

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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CANON INC., CANON U.S.A., INC., and  
AXIS COMMUNICATIONS AB,  
Petitioner,

v.

AVIGILON FORTRESS CORPORATION,  
Patent Owner.

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IPR2019-00311  
Patent 7,923,923 B2 & C1

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Before GEORGIANNA W. BRADEN, KIMBERLY McGRAW, and  
JESSICA C. KAISER, Administrative Patent Judges.

McGRAW, *Administrative Patent Judge*.

JUDGMENT  
Final Written Decision  
Determining No Challenged Claims Unpatentable  
35 U.S.C. § 318(a)

## I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Canon Inc., Canon U.S.A., Inc., and Axis Communications AB (collectively “Petitioner”) challenge claims 1–41 of U.S. Patent No. 7,932,923 B2 & C1 (Ex. 1001, “the ’923 patent”), owned by Avigilon Fortress Corporation (“Patent Owner”). This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has not shown by a preponderance of the evidence that claims 1–41 of the ’923 patent are unpatentable.

### *A. Procedural History*

Petitioner filed a Petition for *inter partes* review of claims 1–41 of the ’923 patent. Paper 1 (“Pet.”). Patent Owner filed a Preliminary Response. Paper 9. Petitioner then filed an authorized Reply to address Patent Owner’s arguments that the asserted references are not printed publications (Paper 11), to which Patent Owner filed an authorized Sur-reply (Paper 12). Applying the standard set forth in 35 U.S.C. § 314(a), which requires demonstration of a reasonable likelihood that Petitioner would prevail with respect to at least one challenged claim, we instituted an *inter partes* review of the challenged claims. Paper 13 (“Inst. Dec.”).

Following institution, Patent Owner filed a Patent Owner Response (Paper 27, “PO Resp.”), Petitioner filed a Reply (Paper 31, “Pet. Reply”), and Patent Owner filed a Sur-reply (Paper 38, “PO Sur-reply”). An oral hearing was held on April 8, 2020, and a copy of the hearing transcript has been entered into the record. Paper 46 (“Tr.”).

### *B. Related Matters*

Concurrent with the instant Petition, Petitioner filed another petition for *inter partes* review of the ’923 patent in IPR2019-00314. *Canon Inc. et*

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*al. v. Avigilon Fortress Corp.*, IPR2019-00314, Paper 1 (PTAB Nov. 12, 2018). We issue a final written decision in IPR2019-00314 concurrently with this Decision.

Petitioner also has filed several petitions challenging patents related to the '923 patent.<sup>1</sup> For example, Petitioner filed petitions in IPR2018-00138 and IPR2018-00140 challenging claims of related U.S. Patent No. 8,564,661 B2 (“the '661 patent”). In both of these proceedings, we determined that Petitioner had shown by a preponderance of the evidence that each of the challenged claims of the '661 patent are unpatentable. *Axis Commc'ns AB et al. v. Avigilon Fortress Corp.*, IPR2018-00138, Paper 25 (PTAB May 30, 2019); *Axis Commc'ns AB et al. v. Avigilon Fortress Corp.*, IPR2018-00140, Paper 25 (PTAB May 30, 2019).

Petitioner also filed petitions in IPR2019-00235 and IPR2019-00236 challenging claims of related U.S. Patent No. 7,868,912 B2. We denied institution of both of these proceedings. *See Canon Inc. et al. v. Avigilon Fortress Corp.*, IPR2019-00235, Paper 19 (PTAB June 4, 2019) (stating that Petitioner did not show the asserted reference qualified as a prior art printed publication); *Canon Inc. et al. v. Avigilon Fortress Corp.*, IPR2019-00236, Paper 12 (PTAB June 4, 2019) (exercising discretion under 35 U.S.C. § 325(d) to decline institution).

### *C. The '923 Patent (Ex. 1001)*

The '923 patent, titled “Video Surveillance System Employing Video Primitives,” is generally directed to methods, devices, and computer readable storage media for video surveillance. *See Ex. 1001, codes (54),*

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<sup>1</sup> Petitioner states the '923 patent and U.S. Patent Nos. 8,564,661 B2 and 7,868,912 B2 are related as each claim priority to U.S. Application No. 09/694,712. Pet. 8.

(57), Reexamination Certificate 1:29–4:28. In one embodiment, the disclosed video surveillance system operates by (1) obtaining source video, (2) extracting “video primitives” from the video, (3) archiving the video primitives, (4) extracting “event occurrences” from the video primitives using “event discriminators,” and (5) undertaking a response, as appropriate. *Id.* at Fig. 4, 4:30–31, 11:63–65. “Video primitive” refers to an “observable attribute” of an object viewed in a video feed, such as the size, shape, position, speed, color, and texture of the object. *Id.* at 7:6–12. The ’923 patent explains that event discriminators are used to filter the video primitives to determine if any event occurrences occurred. *Id.* at 10:66–11:1. For example, an event discriminator can look for a “wrong way” event as defined by a person traveling the “wrong way” into an area between 9:00 a.m. and 5:00 p.m. *Id.* at 11:1–4. The event discriminator checks the video primitives and determines if any video primitives with the following properties exist: a timestamp between 9:00 a.m. and 5:00 p.m., a classification of “person” or “group of people,” a “position inside the area,” and a “wrong direction of motion.” *Id.* at 11:4–9.

#### *D. Illustrative Claims*

Petitioner challenges claims 1–41 of the ’923 patent. Claims 1, 8, 9, 20, 22, 29, and 30 are independent. Claim 1 is representative and is reproduced below.

1. A method comprising:
  - [a] detecting an object in a video from a single camera;
  - [b] detecting a plurality of attributes of the object by analyzing the video from said single camera, the plurality of attributes including at least one of a physical attribute and a temporal attribute, each attribute representing a characteristic of the detected object;

- [c] selecting a new user rule after detecting the plurality of attributes;
- [d1] after detecting the plurality of attributes and after selecting the new user rule, identifying an event of the object that is not one of the detected attributes of the object by applying the new user rule to the plurality of detected attributes,
- [d2] *wherein the applying the new user rule to the plurality of detected attributes comprises applying the new user rule to only the plurality of detected attributes;*
- [e] wherein the plurality of attributes that are detected are independent of which event is identified,
- [f] wherein the step of identifying the event of the object identifies the event without reprocessing the video, and
- [g] wherein the event of the object refers to the object engaged in an activity.

Ex. 1001, Reexamination Certificate, 1:34–55 (matter in brackets added for clarity; matter in italics indicates additions made to the claim during the reexamination proceeding).

#### *E. Asserted Challenges to Patentability*

Petitioner asserts that claims 1–41 are unpatentable based on the following challenges (Pet. 3):

<b>Claim(s) Challenged</b>	<b>35 U.S.C. §</b>	<b>Reference(s)</b>
1–41	102(b) <sup>2</sup>	Kellogg <sup>3</sup>
1–41	103	Kellogg, Brill <sup>4</sup>

<sup>2</sup> The Leahy-Smith America Invents Act, Pub. L. No. 112-29, 125 Stat. 284 (2011) (“AIA”), amended 35 U.S.C. §§ 102 and 103. Because the challenged claims of the ’923 patent have an effective filing date before the effective date of the applicable AIA amendments, we refer to the pre-AIA versions of §§ 102 and 103.

<sup>3</sup> Christopher James Kellogg, Visual Memory (May 1993) (B.S. and M.S. thesis, Massachusetts Institute of Technology, Department of Electrical Engineering and Computer Science) (Ex. 1003, “Kellogg”).

<sup>4</sup> Frank Z. Brill et al., *Event Recognition and Reliability Improvements for the Autonomous Video Surveillance System*, in Proceedings of a Workshop

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