

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FUJITSU NETWORK COMMUNICATIONS, INC.
Petitioner

v.

THOMAS SWAN & CO. LTD.
Patent Owner

Inter Partes Review Case No. Unassigned
Patent 8,335,033

**PETITION FOR *INTER PARTES* REVIEW OF
U.S. PATENT NO. 8,335,033 UNDER 35 U.S.C. §§ 311-319 AND
37 C.F.R. §§ 42.1-.80, 42.100-.123**

Mail Stop "PATENT BOARD"
Patent Trial and Appeal Board
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

I. INTRODUCTION1

II. MANDATORY NOTICES AND FEES4

III. CERTIFICATION OF GROUNDS FOR STANDING6

IV. BACKGROUND6

 A. Overview of the ‘033 Patent.....6

V. CLAIM CONSTRUCTION.....8

VI. LEVEL OF ORDINARY SKILL IN THE ART13

VII. OVERVIEW OF CHALLENGE AND RELIEF REQUESTED14

 A. Summary of Grounds for Challenge.....15

 B. Motivation to Combine References.....16

 C. Ground 1: Claims 1, 22, 24, 26, 29, 39, 43, 45, 58, 64, 65, 76, 79, 80, 81, 89 and 90 would have been obvious by the combination of Parker Thesis and Warr Thesis17

 D. Ground 2: Claim 27 would have been obvious by the combination of Parker Thesis, Warr Thesis and Tan Thesis48

 E. Ground 3: Claims 47, 48 and 51 would have been obvious by the combination of Parker Thesis, Warr Thesis and Cohen.....51

 F. Ground 4: Claim 57 would have been obvious by the combination of Parker Thesis, Warr Thesis and Crossland Patent.....57

VIII. CONCLUSION.....60

ATTACHMENT A:61

ATTACHMENT B: APPENDIX OF EXHIBITS62

I. INTRODUCTION

Petitioner Fujitsu Network Communications, Inc. (“FNC”) requests *inter partes* review of Claims 1, 22, 24, 26, 27, 29, 39, 43, 45, 47, 48, 51, 57, 58, 64, 65, 76, 79, 80, 81, 89 and 90 (“Petitioned Claims”) of U.S. Patent No. 8,335,033 (“the ‘033 patent”) (Ex. 1001), assigned on the face of the patent to Thomas Swan & Co. Ltd. (“Thomas Swan”). The Petitioned Claims of the ‘033 patent are generally directed to “optical processors” that use a “dispersion device” to disperse light beams of multiple frequencies into channels and a “focussing device” to focus the light onto a two-dimensional spatial light modulator (“SLM”) having an “array of controllable elements.” The optical processor includes circuitry that displays “holograms” on the SLM in order to control the direction of light emerging from the SLM. The technology claimed in the ’033 patent has applications in fiber optic communications. The original patent application that led to the issuance of the ‘033 patent was filed in the United Kingdom on September 3, 2001.

Melanie Holmes (“Holmes”) is listed as the sole purported inventor for the ‘033 patent and the priority application. As explained further below, the subject matter claimed in the ‘033 patent was developed and published by researchers at the University of Cambridge (“Cambridge”) prior to the filing of the 2001 priority application. For about a decade prior to the filing of the priority application, researchers at Cambridge, working in Professor William Crossland’s Photonics &

Sensors group, investigated and published research relating to the use of liquid crystal SLMs in optical communication and other applications. This work is well documented and described in numerous publications emanating from Dr. Crossland's group in the 1990s. See Ex. 1002, http://www-g.eng.cam.ac.uk/photronics_sensors/people/bill-crossland.htm (biography of Prof. Crossland: "Bill Crossland held the position of Group Leader of the Photonics & Sensors Group . . . from 1992 . . . until his retirement at the end of September 2009. . . He is generally regarded as the founding father of liquid crystal over silicon (LCOS) technologies.") and Ex. 1003, http://www-g.eng.cam.ac.uk/photronics_sensors/publications/index.htm (providing an exemplary listing of publications from the Photonics & Sensors group).

In the years prior to the filing of the U.K. priority application, Holmes collaborated with Cambridge on the development and use of liquid crystal SLMs for optical beam routing and other applications. Holmes completed her Ph.D. requirements in 1992 and shortly thereafter began collaborating with Dr. Crossland who was working with three of his doctoral candidates on research relating to liquid crystal SLMs for use in optical routing (Ex. 1004) (article entitled "Low Crosstalk Devices for Wavelength-Routed Networks," by M. J. Holmes, W. Crossland *et al.*, IEE Colloquium on Guided Wave Optical Signal Processing, IEE Dig. No. 95-128 London, UK, indicating collaboration with the Crossland group in

at least 1995); (Ex. 1005) (article entitled “Holographic Optical Switching: The ‘ROSES’ Demonstrator,” by W. A. Crossland, K.L. Tan, M.J. Holmes et al., *Journal of Lightwave Technology*, Vol. 18, No. 12, Dec. 2000, at 1845-54, indicating collaboration with the Crossland group continued through at least 2001). Those three doctoral candidates were Michael C. Parker, Stephen T. Warr and Kim L. Tan. These doctoral candidates focused on research relating to liquid crystal SLMs for use in optical routing that culminated in Ph.D. dissertations published by Cambridge.

As explained further below, it is apparent that the claimed invention of the ‘033 patent was discovered and disclosed, prior to the filing of Holmes’s U.K. priority application, through the research and publications of Drs. Parker, Warr and Tan and Prof. Crossland. A review of the publication history of the Cambridge group preceding the priority application makes clear that Holmes worked closely with the Cambridge researchers—sometimes even in the same laboratory using the same devices—and the researchers openly shared their ideas with her. In addition, they frequently cite each other’s work in their publications. Thus, by the time Holmes filed her U.K. priority application, a person having ordinary skill in the art (“PHOSITA”) would have understood that the alleged inventions claimed in the ‘033 patent were rendered obvious by the prior work of the Cambridge researchers. Particularly in view of the working environment at

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.