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Datasheet for the decision
of 15 May 2019

Case Number: T 1079/16 - 3.2.01

Application Number: 07250992.0

Publication Number: 1864939

IPC: B66C1/12, B66C15/00, D07B1/14

Language of the proceedings: EN

Title of invention:
System and method of identification, inspection and training
for material lifting products

Patent Proprietor:
The Crosby Group LLC

Opponents:
SpanSet Inter AG
Thiele GmbH & Co. KG
RUD Ketten Rieger & Dietz GmbH u. Co. KG

Headword:

Relevant legal provisions:
EPC Art. 123(2), 111(1)

Keyword:

Main and auxiliary requests 1 to 7 - intermediate generalisation (yes)
Auxiliary request 8 - remittal to the department of first instance (yes)

Decisions cited:

Catchword:

Case Number: **T 1079/16 - 3.2.01**

D E C I S I O N
of Technical Board of Appeal 3.2.01
of 15 May 2019

Appellant:

(Patent Proprietor)

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Respondent:

(Opponent 1)

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(Opponent 2)

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Respondent:

(Opponent 3)

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Decision under appeal: **Decision of the Opposition Division of the European Patent Office posted on 4 March 2016 revoking European patent No. 1864939 pursuant to Article 101(3)(b) EPC.**

Composition of the Board:

Chairman	G. Pricolo
Members:	J. J. de Acha González
	A. Jimenez

Summary of Facts and Submissions

I.   The appeal of the proprietor is directed against the
        decision of the Opposition Division to revoke European
        Patent No. 1 864 939.

II.   The Opposition Division held that the subject-matter of
        claim 1 of the main request and of the auxiliary
        requests 1 to 5 did not meet the requirements of
        Articles 100 (c) and 123(2) EPC.

III.   The appellant (proprietor) requested to set aside the
        contested decision and to maintain the patent according
        to the main request of the contested decision, or, in
        the alternative, to maintain the patent according to
        the auxiliary requests 1 to 5 of the contested
        decision, or on the basis of the auxiliary requests 6
        to 8 filed with the statement of grounds of appeal.

        The respondent (opponent 3) requested to dismiss the
        appeal.

        The other respondents (opponents 1 and 2) did not file
        any reply to the appeal of the patent proprietor.

IV.   In its communication of 15 March 2019 in preparation
        for the oral proceedings scheduled to take place on 8
        May 2019, the Board expressed its preliminary view of
        the case. In particular, the Board indicated that the
        subject-matter of claim 1 according to the appellant's
        main request and to the auxiliary requests 1 to 7
        represented an intermediate generalisation of the
        content of the application as originally filed contrary
        to the requirements of Article 123(2) EPC. Further, the
        Board pointed out its intention to remit the case to

the Opposition Division for further prosecution
regarding auxiliary request 8 in order to deal with
novelty and inventive step.

V.   With letters of 29 March 2019 and of 5 April 2019,
        respectively, opponent 1 and the patent proprietor
        informed that they would not attend the oral
        proceedings.

        Following a communication of the Board dated
        10 April 2019, in which the parties were informed that
        the Board intended to issue a decision rejecting the
        main and auxiliary requests 1 to 7 for the reasons
        given in the previous communication, and to remit the
        case to the first instance for further prosecution in
        respect of auxiliary request 8, opponent 3 withdrew the
        request for oral proceedings with letter of
        25 April 2019.

        Opponent 2 did not file any submission in the appeal
        proceedings.

        The scheduled oral proceedings were then cancelled.

VI.   Claim 1 according to the main request reads as follows
        (differences with respect to claim 1 as filed in **bold**
        and with respect to claim 1 as granted ~~struck through~~
        added by the Board):

        "A method of identifying, inspecting and training
        regarding a material lifting device
        [20,22,30,38,50,60,70] which method comprises:
            attaching an RFID tag to a material lifting device;
            installing identification and inspection data on
            said RFID tag[24,34,46,58,68,72,];

accessing said identification and inspection data
on said RFID tag with a portable computer device
having a central processing unit, a memory, a
display, **a plurality of templates** and an RFID
reader;
periodically inspecting said material lifting
device to obtain inspection data **about said
material lifting device**; and
updating said identification and inspection data on
said portable computer device **by entering data on
~~at least~~ one of said templates**, updating said
identification and inspection data on said RFID tag
**characterised in that the material lifting device
[20,22,30,38,50,60,70] is in the form of a lifting
block, wire rope sling, chain sling, master link
assembly, hook, or plate clamp; and
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag
[24,34,46,58,68,72], a material lifting device
product type, a material lifting device manufacture
date, a status indicator of said material lifting
device and information on the application of said
material lifting device.**"

Claim 1 of the auxiliary request 1 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
    attaching an RFID tag to a material lifting device;
    installing identification and inspection data on
    said RFID tag[24,34,46,58,68,72,];
    accessing said identification and inspection data
    on said RFID tag with a portable computer device

having a central processing unit, a memory, a
display, a plurality of templates **consisting of a
template to select from various lifting devices**, **an
inspection template and a blank template** and an
RFID reader;
periodically inspecting said material lifting
device to obtain inspection data about said
material lifting device; and
updating said identification and inspection data on
said portable computer device by entering data on
~~one of said~~ **the inspection or blank** templates,
updating said identification and inspection data on
said RFID tag characterised in that the material
lifting device [20,22,30,38,50,60,70] is in the
form of a lifting block, wire rope sling, chain
sling, master link assembly, hook, or plate clamp;
and
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag
[24,34,46,58,68,72] **and accordingly a material
lifting device**, a material lifting device product
type, a material lifting device manufacture date, a
status indicator of said material lifting device
and information on the application of said material
lifting device,
**said identification and inspection data is entered
on the blank template if the unique alphanumeric
data does not match that in the memory of the
portable computer device, and**
**said identification and inspection date is entered
on the inspection template if the unique
alphanumeric identification data matches that in
the memory of the portable computer device."**

Claim 1 of the auxiliary request 2 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
      attaching an RFID tag to a material lifting device;
      installing identification and inspection data on
      said RFID tag[24,34,46,58,68,72,];
      accessing said identification and inspection data
      on said RFID tag with a portable computer device
      having a central processing unit, a memory, a
      display, a plurality of templates and an RFID
      reader, **wherein said memory stores data regarding
      inspection and personnel training**;
      periodically inspecting said material lifting
      device to obtain inspection data about said
      material lifting device; and
      updating said identification and **said** inspection
      data on said portable computer device by entering
      data on one of said templates, updating said
      identification and **said** inspection data on said
      RFID tag characterised in that the material lifting
      device [20,22,30,38,50,60,70] is in the form of a
      lifting block, wire rope sling, chain sling, master
      link assembly, hook, or plate clamp; and
      said identification and **said** inspection data
      includes a unique alphanumeric identification of
      said RFID tag [24,34,46,58,68,72], a material
      lifting device product type, a material lifting
      device manufacture date, a status indicator of said
      material lifting device and information on the
      application of said material lifting device
      **including training information and product warning
      information.**"

Claim 1 of the auxiliary request 3 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
 attaching an RFID tag to a material lifting device;
 installing identification **data** and inspection data
 on said RFID tag [24,34,46,58,68,72,];
 accessing said identification **data** and inspection
 data on said RFID tag with a portable computer
 device having a central processing unit, a memory,
 a display, a plurality of templates and an RFID
 reader;
 periodically inspecting said material lifting
 device to obtain inspection data about said
 material lifting device; and
 updating said identification **data** and inspection
 data on said portable computer device by entering
 data on one of said templates, updating said
 identification and inspection data on said RFID lag
 characterised in that the material lifting device
 [20,22,30,38,50,60,70] is in the form of a lifting
 block, wire rope sling, chain sling, master link
 assembly, hook, or plate clamp; and
 characterised in that said identification data on
 said RFID tag is compared against a database,
 wherein said database includes information on
 application of said material lifting device;
 wherein forms of templates are accessed on said
 portable computer device, wherein said templates
 include an identification template, an inspection
 template with criteria on applicable inspection
 methods, visual acceptance criteria, industry and

**government standards, and a template on training
information on use of said material lifting device;**
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag
[24,34,46,58,68,72], a material lifting device
product type, a material lifting device manufacture
date, a status indicator of said material lifting
device and **references to** information on the
application of said material lifting device
**including training information, product warning
information, and applicable industry and government
standards."**

Claim 1 of the auxiliary request 4 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
    attaching an RFID tag to a material lifting device;
    installing identification **data** and inspection data
    on said RFID tag [24,34,46,58,68,72,];
    accessing said identification **data** and inspection
    data on said RFID tag with a portable computer
    device having a central processing unit, a memory,
    a display, a plurality of templates and an RFID
    reader;
    periodically inspecting said material lifting
    device to obtain inspection data about said
    material lifting device; and
    updating said identification **data** and inspection
    data on said portable computer device by entering
    data on one of said templates, updating said
    identification and inspection data on said RFID tag

characterised in that the material lifting device
[20,22,30,38,50,60,70] is in the form of a lifting
block, wire rope sling, chain sling, master link
assembly, hook, or plate clamp; and
**characterised in that said identification data on
said RFID tag is searched against a database held
in the memory of the portable computer device,
wherein said database includes various inspection
forms, training information, product warning
information, ordering information for parts and
supplies, and assembly information and industry
specification;
wherein an inspection screen or template will be
presented on a display means of the portable
computer device displaying various information
including the name of the distributor, the serial
number of the lifting product and particular
information about the product including the grade,
construction type, any defects and other pertinent
information;**
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag
[24,34,46,58,68,72), a material lifting device
product type, a material lifting device manufacture
date, a status indicator of said material lifting
device and **references to** information on the
application of said material lifting device
**including training information on use, product
warning information, and applicable industry and
government regulations."**

Claim 1 of the auxiliary request 5 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
attaching an RFID tag to a material lifting device;
installing identification **data** and inspection data on
said RFID tag [24,34,46,58,68,72,];
accessing said identification **data** and inspection data
on said RFID tag with a portable computer device having
a central processing unit, a memory, a display, a
plurality of templates and an RFID reader;
periodically inspecting said material lifting device to
obtain inspection data about said material lifting
device; and
updating said identification **data** and inspection data
on said portable computer device by entering data on
one of said templates, updating said identification and
inspection data on said RFID lag characterised in that
the material lifting device [20,22,30,38,50,60,70] is
in the form of a lifting block, wire rope sling, chain
sling, master link assembly, hook, or plate clamp; and
**characterised in that said identification data on said
RFID tag is compared against a database, wherein said
database includes information on application of said
material lifting device;
wherein forms of templates are accessed on said
portable computer device, wherein said templates
include inspection forms, training information, product
warning information, ordering information for parts and
supplies, and/or assembly information and industry
specification;**
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag

[24,34,46,58,68,72], a material lifting device product
type, a material lifting device manufacture date, a
status indicator of said material lifting device and
references to information on the application of said
material lifting device **including training information
and product warning information**."

Claim 1 of the auxiliary request 6 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
     attaching an RFID tag to a material lifting device;
     installing identification and inspection data on
     said RFID tag[24,34,46,58,68,72,];
     accessing said identification and inspection data
     on said RFID tag with a portable computer device
     having a central processing unit, a memory, a
     display, **a blank template without prepopulated
     information, an inspection template including all
     of the data or information which has been compiled
     to date** ~~plurality of templates~~ and an RFID reader;
     periodically inspecting said material lifting
     device to obtain inspection data about said
     material lifting device; and
     updating said identification and inspection data on
     said portable computer device by entering data on
     the template presented to the user on the display
     ~~one of said templates~~, updating said identification
     and inspection data on said RFID tag characterised
     in that the material lifting device
     [20,22,30,38,50,60,70] is in the form of a lifting

block, wire rope sling, chain sling, master link
assembly, hook, or plate clamp; and
said identification and inspection data includes a
unique alphanumeric identification of said RFID tag
[24,34,46,58,68,72], a material lifting device
product type, a material lifting device manufacture
date, a status indicator of said material lifting
device and information on the application of said
material lifting device."

Claim 1 of the auxiliary request 7 reads as follows
(differences with respect to claim 1 of the main
request highlighted):

"A method of identifying, inspecting and training
regarding a material lifting device
[20,22,30,38,50,60,70] which method comprises:
    attaching an RFID tag to a material lifting device;
    installing identification and inspection data on
    said RFID tag[24,34,46,58,68,72,];
    accessing said identification and inspection data
    on said RFID tag with a portable computer device
    having a central processing unit, a memory, a
    display, a plurality of templates **consisting of a
    template to select from various lifting devices**, **an
    inspection template including all of the data or
    information which has been compiled to date and a
    blank template without prepopulated information** and
    an RFID reader;
    periodically inspecting said material lifting
    device to obtain inspection data about said
    material lifting device; and
    updating said identification and inspection data on
    said portable computer device by entering data on
    ~~one of said templates~~ **the inspection or blank**

templates, updating said identification and inspection data on said RFID tag characterised in that the material lifting device [20,22,30,38,50,60,70] is in the form of a lifting block, wire rope sling, chain sling, master link assembly, hook, or plate clamp; and said identification and inspection data includes a unique alphanumeric identification of said RFID tag [24,34,46,58,68,72], a material lifting device product type, a material lifting device manufacture date, a status indicator of said material lifting device and information on the application of said material lifting device, **said identification and inspection data is entered on the blank template if a serial number of the material lifting device does not match that in the memory of the portable computed device, and said identification and inspection data is entered on the inspection template if the serial number of the material lifting device matches that in the memory of the portable computer device."**

The sole claim of auxiliary request 8 is identical to granted claim 4.

Reasons for the Decision

1.   Inadmissible extension

1.1   The subject-matter of claim 1 of the main request extends beyond the content of the application as originally filed (Article 123(2) EPC).

1.2   The inadmissible extension is linked with the features
       relating to the "templates" in independent method claim
       1.
       According to the application as filed (see paragraphs
       [0019], [0020] and [0033] to [0039] of the A-
       publication of the application as filed) the feature
       "template" is disclosed in combination with the
       procedure disclosed in paragraph [0019] or that of the
       flow chart in figure 7 according to "mode 3" (see
       paragraphs [0033] to [0039] of the A-publication),
       which relates to the inspecting procedure with a
       portable computer device.
       These procedures have been generalized in amended claim
       1 according to the main request. The opinion of the
       Opposition Division in its decision is therefore shared
       (see point 2.2 of the contested decision).

1.3   The appellant (proprietor) alleges that it is clear
       from paragraph [0036] as filed that there are not only
       two templates - a blank template without pre-populated
       information and a template which includes all of the
       data compiled to date - but a plurality of templates
       each including all of the data or information which has
       been compiled for one specific serial number. Hence, a
       template is present for each serial number.
       Consequently, a general plurality of templates is
       disclosed in the application as originally filed.

       The Board does not share this view and follows that of
       the respondent (opponent 3). According to the
       description of the application as filed (see in
       particular paragraphs [0019], [0036] and [0037], as
       well as figure 8) a template is a screen presented on a
       monitor or display which is preprogrammed and
       preformatted with a fixed layout and fields which might
       include information already stored in the memory of the

portable computer device or might be empty if that information has not been stored yet. These fields show or allow the collection of data such as name of the distributor, serial number, grade, construction type... Accordingly, the fact that a specific screen layout, i.e. a template, which includes among other fields a serial number entry, displays a specific serial number within that field after reading and identifying the RFID tag attached to the material lifting device, does not make it a different template in comparison to a screen display having the same layout and presenting a different serial number with its corresponding associated data in the fields of the same screen layout (in case another material lifting device has been identified by another RFID tag attached to it).

Further, the disclosure of the invention regarding the method claimed when referring to templates is presented in figure 7 in combination with paragraphs [0031] to [0039] which does not generally refer to a plurality of templates at any stage of the method but which includes specific templates displayed at the different procedural steps of the method according to the invention. In this regard and contrary to the appellant's allegations it is directly and unambiguously disclosed in the application as originally filed that the method according to the invention for inspection with a portable computer including templates also comprises the following sequential steps (see paragraphs [0033] to [0039] and figure 7):

- provide the inspector or user initially with a choice in the form of a template to select from various lifting products;
- search for the serial number of the read RFID tag in the database of the memory of the computer;

- provide the inspector with a template selection
  if no match for the serial number is found,
  display a blank template of the selected
  template, and update inspection data in the
  template;
- display an inspection template which includes all
  the data compiled to date if a match for the
  serial number of the RFID tag is found, and
  update inspection data in the template;
- save all the changes entered in the template to
  the memory of the portable computer device once
  the inspection has been complete;
- send and update the updated information to the
  RFID tag.

These steps have been omitted in the amended claim 1 of
the main request such that its subject-matter
contemplates as further technical information different
ways to proceed with templates when performing the
inspection process within the method claimed.
Consequently, the content of the application as filed
has been generalized in claim 1 and the amended patent
contravenes the requirements of Article 123(2) EPC.

1.4   For the same reasons as presented above none of the
       auxiliary requests 1 to 7 meets the requirements of
       Article 123(2) EPC because none of the claims 1 of
       these requests include the steps mentioned under point
       1.3. Their subject-matter represents thus an
       unallowable intermediate generalization of the specific
       method disclosed in the application as originally
       filed.

2.   Remittal to the Opposition Division for further
       prosecution

2.1   Auxiliary request 8 comprises only a single claim which
        corresponds to granted claim 4 and is directed to a
        system.

2.2   The decision under appeal is based only on objections
        under Articles 123(2) and 84 EPC for the subject-matter
        of the independent method claim for the main request
        and the auxiliary requests 1 to 5. Taking into account
        that no objections under these articles have been
        raised against the independent system claim, that no
        decision was taken during the opposition proceedings on
        the issue of novelty and inventive step of its subject-
        matter and that the respondent (opponent 3) requests a
        remittal in order to discuss these issues before the
        Opposition Division, the Board considers it as
        appropriate to exercise its discretion under Article
        111(1) EPC to remit the case for further prosecution to
        the department of first instance in order to discuss
        novelty and inventive step of the subject-matter of
        claim 1 of auxiliary request 8.

Order

For these reasons it is decided that:

1.   The decision under appeal is set aside

2.   The case is remitted to the Opposition Division for
        further prosecution.

The Registrar: The Chairman:

S. Sánchez Chiquero   G. Pricolo

Decision electronically authenticated