

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 34

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte TERRY L. GLATT

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Appeal No. 1999-0034  
Application No. 08/568,402

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ON BRIEF

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Before LALL, BLANKENSHIP, and SAADAT, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-24 and 26-36, which are all the claims remaining in the application.

We affirm.

BACKGROUND

The invention is directed to a video surveillance system made up of a pilot camera producing a signal representative of the area under surveillance. One or more slave cameras are associated with the pilot camera and monitor at least part of the area. Representative claim 10 is reproduced below.

10. For use in a video surveillance system, a method of monitoring an area comprising the steps of:

monitoring the area by means of a pilot camera thereby producing an image of the area;

processing the image of the area to automatically determine a location of an object in the area and producing a signal representative of the location of the object;

controlling a slave camera such that the slave camera tracks the object based on the signal representative of the location of the object.

The examiner relies on the following references:

Paff	5,164,827	Nov. 17, 1992
Kuban et al. (Kuban)	5,359,363	Oct. 25, 1994 (filed Feb. 8, 1993)
McGary	5,521,634	May 28, 1996 (filed Jun. 17, 1994)

Claims 1, 6, 8, 10, 13, 14, 16, 18, 23, and 36 stand rejected under 35 U.S.C. § 103 as being unpatentable over Paff and McGary.

Claims 2-5, 7, 9, 11, 12, 15, 17, 19-22, 24, and 26-35 stand rejected under 35 U.S.C. § 103 as being unpatentable over Paff, McGary, and Kuban.

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We refer to the Final Rejection (Paper No. 18) and the Examiner's Answer<sup>1</sup> (Paper No. 24) for a statement of the examiner's position and to the Brief (Paper No. 23) and the Reply Brief (Paper No. 25) for appellant's position with respect to the claims which stand rejected.

### OPINION

In response to the rejections advanced by the examiner, appellant does not rely on the requirements of any particular claim. We therefore select instant claims 10 and 15 as representative of the respective subject matter.<sup>2</sup> See 37 CFR § 1.192(c)(7).

The section 103 rejection over the combination of Paff and McGary is set forth at pages 2 through 4 of the Final Rejection. Appellant contests the examiner's findings with respect to the teachings of McGary. Appellant begins, however, by arguing a point that is not in dispute. The rejection does not rely on the "visual sensors" of McGary as teaching the claimed processing of the "image of the area" for determining location of an object, notwithstanding appellant's indication at page 6 of the Brief.

In the examiner's reading of the reference, the sensors (shown as acoustic and infrared sensors in Figure 3 of McGary) are used for identifying "potential" target data.

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<sup>1</sup> Pursuant to an order remanding the application to the examiner, the examiner also provided a supplemental Examiner's Answer, mailed June 26, 2001.

<sup>2</sup> We note that the examiner failed to list dependent claim 22 (which we presume stands rejected over the combination of Paff, McGary, and Kuban) in either of the rejections. In any event, appellant acknowledges that claims 1-24 and 26-36 are on appeal (Brief at 2), and that the dependent claims stand or fall with the independent claims (id. at 4).

The examiner further points out (e.g., Answer at 6-7) portions of the written description of McGary as support for the view that McGary teaches processing of the image for determining location of an object. Figure 3 of McGary shows that the video signal from camera 40 is used by image target detection and tracking processors 38.

We have considered appellant's arguments to the contrary, but we do not consider the examiner's finding to be in error. Moreover, we observe that McGary's Figure 3 depicts a "preferred embodiment" of the invention. Col. 4, ll. 54-57. A more general teaching of the reference is shown in Figures 1 and 2a through 2d. The written description sets forth that "[t]arget [T] movement may be determined using video camera 16 signals alone or in combination with information from the target detector 12." Col. 3, ll. 47-49.

The reference thus clearly teaches that target movement may be determined from the image produced by the camera alone. In a section 103 inquiry "the fact that a specific [embodiment] is taught to be preferred is not controlling, since all disclosures of the prior art, including unpreferred embodiments, must be considered." Merck & Co. v. Biocraft Labs., Inc., 874 F.2d 804, 807, 10 USPQ2d 1843, 1846 (Fed. Cir. 1989) (quoting In re Lamberti, 545 F.2d 747, 750, 192 USPQ 278, 280 (CCPA 1976)). Thus, even if we were to find appellant's arguments persuasive with respect to the preferred embodiment of McGary, the reference elsewhere clearly teaches determining object location by processing the image of the area under surveillance.

Representative claim 10 recites “monitoring the area by means of a pilot camera thereby producing an image of the area,” and “processing the image of the area to automatically determine a location of an object in the area and producing a signal representative of the location of the object.” McGary, at least at column 3, lines 46 through 52, conveys to the artisan that the image of the monitored area is processed to automatically determine the location of an object in the area, and a signal representative of the determined location is used for coordinating movement of the camera so that the object remains in the camera’s field of view.

Appellant, in the Reply Brief, asserts that “camera system 40” of McGary is, at best, “acting as a slave camera.” (Reply Brief at 3.) However, we find nothing in claim 10, nor in the sections of the instant specification pointed out by appellant, that may exclude the cameras disclosed by McGary from meeting the requirements of the claimed “pilot camera.” To the extent appellant’s argument may be construed as an allegation that McGary fails to teach the combination of a “pilot camera” and a “slave camera” as claimed, we note that the rejection relies on Paff for the requirements of the “slave camera.”

In response to the section 103 rejection based on the combination of Paff, McGary, and Kuban, appellant refers to the limitations in the broader claims (e.g. claim 10) that we find met by the basic combination of Paff and McGary. Representative claim 15 further limits claim 10 by requiring that the image processing comprises a step of subtracting successive images of the area from each other. Although McGary is not

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specific with respect to the processing in the disclosed embodiments of the invention, the reference suggests (col. 1, ll. 55-58; col. 4, ll. 24-30) that the processing may be effected by comparing (i.e., subtracting) successive images.

We conclude that appellant has not shown any error in the rejections before us. We therefore sustain the rejection of claims 1, 6, 8, 10, 13, 14, 16, 18, 23, and 36 under 35 U.S.C. § 103 as being unpatentable over Paff and McGary, and the rejection of claims 2-5, 7, 9, 11, 12, 15, 17, 19-22, 24, and 26-35 under 35 U.S.C. § 103 as being unpatentable over Paff, McGary, and Kuban.

We have considered all of appellant's arguments in making our determinations. However, arguments not relied upon are deemed waived. See 37 CFR § 1.192(a) ("Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences, unless good cause is shown.") and § 1.192(c)(8)(iv) (the brief must point out the errors in the rejection).

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CONCLUSION

The examiner's decision in rejecting claims 1-24 and 26-36 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED

PARSHOTAM S. LALL	)	
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
HOWARD B. BLANKENSHIP	)	APPEALS
Administrative Patent Judge	)	AND
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MAHSHID D. SAADAT	)	
Administrative Patent Judge	)	

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