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| 12/665,899 | 12/21/2009 | Masahiko Ando | 05426/021001 | 4864 |
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| OSHA LIANG L.L.P. TWO HOUSTON CENTER 909 FANNIN, SUITE 3500 HOUSTON, TX 77010 | | | BUGG, GEORGE A | |
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MASAHIKO ANDO

Appeal 2016-000013
Application 12/665,899
Technology Center 2600

Before ELENI MANTIS MERCADER, JOHN P. PINKERTON, and
JOYCE CRAIG, *Administrative Patent Judges*.

CRAIG, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's
Final Rejection of claims 21–34. We have jurisdiction under 35 U.S.C.
§ 6(b).

We reverse.

¹ According to Appellant, the real party in interest is The Nippon Signal Co.,
Ltd. Br. 4.

INVENTION

Appellant's invention relates to a reader/writer and article sorting system. Abstract. Claim 21 is illustrative and reads as follows, with disputed limitations italicized:

21. A system which reads and writes information from and onto a non-contact information recording medium using an electric wave, the system comprising:

a reader/writer comprising:

an antenna configured to radiate the electric wave and receive a reflected wave modulated by said non-contact information recording medium;

a transmitter configured to transmit the electric wave to the non-contact information recording medium via the antenna;

a demodulator configured to demodulate the reflected wave obtained by said non-contact information recording medium modulating a part of the electric wave;

a calculator configured to calculate a difference in phases between the electric wave and the reflected wave from the non-contact information recording medium; and

a measuring unit configured to determine that the non-contact information recording medium passes a position closest to the antenna, on the basis of the difference in phases between the electric wave radiated from the antenna and the reflected wave from the non-contact information recording medium calculated by the calculator.

REJECTION

Claims 21–34 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

ANALYSIS

In rejecting claims 21–34, the Examiner found that the recited “calculator” and “measuring unit” limitations, shown in italics above, are not described in Appellant’s specification in such a way as to reasonably convey to an artisan of ordinary skill that the inventor, at the time the application was filed, had possession of the claimed invention. Final Act. 27.

With regard to claim 21, Appellant contends the Examiner erred because at least paragraphs 12, 16, 19, 24, and 25 of the originally–filed Specification provide sufficient support for the disputed subject matter. Br. 12–14. Appellant explains that one of ordinary skill in the art would have appreciated the relationship between phase and time with respect to electromagnetic waves because an electromagnetic wave phase is mathematically related to time. *Id.* at 13–14.

Appellant has persuaded us of Examiner error. The Examiner has not provided sufficient explanation or reasoning why the cited portions of the Specification fail to support the disputed subject matter. *See* Ans. 2–5. In particular, the Examiner has not sufficiently rebutted Appellant’s contention that the description of “obtaining a difference in the delay time from θ_r ,” where θ_r is a phase obtained by calculator 15, is not sufficient to reasonably convey to an artisan of ordinary skill at the time of the invention, that the inventor did not have possession of the claimed invention. *See id.*; Spec. 15:16–16:4.

For these reasons, on the record before us, we are persuaded that the Examiner erred, and we reverse the rejection under 35 U.S.C. § 112, first paragraph, of independent claim 21, and claims 22–33, dependent thereon.

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We also reverse the rejection of independent claim 34, which recites substantially similar limitations as independent claim 21.

DECISION

We reverse the decision of the Examiner rejecting claims 21–34.

REVERSED