

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

KAWASAKI RAIL CAR, INC.,
Petitioner,

v.

SCOTT BLAIR,
Patent Owner.

Case IPR2017-01036
Patent 6,700,602 B1

Before JAMESON LEE, SCOTT A. DANIELS, and
KEVIN C. TROCK, *Administrative Patent Judges*.

DANIELS, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a)

I. INTRODUCTION

A. Background

Kawasaki Rail Car, Inc., (“Petitioner”) filed a request for an *inter partes* review of claims 5, 7–9, and 11–29 (the “challenged claims”) of U.S. Patent No. 6,700,602 B1 (Ex. 1001, “the ’602 patent”). Paper 2 (“Pet.”). Scott Blair (“Patent Owner”) filed a Preliminary Response to the Petition. Paper 6 (“Prelim. Resp.”). We instituted an *inter partes* review of claims 5, 7–9, and 11–29 of the ’602 patent on some but not all of the grounds asserted by Petitioner. Paper 10 (“Dec. Inst.”). Patent Owner filed a Patent Owner Response (Paper 15, “PO Resp.”) and Petitioner filed a Petitioner Reply (Paper 34, “Pet. Reply”). Patent Owner filed observations on Petitioner’s declarant, Lowell Malo’s cross-examination testimony (Paper 37), and Petitioner filed a response to the observations (Paper 39).

During the pendency of this proceeding, on April 24, 2018, the Supreme Court held that a decision on institution under 35 U.S.C. § 314 may not institute on less than all claims challenged in the petition. *SAS Inst., Inc. v. Iancu*, 138 S. Ct. 1348 (2018). We modified our Institution Decision to institute trial on all of the grounds presented in the Petition. Paper 38 (“SAS Order”). We invited the parties to request modifications to the schedule and additional briefing regarding the newly added grounds. Papers 38, 39. We authorized Patent Owner to file a Supplemental Response limited to the newly instituted grounds, and Petitioner to file a Supplemental Reply. Paper 40. Patent Owner filed a Supplemental Patent Owner Response, and Petitioner filed a Supplemental Reply to Patent Owner’s Supplemental Response. Papers 45, 47.

Oral argument was held on July 9, 2018 in Alexandria, Virginia. Paper 43. Due to an equipment malfunction, no transcript of the oral

argument could be made. Patent Owner requested authorization to have the parties' oral argument demonstrative exhibits filed. We granted that request.

We have jurisdiction under 35 U.S.C. § 6(b). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a). Having reviewed the arguments of the parties and the supporting evidence, we find that Petitioner has demonstrated by a preponderance of the evidence that each of challenged claims, 5, 7–9, and 11–29 of the '602 patent, is unpatentable.

B. Related Proceedings

The parties identify *Blair v. Alstom SA*, Civ. No. 1:16-cv-03391 (S.D.N.Y.) as a proceeding relating to the '602 patent. Pet. 1; Paper 5. Also, Petitioner previously filed IPR2017-00117, relating to claims 1–4 and 6 in the '602 patent. Pet. 1. In our Final Written Decision in IPR2017-00117 we found that Petitioner had demonstrated by a preponderance of the evidence that each of challenged claims, 1–4 and 6 of the '602 patent, are unpatentable. *See* Case IPR2017-00117, slip op. at 2 (PTAB May 2, 2018).

C. The '602 Patent

The '602 patent (Ex. 1001), titled “Subway TV Media System,” relates generally to a “message display, entertainment and advertising system for subway cars, in which television monitors are provided at spaced intervals in subway cars, to display short duration televisual entertainment and advertising features to subway riders.” Ex. 1001, 1:45–50. The '602 patent explains that the “invention provides properly positioned television monitors displaying moving images of news items, advertising material and the like, viewable by substantially all riders in the car, and filling their need for visual entertainment during the brief duration of their subway ride.” *Id.*

at 1:61–65. One embodiment of the '602 patent is shown, with highlighted annotation added by the Board, in Figure 4a reproduced below.

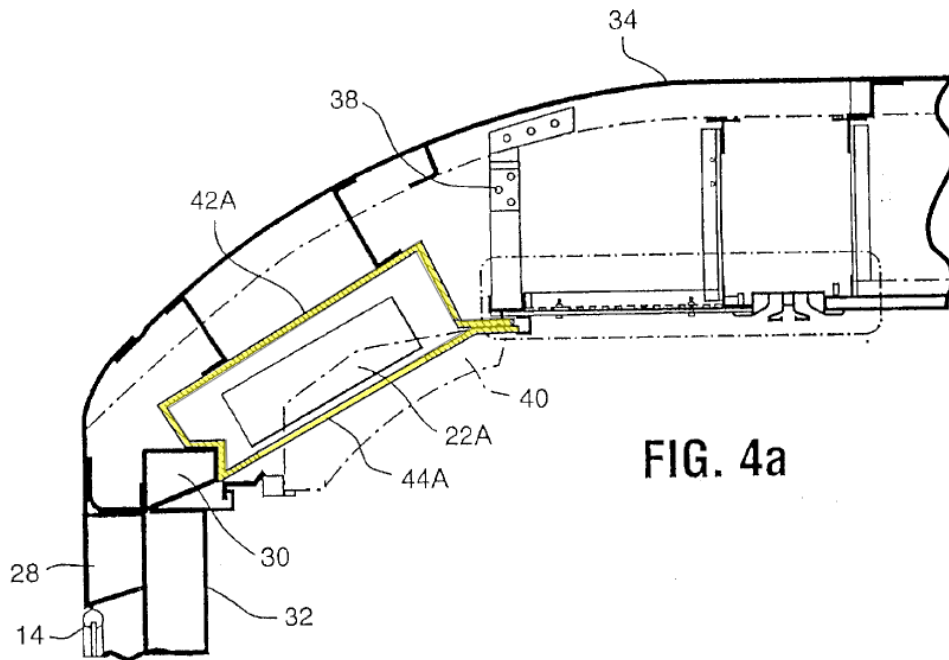


Figure 4a of the '602 patent above illustrates a cross-section view of LCD video monitor 22A positioned within enclosure 42A and behind screen 44A (highlighted in yellow). *Id.* at 5:35–49.

The '602 patent explains for the embodiment shown in Figure 4A, that:

CRT video monitor 22 is replaced with an LCD-based video monitor 22A which is of thin, rectangular cross-section, and occupies less space in the ceiling structure of the car. Accordingly, it can be moved towards the ceiling so that its viewing screen is substantially flush with or even behind the light panel 40.

Id. at 5:35–42.

D. Illustrative Claims

In the '602 patent, claims 1, 8, 15, and 20 are independent. Each of dependent claims 5, 7, 9, 11–14, 16–19, and 21–29, depend directly or

indirectly from respective independent claims 1, 8, 15, and 20.¹ Claim 1 illustrates the claimed subject matter and is reproduced below, along with illustrative dependent claims 5 and 7:

1. A subway car for mass transportation including longitudinal opposed sidewalls, a ceiling adjoining the sidewalls, a video display system comprising a plurality of video display monitors each having a video screen, and a video signal source unit operatively connected to said monitors,

said monitors being spaced along the length of the car on opposed sides thereof, each of said monitor being mounted at the junction of the sidewall and ceiling, *with the screen of the monitor substantially flushed with the adjacent wall surface structure of the car*, and directed obliquely downwardly toward the car seats, so that each video screen is readily visible to passengers in the subway car.

5. The subway car of claim 1 wherein the video signal source unit comprises a video tape player, a video disk player or computer-based digital video recorder.

7. The subway car of any of claim 1 including a self-contained wiring-cabling system connecting the video monitors to the video signal source unit.

Ex. 1001, 6:31–43, 53–55, 58–60 (emphasis added in claim 1).

E. Evidence Relied Upon

Petitioner relies upon the following references:²

¹ Claims 1–7 issued originally in the '602 patent, and claims 8–29 were added during *Ex parte* Reexamination No. 6,700,602 C1 (Jan. 29, 2015). See Ex. 1001; Ex. 1013.

² The citation to each Japanese publication, above, is a citation to the original Japanese language version. We refer in the remainder of this Decision to the exhibit numbers of the English translation for each Japanese publication. For each reference, the translation is the immediately following exhibit number to those cited above. For example, the Japanese version of

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.