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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* GARY G. SCHNEIDER and DAVID P. GOREN

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Appeal 2019-002659  
Application 15/174,184  
Technology Center 2800

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Before ROMULO H. DELMENDO, JEFFREY B. ROBERTSON, and  
JANE E. INGLESE, *Administrative Patent Judges*.

INGLESE, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant<sup>1</sup> requests our review under 35 U.S.C. § 134(a) of the Examiner's decision to finally reject claims 1–20.<sup>2</sup> We have jurisdiction over this appeal under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> We use the word “Appellant” to refer to the “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies Symbol Technologies, LLC (“a wholly indirectly owned company of Zebra Technologies Corporation”) as the real party in interest. Appeal Brief filed October 22, 2018 (“Appeal Br.”) at 2.

<sup>2</sup> Final Office Action entered May 31, 2018 (“Final Act.”) at 1.

### CLAIMED SUBJECT MATTER

Appellant claims an imaging reader for reading targets by image capture (independent claim 1), a color image processing pipeline for processing output raw image data from a color imager in an imaging reader for reading targets by image capture, (independent claim 10), and a method of reading targets by image capture with an imaging reader (independent claim 13). Appeal Br. 4–6. Claim 1 illustrates the subject matter on appeal, and is reproduced below with contested subject matter italicized:

1. An imaging reader for reading targets by image capture, the reader comprising:
  - an imaging assembly including a solid-state color imager and a color filter array, the imaging assembly being operative for capturing color images of the targets;
  - a controller for controlling the reader to operate in one of an image capture mode in which a color image of at least one of the targets is captured, and in a decode mode in which a color image of a target configured as a symbol target is decoded; and
  - a color image processing pipeline including a set of color image processing components for processing the captured color image of the at least one target along a first path in the image capture mode, *at least one of the color image processing components degrading reader performance in the decode mode, and a subset of the color image processing components without the at least one color image processing component being operative for processing the color image of the symbol target along a different, second path for decoding in the decode mode.*

Appeal Br. 12 (Claims Appendix) (emphasis added).

Similar to claim 1, independent claim 10 requires the recited color image processing pipeline to comprise a set of color image processing components for processing image data captured from at least one target along a first path in an image capture mode of the reader, at least one of the color image processing components

degrading reader performance in a decode mode, and a subset of the color image processing components without the at least one color image processing component being operative for processing the image data captured from a symbol target along a different, second path for decoding in a decode mode of the reader.

Similar to claims 1 and 10, independent claim 13 requires the recited method of reading targets by image capture with an imaging reader to comprise, in part, processing a captured color image of at least one target in an image capture mode with a set of color image processing components along a first path, at least one of the color image processing components degrading reader performance in the decode mode, and processing a color image of a symbol target along a different, second path for decoding in a decode mode with a subset of the color image processing components without the at least one color image processing component.

### REJECTION

The Examiner maintains the rejection of claims 1–20 under 35 U.S.C. § 102(a)(1) as anticipated by Wang (US 2014/0217179 A1, published August 7, 2014) in the Examiner’s Answer entered December 18, 2018 (“Ans.”).

### FACTUAL FINDINGS AND ANALYSIS

Upon consideration of the evidence relied upon in this appeal and each of Appellant’s contentions, we reverse the Examiner’s rejection of claims 1–20 under 35 U.S.C. § 102(a)(1), for reasons set forth in the Appeal and Reply Briefs, and below.

In the rejection of independent claims 1, 10, and 13 set forth in the Final Action, the Examiner finds that Wang discloses “a color image processing pipeline including a set of color image processing components for processing the captured color image of the at least one target along a first path in the image capture mode, at least one of the color image processing components degrading reader performance in the decode mode, and a subset of the color image processing components without the at least one color image processing component being operative for processing the color image of the symbol target along a different, second path for decoding in the decode mode.” Final Act. 3 (citing Wang Abstr., ¶¶ 81–88, 97, 98, 123, 132–140, 156, 162, 189–194). In so finding, however, the Examiner merely lists the last paragraph of claim 1 *verbatim*, and then cites the Abstract and 28 paragraphs of Wang, without indicating which paragraphs of Wang disclose which elements of claims 1, 10, and 13.

In particular, as Appellant argues (Appeal Br. 10), the Examiner does not identify with specificity any disclosure in Wang of a color image processing pipeline that includes processing components for processing a captured color image along a first path in an image capture mode, *in which at least one of the processing components degrades reader performance in a decode mode, and a different, second path for decoding a color image of a symbol target in a decode mode, which does not include the processing component(s) that degrade reader performance in the decode mode*, as required by claims 1, 10, and 13. We find no disclosure in the paragraphs of Wang cited by the Examiner in the Final Action of such first and second color image processing paths in which at least one processing component

that degrades reader performance in a decode mode is omitted from a second path for decoding a color image of a symbol target in a decode mode.

In response to Appellant's arguments, the Examiner provides slightly more detail in the Answer as to the relied-upon disclosures in Wang, and how those disclosures correspond to elements of the independent claims. Ans. 6–7. The Examiner, however, still does not identify with specificity any disclosure in Wang of first and second color image processing paths in which at least one processing component that degrades reader performance in a decode mode is omitted from the second path for decoding a color image of a symbol target in a decode mode. Specifically, the Examiner finds in the Response to Argument section of the Answer that:

Wang, par 81–88 disclose the structure the reader, specifically par 83–85 and Fig 1c disclose the color processing circuits (modules), par 97–98, 123 disclose the pixels of the image sensor array, par 132–140 disclose structure of reader and capture mode selection by use of display and trigger, par 156 and 162 are the start of decode process 1200 and picture taking process 1400 respectively, and par 189–194 disclose how process 1200 and 1400 can be executed contemporaneously. Fig 22 provides more detail of the pipeline in par 221–223 in combination with Fig 1C regarding the processing circuits.

Ans. 7.

The Examiner's reliance (reproduced above) on Figure 22 and paragraphs 221–223 of Wang as disclosing “more detail of the pipeline” and “processing circuits” occurs for the first time in the Answer. We find no disclosure in these newly cited portions of Wang, however, of first and second color image processing paths in which at least one processing component that degrades reader performance in a decode mode is omitted from the second path for decoding a color image in a decode mode. And

like the Final Action, the Examiner does not explain in the Answer which cited portions of Wang disclose this subject matter.

Consequently, on the record before us, the Examiner does not provide a sufficient factual basis to establish that Wang discloses first and second color image processing paths in which at least one processing component that degrades reader performance in a decode mode is omitted from a second path for decoding a color image of a symbol target in a decode mode, as required by independent claims 1, 10, and 13.

We, accordingly, do not sustain the Examiner's rejection of independent claims 1, 10, and 13, and claims 2-9, 11, 12, and 14-20, which each depend from either claim 1, 10, or 13, under 35 U.S.C. § 102(a)(1) as anticipated by Wang.

#### CONCLUSION

<b>Claims</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-20	102(a)(1)	Wang		1-20

REVERSED