

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 39

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte CLAUS SIMETH

Appeal No. 1999-0872
Application 08/885,399¹

ON BRIEF

Before McKELVEY, Senior Administrative Patent Judge, and LEE and MEDLEY, Administrative Patent Judges.

LEE, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's rejection of appellant's claims 2-5 and 30-34. No claim has been allowed. The real party in interest is MAN Roland Druckmaschinen AG.

References relied on by the Examiner

DeMoore ('644)	3,791,644	Feb. 12, 1974
DeMoore ('267)	4,402,267	Sep. 6, 1983
Simeth	5,154,120	Oct. 13, 1992

¹ Application for patent filed June 30, 1997. The real party in interest is MAN Roland Druckmaschinen.

The Rejection on Appeal

Claims 2-5, and 30-34 stand finally rejected under 35 U.S.C. § 103 as being unpatentable over Simeth and either DeMoore '644 or DeMoore '267. A rejection of claim 31 under 35 U.S.C. § 112, first paragraph, has been withdrawn by the examiner.

The Invention

The claimed invention is directed to a printing machine plate cylinder assembly.

Claim 30, the only independent claim on appeal, is reproduced below:

30. A printing machine plate cylinder assembly comprising:

a plate cylinder having an outer cylindrical plate mounting surface,

a printing plate having an inner cylindrical mounting surface for positioning about said plate cylinder,

a separating medium between said printing plate and plate cylinder consisting solely of a layer of friction reducing material affixed to one of said mounting surfaces,

and the other of said mounting surfaces having no layer of friction reducing material affixed thereon and being positioned in direct contacting relation with the friction reducing layer affixed to said one mounting surface for facilitating stable mounting of said printing plate in predetermined position on said plate cylinder with enhanced heat dissipation therebetween.

Opinion

The rejection of claims 2-5 and 30-34 is reversed.

A reversal of the rejection on appeal should not be construed as an affirmative indication that the appellant's claims are patentable over prior art. We address only the

positions and rationale as set forth by the examiner and on which the examiner's rejection of the claims on appeal is based.

The claimed invention is a printing machine plate cylinder assembly comprising (1) a plate cylinder, (2) a printing plate, and (3) a separating medium between the printing plate and the plate cylinder. As is defined by claim 30, the plate cylinder has a plate mounting surface and the printing plate has a mounting surface. Further according to claim 30, the separating medium consists solely of a layer of friction reducing material affixed to one of the mounting surfaces, and the other mounting surface has no layer of friction reducing material affixed thereto. The mounting surface without the friction reducing layer directly contacts the friction reducing layer affixed to the mounting surface having the friction reducing layer. According to claim 30, this structural arrangement is for facilitating stable mounting of the printing plate in a predetermined position on the printing cylinder.

Very explicitly, claim 30 requires that there be no layer of friction reducing material affixed to the mounting surface of one of (1) the plate cylinder and (2) the printing plate. In contrast, Simeth does not disclose such a structure.

In Simeth's assembly, two thin sheets 5 and 6 are disposed between the plate cylinder and the printing plate (Abstract and Figure 1). The upper sheet contacts and adheres to printing plate 3 and the lower sheet contacts and adheres to plate cylinder 1 (Column 2, lines 59-65). The thin sheets are coated with an appropriate plastic to form easily sliding faces 8 and 10. (Column 2, lines 66-68). Whether Simeth's thin sheets 5

and 6 or the plastic coatings 8 and 10 on the thin sheets 5 and 6 are regarded as friction reducing layers, Simeth does not disclose either (1) a plate cylinder having a mounting surface to which no friction reducing material is affixed thereto or (2) a printing plate having a mounting surface to which no friction reducing material is affixed thereto.

The examiner made the following statement on pages 8-9 of the answer:

Having the teaching in Simeth of utilizing a separating medium affixed to at least one of the printing plate and plate cylinder mounting surfaces, it would have been obvious to one having ordinary skill in the art at the time the invention was made to broadly apply the friction reducing layer in Simeth (5,154,120) directly to either: (1) the printing plate mounting surface; (2) the plate cylinder mounting surface; or (3) to both mounting surfaces so as to perform the function as disclosed by Simeth (5,154,120) for improving the ease of mounting and adjusting a printing plate on the outer surface of a plate cylinder.

The above-quoted conclusion reflects insufficient consideration of the appellant's specific claim limitation that the friction reducing layer be affixed to one of the plate cylinder and printing plate but not the other. It is misplaced to state that Simeth teaches a separating medium affixed to at least one of the printing plate and plate cylinder mounting surfaces, where Simeth discloses a separating medium affixed to both mounting surfaces and the issue is whether it would have been obvious to not have a separating medium affixed to one of the mounting surfaces.

Assuming that the examiner is correct that it would have been obvious to one with ordinary skill in the art to apply the friction reducing layer in Simeth to either (1) the printing

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plate mounting surface; (2) the plate cylinder mounting surface, or (3) both the printing plate and plate cylinder mounting surfaces, that does not indicate anything meaningful about the appellant's claimed feature of having the friction reducing layer affixed to just one of the mounting surfaces but not the other.

The examiner has not articulated any motivation for one with ordinary skill in the art to eliminate one of the thin sheets 5 or 6 or one of the plastic coating layers 8 and 10 in Simeth. Instead, the examiner states (answer at 8):

It is noted that Appellant's specification does not teach that there is any criticality as to whether the friction reducing layer is affixed to either one or both of the printing plate and plate cylinder. The specification does not disclose that anyone of such layer or coating placements, one relative to the other, affects the desired and expected function of improving the ease of mounting and adjusting a printing plate on the outer surface of a plate cylinder. In fact, Appellant's specification teaches, and the original presentation of the claims evidences, that the friction reducing material can be applied either: (1) to the printing plate; (2) to the plate cylinder; or (3) to both surfaces.

An applicant for patent need not disclose in its specification that there is any so called "criticality" in a claimed limitation or feature. Nor is the applicant under any burden to establish that there is any such "criticality." Also, that the appellant's specification discloses alternative embodiments does not by itself indicate that the differences between the embodiments are not of patentable significance. Furthermore, relying on the appellant's own specification to come to the conclusion that only one friction reducing layer

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may be necessary and that that layer can be affixed to either the printing plate or the plate cylinder constitutes improper hindsight. The examiner's citation to the two DeMoore patents do not provide a remedy to the above-discussed deficiencies in the rejection. In that regard, the examiner states (answer at 9):

[E]ach [DeMoore] patent teaches that a friction reducing material ("Teflon") can be applied directly onto a printing press cylinder, and DeMoore (4,402,267) additionally teaches the equivalency between: (1) applying a friction reducing material directly to a press cylinder, and (2) applying a friction reducing material onto an intermediate layer residing on a press cylinder.

Both DeMoore patents, however, are directed to applying a separating medium onto a skeleton wheel or cylindrical roller, a printing press component which is used for supporting and transferring freshly inked printed material between printing stations and which is neither a plate cylinder or a printing plate in the context of the appellant's claimed invention. As disclosed, the skeleton wheel or cylindrical roller described in the DeMoore patents do not engage or contact any printing plate. Moreover, the TEFLON coating applied to the skeleton wheel of DeMoore '644 is intended as an ink repellent, not a friction reducing layer to facilitate relative movement between the skeleton wheel and the printed material supported thereby. Note DeMoore '644 which states in column 6, lines 29-37:

The surface 50 so prepared is ink-repellant. As the

inked areas of the printed sheets 30 engage the surface, there is no transfer of ink from one sheet, to the skeleton wheel 12, and thereafter to one or more succeeding sheets. While there may be an extremely slight collection of ink on the surface 50, quite unexpectedly there is still no marking of subsequent sheets. Thus, the surface is ink-repellant in the sense that it prevents transfer of ink between sheets.

DeMoore '267 improves on DeMoore '644 by adding a fabric piece 32 between the skeleton wheel and the printed material it supports. To support this fabric piece, a fabric base layer coated with fluoroplastic is first bonded to the surface of the skeleton wheel.²

Note DeMoore '267 from column 3, line 60 to column 4, line 2, which states:

Although the fluoroplastic covered skeleton wheel disclosed in my previous patent provided improvements in handling freshly inked sheet material I have discovered that, unexpectedly, the provision of a layer of fabric on the supporting surface of the skeleton wheel and rather loosely secured thereto further enhances the ability of the skeleton wheel to support and convey successive sheets of printed material with wet ink thereon without transferring the wet ink from a previous sheet to a successive sheet and without marring or depressing the surface of the paper.

We find none of this disclosure from the DeMoore patents to be of substantial significance in the context of the appellant's claimed invention. The examiner has not adequately explained why the teachings of DeMoore as is recognized by the examiner would have suggested to one with ordinary skill in the art that one of Simeth's friction reducing layers can be removed or eliminated. If the examiner regards a sheet of printed

² Thus, the examiner's above-quoted statement finds that in DeMoore '267 the fluoroplastic material is applied to an intermediate layer residing on the skeleton wheel.

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material supported on and transferred by a skeleton wheel while on route between printing stations as a printing plate in the context of the appellant's claimed invention, that view is without support on this record. Similarly, DeMoore's skeleton wheel cannot be regarded as a plate cylinder in the context of the appellant's claimed invention, since it does not receive or engage a printing plate. It is not necessary to find whether the two DeMoore patents constitute analogous art proper for consideration in combination with Simeth, because even considering the teachings therein as are explained by the examiner, the rejection of the claims cannot stand.

For the foregoing reasons, the rejection of claims 2-5 and 30-34 cannot be sustained.

We make the following additional discussion concerning dependent claims 3-5 which set forth respective Markush groups for the friction reducing material. Once the examiner has made a specific finding that all of the materials listed in the Markush group of these claims are known or art-recognized materials having friction reducing properties, as the examiner apparently has done on page 10 of the answer, the appellant must step forward to dispute the finding affirmatively. Whether the examiner had proper ground to make the finding is immaterial if the appellant while in rebuttal does not dispute the finding.

Conclusion

The rejection of claims 2-5 and 30-34 under 35 U.S.C. § 103 as being unpatentable

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over Simeth and either DeMoore '644 or DeMoore '267 is **reversed**.

REVERSED

FRED E. McKELVEY, Senior)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JAMESON LEE)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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)	
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