

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. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD K. KERSCHNER

Appeal No. 2000-0930
Application No. 08/888,339

ON BRIEF

Before BARRETT, DIXON, and BARRY, **Administrative Patent Judges**.
DIXON, **Administrative Patent Judge**.

DECISION ON REQUEST FOR REHEARING

This is a decision on the Request for Rehearing, filed Aug. 15, 2002, from our decision affirming-in-part the examiner's final rejection of claims 1-28 under 35 U.S.C. §§ 102 and 103.

We have carefully considered appellant's arguments in the request, however, we are not persuaded that our decision on the record before us was in error. Appellant argues at page 7 of the Request for Rehearing that the conclusion paragraph does not agree with the text of the decision. We agree with appellant that the conclusion

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paragraph erroneously indicated claims 25 and 27 as being reversed, but it was clear from the text of the decision at page 6 that we sustained the examiner's rejection based upon our finding of an aperture stop in Vogeley.

BACKGROUND

The appellant's invention relates to a catadioptric lens system for a scanning device. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. An optical assembly for a photoelectric imaging apparatus in which a light path extends between an object which is to be imaged and a photosensor array, said optical assembly comprising:

said photosensor array;

at least one optical component arranged along said light path;

said at least one optical component including a lens; and

wherein said lens comprises a catadioptric lens.

The prior art reference of record relied upon by the examiner in rejecting the appealed claims is:

Vogeley	4,003,642	Jan.18, 1977
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Claims 1-4 and 12-16 were rejected under 35 U.S.C. § 103 as being anticipated by Vogeley. Claims 5-11 and 17-28 were rejected under 35 U.S.C. § 103 as being unpatentable over Vogeley.

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In the decision, we affirmed the decision of the examiner to reject claims 1-3 and 12-15 under 35 U.S.C. § 102; we reversed the decision of the examiner to reject claims 4 and 16 under 35 U.S.C. § 102; we affirmed the decision of the examiner to reject claims 25 and 27 under 35 U.S.C. § 103, and we reversed the decision of the examiner to reject claims 5-11 and 17-24, 26 and 28 under 35 U.S.C. § 103.

With this said, appellant argues that we misapprehended the scope of appellant's claims, and the independent claims 1 and 12 "require two-dimensional imaging." (See Request for Rehearing at page 3.) Appellant argues that **In re Sneed**, 710 F.2d 1544, 1548, 218 USPQ 385, 388 (Fed. Cir. 1983) and **In re Bond**, 910 F.2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) provide guidance as to interpreting the claims in light of appellant's specification. We agree with appellant that claims must be interpreted in light of the disclosed invention, but we are not willing to extend the interpretation of elements and limitations that are neither impliedly set forth in the language of the claim nor expressly recited in the disclosed invention. Appellant has not identified what specific language in the claims is to be interpreted to limit the claimed invention to two dimensional imaging. While appellant cites to various occurrences in the specification of a "scanning device" (Request for Rehearing at pages 4-7), we do not agree that these disclosures change the scope of the claimed invention. Appellant argues that we found that Vogeley discloses only a one dimensional image, but that "scanning" involves two dimensional images. (See Request for Rehearing at

page 6.) We disagree with appellant. Rather, we found that Vogeley teaches two dimensional imaging within the optics and the two dimensional image is compressed into a one dimensional image by the optics. (Decision at page 3.)

We are not persuaded that we erred in our interpretation of the language of independent claims 1 and 12. Appellant has the burden of identifying a clear error (points misapprehended or overlooked) in the decision. (See 37 CFR § 1.197(b).) We find that appellant has not identified any points misapprehended or overlooked in the decision. Therefore, we decline to modify our decision beyond clarification of the correct status of dependent claims 25 and 27.

CONCLUSION

In light of the foregoing, the appellant's request for rehearing is granted to the extent of reconsidering our decision, but is denied with respect to making any change thereto.

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

REQUEST FOR REHEARING - DENIED

LEE E. BARRETT)	
Administrative Patent Judge)	
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)	
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)	BOARD OF PATENT
JOSEPH L. DIXON)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
)	
LANCE LEONARD BARRY)	
Administrative Patent Judge)	

JD/RWK

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