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Datasheet for the decision of 25 September 2015

Case Number: T 0721/11 - 3.2.05

Application Number: 04763095.9

Publication Number: 1644201

IPC: B41N10/00

Language of the proceedings: EN

Title of invention:
Printing blanket with convex carrier layer

Patent Proprietor:
Goss International Americas, Inc.

Opponent:
manroland web systems GmbH

Headword:

Relevant legal provisions:
EPC 1973 Art. 54, 56, 83
EPC Art. 123(2)

Keyword:
Sufficiency of disclosure - (yes)
Amendments - added subject-matter (no)
Novelty - (yes)
Inventive step - (yes)

Decisions cited:

Catchword:

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Case Number: T 0721/11 - 3.2.05

D E C I S I O N
of Technical Board of Appeal 3.2.05
of 25 September 2015

Appellant: (Opponent)	manroland web systems GmbH Alois-Sennefelder-Allee 1 86219 Augsburg (DE)
Respondent: (Patent Proprietor)	Goss International Americas, Inc. 121 Broadway Street Dover, NH 03820 (US)
Representative:	Oliver Tischner Cabinet Lavoix 2, place d'Estienne d'Orves 75441 Paris Cedex 09 (FR)
Decision under appeal:	**Interlocutory decision of the opposition division of the European Patent Office posted on 24 February 2011 concerning maintenance of the European Patent No. 1644201 in amended form.**

Composition of the Board:

Chairman	M. Poock
Members:	H. Schram
	D. Rogers

Summary of Facts and Submissions

I. On 28 March 2011 the appellant (opponent) lodged an appeal against the interlocutory decision of the opposition division posted 24 February 2011 concerning the maintenance of European patent No. 1 644 201 in amended form. The statement setting out the grounds of appeal was received together with the notice of appeal.

The opposition division held that claim 1 as granted was not new, but that the grounds of opposition under Article 100(c) EPC 1973 (inadmissible extension, Article 123(2) EPC), Article 100(b) EPC 1973 (insufficiency of disclosure, Article 83 EPC 1973) and Article 100(a) EPC 1973 (lack of novelty, Article 54 EPC 1973, and lack of inventive step, Article 56 EPC 1973) did not prejudice the maintenance of the patent in amended form on the basis of claims 1 to 18 filed as auxiliary request A (see points 2.3.4 and 3 of the reasons).

II. Oral proceedings were held before the board of appeal on 25 September 2015. The representative of the appellant informed the board with letter of 6 August 2015 that the appellant would not attend the oral proceedings and requested a decision on the basis of the file as it stood.

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

The final requests of the respondent were that, as a main request, the appeal be dismissed, and subsidiarily, that the decision under appeal be set aside and that the patent be maintained upon the basis

of Appeal Auxiliary Request I filed at the oral proceedings before the board on 25 September 2015, or upon the basis of one of Auxiliary Requests II to VI, filed under cover of a letter dated 14 June 2011.

IV. Claims 1 of the main request and of auxiliary request I read as follows:

"A printing blanket comprising:
a carrier sleeve layer (22) having at least one axially convex surface; and
a print layer (26) disposed over the carrier sleeve layer,
wherein an outer surface of the print layer has a convex axial profile
when the blanket is disposed on the blanket cylinder without pressure,
wherein the carrier sleeve is of uniform thickness."

Claim 13 of auxiliary request I reads as follows:

"An offset printing press comprising:
an image cylinder;
a blanket cylinder; and
a printing blanket according to any of the preceding claims,
the printing blanket being disposed over the blanket cylinder."

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

E1 EP-A 0 659 585;

E4 DE-A 2 151 650;

E5 CH 355 786;

E6 CH 456 649;

E7 US 6,374,734.

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

Claim 1 of the main request, which was directed to a printing blanket comprising a carrier sleeve layer having at least one axially convex surface and a uniform thickness, encompassed an interpretation that the carrier sleeve layer had an inherent axial surface convexity, ie an axial convexity not provided by a blanket cylinder. Such a carrier sleeve layer was not disclosed in the application as filed. Said claim contravened therefore the requirements of Article 123(2) EPC. Claim 2 of the main request required that the carrier sleeve layer was thicker in an axial middle than at axial ends, thus contradicting the "uniform thickness" feature of claim 1 of said request to which claim 2 referred. This combination of features was neither disclosed in the application as filed nor could be carried out by a person skilled in the art, contrary to Article 123(2) EPC and Article 83 EPC 1973, respectively. Since the patent in suit did not contain a teaching how a printing blanket comprising a carrier sleeve layer having an inherent axial surface convexity could be mounted on a blanket cylinder of an offset printing press, the objection of insufficiency of disclosure applied also to claim 14 of the main request.

Claim 1 of the main request encompassed a second interpretation, namely that the carrier sleeve layer had an axial surface convexity only when the printing blanket was disposed on an axially convex blanket cylinder. In that case the claimed printing blanket was merely a standard printing blanket having a cylindrical surface, which would acquire an axially convex shape only when mounted on an axially convex blanket cylinder. Document E7 disclosed (see Figures 5 to 10 and the corresponding description) a gapless tubular printing blanket with a carrier sleeve layer of uniform thickness, and where necessary a further compressible layer and an inextendable layer, which blanket can be mounted on a blanket cylinder. When the printing blanket was disposed on the blanket cylinder of a printing press (column 3, lines 43 to 57), it had all the features of claim 1 of the main request. Document E7 also disclosed all the features of claim 14 of the main request. The subject-matter of said claims was therefore not new with respect to document E7, or not inventive with respect to said document in combination with documents E4, E5, E6 or E1. In particular, documents E4 disclosed (see Figure 2) an axially convex blanket cylinder. Axially convex blanket cylinders were also known from document E5 (see Figure 7), document E6 (see Figure 4) and document E1 (see Figure 8).

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

Claims 1 of the main request and auxiliary request I were a combination of claims 1, 3 and 6 as filed and met the requirements of Article 123(2) EPC. That said claims might encompass a printing blanket having an inherent axial surface convexity was different from the situation that said claims claimed that the carrier

sleeve layer had an inherent axial surface convexity. Claim 1 as maintained did not state that the printing blanket was necessarily mounted on an axially convex cylinder. Embodiments showing different blanket types were for example shown in the figures and were disclosed in the corresponding paragraphs of the description. The person skilled in the art was therefore perfectly capable of manufacturing a printing blanket and an offset printing press as claimed.

Document E7 disclosed a printing blanket for offset printing having a cylindrical shape (column 5, lines 54 to 56, and Figure 5). There was no indication in document E7 that the surface of blanket cylinder 14 was anything else than cylindrical. The cylindrical shape of the blanket was therefore also present when the printing blanket was mounted on the blanket cylinder 14. Furthermore, document E7 did not disclose an axially convex outer surface of a print layer when there was no pressure applied. Document E4 disclosed a blanket cylinder 2 which could have a axially convex or concave outer surface in addition to the possible cylindrical surface. However, the person skilled in the art would not use specifically the axially convex feature and transpose it individually from document E4 to document E7. Document E5 disclosed a rubber cylinder for gravure printing. Rubber cylinders for gravure printing are different from printing blankets for offset printing, as claimed. Also, Figure 7 of said document showed a cylinder with an axially convex core. An axial convex outer surface was not disclosed in this embodiment, as the pressure distribution was obtained by a rubber layer which was thicker towards the axial ends than the axial middle (page 2, lines 29 to 37). Document E6 also referred to gravure printing, which was a different technology than the one claimed. Figure

4 of said document did not show the condition in which no pressure was applied. The person skilled in the art would therefore not transpose any features from documents E5 or E6 to document E7. By combining document E7 with documents E5 or E6, the person skilled in the art would also not obtain all of the features of claim 1 of either the main request or auxiliary request I. Document E1 disclosed manufacturing a layer by grinding. When using this technology, the carrier sleeve would in all cases be of non-uniform thickness. Figure 8 of said document showed a concave outer surface and was therefore not relevant with respect to claim 1 of the main request or auxiliary request I which claimed an axially convex outer surface. For these reasons claim 1 of the main request and of auxiliary request I were novel and inventive with respect to the cited prior art.

Reasons for the Decision

1. The appeal is admissible.

MAIN REQUEST

2. *Ground for opposition under Article 100(b) EPC 1973 in combination with Article 83 EPC 1973*

Dependent claim 2 of the main request requires on the one hand that "the carrier sleeve layer is thicker in an axial middle than at axial ends" and, on the other hand, since it refers to claim 1 of said request, that said carrier sleeve is of uniform thickness. These requirements are contradictory.

Hence the invention claimed in claim 2 of the main request is not disclosed in the patent in suit in a manner sufficiently clear und complete for it to be carried out by a person skilled in the art, and thus does not fulfil the requirements of Article 83 EPC 1973.

AUXILIARY REQUEST I

3. *Grounds for opposition under Article 100(c) EPC 1973 in combination with Article 123(2) EPC and under Article 100(b) EPC 1973 in combination with Article 83 EPC 1973*

3.1 Claim 1 of auxiliary request I differs from claim 1 as granted in that the expression "wherein the carrier sleeve is of uniform thickness" has been added at the end of the claim.

A basis for this feature is claim 3 as originally filed.

3.2 The appellant has submitted that claim 1 of the main request encompassed an interpretation of said claim, according to which the outer surface of the carrier sleeve layer had an inherent axial surface convexity, ie a convexity not provided by the blanket cylinder. As a result, said claim did not meet the requirements of Article 123(2) EPC and the invention claimed in claims 1 and 14 of the main request were not disclosed in a manner sufficiently clear and complete for it to be carried out by a person skilled in the art, cf Article 83 EPC 1973.

3.3 The board assumes that this submission also applies to claims 1 and 13 of auxiliary request I, which are identical to claims 1 and 14 of the main request.

Claim 1 of auxiliary request I does not state that the printing blanket is mounted on a blanket cylinder and is not limited to a printing blanket mounted on an axially convex blanket cylinder. However, since there is no disclosure in the patent in suit of a printing blanket having an axially convex outer surface when it is not disposed on an axially convex blanket cylinder, said claim cannot be construed to encompass a printing blanket having an inherent axial surface convexity.

Claim 1 of auxiliary request I has therefore not been amended in such a way that it contains subject-matter extending beyond the content of the application as filed, and thus meets the requirements of Article 123(2) EPC.

Since printing blankets having an inherent axial surface convexity are not encompassed by claims 1 and 13 of auxiliary request I, the inventions claimed in these claims are disclosed in a manner sufficiently clear und complete for it to be carried out by a person skilled in the art. Hence the requirements of Article 83 EPC 1973 are fulfilled.

4. *Interpretation of claims 1 and 13 of auxiliary request I*

The term “blanket cylinder” encompasses a blanket cylinder with or without a shim, cf paragraph [0017] of the patent and Figures 3A and 3B. In the opinion of the board, the person skilled in the art will construe said term in the expression “when the blanket is disposed on the blanket cylinder without pressure” of claim 1 of auxiliary request I, in the light of the patent in suit read as a whole, and taking into account that the

carrier sleeve is of uniform thickness (ruling out that the axially convex surface of the carrier sleeve is provided by making the thickness of said sleeve thicker in an axial middle than at the ends), as an "axially convex blanket cylinder", cf paragraph [0020] of the patent.

The penultimate feature of claim 1 of auxiliary request I, ie "when the blanket is disposed on the blanket cylinder without pressure" not only refers back to the feature "wherein an outer surface of the print layer has a convex axial profile", but also to the feature "a carrier sleeve layer (22) having at least one axially convex surface" (cf paragraphs [0005] to [0007] and [0026] of the patent). The person skilled in the art will understand that, when the printing blanket is disposed on a blanket cylinder, the print layer and carrier sleeve layer of the printing blanket will only have an axially convex outer surface, when no external pressure is applied to said layers (eg a pressure exerted by a printing plate in an offset printing press may deform the outer surface of these layers).

While claim 1 of auxiliary request I does not require that the printing blanket is mounted on an axially convex blanket cylinder, it does not exclude it either. The printing blanket according to said claim 1 must in any case be suitable to be mounted on an axially convex blanket cylinder.

Similar considerations hold for the offset printing press claimed in independent claim 13 of auxiliary request I. In particular, the blanket cylinder mentioned in said claim must be axially convex.

5. *Ground for opposition under Article 100(a) EPC 1973 in combination with Articles 54 and 56 EPC 1973*

5.1 The appellant has submitted that the subject-matter of auxiliary request I was not new over document E7, or not inventive with respect to said document in combination with documents E4, E5, E6 or E1.

5.2 Novelty

Document E7 discloses (see Figures 5 to 10, column 5, lines 48 to 53, and column 6, lines 7 to 12) a tubular, cylindrical printing blanket 18 for use on a blanket cylinder in an offset printing press comprising a cylindrical outer layer 66 ("print layer"), a second or intermediate cylindrical layer 68 formed of a compressible material ("compressible layer"), a cylindrical third layer 74 ("carrier sleeve layer") and where necessary an inextendable layer 112 ("inextensible layer"), which blanket can be mounted on blanket cylinder 14 by means of cylindrical mounting sleeve 80 (the expressions between brackets refer to the corresponding terms in claim 1 of auxiliary request I). The printing blanket 18, which has a cylindrical metal sleeve of uniform thickness 80 (see Figure 5), can be manually slid onto the "axially straight" blanket cylinder ("axially straight" refers to the cross-sectional profile of the outer surface of the cylindrical blanket in the axial direction), see column 7, lines 12 to 16, and lines 26 to 33; see also column 3, lines 43 to 61). This document does not disclose that said printing blanket is suitable to be slid onto an axially convex blanket cylinder (since the sleeve is made of metal, eg formed of nickel, it is questionable that it can be slid onto said convex blanket cylinder, and if it could be slid, the outer surface of printing

blanket 18 would still be cylindrical, since the cylindrical mounting sleeve 80 would not conform to an axially convex blanket cylinder).

The subject-matter of claim 1 of auxiliary request I is therefore new with respect to document E7, Article 54 EPC 1973. This also applies to the subject-matter of claim 13 auxiliary request I, since document E7 does not disclose an offset printing press comprising an axially convex blanket cylinder.

5.3 Inventive step

The main argument of the appellant is that if the printing blanket known from document E7 was disposed on the blanket cylinder of an offset printing press that is axially convex (see eg documents E4, E5, E6 or E1), the printing blanket and the offset printing press would have all the features of claims 1 and 13 of auxiliary request I.

This cannot be accepted for the following reasons. The printing blanket known from document E7 is fixedly secured to the metal mounting sleeve, the inner side of which engages the blanket cylinder (column 10, lines 5 to 16). The mounting sleeve cannot be dispensed with. If the printing blanket including the mounting sleeve were to be mounted on any of the blanket cylinder known from documents E4, E5, E6 or E1, the printing blanket will not assume an axially convex shape, cf point 5.2 above.

The subject-matter of claims 1 and 13 of auxiliary request I are therefore not obvious to the person skilled in the art and therefore involve an inventive

step. The same conclusion applies to the dependant claims of auxiliary request I.

Order

For these reasons it is decided that:

1. The decision under appeal is set aside.

2. The case is remitted to the department of first instance with the order to maintain the patent on the basis of the following documents:

Claims:
Nos. 1 to 17 of auxiliary request I received during the oral proceedings of 25 September 2015;

Description:
Pages 2 to 4 received during the oral proceedings of 25 September 2015;

Drawings:
Pages 7 to 12 of the patent specification.

The Registrar: The Chairman:

D. Meyfarth M. Poock

Decision electronically authenticated