

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

CANFIELD SCIENTIFIC, INC.,

Plaintiff,

V.

MELANOSCAN, LLC and DR. RHETT
DRUGGE,

Defendants.

Civil Action No. 2:16-cv-04636

Hon. John Michael Vazquez, U.S.D.J.

Hon. James B. Clark, U.S.M.J.

JOINT CLAIM CONSTRUCTION AND PRE-HEARING STATEMENT

Pursuant to L. Pat. R. 4.3, Plaintiff Canfield Scientific, Inc. (“Canfield”) and Defendants Melanoscan, LLC and Dr. Rhett Drugge, (collectively, “Melanoscan”), by and through their attorneys, hereby submit this Joint Claim Construction and Prehearing Statement.

I. Terms Proposed for Construction on Which the Parties Have Reached Agreement

The parties have met and conferred as required by L. Pat. R. 4.2(d) in an effort to narrow the issues and finalize preparation of a Joint Claim Construction and Pre-hearing Statement. As a result of these efforts, the parties agreed to withdraw certain proposed terms that do not require construction by the Court. In addition, the parties reached agreement on the construction of two terms. The parties agree that the phrase “means to allow for the entry and removal of said person or portion thereof” as used in claim 38. The parties agree that phrase should be interpreted as means-plus-function in accordance with 35 U.S.C. §112, paragraph 6.¹ The function performed by the claim limitation is “to allow for the entry and removal of said person or portion thereof” and the structure disclosed for performing that function is “a hinged panel of the enclosure that

¹ Post-America Invents Act, this section of the code is now identified as 35 U.S.C. 112(f), but the patent-in-suit is governed by pre-AIA statutes.

allows for ingress and egress” as described at col. 19, lines 5-8 of U.S. Patent No. 7,359,748. The parties also agree to the definition of the term “thermal energy” as used in claim 58. The parties agree this term should be construed as “heat energy as opposed to light energy.”

II. Canfield’s Proposed Claim Constructions of Disputed Terms and Supporting Evidence

Canfield objects to each of Melanoscan’s proposed definitions that identify the definition as “plain and ordinary meaning” for failing to comply with Patent Local Rule 4.2(a) requiring each party to provide a construction, including “for each term for which ‘plain and ordinary’ meaning is asserted. Canfield also objects to Melanoscan’s failure to identify corresponding structure for those terms governed by 35 U.S.C. § 112(6). At 8:27 p.m. Eastern time on the day that this joint disclosure was to be filed, Melanoscan served on Canfield definitions of six terms and extensive extrinsic evidence that differ from those disclosed in its Local Patent Rule 4.2(b) and 4.2(c). Canfield objects to each of these belated disclosures for failing to comply with Patent Local Rule 4.3(f).

In the chart attached as Exhibit A, Canfield proposes constructions for the disputed claim terms and identifies intrinsic and extrinsic evidence upon which it may rely to support its proposed constructions of the claims of the ‘748 patent or to oppose Melanoscan’s proposed constructions. Canfield relies upon the intrinsic evidence as a whole relating to the ‘748 patent, including the claim language, the specification and figures, the references cited on the face of the patent, the prosecution history for the ‘748 patent and all related patents, and all filings and evidence submitted in IPR2017-02125, including the declaration of Dr. Jan-Peter Muller submitted as Exhibit 1016. In Exhibit A, Canfield cites to specific figures and text as examples of intrinsic evidence to support proposed constructions to particular claim elements. Canfield expressly reserves the right to amend, correct, or supplement its claim construction positions and

supporting evidence in response to any change of position by Melanoscan, in response to information received during claim construction discovery, or for other good cause.

III. Melanoscan's Proposed Claim Constructions of Disputed Terms and Supporting Evidence

In the chart attached as Exhibit B, Melanoscan proposes constructions for the disputed claim terms and identifies intrinsic and extrinsic evidence upon which it may rely to support its proposed constructions of the claims of the '748 patent or to oppose Canfield's proposed constructions. Melanoscan relies on the intrinsic evidence as a whole relating to the '748 patent, including the claim language, the specification and figures, and the references cited on the face of the patent. In Exhibit B, Melanoscan cites to specific figures and text as examples of intrinsic evidence to support proposed constructions to particular claim elements. Melanoscan reserves the right to rely on any intrinsic or extrinsic evidence identified by Canfield in support of its proposed constructions, and any evidence obtained, or that may be obtained, through claim construction discovery. Melanoscan expressly reserves the right to amend, correct, or supplement their claim construction positions and supporting evidence in response to any change of position by Canfield, in response to information received during claim construction discovery, or for other good cause.

IV. Claim Terms Whose Construction Will Be Most Significant

Pursuant to L. Pat. R. 4.3(c), Melanoscan does not believe any construction of the disputed terms will be most significant to resolution of the case or will be case or claim dispositive.

Canfield believes that the claim construction of the following terms will be most significant to resolution of the case and may be case or claim dispositive:

Enclosure/first means

Specified imaging position/second means

Centerline

Predetermined distance

The wherein clause of claims 1 and 51

Each of the terms identified by Canfield as indefinite.

V. Length of the Claim Construction Hearing

The parties anticipate the Claim Construction Hearing will require one day.

VI. Identification of Witnesses for the Claim Construction Hearing

Pursuant to L. Pat. R. 4.3(e), Canfield states that it does not intend to affirmatively rely upon live witness testimony at the claim construction hearing. Canfield reserves the right to call rebuttal witnesses as needed.

Pursuant to L. Pat. R. 4.3(e), Melanoscan states that it does not rely on expert testimony to support its proposed claim construction but identifies Dr. Daniel van der Weide as a rebuttal witness who will provide expert testimony as disclosed in Exhibit B.

Dated: May 4, 2018

By: /s/ Thomas L. Duston

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By: /s/ Jura C. Zibas

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EXHIBIT A

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
enclosure configured to receive a person or portion thereof/enclosure	1, 5, 38, 40, 44	N	A structure which fully and completely surrounds the person and/or portion to be imaged entirely about at least one axis.	<p>'748 Patent Fig. 1; 2: 59-61; 3:15-18; 4:17-27; 5:3-5; 6:61-66; 18:35-48;19: 5-8; 19: 50-54.</p> <p>File History Appl. No. 09/625,712 09/1/2002 Requirement for Restriction/Election at 2; 06/17/2005 Amendment/Request for Reconsideration after Non-Final Rejection at 1; 05/16/2016 Requirement for Restriction/election at 2-3.</p> <p>File History Appl. No. 12/102,810 Non-final Rejection at 4; 11/29/2011 Final Rejection at 2, 4; 12/20/2016 Amendment/Request for Reconsideration- After Non-final Rejection at 8-10; 08/01/2017 Final Rejection at 8; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13, 17-18.</p> <p>The Merriam-Webster Dictionary 171 (1998) ("enclose" and "enclosure")</p> <p>'748 Patent 18:45, 19:50-51</p> <p>Genest, US 6,546,356 at 5:9-23; 5:56-6:22;</p>

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
				8:66-9:7; 10:55-11:30; Figures 3 and 4A. Drugge Declaration PTAB Exhibit 2010 at ¶ 33, 35, 37.
defines a specified imaging position	1, 4, 5, 6, 51	N	The sole location within the enclosure as configured at which the person or portion thereof may be positioned such that precise measurements of imaged features may be made.	File History Appl. No. 09/625,712 01/29/2007 Amendment After Non-final Rejection at 3; 01/29/2007 Amendment after Non-final Rejection at 15. File History Appl. No. 12/102,810 05/20/2013 Amendment/Request for Continued Examination at 7; 08/25/2014 Amendment/Request for Continued Examination at 10-11; 03/24/2016 Amendment/RCE at 10; 08/01/2017 Final Rejection at 8; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13-17. The Merriam-Webster Dictionary 494 (1998) (“sole”) File History Appl. No. 12/102,810 9/9/2015 Applicant’s Remarks in Response to Office Action at pp. 8-9. PTAB Decision Instituting <i>Inter Partes</i> Review (Paper No. 15) at pp. 28-29. Patent Owner’s Preliminary Response at pp.

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
				25-28; 52-53. Drugge Declaration PTAB Exhibit 2010 at ¶ 32-33, 37. Hurley, PTAB Exhibit 1004 at p. 10.
the specified imaging position defines a centerline/centerline	1, 6, 51, 54	N	Indefinite. Alternatively: A line dividing the imaged object through its center (for a human body, dividing the body along the frontal plane dividing the person from side to side)	'748 Patent Fig. 1; 2: 59-61; 3:15-18; 4:17-27; 5:3-5; 6:61-66; 18:35-48;19: 5-8; 19: 50-54. The Merriam-Webster Dictionary 332 (1998) ("mirror") The Merriam-Webster Dictionary 367 (1998) ("opposite") PTAB Decision Instituting <i>Inter Partes</i> Review (Paper No. 15) at pp. 11-12. Patent Owner's Preliminary Response at pp. 28-29. Melanoscan's proposed claim term definitions served on 4/6/2018.
predetermined distance	1, 5, 6, 51, 54, 55	N	The measurement from the specified imaging position to an imaging device known before imaging occurs which is used, together with the values of the imaging device's focal length, its	File History Appl. No. 09/625,712 01/29/2007 Amendment After Non-final Rejection at 3; 01/29/2007 Amendment after Non-final Rejection at 15.

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
			resolution and its coordinates relative to the specified imaging position, to calculate precise measurements of a feature imaged by that device	<p>File History Appl. No. 12/102,810 05/20/2013 Amendment/Request for Continued Examination at 7; 08/25/2014 Amendment/Request for Continued Examination at 10-11; 09/09/2015 Amendment/Request for Reconsideration after Non-final Rejection at 8-9; 03/24/2016 Amendment/RCE at 10; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13-17.</p> <p>PTAB Decision Instituting <i>Inter Partes</i> Review (Paper No. 15) at pp. 18-19, 25-26.</p> <p>Patent Owner Preliminary Response at pp. 42-43; 47-49.</p> <p>Drugge Declaration PTAB Exhibit 2010 at ¶ 32-33, 37.</p> <p>Voigt PTAB Exhibit 1003 at p. 3.</p> <p>Crampton PTAB Exhibit 1006 at p. 11-12, 15, Figs. 7, 9.</p>
Wherein each [imaging device] defines respective coordinates and said respective predetermined distance . . . and defines a respective focal length and resolution information, allowing	1, 51	N	The exact and definitive measure of the actual dimensions of a feature imaged by a particular imaging device is calculated using the predetermined distance between that imaging	<p>'748 Patent 4:42-46; 5:64-6:2; 6:61-66; 7:18-24; 7:35-41; 17:10-12.</p> <p>File History Appl. No. 09/625,712</p>

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
precise measurement of imaged features of the person or portion thereof located at the specified imaging position/second means			device and the specified imaging position, that device's coordinates relative to that specified imaging position, and that device's focal length and its resolution.	<p>05/16/2016 Requirement for Restriction/election at 2-3; 07/17/2006 Response to Restriction Requirement at 1; 01/29/2007 Amendment After Non-final Rejection at 3; 01/29/2007 Amendment after Non-final Rejection at 15</p> <p>File History Appl. No. 12/102,810 12/16/2010 Non-final Rejection at 2-5; 01/27/2011 Amendments at 5; 05/20/2013 Amendment/Request for Continued Examination at 7; 08/25/2014 Amendment/Request for Continued Examination at 10-11; 09/09/2015 Amendment/Request for Reconsideration after Non-final Rejection at 8-9; 03/24/2016 Amendment/RCE at 10; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13-17.</p> <p>The Merriam-Webster Dictionary 409 (1998) ("precise")</p> <p>PTAB Decision Instituting <i>Inter Partes</i> Review (Paper No. 15) at p. 16.</p> <p>Drugge Declaration PTAB Exhibit 2010 at ¶ 24-25, 27-29, 33, 37</p> <p>Dr. Muller is expected to offer testimony in</p>

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
				accordance with his Declaration submitted as PTAB Exhibit 1016.
located amongst	2, 52	N	Indefinite	
located lateral to/laterally spaced adjacent	3, 5	N	Indefinite	
positioned symmetrically relative to the center line/plurality of light sources is symmetrical about the center line/ on an opposite side of the centerline	4, 5, 6, 7, 54, 55, 56	N	Indefinite Alternatively: Positioned such that they face one another across the centerline	'748 Patent Fig. 1; 2: 59-61; 3:15-18; 4:17-27; 5:3-5; 6:61-66; 18:35-48;19: 5-8; 19: 50-54. The Merriam-Webster Dictionary 332 (1998) ("mirror") The Merriam-Webster Dictionary 367 (1998) ("opposite")
adequate illumination for said plurality of imaging devices to record said person or portion thereof	15	N	Indefinite	Drugge Declaration PTAB Exhibit 2010 at ¶¶ 21, 22, 24-27, 36-37
producing adequate illumination for said plurality of imaging devices to optimally function in light in the humanly perceivable light spectrum	16	N	Indefinite	Drugge Declaration PTAB Exhibit 2010 at ¶¶ 21, 22, 24-27, 36-37
device allows for viewing of said person or portion thereof in 360 degrees	34	N	Device that images a stationary subject from all 360 degrees of a complete circle about a single axis.	'748 Patent Fig. 1; 2: 59-61; 3:15-18; 4:17-27; 5:3-5; 6:61-66; 18:35-48;19: 5-8; 19: 50-54. File History Appl. No. 12/102,810 05/10/2011 Non-final Rejection at 4; 11/29/2011 Final Rejection at 2, 4; 09/09/2015 Amendment/Request for

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
				Reconsideration after Non-final Rejection at 4; 12/20/2016 Amendment/Request for Reconsideration-After Non-final Rejection at 8-10; 08/01/2017 Final Rejection at 8; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13, 17-18. The Merriam-Webster Dictionary 137 (1998) (“degree”)
device allows for viewing of said person or portion thereof in 720 degrees	35	N	Indefinite. Alternatively: Device that images a stationary subject from all 360 degrees of a complete circle about two perpendicular axes.	The Merriam-Webster Dictionary 137 (1998) (“degree”)
means of detection and monitoring of the level(s) of the illumination generated by said plurality of light sources	39	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	Drugge Declaration PTAB Exhibit 2010 at ¶¶ 21, 22, 24-27, 29, 36-37
means of interacting and adjusting the level of said illumination prior to . . . capturing an image	40	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	The Merriam-Webster Dictionary 550 (1998) (“transmit”) Melanoscan’s proposed claim term definitions served on 4/6/2018. Drugge Declaration PTAB Exhibit 2010 at ¶¶ 21, 22, 24-27, 29, 36-37

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
allows for manipulation of said person or portion thereof in a range of 360 degrees on the vertical axis	41	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
allows for manipulation of said person or portion thereof in a range of 360 degrees on the horizontal axis.	42	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
allows for viewing of said person or portion thereof on the z-axis	43	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
proportionate dimensions	44	N	Indefinite	
control device	46, 48, 49, 50	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
first means for receiving and enclosing a person or portion thereof	51, 54	Y	a structure that fully surrounds (i.e. encloses) a person and that is made of plywood, particle board, or any other structural material capable of supporting the structure and equivalents thereof known at the time of the filing of the application.	<p>'748 Patent Fig. 1; 2: 59-61; 3:15-18; 4:17-27; 5:3-5; 6:61-66; 18:35-48; 60-63; 19: 5-8; 19: 50-54.</p> <p>Drugge Declaration PTAB Exhibit 2010 at ¶ 33, 35, 37.</p> <p>File History Appl. No. 09/625,712 09/1/2002 Requirement for Restriction/Election at 2; 06/17/2005 Amendment/Request for Reconsideration after Non-Final Rejection at 1; 05/16/2016 Requirement for Restriction/election at 2-3.</p> <p>File History Appl. No. 12/102,810 Non-final Rejection at 4; 11/29/2011 Final Rejection at 2, 4; 12/20/2016 Amendment/Request for</p>

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
				Reconsideration-After Non-final Rejection at 8-10; 08/01/2017 Final Rejection at 8; 02/28/2018 Response to Official Action Mailed August 29, 2017 at 13, 17-18. Genest, US 6,546,356 at 5:9-23; 5:56-6:22; 8:66-9:7; 10:55-11:30; Figures 3 and 4A.
second means located within the first means for specifying an imaging position for placing the person or portion thereof within the first means wherein the second means defines a centerline	51, 54, 55	Y	Indefinite (no structure disclosed to support means plus function limitation) Alternatively: a shield positioned in such proximity to the person being imaged that the person is physically confined to the specified imaging position, or equivalent structures known at the time of the filing of the application that would similarly physically confine the person.	'748 Patent 18:37-39, 65-67, Fig. 1, 19:36-39. File History Appl. No. 12/102,810 9/9/2015 Applicant's Remarks in Response to Office Action at pp. 8-9. PTAB Decision Instituting <i>Inter Partes</i> Review (Paper No. 15) at pp. 28-29. Patent Owner's Preliminary Response at pp. 25-28; 52-53. Drugge Declaration PTAB Exhibit 2010 at ¶ 32-33, 37. Hurley, PTAB Exhibit 1004 at p. 10. Dr. Muller is expected to offer testimony in accordance with his Declaration submitted as PTAB Exhibit 1016.
capable of imaging and storing an	61	N	An imaging device configured to both	

Term	Claims where term appears	112(6) (Y/N)	Preliminary Proposed Definition	Supporting Evidence
image of said person or portion thereof			image and store persistently on the imaging device the resulting image	
accurate image	69	N	Indefinite	
means for monitoring the illumination	70	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
means for adjusting the level of illumination	70	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	The Merriam-Webster Dictionary 550 (1998) (“transmit”) Melanoscan’s proposed claim term definitions served on 4/6/2018.
means for viewing images connected to said plurality of imaging means, wherein said viewing means is capable of rendering a two dimensional rendition	71	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
means for manipulating said person or portion thereof 360 degrees	71	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
allows manipulation of said person or portion thereof on the horizontal axis	72	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
allows manipulation of said person or portion thereof on the vertical axis	73	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	
allows manipulation of said person or portion thereof on the z-axis	74	Y	Indefinite (no algorithm or structure disclosed to support means plus function limitation)	

EXHIBIT B

Claim Term Identified by Canfield	Claim(s) where term appears	112(6)	Melanoscan Proposed Definition	Intrinsic/Extrinsic Supporting/Opposing Evidence
enclosure configured to receive a person or portion thereof/enclosure	1, 5, 38, 40, 44	N	Plain and ordinary meaning	<p>“TIP comprises an image acquisition device that is further comprised of an enclosed structure that is and can be designed and assembled according to the human physiology to be analyzed such that the enclosed structure maximizes the ease of acquisition of the human body with traditional and/or digital photography” 4:11-16</p> <p>“Contained within the enclosed structure are devices capable of ‘photographing’ the body in a static position (motion or time-lapsed photography is also be provided for). ” 4:24-27</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging” 5:3-5</p> <p>“The panels are interconnected to form an enclosed structure” 18:45; 19:50-51; 20:46-47</p> <p>“TIP, in a preferred embodiment, comprises an enclosed structure that may be sized in accordance with an entire person, or individual body parts” Abstract</p> <p>“The system may be sized in any fashion to accord with the application.” 18:35-36²</p> <p>“In this particular embodiment, an 8-sided polygon...” 18:46 and Fig. 1</p>

² All column and line references are to the ‘748 Patent

				<p>“The shape is arbitrary, however, the only requirement is that the panels are set up in mirrored pairs.” 18:47-48; 19:52-54; 20:48-50.</p> <p>Substance of testimony of Dr. Daniel van der Weide: One of skill would understand that the enclosure is configured to receive a person or portion thereof, but that the shape of the enclosure is arbitrary. In a narrower sense, the shape is substantially circular, as informed by 18:46 and “the specified imaging position defines a centerline” (Cl. 1, 6, 51, 54). Also see Element 108 Fig. 1 and Element 308 Fig. 3.³</p> <p>Enclosure: “An area partially or entirely enclosed by walls or buildings” Roget’s II The New Thesaurus © 1980 ISBN 0-395-29605-6</p> <p>Enclosure: “something that encloses” https://www.merriam-webster.com/dictionary/enclosure</p> <p>Enclose: “...to surround with a fence” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Enclose: “to contain or hold” https://www.collinsdictionary.com/dictionary/english/enclose; http://www.dictionary.com/browse/enclose</p> <p>Enclose: “to include inside of something” http://www.yourdictionary.com/enclose</p> <p>Kenneth L. Bontrager, <u>Textbook of Radiographic Positioning and Related Anatomy</u> (2001) p. 103, 336, 540.</p>
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³ Melanoscan does not rely on expert testimony to support its proposed claim construction but identifies Dr. Daniel van der Weide as a rebuttal witness to oppose any expert relied on by Canfield.

defines a specified imaging position	1, 4, 5, 6, 51	N	Plain and ordinary meaning	<p>“Contained within the enclosed structure are devices capable of ‘photographing’ the body in a static position” 4:24-25</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging. When in position, the camera device and enhancement, if not engaged, are so engaged and the image(s) obtained.” 5:3-7</p> <p>“the specified imaging position defines a centerline;” 22:2-3 (Cl. 1)</p> <p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 108 of the device 100 with sufficient comfort. However, if the particular application is for the examination of something smaller, the scalp, for example, the device could be made smaller such that just a person's cranium would fit comfortably at center 108.” 18:33-43</p> <p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 308 of the device 300 with sufficient comfort. However, if the particular application is for the examination of something smaller, the scalp, for example, the device could be made smaller such that just a person's cranium would comfortably at center 308.” 19:37-48</p> <p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 108 of the device 100 with sufficient comfort. However, if the particular application is for the examination of something smaller, the scalp, for example, the</p>
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				<p>device could be made smaller such that just a person's cranium would fit comfortably at center 108.” 20:34-44</p> <p>“The computer 501 is used to process the individual images garnered from each imaging device of each imaging array 102 and 507 through 519 to create a non-occluded image of the subject within system 100, and preferably, at center 108.” 21:40-44</p> <p>The markings at center 108 and center 308 in FIGS. 1, 3 and 5.</p> <p>Substance of testimony of Dr. van der Weide: One of skill would have at least an associate’s degree (2-year) in photography or related disciplines with two years’ experience in digital photography and use of computers for collecting, manipulating and viewing images. Additionally, it would be understood the body is in a “static position” that “if need be” is defined by the enclosure, enabling a longitudinal record of changes.</p> <p>“With subject placement, the camera array coordinates and distances are known in relation to the subject.” 4:42-43</p> <p>File history 10/26/2006 Response to non-final rejection at 14-18</p> <p>Specified: “Particularized” http://webstersdictionary1828.com/Dictionary/specified</p> <p>Specify: “Identify clearly and definitely” https://en.oxforddictionaries.com/definition/us/specify</p> <p>Specify: “fix definitely” http://lookwayup.com/lwu.exe/lwu/d?s=f&w=specify#v/688901</p>
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				<p>Specify: “to mention or name specifically [] or definitely” http://www.dictionary.com/browse/specify?s=t</p> <p>Photography: “the art or process of producing images on a sensitized surface (as film in a camera) by the action of light” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p>
the specified imaging position defines a centerline/centerline	1, 6, 51, 54	N	Plain and ordinary meaning	<p>“These fourteen (14) panels should be set forth in such that one panel has a ‘mirror image’ panel.” 4:18-19</p> <p>“The shape is arbitrary, however, the only requirement is that the panels are set up in mirrored pairs.” 18:47-48; 19:52-54; 20:48-50</p> <p>The markings at center 108 and center 308 in FIGS. 1, 3 and 5 defining a centerline. (18:36-39; 19:45-48; 20:37-44)</p> <p>“a plurality of the imaging devices are located on opposite sides of the centerline of the specified imaging position relative to each other” 22:8-9 (Cl. 1)</p> <p>“wherein said at least two light sources are positioned symmetrically relative to the center line of the specified imaging position” 22:29-30 (Cl. 4)</p> <p>“a second imaging array spaced a predetermined distance relative to the specified imaging position, and laterally spaced adjacent to the first imaging array on an opposite side of the centerline of the specified imaging position relative to the first imaging array” 22:41-45 (Cl. 5)</p> <p>“a plurality of the imaging means are located on opposite sides of the centerline of the specified imaging position relative to</p>

				<p>each other” 25:31-33 (Cl. 51)</p> <p>“each imaging array is located on an opposite side of at least one respective imaging array relative to the center line of the specified imaging position” 25:54-56 (Cl. 53)</p> <p>“a second imaging array spaced a predetermined distance relative to the second means, and laterally spaced adjacent to the first imaging array on an opposite side of the centerline of the second means relative to the first imaging array” 25:64-67 (Cl. 54)</p> <p>“...utilizing a circular periphery.” (19:40)</p> <p>File history 10/26/2006 Response to non-final rejection at 15-18</p> <p>Centerline: “A real or imaginary line through the center of something, especially one following an axis of symmetry.” https://en.oxforddictionaries.com/definition/us/centerline</p> <p>Centerline: “a real or imaginary line passing through the center of something and dividing it into two equal parts” https://www.collinsdictionary.com/dictionary/english/centerline</p> <p>Centerline: “A line that bisects something into equal parts.” https://www.ahdictionary.com/word/search.html?q=centerline; http://www.yourdictionary.com/centerline; http://www.thefreedictionary.com/centerline</p> <p>Center: “the point that is equally distant from all points on the circumference of a circle...” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p>
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				<p>Kenneth L. Bontrager, <u>Textbook of Radiographic Positioning and Related Anatomy</u> (2001) p. 184.</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands that the specified imaging position defines a line that is equidistant from defined points of the area to be imaged.</p>
predetermined distance	1, 5, 6, 51, 54, 55	N	Plain and ordinary meaning.	<p>“With subject placement, the camera array coordinates and distances are known in relation to the subject. These distances, in combination with focal length and resolution information, allows for the precise measurement of the human features of interest” 4:42-46</p> <p>File history 10/26/2006 Response to non-final rejection at 14-18</p> <p>Predetermine: “to determine beforehand” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands that the distance relative to the specified imaging position (22:11) is predetermined, i.e. the distance between the imaging device(s) and the specified imaging position is not determined in an ad hoc fashion.</p> <p>Predetermine: “to determine, decide or establish ahead of time” Webster’s New College Dictionary © 2008 ISBN 978-0-618-95315-8</p>
Wherein each [imaging device] defines respective coordinates and said	1, 51	N	Plain and ordinary meaning	<p>“The basis for the panel-camera array is to accurately capture the physiological attributes desired from the subject patient. With subject placement, the camera array coordinates and distances are known in relation to the subject. These distances,</p>

<p>respective predetermined distance relative to the specified imaging position and defines a respective focal length and resolution information, allowing precise measurement of imaged features of the person or portion thereof located at the specified imaging position/second means</p>				<p>in combination with focal length and resolution information, allows for the precise measurement of the human features of interest.” 4:39-45.</p> <p>“The present invention relates primarily to conditions pertaining to health and cosmetics. As such, the device allows for the imaging of total or subtotal non-occluded body surfaces in order to detect health and cosmetic conditions and involves the measurement and analysis of an optically depicted image of a patient's surfaces by standard color imaging, heat, electromagnetic or chemical imaging. The present invention allows for image pixel acquisition, its data collection, data aggregation, data dissemination, data manipulation, and subsequent viewing. The present invention provides for tissue analysis of a patient such that relevant determinations may be made such as detection of diseases or related problems of cosmesis.” 1:5-18</p> <p>“The present invention, Total Immersion Photography (TIP), relates initially, and thus generally, to cancer detection and, more particularly, to skin cancer, e.g., melanoma, detection involving the measurement and analysis of an optical depiction of the subject patient's skin surface by standard color imaging, as well as heat, electromagnetic or chemical imaging. The present invention allows for subject acquisition, data collation, data aggregation, data dissemination, data manipulation, data viewing in a preferable medium and analysis of a subject patient's skin surface, or other body tissue and, therefore, providing for the subject tissue's analysis such that relevant determinations may be made. TIP is a digital image acquisition device, the products of which, are capable of a variety of applications. For instance, panoramic mosaics of the body, 3-D models of the body, images for use with "machine vision", and</p>
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				<p>interfacing with medical records are such possible uses.” 3:47-63</p> <p>Accordingly, the apparatus of the present invention provides means for diagnosis of a skin disease site using spectral analysis comprising: a light source for generating light to illuminate the disease site; a probe means to conduct the illumination light from the light source to the disease site and to collect the reflected and fluorescence light and conduct said light to be analyzed; and spectral analysis means optically connected to the probe means for generating and displaying spectral measurements of the fluorescence light and the reflectance light to assist the user in diagnosing the disease site.” 5:24-33</p> <p>“Accordingly, the apparatus of the present invention provides means for diagnosis of a skin disease site using spectral analysis comprising: a light source for generating light to illuminate the disease site; a probe means to conduct the illumination light from the light source to the disease site and to collect the reflected and fluorescence light and conduct said light to be analyzed; and spectral analysis means optically connected to the probe means for generating and displaying spectral measurements of the fluorescence light and the reflectance light to assist the user in diagnosing the disease site. In a preferred embodiment, the apparatus of the present invention includes a compact spectrometer connected to a computer, a fluorescence excitation light source with a shutter, a white light source with a shutter, a bifurcated fibre bundle, a light coupler, a skin probe, and controlling electronics. The system is designed to automatically switch between the fluorescence excitation light and the white light sources and complete fluorescence and reflectance spectral measurements of a skin disease site sequentially in a few seconds. The system exploits the spectral</p>
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				<p>differences of different skin diseases to aid in the dermatologic diagnosis. In particular, the apparatus provides a low cost, compact system that is capable of quickly and efficiently performing combined fluorescence and reflectance spectral analysis. ” 5:34-59</p> <p>“Automated Acquisition. Storage and display of the non-occluded visible body surface properties including but not limited to diseases and cosmetic conditions of the skin, hair and nails and body measurements. In this application the body surface can be viewed and measurements taken, evaluated, viewed, collated, and cross-referenced in an easy and efficient manner.” 5:63-6:2</p> <p>“Measurements and comparisons of body contours, fat deposit analysis, assymetry, etc. with volume measurements will be valuable for the cosmetic surgeon, the physician, the physical trainer, the clothier, etc. Medical and health decisions will be aided with such information. These evaluations can then be viewed, collated, and cross-referenced in an easy and efficient manner. 6:63-7:2</p> <p>“In addition, measurements of graft survival and soft tissue survival as well as measurements of soft tissue removal can be more accurately defined. These evaluations can be viewed, collated, and cross-referenced in an easy and efficient manner such that studies can be made of the procedures where there are currently none.” 7:10-16</p> <p>“Soft Tissue Manipulation. Volumetric measurements of soft tissue will facilitate studies of cosmetic procedures of the subcutis, glands, muscles, and skeleton. It will enhance the accuracy of body volume measurements for both soft tissue</p>
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				<p>augmentation and soft tissue removal. Patients will be measured before soft tissue manipulation so that the procedure is more accurately applied to the areas to be treated. The volumetric data will serve as a baseline to study the effectiveness of the treatment and will also enhance postoperative evaluation. For soft tissue augmentation using live tissue, it will allow for survival studies to be conducted. This will be a significant improvement over the current water-displacement techniques and 2D renderings. These evaluations can be viewed, collated, and cross-referenced in an easy and efficient manner such that patient and doctor time is minimized. Data can be reviewed in a postoperative environment to assess outcomes and be used for outcome studies.” 7:17-34</p> <p>“Wound Healing Evaluations. Therapeutic analyses for post operative wounds, traumatic wounds, ulcers, burns, scars, etc. collectively "wounds" can be made using this device. Measurements of the "wounds" at the outset of therapy and then at specific intervals of time allow for accurate evaluation of the progression of healing time and patient responsiveness to treatment. Topical and internal medicines can be studied for their effectiveness over time. These evaluations and resulting analyses can be viewed, collated, and cross referenced in an easy and efficient manner such that time is minimized, data accurately recorded and aggregated for efficient and accurate assessments and prognosis made.” 7:58-8:3</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands the geometric configuration of the cameras and subject, and further understands that the subject is placed in the specified imaging position, which is predetermined and which defines “a distance of a focus from a lens.” This combination “allows for the precise measurement of the human features of</p>
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				<p>interest.”</p> <p>File history 10/26/2006 Response to non-final rejection at 14-18</p> <p>Allow: “permit” https://www.merriam-webster.com/dictionary/allowing</p> <p>Allow: “make it possible through a specific action or lack of action for something to happen” https://www.vocabulary.com/dictionary/allow?family=allowing</p> <p>Focal length: “the distance of a focus from a lens...” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Resolve: “to distinguish between or make visible adjacent parts of” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p>
located amongst	2, 52	N	Plain and ordinary meaning	<p>Amongst: “in or through the midst of” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Fig. 2</p>
located lateral to/laterally spaced adjacent	3, 5	N	Plain and ordinary meaning	<p>Lateral: “situated on, coming toward, or directed from the side” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Adjacent: “situated near or next” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Fig. 2</p>

positioned symmetrically relative to the center line/plurality of light sources is symmetrical about the center line/ on an opposite side of the centerline	4, 5, 6, 7, 54, 55, 56	N	Plain and ordinary meaning	<p>4:16-23</p> <p>“The shape is arbitrary, however, the only requirement is that the panels are set up in mirrored pairs.” 18:47-48; 19:52-54; 20:48-50.</p> <p>“These fourteen (14) panels should be set forth in such that one panel has a ‘mirror image’ panel.” 4:18-19</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands that “mirrored pairs” establish symmetry (as in a mirror image) about a centerline</p> <p>The markings at center 108 and center 308 in FIGS. 1, 3 and 5 defining a centerline.</p>
adequate illumination for said plurality of imaging devices to record said person or portion thereof	15	N	Plain and ordinary meaning	<p>Adequate: “equal to or sufficient for a specific requirement” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>See, e.g. definitions for “Available light”, “Backlighting”, “Bottom lighting”, “Diffused light”, “Fill-in light”, “Frontlighting”, “Hard light”, “Photolamp”, “Rimlighting”, “Sidelighting”, “Soft light”, and “Tungsten light” (Magic of B&W pp. 100-102)</p> <p>Substance of testimony of Dr. van der</p>

				<p>Weide: One of skill in the photographic arts understands the wide variety of illumination types available for lighting a subject, and therefore understands “adequate” in this context.</p> <p>5:34-59</p>
producing adequate illumination for said plurality of imaging devices to optimally function in light in the humanly perceivable light spectrum	16	N	Plain and ordinary meaning	<p>See, e.g., definition of Panchromatic: “A term applied to sensitized materials...that respond to all the visible colors of the spectrum...” (Magic of B&W p. 102)</p> <p>Substance of testimony of Dr. van der Weide: One of skill in the photographic arts understands that “humanly perceivable light spectrum” is informed by the word “panchromatic.” Additionally, one of skill in the photographic arts understands the wide variety of illumination types available for lighting a subject, and therefore understands “adequate” in this context.</p> <p>Adequate: “equal to or sufficient for a specific requirement” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p>

device allows for viewing of said person or portion thereof in 360 degrees	34	N	The person or portion of a body to be imaged can be viewed in 360 degrees.	4:16-23
device allows for viewing of said person or portion thereof in 720 degrees	35	N	The person or portion of a body to be imaged can be viewed in 360 degrees of an orthogonal axis.	Cl. 41 and Cl. 42 each claim 360 degrees of an orthogonal axis Substance of testimony of Dr. van der Weide: One of skill understands that $360+360=720$ degrees.
means to allow for the entry and removal of said person or portion thereof	38	Y	A hinged panel of the enclosure allows for ingress and egress	“To effect access and egress, panels 104 function as a doorway. By rotating on hinge 105, panels 104 swing outward, thus allowing access to the interior of system 100.” 19:5-8 Fig. 1
means of detection and monitoring of the level(s) of the illumination generated by said plurality of light sources	39	Y	An exposure meter.	See, e.g., definition of “Exposure meter” (Magic of B&W p. 101) “Imaging devices 203 may be a standard or digital camera, or any other type of device capable of capturing the desired information from the subject with the imaging system.” 19:25-28. Substance of testimony of Dr. van der Weide: One of skill understands that at least digital cameras are equipped with exposure meters, and that most standard (film) cameras are

				similarly equipped.
means of interacting and adjusting the level of said illumination prior to . . . capturing an image	40	Y	Interaction and adjustment of the illumination level may be accomplished manually or electronically with computer assistance.	<p>See, e.g. definitions for “Available light”, “Backlighting”, “Bottom lighting”, “Diffused light”, “Fill-in light”, “Frontlighting”, “Hard light”, “Photolamp”, “Rimlighting”, “Sidelighting”, “Soft light”, and “Tungsten light” (Magic of B&W pp. 100-102).</p> <p>Substance of testimony of Dr. van der Weide: One of skill in the photographic arts understands the wide variety of illumination types available for lighting a subject, and therefore understands “adequate” in this context.</p> <p>“...a shield with variable transmittance is contemplated.” 19:1 and 21:9.</p> <p>If “lighting means are triggered remotely or upon a sequencing event the same can be controlled manually or through computer assistance.” 4:62-64.</p> <p>5:34-59</p>
allows for manipulation of said person or portion thereof	41	N	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about a vertical axis.	<p>Cl. 41 and Cl. 42 each claim 360 degrees of an orthogonal axis</p> <p>Substance of testimony of Dr. van</p>

in a range of 360 degrees on the vertical axis				<p>der Weide: One of skill understands that $360+360=720$ degrees.</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5</p>
allows for manipulation of said person or portion thereof in a range of 360 degrees on the horizontal axis	42	N	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about a horizontal axis.	<p>Cl. 41 and Cl. 42 each claim 360 degrees of an orthogonal axis</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands that $360+360=720$ degrees.</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5</p>
allows for viewing of said person or portion thereof on the z-axis	43	N	The person or portion of a body to be imaged can be viewed in 360 degrees about the z-axis.	<p>Element 108 Fig. 1 and Element 308 Fig. 3</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands the cylindrical coordinate system as is taught in elementary geometry, and further understands that the z-axis is the line of symmetry about which a cylinder is oriented.</p>
proportionate dimensions	44	N	The dimensions of the enclosure are proportionate to the dimensions of the person or portion of a body to be	<p>“In practice, the array can vary greatly. For use in smaller examinations, e.g., the scalp, it is</p>

			imaged.	<p>suggested that less imaging devices 203 would be required to generate a complete image.” 19:33-37.</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands that the size of the examination (e.g. full-body vs. scalp) will determine the dimensions of the enclosure, which is taught to be proportional to the size of the examination.</p>
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control device	46, 48, 49, 50	N	Device capable of controlling imaging devices and/or light sources.	Abstract; 4:62-5:2; 19:28-32; 20:24-30.
first means for receiving and enclosing a person or portion thereof	51, 54	Y	An enclosed structure and equivalents thereof	<p>“TIP comprises an image acquisition device that is further comprised of an enclosed structure that is and can be designed and assembled according to the human physiology to be analyzed such that the enclosed structure maximizes the ease of acquisition of the human body with traditional and/or digital photography” 4:11-16</p> <p>“Contained within the enclosed structure are devices capable of "photographing" the body in a static position (motion or time-lapsed photography is also be provided for). ” 4:24-27</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging” 5:3-5</p> <p>“The panels are interconnected to form an enclosed structure” 18:45; 19:50-51; 20:46-47</p> <p>“TIP, in a preferred embodiment, comprises an enclosed structure that may be sized in accordance with an entire person, or individual body parts” Abstract</p> <p>“The system may be sized in any fashion to accord with the application.” 18:35-36</p> <p>“In this particular embodiment, an 8-sided polygon...” 18:46 and Fig. 1</p> <p>“The shape is arbitrary, however, the only requirement is that</p>

				<p>the panels are set up in mirrored pairs.” 18:47-48; 19:52-54; 20:48-50.</p> <p>Substance of testimony of Dr. van der Weide: One of skill would understand that the enclosure is configured to receive a person or portion thereof, but that the shape of the enclosure is arbitrary. In a narrower sense, the shape is substantially circular, as informed by 18:46 and “the specified imaging position defines a centerline” (Cl. 1, 6, 51, 54). Also see Element 108 Fig. 1 and Element 308 Fig. 3.</p> <p>Enclosure: “An area partially or entirely enclosed by walls or buildings” Roget’s II The New Thesaurus © 1980 ISBN 0-395-29605-6</p> <p>Enclosure: “something that encloses” https://www.merriam-webster.com/dictionary/enclosure</p> <p>Enclose: “...to surround with a fence” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Enclose: “to contain or hold” https://www.collinsdictionary.com/dictionary/english/enclose; http://www.dictionary.com/browse/enclose</p> <p>Enclose: “to include inside of something” http://www.yourdictionary.com/enclose</p> <p><u>Kenneth L. Bontrager, Textbook of Radiographic Positioning and Related Anatomy</u> (2001) p. 103, 336, 540.</p>
second means located within the first means for	51, 54, 55	Y	The markings at the center 108, 308 as shown in FIGS. 1, 3 and 5 and equivalents thereof.	<p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 108 of the device 100 with sufficient comfort. However, if the particular application is for the</p>

specifying an imaging position for placing the person or portion thereof within the first means wherein the second means defines a centerline				<p>examination of something smaller, the scalp, for example, the device could be made smaller such that just a person's cranium would fit comfortably at center 108.” 18:33-43</p> <p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 308 of the device 300 with sufficient comfort. However, if the particular application is for the examination of something smaller, the scalp, for example, the device could be made smaller such that just a person's cranium would comfortably at center 308.” 19:37-48</p> <p>“For example, should the system be used to image an entire person, the system will be sized such that the person could easily stand at the center 108 of the device 100 with sufficient comfort. However, if the particular application is for the examination of something smaller, the scalp, for example, the device could be made smaller such that just a person's cranium would fit comfortably at center 108.” 20:34-44</p> <p>“The computer 501 is used to process the individual images garnered from each imaging device of each imaging array 102 and 507 through 519 to create a non-occluded image of the subject within system 100, and preferably, at center 108.” 21:40-44</p> <p>“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging. When in position, the camera device and enhancement, if not engaged, are so engaged and the image(s) obtained.” 5:3-7</p> <p>“With subject placement, the camera array coordinates and</p>
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				<p>distances are known in relation to the subject.” 4:42-43</p> <p>“Contained within the enclosed structure are devices capable of ‘photographing’ the body in a static position” 4:24-25</p> <p>“These fourteen (14) panels should be set forth in such that one panel has a ‘mirror image’ panel.” 4:18-19</p> <p>“The shape is arbitrary, however, the only requirement is that the panels are set up in mirrored pairs.” 18:47-48; 19:52-54; 20:48-50</p> <p>“a plurality of the imaging devices are located on opposite sides of the centerline of the specified imaging position relative to each other” 22:8-9 (Cl. 1)</p> <p>“wherein said at least two light sources are positioned symmetrically relative to the center line of the specified imaging position” 22”29-30 (Cl. 4)</p> <p>“a second imaging array spaced a predetermined distance relative to the specified imaging position, and laterally spaced adjacent to the first imaging array on an opposite side of the centerline of the specified imaging position relative to the first imaging array” 22:41-45 (Cl. 5)</p> <p>“a plurality of the imaging means are located on opposite sides of the centerline of the specified imaging position relative to each other” 25:31-33 (Cl. 51)</p> <p>“each imaging array is located on an opposite side of at least one respective imaging array relative to the center line of the specified imaging position” 25:54-56 (Cl. 53)</p>
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				<p>“a second imaging array spaced a predetermined distance relative to the second means, and laterally spaced adjacent to the first imaging array on an opposite side of the centerline of the second means relative to the first imaging array” 25:64-67 (Cl. 54)</p> <p>The markings at center 108 and center 308 in FIGS. 1, 3 and 5 defining a centerline.</p> <p>Substance of testimony of Dr. van der Weide: One of skill understands the cylindrical coordinate system as is taught in elementary geometry, and further understands that the z-axis is the line of symmetry about which a cylinder is oriented</p> <p>File history 10/26/2006 Response to non-final rejection at 14-18</p> <p>Specify: “Identify clearly and definitely” https://en.oxforddictionaries.com/definition/us/specify</p> <p>Specify: “fix definitely” http://lookwayup.com/lwu.exe/lwu/d?s=f&w=specify#v/688901</p> <p>Specify: “to mention or name specifically [] or definitely” http://www.dictionary.com/browse/specify?s=t</p> <p>Specified: “Particularized” http://webstersdictionary1828.com/Dictionary/specified</p> <p>Centerline: “A real or imaginary line through the center of something, especially one following an axis of symmetry.” https://en.oxforddictionaries.com/definition/us/centerline</p>
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thermal energy	58	N	Plain and ordinary meaning	<p>Thermal: “of, relating to, or caused by heat” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Heat: “a form of energy...” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p> <p>Substance of testimony of Dr. van der Weide: One of skill would recognize thermal energy as arising from the infrared (20:21) portion of the electromagnetic spectrum.</p> <p>See also Cls. 14, 17, 21, 29, 58 and 63</p>
capable of imaging and storing an image of said person or portion thereof	61	N	An imaging device configured to acquire an image of a person or portion of a body and store the image for analysis.	<p>“The present invention allows for subject acquisition, data collation, data aggregation, data dissemination, data manipulation, data viewing in a preferable medium and analysis of a subject patient's skin surface, or other body tissue and, therefore, providing for the subject tissue's analysis such that relevant determinations may be made.” 3:53-59</p> <p>5:7-19</p>
accurate image	69	N	Plain and ordinary meaning	<p>Accurate: “free from error” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.</p>

				Image: “a likeness or imitation of a person or thing” The Merriam-Webster Dictionary © 1977 ISBN 0-87779-911-3.
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means for monitoring the illumination	70	Y	Exposure meter	<p>See, e.g., definition of “Exposure meter” (Magic of B&W p. 101)</p> <p>Substance of testimony of Dr. van der Weide: One of skill would understand from the photographic arts what instrumentation or sensor can be used for monitoring or measuring illumination.</p> <p>5:34-59</p>
means for adjusting the level of illumination	70	Y	Interaction and adjustment of the illumination level may be accomplished manually or electronically with computer assistance.	<p>See, e.g. definitions for “Available light”, “Backlighting”, “Bottom lighting”, “Diffused light”, “Fill-in light”, “Frontlighting”, “Hard light”, “Photolamp”, “Rimlighting”, “Sidelighting”, “Soft light”, and “Tungsten light” (Magic of B&W pp. 100-102)</p> <p>Substance of testimony of Dr. van der Weide: One of skill would understand from the photographic arts how the level of illumination can be adjusted, particularly in connection with means for monitoring the illumination.</p> <p>“a shield with variable transmittance is contemplated” 19:1 and 21:9.</p> <p>If “lighting means are triggered remotely or upon a sequencing event</p>

				the same can be controlled manually or through computer assistance.” 4:62-64. 5:34-59
means for viewing images connected to said plurality of imaging means, wherein said viewing means is capable of rendering a two dimensional rendition	71	Y	Viewing medium such as a computer.	“The present invention allows for subject acquisition, data collation, data aggregation, data dissemination, data manipulation, data viewing in a preferable medium and analysis of a subject patient's skin surface, or other body tissue and, therefore, providing for the subject tissue's analysis such that relevant determinations may be made.” 3:53-59 5:7-12; 21:40-44.
means for manipulating said person or portion thereof 360 degrees	71	Y	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about an axis.	“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5
allows manipulation of said person or portion thereof on the horizontal axis	72	N	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about a horizontal axis.	“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5
allows manipulation of said person or portion thereof on the vertical axis	73	N	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about a vertical axis.	“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5

allows manipulation of said person or portion thereof on the z-axis	74	N	The person or portion of the body to be imaged can be placed in position for imaging 360 degrees about the z-axis.	“The subject patient or physiological area would enter or be placed into the TIP enclosed structure, and if need be into the specified position for imaging.” 5:3-5
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1 *Canfield Scientific, Inc. v. Melanoscan, LLC and Dr. Rhett Drugge*
 2 U.S. District Court, District of New Jersey, Civil Action No. 2:16-cv-04636

3 **CERTIFICATE OF SERVICE**

4 I, the undersigned, am employed in the county of San Diego, State of
 5 California. I am over the age of eighteen (18) years and am not a party to the within
 6 action. My business address is 401 West A Street, Suite 1900, San Diego, California,
 7 92101.

8 On May 4, 2018, I caused to be served the following document:

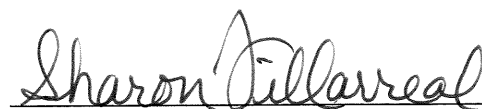
9 **DEFENDANTS', MELANOSCAN, LLC AND DR. RHETT DRUGGE,**
 10 **JOINT CLAIM CONSTRUCTION AND PRE-HEARING STATEMENT**
 11 **(w/ Exhibits A-B)**

12 on the parties in this action by the following method of service:

13 **[SEE ATTACHED SERVICE LIST]**

14 ☒ **BY ELECTRONIC TRANSMISSION VIA ECF** – I electronically filed the
 15 foregoing document(s) with the Clerk of the Court through the CM/ECF system for
 16 the United States District Court, Southern District of California, which sent
 17 Notification of Electronic Filing to the persons listed. Upon completion of
 18 transmission of said documents, a certified receipt is issued to the filing party
 19 acknowledging receipt by the CM/ECF system.

20 I declare under penalty of perjury that the foregoing is true and correct.
 21 Executed on May 4, 2018, at San Diego, California.

22 

23 Sharon Villarreal
 24
 25
 26
 27
 28

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2 U.S. District Court, District of New Jersey, Civil Action No. 2:16-cv-04636

3 **CERTIFICATE OF SERVICE**

4 **SERVICE LIST**

5 David C. Stanziale, Esq.
6 DAVID C. STANZIALE LLC
7 552 High Mountain Road, Suite 3
8 North Haledon, NJ 07508
9 Tel: (973) 955-0470
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