

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 IPR2017-01400
Patent 9,645,580 B2

Before MEREDITH C. PETRAVICK, HYUN J. JUNG, and
SCOTT C. MOORE, *Administrative Patent Judges*.

JUNG, *Administrative Patent Judge*.

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

I. INTRODUCTION

Parrot S.A., Parrot Drones S.A.S., and Parrot Inc. (“Petitioners”) filed a Petition (Paper 2, “Pet.”), requesting institution of an *inter partes* review of claims 1–3, 5–9, and 11–16 of U.S. Patent No. 9,645,580 B2 (Ex. 1001, “the ’580 patent”). QFO Labs, Inc. (“Patent Owner”) timely filed a Preliminary Response (Paper 8, “Prelim. Resp.”). Under 35 U.S.C. § 314, an *inter partes* review may not be instituted “unless . . . there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

Upon consideration of the Petition, we determine that Petitioners have not shown that there is a reasonable likelihood that they would prevail with respect to at least one of the challenged claims, and thus, we deny institution of an *inter partes* review for any of claims 1–3, 5–9, and 11–16 of the ’580 patent.

A. *Related Proceedings*

Petitioners indicate that the ’580 patent is related to the patents challenged in Cases IPR2016-01550, IPR2016-01559, IPR2017-01089, and IPR2017-01090. Pet. 84.

The parties state that the ’580 patent and related patents have been asserted in *QFO Labs, Inc. v. Parrot S.A.*, Case No. 16-cv-03443-JRT-HB (D. Minn.), which has been dismissed without prejudice, and *QFO Labs, Inc. v. Brookstone Stores, Inc.*, Case No. 16-cv-03443-JRT-HB (D. Minn.), which has been dismissed. Pet. 84; Paper 4, 3; Paper 9, 3. The ’580 patent and related patents have also been asserted in *QFO Labs, Inc. v. Amazon.com, Inc.*, Case No. 0:17-cv-05014-DWF-HB (D. Minn.); *QFO Labs, Inc. v. Best Buy Co., Inc.*, Case No. 0:17-cv-05011-JNE-TNL (D.

Minn.); and *QFO Labs, Inc. v. Target Corp.*, Case No. 0:17-cv-05012-JRT-DTS (D. Minn.). Paper 9, 4.

Petitioners also state that they intend to file an amended complaint in *Parrot S.A. v. QFO Labs, Inc.*, 16-682-GMS (D. Del.). Pet. 84; *see also* Paper 4, 3 (indicating declaratory judgment suit filed against related patents); Paper 9, 3 (indicating declaratory judgment suit amended to include the '580 patent).

B. The '580 Patent (Ex. 1001)

The '580 patent relates to a “homeostatic flying hovercraft and to a radio controlled flying saucer toy employing the principals of a homeostatic flying hovercraft.” Ex. 1001, 1:30–32. Figure 21 of the '580 patent is reproduced below:

Fig. 21

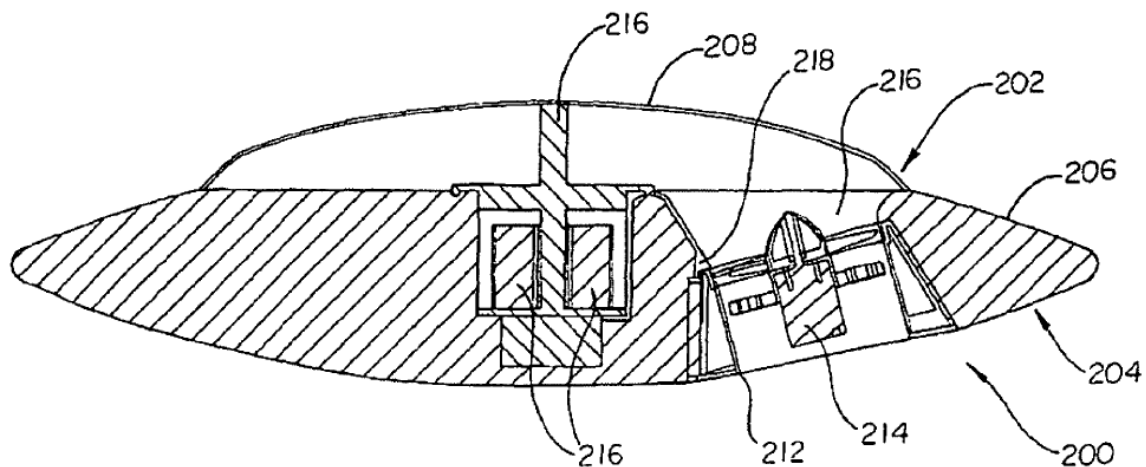


Figure 21 illustrates a “side cutaway view” of a “preferred embodiment of a homeostatic flying hovercraft.” Ex. 1001, 8:61–63, 9:5–6, 9:34–36. Homeostatic flying craft 200 has upper surface 202, bottom surface 204, four duct openings 212 on bottom surface 204, and battery-powered ducted fan 214 mounted inboard from each duct opening 212. *Id.*

at 9:36–50. Each fan 214 is powered from an internal pair of batteries 216. *Id.* at 9:62–63; *see also id.* at 12:64–13:9, 13:21–42 (describing embodiment of Figs. 1–3).

Homeostatic control system 300 is “operably connected to thrusters . . . in order to maintain a desired orientation” and includes “XYZ sensor arrangement 302 and associated control circuitry 304 that dynamically determines an inertial gravitational reference.” *Id.* at 11:21–29; *see also id.* at 10:54–61 (also describing a homeostatic control system and XYZ sensor arrangement before stating “[f]inally, the RC aircraft has . . .”). XYZ sensor arrangement 302 “comprises an X-axis sensor system, a Y-[axis] sensor system[,] and a Z-axis sensor system.” *Id.* at 11:39–41. “The X-axis sensor system is positioned in an X plane of the body and includes at least three first sensors that sense acceleration and gravity in the X plane and at least three second sensors that sense acceleration only in the X plane.” *Id.* at 11:41–45. The Y-axis and Z-axis sensor systems are similarly configured. *Id.* at 11:45–51. “Preferably, the X-axis sensor system comprises two sets of active accelerometers and two sets of passive accelerometers oriented in the X plane,” and the Y-axis sensor system similarly comprises active and passive accelerometers. *Id.* at 11:52–56. Each set of active accelerometers has a pair of active accelerometers “oriented at 90 degrees with respect to each other in the respective plane,” and each set of passive accelerometers has a pair of passive accelerometers also “oriented at 90 degrees with respect to each other in the respective plane.” *Id.* at 11:57–62. The pairs of active and passive accelerometers are “positioned at 45 degrees offset relative to a horizontal plane through a center of the body.” *Id.* at 11:62–65.

Figure 22a of the '580 patent is reproduced below:

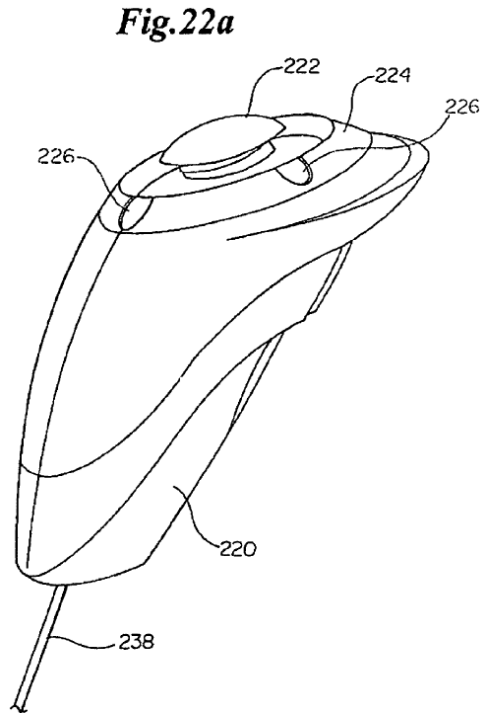


Figure 22a is an isometric view of a hand-held bee controller. Ex. 1001, 9:7–8, 10:4–5. A radio-controlled (“RC”) controller 220 “includes a body adapted to be held in one hand” and a “homeostatic control system IS positioned within the body.” *Id.* at 10:36–40. A user selectively positioning an orientation of RC controller 220 provides a “desired orientation.” *Id.* The homeostatic control system “includes an XYZ sensor arrangement and associated control circuitry” to sense the “desired orientation of the RC controller” and “dynamically determines an inertial gravitational reference for use in sensing the desired orientation.” *Id.* at 10:41–44. RC controller 220 also includes a “bidirectional radio frequency (RF) transceiver providing two-way RF communications between the RC aircraft and the hand-held RC controller that communicates the desired orientation to the RC aircraft.” *Id.*

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