

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(2) is not binding precedent of the Board.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. 14

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN D. VALA, CLIVE E. CATCHPOLE,
JOHAN P. BAKKER, ROBERT T. ROURKE, PAUL STOLIS,
GARY B. COPENHAVER, DAVID J. VALICE
and DAVID J. CONCANNON

Appeal No. 95-4814
Application 07/935,507¹

ON BRIEF

Before HAIRSTON, JERRY SMITH, and BARRETT, Administrative
Patent Judges.

HAIRSTON, Administrative Patent Judge.

¹ Application for patent filed August 26, 1992.

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Application 07/935,507

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 25.

The disclosed invention relates to a method and apparatus for illuminating documents in an automatic document processing system wherein a large number of documents is rapidly transported past one or more imaging stations.

Claims 1 and 20 are illustrative of the claimed invention, and they read as follows:

1. An arrangement for illuminating and documents checks in a document-processing system wherein a large number of documents are rapidly, continuously automatically transported past one or more imaging stations, each station having a prescribed source means comprising a hollow Lambertian integrating vessel which houses one or more light sources and projects a highly-uniform, yet highly diffuse illumination-beam.

20. An automatic method of illuminating documents in a document-processing system wherein a large number of documents is rapidly transported past one or more imaging stations, each station having a prescribed respective imaging-site which is illuminated by prescribed lamp means which projects an illumination-beam thereto; said method comprising:

housing said lamp means in a hollow Lambertian integrating vessel having illumination-aperture means adapted to project the energy of said lamps to its respective said imaging-site; arranging said lamp means to direct all of its emitted light to be reflected by the inner walls of said vessel; and making said inner walls a highly-Lambertian reflector/diffuser.

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The references relied on by the examiner are:

Martino 1980	4,220,982	Sept. 2,
Vala et al. (Vala) 1992	5,089,713	Feb. 18,

Claims 1 through 5 and 18 through 25 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which appellants regard as the invention. According to the examiner, "[t]hese claims cite a function of the apparatus without reciting in the claim sufficient structure to enable that function to be effected: there is only one element recited in the claim, a lambertian vessel" (Answer, pages 3 and 4).

Claims 1 through 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Vala in view of Martino.

Reference is made to the briefs and the answers for the respective positions of the appellants and the examiner.

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OPINION

We have carefully considered the entire record before us, and we will reverse the indefiniteness rejection, sustain the obviousness rejection of claims 1, 2, 6, 7 and 20, and reverse the obviousness rejection of claims 3 through 5, 8 through 19 and 21 through 25.

Turning first to the indefiniteness rejection, some of the claims on appeal are indeed broad, and could have included specific structure. We find that none of the claims on appeal, however, recites only one element as asserted by the examiner (Answer, page 4). It is well known that appellants are permitted to claim their invention in broad terms if the disclosure supported such broad terms. Even if the claims are broader than they otherwise would have been if specific structure had been specified, breadth is not to be equated with indefiniteness. See In re Miller, 441 F.2d 689, 693, 169 USPQ 597, 600 (CCPA 1971). The indefiniteness rejection of claims 1 through 5 and 18 through 25 is reversed.

The first question is whether appellants have complied with the requirements of 35 U.S.C. § 120 for claiming

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the priority benefit of Vala, U.S. Patent 5,089,713;² that is, whether Vala is prior art. In Amendment A (paper number 3), appellants amended the application to include the following statement:

This is a Continuation-in-Part of our USSN 07/811,337 filed 1/29-92 which is a Division of our USSN 651,887 filed 2/7-91 and now US 5,089,713, which, in turn, is a Division of our USSN 419,572 filed 10/10-89 and now US 5,003,189, all having common inventors and being commonly assigned. We hereby claim the filing dates of the foregoing as the effective filing date of the instant case as regards all common disclosed subject matter.

According to the examiner (Answer, page 2):

[A]pplicant has [sic, Applicants have] failed to perfect his [sic, their] claimed continuation-in-part status by neglecting to disclose all information as required under 35 U.S.C. 120 and § 1.56; please see bottom of page 1 of+-

applicant's [sic, applicants'] declaration wherein space for said information is blank. Because of this omission, the examiner is required to use the "parent" application as prior art. In the last office action, the examiner detailed this information by directing the applicant [sic, applicants] to 37 CFR 1.62(c),(d) and 37 CFR 1.63(d) (emphasis in original).

²U.S. Patent No. 5,089,713 is one of the references relied on by the examiner.

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The only requirement placed upon appellants by the referenced portions of 37 CFR §§ 1.62 and 1.63 is that they file a corrected declaration. Except for a corrected declaration, appellants have complied with all of the requirements of 35 U.S.C. § 120, and MPEP §§ 201.08 and 201.11. Thus, we find that the Vala patent is not proper prior art against the claims on appeal.

Although Vala is not available as prior art against the claims on appeal, the BACKGROUND section of Vala discloses that high-speed document processors requiring intense illumination sources were well known in the art. Accordingly, we rely on that admission and Martino.

Martino discloses a light table arrangement 17 for illuminating documents³ contained on film, wherein a large number of documents on film are rapidly, continuously, and automatically transported by film advance system 15 past one or more imaging stations on cover 83. As seen in Figures 1 through 4, one or more imaging stations are formed by the pair

³ A writing conveying information does not have to be on paper. A film, like paper, is a material substance that can hold representations of our thoughts via conventional marks or symbols.

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of illumination systems 87 and 87a. Each of the imaging stations has a prescribed source means which houses one or more light sources 103, and projects a highly-uniform, yet highly diffuse illumination beam which, absent a showing to the contrary, is considered to be a "Lambertian integrating vessel." According to the IEEE Standard Dictionary of Electrical and Electronic Terms,⁴ a lambertian surface has the same luminance regardless of the viewing angle. Appellants have not demonstrated that Martino does not possess this characteristic and is not a "Lambertian integrating vessel." Martino states that a diffusing coating may be applied to the reflective surface 100 of reflector 89 in the illumination system 87 and 87a (column 4, lines 29 through 31). Appellants disclose throughout the specification that the preferred sources of illumination are either tungsten-halogen lamps or arc lamps. Martino discloses (column 3, lines 21 through 26) that the illumination lamps 103 should be either tungsten-halogen or an arc source. The particularly chosen

⁴Jay (Editor), IEEE Standard Dictionary of Electrical and Electronic Terms, p. 363 (2d ed., New York, The Institute of Electrical and Electronics Engineers, Inc., 1977) (copy attached).

illumination levels and sources, the diffuse and reflective coatings on the pair of illumination systems, and the uniformity of the illumination (column 4, lines 9 through 15) combine to form "a hollow Lambertian integrating vessel" in Martino as disclosed and claimed at least absent a factual showing that a "Lambertian integrating vessel" has structural properties different from Martino. As illustrated in the cross-sectional view of the light table 17, a cylindrical⁵ shape, but not a cylinder, is formed by the illumination system 87. The open end of each of the illumination systems 87 and 87a forms a very wide aperture.

In view of the foregoing, the obviousness rejection of claims 1, 2, 6, 7 and 20 is sustained over the teachings of the admitted prior art in Vala and Martino.⁶ It is noted that no particular vessel shape is set forth in claims 1, 6 and 20. Claim 7 requires a "cylindrical" vessel, not a closed

⁵ The cross-sectional shape of the illumination system 87 has the properties of a cylinder.

⁶ Although the rejection is based on Vala in view of Martino, it is permissible to sustain the rejection in light of the admitted prior art in Vala and Martino. See In re Bush, 296 F.2d 491, 495-96, 131 USPQ 263, 266-67 (CCPA 1961).

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cylinder, which we consider would have been obvious in view of the partially circular cross section in Figure 3 of Martino. The obviousness rejection of claims 3, 4, 18 and 19 is reversed because Martino's illumination system 87 is not a cylinder, which we consider to require a mostly full outer surface. The obviousness rejection of claims 5 and 21 through 25 is reversed because Martino's aperture is too wide to be fairly considered a slit. The obviousness rejection of claims 8 through 15 is reversed because Martino does not disclose a camera means. The obviousness rejection of claims 16 and 17 is reversed because Martino does not disclose lamp means outside the walls of the illumination system 87.

DECISION

The decision of the examiner rejecting claims 1 through 5 and 18 through 25 under the second paragraph of 35 U.S.C. § 112 is reversed, and the decision of the examiner rejecting claims 1 through 25 under 35 U.S.C. § 103 is affirmed as to claims 1, 2, 6, 7 and 20, and is reversed as to claims 3 through 5, 8 through 19 and 21 through 25. Accordingly, the decision of the examiner is affirmed-in-part.

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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).

AFFIRMED-IN-PART

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KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
JERRY SMITH)	
Administrative Patent Judge)	APPEALS AND
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)	INTERFERENCES
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LEE E. BARRETT)	
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