

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JAE KYEONG NOH

Appeal No. 1998-2576
Application 08/413,944

ON BRIEF

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

SMITH, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1-11, which constitute all the claims in the application.

The disclosed invention pertains to a method and apparatus for controlling a movie camera shutter speed. More particularly, the invention uses a microcomputer for determining a limited usable range of shutter speed when the camera is operating in a manual shutter speed mode.

Representative claim 1 is reproduced as follows:

1. A device for controlling movie camera shutter speed comprising:

an iris opening detection means for sensing the extent of iris opening and generating a signal representative of the extent of iris opening;

an adjusting signal output means for detecting an environmental illuminance in response to the signal from the iris opening detection means; and

a microcomputer for determining a limited usable range of shutter speed mode for performing a manual shutter speed in response to the signal received from the adjusting signal output means.

The examiner relies on the following reference:

Takahashi et al. (Takahashi) 5,483,280 Jan. 9, 1996
(effective filing date of Mar. 19, 1993)

Claims 1-11 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the disclosure of Takahashi.

Rather than repeat the arguments of appellant or the examiner, we make reference to the briefs and the answer for the respective details thereof.

OPINION

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, the appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

It is our view, after consideration of the record before us, that the disclosure of Takahashi does not fully meet the invention as set forth in claims 1-11. Accordingly, we reverse.

Anticipation is established only when a single prior art reference discloses, expressly or under the principles of inherency, each and every element of a claimed invention as well as disclosing structure which is capable of performing the recited functional limitations. RCA Corp. v. Applied Digital Data Systems, Inc., 730 F.2d 1440, 1444, 221 USPQ 385, 388 (Fed. Cir.); cert. dismissed, 468 U.S. 1228 (1984); W.L. Gore and Associates, Inc. v. Garlock, Inc., 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

The examiner indicates how he reads the claimed invention on the disclosure of Takahashi [answer, pages 4-7]. With respect to independent claim 1, appellant argues there is no provision for manual shutter speed selection in Takahashi [brief, pages 5-10]. The examiner responds that the language of claim 1 is broad enough to be met by a microcomputer which automatically determines a shutter speed which is then manually executed by a user by pressing a shutter button [answer, page 7]. Appellant responds that the pressing of a shutter button by the user does not mean that the device is operating using a manual shutter speed [reply brief].

We agree with appellant. The disclosure of Takahashi does not relate to operating a camera in a manual shutter speed mode, and the examiner's attempt to read manual

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shutter speed on the shutter activation button is untenable. Therefore, Takahashi does not fully meet every limitation of independent claim 1 as required under 35 U.S.C. § 102. Accordingly, we do not sustain the anticipation rejection of claim 1.

Each of independent claims 2, 10 and 11 also recites the control of a camera in manual shutter speed mode. For reasons discussed above, Takahashi does not meet this limitation of the claims. Therefore, we also do not sustain the examiner's anticipation rejection of claims 2-11.

Although we recognize that the appealed claims are extremely broad in scope, the examiner is still required to present a factual record which supports the anticipation rejection. The claims essentially recite an automatic operation by computer which is used even in manual shutter speed mode. Although we cannot say if there is prior art available which may render the claimed invention unpatentable, we can say that Takahashi does not provide a factual record which can support the examiner's rejection.

In summary, we have not sustained the examiner's rejection of the appealed claims. Therefore, the decision of the examiner rejecting claims 1-11 is reversed.

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REVERSED

KENNETH W. HAIRSTON
Administrative Patent Judge

ERROL A. KRASS
Administrative Patent Judge

JERRY SMITH
Administrative Patent Judge

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