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**Datasheet for the decision  
of 20 January 2016**

**Case Number:** T 0222/13 - 3.2.05

**Application Number:** 07005157.8

**Publication Number:** 1790483

**IPC:** B41J2/175

**Language of the proceedings:** EN

**Title of invention:**

Ink-jet printing apparatus and ink cartridge therefor

**Patent Proprietor:**

Seiko Epson Corporation

**Opponent:**

KMP PrintTechnik AG

**Relevant legal provisions:**

EPC Art. 100(c)

**Keyword:**

Amendments - added subject-matter (yes) - all requests



**Beschwerdekammern**  
**Boards of Appeal**  
**Chambres de recours**

European Patent  
Office  
D-80298 MUNICH  
GERMANY  
Tel. +49 (0) 89 2399-0  
Fax +49 (0) 89  
2399-4465

Case Number: T 0222/13 - 3.2.05

**D E C I S I O N**  
**of Technical Board of Appeal 3.2.05**  
**of 20 January 2016**

**Appellant:** KMP PrintTechnik AG  
(Opponent) Pfarrer-Findl-Strasse 40  
84307 Eggenfelden (DE)

**Representative:** Herzog, Fiesser & Partner Patentanwälte PartG  
mbH  
Isartorplatz 1  
80331 München (DE)

**Respondent:** Seiko Epson Corporation  
(Patent Proprietor) 4-1, Nishi-Shinjuku 2-chome  
Shinjuku-ku  
Tokyo 163-0811 (JP)

**Representative:** Hoffmann Eitle  
Patent- und Rechtsanwälte PartmbB  
Arabellastraße 30  
81925 München (DE)

**Decision under appeal:** **Interlocutory decision of the Opposition  
Division of the European Patent Office posted on  
13 November 2012 concerning maintenance of the  
European Patent No. 1 790 483 in amended form.**

**Composition of the Board:**

**Chairman** M. Poock  
**Members:** S. Bridge  
J. Geschwind

## Summary of Facts and Submissions

- I. The appeal was lodged against the interlocutory decision of the opposition division proposing to maintain the European patent No. 1 790 483 in amended form.
- II. An opposition was filed against the patent as a whole based on Article 100(a) EPC (lack of novelty and lack of inventive step) and Article 100(c) EPC.
- III. With a communication dated 29 October 2015 the board issued a summons to oral proceedings to be held on 20 January 2016 and provided its provisional opinion of the case which included the following:

*"8.2.2 Furthermore, in feature (6), the central electrode of the lower row has a certain "width larger than that of the other electrodes" and the plane may cross said electrode anywhere along this width. This appears to allow for a margin of displacement between the electrode and the plane corresponding to said width. Such a margin does not appear to have been directly and unambiguously disclosed to the skilled person in the application as filed.*

*8.2.3 For [...] these reasons, feature (6) does not appear to meet the requirements of Articles 100(c), 123(2) and 76(1) EPC."*

With a letter dated 28 October 2015 the respondent withdrew its request for oral proceedings.

With a letter dated 21 December 2015 the appellant declared that neither it nor its representative would be attending these oral proceedings.

The oral proceedings were held on 20 January 2016 in the absence of both parties.

- IV. The appellant (opponent) requested in writing that the decision under appeal be set aside and that the patent be revoked.
  
- V. The respondent (patent proprietor) requested in writing that the appeal be dismissed, as main request, and as auxiliary request that the decision under appeal be set aside and that the patent be maintained on the basis of claim 1 filed with the grounds of appeal together with claims 2 to 15 as granted.
  
- VI. The parties agreed to the following feature labelling (1) to (6) of claim 1 as amended during the opposition proceedings (main request):
  - (1) "An ink cartridge (40, 50) for detachably mounting on an ink jet printing apparatus and supplying ink to a print head (5) to which ink is supplied via an ink supply needle (6, 7), wherein:
  - (2) said ink supply port (44, 54) into which said ink supply needle (6, 7) is inserted is formed on one face of the cartridge;
  - (3) a circuit board (31) having semiconductor storage means is mounted in the vicinity of the ink supply port on another face which is adjacent to the face on which said ink supply port (44, 54) is formed; the circuit board being provided on a central line in the direction of the width of the face adjacent to the ink supply port, and
  - (4) plural electrodes (60) for connecting to external control means are formed on an exposed surface of said circuit board (31); wherein said electrodes

(60) include contact areas for connection to respective contact forming members (29, 29') of the ink jet printing apparatus; characterised in that

- (5) said electrodes (60) including said contact areas are arranged in an upper row and a lower row relative to the insertion direction of the ink cartridge (40, 50); and
- (6) a plane, which runs perpendicular to the exposed surface of said circuit board (31), and which includes the central line of said ink supply port (44, 54), crosses one (60-2) of said plural electrodes (60), the one electrode (60-2) being located in the center of the lower row and having a width larger than that of the other electrodes."

VII. Claim 1 according to the auxiliary request differs from claim 1 according to the main request as follows:

- the term "*wherein*" has been deleted from feature (4); and
- the following feature (7) has been added at the end of the claim:
  - (7) "*wherein* the one electrode (60-2) is adapted to touch plural contacts on the side of a printing apparatus and for detecting whether the corresponding ink cartridge is installed or not."

VIII. In the written procedure, the appellant (opponent) argued essentially as follows:

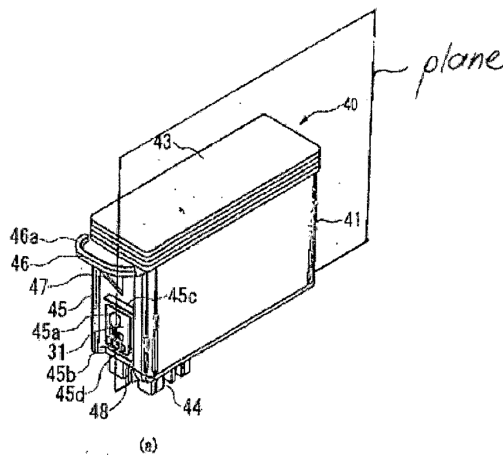
The passage in column 7, lines 54 to 58 of the application as published defines the location of the electrode 60-2 without any further degree of freedom, i.e., the electrode 60-2 must be on the central line of the ink supply port, while the definition in terms of a

plane as used in feature (6) of claim 1 permits an additional offset or spacing of the electrode to the ink central line within this plane and was not originally disclosed. In consequence, the location of the electrode 60-2, defined in terms of a plane that intersects it, is not disclosed in the application as filed.

Feature (6) of claim 1 according to the main request adds subject-matter which goes beyond the content of the application as originally filed as well as beyond the content of the earlier applications HE1 to HE3 as filed, contrary to Article 100(c) EPC.

IX. In the written procedure, the respondent (patent proprietor) argued essentially as follows:

The disclosure column 7, lines 55 to 58 of the application as published of "*located on the central line of the ink supply port*" is interpreted by the skilled person who understands that "*located on the central line*" means "*centered with regard to the central line*" of the ink supply port. This is what is defined by feature (6) in a way referring to a "*central*" plane, the plane being illustrated in the following drawing based on Figure 6(a):



As evident from this drawing, the plane definition included in feature (6) reflects the centered

arrangement of the central electrode of the lower row with regard to the central line of the ink supply port. Therefore, feature (6) corresponds to the skilled person's understanding of the disclosure in column 7, lines 55 to 58 of the application as published.

Thus column 7, lines 54 to 58 of the application as published gives clear and unambiguous support for feature (6) of claim 1.

### **Reasons for the Decision**

1. *Main request - Amendments - Articles 100(c), 123 and 76(1) EPC*

1.1 In feature (6) of claim 1 according to the main request, the central electrode of the lower row has a certain "width larger than that of the other electrodes" and the plane may cross said electrode anywhere along this width. This allows for a margin of displacement between the electrode and the plane corresponding to said width. Such a margin was not directly and unambiguously disclosed to the skilled person in the application as filed.

The above objection was raised in the provisional opinion of the board annexed to the summons to oral proceedings (see points 8.2.2 and 8.2.3 of said annex). The patent proprietor did not avail himself of the opportunity to respond and identify a basis for the above margin. The board has thus no reason to depart from its previous opinion.

The board cannot accept that "*located on the central line*" means *'centered with regard to the central line' of the ink supply port*" (penultimate paragraph, page 6 of the answer to the grounds of appeal), because an electrode can be merely located on a line without also being necessarily centered on it. Thus even if the skilled person were to understand that the disclosure "*located on the central line*" in the above passage of the application as filed means "*centered with regard to the central line*" of the ink supply port, as advanced on behalf of the respondent, the wording of feature (6) of claim 1 only requires that "*a plane [...] crosses one (60-2) of said plural electrodes (60)*" but does not require the electrode 60-2 to be centered on the plane.

1.2 Thus, feature (6) does not meet the requirements of Articles 100(c), 123(2) and 76(1) EPC.

2. *Auxiliary request - Amendments - Articles 100(c), 123(2) and 76(1) EPC*

2.1 The amendments made to claim 1 according to the auxiliary request with respect to claim 1 according to the main request do not address the issue concerning feature (6) as set out above (point 1.1) in the context of the main request.

Thus claim 1 according to the auxiliary request does not meet the requirements of Articles 100(c), 123(2) and 76(1) EPC.



## Order

### For these reasons it is decided that:

1. The decision under appeal is set aside.
2. The patent is revoked.

The Registrar:

The Chairman:



D. Meyfarth

M. Poock

Decision electronically authenticated