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EXAMINER
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ELBINGER, STEVEN Z

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JAMES WILKINSON

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Appeal 2016-002041  
Application 13/174,642  
Technology Center 2600

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Before LARRY J. HUME, LINZY T. McCARTNEY, and  
NATHAN A. ENGELS, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from a rejection of  
claims 1–20. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

### STATEMENT OF THE CASE

The present patent application generally concerns “methods and systems for providing three-dimensional (3D) animation.” Spec. ¶ 2. Claim 1 illustrates the claimed subject matter (disputed limitation emphasized):

1. A system for three-dimensional (3D) animation, comprising:

a means for storage;

a computer apparatus in communication with the means for storage; and

a means for display in communication with the computer apparatus; wherein,

the means for storage is disposed to store data representing a 3D animation;

the means for display is disposed to display a representation of the 3D animation; and

the computer apparatus is configured to perform a method, comprising:

*setting an inter-axial distance between logical representations of two cameras, the inter-axial distance being configured to produce a desired 3D effect for a target audience, wherein said inter-axial distance for the logical representations of said cameras are based on a predetermined ocular distance of a target viewing audience; and*

creating a stereoscopic frame set representing the 3D animation using the logical representations of the two cameras.

### REJECTIONS

Claims 1–7 and 11–20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hendrickson et al. (US 2009/0160934 A1; June 25, 2009) (“Hendrickson”) and Yoon (US 2007/0035619 A1; Feb. 15, 2007).

Claims 8–10 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Hendrickson, Yoon, and Hendrickson et al. (US 2009/0219283 A1; Sept. 3, 2009) (“Hendrickson ’283”).

#### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments, and we disagree with Appellant that the Examiner erred. To the extent consistent with the analysis below, we adopt the Examiner’s findings, reasoning, and conclusions set forth in the Final Rejection, Advisory Action, and the Answer. Appellant has waived arguments Appellant failed to timely raise or properly develop. *See* 37 C.F.R. §§ 41.37(c)(1)(iv), 41.41(b)(2).

Appellant argues neither Hendrickson nor Yoon teaches or suggests the “setting” limitation recited in claim 1. *See* App. Br. 6–10; Reply Br. 2–4. Appellant contends Hendrickson “does not actually teach setting of an inter-axial distance in a configuration designed to produce a desired 3D effect for a target audience, but instead only renders 3D from live-action camera depth data.” App. Br. 7; *see also* Reply Br. 2. Appellant argues “Yoon simply relates to how to display (and adjust during display) stereoscopic images depending on display size” and “set[ting] a hardware distance,” not “setting an inter-axial distance between logical representations of two cameras” in the manner recited in claim 1. App. Br. 7–10; *see also* Reply Br. 2–4.

Although Appellant separately addresses Hendrickson’s and Yoon’s teachings, the Examiner found a *combination* of Hendrickson’s and Yoon’s teachings would have suggested the “setting” limitation to one of ordinary skill in the art. *See, e.g.*, Ans. 6–7; Final Act. 2–5. In particular, the Examiner found Hendrickson teaches “setting an inter-axial distance between logical representations of two cameras” and Yoon teaches setting

an inter-axial distance “to create a 3D effect based on a target audience,” the inter-axial distance “based on a predetermined ocular distance of a target viewing audience.” Ans. 6–7 (emphases omitted). Based on these findings, the Examiner concluded claim 1’s “setting” limitation would have been obvious to one of ordinary skill in the art. *See id.*

Appellant’s arguments against Hendrickson and Yoon individually have not persuaded us the Examiner erred. First, the record does not support Appellant’s arguments concerning Hendrickson. As noted above, Appellant argues that instead of setting an inter-axial distance designed to produce a desired 3D effect, Hendrickson “only renders 3D from . . . live-action camera depth data.” App. Br. 7. But Hendrickson discloses “embodiments of the invention provide techniques for establishing camera position parameters for a 3-D shot.” Hendrickson ¶ 25. Hendrickson explains “[t]he director . . . defines reference parameters that characterize the 3-D image, and *camera position parameters that will yield a 3-D image with the specified characteristics are derived from the reference parameters.*” *Id.* (emphasis added). Hendrickson teaches the camera position parameters include a “camera interaxial distance  $d_i$ ” between two cameras. *See id.* ¶¶ 5, 29–30; Fig. 2, 3; *see also* Ans. 6. Hendrickson also teaches that Hendrickson’s “techniques can be applied *in both computer-generated and live-action 3D movies*” and that computer-generated movies use virtual cameras. Hendrickson ¶¶ 6, 11, 48 (emphasis added); *see also* Ans. 6, Final Act. 14. Accordingly, we find this argument unpersuasive.

Second, Appellant’s contentions regarding Yoon do not adequately address the Examiner’s rejection. Appellant argues that Yoon does not teach “setting an inter-axial distance between logical representations of two

cameras” in the fashion recited in claim 1. *See* App. Br. 7–10; Reply Br. 2–4. But the Examiner did not find Yoon alone teaches this limitation. The Examiner found Yoon teaches that traditional 3D display systems cause various problems (e.g., headaches, dizziness, a sense of distortion, etc.) because the systems do not account for the distance between a viewer’s eyes when setting the distance between displayed stereoscopic images. *See, e.g.,* Yoon ¶¶ 110, 172–173. The Examiner also found Yoon teaches addressing this problem by adjusting the distance between the displayed images so that the distance equals the distance between a viewer’s eyes. *See id.* ¶¶ 180–182; Ans. 4. Based on these disclosures, the Examiner found Yoon teaches setting an inter-axial distance “based on predetermined ocular distance of a target viewing audience.” *See, e.g.,* Ans. 7 (emphasis omitted). The Examiner concluded this teaching, combined with Hendrickson’s teaching of setting an inter-axial distance between logical representations of two cameras, would have suggested claim 1’s “setting” limitation to one of ordinary skill in the art. *See id.* at 5–6. Appellant’s arguments against Yoon alone are unpersuasive because “one cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references.” *In re Keller*, 642 F.2d 413, 426 (CCPA 1981).

Finally, Appellant contends that neither Hendrickson nor Yoon teach or suggest the limitations recited in dependent claims 2, 3, 12, 13, and 19. *See* App. Br. 10. However, Appellant simply paraphrases the limitations recited in these claims and asserts the cited art fails to teach these limitations. *See id.* Such assertions do not amount to a persuasive patentability argument. *See In re Lovin*, 652 F.3d 1349, 1357 (Fed. Cir. 2011) (“[W]e hold that the Board reasonably interpreted Rule 41.37 to

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require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art.”). Accordingly, Appellant has waived these arguments. *See id.* at 1356–57; *see also* 37 C.F.R. §§ 41.37(c)(iv), 41.41(b)(2).

#### DECISION

For the above reasons, we affirm the rejections of claims 1–20.

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)(iv).

AFFIRMED