

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

NEARMAP US, INC.,
Petitioner

v.

PICTOMETRY INTERNATIONAL CORP.,
Patent Owner

Case IPR2024-00729
Patent 9,182,657

**PETITIONER’S AUTHORIZED REPLY TO PATENT OWNER’S
PRELIMINARY RESPONSE¹**

¹ This paper was authorized by the Board during an August 2, 2024 teleconference.
Emphasis herein is added unless noted, and abbreviations are as in the Petition
(Pap.2, “Pet.”).

LIST OF EXHIBITS

Exhibit	Description
EX1001	U.S. Patent No. 9,182,657
EX1002	U.S. Patent No. 9,182,657 File History
EX1003	Declaration of David A. Forsyth, Ph.D.
EX1004	U.S. Patent No. 7,184,072 (Loewen)
EX1005	EP0053640 (Fujimoto)
EX1006	U.S. Patent No. 5,878,356 (Garrot)
EX1007	Mostafa, M.M.R. & Schwarz, K.-P., “Digital image georeferencing from a multiple camera system by GPS/INS,” ISPRS Journal of Photogrammetry & Remote Sensing, Vol.56, 1-12 (2001) (Mostafa)
EX1008	WO 97/35166 (Kain 1997)
EX1009	U.S. Patent Pub. No. 2003/0048357 (Kain 2003)
EX1010	U.S. Patent No. 7,893,957 (Peters)
EX1011	Hall, R.J. & Hiscocks, P., “A Microcomputer-Based Camera Control System,” Photogrammetric Engineering and Remote Sensing, Vol.56 No.5, 443-446 (April 1990)
EX1012	Held, K.J. & Robinson, B, “TIER II Plus Airborne EO Sensor LOS Control and Image Geolocation,” 1997 IEEE Aerospace Conference, Vol.2, 377-405 (1997)
EX1013	<i>U.S. District Courts—National Judicial Caseload Profile</i> , available at https://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile1231.2023.pdf (Dec. 31, 2023)
EX1014	Fourth Amended Patent Case Scheduling Order, Dkt. 372, <i>Eagle View Technologies Inc., and Pictometry International Corp v. Nearmap US, Inc., Nearmap Australia Pty Ltd, and Nearmap Ltd</i> , C.A. No. 2:21-cv-00283-TS-DAO (D. Utah Dec. 27, 2023)
EX1015	WO 99/18732 (Ciampa)
EX1016	U.S. Patent Pub. No. 2003/0164962 (Nims)
EX1017	“ISPRS Journal of Photogrammetry and Remote Sensing,” https://www.sciencedirect.com/journal/isprs-journal-of-photogrammetry-and-remote-sensing/vol/56/issue/1
EX1018	“Nadir,” “Merriam-Webster.com Dictionary,” <i>available at</i> https://www.merriam-webster.com/dictionary/nadir (Accessed March 26, 2024)

EX1019	Compilation of Annotated Images from Oblique Aerials Browser, “A collection of historical aerial photographs of the City of Tampa,” https://storymaps.arcgis.com/stories/f26b7c047dde45d6ae2224208d46071a (accessed March 27, 2024)
EX1020	Declaration of June Munford
EX1021	Oblique Aerials Browser, “A collection of historical aerial photographs of the City of Tampa,” https://storymaps.arcgis.com/stories/f26b7c047dde45d6ae2224208d46071a (accessed March 27, 2024)
EX1022	Declaration of Sayem Osman

Patent Owner Pictometry International Corp.’s (“PO”) Preliminary Response (Pap.6, “POPR”) falsely suggests the Petition mapped “signals transmitted from Loewen’s GPS and altimeter to Loewen’s computer” as limitation [1.f]’s “image-capture signals” sent by the computer. POPR.8-11 (emph. orig.). For example,² PO misstates the Petition and Petitioner’s expert testimony by claiming:

Dr. Forsyth asserts that “Loewen expressly discloses the use of *signals transmitted from Loewen’s GPS and altimeter to Loewen’s computer*” to trigger Loewen’s still cameras to capture images.

EX1003, ¶182. However, signals *received by Loewen’s computer* from Loewen’s GPS or altimeter cannot be considered ‘*control data sent by the computer system*’.

POPR.9-10 (highlight added, other emph. orig.). But PO’s truncation of this quote hides what Dr. Forsyth *actually* stated: “Loewen expressly discloses the use of signals transmitted from Loewen’s GPS and altimeter to Loewen’s computer, which *in turn triggers* Loewen’s still cameras to capture images.” EX1003, ¶¶182

² See also POPR.10 (falsely arguing Petition relies on “signals transmitted by the GPS and altimeter [as] being ‘control data *sent by the computer system*’”) (emph. orig.), 11 (falsely arguing “Petitioner’s claim construction” “require[s]” “signals transmitted by Loewen’s GPS and altimeter and received by Loewen’s computer [to] be ‘control data sent by the computer system’”).

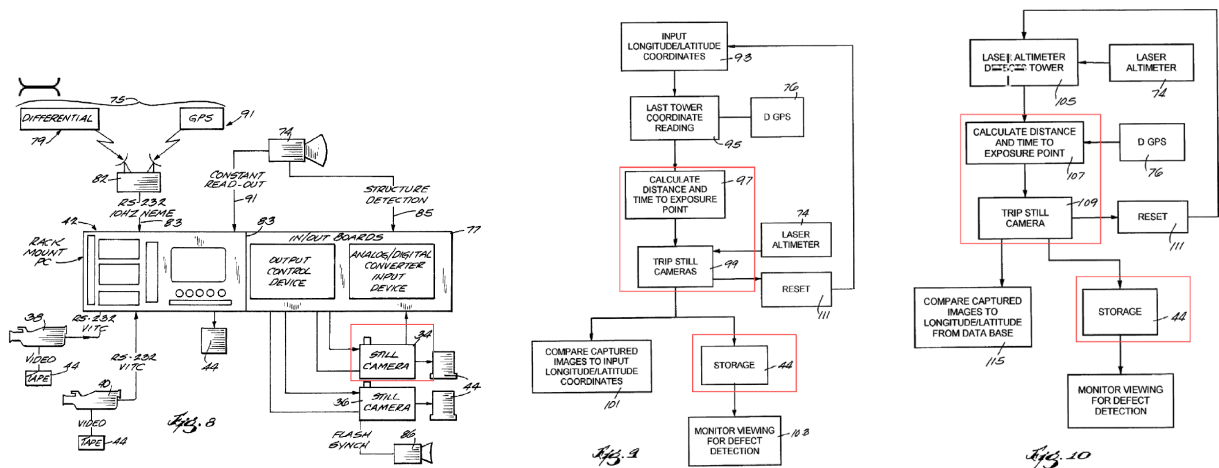
(citing EX1004, 4:14-22 (“the computer... activate[s] the still cameras at the exposure point”)), 183 (“Loewen’s computer, which in turn would have triggered Loewen’s still cameras”), 184 (“implement Loewen’s disclosed computer system, which transmits image-capture signals to the first image-capturing device and the second-imaging capturing device, to cause the first and second image-capturing devices to capture images in response to Loewen’s laser altimeter detecting structures or objects”). *See also* Pet.68-69 n.12³ (altimeter “would send a signal to Loewen’s computer, in turn triggering Loewen’s still cameras to capture images...”; citing EX1003, ¶¶183-84, “If argued further disclosure is required, POSITA would have been motivated and found it obvious... to implement Loewen’s computer system to cause the first and second image-capturing devices to capture images in response to Loewen’s altimeter detecting structures/objects”).

The POPR also ignores the Petition’s actual [1.f] mapping (Pet.67-68):

[1.f])	Loewen plus Fujimoto discloses or renders obvious this limitation. EX1003, ¶179. Loewen discloses that the computer system (see cl.1.d) transmits image-capture signals to the first image-capturing device and the second image-capturing device (see cl.1.a-cl.1.b) to cause the first and second image-capturing devices to capture images (e.g., EX1004, 3:3-10 (“still cameras exposure is automated by including in the system a capability for detecting a tower structure and an onboard computer (a central processing unit) containing operational software and operatively connected to the cameras and the tower detecting device”; “still cameras, computer, and detection capability are operationally interconnected to automatically activate the still cameras at the exposure points along the transmission line”); 7:13-31 (“still camera”	“trigger[ed]... to acquire the images”); 6:31-58 (“[to] fire the still cameras, the computer must pre-arm the camera prior to... the actual trip”); 11:15-18 (“cameras... trigger[ed] based on actual detection of the presence of the tower structure”); see also cl.1.a; cl.1.b). ¹² See EX1003, ¶¶180-187, 194; EX1004, Abstract, Fig.8; see also EX1004 4:1-13, 7:34-55, 10:50-67, 11:1-14, <i>supra</i> , p.23-24 (discussing Loewen).
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³ Also contrary to POPR.8, the Board has certainly not adopted the Federal Circuit’s appeal-brief rule that “any arguments only made in a footnote are forfeited.”

The POPR further ignores the referenced “cl.1.a-cl.1.b” mapping, including, *e.g.*, these “**image-capturing events**” disclosures: “EX1004, Abstract (event in which “still camera is activated at the exposure point to acquire an image”); 7:13-31 (“still camera” “trigger[ed]... to acquire the images”); 7:49-54 (“**computer... perform[s] real time coordination of camera tripping**”)... Figs.8-10[.]” Pet.49-53:



See also Pet.103 n.30 (addressing claim 20, citing EX1003, ¶327).

And (as throughout the POPR) here the POPR also ignores the detailed discussions *preceding* the charts, such as of the “**BACKGROUND ART**” known to POSITA, including a discussion collecting references showing “6. A computer system that *transmits image-capture signals to the image-capturing devices...*” including Loewen—again referencing, *inter alia*, Figures 9 and 10. Pet.23-24.

Respectfully submitted:

/J. Steven Baughman/
J. Steven Baughman

August 16, 2024

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document has been served in its entirety on the Patent Owner (“PO”). Pursuant to agreement with PO’s counsel, the copy has been served on August 16, 2024, by causing the aforementioned document to be electronically mailed to the following attorneys for PO listed below:

Counsel Authorized to Accept Service:	Gregory P. Webb HAYNES AND BOONE, LLP 6000 Headquarters Dr. Suite 200 Plano, TX 75024 greg.webb@haynesboone.com Patricia Hauglum HAYNES AND BOONE, LLP 6000 Headquarters Dr. Suite 200 Plano, TX 75024 patricia.hauglum@haynesboone.com By Electronic Mail
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Dated: August 16, 2024

**GROOMBRIDGE, WU, BAUGHMAN &
STONE LLP**

/Sayem Osman/
Sayem Osman