

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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QOMO HITEVISION, LLC,  
Petitioner,

v.

PATHWAY INNOVATIONS AND TECHNOLOGIES, INC.,  
Patent Owner.

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Case IPR2016-00661  
Patent 8,508,751 B1

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Before THOMAS L. GIANNETTI, PETER P. CHEN, and  
GARTH D. BAER, *Administrative Patent Judges*.

BAER, *Administrative Patent Judge*.

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

Qomo Hitevision, LLC (“Petitioner”) filed a Corrected Petition (Paper 4, “Pet.”) requesting *inter partes* review of claims 1–10, 12–18, and 20 of U.S. Patent No. 8,508,751 (Ex. 1001, “the ’751 patent”). Patent Owner, Pathway Innovations and Technologies, Inc. (“Patent Owner”), filed a Preliminary Response. Paper 7 (“Prelim. Resp.”).

Pursuant to 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless “the information presented in the petition . . . and any response . . . 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.” For the reasons set forth below, we conclude that there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1, 2, 18, and 20. Therefore, we institute *inter partes* review of claims 1, 2, 18, and 20. We conclude that the information presented in the Petition does not establish a reasonable likelihood that Petitioner would prevail in showing challenged claims 3–10 and 12–17 unpatentable.

## I. BACKGROUND

### A. RELATED PROCEEDINGS

The parties assert the ’751 patent is involved in pending International Trade Commission Investigation No. 337-TA-967. Pet. 2; Prelim. Resp. 2. Petitioner asserts district court cases *Pathway Innovations & Technologies, Inc. v. Qomo Hitevision, LLC. & Recordex USA, Inc.*, Nos. 3:15-cv-01536, 3:15-cv-01540 (S.D. Cal., filed July 13, 2015) (stayed pending resolution of the ITC investigation) are also related to this matter. Pet. 2.

### B. THE '751 PATENT

The '751 patent is titled “Capturing Real-Time Video with Zooming Capability and Scanning High Resolution Still Images of Documents Using the Same Apparatus.” The '751 patent describes capturing, manipulating, and outputting digital images to storage or a display. Ex. 1001, Abstract, Figure 3a of the '751 patent is reproduced below:

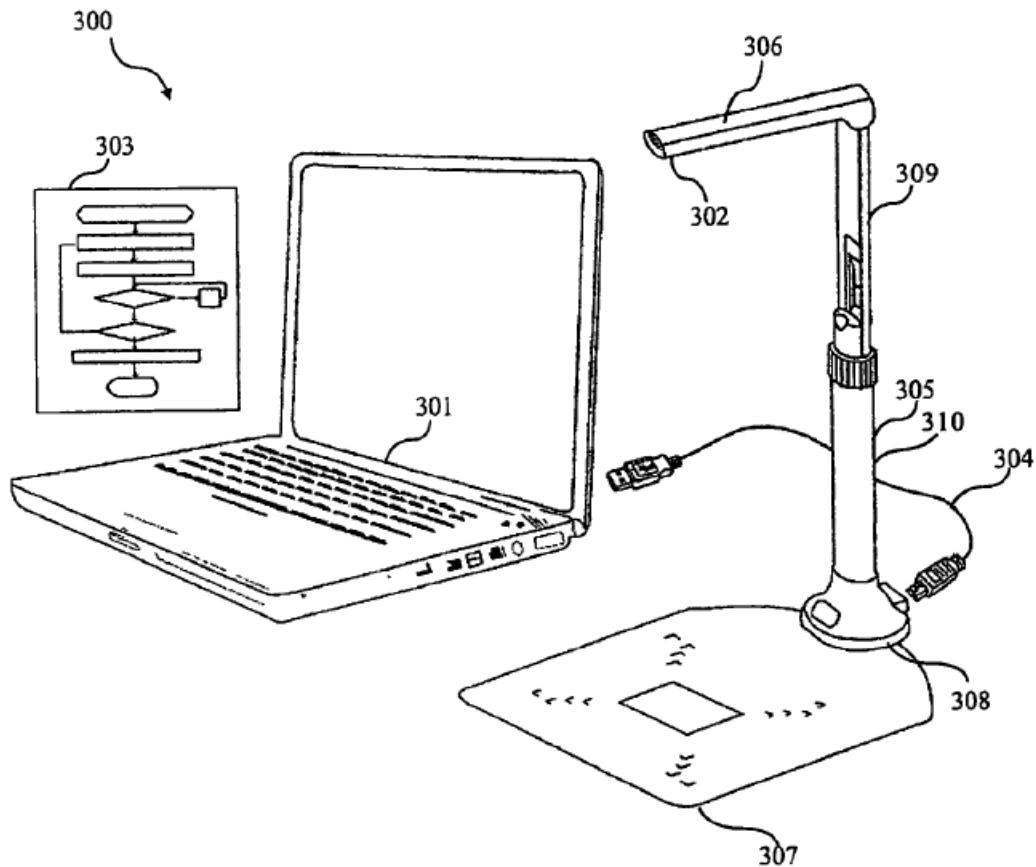


FIG. 3 a

Figure 3a depicts a “Document Imaging System 300 [that] is fully integrated with a Personal Computing Device.” *Id.* at 4:66–67. The '751 patent describes the process as “receiving a series of frame images from a video camera, using a processor to manipulate the series of frame images, which includes determining a reference resolution for providing output frame

images, and displaying and/or storing the manipulated series of frame images as the output video image without ever changing a resolution of the output frame images.” *Id.* at 3:43–51.

### C. CHALLENGED CLAIMS

Claim 1 of the ’751 patent (reproduced below) is illustrative of the claimed subject matter.

1. A method of acquiring an image of a target to provide an output video image comprising a plurality of frame images, the method comprising:

connecting a slave digital image sensing unit to a master personal processor, the master personal processor receiving a series of frame images from the slave digital image sensing unit;

using the master personal processor to manipulate the series of frame images, including zooming in or out without changing resolution of the frame images;

in the case of the manipulated series of frame images having a higher resolution than a reference resolution, reducing the resolution of each of the manipulated series of frame images to that of the reference resolution;

displaying and/or storing the manipulated series of frame images as an output video image without changing resolution of the manipulated series of frame images,

wherein the slave digital image sensing unit is removably connected to the master personal processor via a master personal processor port.

Ex. 1001, 8:46–65.

### D. ASSERTED PRIOR ART

The Petition relies on the following prior art references, as well as a supporting Declaration from Eli S. Saber, Ph.D. (Ex. 1003): U.S. Patent No. 8,243,171 B2 (issued Aug. 14, 2012) (Ex. 1004, “LeGall”); Manual for

Philips USB PC Camera PCVC 750K (2001) (Ex. 1005, “Philips”); U.S. Patent No. 7,071,968 B2 (issued July 4, 2006) (Ex. 1006, “Novak”); U.S. Patent Pub. No. 2001/0012051 A1 (published Aug. 9, 2001) (Ex. 1007, “Hara”); U.S. Patent Pub. No. 2005/0078052 A1 (published Apr. 14, 2005) (Ex. 1008, “Morichika”); and U.S. Patent No. 5,767,897 (issued June 16, 1998) (Ex. 1009, “Howell”).

#### E. ASSERTED GROUNDS OF UNPATENTABILITY

Petitioner asserts the following grounds of unpatentability. Pet. 3–4.

Reference(s)	Basis	Challenged Claims
Morichika	§ 102(b)	1, 2, 18, and 20
Morichika	§ 103(a)	1, 2, 8, 9, 12, 13, 16, 18, and 20
Morichika and Hara	§ 103(a)	1–5, 7–9, 12, 13, and 16
LeGall and Philips	§ 103(a)	1–5, 8, 9, 16, 18, and 20
Novak and Hara	§ 103(a)	1–5 and 7
Novak and Philips	§ 103(a)	18 and 20
Morichika and Howell	§ 103(a)	10, 14, 15, and 17
Morichika, Hara, and Howell	§ 103(a)	6, 7, 10, 14, 15, and 17
LeGall, Philips, and Howell	§ 103(a)	6, 7, 10, 14, 15, and 17
Novak, Hara, and Howell	§ 103(a)	6 and 7

## II. ANALYSIS

### A. PATENT OWNER’S CHALLENGE TO PETITIONER’S EXPERT

Patent Owner argues that Dr. Saber’s declaration should not be given any weight because Petitioner failed to establish that Dr. Saber is a person of ordinary skill in the relevant art. PO Resp. 8–9. Although Patent Owner recognizes Dr. Saber’s “practical experience . . . in document scanners and printers during his time at Xerox,” Patent Owner challenges Dr. Saber’s alleged lack of specific experience with “capturing real-time, high-resolution zoomable, video in portable document cameras.” PO Resp. 9. Patent Owner’s argument is unpersuasive. Given Dr. Saber’s education and

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