



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.
12/678,497	03/17/2010	Javier Olivan Bescos	2007P01696WOUS	9310
24737	7590	11/21/2016	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			ROZ, MARK	
465 Columbus Avenue			ART UNIT	
Suite 340			PAPER NUMBER	
Valhalla, NY 10595			2669	
			NOTIFICATION DATE	
			DELIVERY MODE	
			11/21/2016	
			ELECTRONIC	

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

marianne.fox@philips.com
debbie.henn@philips.com
patti.demichele@Philips.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JAVIER OLIVAN BESCOS

Appeal 2015-007990
Application 12/678,497¹
Technology Center 2600

Before MARC S. HOFF, JOHNNY A. KUMAR, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1–11, which are all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ According to Appellant, the real party in interest is Koninklijke Philips N.V. App. Br. 2.

STATEMENT OF THE CASE

Introduction

Appellant's application relates to software for measuring structures viewed in medical images. Abstract. Claim 1 is illustrative of the subject matter on appeal and reads as follows:

1. A user interface executed by a processor for measuring an object viewed in an image computed from image data, the user interface comprising:
 - an image unit for visualizing the image data in the image for displaying on a display;
 - a deployment unit for deploying a caliper comprising a knot for measuring the object in an image data space, wherein the knot determines the shape of the caliper, the knot comprising a plurality of shapes;
 - a scaling unit for scaling the deployed caliper, inserted with a previously defined geometry and size into the image data space, by a scaling factor in a direction in the image data space;
 - a translation unit for translating the caliper in the image data space; and
 - a caliper unit for visualizing the caliper in the image; wherein the object is measured based on the scaling factor.

The Examiner's Rejection

Claims 1–11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Radpix (Radpix, Help Menu, <http://www.radpix.com/help/index.htm>, last updated Jan. 2005) and Photoshop (Photoshop Elliptical Marquee Tool Tutorial, <http://www.simplephotoshop.com>, available Dec. 2003). Ans. 5–9.

ANALYSIS

We have reviewed the Examiner's rejections in light of Appellant's contentions that the Examiner has erred. We disagree with Appellant's contentions. Except as noted below, we adopt as our own: (1) the findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellant's Appeal Brief. We concur with the conclusions reached by the Examiner. We highlight the following additional points.

Appellant argues the Examiner erred in finding Radpix teaches or suggests a "knot comprising a plurality of shapes," as recited in claim 1. App. Br. 4–7; Reply Br. 2–4. Appellant argues that Radpix's measuring tool comprises a circle that performs measurements and a rectangle that displays information but does not perform measurements. App. Br. 5. Appellant argues Radpix's measuring tool does not satisfy the "knot" limitation because claim 1 requires that the knot comprise a plurality of shapes, each of which performs measurements. *Id.*

As a matter of claim construction, we apply the broadest reasonable interpretation of claim terms, consistent with the specification, as would be understood by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004) (citations omitted). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. *See In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 1 recites "a knot for measuring the object in an image data space, wherein . . . the knot comprising a plurality of shapes." Appellant's

argument that each shape that makes up the claimed knot must measure the object in an image data space is overly narrow. Claim 1 does not recite such a requirement, nor has Appellant provided persuasive evidence that the Specification limits the claimed “knot” in such a manner. The broadest reasonable interpretation of these limitations requires a knot comprising a plurality of shapes, but it is the knot as a whole that must measure the object, not each of the plurality of shapes.

Applying the broadest reasonable interpretation of the claimed “knot,” we agree with the Examiner’s finding that Radpix teaches a knot that performs measurements and comprises a plurality of shapes. Final Act. 6; Ans. 9–10. We, therefore, sustain the rejection of claim 1. We also sustain the rejection of claims 2–11, which were not argued separately with particularity. *See* App. Br. 7.

DECISION

We affirm the decision of the Examiner rejecting claims 1–11.

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

AFFIRMED