

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY CORPORATION
Petitioner

v.

YISSUM RESEARCH DEVELOPMENT COMPANY OF THE
HEBREW UNIVERSITY OF JERUSALEM
Patent Owner

Case No. IPR2013-00219 (SCM)¹

Patent No. 7,477,284
Issue Date: Jan. 13, 2009
Title: SYSTEM AND METHOD FOR CAPTURING AND VIEWING
STEREOSCOPIC PANORAMIC IMAGES

**PETITIONER'S REPLY TO PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION TO EXCLUDE EVIDENCE**

¹ The IPR2013-00327 proceeding has been joined with this proceeding.

**PETITIONER'S REPLY TO PATENT OWNER'S OPPOSITION TO
PETITIONER'S MOTION TO EXCLUDE EVIDENCE**

Petitioner Sony Corporation ("Sony") submits this Reply in support of its motion to exclude exhibits YRD-2012, an uncertified translation of Asahi, and YRD-2013, a translation of Kawakita separated from the conference booklet in which the article was distributed. Both exhibits were served on counsel for Patent Owner ("Yissum") in the related I.T.C. investigation. *See* Sony-1048 at ¶¶ 2-3.

Yissum does not deny that it offers YRD-2012 and YRD-2013 solely to challenge the accuracy of two certified translations Sony submitted with its Petition (Sony-1010 and Sony-1004). Yissum, also does not deny that it failed to object to those certified translations and has come forward with no evidence concerning their alleged inaccuracy.

Rather, Yissum attempts to divert attention from its failure to timely object and its belated presentation of new evidence by arguing that Sony was obliged to serve YRD-2012 and YRD-2013 with its Petition because they are "inconsistent" with positions advanced by Sony during this proceeding. 37 C.F.R. § 42.51(b)(1)(iii). These exhibits are not inconsistent with any position that Sony has taken in this proceeding, and 37 C.F.R. § 42.51(b)(1)(iii) does not apply.

A. YRD-2012 is Not Inconsistent with a Position Taken by Sony.

Yissum incorrectly argues that the uncertified translation YRD-2012, which states that "a 3D image can be shown to the viewer," is inconsistent with Sony's reliance on

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the corresponding passage in Sony-1010, which states that “stereoscopic viewing is possible.” *See* YRD-2012, ¶ 0035; Sony-1010, ¶ 0035. Yisum argues that a “3D image” is a digital elevation map, different from a “stereoscopic” image, and suggests that Prof. Darrell’s testimony supports that position. *Opp.* at 8.

First, Prof. Darrell merely testified that Yisum’s exhibit YRD-2011 illustrates an image rendered from a digital elevation model. *See* YRD-2014 at 84:16 – 85:20. He did not testify that a “3D image” is limited to the type of image shown in YRD-2011. In fact, he testified that “3D image” could “mean a lot of different things . . . [including] a stereoscopic display of an image.” YRD-2014 at 126:12-18. He further testified that the “3D image” in the YRD-2012 sentence “a 3D image can be shown to the viewer” is a “stereoscopic 3D image.” YRD-2014 at 128:16 – 129:2.

Second, both the Board’s and Yisum’s exhibits defining the terms “stereoscopic” and “stereoscopy” are consistent with Prof. Darrell’s testimony that “3D image” can mean a stereoscopic image. *See* Decision, Paper 16 at 3 and Ex. 3002 at 4 (stereoscopic: “Of or pertaining to stereoscopy; especially three dimensional”); YRD-2003 (stereoscopy: “a technique used to enable a three-dimensional effect”; and equating “autostereoscopic imaging” with “auto 3-D”). YRD-2003 also directs the reader to Wikipedia (Sony-1042) for “a more detailed explanation of stereoscopy.” *See* YRD-2003. Wikipedia likewise equates “stereoscopy” with “3D imaging”: “Stereoscopy (also called stereoscopies or 3D imaging).” Sony-1042 at 1.

Third, the testimony of the CEO of Yissum's exclusive licensee also supports Prof. Darrell's testimony that a "3D image" can mean a stereoscopic image. YRD-2006 at ¶ 4 (characterizing the technology at issue as relating to "creation of panoramic 3D images").

Therefore, YRD-2012 is not inconsistent with Sony's reliance on the phrase "stereoscopic viewing is possible" in Sony-1010, and 37 C.F.R. § 42.51(b)(1)(iii) does not apply.

B. YRD-2013 is not Inconsistent with a Position Taken by Sony.

Yissum argues that YRD-2013 is inconsistent with positions taken by Sony because YRD-2013 does not use the words "faithful" or "faithfully" in describing the stereoscopic view presented to the viewer. Yissum is wrong.

Sony's position is that Kawakita (Sony-1004) discloses a stereoscopic image pair that provides a perception of depth, without adjustment of their positions for display, in all but two circumstances. *See* Sony Reply, No. 37 at 5-6. Sony relies on the following passage in Sony-1004: "When the left and right panoramic images obtained using the foregoing procedure are viewed binocular stereoscopically, a stereoscopic view is possible that faithfully reproduces the positional relationships, if the image was captured from a sufficient distance." Sony-1004 at 16-17. YRD-2013 is consistent with that position, stating: "when the left and right panoramic images obtained by the aforementioned procedures are viewed in binocular stereo, if the image was taken

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from a sufficient distance, the positional relationship can normally be viewed in
reproduced stereo[.]” YRD-2013 at 5.

Further, even where Kawakita calls for adjusting the positions of the images, Sony’s position is that the unadjusted images can provide a perception of depth of at least some objects in the scene. *See* Sony Reply, No. 37 at 6-8. Kawakita (Sony-1004) states that adjustment is needed for “faithful” stereoscopic viewing. YRD-2013 likewise uses qualifying language: “the positional relationship can *normally* be viewed in reproduced stereo,” YRD-2013 at 5 (emphasis added); but where adjustment is required “*normal* stereo vision is not possible,” YRD-2013 at 6 (emphasis added); and after adjustment “the object in focus was not seen in double vision, and the sense of depth could be *properly* reproduced,” YRD-2013 at 8 (emphasis added). Prof. Darrell testified that the terms “normal” and “proper” express the same concept as “faithful.” YRD-2014 at 139:19 – 140:3; 140:22 – 141:11; 142:5-21.

Therefore, YRD-2013 is not inconsistent with Sony’s positions, and 37 C.F.R. § 42.51(b)(1)(iii) does not apply.

C. Yissum’s Counsel Was Well Aware of YRD-2012 and YRD-2013 During the I.T.C. Investigation.

Yissum argues it only discovered YRD-2012 and YRD-2013 “just before Dr. Darrell’s second deposition,” and that it is “unfairly prejudiced,” suggesting that they were buried in documents produced in the I.T.C. investigation and were unearthed by Yissum’s counsel by some stroke of luck. *Opp.* at 5, 6. That is not the case.

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