

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MARCEL JOHAN EIJSACKERS, BERNARD KLEINE,
KATJA PETER, and WERNER WITTKE

Appeal No. 2006-2751
Application No. 10/205,090

ON BRIEF

Before THOMAS, HAIRSTON, and RUGGIERO, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 12 and 14 through 26.

The disclosed invention relates to at least one common operating console for operating at least one motor-adjustable microscope functional element, and at least one motor-adjustable micromanipulator for micromanipulation of biological specimens.

Claim 1 is the only independent claim on appeal, and it reads as follows:

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1. An arrangement for micromanipulation of biological specimens comprising:
 - a microscope having at least one motor-adjustable microscope functional element,
 - at least one motor-adjustable micromanipulator having an injector,
 - at least one common operating console, for independently and concurrently operating both said at least one motor-adjustable microscope functional element and said at least one motor-adjustable micromanipulator,
 - connecting means which connect said operating console to said microscope and said at least one micromanipulator.

The references relied on by the examiner are:

Jörgens et al. (Jörgens)	4, 695,137	Sept. 22, 1987
Kettler et al. (Kettler)	4,907,158	Mar. 6, 1990
Weetall et al. (Weetall)	5,620,857	Apr. 15, 1997
Miura et al. (Miura)	5,677,709	Oct. 14, 1997
Kojima	5,703,714	Dec. 30, 1997
Schütze et al. (Schütze)	5,998,129	Dec. 7, 1999

Claims 1 through 4, 7, 9, 14 and 16 through 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miura in view of Jörgens.

Claims 5, 6 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miura in view of Jörgens and Kettler.

Claims 8 and 10 through 12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miura in view of Jörgens and Kojima.

Claims 23 and 25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Miura in view of Jörgens and Schütze.

Claims 24 and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over

Miura in view of Jörgens and Weetall.

Reference is made to the briefs and the answer for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will sustain the obviousness rejections of claims 1 through 12 and 14 through 26.

Appellants argue throughout the briefs that a common operating console for independently and concurrently performing both the microscope and the micromanipulator functions is not taught by either Miura or Jörgens.

We disagree with appellants' arguments. The manipulating panel/console 48 in Miura contains joysticks 10 and 11 that control the micromanipulators 4 and 5, respectively, and a keyboard key group 33 that controls a driver mechanism for moving the objective lenses (Figure 1; column 8, lines 45 through 50 and 63 through 67; column 13, lines 55 through 65 and column 14, lines 51 through 59). Miura explains (column 13, lines 55 through 65 and column 14, lines 51 through 59) that the objective lenses are moved vertically by a driver mechanism (not shown) in the Z-axial direction via instructions and settings entered into a control unit 26 with the key group 33. Thus, the obviousness rejection of claim 1 is sustained because Miura discloses a common operating console 48 for independently and concurrently performing both a microscope

function (i.e., moving the objective lenses) and a micromanipulator function as set forth in claim

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1. In sustaining a multiple reference rejection under 35 U.S.C. § 103, the Board may rely on one reference alone without designating it as a new ground of rejection. In re Bush, 296 F.2d 491, 496, 131 USPQ 263, 266-67 (CCPA 1961); In re Boyer, 363 F.2d 455, 458, n.2, 150 USPQ 441, 444, n.2 (CCPA 1966). The teachings of Jörgens are merely cumulative to teachings already present in Miura.

The obviousness rejections of claims 2 through 12 and 14 through 26 are sustained because appellants have not presented any patentability arguments for these claims apart from those presented for claim 1.

DECISION

The decision of the examiner rejecting claims 1 through 12, and 14 through 26 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be

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extended under 37 CFR § 1.136(a) (1) (iv).

AFFIRMED

JAMES D. THOMAS)
Administrative Patent Judge)
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KENNETH W. HAIRSTON) BOARD OF PATENT
Administrative Patent Judge)
) APPEALS AND
)
) INTERFERENCES
)
JOSEPH F. RUGGIERO)
Administrative Patent Judge)

KWH/ rwk

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