



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/244,326	10/02/2008	Hans BUTLER	1857.6240001	1776
26111	7590	09/24/2014	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C. 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			NGUYEN, HUNG	
			ART UNIT	PAPER NUMBER
			2882	
			MAIL DATE	DELIVERY MODE
			09/24/2014	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte HANS BUTLER,
MARC WILHELMUS MARIA VAN DER WIJST,
and CORNELIUS ADRIANUS LAMBERTUS DE HOON

Appeal 2012-010964
Application 12/244,326
Technology Center 2800

Before TERRY J. OWENS, JEFFREY T. SMITH, and
CHRISTOPHER M. KAISER, *Administrative Patent Judges*.

OWENS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–15 and 23–25. We have jurisdiction under 35 U.S.C. § 6(b).

The Invention

The Appellants claim a lithographic apparatus, a control system and a device manufacturing method. Claim 1 is illustrative:

1. A control system comprising:
a measurement system configured to measure a position or position related quantity of an object;

broadest sense, the filter (538') of Yuan et al can be considered as 'a partial order filter' as broadly claimed" (Ans. 9).

That argument is not well taken because the Examiner has not established that those of ordinary skill in the photolithography art to which Yuan pertains would have considered a partial order filter to be defined by the definition of a mathematical filter.

The Examiner argues that Yuan's filter is a partial order filter because, like the Appellants' filter (Spec. 59), it can be a low pass filter (§ 72) (Ans. 9).

This assertion That argument is not persuasive because the Examiner has not established that every low pass filter is a partial order filter. The Appellants' Specification does not indicate that every low pass filter is a partial order filter but, rather, indicates that a partial order filter differs from a first order filter in that a first order filter provides a -90° phase shift whereas a partial order filter provides a lesser phase shift (-60° for a $2/3$ order filter and -45° for a half order filter) (Spec. §§ 59–60).

Thus, the Examiner has not established that Yuan discloses, either expressly or inherently, each of the Appellants' claim limitations. Accordingly, we reverse the rejection.

DECISION/ORDER

The rejection of claims 1–15 and 23–25 under 35 U.S.C. § 102(b) over Yuan is reversed.

Appeal 2012-010964
Application 12/244,326

It is ordered that the Examiner's decision is reversed.

REVERSED

cam