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**Datasheet for the decision
of 22 January 2013**

Case Number: T 0702/10 - 3.5.03
Application Number: 03737019.4
Publication Number: 1532498
IPC: G05B 19/418, G07C 3/14
Language of the proceedings: EN

Title of invention:

Manufacturing information and troubleshooting system and method

Patent proprietor:

Kimberly-Clark Worldwide, Inc.

Opponents:

The Procter & Gamble Company
SCA Hygiene Products AB

Headword:

Troubleshooting system/KIMBERLY-CLARK

Relevant legal provisions:

EPC Art. 100(c)

Keyword:

"Added subject-matter (all requests) - yes"



Case Number: T 0702/10 - 3.5.03

DECISION
of the Technical Board of Appeal 3.5.03
of 22 January 2013

Appellant: Kimberly-Clark Worldwide, Inc.
(patent proprietor) 401 North Lake Street
Neenah WI 54956 (US)

Representative: Chiva, Andrew Peter
Dehns
St Bride's House
10 Salisbury Square
London EC4Y 8JD (GB)

Respondent I: The Procter & Gamble Company
(opponent 1) One Procter & Gamble Plaza
Cincinnati, OHIO 45202 (US)

Representative: Anderson, James Edward George
Elkington and Fife LLP
Prospect House
8 Pembroke Road
Sevenoaks
Kent TN13 1XR (GB)

Respondent II: SCA Hygiene Products AB
(opponent 2) S-405 03 Göteborg (SE)

Representative: Hoffmann Eitle
Patent- und Rechtsanwälte
Arabellastraße 4
D-81925 München (DE)

Decision under appeal: **Decision of the opposition division of the
European Patent Office posted 28 January 2010
revoking European patent No. 1532498 pursuant
to Article 101(3) (b) EPC.**

Composition of the Board:

Chairman: F. van der Voort
Members: B. Noll
R. Menapace

Summary of Facts and Submissions

- I. This appeal by the patent proprietor is against the decision of the opposition division revoking European Patent no. 1532498 on the ground that the subject-matter of, inter alia, claim 1 of each one of a main request and three auxiliary requests extended beyond the content of the application as filed (Article 100(c) EPC).
- II. Together with the statement of grounds of appeal the appellant filed, by way of replacement, sets of claims of a main request and first and second auxiliary requests. The appellant implicitly requested that the decision under appeal be set aside and that the patent be maintained on the basis of one of the requests as filed with the statement of grounds of appeal. Oral proceedings were conditionally requested.
- III. Opponent 01 (respondent I) filed a reply with a letter dated 22 July 2010 and requested, inter alia, that the appeal be dismissed. Oral proceedings were conditionally requested.
- IV. Opponent 02 (respondent II) filed a reply with a letter dated 6 September 2010 and requested that the appeal be dismissed. Oral proceedings were conditionally requested.
- V. In a communication accompanying a summons to oral proceedings the board drew the parties' attention to points to be discussed at the oral proceedings.

VI. Oral proceedings before the board were held on 22 January 2013.

The appellant requested that the decision under appeal be set aside and that the patent be maintained on the basis of the main request or, alternatively, one of the first and second auxiliary requests, all as filed with the statement of grounds of appeal.

The respondents requested that the appeal be dismissed.

After deliberation, the board's decision was announced.

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

"An automatic troubleshooting system (1100), suitable for use in connection with a web converting manufacturing process having at least one machine operating at a set point and producing a composite article from a sequential addition of component parts during a production run of the composite articles, said system comprising:

a communication network (1124);

characterized in that the system further comprises a first inspection system (1106) for automatically inspecting in use a first aspect (80) of a composite article being produced during the production run after a first component part has been added to the article being produced;

said first inspection system providing via the communication network a first inspection parameter indicative of a characteristic of the first aspect in use;

a second inspection system (1106) for automatically

inspecting in use a second aspect of the composite article after a second component part has been added to the article being produced, said second inspection system providing a second inspection parameter via the communication network indicative of a characteristic of the second aspect in use; and
a logic system (1110) for obtaining via the communication network a plurality of the first inspection parameters in use, each corresponding to one of a plurality of composite articles produced during the production run, and for obtaining a plurality of the second inspection parameters in use, each corresponding to one of said plurality of composite articles, said logic system determining a first mathematical characteristic associated with the obtained plurality of first inspection parameters and a second mathematical characteristic associated the obtained plurality of second inspection parameters in use, and said logic system determining a corrective action in response to the first and second mathematical characteristics in use,
wherein the first inspection system (1106) comprises a first detection system, and wherein the first inspected aspect of the composite article comprises a position of a component part of said article,
wherein the second inspection system (1106) comprises a second detection system positioned downstream from the first detection system (1106) on the production line, and wherein the second inspected aspect of the composite article comprises the position of the component part of said article."

Claim 1 of the first auxiliary request differs from claim 1 of the main request in that in the first

paragraph the wording "high speed" is inserted before "web converting manufacturing process".

Claim 1 of the second auxiliary request differs from claim 1 of the first auxiliary request in that in the third paragraph the passage "after a first component part has been added" and in the fifth paragraph the passage "after a second component part has been added" are each replaced by "after a first component part and a second component part have been added".

Reasons for the Decision

1. *Claim 1 of the main request - added subject-matter*

1.1 The troubleshooting system as claimed in claim 1 of the main request includes first and second inspection systems. The first inspection system is arranged "for automatically inspecting in use a first aspect (80) of a composite article being produced during the production run after a first component part has been added to the article being produced". The second inspection system is arranged "for automatically inspecting in use a second aspect of the composite article after a second component part has been added to the article being produced".

The wording "after a first component part has been added to the article being produced" and "after a second component part has been added to the article being produced" was added to claim 1 in the course of the examination procedure.

1.2 The appellant argued that the subject-matter of claim 1 was based on a combination of claims 2 and 5 as originally filed, a passage of the "summary of the invention" at page 5 line 29 to page 6 line 21 of the description as filed (reference is made to the application as published (WO 2004/014274 A2)), and Figures 12 and 14 in conjunction with the corresponding parts at page 90 line 31 to page 92 line 27 and page 105 lines 21 to 32 of the description. The appellant further argued that the above-mentioned wording had only explanatory character and did not add anything in substance to the claim, i.e. did not change the scope of the claim, since a composite article, by definition, must have at least two component parts.

1.3 The board does not concur with the appellant's argument that the above-mentioned wording does not change the claim in substance. The wording implies specific positions along the production line for the first and second inspection systems, namely a position for the first inspection system at which the article to be inspected is a composite article to which a first component part has been added, and a position for the second inspection system at which the article to be inspected is the composite article to which a second, i.e. further, component has been added. These implied positions further limit the troubleshooting system in addition to the feature of claim 1 according to which the second detection system of the second inspection system is positioned downstream from the first detection system of the first inspection system on the production line (see claim 1 last two paragraphs). The board further notes that interpreting the claim, as the appellant suggested, such that the first and second

component parts are simply the first two constituent parts of the composite article would, in any case, be inconsistent with the corresponding features in the claim, since the claim specifies that the first and second component parts are "added to the article". This implies that a composite article must already exist before the first and second component parts are added and, hence, that these first and second component parts are parts other than the first two constituent parts of the composite article.

- 1.4 Having regard to the passages of the description indicated by the appellant as forming a basis for the subject-matter of claim 1, it is noted that in the summary of the invention (cf. page 5 line 34 to page 6 line 9) it is stated that "A first inspection system automatically inspects a first aspect of a composite article" and "A second inspection system automatically inspects a second aspect of the composite article". These statements are unspecific as regards the positioning of the inspection systems along the production line and cannot therefore serve as a basis for the added position indications in present claim 1.

Nor can the troubleshooting system as shown in Figure 12 serve as a clear and unambiguous basis for the features mentioned above. Figure 12 shows three machine vision systems 1502, 1512, 1520 and their positions are described at page 80 of the description as follows:

- a) the first machine vision system 1502 "is positioned to inspect a composite web of material 1504 ... formed by a forming/joinder process ... 1506 carried out on

two supplied web components 1508, 1510 ..." (cf. page 80 lines 9 to 15).

b) the second machine vision system 1512 "is positioned to inspect each training pant produced at a position 1514 after fastening system 80 is added to the side panels of each training pant ..." (cf. page 80 lines 23 to 26).

c) the third machine vision system 1520 "is positioned downstream of the fastening engagement process 1519 and is referred to as an assembled fastening system inspection system ... because it inspects the fastening seam of the completed training pants 1522 after fastening engagement process 1519" (cf. page 80 line 33 to page 81 line 5).

If, for the sake of argument, the first inspection system referred to in claim 1 were considered as being based on the second machine vision system 1512 (see Figure 12) which is positioned for inspecting the composite article after fastening system 80 is added, there would be no basis in figure 12 for a second inspection system which is located at a position at which a second component part has been added. More specifically, the first machine vision system 1502 is positioned to inspect the composite article before the fastening system 80 is added, whilst the third machine vision system 1520 is positioned for inspecting the composite article after the fastening system 80 has been added and after the fastening engagement process 1519 has been carried out. Thus, neither of machine vision systems 1502 or 1520 in Figure 12 can serve as a

basis for the position of the second inspection system as specified in claim 1.

The description at page 90 line 31 to page 92 line 27 and Figure 14 of the application as published do not add anything which would go further than what is discussed above concerning the position of the first and second inspection systems and, therefore, cannot serve as a basis for the position of the first and second inspection systems either.

Claim 2 as originally filed is silent on the position of the first and second inspection systems. Claim 5 as originally filed is concerned with the inspection tasks to be performed by the first and second inspection systems, namely the detection of the position of a component part of the article at different locations along the production line. Claim 5 does not however provide a basis for a definition of the position of the first and second inspection systems by reference to the addition of first and second component parts to the composite article being produced.

The description at page 105 lines 21 to 32 relates to a system in which a product component to be inspected triggers a camera. This passage does not however define the position of first and second inspection systems by reference to the addition of first and second component parts to the composite article.

- 1.5 In conclusion, the indications of position of the first and second inspection systems in claim 1 do not have a clear and unambiguous basis in the application documents as filed. For this reason, the ground for

opposition pursuant to Article 100(c) EPC prejudices the maintenance of the patent on the basis of the main request.

2. *Claim 1 of the first auxiliary request - added subject-matter*

The above-mentioned indications of position of the first and second inspection systems are also present in claim 1 of the first auxiliary request.

Thus, for the same reasons as those given above in respect of claim 1 of the main request, the ground for opposition pursuant to Article 100(c) EPC prejudices the maintenance of the patent on the basis of the first auxiliary request.

3. *Claim 1 of the second auxiliary request - added subject-matter*

As regards the indications of position of the first and second inspection systems, claim 1 of the second auxiliary request specifies that both the first and second inspection systems are arranged for inspection of the composite article "after a first component part and a second component part have been added to the article being produced". The application as filed does not provide a clear and unambiguous basis for this feature for the same reasons as given above in respect of claim 1 of the main request.

It thus follows that the ground for opposition pursuant to Article 100(c) EPC prejudices the maintenance of the patent on the basis of the second auxiliary request.

4. Since there is no request on the basis of which the patent can be maintained, the appeal has to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar:

The Chairman:

G. Rauh

F. van der Voort