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Regional Court of Munich I

Docket no.: 21 O 20498/15

[Coat of Arms]

IN THE NAME OF THE PEOPLE

In the legal dispute between

Memjet Technology Ltd., represented by its directors, 61/62 Fitzwilliam Lane, Dublin 2, Ireland
- Applicant -

Represented by:

Rechtsanwälte **Quinn Emanuel Deutschland**, attorneys, Oberanger 28, 80331 Munich, Germany,
lic. no. 05297-00001 / 21085174.2

Versus

HP Deutschland GmbH, represented by its managing directors Jochen Erlach and Peter Kleiner,
Schickardstraße 32, 71034 Böblingen, Germany
- Respondent -

Represented by:

Rechtsanwälte **Freshfields, Bruckhaus, Deringer**, attorneys, Maximiliansplatz 13, 80333 Munich,
Germany, lic. no. 042455-0431

For patent infringement

The Regional Court of Munich I - 21st Civil Division - by way of Presiding Regional Court Judge Müller, Regional Court Judge Dr. Schwager, and Regional Court Judge Kutenkeuler, based on the oral hearing 7 January 2016, proclaims the following

Final Judgement

1. The interim injunction by the Regional Court of Munich I of 16 November 2015 is repealed.
2. The application by the Applicant of 13 November 2015 for an interim injunction order is dismissed.
3. The costs of the legal dispute are ordered to the account of the Applicant.
4. The Judgement is preliminarily enforceable. The Applicant may avoid enforcement on the part of the Respondent against payment of a security deposit in the amount of 110% of the amount enforceable according to this judgement, unless the Respondent deposits a security of 110% of the enforceable amount prior to the enforcement.

Facts of the Case

The dispute between the parties is about the violation of the German part of a European patent for a laminated ink distribution assembly for ink jet printers.

With respect to the production and distribution of ink jet printers, the parties are in competition with each other. The Applicant is the owner of European Patent EP 1 292 451 B 1 (hereinafter: Injunction Patent, submitted as Exhibit Ast 6/6a), which was registered on 24 May 2000. Notice about the granting of the patent was given on 29 October 2008.

The invention underlying the Injunction Patent pertains to an ink distribution assembly for a print head containing an array of print chips. The ink distribution assembly serves the purpose of distributing multiple inks from multiple ink sources to multiple print chips for printing on a page, in order to allow for the page-wide printing of a sheet without there being a need for the print head to make scanning motions across the width of the page.

Patented according to Claim 1 of the Injunction Patent is an ink distribution assembly for a print head to which is mounted an array of print chips, the assembly serving to distribute different inks from respective ink sources to each said print chip for printing on a sheet, the assembly comprising a longitudinal distribution housing having a duct for each said different ink extending longitudinally therealong, a cover having an ink inlet port corresponding to each said duct for

connection to each said ink source and for delivering said ink from each said ink source to a respective one of said ink ducts, and a laminated ink distribution structure fixed to said distribution housing and distributing ink from said ducts to said print chips.

Patented according to Subsidiary Claim 2 of the Injunction Patent is an assembly according to Claim 1, wherein the laminated ink distribution structure includes multiple layers situated one upon another with at least one of said layers having a plurality of ink holes therethrough, each ink hole conveying ink from one of said ducts enroute to one of said print chips.

Patented according to Subsidiary Claim 3 of the Injunction Patent is an assembly according to Claim 1, wherein one or more of said layers includes ink slots therethrough, the slots conveying ink from one or more of said ink holes in an adjacent layer enroute to one of said print chips.

Patented according to Subsidiary Claim 5 of the Injunction Patent is an assembly according to Claim 2, wherein the layers of the laminated structure sequenced from the distribution housing to the array of print chips include fewer and fewer said ink holes.

Patented according to Subsidiary Claim 6 of the Injunction Patent is an assembly according to Claim 2, wherein one or more of said layers includes recesses in the underside thereof, communicating with said holes and transferring ink therefrom transversely between the layers enroute to one of said slots.

In order to illustrate the art of the Injunction Patent, Figures 6, 9a, 9b, and 11 are included at a smaller scale.

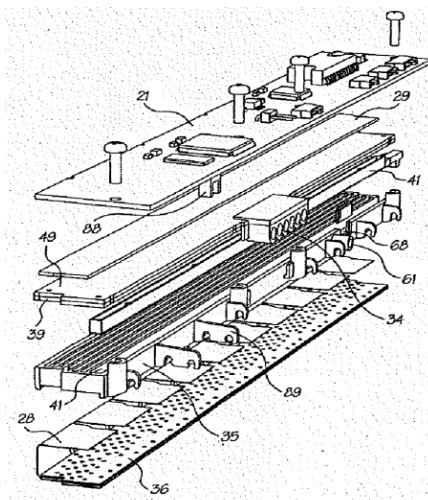


FIG. 6

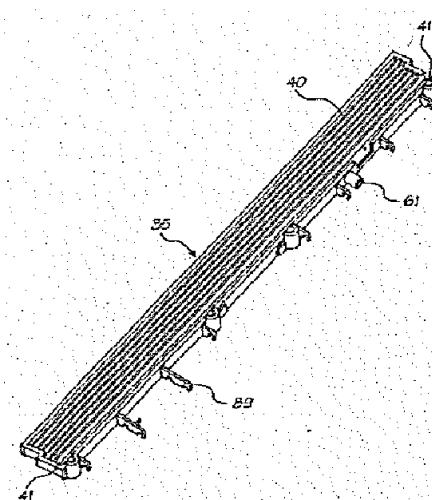
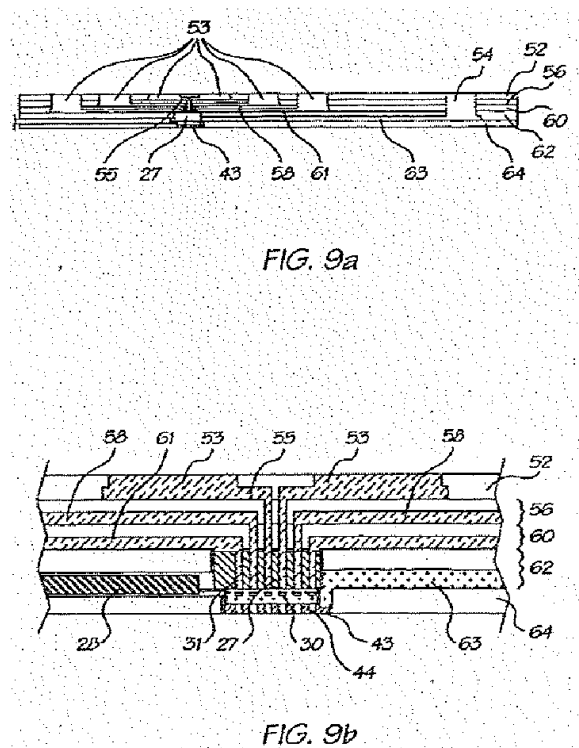


FIG. 11

Figure 6 shows an exploded perspective illustration of a print head assembly. Ink is delivered to the print chips via a distribution molding (35) and laminated stack (36) arrangement. The distribution molding includes six individual longitudinal ink ducts (40) (Fig. 11) which extend throughout the length of the array. Ink is transferred from the inlet ports (34) to the ink ducts (40). The laminated ink distribution stack (36) consists of a number of laminated layers.

The following figures 9a and 9b show a section of the laminated ink distribution stack (36). Various layers (52, 56, 60, 62, and 64) and ink holes (53) can be seen, as well as clear channels (58) in the underside of the second layer (56). In figure 9b, the ink is represented by interrupted cross-hatched lines.



Since 24 September 2015, the Respondent has been providing HP PageWide XL printers to customers in Germany, which are equipped with the “HP 841 PageWide XL” print head, which comprises the ink distribution assembly submitted as Exhibit FBD 16 (contested embodiment). The Memjet group, of which the Applicant is part, obtained a contested embodiment on 12 October 2015, and has disassembled and analyzed it on 20 October 2015.

The Respondent has already been distributing “OfficeJet Pro X” printers since April 2013. The print heads of the “OfficeJet Pro X” printers are based on the same “pagewide” technology that is also used by the contested embodiment. To that extent, the parties engaged in negotiations in 2014 and 2015 on the issuance of licenses. The licensing negotiations were also held, among other things, in view of the alleged infringement of the Injunction Patent by the print heads of the “OfficeJet Pro X” printers.

At the Applicant’s request in its application of 13 November 2015, received by the Court on that same day, and after a partial withdrawal of the application, the Court issued the following interim injunction on 16 November 2016:

1. Respondent 1) must refrain, under penalty of an administrative fine to be imposed by the court of up to EUR 250,000 for each violation, or in the alternative, administrative detention of up to six months, and in the case of repeated infringements, of up to a total of two years, whereas administrative detention is to be enforced against the legal representatives of Respondent 1), from the following:

to offer, market, or use in the Federal Republic of Germany, or to import or possess for one of the aforementioned purposes,

ink distribution assemblies for a print head for “wide-format” printers of the HP PageWide XL series (in particular the HP PageWide XL 8000, HP PageWide XL 5000, and HP PageWide XL 4000/4500 types), featuring an array of print chips, and the assembly serving for distributing different inks from respective ink sources to each of the print chip for printing on a sheet, the assembly comprising the following:

a longitudinal distribution housing having a duct for each of the different inks extending longitudinally therealong,

a cover having an ink inlet port corresponding to each of the ducts for connection to each of the ink sources and for delivering the ink from each ink source to a respective ink duct, and

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