

# Coming Into Focus: Federal Circuit Reverses PTAB, Finds Independent Claims of Immersion Photography Device Unpatentable as Obvious

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In [\*Canfield Sci., Inc. v. Melanoscan, LLC\*](#), No. 19-1927 (Fed. Cir. Feb. 18, 2021), the Federal Circuit applied *KSR v. Teleflex* to reverse in part the PTAB's decision of nonobviousness.

## Background

Canfield petitioned for *inter partes review* of Melanoscan's U.S. Patent No. 7,359,748 (the '748 patent), asserting that various combinations of five prior art references rendered the claims obvious. The PTAB disagreed, finding all challenged claims nonobvious and thus patentable. Canfield appealed.

## The Patent

The '748 patent "relates to the detection, diagnosis and treatment of skin cancer as well as other diseases and cosmetic conditions." The claimed invention describes an enclosure with an arrangement of multiple cameras and lights vertically and laterally spaced on opposite sides of a centerline and adjustable to obtain an image of a person. The image can then be used to diagnose various skin diseases.

## The Prior Art References

Canfield's primary reference, Voigt, like the '748 patent, "describe[d] an enclosure containing cameras and lights, for analyzing and measuring images on the skin of a patient." But the Voigt reference did not indicate multiple cameras spaced out vertically and laterally on opposite sides of a centerline. Further, Voigt specifically placed the person to be imaged along a back wall, thus preventing them from being imaged from all sides at once, a key component of the '748 patent.

Three other references asserted by Canfield described multiple camera systems used for photo-

imaging, albeit with different end objectives. For example, one reference described a three-dimensional imaging device for use in made-to-measure apparel and other body measuring applications. Another described a multiple camera system for imaging a person to create their virtual avatar. The references taught several benefits of using multiple camera systems, including allowing imaging of the front, side and back of a body; enhancing an image by providing different camera angles; and increasing resolution and reducing shadowing effects of an image. And two of the references placed the person to be imaged at the center of the multiple camera system.

## The PTAB's Decision

The PTAB held that a person of ordinary skill in the art of photo imaging would not have been motivated to combine Voigt with the other multiple camera system references. The PTAB heavily relied on Voight's disclosure that the person to be imaged would be located along a back wall. This location, the Board found, would block the view of any cameras placed on the back side, as disclosed in the other asserted references. Holding that the ordinarily skilled artisan would not have combined the asserted references, the Board found the challenged claims patentable.

## CAFC Analysis

On appeal, Canfield argued that the PTAB misapplied the law of obviousness, and that the combined teachings of the prior art would reasonably have suggested all the elements of the independent claims to a person of ordinary skill in photo imaging.

The Federal Circuit agreed, citing *KSR Int'l Co. v. Teleflex* for the principle that "the combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." 550 U.S. 398, 416 (2007).

Although Voigt placed the person being imaged at a back wall, the Court emphasized that the other asserted references taught both multiple camera systems, spaced out vertically and laterally, and the known advantages of locating the person to be imaged centrally relative to the cameras. The Court thus concluded that the '748 patent's independent claims were obvious. Because the PTAB initially only ruled on the independent claims, the Federal Circuit vacated and remanded the remaining challenged claims for further proceedings.

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