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Datasheet for the decision of 21 August 2018

Case Number: T 1274/12 - 3.5.05

Application Number: 08016797.6

Publication Number: 2017715

IPC: G06F3/12

Language of the proceedings: EN

Title of invention:
Printing method and apparatus having multiple raster image processors

Applicant:
Electronics for Imaging, Inc.

Headword:
Error Recovery Timeout/EFI

Relevant legal provisions:
RPBA Art. 13(1)
EPC Art. 84, 56

Keyword:
Late-filed request - amendments after arrangement of oral proceedings
Late-filed request - request clearly allowable (no)

Decisions cited:

Catchword:

Europäisches Patentamt
European Patent Office
Office européen des brevets

Beschwerdekammern

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Case Number: T 1274/12 - 3.5.05

D E C I S I O N
of Technical Board of Appeal 3.5.05
of 21 August 2018

Appellant: (Applicant)	Electronics for Imaging, Inc. 303 Velocity Way Foster City, CA 94404 (US)
Representative:	Zimmermann, Tankred Klaus Schoppe, Zimmermann, Stöckeler Zinkler, Schenk & Partner mbB Patentanwälte Radlkoferstrasse 2 81373 München (DE)
Decision under appeal:	**Decision of the Examining Division of the European Patent Office posted on 30 December 2011 refusing European patent application No. 08016797.6 pursuant to Article 97(2) EPC**

Composition of the Board:

Chair	A. Ritzka
Members:	E. Konak
	F. Blumer

Summary of Facts and Submissions

I. The appeal is against the decision of the examining division to refuse the application for violating the requirements of Article 123(2) EPC and for lacking an inventive step (Article 56 EPC) with regard to the following documents:

D3: US 5 287 194
D1: WO 97/06481.

II. With its statement setting out the grounds of appeal, the appellant filed claims 1 to 10 of one sole request. It requested that the decision be set aside and a patent granted on the basis of this request.

III. In its preliminary opinion annexed to the summons to oral proceedings the board raised objections under Article 56 EPC.

IV. In reply to the summons to oral proceedings the appellant filed claims 1 to 10 of one sole request to replace the request on file. It later informed the board that it would not be attending the oral proceedings. Oral proceedings were thus held in its absence.

V. Claim 1 reads as follows:

"A method for raster image processing, using a raster image processing printer software application (31) installed on a networked computer (32), said raster image processing printer software application adaptable to coordinate with a plurality of other component printer software applications associated with a

plurality of printers (34-36), and said raster image processing printer software application having at least one filter, the method comprising the steps of:
processing a job comprising at least one image with said raster image processing printer software application (31) into a bitmap;
said raster image processing printer software application (31) generating printing information from said bitmap for instructing at least one of said plurality of printers to print said job;
said raster image processing printer software application to receive instructions to print from said job and from at least one selected PPD option, said option including a job priority and job scheduling, and from an error recovery timeout option, wherein upon said error recovery timeout occurring, a job assigned to a printer experiencing an error, after a time elapse exceeding said error recovery timeout during which an engine operator has not corrected the error experienced by the printer, said job is automatically rerouted to another of said plurality of printers (34-36), and said job remains assigned to said printer if the engine operator has corrected the error experienced by the printer during said recovery timeout;
said filter parsing said job into one or more print pieces based on said PPD options and to minimise printing time based on all of color use, number of copies for jobs in a queue, and printer speed; and
forwarding said print pieces to said one or more of said plurality of printers (34-36) based upon said filter."

Claim 6 is for the corresponding system.

Reasons for the Decision

1. The sole request on file was filed in reply to the summons, and thus after the appellant had filed its grounds of appeal, and may thus be admitted at the board's discretion (Article 13(1) RPBA).

2. The independent claims of this request differ from the independent claims of the request previously on file in that the feature "and said job remains assigned to said printer if the engine operator has corrected the error experienced by the printer during said recovery timeout" has been added after the feature "wherein upon said error recovery timeout occurring, a job assigned to a printer experiencing an error, after a time elapse exceeding said error recovery timeout during which an engine operator has not corrected the error experienced by the printer, said job is automatically rerouted to another of said plurality of printers (34-36)".

3. This amendment gives rise to new objections under Article 84 EPC. In particular:

3.1 As the previous feature refers to one printer experiencing an error and to another printer to which the print job is automatically rerouted, it is not clear which printer is meant by "said printer" in the newly added feature.

3.2 The addition of the new feature by means of the conjunction "and" leads to a further lack of clarity, as the previous feature states that the print job is "rerouted", whereas the newly added feature states that it "remains".

4. Furthermore, the amendment is not suited to resolving the inventive-step objections raised by the board in the summons. The appellant submits that support for the newly added feature can be found on page 9 of the description, lines 11 to 19. This passage includes in particular the statement that "The purpose of the timeout period is to cause the claimed application to wait a period of time specified by the administrator before redirecting a job to another load-balanced printer. The timeout period allows the engine operator to correct the error condition before the job is redirected" (see the appellant's letter of reply to the summons, page 3, last two paragraphs). This passage is, however, exactly the same passage according to which the board had interpreted the distinguishing features of the independent claims of the request previously on file and their effect (see the preliminary opinion annexed to the summons, point 3.5.3). Therefore it is apparent that the newly added feature merely attempts to rephrase a feature which was already present in the claims of the request previously on file and hence is not suited to overcoming the outstanding inventive-step objections.

5. As the sole request gives rise to new objections and is not suited to resolving issues raised by the board, it is not clearly allowable. Therefore the board exercises its discretion under Article 13(1) RPBA and does not admit it into the appeal proceedings.

6. As there are no further requests on file, the appeal is to be dismissed.

Order

For these reasons it is decided that:

The appeal is dismissed.

The Registrar: The Chair:

K. Götz-Wein A. Ritzka

Decision electronically authenticated