



PATENT  
112384

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: Michael TASLER )

Confirmation No.: 3038 )

Title: ANALOG DATA GENERATING AND )  
PROCESSING DEVICE HAVING A MULTI- )  
USE AUTOMATIC PROCESSOR )

Serial No.: 11/467,092 )

Filed: August 24, 2006 )

Examiner: C.K. LEE )

Art Unit: 2181 )

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Richard Sensenbrenner

**APPELLANT'S BRIEF ON APPEAL UNDER 37 C.F.R. §41.37**

Mail Stop Appeal Brief-Patents  
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P. O. Box 1450  
Alexandria, Virginia 22313-1450

Dear Sir/Madam:

This is an Appeal from the Final Office Action mailed July 19, 2011, finally rejecting all of the pending claims. A Notice of Appeal was filed on November 7, 2011. A petition for a one month extension of time and all applicable fees accompany this brief.

Should there be any deficiency in fees in connection with this Appeal, the Commissioner is respectfully requested to and is hereby authorized to charge any such deficiency in fees to Deposit Account No. 23-0920.

TABLE OF CONTENTS

1. REAL PARTY IN INTEREST ..... 4

2. RELATED APPEALS AND INTERFERENCES..... 4

3. STATUS OF CLAIMS ..... 5

4. STATUS OF AMENDMENTS ..... 5

5. SUMMARY OF CLAIMED SUBJECT MATTER ..... 5

6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL ..... 10

7. ARGUMENT ..... 11

    A. All pending claims are distinguishable over any combination of the cited references because none of the references disclose an ADGPD processor that causes a file of digitized analog data to be automatically transferred to a host computer without requiring any user-loaded file transfer enabling software regardless of the computer manufacturer.....13

    B. All pending claims are distinguishable over the cited references because none of the references disclose a processor involved in an automatic recognition process in which the processor automatically sends identification information to the host computer.....17

    C. All pending claims are distinguishable over the cited references because none of the references disclose an automatic recognition process without requiring any end user to load software onto the computer, regardless of the manufacturer of the computer.....22

    D. All pending claims are distinguishable over the cited references because none of the cited references discloses an automatic recognition process without requiring an end user to interact with the host computer to set up a file system in the ADGPD at any time regardless of the manufacturer.....24

    E. Independent claim 321, and dependent claims 283-285, 322 are distinguishable over the cited references because none of the references discloses a processor in the peripheral device which causes a virtual boot sequence.....25

F.	Independent claim 321 and dependent claims 270, 283-285, 322 and 324 are further distinguishable over the cited references because none of the references discloses an analog acquisition device which identifies itself to a host computer as a hard disk drive.....	26
G.	The references cannot be properly combined .....	27
H.	Conclusion .....	32
8.	CLAIMS APPENDIX.....	32
9.	EVIDENCE APPENDIX.....	32
10.	RELATED PROCEEDINGS APPENDIX.....	33

1. REAL PARTY IN INTEREST

The real party in interest is Papst Licensing GmbH & Co., KG, a German Corporation, the assignee of the entire right, title and interest to the above-identified patent application, having a place of business at Bahnhofstrasse 33, St. Georgen, Germany 78112. Existing licensees of the application on appeal are: Casio Computer Company, Ltd.; Ricoh Company, Ltd.; Konica Minolta Photo Imaging, Inc.; Pentax Corporation; and Coby Electronics Corporation. Defendants in District Court litigation regarding related patents are: Fujifilm Corporation, FujiFilm U.S.A., Inc. Fujifilm Japan; Matsushita Electric Company, Ltd., Victor Company of Japan, Ltd.; Olympus Corporation, Olympus Imaging America Inc.; Samsung Techwin Company, Samsung Opto-Electronics America, Inc.; Panasonic Corporation of North America, JVC Company of America; Nikon Corporation, Nikon Inc.; Hewlett Packard Company; Sanyo Electric Co., Ltd., Sanyo North America Corporation; Canon, Inc., Canon USA, Inc.; and Eastman Kodak Company.

2. RELATED APPEALS AND INTERFERENCES

This application, as well as application Serial Numbers 11/467,073 and 11/926, 283, are continuations of an application bearing Serial Number 11/078,778 filed March 11, 2006 which is a continuation of application Serial No. 10/219,105 issued as U.S. Patent No. 6,895,449 which is a division of application Serial No. 09/331,002 issued as U.S. Patent No. 6,470,339. A Notice of Appeal was filed for the '073 application on January 29, 2010. An appeal brief was filed on July 26, 2010 and a Reply Brief was filed on November 8, 2010 for the '073 application. A continuation was filed for the '283 application bearing S.N. 12/891,443 on September 27, 2010. Copies of the office action in the '283 application and the Briefs in the '073 application are attached in the Related Proceedings Appendix. There are no other pending appeals, or

interferences, related to, directly affecting or affected by, or having a bearing on the Board's decision in the captioned Appeal.

U.S. Patent Nos. 6,470,339 and 6,895,449, from which this application claims priority, are currently in multi-district litigation in the U.S. District Court for the District of Columbia, in a lawsuit captioned "In re Papst Licensing GMBH & Co. KG Litigation", Misc. Action No.07-0493(RMC):MDL Docket No. 1880. A copy of the court docket and of the court's claim construction decision are attached in the Related Proceedings Appendix.

3. STATUS OF CLAIMS

Claims 239, and 333-374 are currently pending, and have been finally rejected under 35 U.S.C. §103(a) in a Final Office Action dated July 19, 2011. Claims 1-238 and claims 240-332 have been cancelled. A Notice of Appeal was filed on November 7, 2011. All currently pending rejected claims are being appealed.

4. STATUS OF AMENDMENTS

There was an amendment filed on May 10, 2011 prior to the final office action mailing on July 19, 2011, there have no amendments filed after the final office action.

5. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 239, 370, 372 and 374 are the independent claims on appeal.

a. Independent Claim 239

Claim 239 recites an analog data generating and processing device (ADGPD) (Figs. 1 and 2, Ref. 10) comprising an input/output (i/o) port (Fig. 1, Ref. 12), a program memory (Fig. 1, Ref. 14; Fig. 2, Ref. 1440, 1400), a data storage memory (Fig. 1, Ref. 14; Fig. 2, Ref. 1420), and a processor (Fig. 1, Ref. 13; Fig. 2, Ref. 1300). The processor is operatively interfaced with the i/o port, the program memory, and the data storage memory (p. 8, paragraph 22, lines 3-9); and

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