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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LUDO HAENEN, NILS BENTER, PASCAL BLOEMEN, and
AUGUSTINUS G.H. MEIJERS¹

Appeal 2015-003405
Application 13/119,270
Technology Center 2800

Before BEVERLY A. FRANKLIN, CHRISTOPHER L. OGDEN, and
MONTÉ T. SQUIRE, *Administrative Patent Judges*.

OGDEN, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's final decision² rejecting claims 1–19 in the above-identified application. We have jurisdiction pursuant to 35 U.S.C. § 6(b).

We AFFIRM.

¹ According to Appellants, the real party in interest is Koninklijke Philips Electronics, N.V. Appeal Brief 1, July 18, 2014 [hereinafter Appeal Br.].

² Office Action, Jan. 14, 2014 [hereinafter Final Action].

BACKGROUND

Appellants' claimed invention relates to "a lighting unit and a corresponding vehicle headlamp, by means of which mutually distinct lighting functions can be realized, while maintaining compact dimensions."

Spec. 1. One embodiment is depicted in Figure 1, which is reproduced below:

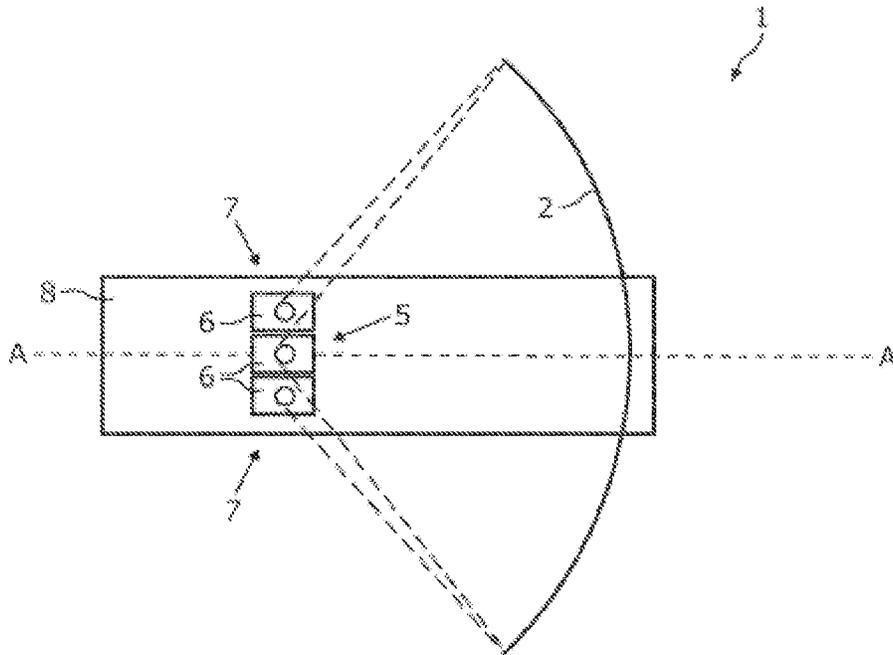


FIG. 1

Figure 1 depicts a longitudinal sectional view of lighting unit 1 along the optical axis A-A', including a reflective surface 2, a first light source 5 and a second light source 7, both comprising LED elements 6, mounted on common circuit board 8. See Spec. 7-8. The first and second beam sources are configured to produce first and second beam patterns with the lighting distribution of a fog light and a daytime running light, respectively. See *id.* at 7.

Claim 1 is representative of the claims on appeal:

1. A lighting unit, comprising:
 - a reflecting surface for providing an output beam of light,
 - a first light source arranged to illuminate a first surface area of said reflecting surface and
 - at least a second light source, arranged to illuminate a second surface area of said reflecting surface,
 - the second surface area is substantially identical to said first surface area,
 - wherein said reflecting surface is shaped and
 - said light sources are positioned relative to said reflecting surface so that said first light source generates an output beam of light having a first beam pattern and
 - said at least second light source generates an output beam of light, having a second beam pattern, different from said first beam pattern,
 - wherein said first light source and said second light source are independently controllable from each other to be able to provide the first beam pattern independent of the second beam pattern, to provide the second beam pattern independent of the first beam pattern, and to provide both first and second beam patterns simultaneously.*

Appeal Br. Claim App. i (emphasis added). Claim 16 is also independent.

See id. at iii.

The Examiner maintains the following grounds of rejection:

I. Claims 1–14 and 16–19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takayuki Yagi, U.S. Patent Application Pub. No. US 2007/0279924 A1 (published Dec. 6, 2007) [hereinafter Yagi] in view of Masanori Shimizu et al., U.S. Patent Application Pub. No. US 2002/0070681 A1 (published Jun. 13, 2002) [hereinafter Shimizu].
Final Action 2–7.

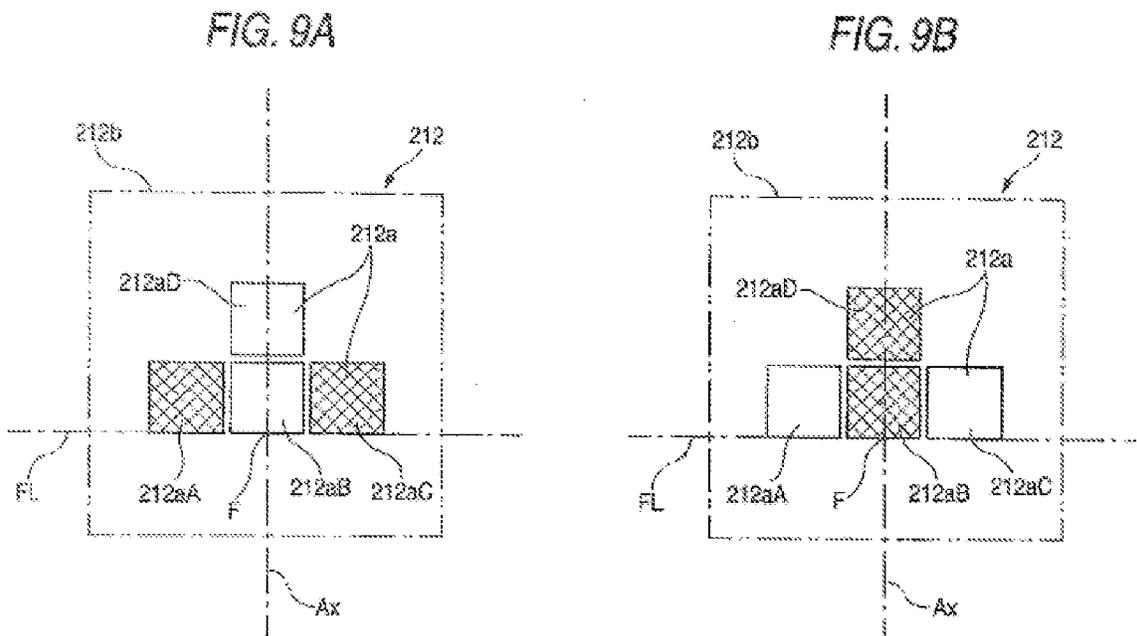
II. Claim 15 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Yagi in view of Shimizu, and further in view of Simon

Magarill, U.S. Patent Application Pub. No. US 2006/0072313 A1 (published Apr. 6, 2006). Final Action 8.

In the Appeal Brief, Appellants argue claims 1–14 as a first group, claims 16–19 as a second group, and claim 15 as a third group, *see* Appeal Br. 5–9, but Appellants make no specific arguments for claims 2–19 beyond the arguments presented for claim 1, *see id.* at 8–9. Therefore, consistent with the provisions of 37 C.F.R. § 41.37(c)(1)(iv) (2013), we limit our discussion to claim 1, and all other claims stand or fall together with claim 1.

DISCUSSION

Figures 9A and 9B of Yagi are reproduced below:



Figures 9A and 9B depict first and second lighting modes, respectively, of the main portion of a vehicular lamp containing light emitting chips 212a of a light emitting element 212. *See* Yagi 121–22, 126. In the first mode, light emitting chips 212aA and 212aC are lighted simultaneously, while in the second mode, chips 212aB and 212aD are lighted simultaneously. *See id.* at

126. The first mode is intended for illuminating longer distances ahead of the vehicle, while the second mode is intended for illuminating a wider horizontal area. *See id.* ¶¶ 135–36.

The Examiner finds that Yagi teaches all the limitations of claim 1, *see* Final Action 2–3, including the limitations in the final paragraph of claim 1, because “Yagi possesses all the structure necessary to provide both the first and second beam patterns simultaneously and that the limitations drawn to the simultaneous shining of both beam patterns are only intended use limitations which do not provide further patentable weight to the claim,” *id.* at 3. In addition, the Examiner finds that Shimizu teaches the limitations in the final paragraph of claim 1. *See id.* (citing Shimizu ¶¶ 75–76, 81, Fig. 6). The Examiner further determines that

[i]t would have been obvious to one of ordinary skill in the art to at the time the invention was made to use the wiring design in which the first and second light source can be used simultaneously and adjusted as taught by Shimizu et al. in the device taught by Yagi in order to display light of any desired color in order to conform with industry standards as well as in order to control the brightness of the emitted light emitted.

Id.

Appellants argue that the requirement in claim 1 that the first and second light sources be “independently controllable” is not merely intended use, and should be given patentable weight. *See* Appeal Br. 7. However, this argument is not responsive to the rejection, because as explained in the Answer, the Examiner’s rejection gives patentable weight to the “independently controllable” limitation. *See* Answer 11; *see also* Final Action 2–3 (finding that Yagi teaches independently controllable light sources).

Appellants also argue that the limitation “to provide both first and second beam patterns simultaneously” is a structural feature and is entitled to patentable weight, because it “clarif[ies] the nature of the first and second light sources’ structural feature of being independently controllable.” Appeal Br. 7. Appellants’ argument does not persuade us that this limitation constrains the structure of the lighting unit defined by claim 1. We give claims “their broadest reasonable interpretation consistent with the specification.” *See In re Translogic Tech. Inc.*, 504 F.3d 1249, 1256 (Fed. Cir. 2007) (quoting *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000)). Claim 1 is an apparatus claim. While it requires that the first and second light sources are independently controllable, claim 1 does not include any control structure, such as a “switching controller,” *see* Spec. 2:23–33, that might determine whether or not the beam patterns are provided simultaneously. Thus, the broadest reasonable interpretation of the phrase “to provide both first and second beam patterns simultaneously,” consistent with the Specification, is as an intended use of the independently controllable light sources.

Appellants also argue that “Yagi does not disclose all the necessary structure to provide the first and second beams simultaneously as recited in claim 1 because Yagi’s light emitting chips 212 of Yagi are not ‘independently controllable’ as recited in claim 1.” *Id.* at 8. We do not find this argument persuasive. As the Examiner correctly finds, Figures 9A and 9B depict independent control of two light sources, and demonstrate the required circuitry for operating the beam patterns independently. *See* Answer 11. Appellants have not directed our attention to factual evidence or persuasive technical reasoning disputing these findings.

Moreover, for purposes of this appeal, Appellants do not contest the Examiner's determination that "*Shimizu* teaches or suggests providing 'both first and second beam patterns simultaneously.'" Appeal Br. 5. Thus, even if the Examiner erred in finding that Yagi teaches providing the beam patterns simultaneously, Appellants do not contest the Examiner's finding that this limitation is taught by Shimizu. Nor do Appellants contest the Examiner's findings that Shimizu teaches light sources that are "wired to be operated independently," Final Action 3, and that there would have been reason for a person of ordinary skill in the art to combine the teachings of Yagi and Shimizu. *See id.*

Appellants also argue that Yagi teaches away from the limitation "to provide both first and second beam patterns simultaneously" in claim 1. *See* Appeal Br. 5. Appellants cite Yagi's description of the embodiment depicted in Figures 9A and 9B, which teaches as follows:

[A]lthough an amount of consumption power of each of the light emitting chips **212a** is slightly large, since the number of the light emitting chips **212a** simultaneously lighted in each of the first and second lighting modes is only two, an amount of consumption power of the light emitting element **212** can be suppressed. Further, since the different light emitting chips **212a** are simultaneously lighted in the first and second lighting modes, a life time of the light emitting element **212** can be elongated.

Appeal Br. 7 (quoting Yagi ¶ 139). Thus, according to Appellants,

If Yagi were modified so that, for instance, both sets of light emitting chips (212aA and 212aC, 212aB and 212aD) were lighted simultaneously, that would undermine Yagi's dual goals of suppressing power consumption of the light emitting element 212 and elongating a life time of the light emitting element 212.

Id. Appellants argue that "a person of ordinary skill would be, at the very least, led in a direction divergent from the path taken by the . . . present application in providing both first and second beam patterns

simultaneously.” Reply Br. 5 (citing *Ricoh Co., Ltd. v. Quanta Computer Inc.*, 550 F.3d 1325, 1332 (Fed. Cir. 2008)).

Appellants’ arguments do not persuade us that Yagi teaches away from the invention defined in claim 1. A prior art disclosure does not teach away if it “does not criticize, discredit, or otherwise discourage the solution claimed.” See *In re Fulton*, 391 F.3d 1195, 1201 (Fed. Cir. 2004). While Yagi teaches a benefit of operating the two light sources sequentially rather than simultaneously, we have interpreted claim 1 as defining a structure in which the first and second light sources are independently controllable, with the provision of simultaneous beam patterns as merely an intended operating mode. See *supra*. Thus, even if Yagi taught away from providing the two beam patterns simultaneously, Yagi does not teach away from the structure defined by claim 1.

Moreover, even if simultaneous operation of the two beams were a structural feature in claim 1, we are not persuaded that Yagi’s teaching would have dissuaded a person of ordinary skill in the art from using simultaneous operation in furtherance of a known benefit, such as increased brightness or the advantages taught by Shimizu. As the Examiner correctly finds, “one of ordinary skill in the art would understand that using any device ultimately contributes to the shortening of the device’s lifetime. Leaving a light bulb turned off in a dark room will certainly extend the lifetime of the bulb but requires the cost of sitting in the dark.” Answer 10. Likewise, any use of a light source requires an expenditure of power. However, we are not persuaded that these considerations would have overridden the known potential benefits of simultaneous operation.

For the above reasons, a preponderance of the evidence on this record does not persuade us of reversible error in the Examiner’s decision to reject

claim 1. For the same reasons, we are not persuaded of reversible error in the Examiner's decision to reject claims 2–19.

DECISION

The Examiner's decision is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended. *See* 37 C.F.R. § 1.136(a)(1)(iv) (2013).

AFFIRMED