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**Datasheet for the decision
of 24 November 2009**

Case Number: T 0117/08 - 3.2.05

Application Number: 00120042.7

Publication Number: 1084844

IPC: B41F 33/00

Language of the proceedings: EN

Title of invention:

Sheet-fed rotary printing press having a printing quality control unit

Patentee:

Komori Corporation

Opponent:

manroland AG

Headword:

-

Relevant legal provisions:

EPC Art. 56, 123(2)

Keyword:

"Amendments (main request, first, second and fifth auxiliary request, not allowable; third and sixth auxiliary requests, allowable)"

"Inventive step (third and fourth auxiliary requests, no; sixth auxiliary request, yes)"

Decisions cited:

-

Catchword:

-



Case Number: T 0117/08 - 3.2.05

D E C I S I O N
of the Technical Board of Appeal 3.2.05
of 24 November 2009

Appellant I: manroland AG
(Opponent) Mühlheimer Strasse 341
D-63075 Offenbach (DE)

Appellant II: Komori Corporation
(Patent Proprietor) 11-1, Azumabashi 3-chome
Sumida-ku
Tokyo (JP)

Representative: von Samson-Himmelstjerna, Friedrich
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Decision under appeal: Interlocutory decision of the Opposition
Division of the European Patent Office posted
10 January 2008 concerning maintenance of the
European patent No. 1084844 in amended form.

Composition of the Board:

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

Summary of Facts and Submissions

- I. Appellant I (opponent) and appellant II (patent proprietor) lodged appeals against the interlocutory decision of the Opposition Division maintaining European patent No. 1 084 844 in amended form.
- II. The patent in suit was maintained by the opposition division in amended form in accordance with a third auxiliary request of appellant II. The opposition division was of the opinion that the preceding requests did not satisfy the requirements of Article 123(2) EPC and that auxiliary request I contravened Rule 80 EPC.
- III. Oral Proceedings were held before the Board of Appeal on 24 November 2009.

Appellant I requested that the decision under appeal be set aside and that the European patent No. 1 084 844 be revoked.

Appellant II requested that the decision under appeal be set aside and that the patent in suit be maintained on the basis of the claim filed as main request on 23 October 2009, or alternatively on the basis of the claims filed as auxiliary requests I, II, III, VII and XI on the same day, or on the basis of claims 1 - 3, filed during the oral proceedings.

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

"1. A sheet-fed rotary printing press comprising:
a feed unit (2) for feeding sheet-like objects one by one;

a printing unit (3A, 3B) for printing on the sheet-like objects supplied from (sic) said feed unit;
a delivery unit (4) for delivering said sheet-like objects printed by said printing unit; and
a printing quality control unit (20) fixed on an upper surface of said delivery unit for adjusting an amount of ink to be used for printing on said sheet-like objects;

wherein said delivery unit comprises delivery chains (15) to extend between a front and a rear sprockets; and
said printing quality control unit (20) is provided above said delivery chains of said delivery unit and comprises
a printed product checking table (27) on which a printed sheet (11) is placed, and an operation unit (26a, 26b) which is operated by an operator, **characterized** in that said printing quality control unit (20) further has a control unit (29) for controlling ink amount adjustment, and
a case (21) storing said control unit (29) and having an opening (21a) opened/closed by an operation panel (22), and that said operation panel (22) engages with said opening when closing said opening."

The sole claim of auxiliary request I (first auxiliary request) reads as follows:

"A sheet-fed rotary printing press comprising:
a feed unit (2) for feeding sheet-like objects one by one;
a printing unit (3A, 3B) for printing on the sheet-like objects supplied from said feed unit;

a delivery unit (4) for delivering said sheet-like objects printed by said printing unit; and a printing quality control unit (20) fixed on an upper surface of said delivery unit for adjusting an amount of ink to be used for printing on said sheet-like objects; wherein said delivery unit comprises delivery chains (15) to extend between a front and a rear sprockets; and said printing quality control unit (20) is provided above said delivery chains of said delivery unit and comprises an operation panel (22) with a printed product checking table (27) on which a printed sheet (11) is placed, and an operation unit (26a, 26b) which is operated by an operator, **characterized** in that said printing quality control unit (20) further has an ink amount adjustment controller (29) and an open case (21) with an inclined opening (21a) adapted to store said controller (29) and the operation panel (22) is arranged and adapted to form a lid by which the inclined opening (21a) of the open case may be opened or closed."

The sole claim of auxiliary request II (second auxiliary request) differs from the sole claim of auxiliary request I in that the characterizing portion reads as follows:

"said printing quality control unit (20) further has a control unit (29) for controlling ink amount adjustment, and a case (21) storing said control unit (29) and having an inclined opening (21a) opened/closed by an operation panel (22), and that said operation panel (22) engages with said opening in an inclined state when closing said opening."

The sole claim of auxiliary request III (third auxiliary request) differs from the sole claim of auxiliary request I in that the characterizing portion reads as follows:

"said printing quality control unit (20) has an operation panel (22) provided in an inclined state in one of a convey direction of the sheet-like objects and a direction perpendicular thereto, such that a rear end thereof is higher than a front end thereof, and further has a control unit (29) for controlling ink amount adjustment, and a case (21) storing said control unit (29) and having an inclined opening (21a) opened/closed by said operation panel (22), and said operation panel (22) engages with said opening in an inclined state when closing said opening (21a)."

The sole claim of auxiliary request VII (fourth auxiliary request) differs from the sole claim of auxiliary request III in that it includes the following additional feature:

"and
a support member (23) is provided for supporting side ends of said operation panel (22) such that said operation panel (22) is pivotable, and said opening (21a) is opened when said operation panel (22) is pivoted toward a rear side of said opening."

The sole claim of auxiliary request XI (fifth auxiliary request) differs from the sole claim of auxiliary request III in that it includes the following additional feature:

"and that
the operation panel (22) is pivotally supported at its
two ends by a pair of extendable studs (23) so as to
open/close the opening (21a) of the case (21) wherein
the lower ends (23a) of the studs (23) are pivotally
supported by a bottom (24) of the case (21) and upper
ends (23b) thereof are pivotally connected to the
operation panel (22)."

Claim 1 of the set of claims filed during oral
proceedings (sixth auxiliary request) differs from the
sole claim of auxiliary request III in that it includes
the following additional feature:

"and that
the operation panel (22) is pivotally supported at its
two side ends by a pair of extendable studs (23) so as
to open/close the opening (21a) of the case (21)
wherein the lower ends (23a) of the studs (23) are
pivotally supported by a bottom (24) of the case (21)
and upper ends (23b) thereof are pivotally connected to
the operation panel (22), and the lower ends (23a) of
the studs (23) are supported near substantially the
centre of the case (21), and the upper ends (23b)
thereof are connected to the operation panel (22) near
substantially the centre of the operation panel (22)."

V. The following documents are referred to in the present
decision:

D1: DE-U-299 04 511
D3: DE-C-42 26 842
D4: DE-A-27 28 738

VI. The arguments of appellant I in the written and oral proceedings can be summarised as follows:

In the application as filed, the features of the inclination of the opening, the directional orientation of the operation panel with respect to the conveying direction and the operation panel serving to open and close the opening, are only disclosed together. The decision of the opposition division is thus correct insofar as Article 123(2) EPC is concerned and the requirement of Article 123(2) EPC is not satisfied in respect of the features of claim 1 of the main request and the claims of the first and second auxiliary requests.

As regards the claim of the third auxiliary request, document D1 represents the closest prior art. As stated at page 5, lines 28 to 33, of document D1, the space between the inclined printing quality control unit and the chains of the delivery unit can be used to house electrical and/or mechanical components of the machine. The person skilled in the art is aware that access to these components must be provided. It is self-evident that this can be achieved by making the operation panel removable. The subject-matter of the claim of the third auxiliary request thus does not involve an inventive step.

In order to make access as simple as possible, the person skilled in the art would provide a support as specified in the claim of the fourth auxiliary request, which therefore also does not involve an inventive step.

The support arrangement specified in the claim of the fifth auxiliary request is only disclosed in paragraph [0016] of the application as filed in conjunction with the positioning of the ends of the studs. In the absence of these features, the fifth auxiliary request does not satisfy the requirements of Article 123(2) EPC.

There are a number of possibilities available to the person skilled in the art for providing a closure for a case. It does not involve an inventive step to specify one of these possibilities. The subject-matter of claim 1 of the sixth auxiliary request therefore does not involve an inventive step.

VII. The arguments of appellant II in the written and oral proceedings can be summarised as follows:

There is no functional or structural connection between the features of the inclination of the opening, the directional orientation of the operation panel with respect to the conveying direction and the case having an operation panel serving to open and close the opening. The necessity of providing access to the control unit for the purposes of maintenance has nothing to do with the inclination of the operation panel.

This is illustrated by document D3, which shows that the operation panel need not be inclined and document D4 which indicates that the control unit may be positioned other than in the conveying direction or perpendicular thereto.

The decision of the opposition division is based on a purely literal approach rather than identifying the technical teaching of the application as filed. There is thus no close functional or structural relationship between these three features and the requirement of Article 123(2) EPC is satisfied in respect of the features of claim 1 of the main request and the claims of the first and second auxiliary requests.

Document D1 does not disclose a case storing a control unit having an opening which is opened and closed by the operation panel. The problem to be solved is to enable easy access to the control unit.

The prior art, including document D1, does not suggest any solution to this problem. Access could be achieved, for example, through the side panel of the machine. The features of the claim of the third auxiliary request according to which the inclined opening is opened/closed by the operation panel, and the operation panel engaging with the opening in an inclined state when closing the opening, improve accessibility to the control unit. The subject-matter of the claim of the third auxiliary request thus involves an inventive step.

Pivoting the operation panel towards the rear side of the opening further improves access for maintenance. There is no suggestion of such a construction in the prior art. The claim of the fourth auxiliary request thus involves an inventive step.

The features introduced into the claim of the fifth auxiliary request are disclosed in paragraph [0016] and Figure 2A of the application as filed. The supporting

function is achieved regardless of whether the ends of the studs are in the centre or not. It is thus not necessary to specify the position of the ends of the studs in claim 1 in order to satisfy the requirement of Article 123(2) EPC.

There is nothing in the prior art which points to the solution to the problem of providing access to the control unit as specified in claim 1 of the sixth auxiliary request. The claim thus involves an inventive step.

Reasons for the Decision

1. *Main Request*

1.1 Amendments

Claim 1 specifies the presence of "a case (21) storing said control unit (29) and having an opening (21a) opened/closed by an operation panel (22), and that said operation panel (22) engages with said opening when closing said opening." It is not, however, specified that the opening is inclined and that the operation panel is thus in an inclined state when closing the opening.

The application as filed only discloses an opening which is inclined. This is the case for the illustrated embodiment of the invention (see, in particular, the Figures 1, 2A and 2B of the drawings and paragraphs [0014] and [0015] of the description), as well as the alternative construction, in which the operator stands

beside the delivery unit, as described in paragraph [0028]. Similarly, claim 4 specifies that the opening is inclined.

It is argued that there is no functional or structural relationship between the feature of the closure of the opening by the operation panel and the inclination of the opening, and for this reason the features can be regarded as being disclosed separately. This cannot be accepted. These features are structurally associated in that they both concern the positioning of the operation panel. Both features contribute to the object of the invention of improving workability of the press (see paragraphs [0003] and [0005] of the application). The skilled reader of the application as filed would thus not find a teaching of a horizontal (non-inclined) opening which is closed by the operation panel.

The subject-matter of claim 1 thus extends beyond the disclosure of the application as filed, so that the requirement of Article 123(2) EPC is not satisfied.

2. *First and Second Auxiliary Requests*

2.1 Amendments

The application as filed only discloses a first arrangement in which the operation panel is provided in an inclined state in the conveying direction of the sheet-like objects (illustrated embodiment) and a second arrangement in which the operating panel is provided in an inclined state in a direction perpendicular to the conveying direction (paragraph [0028]).

The features of the closure of the opening by the operation panel, the inclination of the opening and the orientation of the opening are structurally associated, so that the application as filed only discloses these features in combination (c.f. point 1.1 above).

The subject-matter of claim 1 of these requests thus also extends beyond the disclosure of the application as filed.

3. *Third Auxiliary Request*

3.1 Amendments

The additional features included in claim 1 overcome the objections under Article 123(2) EPC, as set out under points 1.1 and 2.1 above, against the amendments of the preceding requests.

3.2 Novelty

The printing press disclosed in document D1 does not comprise a case storing the control unit which has an inclined opening opened/closed by the operation panel, the operation panel engaging with the opening in an inclined state when closing the opening.

The subject-matter of claim 1 is thus new.

3.3 Inventive Step

The closest prior art is represented by document D1. In particular, as disclosed at page 5, lines 28 to 33, the

space between the inclined printing quality control unit and the chains of the delivery unit can be used to house electrical and/or mechanical components of the machine. Such components must be protected from paper dust and the mechanical components of the press including the inking system 7 and the delivery unit 3,4.

The problem to be solved can be regarded as being to facilitate access to the control unit.

In order to obtain access to the control unit, it is necessary to provide an access panel at some location on the housing of the operation console as shown in the drawings of document D1. As shown in Figure 1, access from below is not possible, since this space is occupied by the delivery unit 3,4, and access from the rear is also not possible, since this space is occupied by the printing press, including the inking system 7. It is thus only possible to provide access by means of a removable panel, either at the side of the housing, or from the operation panel.

It does not require inventive ingenuity to select either one of these two alternatives. The subject-matter of the sole claim thus does not involve an inventive step.

4. *Fourth Auxiliary Request*

4.1 Inventive Step

In addition to the features of the claim of the third auxiliary request, it is specified that the operation panel is pivotably supported.

In order to avoid the necessity of having to lay a removable panel aside in order to obtain access, it is generally well known to make such a panel pivotable. It thus does not involve an inventive step to provide a support member to enable the operation panel to be pivoted, and the subject-matter of the sole claim does not involve an inventive step.

5. *Fifth Auxiliary Request*

5.1 Amendments

The support arrangement for the operation panel is disclosed in paragraph [0016] of the application as filed. The claim is amended by the inclusion of the features of column 3, lines 44 to 51, but not column 3, lines 51 to 55, relating to the positioning of the ends of the studs. The application as filed does not disclose any arrangement for the studs other than the upper ends thereof being pivotally connected to the operation panel near substantially the centre of the operation panel, and the lower ends thereof being supported near substantially the centre of the case.

Whilst it may be the case that the same function could be achieved with a different positioning of the ends of the studs, the fact remains that no such arrangement of the studs is disclosed in the application as filed. The skilled reader of the application as filed would not find any indication that some features of the studs could be utilized in isolation from others.

The subject-matter of the sole claim thus extends beyond the disclosure of the application as filed, so that the requirement of Article 123(2) EPC is not satisfied.

6. *Sixth Auxiliary Request*

6.1 Amendments

Claim 1 includes all the features of the support arrangement for the operation panel disclosed in paragraph [0016] of the application as filed. The objection to the amendments of the fifth auxiliary request, as set out under point 5.1 above, are thus overcome and the requirements of Article 123(2) are satisfied.

6.2 Inventive Step

The arrangement of the support mechanism for the operation panel specified in claim 1 enables unobstructed access to the interior of the case as shown in Figure 2A of the patent in suit. The cited prior art does not disclose or suggest such a mechanism. Of the various alternative arrangements which may occur to the person skilled in the art for achieving the above object, there is nothing which would tend to indicate the specified solution.

The subject-matter of claim 1 therefore involves an inventive step.

Claims 2 and 3 are dependent from claim 1 and relate to preferred features of the printing press of claim 1.

Claims 2 and 3 accordingly similarly involve an inventive step.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The case is remitted to the first instance with the order to maintain the patent in amended form on the basis of the following documents:
 - claims 1 - 3, filed during the oral proceedings
 - description, pages 2, 2a, 3, 4, filed during the oral proceedings
 - drawings, pages 7 - 9, as granted.

The Registrar:

The Chairman:

D. Meyfarth

W. Zellhuber