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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

POLYCOM, INC.
Requester

v.

FULLVIEW, INC.
Patent Owner

Appeal 2016-008299
Reexamination Control 95/001,876
Patent 6,700,711 B2
Technology Center 3900

Before STEPHEN C. SIU, BRADLEY W. BAUMEISTER, and
IRVIN E. BRANCH, *Administrative Patent Judges*.

Opinion for the Board filed by *Administrative Patent Judge* SIU.
Opinion Concurring filed by *Administrative Patent Judge* BAUMEISTER.
Opinion Concurring-in-Part Dissenting-in-Part filed by *Administrative
Patent Judge* BRANCH.

SIU, *Administrative Patent Judge*.

DECISION ON REHEARING

Patent Owner's Request for Rehearing

I.

The rejection of claims 22–24 as obvious over the combination of Lelong and Uehira is withdrawn for at least the reasons set forth by Patent Owner and Requester. Patent Owner Request for Rehearing Under 37 C.F.R. 41.79(a)(4), filed Feb. 3, 2017 (“PO Req. Reh’g.”) 1–6; Third Party Requestor Comments Under 41.79(c) on Patent Owner Request for Rehearing, filed Mar. 2, 2017 (“3PR Comments on Req. for Reh’g.”) 3.

II.

Contentions

Patent Owner argues that the Board does not have authority to issue a new ground of rejection for remaining claims 1–21 and 25–39 based upon the combination of Lelong and Uehira. PO Req. Reh’g 4. Patent Owner notes that that rejection previously had been proposed by Requester, the Examiner had refused to adopt that proposed ground of unpatentability, and the Director already had denied Requester’s Petition for reconsideration of the Examiner’s decision. *Id.* Patent Owner further notes that 35 U.S.C. § 312(c) and Rule 37 C.F.R. § 1.927 set forth that the Director’s Decision is both final and non-appealable. *Id.* (citing Director’s Decision 16 (mailed May 29, 2013)). Patent Owner argues that the Board cannot reverse Director’s Decision by issuing the new ground of rejection because such an action would render the Director’s Decision with respect to the rejection at issue non-final.

Relevant Authority

Section 312 of the patent statutes reads, in relevant part, as follows:

(a) Reexamination.— Not later than 3 months after the filing of a request for inter partes reexamination under section 311, the Director shall determine whether the information presented in the request shows that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request, with or without consideration of other patents or printed publications. A showing that there is a reasonable likelihood that the requester would prevail with respect to at least 1 of the claims challenged in the request is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.

....

(c) Final Decision.— A determination by the Director under subsection (a) shall be final and non-appealable.

35 U.S.C. 312.

Rule 1.927 reads as follows:

1.927 Petition to review refusal to order inter partes reexamination.

The third party requester may seek review by a petition to the Director under § 1.181 within one month of the mailing date of the examiner's determination refusing to order inter partes reexamination. Any such petition must comply with § 1.181(b). If no petition is timely filed or if the decision on petition affirms that a reasonable likelihood that the requester will prevail with respect to at least one of the claims challenged in the request has not been established, the determination shall be final and nonappealable.

37 C.F.R. § 1.927.

Rule 41.77 reads, in relevant part, as follows:

41.77 Decisions and other actions by the Board.

(a) The Patent Trial and Appeal Board, in its decision, may affirm or reverse each decision of the examiner on all issues raised on each appealed claim, or remand the reexamination proceeding to the examiner for further consideration. The reversal of the examiner's determination not to make a rejection proposed by the third party requester constitutes a decision adverse to the patentability of the claims which are subject to that proposed rejection which will be set forth in the decision of the Patent Trial and Appeal Board as a new ground of rejection under paragraph (b) of this section. The affirmance of the rejection of a claim on any of the grounds specified constitutes a general affirmance of the decision of the examiner on that claim, except as to any ground specifically reversed.

(b) Should the Board reverse the examiner's determination not to make a rejection proposed by a requester, the Board shall set forth in the opinion in support of its decision a new ground of rejection; or *should the Board have knowledge of any grounds not raised in the appeal for rejecting any pending claim, it may include in its opinion a statement to that effect with its reasons for so holding, which statement shall constitute a new ground of rejection of the claim.* Any decision which includes a new ground of rejection pursuant to this paragraph shall not be considered final for judicial review.

37 C.F.R. § 41.77(a),(b) (emphasis added).

Analysis

As a threshold matter, we adopt the reasoning justifying our jurisdiction and authority to address the disputed obviousness rejection for the reasons set forth in our original, September 29, 2014, Decision on Appeal. Dec. 13.

Patent Owner's argument is unpersuasive also because Patent Owner's cited legal authority only stands for the proposition that patent

owners and third party requesters cannot appeal such final decisions of the Director. The cited legal authority does not prohibit *the Board* from considering *sua sponte* these or any other grounds of rejection not raised on appeal. In fact, the Board is expressly authorized to issue new grounds of rejection (*see* 37 C.F.R. § 41.77(b)), and the language of this broad authority does not exclude those particular grounds of rejection for which the Director previously made final the Examiner’s non-adoption. *See id.*

In summary, Patent Owner has not persuaded us that the Board has misapprehended or overlooked the limits of its jurisdiction. Regardless of whether we agree that an obviousness rejection over Lelong and Uehira would be proper, the Board does have the authority to consider, in regard to those claims that are under reexamination, whether a new ground of rejection based upon this combination of teachings would be proper.

III.

Patent Owner also argues that we misconstrued or overlooked that “the ‘broadest reasonable interpretation’ standard is no longer applicable to the patent in reexamination” such that “a mirrored pyramid placed behind a lens, as in Uehira, clearly cannot ‘redirect’ a ‘field of view.’” PO Req. Reh’g. 5. In other words, Patent Owner argues that the Decision relies on a broadest reasonable interpretation of the term “redirect” to conclude that the Uehira mirror “redirects” an image. But, according to Patent Owner, under a *Phillips* claim construction standard of the term “redirect,” one of skill in the art would not understand a mirror to “redirect” an image. Implicit in Patent Owner’s arguments is that this issue is somehow relevant to our

determination that claims 1–21 and 25–39 have not been shown to be unpatentable over the combination of Lelong and Uehira.

We are unpersuaded by Patent Owner at least because Patent Owner does not point out that we relied on a broadest reasonable standard in construing the term “redirect” in the Decision (dated January 4, 2017). In fact, Patent Owner does not demonstrate that we construed the term “redirect” at all under any standard in the Decision.

Even assuming that we construed the term “redirect” and further construed the term “redirect” using a broadest reasonable standard, as Patent Owner asserts but does not demonstrate persuasively, Patent Owner does not explain how the application of a *Phillips* claim construction standard to the construction of the claim term “redirect” would lead one of skill in the art to understand that a “mirror” does not “redirect” an image. While Patent Owner merely asserts that one of skill in the art, upon application of the *Phillips* claim construction, would somehow understand that a mirror does not “redirect” images, Patent Owner fails to provide an adequate explanation as to why one of skill in the art would not have understood the conventional function of a mirror to be to “redirect” an image.

In addition, even assuming that we construed the term “redirect” in the Decision, that we construed the term “redirect” using a broadest reasonable standard in the Decision, and that one of skill in the art applying the *Phillips* claim construction standard to the term “redirect” would understand that a mirror somehow does not “redirect” an image (none of which Patent Owner asserts or demonstrates persuasively), Patent Owner does not explain how any of these hypothetical conditions is relevant to our

determination that the disputed claims are *not* shown to be obvious over the combination of Lelong and Uehira.

In view of the above, Patent Owner's request for rehearing is granted to the extent that the rejection of claims 22–24 is withdrawn, but otherwise denied.

Requester's Request for Rehearing

In a paper filed January 24, 2017, Requester requests a rehearing under 37 C.F.R. § 41.52 from the Decision of the Patent Trial and Appeal Board (hereinafter Board), dated January 4, 2017. In the Decision, we affirmed the Examiner's non-adoption of the rejection of claims 1–39 as obvious over the combination of Lelong and Uehira. Decision 6. Claim 1 reads as follows:

1. A method of producing a composite image with a plurality of sensors each having an individual field of view, comprising the steps of:
 - for at least one of the plurality of sensors, redirecting at least a portion of its individual field of view with a reflective area; and
 - merging images corresponding to the individual fields of view to produce the composite image having a corresponding field of view, wherein each one of at least two fields of view corresponding to images that are merged has a portion, where the images are merged, that has viewing directions that are substantially similar to the viewing directions of the other portion, and wherein the viewing directions within each one of such two portions appear to originate substantially from a point that is offset from the point for the other one of such two portions.

Claim 1 recites that the “viewing directions within each one of such two portions appear to originate substantially from a point that is offset from the point for the other one of such two portions.” Requester argues that we misapprehended or overlooked the fact that “the second use of substantially [in claim 1] modifies ‘originate,’ not ‘offset’ [as recited in claim 1].” Req. Reh’g. 4, see also Req. Reh’g 5–8.

Claim 1 recites a “viewing direction” of one portion of an image that is “substantially similar” to a “viewing direction” of a portion of another image and that the “viewing direction” of the one portion appears to “originate” from a “point” that is offset from the “point” from which the other “viewing direction” (of the portion of the other image) appears to originate.

As discussed in the Decision, Requester previously argued that Lelong discloses that the “n adjacent fixed cameras are also arranged in such a way that their optical centers P, referred to as view points coincide” and equated the “view points” of Lelong with the claimed “viewing direction” of a “portion” being “substantially similar” to the “viewing direction” of another adjacent “portion” (i.e., that the “view points coincide” in Lelong and, therefore, must be substantially similar). Requester also previously argued that Lelong discloses that a point from which one portion appears to originate may be “separated or offset by 5 or 10 cm” from a point from which another portion appears to originate. See e.g., Request for *Inter Partes* Reexamination of U.S. Patent No. 6,700,711 B2 Under 35 U.S.C. § 311 and 37 C.F.R. § 1.913, Ex. C (“Orig. Req. Ex. C”) 2. Hence, Requester also equated the “view points” of Lelong with the claimed point

from which each portion appears to originate, the “view points” of Lelong being “offset” from one another, as recited in claim 1.

In summary, Requester equated the “view points” of Lelong with the claimed “viewing directions” of “portions” of images (being coincident or “substantially similar,” as recited in claim 1) and also with the “points” from which the “viewing directions” originate from as being “offset” (i.e., offset by 5 or 10 cm, as disclosed by Lelong). See Decision 4–5.

Requester now argues that claim 1 does not recite or require that the “offset” between the “points” (or “offset” of the “view points” of Lelong) be “substantial.” However, assuming that the claimed “offset” is not “substantial,” as Requester now argues, Lelong explicitly discloses that when the “offset” of the “view points” (equated to the claimed “points” by Requester) is not substantial, then “costly optical mirror systems” (or reflective areas) are not used. See e.g., Lelong 7:4–15.

Therefore, even assuming Requester to be correct that claim 1 does not require the claimed “offset” to be “substantial” and that Lelong discloses an offset that is not “substantial,” we note that Lelong also discloses that when the offset is not substantial (e.g., “5 cm or 10 cm [when] the distance to the panoramic scene is 5 m”), then “costly optical mirror systems” are *not* used. Claim 1 also requires redirecting at least a portion of its individual field of view with a reflective area. Requester does not explain why one of ordinary skill in the art would then have incorporated a “reflective area” in the system of Lelong when Lelong explicitly discloses that when the offset is not substantial (as Requester now argues), a reflective area (or “optical mirror system”) would *not* be used.

In summary, either Lelong discloses a system in which the “view points” of portions of images (equated by Requester to the claimed “points” from which portions originate) are offset by an insubstantial amount or by a substantial amount. If the latter, then the “view points” of portions of images (also equated to the claimed “viewing directions” by Requester) would not be “substantially similar,” as recited in claim 1. If the former, then the “viewing directions” would be “substantially similar,” as recited in claim 1. However, Requester does not explain persuasively why it would have been obvious to one of ordinary skill in the art to have incorporated a “reflective area” when Lelong explicitly discloses that the use of reflective areas (e.g., a “costly optical mirror system”) would *not* be used if the offset of the “view points” is *insubstantial*. For at least these reasons, we are not persuaded by Requester’s argument that claim 1 is unpatentable over Lelong (and Uehira) because claim 1 supposedly does not require the “offset” to be “substantial.”

Requester argues that we misapprehended or overlooked that “Lelong’s view points are an adequate substitute for the viewing directions of the claims, particularly when the erroneous substantial offset issue is ignored” and that “only a very nominal amount of offset need be taught by a reference, i.e., a ‘small’ offset is sufficient.” Req. Reh’g 10–11.

As discussed, however, even assuming that the “substantial offset issue” is both “erroneous” and “ignored” and that only a “small offset [of Lelong] is sufficient,” as Requester suggests (i.e., that the claimed “offset” between the “view points” of Lelong are *not* substantial or are “small”), we still are unpersuaded by Requester’s argument that Lelong (or the

combination of Lelong and Uehira) discloses or suggests a system with an offset that is not substantial, but which nevertheless would contain a “costly optical mirror system” (or a reflective area, as recited in claim 1). *See* previous discussion.

Requester argues that it would have been obvious to one of ordinary skill in the art to have incorporated a mirror (or “reflective area”) of Uehira into the system of Lelong because “[o]ne skilled in the art would consider . . . alternatives [to the Lelong system]” based on alternative “design choices” and that “an optical mirror system” could be used “if necessary for the particular design” of a system that might benefit from the use of such an optical mirror system. Req. Reh’g. 14 (citing Declaration of Stephen D. Fantone, dated November 25, 2014 (“Fantone Decl.”) ¶¶ 15–16); *see also* Req. Reh’g. 15. In other words, Requester argues that it would have been obvious to one of ordinary skill in the art to have used a mirror (or “reflective area”) in the Lelong system, despite Lelong’s explicit disclosure *not* to use such a mirror (or “reflective area”) when the “offset” is insubstantial because doing so would provide an alternative design choice in those system designs that might benefit from the use of such a mirror.

We are not persuaded by Requester’s argument. We need not consider whether or not it might have been obvious to one of ordinary skill in the art to have used a mirror (or “reflective area”) in the system of Lelong if the “offset” is substantial, as Requester appears to assert, because, as noted above, Lelong explicitly discloses that the “offset” is *insubstantial* and that under such circumstances, a mirror (or “reflective area”) is *not* used.

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Requester provides additional arguments including that “[i]t is . . . improper for the Examiner’s Determination to rely on the Netravali declaration to overcome a rejection,” that “the Netravali declaration [and] the Examiner’s Determination [never] discussed . . . citations [pertaining to where the sensors have been separated and made non-co-planar to receive the reflected light],” that “Lelong does indeed [disclose] the existence of blind regions,” and that “Mr. Netravali [failed] to ever discuss the cited portions of Lelong and Uehira,” which, according to Requester, “is insufficient to overcome these teachings of Lelong.” Req. Reh’g. 16–17. For at least the above stated reasons, we disagree with Requester that any of these additional arguments are relevant in demonstrating persuasively that it would have been obvious to one of ordinary skill in the art to have arrived at the claimed invention based on the combination of Lelong and Uehira.

In view of the above, Requester’s request for rehearing is denied.

DENIED

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Before STEPHEN C. SIU, BRADLEY W. BAUMEISTER, and
IRVIN E. BRANCH, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*, concurring.

I generally agree with the reasoning and conclusions of Judge Siu's Opinion. I write separately to clarify that Requester's arguments are unpersuasive additionally because Requester mischaracterizes how we interpreted the term "substantially," as used in the independent claims' recitation of the offset.

Requester argues that the Majority of the Reopen Decision (mailed Jan. 4, 2017) erred by interpreting the claim term "originate substantially from a point that is offset" as "requir[ing] that the offset be great."

3PR Req. Reh’g. 4; *see also id.* at 8 (arguing that Patent Owner’s ’711 Patent describes the optical centers as “[c]losely clustered’ and ‘as thin as necessary’—the opposite of the large offset being required in the Reopen Decision”). But Requester points to no portion of the Decision where the Majority actually states that the term “substantially” is being interpreted so as to require a “great” offset. *See generally id.*

Requester also argues that the Board’s usage of the shorthand phrase “substantially offset” means that the Board interpreted the claim limitation erroneously. Requester correctly notes that the full claim limitation “makes it very clear that ‘substantially’ is not modifying ‘offset,’ but instead is modifying ‘originate.’” 3PR Req. Reh’g 6. Requester argues this distinction makes a difference because, arguably, “[i]f the viewing direction is not originating precisely from a point that is offset but is close to the point, the viewing direction origination might actually be originating at a point that is not offset.” *Id.*

This argument is unpersuasive because the Majority, in using the phrase “substantially offset,” was merely following the shorthand convention that Patent Owner and Requester employed. *See* 3PR Req. Reh’g 4 n1. The Majority did not interpret the claim limitation as being broad enough to read on plural sensors that appear to originate from non-offset points.

In fact, I interpreted the claim limitation “the viewing directions. . . appear to originate substantially from [] point[s] that [are] offset [from each other]” to mean that each viewing direction originates effectively from a point (or virtual optical center) that is offset from the other viewing

directions' centers by some non-negligible distance. Furthermore, I interpreted Lelong's disclosure that optical centers may be offset from each other by five or ten centimeters to mean, within the context of filming long-distance panoramic scenes, that Lelong's offsets are negligible relative to the distances of the panoramic scene. Lelong col. 7, ll. 3–15. That is, in contrast to the present claims' requirement of *non-negligible* optical-center offsets, Lelong discloses optical centers that are *negligibly* offset—centers that substantially or effectively coincide. See Reopen Dec. 5.

To be sure, Lelong does indicate it was known to provide optical centers that are either coincident (including negligibly offset) or at least non-negligibly offset (or more simply “offset”):

The view points of the n cameras need not coincide physically. However, it will hereinafter be assumed that the condition of coincidence is fulfilled sufficiently if the distance separating each of these view points is small as regards their distance to the filmed panoramic scene, for example, if their respective distance is 5 cm or 10 cm and the distance to the panoramic scene is 5 m. The condition of coincidence is thus estimated to be fulfilled if the ratio between these distances is of the order of or is more than 50 and, according to the invention, it is not necessary to use costly optical mirror systems[,] which are difficult to adjust for achieving a strict coincidence of the view points.

Lelong col. 7, ll. 3–15. This passage also indicates it was generally known in the field of cameras and photography to use mirrors to redirect images.

However, I disagree with Judge Branch's further conclusion “[t]hat mirrors were familiar optical elements that were usable to

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redirect [images] is the only necessary finding.” *See* Judge Branch’s Opinion, Concurring-in-Part, Dissenting-in-Part 3.

Lelong’s cited passage merely indicates that providing cameras with coincident view points was desirable, but in those situations where plural cameras’ actual view points were offset relative to each other, effective view-point coincidence could be achieved by using costly optical mirror systems. Lelong col. 7, ll. 10–15. I do not see Lelong, either alone or in combination with Uehira, teaching or suggesting the desirability of modifying plural cameras’ coincident view points so that the view points intentionally are made non-negligibly offset.

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Before STEPHEN C. SIU, BRADLEY W. BAUMEISTER, and
IRVIN E. BRANCH, *Administrative Patent Judges*.

BRANCH, *Administrative Patent Judge*, Concurring-in-Part Dissenting-in-
Part.

I concur with the Majority's Opinion with respect to Patent Owner's
Request for Rehearing.

I respectfully dissent from the remainder of the Majority's Opinion
because I remain convinced that "[b]ecause the new evidence submitted by
Patent Owner fails to consider the teachings of Lelong[,] on which our
rejection relied, the new evidence does not persuasively overcome the
rejection." Decision Dissenting 7 (dated Jan. 4, 2017) (referring to the new

ground of rejection from our original Decision (dated Sept. 21, 2014) (“Original Decision”). I would, instead, vacate the Decision from which I dissented, noting and disagreeing with the Examiner’s finding that Patent Owner’s new evidence overcomes the prior art, citing the reasons I previously explained (while still vacating the rejection of claims 22–24 for the reasons stated above by the Majority).

In the interest of completeness, however, I note the following from the Majority’s Opinion that I find erroneous:

Requester does not explain persuasively why it would have been obvious to one of ordinary skill in the art to have incorporated a “reflective area” when Lelong explicitly discloses that the use of reflective areas (e.g., a “costly optical mirror system”) would *not* be used if the offset of the “view points” is *insubstantial*.

Majority Decision 10. This understanding of Lelong is erroneous because Lelong does not “explicitly disclose” “reflective areas” “would *not* be used if the offset of the ‘view points’ is *insubstantial*.” Rather, Lelong discloses “it is not *necessary* to use [difficult to adjust and] costly optical mirror systems ... for *achieving a strict coincidence* of the view points” because “[t]he condition of coincidence is thus *estimated* to be fulfilled if the ratio between these distances is of the order of or is more than 50.” Lelong 7:10–15.

In other words, Lelong discloses that, if one has unlimited budget and can abide the difficulty of adjusting them, mirrors provide strict coincidence, even in the case of insubstantial offsets. This at least implies the usability of mirrors to alter appearances generally, not just with respect to the conditions discussed in this passage, but even when the offsets are substantial or not

“estimated to be fulfilled” or not “assumed” to be (i.e., any other portion of Lelong—or the prior art Lelong generally refers to outside this carved out portion—where the assumption of Lelong 7:3–15 does not apply).

Importantly, this also includes the use of mirrors without regard to whether one desires either the condition of apparent strict coincidence or the condition of apparent “substantially . . . offset” viewpoints.

All of this is beside the point, however. The question with respect to “reflective area” is whether one of skill in the art would have understood the combination of Lelong and Uehira to disclose “redirecting at least a portion of [one sensor’s] individual field of view with a reflective area,” as recited in claim 1. That mirrors were familiar optical elements that were usable to redirect images, fields of view, or simply light waves, generally, is the only necessary finding.

Recall claim 1 reads as follows, with emphasis and explanation added:

1. A method of producing a composite image with a plurality of sensors each having an individual field of view, comprising the steps of:

for at least *one of the plurality of sensors*, redirecting at least *a portion of its individual field of view* with a reflective area; and

merging *images corresponding to the individual fields of view* [i.e., not necessarily the redirected portion of the field of view] to produce the composite image having a corresponding field of view, wherein each one of at least two fields of view corresponding to images that are merged has a portion, where the images are merged, that has viewing directions that are substantially similar to the viewing directions of the other portion, and wherein the viewing directions within each one of such two portions appear to originate substantially from a point that is offset from the point for the other one of such two portions.

Notably, claim 1 does not recite that the conditions of the merged image are necessarily produced by what is redirected, provided the composite image has the claimed appearance and is produced from something “corresponding” to a field of view, which does not necessarily include the “portion” of the field of view that is redirected. The “image[] corresponding to the individual field[] of view” may “correspond” to a *non*-redirected portion of the field of view.

This is, the “portion” of that which is reflected and the “portion” of that which is merged are not limited to the same “portion.” Whether they must even be in the same optical train is a matter of claim construction, which the Majority assumes and which Patent Owner has not raised as an issue with respect to our new ground of rejection. At least with respect to claim 1, the “reflective area” limitation amounts to an appendage to an image capture system and is functionally tied to the image processing limitation only through the broad “corresponding” term that links an image to a portionable field of view.

The Majority errs because the Majority’s misunderstanding of Lelong ends the Majority’s analysis (Majority Decision 11 (“We need not consider whether [] it might have been obvious to one of ordinary skill in the art to have used a mirror (or ‘reflective area’) in the system of Lelong if the ‘offset’ is substantial, as Requester appears to assert, because, as noted above, Lelong explicitly discloses that the ‘offset’ is *insubstantial* and that under such circumstances, a mirror (or ‘reflective area’) is *not* used.”)). Judge Baumeister’s Minority Concurrence cannot cure the error because Judge Siu does not join.

Accordingly, as we discussed in our Original Decision (*see* pp. 12–17), I find the combination of Lelong and Uehira discloses “redirecting at least a portion of [a sensor’s] individual field of view with a reflective area.” Lelong explicitly discloses that mirrors are usable to improve the system described therein (although not “necessary”) and at least suggests the usability of mirrors generally in optical systems. Lelong 7:10–15. Uehira provides further evidence of the familiarity a person of ordinary skill in the art would have had with mirrors. *See generally* Uehira. The Examiner erred in finding Lelong “teaches away” from mirrors for the reasons we explain in our Original Decision. *See* pp. 9–12.¹

Claim 1 is, therefore, obvious under 35 U.S.C. § 103(a) over the combination of Lelong and Uehira because it amounts to no more than a combination of then-familiar elements, each performing their known function, and combining them would not have been beyond the skill of an ordinarily skilled artisan. *See KSR Int 'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416–17 (2007) (“The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results [I]f a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill.”)

¹ *See generally* Request for *Inter Partes* Reexamination of United States Patent 6,700,711 file January 26, 2012, Exhibit W, for findings of the remaining limitations.