

**THIS OPINION WAS NOT WRITTEN FOR PUBLICATION**

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(2) is not binding precedent of the Board.

Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte JEAN-MARC ROUCHON,  
JEAN-LOUIS RICCI, BERNARD GRANCOIN,  
SYLVIE VINTEZOU, GILLES DAIRON,  
and MICHEL JOUAN

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Appeal No. 1996-2047  
Application No. 08/274,141

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HEARD: June 7, 2000

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Before HAIRSTON, FLEMING, and LEVY, Administrative Patent  
Judges.

FLEMING, Administrative Patent Judge.

**DECISION ON APPEAL**

This is a decision on an appeal from the final rejection  
of claims 1, 6 and 8 through 15, all the claims pending in the  
present application. Claims 4, 5 and 7 have been canceled.

Appeal No. 1996-2047  
Application No. 08/274,141

The invention relates to a method and apparatus for correcting faults in the image produced by a detector in a detector camera. When a scene is observed using a camera with series, parallel or series-parallel scanning, the image formed by the detector signal contains faults. To correct these faults, it has been proposed to subtract a memorized image, obtained by filming a uniform background, from the image of the scene formed by the detector signals. The result obtained by this type of process is not always satisfactory.

Appellants' invention aims to avoid this drawback. Appellants disclose on pages 2 and 3 of the specification that the Appellants' invention does not use a uniform grey background which is placed in front of the camera to generate signals to correct the image output by the camera. Instead, Appellants' invention operates to destructure the image of a scene, for a given lapse of time, by making inconsistent changes to the camera settings including modifying the focus of the camera and modifying a direction of the camera line of sight.

Independent claim 1 is reproduced as follows:

1. A method of correcting, in a camera with a detector and opto-mechanical scanning, faults in the digital image of

Appeal No. 1996-2047  
Application No. 08/274,141

even- and odd-parity frames where the frames contain fixed points of the image arranged in lines and represented by digital values obtained by converting analog values output by the detector, comprising the steps of:

aiming the camera at a scene;

destructuring the image of the scene, for a given lapse of time, by making inconsistent changes to the camera settings including modifying the focus of the camera and modifying a direction of the camera line of sight;

acquiring, during the given lapse of time when the image of the scene is destructed,  $m$ , where  $m$  is a positive integer, frames with a same parity to calculate a mean frame in which each point within the mean frame has approximately the mean value of the digital values of corresponding points in the  $m$  frame;

memorizing a correction frame in which the value of each point corresponds to the value of corresponding points in the mean frame to within a given constant value;

adjusting the camera settings to correctly observe the scene; and

subtracting, for each point in the correctly observed scene, the memorized value of the corresponding point from the correction frame.

The Examiner relies on the following reference:

Hanafusa et al. (Hanafusa)	5,134,474	Jul. 28,
1992		

Appeal No. 1996-2047  
Application No. 08/274,141

Claims 1, 6 and 8 through 15 stand rejected under 35 U.S.C. § 102 as being anticipated by Hanafusa. Claims 2 and 3 have been allowed by the Examiner.<sup>1</sup>

Rather than reiterate the arguments of Appellants and Examiner, reference is made to the briefs<sup>2</sup> and answer for the respective details thereof.

#### OPINION

We will not sustain the rejection of claims 1, 6 and 8 through 15 under 35 U.S.C. § 102.

The Examiner has failed to set forth a *prima facie* case. It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. *See In re King*, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and *Lindemann*

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<sup>1</sup>The Examiner mailed a communication on March 15, 2000 stating that in response to the reply brief filed on February 8, 1996, the Examiner has allowed claims 2 and 3 over the prior art of record.

<sup>2</sup>Appellants filed an appeal brief on September 12, 1995. Appellants filed a reply brief on February 8, 1996. The Examiner held a communication on March 15, 2000 in response to the reply brief filed on February 8, 1996. Thus, the Examiner has entered and considered the reply brief and the reply brief is properly before us for our consideration.

Appeal No. 1996-2047  
Application No. 08/274,141

**Maschinenfabrik GMBH v. American Hoist & Derrick Co.**, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

On page 3 of the reply brief, Appellants argue that their image requires during the step of "destructuring the image of the scene" an operation of "modifying a direction of the camera line of sight," as specifically required by independent claim 1 and also set forth as a similar requirement in independent claim 8. Appellants state that according to their invention, when the scene image is destructed, not only is the focus of the camera changed, but the line of sight of the camera is also changed. Appellants argue that Hanafusa does not teach or suggest any operation of changing a line of sight of the camera in addition to changing the focus of the focusing lens 5.

As pointed out by our reviewing court, we must first determine the scope of the claim. "[T]he name of the game is the claim." **In re Hiniker Co.**, 150 F.3d 1362, 1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998).

We note that Appellants' independent claims all require modifying a direction of the camera line of sight. In particular, we note that independent claim 1 recites the step

Appeal No. 1996-2047  
Application No. 08/274,141

of "destructuring the image of the scene, for a given lapse of time, by making inconsistent changes to the camera settings including modifying the focus of the camera and modifying a direction of the camera line of sight." Appellants' claim 8 recites the step of destructuring, during a predetermined time period, an image of a scene by defocusing the image and modifying a direction of the line of sight of the camera. Appellants' remaining independent claim, claim 10, recites means for destructuring, during a predetermined time period, an image of a scene by defocusing the image and modifying a direction of the line of sight of the camera. Therefore, Appellants' claims require that when the scene image is destructured, not only is the focus of the camera changed, but the line of sight of the camera is also changed.

Turning to Hanafusa, we find that Hanafusa teaches in the abstract that the scene on the infrared detector element is defocused or placed out of focus by adjusting the focusing lens. In particular, we note in column 3, lines 20 through 25, Hanafusa teaches that in monitoring a distant scene, the focusing lens 5 is adjusted so as to focus a near-most distance while the camera is looking at a distant scene, or in

Appeal No. 1996-2047  
Application No. 08/274,141

monitoring a near scene, the focusing lens 5 is adjusted so as to focus a far-most distance while the camera is looking at the near scene.

In reviewing the entire reference, we fail to find that Hanafusa teaches modifying a direction of the camera line of sight as required by Appellants' claims. Therefore, we find that Hanafusa does not teach every element of Appellants' claims as required under 35 U.S.C. § 102.

In accordance with the above, we have not sustained the rejection of claims 1, 6 and 8 through 15 under 35 U.S.C. § 102. Accordingly, the Examiner's decision is reversed.

**REVERSED**

	Kenneth W. Hairston	)	
	Administrative Patent Judge	)	
		)	
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		)	
	Michael R. Fleming	)	BOARD OF
PATENT		)	
	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES

Appeal No. 1996-2047  
Application No. 08/274,141

Stuart S. Levy )  
Administrative Patent Judge ) )

tdl

Appeal No. 1996-2047  
Application No. 08/274,141

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