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Datasheet for the decision of 8 June 2011

Case Number: T 0123/08 - 3.5.04

Application Number: 02019563.2

Publication Number: 1267561

IPC: H04N 1/00

Language of the proceedings: EN

Title of invention:
Print machine

Patentee:
Panasonic System Networks Co., Ltd.

Opponent:
Océ-Technologies B.V.

Headword:
-

Relevant legal provisions (EPC 1973):
EPC Art. 114(2), 56

Keyword:
"Admission of document filed on appeal - yes"
"Remittal - no"
"Inventive step - main request - no; first auxiliary request - no; second auxiliary request - no; third auxiliary request - yes"

Decisions cited:
-

Catchword:
-

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Case Number: T 0123/08 - 3.5.04

D E C I S I O N
of the Technical Board of Appeal 3.5.04
of 8 June 2011

Appellant: (Opponent)
Océ-Technologies B.V.
St. Urbanusweg 43
NL-5914 CC VENLO (NL)

Representative:
van de Sande, Jacobus
Océ-Technologies B.V.
Corporate Patents
Postbus 101
NL-5900 Ma Venlo (NL)

Respondent: (Patent Proprietor)
Panasonic System Networks Co., Ltd.
1-62, Minoshima 4-chome
Hakata-ku
Fukuoka-shi
Fukuoka 812-8531 (JP)

Representative:
Leeming, John Gerard
J.A. Kemp & Co.
14 South Square
Gray's Inn
London WC1R 5JJ (GB)

Decision under appeal:
Interlocutory decision of the Opposition Division of the European Patent Office posted 21 November 2007 concerning maintenance of European patent No. 1267561 in amended form.

Composition of the Board:

Chairman: F. Edlinger
Members: R. Gerdes
C. Vallet

Summary of Facts and Submissions

I. The present appeal arises from the interlocutory decision of the opposition division maintaining European patent No. 1267561 in amended form. The opposition division found that the subject-matter of claim 1 according to the proprietor's main request involved an inventive step in view of the cited prior art. The division held, in particular, that any combination of the following prior-art documents would have constituted hindsight:

D1: JP 7162590 A (including the abstract and an English translation of claim 1, paragraphs [0012] to [0127] and a description of the drawings) and
D2: US 5220674 A.

II. An appeal against this decision was lodged by the opponent. The appellant requested the board to set aside the decision and to revoke the patent. Together with his statement of grounds of appeal the appellant also submitted the following additional documents:

D7: RFC 1179 - Line printer daemon protocol, and
Re D1: an English translation of paragraphs [0001] to [0011] of D1.

III. In his reply to the statement of grounds of appeal the proprietor (respondent) requested *inter alia* that the appeal be dismissed and that D7 should not be admitted into the appeal proceedings. If D7 was admitted, the case should be remitted to the opposition division.

IV. In a communication accompanying the summons to oral proceedings the board set out its preliminary opinion on the case and indicated that it was inclined to admit D7 into the appeal proceedings.

V. Oral proceedings were held on 8 June 2011. The appellant maintained as his final request that the decision under appeal be set aside and that the patent be revoked. The respondent withdrew all previous requests on file and requested that the appeal be dismissed (main request) and in the alternative that the patent be maintained on the basis of the claims according to one of the first to fifth auxiliary requests submitted in the oral proceedings before the board.

VI. Independent claim 1 according to the respondent's **main request** reads as follows:

"A printing machine connected to a network, the apparatus comprising:
means for receiving print data from an originating terminal via the network;
means for printing the received print data onto paper;
means for extracting a notification destination that has been added to the received print data, the notification destination being an arbitrary terminal different from said originating terminal to which a print result should be notified via the network; and
means for transmitting information to the extracted notification destination by e-mail via the network after the printing process has been terminated improperly, the information indicating improper

termination of the printing process because of a paper jam or the printing machine being out of paper."

VII. Claim 1 according to the respondent's **first auxiliary request** differs from claim 1 according to the main request by the insertion of the expression "an e-mail address of" after "means for extracting".

Claim 1 according to the respondent's **second auxiliary request** differs from claim 1 according to the first auxiliary request in that the first part of the claim up to and including the first occurrence of the expression "via the network" is replaced by the phrase "A printing machine directly connected to a network, the printing machine comprising: means for receiving print data from an originating terminal directly from the network".

Claims 1 and 6 according to the respondent's **third auxiliary request** read as follows:

"1. A printing machine connected to a network, the apparatus comprising:
means for receiving print data from an originating terminal via the network;
means for printing the received print data onto paper;
means for extracting an e-mail address of a notification destination that has been added to the received print data, the notification destination being an arbitrary terminal different from said originating terminal to which a print result should be notified via the network; and
means for transmitting information to the extracted notification destination by e-mail via the network

after the printing process has been terminated improperly, the information indicating improper termination of the printing process because of a paper jam or the printing machine being out of paper, wherein when process result items are contained in the print data received by said means for receiving, said means for extracting extracts the process result items from the print data, and if a process result of the printing process matches with an item included in the process result items, said means for transmitting transmits the process result to the extracted notification destination by e-mail via the network."

and

"6. A communication result notifying method for notifying a result of a printing process in a printing machine to a notification destination node said destination node being an arbitrary terminal different to a requesting node from which printing data originates, comprising the steps of:
(a) obtaining process result items and an e-mail address of said notification destination node from printing data received via a LAN from said requesting node;
(b) detecting a result of a printing process in said printing machine; and
(c) notifying said detected process result if it is contained in said process result items to said e-mail address of said notification destination node by e-mail; and
(d) notifying said detected process result to said e-mail address of said notification destination node by e-mail if the printing process has been terminated

improperly, said notifying indicating improper termination of the printing process because of a paper jam or the printing machine being out of paper."

The wording of the claims of the fourth and fifth auxiliary requests has no bearing on the present decision.

VIII. The appellant's arguments with respect to the main request as well as the first to third auxiliary requests may be summarised as follows:

Re: "main request"

D7 was cited in reaction to the amendment of the independent claims shortly before the oral proceedings in the opposition proceedings. D7 shows that sending a print result to a notification destination different from an originating terminal was known at the effective date of the opposed patent. Because D7 describes a well-known protocol it can even be considered as part of the common general knowledge of the skilled person and should, hence, be admitted into the proceedings.

D2 constitutes the closest prior art with respect to the subject-matter of claim 1. D2 shows all the features of claim 1 except that a notification destination is extracted from the received print data and that a result indicating improper termination of the print process is sent to this notification destination. According to D2 it is part of the initial setting of the print server to determine which recipient will receive a specific error message. Starting from D2 the technical problem could be

regarded as how to provide more control of the print process for the user. From either of D1 or D7 the skilled person knows of the possibility to incorporate a notification destination address in the print data. In order to send information indicating the result of the print process to the most competent person, the skilled person would choose to incorporate a notification destination in the print data, in the same way as in D1 or D7.

Re: "first auxiliary request"

The appellant stated that he did not intend to make observations with respect to the admissibility of the first auxiliary request.
Concerning the issue of inventive step, D1 already shows the additional feature of claim 1, i.e. means for extracting an e-mail address of a notification destination (see D1, paragraphs [0062] to [0066]).

Re: "second auxiliary request"

The amendments of claim 1 result in a lack of clarity, because a direct connection of the printing machine to the network does not make sense due to the necessity of an interface. If such an interface were considered to be implicit, then a connection of the printing machine to the network via the interface would nevertheless be obvious.

Re: "third auxiliary request"

D2 shows that a notification of printer status changes is sent to "appropriate network 12 components internal

and external to the local area print server 10 that would have an interest in knowing them" (see column 21, lines 44 to 48). Depending on the specific type of printer status change a notification destination is looked up by accessing a recipient field in a status block. It would have been an obvious extension of what is suggested by D1 to be able to change the recipient for every set of print data.

IX. The arguments of the respondent with respect to the main request as well as the first to third auxiliary requests may be summarised as follows:

Re: "main request"

D7 should not be admitted and considered because it was only presented with the statement setting out the grounds of appeal. The appellant provided no convincing arguments as to why D7 was submitted after the expiry of the opposition period.

The amendments to the patent made in the opposition proceedings did not justify the submission of a new document, because the amendment "different from said originating terminal" was only a clarification of the preceding expression "an arbitrary terminal".

D7 was not proven to be publicly available at the effective date of the opposed patent. Even though D7 referred to an unlimited distribution (see first paragraph), it was not clear whether such unlimited distribution was restricted to within "The Wollongong Group", which was indicated as the author's company on the front page of the document.

D2 shows a print server in which notification destinations are pre-programmed in the server. D2 does not disclose the extraction of a notification destination from received print data. Printer errors are consequently not notified to an arbitrary destination but to an operator console. Furthermore, a print server is distinguished from the printing machine of claim 1 in that it contains a computer, which is intercalated between a network and a plurality of printers.

During the oral proceedings the respondent did not dispute that the technical possibility of extracting an e-mail address from print data was known at the effective date of the patent. It was also technically possible to set a recipient for the e-mail notification different from the originating terminal. Nevertheless, the usage of a different e-mail address as a notification destination to notify a user of improper termination was neither known nor obvious. The respondent agreed with the appellant that the technical problem could be formulated as "how to provide more control of the print process for the user".

A combination of D2 and D1 did not lead to the subject-matter of claim 1 because neither D1 nor D2 disclosed a message indicating improper termination (see page 43 of D1, translated messages for figure 13). There were also constructional changes necessary with respect to the system of D1, because according to D1 an e-mail was sent before the print-out was completed (see figure 16, steps 310 and 313).

Re: "first auxiliary request"

According to D1 the notification destination was transmitted from the requester to the printing machine as a user identification number. A look-up table was used at the printing machine to retrieve the corresponding e-mail address or a telephone number (see D1, table in figure 9, first column). The amended claims of the first auxiliary request clarify the essential difference that according to the opposed patent an e-mail address was transmitted together with the print data.

Re: "second auxiliary request"

The amendments of the second auxiliary request serve to further distinguish the printing machine of the opposed patent from the print server of D2. In D2 the printing machines (see figure 1: 16a, 16b) are not directly connected to the network. Instead, a print server 10 is intercalated between the network and the printing machines. Thus, the error reporting functionality is not integrated in a printing machine but in a print server.

Re: "third auxiliary request"

The subject-matter of claim 1 has been limited by the subject-matter of claim 4 as granted. Thus, claim 1 is limited to previous embodiments 5 and 8. Unlike the status blocks of D2, which are only initialised once, the process result items of the opposed patent are extracted from the print data. This provides the advantage that the destination of error notifications

can be changed for every set of print data and, hence, gives rise to increased flexibility for the user.

Reasons for the Decision

1. The appeal is admissible.

Main request
Admission of D7

2. According to Article 114(2) EPC 1973 "[t]he European Patent Office may disregard facts or evidence which are not submitted in due time by the parties concerned". In accordance with Article 12(4) RPBA (Rules of Procedure of the Boards of Appeal, OJ EPO, 2007, 536) everything presented by an appellant in his notice of appeal and statement of grounds of appeal is to be taken into account "[w]ithout prejudice to the power of the Board to hold inadmissible facts, evidence or requests which could have been presented … in the first instance proceedings …".

It follows from these provisions that evidence presented with the statement of grounds of appeal, even if it was late-filed and could have been submitted in first-instance proceedings, may be taken into account at the discretion of the board. In exercising its discretion the board takes account of the circumstances of the specific case, in particular the interests of the parties and the procedural economy of the appeal proceedings having in mind the purpose of these proceedings. On the one hand, it is the purpose of the appeal procedure *inter partes* mainly to give the losing

party the possibility of challenging the decision of the opposition division on its merits. On the other hand, the procedure should be aimed at reducing procedural uncertainty for patentees having otherwise to face unforeseeable complications at a very late stage of the proceedings (see G 9/91, OJ EPO, 1993, 408, Reasons, point 18). If new facts and evidence are filed with the statement of grounds of appeal, this may serve both purposes, at least if they may be considered as a reaction to reasons given in the decision under appeal, substantially remain within the framework considered in the decision under appeal and thus do not introduce complexity in that the new elements can be dealt with by the board respecting the fairness of the procedure without remitting the case to the first instance.

In the present case the claims as granted were amended shortly before the date of oral proceedings by adding the feature "different from said originating terminal" to the independent claims as granted. The submission of D7 together with the statement setting out the grounds of appeal may be regarded as a reaction to this modification. The board is also convinced that D7 is prima facie highly relevant to the reasons given in the decision under appeal. D7 shows that it was only a question of using the "line printer daemon protocol" described in D7 in an appropriate way and that it was therefore technically possible at the priority date of the patent under appeal to send mail to an arbitrary destination. In this context "arbitrary destination" is understood in the sense of different from the originating terminal and also from the printer terminal (see D7, points 7.2 and 7.6). The fact that the "line printer daemon protocol" provided this possibility was

not contested by the respondent during the oral proceedings. Furthermore, D7 is a short document the evaluation of which does not raise complex questions.

3. The board is convinced that D7 was available to the public before the effective date of the opposed patent. D7 is widely referred to on the internet under the denomination RFC 1179. The line printer daemon (LPD) protocol specification, which is detailed in RFC 1179 by reference to the Berkeley versions of the Unix operating system (see D7, section 1), is also referred to as background art in the patent (see column 1, line 40 and column 12, line 1). Berkeley versions of Unix were available before the priority date of the opposed patent. D7 bears a date of August 1990, which is six years before the priority date of the patent under appeal. Hence, there are concrete facts confirming the public availability of D7 before the effective date of the opposed patent. In contrast, the respondent's argument of a possibly limited distribution lacks any concrete substantiation although the onus of proof lies on him in view of the above evidence.

Remittal of the case

4. If a late-filed document is admitted by the board, then the question arises as to whether, in the exercise of the board's discretion under Article 111(1) EPC, the case should be remitted to the first instance so as to allow the case to be examined in the light of the new document at two levels of jurisdiction. Even though the public's as well as the parties' interests require that opposition proceedings should be speedily concluded,

such a procedure is desirable when the newly introduced document substantially changes the factual framework underlying the decision under appeal and is of such relevance that it puts the maintenance of the patent at risk. If this is not the case, then the board may deal with the matter itself giving the other party a fair opportunity to deal with the new elements.

Turning to the present case, D7 concerns the line printer daemon protocol, which *inter alia* provides the technical possibility to send a mail address different from the requester address together with print data. A mail indicating that the printing ended can be sent to this mail address. Since the respondent did not dispute that the technical possibility of such setting existed at the effective date of the patent, the present case does not hinge on the evaluation of D7. Hence, the board has decided not to remit the case to the first instance.

Claim construction

5. The discussions with respect to inventive step of the claimed subject-matter focussed to a great extent on the meaning of the expressions "printing machine" and "arbitrary terminal different from said originating terminal".

5.1 The meaning of an expression in a patent claim has to be determined from the point of view of the skilled person, who reads the claim with synthetical propensity to arrive at a technically sensible interpretation of the claimed subject-matter taken as a whole in the light of the patent and against the background of

his/her common general knowledge (see Case Law of the Boards of Appeal, 6th edition, 2010, section II.B.5.1).

5.2 In the context of the opposed patent there is no explicit definition of the expression "printing machine". Nevertheless, at several occasions reference is made to a printing machine. For example, figure 25 shows the functional blocks of "a conventional printing machine" (see paragraph [0004]). According to figure 25 the conventional printing machine consists of a CPU, a ROM, a RAM, a LAN interface section, and a printer section, which executes a printing process. These elements are also present in the printing machine of the invention (see e.g. figures 1, 4 and 12). Hence, also according to the opposed patent a printing machine may consist of functional components essentially making up a computer having a print data receiving and printing section. Neither the different embodiments nor the common general knowledge of the skilled person confers a special technical meaning on the expression "printing machine" which would exclude a printing system consisting of a print server and connected printers having a print data receiving and printing function.

5.3 In the given context of claim 1 and in the light of the description (see in particular paragraphs [0065], [0069], [0070] and [0071] of the opposed patent) the expression "arbitrary terminal different from said originating terminal" leads to the following understanding of the function of the claimed printing machine: A process result indicating improper termination is reported to the e-mail address of a notification destination (terminal) which is extracted

from the print data. The notification destination (terminal) and the requesting originating terminal differ from each other. It appears from the cited passages that, on a purposive construction, an arbitrary terminal is not meant to be selected at random, but with a view to informing the indicated notification destination terminal of an improper termination result.

Inventive step - Article 56 EPC 1973
The closest prior art

6. The parties agree that D2 constitutes the closest prior art with respect to the subject-matter of the independent claims. D2 shows a printing system consisting of a local area print server (figure 1: 10) connected to a number of printers (16a, 16b). The print server comprises a status collector (48), which receives status blocks containing status information from the printers (see column 19, lines 14 to 19). Status blocks may contain such information as off-line status, resource faults or an out-of-paper condition of the attached printer (see column 20, lines 57 to 64, column 17, lines 21 to 29 and column 9, lines 7 to 15). Status blocks contain a recipient field (190) which identifies entities such as a printer console or an event logger on the attached network that should be notified of status changes (see column 20, line 57 to column 21, line 4 and figure 8a). The status blocks are initialised in response to a power-up or an initialisation command from another network component (see column 23, lines 3 to 17).

Hence, recipients of notifications indicating improper functioning of the printing system are set during the initialisation process.

7. D2 does not show that a notification destination is extracted from the received print data and that a result indicating improper termination of the print process is sent to this notification destination.

The technical problem

8. This distinguishing feature provides the effect of increased flexibility for print clients (originating terminals) in directing printer error messages to specific destinations. Both parties formulated the objective technical problem as how to give more control of the print process to the user. The board agrees with this formulation of the technical problem.

Obviousness

9. Document D1 shows a dispersed copy and printing system which provides print requesters with the possibility to designate a distribution target person for each set of print data (see abstract). A distribution target person (a user to which the printing job is distributed; see paragraph [0005]) is chosen by selecting its user identification at the console of the print requester (see figure 6). The user identification is transmitted together with the print data to the selected printer. At the printer a distribution target address corresponding to the user identification and representing the transmission destination address is extracted from a table. The distribution target address

may be an e-mail address of the distribution target person (see paragraphs [0062] to [0066]). The distribution target person is notified of the fact that there was a distribution of print data, as soon as the output "processing … has ended" (see paragraph [0009] and [0055]).

Hence, D1 shows a printing system which provides increased flexibility and control of the printing process to the user. The increased control is achieved by adding a user identification of the transmission destination address corresponding to the distribution target person (D1, paragraphs [0062] and [0063]) to each set of print data. At the printer the transmission destination address of the print job receiver is extracted (D1, paragraphs [0004] to [0007]). If the skilled person had incorporated this feature of D1 into D2 to solve the problem posed, he/she would have arrived at a printing system having the option to designate the print job receiver as a notification destination for indicating the state that "processing … has ended". The print job receiving terminal ("distribution object" in the terms of D1) may be any person receiving a print job and is different from the originating terminal.

It is still to be determined whether the skilled person would also have been led to incorporate information indicating improper termination of the printing process into this message. D1, in its description of the prior art (see paragraph [0003]), refers to sending a notification alerting the print requester that print-outs are not removed after a fixed time. Also in document D2 it is emphasised that reports of printing

system status changes or events should be sent to "appropriate network 12 components internal and external to the local area print server 10 that would have an interest in knowing them" (column 21, lines 45 to 48). Given the fact that both documents concern communication of undesirable conditions to appropriate network components and that no specifically designed new means are necessary for detecting conditions such as a paper jam or out-of-paper, the board considers it obvious from these passages to incorporate this information into the notification sent to the e-mail address of the notification destination (which is also the destination of the print job).
Hence, the subject-matter of claim 1 lacks an inventive step in view of D2 if combined with D1.

10. The board is not convinced by the argument of the respondent that recipients of error messages are not to be regarded as "arbitrary terminals different from said originating terminals". In view of the construction of this feature (see point 5.3 above), recipients do not need to be selected at random. In D1 the error message may be transmitted to any arbitrary and suitable terminal provided that it is also the distribution target of the print job. In general, the distribution target is different from the originating terminal (requester in D1).

Following the understanding of the expression "printing machine" set out in point 5.2 above, the printing system (17) of D2, figure 1, is not distinguished from a printing machine as specified in claim 1.

The board is also convinced that the skilled person when trying to give more control of the print process to the user of the printing system of D2 would have contemplated sending messages indicating improper termination to the extracted e-mail address. D1 shows sending specific text messages (see page 43, message templates under figure 13) indicating proper termination. If a new mechanism was incorporated into the system of D2 such that the print job receiver was notified of a print-out, then for reasons of consistency the skilled person would have considered to signal improper termination in the same way. The board cannot see that such adaptation needs major constructional changes, because D2 already discloses providing feedback to printing clients (the addresses of which are set during the initialisation process) indicating a printer status change and signalling that "a printing request has been completely serviced" (see column 17, lines 2 to 10).

11. In the decision under appeal the opposition division provided an analysis of D1 and D2 identifying for each document distinguishing features with respect to the claimed subject-matter (pages 3 and 4 of the decision). Based on this analysis the opposition division arrived at the conclusion that D2 cannot be combined with D1 and that any combination of D1 with D2 constituted hindsight (see bottom of page 4 of the decision under appeal).

It appears that in doing so the opposition division placed too much emphasis on the meaning of the feature "arbitrary terminal" and confused the question whether two documents can be combined with the determination of whether the combination results in the claimed subject-

matter. In the judgment of the board the combination of documents D2 and D1 is justified because both documents relate to the technical field of network printing systems and even more narrowly to the field of communicating print results in network printing systems.

Conclusion

12. For the above reasons, claim 1 does not fulfil the requirements of Article 56 EPC 1973. Thus the appellant's main request is not allowable.

Auxiliary requests
Admissibility - Article 13(1) RPBA

13. The appellant did not object to admitting the first auxiliary request. Since the respondent provided reasons why this request could overcome the objection with respect to inventive step of the main request and since dealing with it did not significantly increase complexity, the board decided to admit it.
The second and third auxiliary requests correspond to the fifth and sixth auxiliary requests, respectively, as filed with the reply to the statement of grounds of appeal, with claim 1 according to each of these requests having the same additional feature as claim 1 of the first auxiliary request. Hence, these requests are admissible for the same reasons.

Auxiliary requests 1 and 2
Inventive step - Article 56 EPC 1973

14. D1 discloses "means for extracting an e-mail address of a notification destination that has been added to the

received print data" (see point 9 *supra*). Accordingly, the subject-matter of claim 1 of the appellant's first auxiliary request lacks an inventive step for the same reasons as claim 1 of the main request.
Hence, the first auxiliary request is not allowable.

15. The independent claims of the second auxiliary request additionally define a direct connection between the printing machine and the network. As set out in point 5.2 above, the printing system 17 of D2, figure 1, is not distinguished from a printing machine. It is apparent from figure 1 that the printing system 17 consisting of print server 10 and printers 16a, 16b receives print data and has a printing function. The printing system is also directly connected to the network (12). Hence, the additional feature of the independent claims according to the second auxiliary request is disclosed in D2. The subject-matter of these claims lacks an inventive step for the same reasons as claim 1 of the main request.
Hence, the second auxiliary request is not allowable.

Auxiliary request 3
Amendments - Article 123(2) and (3) EPC

16. The independent claims of the third auxiliary request incorporate the features of dependent claim 4 of the application as filed and of the opposed patent. Hence, the board has no objections under Article 123(2) and (3) EPC.

17. Independent claim 1 of the third auxiliary request additionally defines that the print data contain "process result items", which are extracted and that a

process result is transmitted to the extracted e-mail address if the result of the printing process matches a process result item. As stated in paragraph [0086] of the opposed patent, the claimed subject-matter implies that "the printing requesting side can dynamically designate the notification e-mail address and the type of notifiable result information …". Only when a specific printing result such as 'paper jam' is specified as a process result item and a match occurs is an e-mail sent to the notification destination.

This feature is not disclosed in any of the prior-art documents. In analogy to the feature distinguishing the subject-matter of claim 1 of the main request from D2, specifying process result items also provides for increased flexibility and control of the printing process. Hence, the technical problem can be formulated like that for the main request, i.e. how to give more control of the print process to the user.

Both D1 and D7 show the transmission of control data together with the print data, wherein the control data allow the e-mail address of the print requester or that of the print job receiver to be extracted. There is, however, no hint in any of these documents to provide a further extension of the print data (i.e. a protocol extension) by transmitting process result items together with the print data and providing, as part of the printing machine, means for receiving and extracting such information to conditionally (and selectively) react to the result items. This protocol extension has the further beneficial effect of allowing the filtering out of error events in which a user is

not interested, or even of defining different destination addresses for different print results.

Thus, having regard to the state-of-the-art documents adduced in appeal proceedings, the printing machine specified in claim 1 was not obvious to a person skilled in the art. Hence, the claimed subject-matter involves an inventive step.

18. The appellant based his argument with respect to lack of inventive step on column 21, lines 44 to 48 of D2. He argued that it would have been obvious to change the status block recipient field 190 for every set of print data. However, this passage does not refer to information which is extracted from result items which are added to the received print data. Moreover, there is no hint in the cited prior art that the notification destination should be changeable depending on the specific process result which is monitored. Hence, the appellant's argument that the subject-matter of claim 1 would have been obvious starting from D2 did not convince the board.

19. The findings above apply also to the subject-matter of independent claim 6, because it relates to a communication result notifying method having the essential features of claim 1 on which the above decision is based, namely of (a) obtaining process result items and (c) sending a conditional notification to the extracted e-mail address. Moreover, the above findings also apply to the subject-matter of claims 2 to 5, because these claims are dependent on claim 1. Hence, the board is of the opinion that, taking into consideration the amendments made in accordance with

the third auxiliary request, the claims meet the requirements of the EPC.

20. Since the board finds the claims according to the third auxiliary request to be allowable, the fourth and fifth auxiliary requests are of no relevance for the present decision.

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 with the following claims and a description to be adapted:
Claims 1 to 6 according to the third auxiliary request submitted in the oral proceedings on 8 June 2011.

The Registrar: The Chairman:

K. Boelicke F. Edlinger