

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte SHINJI TOMINAGA,  
TAKEHIRO KATOH, TAKASHI OKADA,  
HIROYUKI OKADA, DAI SHINTANI  
and KATSUYUKI NANBA

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Appeal No. 96-3994  
Application 08/260,485<sup>1</sup>

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ON BRIEF

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Before THOMAS, JERRY SMITH and DIXON, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

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<sup>1</sup> Application for patent filed June 15, 1994. According to appellants this application is a continuation of Application 07/762,875, filed September 19, 1991.

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This is a decision on the appeal from the examiner's final rejection of claims 1 through 10, which constitute all the claims in the application. Of these claims, only claims 1 through 8 remain on appeal since the examiner has indicated the allow-ability of claims 9 and 10 in the supplemental examiner's answer mailed on June 12, 1996.

Representative independent claim 1 is reproduced below:

1. A camera provided with an aperture controllable shutter having a diaphragm, comprising:

a photographing lens having a variable focal length to be set in a desirable focal length, the full open aperture diameter thereof being constant as the focal length varies so that the full open aperture value thereof is varied;

a detector which detects the set focal length of the lens;

a first decision means for determining the extent to which the aperture diameter is capable of being controlled toward an opening direction of the aperture controllable shutter in accordance with the focal length detected by said detector;

a light metering device which measures the brightness of an object to be taken;

a driving mechanism which actuates the diaphragm of the aperture controllable shutter for opening the aperture;

a second decision means for determining the movement of the diaphragm of the aperture controllable shutter in accordance with the full-aperture diameter determined by the

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first decision means and the object brightness measured by said light metering device; and

a controller which controls the driving mechanism corresponding to the movement of the diaphragm determined by said second decision means.

The following reference is relied on by the examiner:

Maruyama	4,899,191	Feb. 6,
1990		

Claims 1 through 8 stand rejected under the second paragraph of 35 U.S.C. § 112 as being indefinite. Claims 1, 4, 7 and 8 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Maruyama. Finally, claims 2, 3, 5 and 6 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Maruyama alone.

Rather than repeat the positions of the appellants and the examiner, reference is made to the various briefs and answers for the respective details thereof.

#### OPINION

We reverse each of the three noted rejections of the claims on appeal.

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With respect to the language of independent claims 1 and 4 on appeal, "the full open aperture diameter thereof being constant as the focal length varies so that the full open aperture value thereof is varied," it is stated by the examiner as not being understood. At page 6 of the answer, the examiner additionally questions the language of another clause, the first decision means clause of claim 1, which is stated to determine "the extent to which the aperture diameter is capable of being controlled toward an opening direction." This is urged by the examiner as implying that the diameter is not held constant. Thus, there was stated to be an apparent inconsistency.

We reverse this rejection because the examiner's position is easily answered by an understanding of the specification as filed. In the summary of the invention at page 3 of the principal brief on appeal, appellants attempt to correlate the features of claim 1 to certain portions of the written description as originally filed. To these portions specified, we add the following: The discussion of Figures 9 and 10 at pages 12 and 13 and, most importantly, the discussion of

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Figures 17 through 20 beginning at the bottom page 23 through the bottom of page 26. The context of this latter portion of the specification has been established for proper understanding of the earlier portions in the specification in the context of the discussion of Figures 9 and 10. The brief description of Figure 17 at the bottom of page 4 of the specification as filed describes in brief detail the block diaphragm in this figure as relating to circuitry of a camera capable of varying full aperture value. The discussion noted in the pages which follow through the end of page 26 clearly establish that the claimed aperture diameter is, in fact, held constant and that the so-called aperture value varies as the focal length is varied. The relationship of these terms is defined at the bottom of page 24 where the aperture value is said to be calculated from the focal length divided by the aperture diameter. It goes on to state that "when the shutter aperture remains unchanged during variation in the focal length, [the aperture value] will be varied systematically." In context the full open aperture

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value is discussed at pages 25 and 26 relative to the discussion of Figures 19 and 20.

This portion of the specification is also consistent with the language of the first decision means clause indicating a determination of the extent to which the aperture diameter is capable of being controlled toward an opening direction of the aperture controllable shutter in accordance with the focal length detected by the detector. As noted at the top of page 6 of the reply brief, we understand the discussion at pages 25 and 26 of the disclosed invention as allowing or permitting a control limit or claimed "extent" for the open aperture diameter of the aperture controller shutter to be defined by the relationship set forth in Figure 19. As noted at the top of page 6 of the reply brief, the "control limit of the present invention renders the hatched part of the drawing physically unusable."

In view of the foregoing, it is readily apparent to the artisan that the appellants have claimed their invention entirely consistent with the disclosed invention and the written description portion of the specification and drawings.

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Therefore, there can be no true indefiniteness here within the second paragraph of 35 U.S.C. § 112. Appellants are, thus, particularly pointing out and distinctly claiming what they regard as their invention within this statutory provision. As such, the rejection of claims 1 through 8 under the second paragraph of 35 U.S.C. § 112, must be reversed.

Turning next to the rejection of claims 1, 4, 7 and 8 under 35 U.S.C. § 102, this rejection also is reversed. Once the proper context in which the disclosed invention is appreciated in light of the matters just discussed, our study of Maruyama leads us to the same conclusions set forth by appellants in the principal brief on appeal. Essentially, Maruyama's approach is entirely different than that of the appellants. This reference fails to disclose a constant full open aperture during focal length changes so that the full open aperture value is varied as recited in the initial portion of independent claims 1 and 4 on appeal. The reference also would therefore by necessity fail to disclose the claimed first and second decision means notwithstanding

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the examiner's views that these decision means clauses are within the four corners of the reference. On the basis of our own study, we understand the teachings at the same portions noted at the top of page 7 of the brief on appeal in Maruyama as indicating that, when the focal length of the lense changes, the full open aperture size or diameter of the shutter blades is also changed. Maruyama's invention discloses an approach where the aperture size varies as the focal length varies.

Separately, we also agree with appellants' views with respect to the different language recited in independent claim 4 on appeal than the common language recited between that claim and claim 1 on appeal. In claim 4 the first decision means determines a program line from a plurality of program lines which have different full-aperture [sic, full open-aperture] diameters, respectively. This language and the subsequent language in the second decision means clause relate to the operation of the appellants' disclosed camera in the context of the showings in Figures 3 and 6, for example. We do not agree with the examiner's view that the showing in

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Figure 2 of Maruyama discloses such program lines which relate different full open-aperture diameters to focal length.

For these reasons we reverse the rejection of claims 1, 4, 7 and 8 under 35 U.S.C. § 102. As such, we must also reverse the rejection of their dependent claims 2, 3, 5 and 6 under 35 U.S.C. § 103.

Accordingly, in view of the foregoing, we have reversed all of the rejections of the claims on appeal. Therefore, the decision of the examiner is reversed.

REVERSED

James D. Thomas )  
Administrative Patent Judge )  
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	Jerry Smith	)	BOARD OF
PATENT		)	
	Administrative Patent Judge	)	APPEALS AND
		)	INTERFERENCES
		)	
	Joseph L. Dixon	)	
	Administrative Patent Judge	)	

JDT/cam

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Sidley & Austin  
717 North Harwood, Suite 3400  
Dallas, TX 75201