UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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EIZO CORPORATION,
Petitioner,

v.

BARCO N.V.,
Patent Owner.

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Case IPR2014-00358
Patent RE43,707 E

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Before KALYAN K. DESHPANDE, JAMES B. ARPIN, and
DAVID C. McKONE, *Administrative Patent Judges*.

DESHPANDE, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I.   INTRODUCTION

Eizo Corporation ("Petitioner") filed a corrected Petition requesting an *inter partes* review of claims 36, 46, 54, 64, 65, 77-79, 93, 94, 101-104, and 107 of Patent No. US RE43,707 E (Ex. 1001; "the '707 patent"). Paper 4 ("Pet."). Barco N.V. ("Patent Owner") timely filed a Preliminary Response. Paper 9 ("Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314.

The standard for instituting an *inter partes* review is set forth in 35 U.S.C. § 314(a), which provides as follows:

> THRESHOLD—The Director may not authorize an inter partes review to be instituted unless the Director determines that the information presented in the petition filed under section 311 and any response filed under section 313 shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.

Upon consideration of the Petition and the Preliminary Response, we determine that the information presented by Petitioner has established that there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claims 101-104. Accordingly, we institute an *inter partes* review of these claims. We have also determined that the information presented by Petitioner has not established that there is a reasonable likelihood that Petitioner would prevail in showing the unpatentability of claims 36, 46, 54, 64, 65, 77-79, 93, 94, and 107 of the '707 patent. Accordingly, we do not institute an *inter partes* review of those claims.

A. Related Proceedings

Petitioner indicates that the '707 patent is the subject of a Federal district court case: *Barco, N.V. et al. v. Eizo Nanao Corp.*, 11-cv-00258 (N.D. Ga). Pet. 1.

Additionally, the '707 patent is the subject of *Inter Partes* Reexamination No. 95/002,047 and was the subject of *Ex Parte* Reexamination No. 90/020,037 ("the '037 Reexam.").[1] Pet. 1.

B. The '707 Patent

The '707 patent is directed to a system and method for noise reduction in medical images being viewed on display systems. Ex. 1001, 4:14-16. Scientific studies indicate that even a "slight increase of noise in medical images can have a significant negative impact on the accuracy and quality of medical diagnosis." *Id.* at 1:30-33. Accordingly, the '707 patent provides a noise reduction system and method that addresses non-uniformity of pixel behavior present in matrix-addressed electronic display devices. *Id.* at 4:36-41.

The '707 patent includes a range of embodiments, including a vision measurement system — a set-up for automated, electronic vision of individual pixels of a matrix-addressed display. *Id.* at 6:10-17. The vision measurement system includes an image capturing device, a movement device for moving the image capturing device, and/or a display. *Id.* at 6:17-

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[1] The Office issued a rexexamination certificate, Reexamination Certificate No. US RE43,707 C1 ("the '707 C1 certificate"), on March 31, 2014.

20. Each of the embodiments reaches the same result of outputting an electronic image of pixels. *Id.* at 6:20-23. "[A] process is run to extract pixel characterization data from the electronic image." *Id.* at 7:4-7. Algorithms are used to assign a luminance value to each pixel, where the algorithm includes a first task of identifying a location of each of the matrix display pixels and relating the pixels to the pixels of the electronic image, and a second task of calculating and assigning one light-output value for each pixel. *Id.* at 7:8-13, 8:52-54. A test image may be generated by driving each of the pixels with the same drive signal or drive level, and the light-output of each pixel can be calculated from the test image. *Id.* at 9:25-39. The next task of the algorithm is to define a drive function, thereby providing a correction principle to generate a required light-output response curve for an individual pixel and, thus, equalizing the response of all of the pixels in a display. *Id.* at 10:29-42.

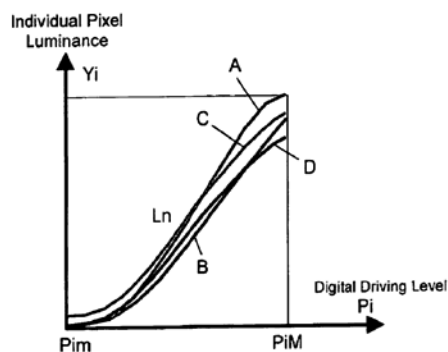An example of equalizing the behavior of the pixels is illustrated in Figure 10 as follows:

Fig. 10

Figure 10 illustrates that pixels with curves A – C are equalized to that of curve D. *Id.* at 12:3-5. A specific transfer curve for each pixel may be used to compensate the behavior of each pixel's characteristic luminance response, thereby modifying or curing any unequal luminance behavior over a display area. *Id.* at 12:19-28.

C. Illustrative Claims

Petitioner challenges claims 36, 46, 54, 64, 65, 77-79, 93, 94, 101-104, and 107 of the '707 patent. Pet. 22-45. Subsequent to the filing of the Petition, a Reexamination Certificate issued in the '037 Reexam., cancelling some of the claims challenged in the Petition and amending others. *See* Ex. 2005. Independent claim 36 was confirmed. *Id.* at 2. Claim 101, which depended from independent claim 100, now is written in independent form to include all of the limitations of cancelled claim 100. *Id.* Claim 64, which depended from claim 62, now depends from *cancelled* claim 94, which depended previously from claim 62. Claim 46 depends from independent claim 41. Claim 54 depends from independent claim 53. Claim 65 is disclaimed, and claims 77-79 and 93 are cancelled. Claims 102-104 depend, directly or indirectly, from independent claim 101. Claim 107 depends from independent claim 105.

Claims 36, 64, 101, and 107 are illustrative of the remaining, challenged claims and are reproduced below:

> 36. A method of image processing, said method comprising:
>   for each of a plurality of pixels of a display, obtaining a measure of a light-output response of at least a portion of the pixel at each of a plurality of driving levels;

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