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Paper 9
Entered: December 6, 2017

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

AXIS COMMUNICATIONS AB,
Petitioner,

v.

ARECONT VISION, LLC,
Patent Owner.

Case PGR2017-00031
Patent 9,438,782

Before BRYAN F. MOORE, RAMA G. ELLURU, and DANIEL J. GALLIGAN, *Administrative Patent Judges*.

ELLURU, *Administrative Patent Judge*.

DECISION
Granting Institution of Post-Grant Review
37 C.F.R. § 42.208

I. INTRODUCTION

A. Background

Axis Communications AB ("Petitioner") filed a Corrected Petition (Paper 8, "Pet.") for post-grant review of claims 1–17 of U.S. Patent No. 9,438,782 (Ex. 1001, "the '782 patent"). Arecont Vision, LLC ("Patent Owner") did not file a preliminary response. Pursuant to 37 C.F.R. § 42.4(a), we have authority to determine whether to institute review. The standard for instituting a post-grant review is set forth in 35 U.S.C. § 324, which provides that a post-grant review may be instituted only if "the information presented in the petition . . . would demonstrate that it is more likely than not that at least 1 of the claims challenged in the petition is unpatentable."

Petitioner challenges the patentability of claims 1–17 of the '782 patent under 35 U.S.C. § 103. Pet. 5–8. After considering the Petition and associated evidence, we determine that the information presented in the Petition demonstrates that it is more likely than not that claims 1–17 are unpatentable. Accordingly, we institute a post-grant review on claims 1–17, as discussed more specifically below.

B. Related Matters

The parties do not identify any matters related to this proceeding. Pet. 1; Paper 5, 1.

C. The '782 Patent (Ex. 1001)

The '782 patent relates to a multi-camera housing that "combines multiple cameras in a single housing with the ability to uniquely position each individual camera inside the housing to create [a] desired field of

views." Ex. 1001, 1:17–19, 3:11–14. Figures 2B, 3A, and 3B of the '782 patent are reproduced below:

FIG. 2B

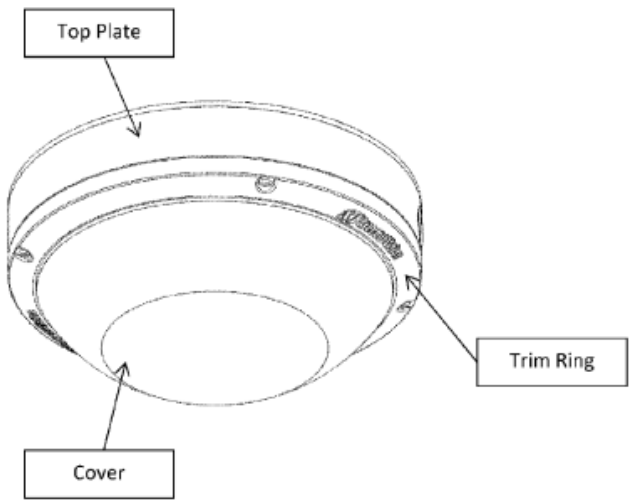
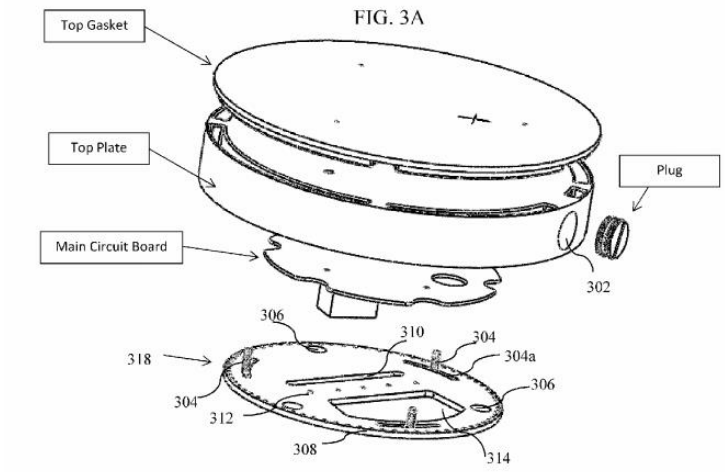


FIG. 3A



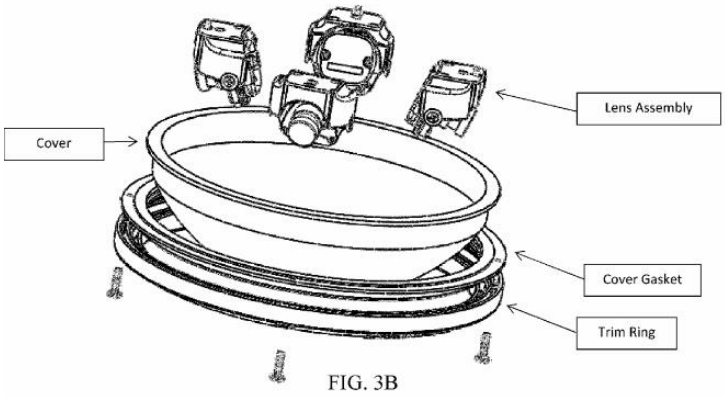


FIG. 3B

Figure 2B depicts main components of a multi-camera housing, and Figures 3A and 3B depict an exploded view of a multi-camera housing. *Id.* at 2:30–35. The multi-camera housing includes a top plate that houses one or more circuit boards. *Id.* at 3:19–22. Track plate 318 carries camera bracket assemblies that may be secured to track plate 318 using a fastening device. *Id.* at 4:53–54, 5:36–43. Track plate 318 is secured to the top plate using fasteners 304 and curved "thru hole slots" 304a that "allow the user to adjust (rotate) the track plate when the fasteners 304 are loosened, giving the user flexibility to rotate the track plate (with respect to the top plate) independently of the top plate after the top plate has been affixed to its

mounting surface." *Id.* at 5:9–16. A dome-shaped cover is used to enclose the cameras within the housing with the top plate. *Id.* at 3:26–29.

D. Illustrative Claim

Petitioner challenges claims 1–17 of the '782 patent. Claims 1 and 10 are independent. Independent claim 1 is illustrative and reproduced below:

> 1. An omnidirectional user configurable multi-camera housing comprising:
>
> a top plate including one or more electronic circuit boards thereon;
>
> a track plate secured to the top plate by a plurality of first fasteners, wherein the track plate is rotationally movable with respect to the top plate, when the first fasteners are loosen;
>
> a plurality of camera assemblies movably installed on the track plate and within the top plate, each comprising:
>
> a bracket movably secured to the track plate,
>
> a camera movably secured to the bracket, wherein the camera is rotatable in a plane perpendicular to the track plate, and
>
> a second fastener for movably securing the bracket to the track plate;
>
> a transparent cover for covering the plurality of camera assemblies installed on the track plate; and
>
> a trim plate for securing the transparent cover to the top plate with a plurality of third fasteners, wherein the track plate includes:
>
> a plurality of first index holes around a perimeter of the track plate for configurably indexing a positioning and an alignment of a first portion of the plurality of camera assemblies,
>
> a plurality of second index holes around a center of the track plate for configurably indexing a positioning and an alignment of a second portion of the plurality of

camera assemblies,

a plurality of curve-shaped openings to accommodate the plurality of first fasteners and allow movement of the plurality of first fasteners within the curve-shaped openings, respectively, for rotational movement of the track plate with respect to the top plate, when the plurality of first fasteners are loosen, and

an opening for a cable coupled to the one or more electronic circuit boards.

Exhibit 1001, 7:60—8:30.

E. Asserted Grounds of Unpatentability

Petitioner challenges claims 1–17 as follows:

Ground	Reference(s)	Basis	Claim(s) Challenged
1	Murphy I,[1] Murphy II,[2] Bernhardt,[3] Kim,[4] and Engstrom[5]	§ 103	1, 3, 4, 6, 7, and 9
2	Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Elberbaum[6]	§ 103	2
3	Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Lefkowitz[7]	§ 103	5

[1] U.S. Patent Pub. No. 2012/0092504, pub. Apr. 19, 2012 (Ex. 1007, "Murphy I").

[2] PCT Pub. No. WO 2004/095386, pub. Nov. 4, 2004 (Ex. 1008, "Murphy II").

[3] U.S. Patent Pub. No. 2001/0022627, pub. Sept. 20, 2001 (Ex. 1009, "Bernhardt").

[4] U.S. Patent No. 7,614,804, iss. Nov. 10, 2009 (Ex. 1011, "Kim").

[5] U.S. Patent No. 8,376,592, iss. Feb. 19, 2013 (Ex. 1012, "Engstrom").

[6] U.S. Patent No. 6,268,882, iss. July 31, 2001 (Ex. 1013, "Elberbaum").

[7] U.S. Patent No. 6,064,430, iss. May 16, 2000 (Ex. 1014, "Lefkowitz").

Ground	Reference(s)	Basis	Claim(s) Challenged
4	Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Bergsten[8]	§ 103	8
5	Murphy II, Bernhardt, Bergsten, and Engstrom	§ 103	10, 13, 16, and 17
6	Murphy II, Bernhardt, Bergsten, Engstrom, and Elberbaum	§ 103	11
7	Murphy II, Bernhardt, Bergsten, Engstrom, and Kim	§ 103	12 and 14
8	Murphy II, Bernhardt, Bergsten, Engstrom, and Lefkowitz	§ 103	15
9	Murphy I, Murphy II, Blackshear,[9] Kim, and Engstrom	§ 103	1, 3, 4, 6, 7, and 9
10	Murphy I, Murphy II, Blackshear, Kim, Engstrom, and Elberbaum	§ 103	2
11	Murphy I, Murphy II, Blackshear, Kim, Engstrom, and Lefkowitz	§ 103	5
12	Murphy I, Murphy II, Blackshear, Kim, Engstrom, and Bergsten	§ 103	8
13	Murphy II, Blackshear, Bergsten, and Engstrom	§ 103	10, 13, 16, and 17
14	Murphy II, Blackshear, Bergsten, Engstrom, and Elberbaum	§ 103	11
15	Murphy II, Blackshear, Bergsten, Engstrom, and Kim	§ 103	12
16	Murphy II, Blackshear, Bergsten, Engstrom, and Kim	§ 103	14
17	Murphy II, Blackshear, Bergsten, Engstrom, and Lefkowitz	§ 103	15
18	Bernhardt, Blackshear, Dietl,[10] Kim, and Engstrom	§ 103	1, 3, 4, 7, and 9

[8] U.S. Patent Pub. No. 2015/0177596 (Ex. 1004, "Bergsten"), which claims priority to EP Patent Appl. No. 13198392.6, filed Dec. 19, 2013 (Ex. 1005). *See* 35 U.S.C. § 102(d)(2).

[9] U.S. Patent No. 5,111,288, iss. May 5, 1992 (Ex. 1010, "Blackshear").

[10] U.S. Patent Pub. No. 2014/0015981, pub. Jan. 16, 2014 (Ex. 1015,

Ground	Reference(s)	Basis	Claim(s) Challenged
19	Bernhardt, Blackshear, Dietl, Kim, Engstrom, and Elberbaum	§ 103	2
20	Bernhardt, Blackshear, Dietl, Kim, Engstrom, and Lefkowitz	§ 103	5
21	Bernhardt, Blackshear, Dietl, Kim, Engstrom, and Murphy II	§ 103	6
22	Bernhardt, Blackshear, Dietl, Kim, Engstrom, and Bergsten	§ 103	8
23	Bernhardt, Bergsten, and Engstrom	§ 103	10, 12, 13, and 17
24	Bernhardt, Bergsten, Engstrom, and Elberbaum	§ 103	11
25	Bernhardt, Bergsten, Engstrom, and Kim	§ 103	14
26	Bernhardt, Bergsten, Engstrom, and Lefkowitz	§ 103	15
27	Bernhardt, Bergsten, Engstrom, and Murphy II	§ 103	16
28	Blackshear, Bergsten, and Engstrom	§ 103	10, 12, and 17
29	Blackshear, Bergsten, Engstrom, and Elberbaum	§ 103	11
30	Blackshear, Bergsten, Engstrom, and Bernhardt	§ 103	13
31	Blackshear, Bergsten, Engstrom, and Kim	§ 103	14
32	Blackshear, Bergsten, Engstrom, and Lefkowitz	§ 103	15
33	Blackshear, Bergsten, Engstrom, and Murphy II	§ 103	16

Pet. 5–8. Petitioner also relies on the Declaration of Stanley R. Steingold (Ex. 1016).

"Dietl").

II. ANALYSIS

A. Claim Construction

In a post-grant review, the Board gives claim terms in an unexpired patent their broadest reasonable interpretation in light of the specification of the patent in which they appear. 37 C.F.R. § 42.200(b). Under the broadest reasonable construction standard, claim terms are generally given their ordinary and customary meaning, as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007). Any special definition for a claim term must be set forth with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994). We determine that it is unnecessary to construe expressly any claim terms at this time.

Person of Ordinary Skill in the Art.

Petitioner asserts that a person of ordinary skill in the art relevant to the '782 patent would have had "at least a two (2) year associate's degree in Mechanical Engineering, or an equivalent field, or two (2) years of practical experience in an industry relating to mountable housings or fixtures." Pet. 11. As noted above, Patent Owner did not file a preliminary response to the Petition. On these facts, we determine that Petitioner's definition of a person of ordinary skill in the art is credible, and we therefore adopt it for our analysis. Based on the stated qualifications of Mr. Steingold (Ex. 1016 ¶¶ 6–13), we determine that Petitioner's declarant meets the requirements of this definition. We note that the applied prior art also reflects the appropriate level of skill at the time of the claimed invention. See Okajima v. Bourdeau, 261 F.3d 1350, 1355 (Fed. Cir. 2001).

B. Grounds 1–8: Claims 1–17 as Obvious Over Combinations of Murphy I, Murphy II, Bernhardt, Kim, Engstrom, Elberbaum, Lefkowitz, and Bergsten

Petitioner asserts that claims 1–17 of the '782 patent are unpatentable over specific combinations of Murphy I, Murphy II, Bernhardt, Kim, Engstrom, Elberbaum, Lefkowitz, and Bergsten.[11] Pet. 5–6, 12–60. As noted above, of these challenged claims, claims 1 and 10 are independent and the remaining challenged claims depend from claims 1 and 10. We have reviewed Petitioner's arguments and evidence supporting these assertions in Grounds 1–8 with respect to claims 1–17 (Pet. 14–60), and we determine that they are sufficiently persuasive for purposes of this Decision.

For many claim limitations, Petitioner asserts more than one reference as disclosing that limitation. We determine that Petitioner has sufficiently accounted for each claim limitation. For example, with respect to independent claim 1, we determine on this record that the prior art teaches the claimed "a top plate including one or more electronic circuit boards thereon" and "a track plate secured to the top plate by a plurality of first fasteners." Specifically, Petitioner asserts that "Kim teaches a multi-plate camera housing including a surface mounting plate 20 ['top plate'] and a base 12 ['track plate'] attached to the surface mounting plate 20 by screws 26 ['first fasteners']." Pet. 21 (first two alterations in original) (citing Ex. 1011, 2:63–3:2, Fig. 5). According to Petitioner, Kim further discloses that a circuit board may be mounted on floor 34 of base 12 and positioned within surface mounting plate 20. Pet. 18 (citing Ex. 1011, 3:10–14, Figs. 5–6).

[11] Petitioner identifies these assertions as Grounds 1–8. Pet. 5–6. For purposes of this Decision, we refer to the grounds as they are numbered in the Petition. *See* Pet. 5–8.

On this record, we also determine that the prior teaches the claimed "wherein the track plate is rotationally movable with respect to the top plate, when the first fasteners are loosen." According to Petitioner, Bernhardt discloses that "the entire plate system 6 ['track plate'] can be removed downwardly by loosening the screw heads 37 ['first fasteners'] and rotating the plate system 6 . . . so that the accessibility of the plate system 6 is further improved, also from the top." Pet. 19–20 (citing Ex. 1009 ¶¶ 61–62, Figs. 8–9). We further determine that Petitioner has sufficiently shown that a skilled artisan would have had reason to combine the references in the manner. *See* Pet. 21–22; *see also KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007) ("there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness") (quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). For example, Petitioner asserts that a skilled artisan would have found "the provision of a track plate movable with respect to a top plate . . . to be a common and obvious design choice for a camera housing, and application of known techniques to improve a similar device in the same, known way as in the '782 Patent." Pet. 21–22 (citing Ex. 1016 ¶ 33). Petitioner's expert, Mr. Steingold, opines that "[a]djustments of plate systems is a fundamental concept in mounting for purposes of adjusting coverage areas, removing the cameras for service, and ease of initial installation and upgrades." Ex. 1016 ¶ 33.

On this record, we determine that the prior art teaches the claimed "a plurality of camera assemblies movably installed on the track plate and within the top plate." For example, Petitioner asserts that Murphy I discloses a plurality of cameras 6 on mounting disc 93, which Petitioner

contends corresponds to the claimed "track plate," within upper secondary housing 73, which Petitioner contends corresponds to the claimed "top plate." Pet. 22 (citing Ex. 1007 ¶ 91, Figs. 6, 27–28); *see also* Pet. 18–19. On this record, we are persuaded that the prior art teaches "a bracket movably secured to the track plate," "a camera movably secured to the bracket," and "a second fastener for movably securing the bracket to the track plate." In particular, Petitioner asserts that Murphy I discloses mounting brackets 95 (i.e., the claimed "bracket[s]") installed by screws 109 (i.e., the claimed "second fastener[s]") on mounting disc 93 (i.e., the claimed "track plate") within the area of upper secondary housing 73. Pet. 22 (citing Ex. 1007 ¶ 91, Figs. 6, 27–28). Specifically, Murphy I discloses that "[a] plurality of mounting openings 94 are formed in the mounting disc 93 for carrying respective mounting brackets 95 depending downwardly from the mounting disc 93 for carrying corresponding ones of the first cameras 6." Ex. 1007 ¶ 91. We are sufficiently persuaded, on this record, that the prior art teaches the claim limitation "the camera is rotatable in a plane perpendicular to the track plate." For example, Murphy I discloses that "each mounting bracket 95 carries the corresponding one of the first cameras 6 so that the first camera 6 is pivotal about the horizontal pivot axis 102 in a substantially vertical plane." Ex. 1007 ¶ 91. Petitioner contends that a skilled artisan would have had reason to combine the references in the manner asserted because "it would have been an obvious design choice to use the above in the prior art arrangements to capture a wide and varied field of view." Pet. 25 (citing Ex. 1016 ¶ 34). Mr. Steingold opines that the proposed modification would have "allow[ed] for selective movement and positioning of the cameras." Ex. 1016 ¶ 34.

On this record, we determine the prior art teaches the claimed "a transparent cover for covering the plurality of camera assemblies installed on the track plate" and "a trim plate for securing the transparent cover to the top plate with a plurality of third fasteners." In particular, Petitioner asserts that Kim discloses dome 16 made from clear plastic material (i.e., the claimed "transparent cover") with cover 14 (i.e., the claimed "trim plate") that is secured to surface mounting plate 20 (i.e., the claimed "top plate") with screws 28 (i.e., the claimed "third fasteners). Pet. 25–26, 27 (citing Ex. 1011, 2:27–3:3, Fig. 5). Petitioner contends that a skilled artisan would have included a transparent cover to "provide protection for cameras and electronics." Pet. 26 (citing Ex. 1016 ¶ 36). Petitioner also contends that a skilled artisan would have included a trim plate "for protection and proper fitment, as well as protection for an attached dome." Pet. 27 (citation omitted). Mr. Steingold opines that "protective domes used over cameras" allow for "[p]rotection of cameras and electronics," which "is important for their continued function" against "[e]nvironmental or mechanical conditions," and that "use of a trim plate allows for the easy removal of the cover, access to the camera, and a simple clamping method for the affixing of the cover." Ex. 1016 ¶¶ 35–36.

On this record, we determine that the prior art teaches a "track plate" that includes "a plurality of first index holes around a perimeter of the track plate for configurably indexing a positioning and an alignment of a first portion of the plurality of camera assemblies" and "a plurality of second index holes around a center of the track plate for configurably indexing a positioning and an alignment of a second portion of the plurality of camera assemblies." Pet. 27–28. In particular, Petitioner asserts that "Murphy I's

mounting disc 93 includes a plurality of perimeter and central mounting openings 94 surrounding the portion of the mounting disc 93." *Id*. at 28 (citing Ex. 1007 ¶¶ 90–91, Figs. 4–6, 23). Murphy I discloses a plurality of mounting openings 94 for carrying mounting brackets 95 that carry cameras 6 and discloses that the cameras can be positioned in various directions. Ex. 1007 ¶ 91. Petitioner asserts that a skilled artisan would have used such index holes "for flexibility in positioning cameras and selecting fields of view as an obvious design choice and use of a known technique to improve a similar device in the same way." Pet. 29 (citing Ex. 1016 ¶ 37). Mr. Steingold opines that "[a] track plate having multiple index openings allows for adjustable positioning of cameras." Ex. 1016 ¶ 37.

On this record, we determine the prior art teaches a "track plate" that includes "a plurality of curve-shaped openings to accommodate the plurality of first fasteners and allow movement of the plurality of first fasteners within the curve-shaped openings, respectively, for rotational movement of the track plate with respect to the top plate, when the plurality of first fasteners are loosen[ed]." Petitioner asserts that "Bernhardt teaches an upper intermediate plate 7 ['track plate'] as part of the plate system 6 that includes a plurality of curved, keyhole-shaped openings 36 ['a plurality of curve-shaped openings'] for fasteners to movably attach the plate system 6 to the flange 3." Pet. 29 (alterations in original) (citing Ex. 1009 ¶¶ 61–62, Figs. 8–9). Petitioner further asserts that a skilled artisan would have had reason to combine the references in the manner asserted because "[a]dding Bernhardt's curve-shaped openings to increase options in positioning, servicing, adjustment or removal of the track plates of" the asserted prior art

"would have been an obvious design choice." Pet. 30 (citing Ex. 1016 ¶ 38). Mr. Steingold opines that "[w]hen a camera or lens is pointed at a field of view or specific object, symmetry of rotation can be beneficial" and that "[a]djustability of a group of cameras to view various scenes and the flexibility to detach/attach a track plate for easy service and replacement simplifies service time." Ex. 1016 ¶ 38.

Lastly with respect to claim 1, on this record, we determine that the prior art teaches a "track plate" that includes "an opening for a cable coupled to the one or more electronic circuit boards." Petitioner asserts that "any openings in the Murphy I mounting disc 93 could be used to run wires or cables, including the central opening and openings 135." Pet. 32–33 (citing Ex. 1007, Fig. 23). Petitioner asserts that a skilled artisan "would recognize the type and location of such an opening to be an obvious design choice." Pet. 33 (citing Ex. 1016 ¶ 39).

In addition, with respect to independent claim 10, we are sufficiently persuaded by Petitioner's assertions that the prior art teaches the claimed limitations for purposes of this Decision. For example, we determine that the prior art teaches the claimed "plurality of camera assemblies secured to the track plate by a plurality of magnetic devices." Petitioner asserts that Bergsten discloses that "[a] plurality of cameras 2 on a holders 8 ['bracket'] are selectively arranged along the mounting rail 9" and that "the holder 8 has a locking device in the form of a magnet 15 and the mounting rail 9 is made of a ferromagnetic material to securely lock the holder 8 in position on the mounting rail." Pet. 42 (second alteration in original) (citing Ex. 1004 ¶¶ 36–38, Figs. 1, 5–6). Petitioner asserts that a skilled artisan would have had reason to combine the references in the manner asserted because providing

any of the asserted prior art "with a magnetic bracket as an efficient fastener means that could be adjusted without having to loosen or tighten a bracket fastener having a screw or clamp would be an obvious design choice." Pet. 50 (citing Ex. 1016 ¶ 73). We further determine, with respect to claim 10, that the asserted prior art teaches the limitation "wherein each of the cameras is rotatable on a respective bracket in a plane perpendicular to the track plate, and wherein each of the brackets is rotatable in a plane that includes the track plate." *Id*. For example, Petitioner contends that "Bernhardt shows a camera that is on a bracket and rotatable in the plane of the track plate." Pet. 52 (citing Ex. 1009 ¶ 50). Petitioner further contends that "Bernhardt and Kim disclose bracket supported cameras in housings where the cameras can rotate in a plane perpendicular to the upper portions of their housings." Pet. 49 (citing Ex. 1009 ¶ 48, Figs. 2, 10; Ex. 1011, 3:22–61; Figs. 7–9); *see also* Ex. 1008, 12:1–10 (describing cameras as being adjustable in "elevation" and a bracket arrangement as being able to slide around support ring 12, which Petitioner contends corresponds to the claimed "track plate"), Figs. 2–3, 9–10. Petitioner asserts that a skilled artisan would have had reason to combine the references in the manner asserted because "[h]aving cameras that can be moved and be positioned along various planes is well known in the art and is an obvious design choice." Pet. 52 (citing Ex. 1016 ¶ 74).

In sum, we determine for purposes of this Decision that Petitioner has established that more likely than not that independent claims 1 and 10 are unpatentable based on the specific combinations of prior art references asserted by Petitioner in Grounds 1 and 5, respectively. We also have reviewed Petitioner's argument and evidence asserted against dependent

claims 2–9 and 11–17 and are sufficiently persuaded for purposes of this Decision that Petitioner has established that more likely than not these claims are unpatentable based on the specific combinations of prior art references asserted by Petitioner in Grounds 1–8. *See* Pet. 34–41, 53–59.

C. Remaining Grounds

Grounds 9–33, as identified by Petitioner, challenge claims 1–17 based on different combinations of references than those discussed above. For the reasons discussed below, we decline to institute a post-grant review on Petitioner's remaining grounds.

Institution of a post-grant review is discretionary. *See* 35 U.S.C. § 324(a) ("The Director may not authorize a post-grant review to be instituted unless . . . ."); 37 C.F.R. § 42.208(a) ("[T]he Board may authorize the review to proceed . . . ."). Furthermore, this discretionary authority may be exercised as to some or all grounds. *See* 37 C.F.R. § 42.208(b) ("[T]he Board may deny some or all grounds for unpatentability for some or all of the challenged claims."). Among the factors we consider in deciding whether to exercise discretion not to institute review on any particular grounds are "the effect on the economy, the integrity of the patent system, the efficient administration of the Office, and the ability of the Office to complete the proceeding timely in prescribing the rules as required by . . . 35 U.S.C. 326(b)." 77 Fed. Reg. 48,680, 48,702 (Aug. 14, 2012). Thus, for example, we may determine not to institute on additional grounds in the instant Petition that address the same claims and for which Petitioner has given no explanation as to any strengths or weaknesses relative to other grounds.

As an example, Petitioner's Ground 9 challenges claims 1, 3, 4, 6, 7, and 9 as unpatentable for having been obvious over the combination of Murphy I, Murphy II, Blackshear, Kim, and Engstrom. Pet. 6, 59–72. As both Grounds 1 and 9 challenge the same claims—1, 3, 4, 6, 7, and 9—the only difference, on its face, between Grounds 1 and 9 is that Ground 9 substitutes Blackshear for Bernhardt. *See* Pet. 60 ("In Ground 9, Blackshear is used in combination with prior art (Murphy I, Murphy II, Kim and Engstrom), in place of the Bernhardt reference."). Under Ground 9, with respect to the limitation "a plurality of camera assemblies . . . each comprising: a bracket movably secured to the track plate . . . and a second fastener for movably securing the bracket to the track plate," Petitioner refers to its arguments with respect to Ground 1 (*see* Pet. 62) but also refers to Blackshear (*see* Pet. 63). Petitioner, however, does not explain how its references to Murphy I, Murphy II, Bernhardt, and Kim for this limitation in Ground 1 are different or deficient. Moreover, Petitioner does not clearly indicate which elements of Blackshear correspond to which elements of claim 1. *See* Pet. 63. For example, although Petitioner refers to Blackshear's "bracket," Petitioner does not indicate which numbered element in Blackshear is the claimed "bracket." *Id*. Our review of the Petition reveals that Petitioner's remaining Grounds 10–33 suffer from similar deficiencies and lack of clarity.

Because we see no advantages to instituting a post-grant review based on Petitioner's remaining grounds, we exercise our discretion and decline to institute on the remaining grounds. Consequently, in view of our decision to institute a post-grant review of claims 1–17 based on the combinations of references identified in Grounds 1–8, and, for the reasons discussed above,

we decline to additionally institute post-grant review of those same claims based on the different combinations of references Petitioner identifies in Grounds 9–33.

III. CONCLUSION

On this record, we determine that the Petition demonstrates that it is more likely than not that claims 1–17 are unpatentable.

IV. ORDER

Accordingly, it is

ORDERED that pursuant to 35 U.S.C. § 324(a), a post-grant review of claims 1–17 of the '782 patent is hereby instituted on the following grounds:

• claims 1, 3, 4, 6, 7, and 9 as unpatentable under 35 U.S.C. § 103 over Murphy I, Murphy II, Bernhardt, Kim, and Engstrom;

• claim 2 as unpatentable under 35 U.S.C. § 103 over Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Elberbaum;

• claim 5 as unpatentable under 35 U.S.C. § 103 over Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Lefkowitz;

• claim 8 as unpatentable under 35 U.S.C. § 103 over Murphy I, Murphy II, Bernhardt, Kim, Engstrom, and Bergsten;

• claims 10, 13, 16, and 17 as unpatentable under 35 U.S.C. § 103 over Murphy II, Bernhardt, Bergsten, and Engstrom;

• claim 11 as unpatentable under 35 U.S.C. § 103 over Murphy II, Bernhardt, Bergsten, Engstrom, and Elberbaum;

• claims 12 and 14 as unpatentable under 35 U.S.C. § 103 over Murphy II, Bernhardt, Bergsten, Engstrom, and Kim;

• claim 15 as unpatentable under 35 U.S.C. § 103 over Murphy II, Bernhardt, Bergsten, Engstrom, and Lefkowitz;

FURTHER ORDERED that no other grounds are instituted;

FURTHER ORDERED that pursuant to 35 U.S.C. § 324(d) and 37 C.F.R. § 42.4, notice is hereby given of the institution of a trial, which commences on the entry date of this Decision.

PGR2017-00031
Patent 9,438,782

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