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Datasheet for the decision of 18 September 2013

Case Number: T 1512/11 - 3.2.05

Application Number: 06800579.2

Publication Number: 1943101

IPC: B41J 2/14, B41J 2/16

Language of the proceedings: EN

Title of invention:
Orifice plate coated with palladium nickel alloy

Applicant:
Hewlett-Packard Development Company, L.P.

Headword:
-

Relevant legal provisions (EPC 1973):
EPC Art. 54

Keyword:
"Novelty - no"

Decisions cited:
-

Catchword:
-

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Case Number: T 1512/11 - 3.2.05

D E C I S I O N
of the technical board of appeal 3.2.05
of 18 September 2013

Appellant: (Applicant)
Hewlett-Packard Development Company, L.P.
Intellectual Property Administration
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Houston TX 77070 (US)

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Decision under appeal:
Decision of the examining division of the European Patent Office posted 29 April 2011 refusing European patent application No. 06800579.2 pursuant to Article 97(2) EPC.

Composition of the board:

Chairman: M. Poock
Members: H. Schram
M. J. Vogel

Summary of Facts and Submissions

I. On 16 June 2011 the appellant (applicant) lodged an appeal against the decision of the examining division, posted on 29 April 2011, by which European patent application No. 06 800 579.2 was refused on the grounds that the subject-matter of claim 1 of the sole request was not new vis-à-vis document US 2003/0043233 A1 (D1). The statement of grounds of appeal was filed on the same day.

II. The appellant requested that the decision under appeal be set aside and that a patent be granted on the basis of claims 1 to 7 filed on 24 August 2009.

III. In a communication dated 29 April 2013 the appellant was summoned to oral proceedings pursuant to Rule 155(1) EPC scheduled to take place on 18 September 2013.

In reply to the summons the appellant informed the board on 13 June 2013 that neither the representative nor appellant will attend the oral proceedings. Subsequently, the scheduled oral proceedings were cancelled by the board.

IV. Claim 1 according to the sole request reads as follows:

"1. A printhead (80) comprising:

a resistor assembly (96); and

an orifice plate assembly coupled to said resistor assembly (96);

wherein said orifice plate assembly includes a core orifice plate (104, 300) having an orifice formed therein and

characterized in that a palladium-nickel alloy is plated on said core orifice plate (104, 300) to form an outermost protective layer on said core orifice plate."

V. In support of his request, the appellant submitted that in the decision under appeal, the finding of lack of novelty was based on the view that in one of the embodiments of a printhead described in paragraphs [0019] and [0020] of document D1 a palladium-nickel alloy was plated on the core plate material to form an outermost protective layer, but that this was not justified.

The wording of the last sentence of paragraph [0020], viz "where the plating material is gold, or another precious metal, the core plate material would be plated with Ni—Rh, Ni—Pd, or Ni—Au", referred to paragraph [0019], in particular to the passage "... the core plate material is nickel. The core plate material is plated with a plating material 80 or a protective material". According to the first sentence of paragraph [0020], the core plate material is formed by plating over a substrate. From the wording of the sentence "the plating material 80 is gold or another precious metal" of paragraph [0020] it was clear that the core plate material was plated with the combination of nickel and the plating material 80 (cf the fourth sentence of paragraph [0020]), meaning that the core plate material was first plated with nickel and then with the plating material 80. If said plating material were "gold, or another precious metal" (cf the last sentence of paragraph [0020]) and if Ni—Pd was chosen for plating the core plate material, the following structure was obtained: substrate - core plate material (Ni) - Ni—Pd

layer - plating material 80 (gold or another precious metal). Since the Ni—Pd layer was not the outermost protective layer of the core orifice plate of the printhead known from document D1, this document did not destroy the novelty of the subject-matter of claim 1.

Reasons for the Decision

1. The appeal is admissible.

2. *Objection of lack of novelty, Article 54 EPC 1973*

Document D1 discloses all the features of the preamble of claim 1. Since this has not been contested by the appellant, there is no need for further substantiation of this matter.

In the judgment of the board, the word "combination" in the expression "the core plate material is plated with a combination of nickel and the plating material 80", referring to a second embodiment in paragraph [0020] of document D1, should be taken literally, ie the core plate material is plated with a material which is a combination of nickel and plating material 80. Said expression should not be construed as meaning that the core plate material is first plated with nickel and subsequently plated with a second plating material 80 as argued by the appellant. The literal interpretation of the word "combination" is corroborated by the last sentence of paragraph [0020] referring to said second embodiment, wherein three specific examples of precious materials are mentioned in combination with nickel, ie Ni—Rh, Ni—Pd, or Ni—Au. Thus document D1 discloses

that the core plate material ("core orifice plate") is plated with Ni—Pd, ie a palladium-nickel alloy, forming the outermost protective layer on said core plate material. It follows that document D1 also discloses the characterizing part of claim 1.

The subject-matter of claim 1 is therefore not new with respect to document D1.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chairman:

D. Meyfarth M. Poock