors S1 to S13 is capable of the scanning of characters, the length or the thickness from the scanned documents."

The subject-matter of claim 15 differs from the system for assembling postal items disclosed in document D13 in that the system comprises "*scanning means (64) along said supply track, downstream of said delivery stations (1, 2), for scanning characters, the length or the thickness of delivered documents in said supply track*".

The objective technical problem to be solved for the person skilled in the art, starting from the system for assembling postal items known from document D13, is therefore to provide the possibility of detecting characters on delivered documents, or measuring the length or thickness of said documents.

Scanning means for scanning characters, the length or the thickness of documents are well-known in the art of assembling postal items. For example, document D1 discloses an apparatus for manufacturing sealed postal mails comprising an optical mark reading sensor 8, which reads and identifies encode mark 99 printed on documents (see column 6, lines 58 to 61).

In the judgement of the Board, it was obvious to the person skilled in the art, starting from document D13, and seeking to provide the possibility of detecting characters on delivered documents, to include an optical mark reading sensor (cf. document D1) and thus to arrive at the subject-matter of claim 15.

It follows that the subject-matter of claim 15 of the main request does not involve an inventive step, Article 56 EPC.

Auxiliary request

2. *Objection of lack of inventive step, Article 56 EPC*

Claim 15 of the auxiliary request is, compared to claim 15 of the main request, restricted to "*scanning means (64)... for scanning characters*" ("scanning the length or the thickness of delivered documents" is no longer claimed).

The reasoning in point 1 above focussed on the feature "*scanning means (64)... for scanning characters*" and applies mutatis mutandis to claim 15 of the auxiliary request.

Consequently, the subject-matter of claim 1 of the auxiliary request does also not involve an inventive step, Article 56 EPC.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

D. Meyfarth

P. E. Michel