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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/246,086	10/06/2008	Joseph Yudoovsky	009406D1/PPC/CMP/CKIM	5419
44257	7590	02/16/2012	EXAMINER	
PATTERSON & SHERIDAN, LLP - - APPM/TX			BLAN, NICOLE R	
3040 POST OAK BOULEVARD, SUITE 1500			ART UNIT	PAPER NUMBER
HOUSTON, TX 77056			1714	
			MAIL DATE	DELIVERY MODE
			02/16/2012	PAPER

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* JOSEPH YUDOOVSKY and HUL CHEN

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Appeal 2011-006238  
Application 12/246,086  
Technology Center 1700

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Before TERESA STANEK REA, *Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office*, and BRADLEY R. GARRIS and RAE LYNN P. GUEST, *Administrative Patent Judges*.

GUEST, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision to reject claims 1-11. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

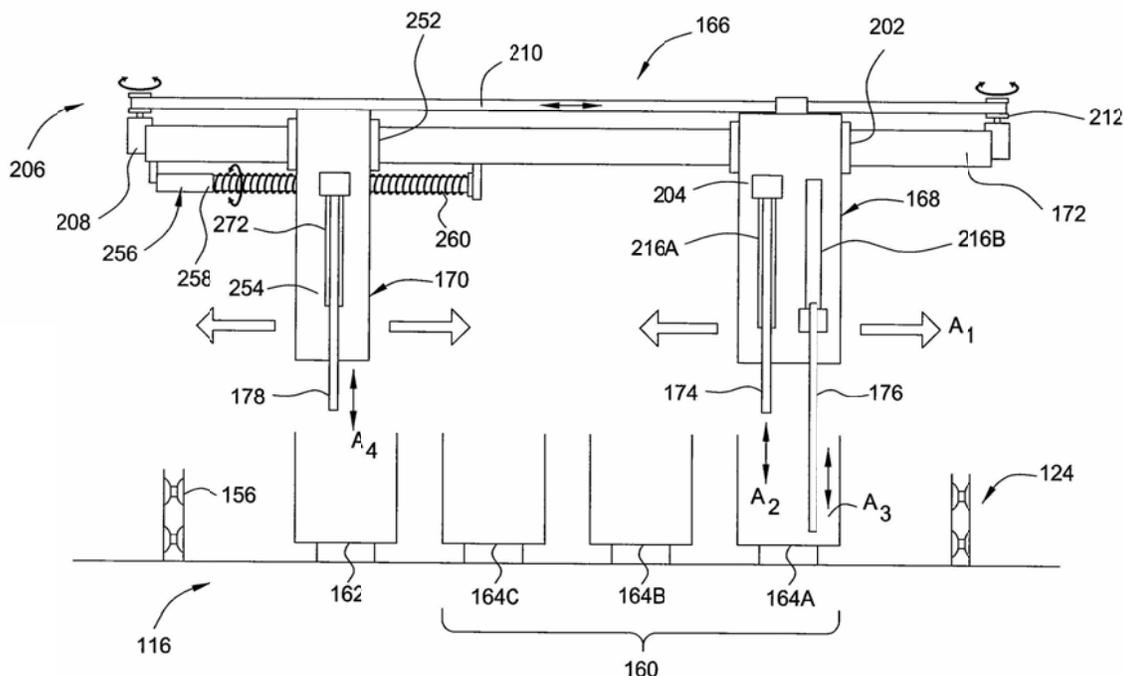
Appellants' invention relates to a substrate handler for use in a planarization system having an integrated substrate cleaner (Spec. ¶ [0008]). The substrate handler allows for increased throughput due to decoupling of

the movements of first and second robots via separate actuators (*Id.*). The two independent claims 1 and 4 are illustrative:

1. A method for cleaning a substrate comprising:  
in a substrate cleaner having a first and a second robot positionable along a first axis of motion over a plurality of cleaning modules;  
retrieving a substrate from an input module and placing the substrate in a first cleaning module by the first robot;  
retrieving the substrate from the first cleaning module and placing the substrate in the second cleaning module by the first robot;  
retrieving the substrate from the second cleaning module and placing the substrate in a third cleaning module by the first robot;  
retrieving the substrate from the third cleaning module and placing the substrate in a dryer by the second robot; and  
retrieving the substrate from the dryer and placing the substrate in an output module by the second robot.

4. A method for cleaning a substrate comprising:  
utilizing only a first and a second robot to move substrates through a cleaner of a polishing system, wherein the second robot performs all substrate transfers to a drying module of the cleaner and to an output module.

Figure 2, reproduced below, depicts a front view of a substrate handler 166 including a first robot 168 and a second robot 170 according to the present invention (Spec. ¶¶ [0015], [0035], and [0037]).



The Examiner maintains, and Appellants seek review of, the following rejections:

1. The rejection of claim 4-8 under 35 U.S.C. § 103(a) as unpatentable over Ohshimo et al. (US 2004/0129300A1, published July 8, 2004) and Pan et al. (US 2004/0007325 A1, published January 15, 2004);
2. The rejection of claims 1-3 under 35 U.S.C. § 103(a) as unpatentable over Ohshimo, Herbst et al. (US 2003/0098047 A1, published May 29, 2003), and Pan;
3. The rejection of claims 9 and 10 under 35 U.S.C. § 103(a) as unpatentable over Ohshimo, Pan, and Tobin (US 6,156,124, issued December 5, 2000);
4. The rejection of claim 11 under 35 U.S.C. § 103(a) as unpatentable over Ohshimo, Pan, and Herbst.

We adopt the Examiner’s findings in the Answer as our own and add any additional findings of fact appearing below for emphasis.

Although each rejection is addressed separately, Appellants present substantially identical arguments with respect to each of the rejections, namely, that the Examiner erred in interpreting the term “second robot” so as to encompass devices RT2 and RT3 from Ohshimo (Br. 10-17).<sup>1</sup>

Figure 8 of Ohshimo, reproduced below, depicts a plan view of a substrate processing apparatus 1, including substrate transporting devices RT1, RT2, and RT3, and the movable ranges of each device with respect to the processing stations of a cleaning system (Ohshimo, ¶¶ [0036] and [0057]).

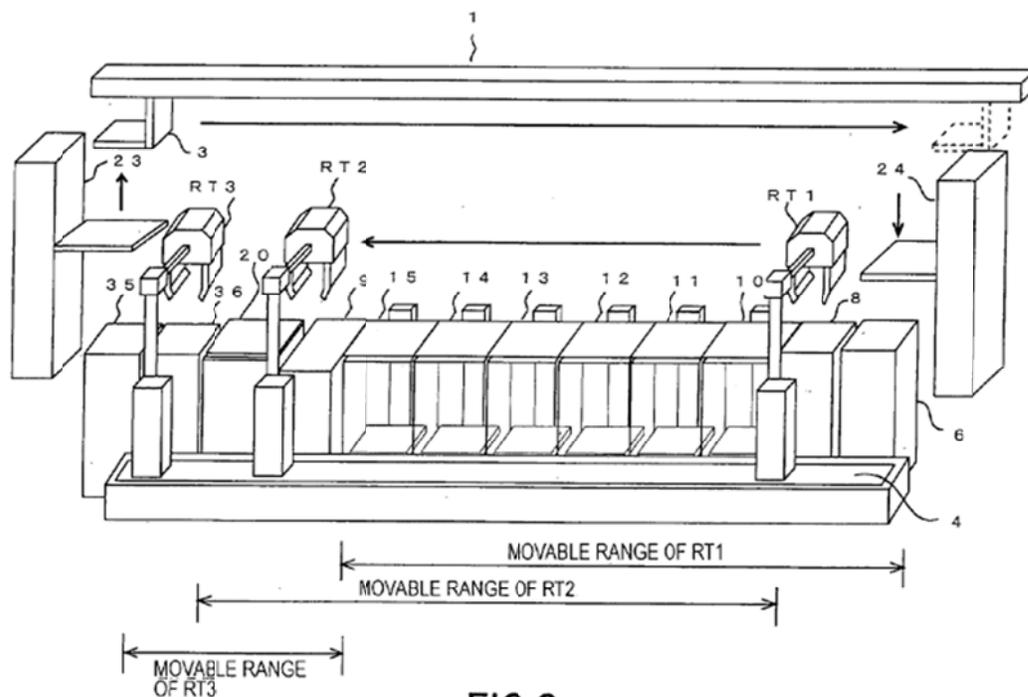


FIG.8

<sup>1</sup> Appellants’ arguments do not reach the Examiner’s particular application of the teachings of Pan, Herbst or Tobin in rejecting the claims (*see* Br. 12, 15, and 16).

As illustrated in Figure 8, RT1 has a movable range that extends from a buffer station 6 (input module) through cleaning stations 10-15 (Ohshimo, ¶ [0057], Figure 8). RT2 has a movable range that extends from cleaning stations 10-15 through dryer 20 (*id.*). RT3 has a movable range that includes dryer 20 and substrate unloading unit 36 (output module) (*id.*).<sup>2</sup> Considering the movable ranges disclosed in Ohshimo, RT2 would be capable of moving a substrate from the cleaning stations 10-15 to dryer 20, but would not be capable of moving a substrate from dryer 20 into output 36. RT3 would be capable of moving a substrate from dryer 20 into output 36, but would not be capable of moving a substrate from a cleaning station into dryer 20.

The Examiner contends that the term “second robot” is sufficiently broad to encompass the combined structure of RT2 and RT3, which together perform the functions of the second robot recited in claims 1 and 4 (Ans. 4, 6, and 9-10), namely transferring a substrate to a drying module (from a cleaning station) and to an output module (*see e.g.* claim 4).<sup>3</sup>

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<sup>2</sup> Stations 8 and 9 are fastener washing tanks for washing the extremities of substrate transporting devices RT1-RT3 (Ohshimo, ¶ [0049]), which are not relevant to this analysis.

<sup>3</sup> In the “Response to Arguments” section of the Answer, the Examiner, for the first time, expresses an alternative rationale for unpatentability, which is that it would have been obvious to one of ordinary skill in the art to transform the RT2 and RT3 devices of Ohshimo into a single device, citing *In re Larson*, 340 F.3d 965, 968 (CCPA 1965) (Ans. 10). This abstract rationale is completely unrelated to the claim interpretation rationale of the Examiner’s stated rejections. We decline to consider this new rationale because it implicitly constitutes an unauthorized new ground of rejection. The “Response to Arguments” section of the Answer is not an appropriate place to raise a new rationale for unpatentability.

Appellants contend that the Examiner's interpretation of the term "robot" as encompassing the combined structure of RT2 and RT3 is unreasonably broad and does not comport with reasonable construction of the claims at issue (Br. 11 and 14).<sup>4</sup>

## II. DISPOSITIVE ISSUE

The dispositive issue arising from the contentions of the Examiner and Appellants is: have Appellants provided persuasive support for their view that the Examiner's interpretation of the term "second robot" is unreasonably broad? We answer this question in the negative.

## III. DISCUSSION

Claims are to be given their broadest reasonable interpretation consistent with the specification as they would be interpreted by one of ordinary skill in the art. *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997) ("[T]he PTO applies to the verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definitions or otherwise that may be afforded by the written description contained in the applicant's specification."). Construing claims broadly during prosecution is not unfair to a patentee because the patentee has the opportunity to amend the claims to obtain more precise claim coverage. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004); *see also Morris*, 127 F.3d at 1056 ("It is the

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<sup>4</sup> Much of Appellants' Brief is directed to the fact that not one of devices RT1, RT2, or RT3, alone, would have been capable of performing the function recited in the claims for the "second robot" (Br. 10-11), a position not disputed by the Examiner.

applicants' burden to precisely define the invention, not the PTO's.") (*citing* 35 U.S.C. § 112 ¶ 2).

A patentee may demonstrate an intent to deviate from the ordinary and accustomed meaning of a claim term by including in the specification expressions of manifest exclusion or restriction, representing clear disavowal of claim scope. *Am. Acad. of Sci. Tech. Ctr.* at 1365.

Appellants have chosen to claim the "first robot" and the "second robot" not by any particular structure, but by the functions they perform.<sup>5</sup> The ordinary meaning of the term "robot," likewise, is unlimited as to any particular structure and is only a generic machine or device that operates automatically or remotely.

Appellants have not identified (and we do not find) anything in their Specification that conveys any special meaning for, or restrict the meaning of, the general term "robot." While the Specification references a particular embodiment of a "second robot" 170, as illustrated in Figure 2, Appellants do not advocate reading (and we decline to read) into the otherwise very broad term "robot" any particular structural limitations from the disclosed embodiment. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) ("[A]lthough the specification often describes very specific embodiments of the invention, we have repeatedly warned against confining the claims to those embodiments.").

Appellants have not proposed any particular features, supported by the Specification on which to limit the scope of term "robot." Although Appellants state that, "[i]n the context of the present application, a person

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<sup>5</sup> Appellants do not dispute that the combined structure of RT2 and RT3 performs the functions of the "second robot" recited in the claims (*see generally* Br.).

skilled in the art would understand the term ‘robot’ to be an individual and distinct unit” (Br. 11-12 and 15), Appellants provide no support for why the skilled artisan would make such an interpretation of the claim term.

Appellants’ attorney arguments do not take the place of evidence in the record. *In re Pearson*, 494 F.2d 1399, 1405 (CCPA 1974). Even assuming that a robot is an “individual and distinct unit,” as argued by Appellants, Appellants fail to define the term “unit” so as to exclude the combined structure of RT2 and RT3.<sup>6</sup>

On review of the record before us, we are not persuaded that the Examiner was incorrect in determining that the broadest reasonable interpretation of the claim term “robot,” unmodified by any particular structure, mandates a meaning of the term that is different than its customary meaning as would be understood by one of ordinary skill in the art. Thus, we conclude that the term “second robot” of claims 1 and 4 does not reasonably restrict the claims so as to exclude the combined structure of RT2 and RT3 of Ohshimo.

#### IV. CONCLUSION

On the record before us, we sustain the rejections maintained by the Examiner.

#### V. DECISION

The decision of the Examiner is affirmed.

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<sup>6</sup> Appellants’ arguments with respect to the independent and distinct nature of the devices of Ohshimo (Br. 12 and 15; Reply Br. 3) are not relevant to the meaning of the term “robot” recited in Appellants’ claim.

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#### VI. TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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