

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

VARIAN MEDICAL SYSTEMS, INC.,
Petitioner,

v.

WILLIAM BEAUMONT HOSPITAL,
Patent Owner.

Case IPR2016-00162
Patent 6,842,502 B2

Before MICHAEL W. KIM, KALYAN K. DESHPANDE, and
MATTHEW R. CLEMENTS, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

A. *Background*

Varian Medical Systems, Inc. (“Petitioner”) filed a Petition to institute an *inter partes* review of claims 1–14, 16–29, 33, and 35–38 of U.S. Patent No. 6,842,502 B2 (Ex. 1101, “the ’502 Patent”). Paper 1 (“Pet.”). William Beaumont Hospital (“Patent Owner”) filed a Preliminary Response. Paper 11 (“Prelim. Resp.”).

On May 6, 2016, we instituted an *inter partes* review of claims 1–14, 16–29, 33, and 35–38 on all grounds of unpatentability set forth in the Petition. (Paper 14, “Dec.”). After institution of trial, Patent Owner filed a Patent Owner Response (Paper 25, “PO Resp.”)¹ and Petitioner filed a Reply (Paper 42, “Pet. Reply”). Petitioner relies on the Declarations of Dr. James J. Balter (Exs. 1102, 1500). Patent Owner relies on the Declaration of Ali Bani-Hashemi, Ph.D. (Ex. 2080). Patent Owner also filed a Motion to Exclude (Paper 49; “PO Mot.”), to which Petitioner filed an Opposition (Paper 55; “Pet. Opp.”) and Patent Owner filed a Reply (Paper 59; “PO Reply”).

An oral hearing was held on January 31, 2017. Paper 66 (“Tr.”). The Board has jurisdiction under 35 U.S.C. § 6. In this Final Written Decision, issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73, we determine that Petitioner has not shown, by a preponderance of the evidence,

¹ Patent Owner’s Motion to Seal (Paper 27) was granted in our Order of January 3, 2017 (Paper 46). Unless otherwise indicated, all references herein to the Patent Owner Response will be to the public version (Paper 26).

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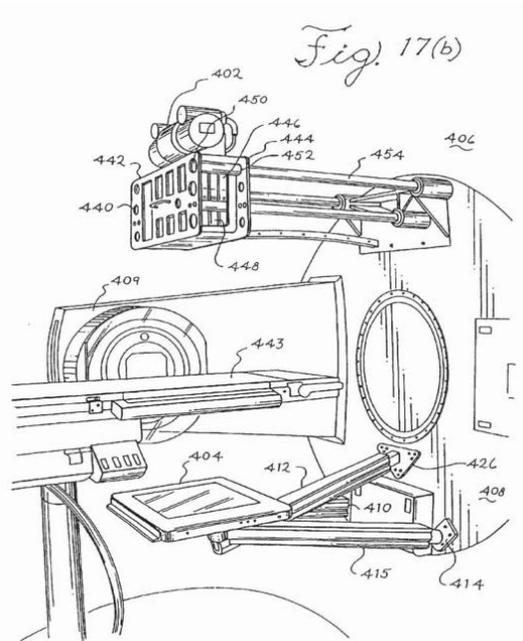
that any claim for which trial was instituted, claims 1–14, 16–29, 33, and 35–38 of the '502 patent, is unpatentable.

B. *Related Proceedings*

Petitioner and Patent Owner identify the following district court proceeding concerning the '502 Patent: *Elekta Ltd. and William Beaumont Hospital v. Varian Medical Systems, Inc.*, Case No. 2:15-cv-12169-AC-MKM (E.D. Mich.). Pet. 1; Paper 9, 1. Petitioner and Patent Owner identify further the following *inter partes* reviews also directed to the '502 Patent: IPR2016-00160, IPR2016-00163, and IPR2016-00166. Pet. 1; Paper 9, 2. Patent Owner identifies additionally the following *inter partes* reviews directed to U.S. Patent No. 7,471,765 B2, which claims priority to the '502 Patent: IPR2016-00169, IPR2016-00170, and IPR2016-00171. Paper 9, 2. Patent Owner identifies also the following *inter partes* review directed to U.S. Patent No. 7,826,592 B2, which claims priority to the '502 Patent: IPR2016-00187. Paper 9, 3.

C. *The '502 Patent*

The '502 Patent discloses that it is directed to a cone-beam computed tomography (“CBCT”) system that employs an amorphous silicon flat-panel imager (“FPI”) for use in radiotherapy applications where images of a patient are acquired with the patient in a treatment position on a treatment table. Ex. 1101, 1:11–17. Figure 17(b) (below) depicts a diagrammatic view of one orientation of an exemplary wall-mounted cone beam computerized tomography system employing a flat-panel imager. Ex. 1101, 6:53–56.



Specifically, Figure 17(b) depicts wall-mounted cone beam computerized tomography system 400 including an x-ray source, such as x-ray tube 402, and flat-panel imager 404 mounted on gantry 406. Ex. 1101, 19:64–20:2. X-ray tube 402 generates a beam of x-rays 407 in a form of a cone or pyramid. Ex. 1101, 20:2–4. Flat-panel imager 404 employs amorphous silicon detectors. Ex. 1101, 20:6–7.

D. Illustrative Claim

Petitioner challenges claims 1–14, 16–29, 33, and 35–38 of the '502 Patent. Claim 1 is the only independent claim at issue, and is reproduced below:

1. A radiation therapy system comprising:
 - a radiation source that moves about a path and directs a beam of radiation towards an object;
 - a cone-beam computed tomography system comprising:
 - an x-ray source that emits an x-ray beam in a cone-beam form towards said object;

a flat-panel imager receiving x-rays after they pass through the object, said imager providing an image of said object, wherein said image contains at least three dimensional information of said object based on one rotation of said x-ray source around said object; and

a computer connected to said radiation source and said cone beam computed tomography system, wherein said computer receives said image of said object and based on said image sends a signal to said radiation source that controls said path of said radiation source.

*E. Prior Art References Applied by Petitioner
and Instituted Grounds of Unpatentability*

Petitioner challenges the patentability of claims 1–14, 16–29, 33, and 35–38 as obvious under 35 U.S.C. § 103(a) based on the following grounds and items of prior art (Pet. 16–60):

Reference(s)	Basis	Challenged Claims
Cho, ² Antonuk, ³ Jaffray 1997, ⁴ Adler, ⁵ and Depp ⁶	§ 103(a)	1–8, 10–14, 16–29, 33, and 35–38

² P.S. Cho et al., *Cone-beam CT for radiotherapy applications*, Phys. Med. Biol., 40:1863-83 (1995) (Ex. 1105, “Cho”).

³ L.E. Antonuk et al., *Thin-Film, Flat-Panel, Composite Imagers for Projection and Tomographic Imaging*, IEEE Transactions on Medical Imaging, 13:482-90 (1994) (Ex. 1106, “Antonuk”).

⁴ D.A. Jaffray et al., *Exploring “Target Of The Day” Strategies for A Medical Linear Accelerator With Conebeam-CT Scanning Capability*, Proceedings of the 12th International Conference on the Use of Computers in Radiation Therapy, Medical Physics Publishing, pp. 172-75 (1997) (Ex. 1107, “Jaffray 1997”).

⁵ U.S. Patent No. 5,207,223, issued May 4, 1993 (Ex. 1103, “Adler”).

⁶ U.S. Patent No. 5,427,097, issued June 27, 1995 (Ex. 1104, “Depp”).

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