

Paper No._____

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PARROT S.A., PARROT DRONES S.A.S., and PARROT INC.,
Petitioners

v.

QFO LABS, INC.,
Patent Owner

Case IPR2016-01550
Patent 7,931,239

**PATENT OWNER CONTINGENT MOTION TO AMEND
UNDER 37 C.F.R. §42.120**

Mail Stop: PATENT BOARD
Patent Trial and Appeal Board
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TABLE OF CONTENTS

TABLE OF AUTHORITIES	<u>33</u>
I. INTRODUCTION AND RELIEF REQUESTED	<u>55</u>
II. ALL REQUIREMENTS ARE MET FOR THE SUBSTITUTE CLAIM	<u>66</u>
A. The Requirements of 37 C.F.R. §42.121(a)	<u>66</u>
1. <i>Responds to a Ground of Unpatentability</i>	<u>66</u>
2. <i>Does Not Enlarge the Scope of the Claim</i>	<u>77</u>
3. <i>Presents a Reasonable Number of Substitute Claims</i>	<u>88</u>
B. The Requirements of 37 C.F.R. §42.121(b)	<u>99</u>
1. <i>Support in the Original Disclosure</i>	<u>99</u>
2. <i>Support in the Earlier-Filed, Priority Disclosure</i>	<u>1111</u>
C. Burden of Proof.....	<u>1414</u>
III. ANALYSIS	<u>1515</u>
A. Person of Ordinary Skill.....	<u>1515</u>
B. Claim Construction.....	<u>1515</u>
C. Patentability of the Proposed Substitute Claim.....	<u>1616</u>
1. <i>The Prior Art of Record Was Considered in the '580 Patent</i>	<u>1717</u>
2. <i>The New Prior Art in Petitioners' IPR Petition and Amended Complaint for the '580 patent</i> ... <u>2020</u>	
Title—"Input Apparatus".....	<u>2121</u>
<i>Replaces Thomas in all grounds</i>	<u>2121</u>
Title—"Input Apparatus"	<u>2121</u>
Title—"Airborne Drone Formation Control System"	<u>2121</u>

<i>Cited for claim limitations directed to limits on range of craft from controller</i>	<u>2121</u>
<i>Title—“Micro Structure For Vertical Displacement Detection and Fabricating Method Thereof”.....</i>	<u>2121</u>
<i>Title—“Spatial Input Apparatus”.....</i>	<u>2222</u>
<i>Similar to Thomas and Sato.....</i>	<u>2222</u>
CONCLUSION.....	<u>2525</u>

TABLE OF AUTHORITIES**Cases**

<i>Apple, Inc. v. Achates Reference Publ., Inc.</i> , IPR2013-00081 (PTAB June 3, 2013) (Paper No. 21).....	8
<i>Belden Inc. v. Berk- Tek LLC</i> , 805 F.3d 1064 (Fed. Cir. 2015)	9
<i>Circuit Check Inc. v. QXQ Inc.</i> 795 F.3d 1331 (Fed. Cir. 2015).....	39
<i>Cisco Systems, Inc. v. C-Cation Techs., LLC</i> , IPR2014-00454 (PTAB Aug. 29, 2014) (Paper 12)	7
<i>Coalition for Affordable Drugs IV LLC v. Pharmacyclics, Inc.</i> , IPR2015-01076 (PTAB Oct. 19, 2015) (Paper 33).....	7
<i>Cuozzo Speed Technologies, LLC v. Lee.</i> , 579 U.S. ____, 136 S.Ct. 2131 (2016)	12
<i>Fin Control Sys. Pty, Ltd. v. OAM, Inc.</i> , 265 F.3d 1311 (Fed. Cir. 2001).....	15
<i>Genzyme Therapeutic Prods. Ltd. v. Biomarin Pharm. Inc.</i> , 825 F.3d 1360 (Fed.Cir. 2016)	8
<i>In re Translogic Tech., Inc.</i> , 504 F.3d 1249 (Fed. Cir. 2007)	12
<i>In re NuVasive, Inc.</i> , Appeal No. 2015-1672-73 (Fed. Cir., Nov. 9, 2016)	8
<i>Neochord, Inc., v. University of Maryland, Baltimore et al.</i> , IPR2016-00208 (PTAB May 24, 2016) (Paper 6)	18
<i>Vivid Techs., Inc. v. Am. Sci. & Eng'g, Inc.</i> , 200 F.3d 795, 803 (Fed. Cir. 1999) ..	12

Statutes

35 U.S.C. §103	11
35 U.S.C. §312(a)(3)	8, 9
35 U.S.C. §314(a)	1

Regulations and Manuals

37 C.F.R. § 11.18(b)	55
37 C.F.R. § 42.11	55
37 C.F.R. § 42.24	21
37 C.F.R. §42.100(b)	12, 15
37 C.F.R. §42.104(b)	8, 9, 21
MPEP §2141.02(II).	17

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.