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Datasheet for the decision of 12 May 2010

Case Number: T 1354/07 - 3.2.05

Application Number: 02023682.4

Publication Number: 1306331

IPC: B65H 9/10

Language of the proceedings: EN

Title of invention:
Sheet member positioning device

Patentee:
FUJIFILM Corporation

Opponent:
Heidelberger Druckmaschinen AG

Headword:
-

Relevant legal provisions:
EPC Art. 54, 56

Relevant legal provisions (EPC 1973):
-

Keyword:
"Novelty - yes"
"Inventive step - yes"

Decisions cited:
-

Catchword:
-

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Case Number: T 1354/07 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 12 May 2010

Appellant: (Opponent)
Heidelberger Druckmaschinen AG
Kurfürsten-Anlage 52-60
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Representative:
-

Respondent: (Patent Proprietor)
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Decision under appeal:
Decision of the Opposition Division of the European Patent Office posted 13 June 2007 rejecting the opposition filed against European patent No. 1306331 pursuant to Article 102(2) EPC 1973.

Composition of the Board:

Chairman: W. Zellhuber
Members: H. Schram
M. J. Vogel

Summary of Facts and Submissions

I. The appellant (opponent) lodged an appeal against the decision of the Opposition Division posted on 13 June 2007 rejecting its opposition against European patent No. 1 306 331.

The Opposition Division held that the grounds of opposition under Article 100(a) EPC (lack of novelty, Article 54 EPC, lack of inventive step, Article 56 EPC) did not prejudice the maintenance of the patent as granted.

II. Oral proceedings were held before the Board of Appeal on 12 May 2010.

III. The appellant requested that the decision under appeal be set aside and that the patent in suit be revoked.

The respondent (patent proprietor) requested that the appeal be dismissed.

IV. Claims 1 and 13 as granted read as follows:

"1. A sheet member positioning device comprising:

a plate (20) on which a sheet member (12) is loaded;

a reference member (36) provided at a side, in a first direction, of the plate (20), the sheet member (12) being able to abut the reference member (36);

a conveying member (42) provided at a side, in a second direction, of the plate (20), and due to the conveying member (42) being moved toward the side in the first direction and conveying the sheet member

(12), the conveying member (42) makes the sheet member (12) abut the reference member (36) so as to determine a position of the sheet member (12) in the first direction; and

a detecting mechanism (72, 74, 76, 82, 84) which, at a time when the position of the sheet member (12) in the first direction is determined, detects a distance (W) between the reference member (36) and the conveying member (42), and detects a size of the sheet member (12) on the basis of the detected distance (W)."

"13. A method of positioning a sheet member (12) in a sheet member positioning device which includes a reference member (36) and a conveying member (42) which are set apart from one another by a predetermined distance (L), a plate (20), and a detecting mechanism (72, 74, 76, 82, 84), the method comprising the steps of:

(a) supplying a sheet member (12) to the plate (20);

(b) abutting the sheet member (12), which is supplied to the plate (20), against the reference member (36), which is provided at a side in a first direction of the plate (20), by the conveying member (42);

(c) detecting a distance (W) between the reference member (36) and the conveying member (42) by the detecting mechanism (72, 74, 76, 82, 84); and

(d) detecting a size of the sheet member (12) on the basis of the detected distance (W)."

V. The following documents in particular were referred to in the appeal proceedings:

D2 DE 3111979 C2

D9 Patent Abstracts of Japan, JP-A 57-107337

D14 US-A 5,988,621

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

Document D14 disclosed a sheet member positioning device and a method of positioning a sheet member with all the features of claims 1 and 13, respectively, of the patent in suit. The expressions "reference member" and "conveying member" used in said claims were very broad. A reference member did not have to be stationary once a sheet member was brought into abutting contact with that member. These expressions did not exclude the possibility that a reference member could perform as a conveying member, or vice versa. The pair of document width regulating guides 9a and 9b known from document D14 corresponded to the reference member and conveying member of the patent in suit. These guides were slid towards each other by a user with a view to conforming the spacing between them to the width of the paper between them (see column 3, lines 26 to 37). The guides were moved away from each other to provide for a predetermined margin (see column 11, lines 31 to 35). This way of adapting the distance between two document width regulating guides was well known by users of a copying machine. The purpose of the click mechanism was to keep the guides parallel (see column 12, lines 36 to 42). Since in document D14 the width of the document was sensed (see column 8, lines 28 to 40), the subject-matter of claims 1 and 13 as granted lacked novelty.

Document D2 disclosed all the features of claim 1 as granted with the exception of the last feature, viz "[a detecting mechanism] ... detects a size of the sheet member (12) on the basis of the detected distance (W)". However, detecting the size of a sheet of paper was well known in the art of paper handling apparatuses, see eg document D9. A combination of documents D2 and D9 would lead the person skilled in the art to the claimed invention.

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

Document D14 in no way disclosed or suggested that the guide 9a or 9b was used to move the document stack in the direction in which the guides could be moved. The guides could only be moved in a symmetrical way. In contrast, once the position of the reference member according to the invention was determined (cf claim 1 as granted), its position no longer changed. In document D14 the size of the document was not measured. The subject-matter of claims 1 and 13 as granted was therefore new with respect to document D14.

Document D2 related to a device for centre line registration of paper sheets in a copier machine. This document was silent about measuring the size of the document. There was no need to do this, since paper sheets could be registered with respect to the reference centre line independently of their size. The person skilled in the art had no incentive to apply the teaching of document D9 to the device known from document D2. Moreover, the sensor of document D2 was not able to make the paper sheet abut the guide.

Reasons for the Decision

1. *Objection of lack of novelty, Article 54 EPC*

1.1 The established case law of the Boards of Appeal holds that for an invention to lack novelty its subject-matter must be clearly and directly derivable from the prior art.

1.2 Document D14 discloses a recycle document feeder comprising inter alia a document placing plate 8 and a pair of document width regulating guides 9a and 9b (henceforth: guides 9a and 9b), which can be slid towards each other by a user with a view *to adjust the spacing therebetween in conformity with the size of document originals to be transported* ***before*** *placing the document originals on the document placing plate 8* (see column 9, lines 29 to 33, emphasis added by the Board).

The whole thrust of document D14 is that the spacing between the guides 9a and 9b is adjusted to conform to standard paper sizes (see eg column 7, lines 47 to 50), ie the spacing is set to a value which equals the width of the document plus a predetermined margin (see column 11, lines 31 to 35). A click mechanism 200, 201 is provided having a plurality of engagement portions 203 to 207, which are formed in such positions that the tip of the engagement claw 202 can be engaged therewith when the guides 9a and 9b are slid by exact slide amounts corresponding to the respective document sizes, see column 7, lines 34 to 39. This mechanism also prevents the width regulating guides 9a and 9b from

being skewed, see column 7, lines 20 to 23. The output of the document width sensor 42 shown in Figure 3 of document D14 corresponds to the spacing between the width regulating guides 9a and 9b, see column 8, lines 28 to 41.

In the judgment of the Board, document D14 does not disclose that the guides 9a and 9b are slid towards each other with a view to measuring the size of a document placed between them.

1.3 Claim 1 as granted requires that a "*conveying member (42) makes the sheet member (12) abut the reference member (36) so as to determine a position of the sheet member (12) in the first direction*".

The guide 9a or 9b known from document D14 cannot be identified as a conveying member 42 in the sense of the invention, since the guide does not necessarily make the document abut the other guide. Moreover, document D14 does not disclose that the document width sensor 42 determines the position of the document in a first direction. Document D14 also fails to disclose the last feature of claim 1 as granted, viz "*and detects a size of the sheet member (12) ...*".

In the judgment of the Board, the steps (a) to (d) recited in claim 13 as granted are listed in the order in which the steps occur in the claimed method, ie step (a), viz "supplying a sheet member (12) to the plate (20)" is the first step of the method.

Even if the width regulating guides 9a and 9b of document D14 were to correspond, respectively, to a

reference member and a conveying member in the sense of the invention, the step of detecting the spacing (cf step (c) of claim 13 as granted) between the width regulating guides 9a and 9b in document D14 precedes the step of "supplying a sheet member to the plate" (cf step (a) of claim 13 as granted). Document D14 also fails to disclose steps (b) and (d) of claim 13 as granted, for the same reasons as given above for the corresponding features of claim 1 as granted.

1.4 It follows from the above that the subject-matter of claims 1 and 13 as granted is novel with respect to document D14, Article 54 EPC.

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

2.1 The present invention relates to a method of positioning a sheet member such as a printing plate, and to a sheet member positioning device. The problem the invention seeks to solve is to provide a method and a device for positioning a sheet member which obviate the need for a separate mechanism for detecting the size of the sheet member, see paragraphs [0004], [0005] and [0007] of the patent in suit.

This problem is solved by the sheet member positioning device and the method of positioning a sheet member according to claims 1 and 13 as granted, respectively. In particular, the sheet member is supplied to a plate, which is provided, at a side in a first direction, with a reference member and, at a side in a second direction, with a conveying member, which conveys the sheet member towards the reference member until it abuts the reference member, whereby the size of the

sheet member is detected on the basis of the distance between the reference member and the conveying member.

2.2 Document D2 discloses a method and an apparatus for centre line registration of paper sheets in a copier machine, which include a movable sidewall and a sensor opposite the sidewall adapted for movement in unison so that they are always equidistant from a reference centre line (see column 1, lines 3 to 7, and column 2, lines 26 to 40). The sheet is conveyed by a side scuffer means ("Seitenanstoßeinrichtung 75") which registers it against a fixed side wall or side guide ("Seitenführung 84"). When the sheet is registered against guide 84, the guide and sensor 87 move until the sensor senses the edge of the sheet and the motion is stopped by a signal from the sensor. The sheet is now precisely registered with the reference centre line (see column 4, lines 52 to 56).

Guide 84 can be considered a reference member in the sense of the invention. In document D2 the side scuffer means 75, which makes the paper sheet abut against the reference member, could be considered a conveyor member, but its position is not relevant for determining the size of the paper sheet.

The appellant argued that the sensor 87 of document D2 had the same function as the conveyor member according to the invention. However, the sensor neither conveys nor abuts the paper sheet.

Document D2 does not disclose that the distance between the sensor and the guide, or the distance between the sensor or the guide and the centre line, is measured.

Document D2 therefore fails to disclose that the size of the sheet member is detected on the basis of the distance between the reference member and the conveying member. In document D2, a sheet member is merely registered with respect to a reference centre line, its size is not measured.

2.3 The appellant further argued that detecting the size of the sheet member was an obvious measure to the person skilled in the art, and referred to document D9.

Document D9 discloses a stack of paper sheets positioned between two side plates in a paper feeder. The side plates and a collar 5, equipped with a light emitting unit and a light receiving unit, are fixed on a shaft 4, with the output of the light receiving unit corresponding to the distance between the side plates and thus to the paper size.

The arrangement of the paper stack between two plates is similar to a paper tray of a copying apparatus. Contrary to document D2, where a sheet is registered with the reference centre line of a plate of a copying apparatus, and contrary to the invention, the paper stack in document D9 is not positioned with respect to a plate.

2.4 In the judgment of the Board, it was thus not obvious to the person skilled in the art, starting from document D2, and taking into account document D9 and/or the general technical knowledge in the art of positioning a sheet member, to arrive at the subject-matter of claims 1 and 13 as granted.

Since the Board has come to the conclusion that document D14 does not disclose that the document width regulating guides 9a and 9b are slid towards each other when the document stack has been placed on the document placing plate 8 with a view to measuring the size of a document placed between them (see point 1.2 above), and that neither of the width regulating guides 9a, 9b can be identified as a conveying member (42) in the sense of the invention (see point 1.3 above), it is not a suitable starting point to assess inventive step.

The subject-matter of claims 1 and 13 as granted hence 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 W. Zellhuber