

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SZ DJI TECHNOLOGY CO., LTD.,
Petitioner,

v.

AUTEL ROBOTICS USA LLC,
Patent Owner.

PGR2019-00016
Patent 10,044,013 B2

Before ERICA A. FRANKLIN, JENNIFER MEYER CHAGNON, and
AVELYN M. ROSS, *Administrative Patent Judges*.

FRANKLIN, *Administrative Patent Judge*.

JUDGMENT
Final Written Decision
Determining All Challenged Claims Unpatentable
35 U.S.C. § 328(a)

I. INTRODUCTION

This is a Final Written Decision in a post-grant review of claims 1–24 of U.S. Patent No. 10,044,013 B2, Ex. 1001 (“the ’013 patent”). We have jurisdiction under 35 U.S.C. § 6, and enter this Decision pursuant to 35 U.S.C. § 328(a) and 37 C.F.R. § 42.3. For the reasons set forth below, we determine that SZ DJI Technology Co., Ltd. (“Petitioner”) has shown, by a preponderance of the evidence, that the challenged claims are unpatentable. *See* 35 U.S.C. § 326(e) (2018).

A. *Procedural History*

Petitioner filed a Petition requesting post-grant review of claims 1–24 of the ’013 patent. Paper 6 (Corrected Petition, “Pet.”). Autel Robotics USA LLC (“Patent Owner”) did not file a Preliminary Response to the Petition. On May 17, 2019, pursuant to 35 U.S.C. § 324(a), we instituted trial to determine whether the challenged claims are unpatentable on the grounds raised in the Petition. Paper 7 (“Dec.”). Patent Owner filed a Patent Owner’s Response on August 23, 2019. Paper 20 (“PO Resp.”). Petitioner filed a Reply to the Patent Owner’s Response on November 22, 2019. Paper 25 (“Pet. Reply”). Patent Owner filed a Sur-Reply on December 30, 2019. Paper 26 (“PO Sur-Reply”).

On February 20, 2020, the parties presented arguments at an oral hearing. Paper 29. The transcript of the oral hearing has been entered in the record. Paper 34 (“Tr.”).

B. *Real Parties in Interest*

Petitioner identifies its real parties in interest as SZ DJI Technology Co., Ltd., DJI Europe B.V., DJI Technology, Inc., iFlight Technology Company Limited, DJI Japan K.K., and DJI Research LLC. Pet. 1. Patent

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Owner identifies its real party in interest as Autel Robotics USA LLC.
Paper 5, 2.

C. *Related Matters*

The parties provide notice of the following matter involving the '013 patent before the U.S. International Trade Commission: *Certain Unmanned Aerial Vehicles and Components Thereof*, 337-TA-1133 (ITC). Pet. 2; Paper 5, 2. Petitioner provides notice of the following district court proceeding involving the '013 patent: “*SZ DJI Technology Co. Ltd., et al. v. Autel Robotics USA LLC, et al.*, DED-1-16-cv-00706.” Pet. 2. Patent Owner refers to the district court proceeding as: “*SZ DJI Tech. Co Ltd. et al. v. Autel Robotics USA LLC et al.*, C.A. No. 16-706-LPS-CJB (consolidated) (D. Del.)” Paper 31, 2. The parties note also that an application related to the '013 patent, U.S. Patent Application 15/598,914, is pending before the Office. Pet. 2, Paper 5, 2. We note that application later issued as U.S. Patent No. 10,224,526, on March 5, 2019.

D. *The '013 Patent*

1. *Eligibility for Post-Grant Review*

Post-grant review is available only for patents “described in section 3(n)(1)” of the Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112-29, 125 Stat. 284 (2011). AIA § 6(f)(2)(A) (2011). Those are patents that issue from applications “that contain[] or contained at any time . . . a claim to a claimed invention that has an effective filing date in section 100(i) of title 35, United States Code, that is on or after” “the expiration of the 18-month period beginning on the date of the enactment of” the AIA. *See* AIA § 3(n)(1). The AIA was enacted on September 16, 2011, therefore, post-grant review is available only for patents that, at any point,

contained at least one claim with an effective filing date, as defined by 35 U.S.C. § 100(i), on or after March 16, 2013.

The earliest possible filing date for the '013 patent is December 14, 2015, which falls after the March 16, 2013 date. *See* Ex. 1001, 1:10–13; *see also* Pet. 3 (asserting that the earliest possible priority date of the '013 patent is December 14, 2015), PO Resp. 2 (asserting that the '013 patent claims a priority date of December 14, 2015).

The AIA also requires the petition for post-grant review to be filed within nine months of the issue date of the challenged patent. 35 U.S.C. § 321(c) (2018). The '013 patent issued on August 7, 2018. Ex. 1001, code (45). The Petition has been accorded a filing date of November 12, 2018, Paper 3, which is within the nine-month window. Thus, Petitioner has timely filed the Petition.

Accordingly, we determine that the '013 patent is eligible for post-grant review.

2. *Patent Specification*

The '013 patent describes an unmanned aerial vehicle and, particularly, a battery used for the vehicle. Ex. 1001, 1:18–20. The Specification explains that “[i]n prior arts, a main body of the unmanned vehicle offers a cavity for accommodating the power of the unmanned aerial vehicle, such as a lithium battery.” *Id.* at 1:39–41. A sealing board set in an opening of the cavity of the unmanned vehicle would be employed to fasten the battery, thereby preventing it from dropping from the cavity during flight. *Id.* at 1:42–44. “The sealing board is usually fixed to the main body of the unmanned aerial vehicle by screws, bolts or other fasteners.” *Id.* at 1:45–46. Those screws, bolts, or fasteners would need to be loosened before

changing the battery, and then tightened after changing the battery, thus making it inconvenient to change a battery. *Id.* at 1:47–50.

The Specification explains that the present invention seeks to overcome defects that cause the inconvenience in changing the battery. *Id.* at 1:54–57. In particular, the Specification states that “because a clamp button is configured on one end of the shell, the battery is capable of detachably connecting with the main body of the unmanned aerial vehicle which makes the changing of the battery [] more convenient.” *Id.* at 2:47–50. Additionally, “the inner side of the clamp button is configured [with] a restorable elastic piece for realizing the clamp button returning back to [its] original place automatically.” *Id.* at 2:51–54.

Figure 1 of the '013 patent is reproduced below:

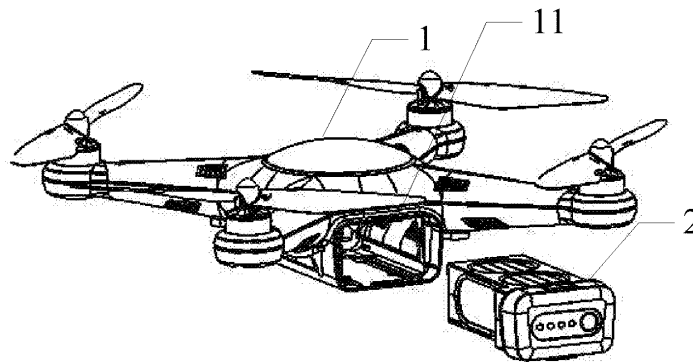


Fig.1

Figure 1 depicts a disassembled structure diagram of an unmanned aerial vehicle (“UAV”) in an embodiment of the invention. *Id.* at 2:65–67. The vehicle includes UAV main body 1 and UAV battery 2, shown removed and away from the UAV opening of battery compartment 11. *Id.* at 3:40–42, 4:60–61.

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