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# Datasheet for the decision of 21 October 2010

**Case Number:** T 1213/07 - 3.2.05

**Application Number:** 99107407.1

**Publication Number:** 0955161

**IPC:** B41F 5/24

**Language of the proceedings:** EN

**Title of invention:**
Multi-colour flexographic rotary machine with main drum and independent separate colour units

**Patentee:**
UTECO HOLDING S.P.A.

**Opponents:**
Bielloni Castello S.P.A.
Jenkins, Peter David

**Headword:**
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**Relevant legal provisions:**
EPC Art. 84, 123(2)

**Relevant legal provisions (EPC 1973):**
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**Keyword:**
"Allowability of amendment (main request, no)"
"Clarity and support by the description (auxiliary request, no)"

**Decisions cited:**
-

**Catchword:**
-

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Beschwerdekammern | Boards of Appeal | Chambres de recours

**Case Number:** T 1213/07 - 3.2.05

# D E C I S I O N
**of the Technical Board of Appeal 3.2.05**
**of 21 October 2010**

**Appellant**: (Patent Proprietor)
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**Decision under appeal:**
**Interlocutory decision of the Opposition Division of the European Patent Office posted 25 May 2007 concerning maintenance of European patent No. 0955161 in amended form.**

**Composition of the Board:**

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

## Summary of Facts and Submissions

I. The appellant (patent proprietor) lodged an appeal against the decision of the Opposition Division maintaining European Patent No. 0 955 161 in amended form.

II. Oral proceedings were held before the Board of Appeal on 21 October 2010.

The appellant requested that the decision under appeal be set aside and that the patent in suit be maintained on the basis of either claims 1 to 14, filed as main request on 20 September 2010, or claims 1 to 13, filed as first auxiliary request on 4 October 2007.

Respondents I and II (opponents 02 and 03) requested, that the appeal be dismissed.

III. Claim 1 of the main request reads as follows:

"1. A flexographic rotary printing machine, comprising a supporting structure (1) having two lateral shoulders (la, 1b), an impression roller (2) on which a sheet material to be printed passes, at least one printing unit (3) arranged adjacent to said impression roller (2) and having an inking unit (SI), a printing plate cylinder (5) and an anilox roller (4), which are of sleeve cylinder type, and motion transmission means between said impression roller (2) and each printing assembly (3), and, at each shoulder (1a, 1b), at least one lateral support device (8) for forward and backward movements of said sleeve cylinders (4, 5), which is arranged to move said cylinders between a retracted or

resting position, in which a respective sleeve (6, 7) can be inserted or removed, and an advanced or printing position, in which said cylinders (4, 5) are kept in contact with, and operatively connected to, said impression roller (2), wherein each lateral support device (8) comprises at least one slide (10, 100, 50, 500), one or more lower (11, 51) and upper (12, 52) linear guides for sliding engagement with each slide (10, 100, 50, 500), and control means (13, 14, 22, 26) for actuating the or each slide (10, 100, 50, 500), wherein in each lateral shoulder (la, 1b) there is provided one through opening (9), the through opening (9) at a first lateral shoulder (1b) being arranged for inserting and extracting the anilox sleeve (6) and the printing plate sleeve (7) at the lateral support device (8) thereof, the lower (11) and upper (12) linear guides of the first lateral shoulder (1b) being respectively arranged at opposite sides of the through opening (9) of the first lateral shoulder (1b) such as to allow inserting and extracting the anilox sleeve (6) and the printing plate sleeve (7) therebetween."

In claim 1 of the first auxiliary request, the wording of the main request from "wherein" is replaced by:

"said one or more lower linear guides (11, 51) are linear prismatic guides and said one or more upper linear guides (12, 52) are of the recirculating ballscrew type".

IV. The appellant argued substantially as follows in the written and oral procedure:

*Article 123(2) EPC*

The claims must be read in the context of the disclosure as a whole, in the light of the knowledge of the skilled person, and not given a narrow semantic meaning. The position of the guides above and below the opening is implicit in view of the direction of sliding. Further, the reference to the guides being arranged at opposite sides of the opening at the shoulder has nothing to do with whether or not another opening in the slide is present. The positioning of the guides so as to allow insertion and extraction of the sleeves is disclosed in particular in the first sentence of paragraph [0014] of the application as filed. The use of the word "allow" in claim 1 merely means that the opening between the guides is of sufficient size to permit the sleeves to pass therethrough.

The amendments to claim 1 of the main request thus comply with the requirements of Article 123(2) EPC.

*Article 84 EPC*

Claim 1 of the auxiliary request is merely a combination of claims 1, 3 and 4 as granted. The issues arising under Article 84 EPC are thus not open to discussion. Since a prismatic guide cannot be a recirculating ballscrew, these contradictory features cannot be included in the amended claim.

The arguments of the respondents concerning clarity and support by the description of claim 1 should thus not be admitted into the proceedings.

V. The respondents argued substantially as follows in the written and oral procedure:

*Article 123(2) EPC*

As disclosed in the application as filed, in particular at paragraphs [0014] and [0019], a combination of features are required to allow the insertion and removal of the anilox sleeve. Thus, in the absence of features disclosed as being essential for this function in claim 1, the amendment to claim 1 of the main request, which specifies that the arrangement of the guides is such as to allow insertion and removal of the anilox sleeve, is not disclosed in the application as filed.

*Article 84 EPC*

Claim 1 of the auxiliary request is not merely a combination of granted claims, claim 3 specifying that the upper and lower guides are prismatic and claim 4 specifying that "at least" the upper guides are of the recirculating ballscrew type. The amended claim must accordingly comply with the requirements of Article 84 EPC.

The reference in claim 1 to the upper guides being of the recirculating ballscrew type is not clear and not supported by the description. The recirculating ballscrews referred to in claims 4 and 5 are completely different entities. The drawings show prismatic guides and do not show a guide having any form of screws.

Claim 1 of the auxiliary request thus does not satisfy the requirements of Article 84 EPC.

## Reasons for the Decision

Main request

1. Amendments

The final limb of claim 1 has been amended to specify that "wherein in each lateral shoulder (la, 1b) there is provided one through opening (9), the through opening (9) at a first lateral shoulder (1b) being arranged for inserting and extracting the anilox sleeve (6) and the printing plate sleeve (7) at the lateral support device (8) thereof, the lower (11) and upper (12) linear guides of the first lateral shoulder (1b) being respectively arranged at opposite sides of the through opening (9) of the first lateral shoulder (1b) such as to allow inserting and extracting the anilox sleeve (6) and the printing plate sleeve (7) therebetween."

In the application as filed, claim 2 specifies that "in each lateral shoulder (1a, 1b) there is provided at least one through opening (9) for inserting and extracting anilox sleeve (6) and printing plate sleeve (7) at each lateral support device (8)". However, none of the claims, nor the general description of the invention in paragraphs [0005] and [0006] of the application as filed (published version), contain the remaining features specified in claim 1. The disclosure of these features must therefore be sought in the

description of the preferred embodiments of the invention which are described in conjunction with the drawings.

Paragraphs [0013] and [0014] of the application as filed state that "each printing unit 3 has at one shoulder of the machine (preferably the front shoulder 1b) a supporting device … each supporting device 3 is mounted at a respective large opening or slot 9 formed in the front shoulder 1b of the printing machine for easy loading and unloading of the ceramic anilox sleeve 6 and the printing plate sleeve 7". Paragraph [0014] goes on to state that "a supporting device 8 comprises a slide 10, one or more lower linear prismatic guides 11 which are fixed to the supporting structure 1, an upper linear guide 12 for the linear sliding of the slide 10, and control means for actuating the slide 10". Subsequently, in paragraph [0019], it is stated that "the slide has a through slot which extends longitudinally and parallel to the guides 11 and 12 and has such dimensions as to ensure easy passage of an anilox sleeve for the anilox roller 4".

Thus, there is no general disclosure in the application as filed of insertion and extraction of the anilox sleeve being allowed by the arrangement of the linear guides. Rather, it is disclosed that such insertion and removal is allowed by the dimensions of the through slot in the slide and the opening in the front shoulder. Accordingly, the amendments to claim 1 are regarded as being in the nature of an intermediate generalisation, in that the claim does not specify all the features which are disclosed in the application as filed as

being necessary for and serving the function of allowing insertion and extraction of the anilox sleeve.

It was argued on behalf of the appellant that the first sentence of paragraph [0014] of the application as filed could be read on its own as providing a general disclosure. This cannot, however, be accepted, since the sentence is merely a part of a description of a single embodiment of a printing unit which must be read as a whole in conjunction with the drawings to which it refers.

Claim 1 thus includes features which extend beyond the disclosure of the application as filed, so that the requirement of Article 123(2) EPC is not satisfied.

Auxiliary request

2. Article 84 EPC

It was argued that claim 1 merely represents a combination of granted claims, so that the claim should not be examined for conformity with Article 84 EPC. However, claim 1 does not represent a mere combination of claims 1, 3 and 4 as granted. Thus, claim 3 as granted specified that not only the lower guides, but also the upper guides are linear prismatic guides. The feature that the upper guides are linear prismatic guides is, however, omitted from claim 1. It is thus necessary to consider the question of whether or not the amended claim satisfies the requirements of Article 84 EPC.

Claim 1 specifies that "said one or more lower linear guides (11, 51) are linear prismatic guides and said one or more upper linear guides (12, 52) are of the recirculating ballscrew type".

The arrangement of the slides in the preferred embodiments of the invention is illustrated most clearly in Figures 2 and 3 and described in paragraphs [0014] to [0016] of the patent in suit. Thus, the lower linear guide 11 is secured to the shoulder of the machine and has a prismatic cross-section. A sliding block 19 is fixed to the slide and slides on the guide 11. The upper linear guide 12 is also secured to the shoulder of the machine and has a rectangular cross-section. The upper guide is engaged by a sliding block which is fixed to the slide and slides on the guide 12.

In paragraph [0016], the blocks are referred to as being "recirculating-ballscrew sliding blocks". Whilst it might be possible for these blocks to have some sort of recirculating ball arrangement to reduce friction between the blocks and the guide, it is not possible to conceive how a screw may be involved. In particular, a ballscrew arrangement would require the guide to have a screw thread along which the block travels.

In fact, Figure 2 does show two ballscrew arrangements, the first comprising a female thread 16 provided on the slide 10 surrounding a screw 13 and the second comprising a female thread 27 provided on a slide 100 surrounding a screw 26, the screws being driven by an electric motor 22 for actuation of the respective slides (see paragraphs [0014] and [0017]). These, however, have nothing to do with the construction of

the upper linear guides 12 and 52, and are claimed in claim 3 of the auxiliary request.

Claim 1 is thus not clear and is not supported by the description as required by Article 84 EPC.

## Order

## For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

D. Meyfarth W. Zellhuber