

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PIXART IMAGING, INC.,
Petitioner,

v.

SYNCPOINT IMAGING, LLC,
Patent Owner.

Case IPR2015-01347
Patent 6,275,214 B1

Before TRENTON A. WARD, STACEY G. WHITE, and
CHRISTA P. ZADO, *Administrative Patent Judges*.

ZADO, Administrative Patent Judge.

DECISION
Denying Petitioner's Request for Rehearing
37 C.F.R. § 42.71

I. INTRODUCTION

Pixart Imaging, Inc. (“Petitioner”) seeks rehearing (Paper 29, “Request” or “Req. Reh’g”) of our determination in the Final Decision (Paper 27, “Final Decision”) that Petitioner failed to demonstrate by a preponderance of the evidence that claim 5 of U.S. Patent No. 6,275,214 B1 (Ex. 1001, the “’214 patent”) is unpatentable under 35 U.S.C. § 102(b) as anticipated by PCT International Publication Number WO 97/41502 (Ex. 1005, “Stove”). We have considered Petitioner’s Request, but for reasons that follow, we decline to modify our Final Decision.

II. LEGAL STANDARD

The standard of review for rehearing requests is set for in 37 C.F.R. § 42.71(d), which provides:

The burden of showing a decision should be modified lies with the party challenging the decision. The request must specifically identify all matters the party believes the Board misapprehended or overlooked, and the place where each matter was previously addressed in a motion, an opposition, or a reply.

III. DISCUSSION

Petitioner specifically challenges our determination that Petitioner failed to show that Stove discloses “filtering the image to detect at least one property,” as recited in claim 4. Req. Reh’g 1. Petitioner argues that we misapprehended claim 4 in interpreting the claim to require filtering the image after the image is captured. *Id.* at 1–2, 4, 6–11. According to Petitioner, “the order in which the steps appear in the claim language ordinarily does not impose an implicit limitation that the steps be performed in the same sequence as they appear in the claim.” *Id.* at 7. Contrary to Petitioner’s arguments, we did not impose a specific order in which the

claimed steps must be performed based on the order in which the steps appear in the claims. Rather, the claim language imposes a requirement that the image being filtered is the image captured with a camera. Final Decision, 20. Claim 4 expressly recites “filtering *the image* to detect at least one property.” (Emphasis added). As determined in our Final Decision, the only antecedent basis for “the image,” as recited in claim 4, is the following recitation in claim 2, from which claim 4 depends: “capturing an image of the screen and the external cursor with a camera.” *Id.* at 19. Accordingly, “the image” recited in claim 4 necessarily is the image that is captured with a camera as recited in claim 2. *Id.* (“the ‘image’ refers to ‘an image of the screen’ captured by a camera, as recited in claim 2”). Logically, the step of filtering the image captured with a camera cannot be performed unless there is an image captured with a camera. Petitioner, therefore, needed to show that Stove discloses “capturing an image . . . with a camera” and “filtering the image” captured with the camera “to detect at least one property.” *Id.* at 19–20. For reasons we discussed in our Final Decision, Petitioner failed to make this showing. *Id.*

In particular, in the Petition, Petitioner argued that Stove’s video camera 5 captures an image of the screen and external cursor, as required by claim 2. Final Decision 19–20 (citing Pet. 15¹). Accordingly, with respect to claim 4, Petitioner needed to show Stove discloses filtering the image captured with video camera 5. *Id.* at 20. Petitioner did not make this showing. *See, e.g.*, Pet. 14–15. Instead, Petitioner argued that a red light filter placed in front of the lens of video camera 5 satisfied the “filtering”

¹ In this order, we cite to the Corrected Petition (Paper 4).

limitation recited in claim 4. Final Decision 19–20 (citing Pet. 15). Because the red light filter is in front of the lens, it is not filtering the image captured by video camera 5. Accordingly, we determined that Petitioner failed to demonstrate, by a preponderance of the evidence, that Stove discloses filtering the image from the step of “capturing an image . . . with a camera,” as required by claim 4. Final Decision 19.

In the Request, Petitioner argues we should interpret claim 4 to allow filtering to be performed as part of the image capturing process. Req. Reh’g. 3. Petitioner argues this interpretation is supported by the ’214 patent specification, which discloses that “[f]iltering may be performed as part of the image processing by the computer, or may be performed by appropriate hardware as part of the image capture process.” *Id.* (citing Ex. 1001, 4:37–41). We note this disclosure’s use of the term “or,” indicating filtering may be performed as part of image processing *or* as part of image capture. Ex. 1001, 4:37–41 (emphasis added). Accordingly, even if the ’214 patent specification supported claims directed to either alternative, the language of claim 4 expressly selects filtering being performed as part of image processing, not image capture. Ex. 1001, Claim 4 (“The method of claim 2 wherein *the step of processing the image* comprises[] filtering the image”) (emphasis added).

In the Request, Petitioner also argues that the Board overlooked the ’214 patent’s disclosure of lenses as suitable filters. Req. Reh’g 4–6. Because Petitioner failed to show the red light filter in Stove is applied to an image that is captured by video camera 5, whether a skilled artisan would have understood such red light filter to be a filter within the context of claim 4 did not impact our analysis. Final Decision 19–20. Accordingly,

Petitioner's argument does not persuade us that we overlooked or misapprehended the issue in our Final Decision.

Petitioner also argues that we failed to recognize that Stove's disclosure of performing threshold analysis to detect a signal of interest in a frame of pixels satisfies the filtering step of claim 4. Req. Reh'g 11–12. Petitioner argues further that the same thresholding analysis that satisfies the “filtering” limitation of claim 4 also satisfies claim 5. *Id.* at 12. These are new arguments, and therefore, are improper to make in the Request. See 37 C.F.R. § 42.71. In the Petition, Petitioner did not argue that the step of filtering in claim 4 is satisfied by Stove's disclosure of using a simple threshold to discriminate the signal of interest in a frame of pixels. Pet. 15–16. Instead, Petitioner argued that the red light filter in Stove satisfies the “filtering” limitation of claim 4. *Id.* at 15 (“Stove discloses the use of [a] red light filter to detect a property of the external cursor.”). Petitioner did not provide any further explanation or argument in the Petition with respect to claim 4. It is improper for Petitioner to now argue that Stove's disclosure of using a simple threshold satisfies the “filtering” limitation recited in claim 4.² Similarly, Petitioner's argument in the Request that “the same thresholding that satisfies the ‘filtering’ limitation of claim 4 also satisfies the thresholding limitation of claim 5” is new because Petitioner did not

² With respect to claim 4, Petitioner cited disclosure in Stove that “[t]he red light spot is detected by a camera equipped with a red light filter” and that because “the intensity of the laser light is generally greater than the intensity of video projectors a simple threshold can be used.” Pet. 15 (citing Ex. 1005, 10:11–15). Even though this disclosure describes using a threshold, Petitioner did not argue that the threshold was a form of filtering that satisfied the “filtering” limitation of claim 4. *Id.*

previously argue that the thresholding disclosure in Stove satisfies the “filtering” limitation of claim 4.

IV. CONCLUSION

Having considered Petitioner’s Request, Petitioner had not persuaded us, for the reasons discussed, that our Final Decision should be modified.

V. ORDER

Accordingly, it is:

ORDERED that the Request for Rehearing is *denied*.

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