UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

CASE NO.: 6:23-cv-00920

YOLDAS ASKAN,

Plaintiff,

v.

FARO TECHNOLOGIES, INC.,

Defendant.

AMENDED COMPLAINT FOR PATENT INFRINGEMENT (INJUNCTIVE RELIEF DEMANDED)

Yoldas Askan sues Defendant FARO Technologies, Inc. ("FARO") and states as follows:

JURISDICTION AND VENUE

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. §§ 271, et. seq.

2. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331, and 28 U.S.C. § 1338(a).

3. Venue properly lies within this Judicial District under 28 U.S.C. § 1400(a) because defendant FARO is a Florida corporation with its principal place of business in this district and a substantial part of the events or omissions giving rise to the claims in this suit occurred in this district.

PARTIES

4. Plaintiff Yoldas Askan ("Askan"), is an individual residing at 51 Pinfold St., Suite 542, Birmingham, B2 4AY, United Kingdom. Askan is a mathematician, physicist, and software developer with high degrees in mathematics and physics. He is a recognized expert in processing point cloud data from 3-D laser scanners.

5. Defendant FARO Technologies, Inc. ("FARO") is incorporated in the State of Florida and is headquartered at 250 Technology Park, Lake Mary, FL 32746.

FACTS

6. I, Yoldas Askan, Plaintiff, under the United States penalties of perjury, do solemnly swear and affirm that the facts provided in this complaint are the truth, the whole truth, and nothing but the truth.

7. Askan requests that, in a similar move, FARO and its representatives provide their answer to this complaint fully, accurately and under oath of truth.

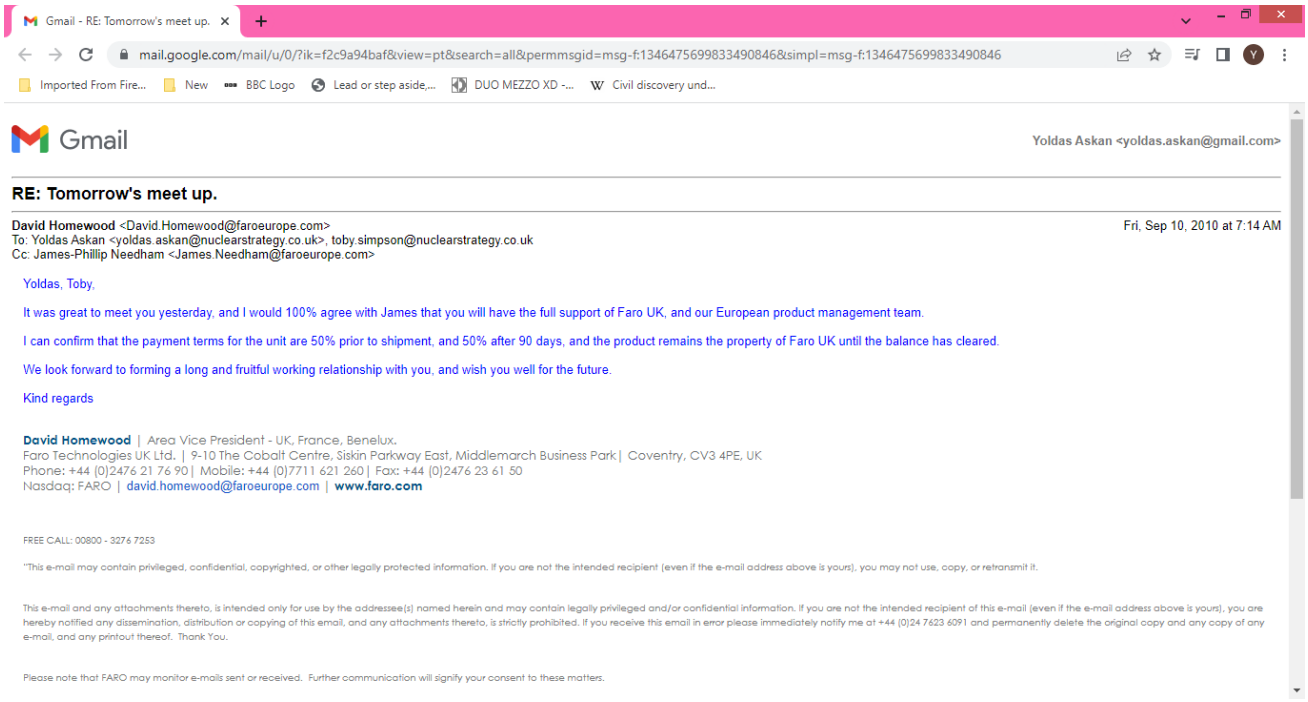
8. Askan is a Mathematician and Computer Programmer.

9. In December 2010, Askan purchased an S-PHOTON 120-DEMO-PH P3D laser scanner from FARO to develop his software.

10. Prior to the sale of the scanner, FARO promised a business partnership with Askan.

11. David Homewood, Area Vice President - UK, France, Benelux, writing specifically in Sep 10, 2010, "*We look forward to forming a long and fruitful working relationship with you, and wish you well for the future*."

12. David Homewood Sep 10, 2010 email provided is below,



Gmail - RE: Tomorrow's meet up.

mail.google.com/mail/u/0/?ik=f2c9a94baf&view=pt&search=all&permmsgid=msg-f:1346475699833490846&simpl=msg-f:1346475699833490846

Imported From Fire... New BBC Logo Lead or step aside,... DUO MEZZO XD -... Civil discovery und...

Gmail

Yoldas Askan <yoldas.askan@gmail.com>

RE: Tomorrow's meet up.

David Homewood <David.Homewood@faroeurope.com> Fri, Sep 10, 2010 at 7:14 AM
To: Yoldas Askan <yoldas.askan@nuclearstrategy.co.uk>, toby.simpson@nuclearstrategy.co.uk
Cc: James-Phillip Needham <James.Needham@faroeurope.com>

Yoldas, Toby,

It was great to meet you yesterday, and I would 100% agree with James that you will have the full support of Faro UK, and our European product management team.

I can confirm that the payment terms for the unit are 50% prior to shipment, and 50% after 90 days, and the product remains the property of Faro UK until the balance has cleared.

We look forward to forming a long and fruitful working relationship with you, and wish you well for the future.

Kind regards

David Homewood | Area Vice President - UK, France, Benelux.
Faro Technologies UK Ltd. | 9-10 The Cobalt Centre, Siskin Parkway East, Middlemarch Business Park | Coventry, CV3 4PE, UK
Phone: +44 (0)2476 21 76 90 | Mobile: +44 (0)7711 621 260 | Fax: +44 (0)2476 23 61 50
Nasdaq: FARO | david.homewood@faroeurope.com | **www.faro.com**

FREE CALL: 00800 - 3276 7253

"This e-mail may contain privileged, confidential, copyrighted, or other legally protected information. If you are not the intended recipient (even if the e-mail address above is yours), you may not use, copy, or retransmit it.

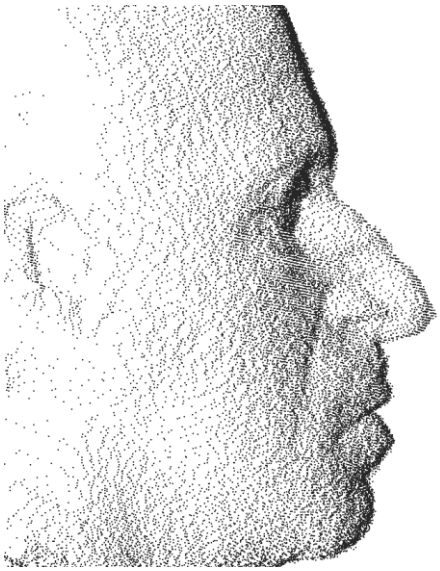
This e-mail and any attachments thereto, is intended only for use by the addressee(s) named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail (even if the e-mail address above is yours), you are hereby notified any dissemination, distribution or copying of this email, and any attachments thereto, is strictly prohibited. If you receive this email in error please immediately notify me at +44 (0)24 7623 6091 and permanently delete the original copy and any copy of any e-mail, and any printout thereof. Thank You.

Please note that FARO may monitor e-mails sent or received. Further communication will signify your consent to these matters.

13. A 3D scanner emits laser beams in a systematic fashion to collect three-dimensional data to analyze real-world objects or environment.

14. The collected data commonly referred to as a "point cloud" can be used to construct digital 3D models.

15. For example, the 3D scan, or a point cloud, of a person generated by a 3D scanner is shown as below,



16. The scanners sold by FARO and the scanner Askan purchased from FARO were prone to noise.

17. "Noise" in this context is the erratic fluctuation of distance values revealed on the surface of point clouds, as shown in the below image, (close up of image at Par. 15)

18. Scanners manufactured and sold by FARO prior to 2011 produced raw untreated data, showing noise, as shown in figures of Par 15 and 17.

19. It is an axiomatic fact that had FARO treated noise prior to printing or displaying the 3D scan then FARO scanner users like Askan would not have accessed or observed noise on scans, figures of Par 15 and 17.

20. FARO provided optional external tools for post-processing.

21. "Post-processing" in this context is tools to treat noise on raw scans after scans are taken and available to users.

22. "Post-processing" is aimed at providing smooth, noise-free feel of scans with variable success.

23. FARO provided post processing "Smooth" filtering as post-processing.

24. FARO described "Smooth" filtering as; "*The smoothing filter is ideally suited for reducing the noise in the scans*."

25. FARO acknowledged deficiencies of its "Smooth" filter; "*However, you should not apply the filter to edges or highly detailed objects as the filtering will have a smoothing effect, causing some features to be blended into the surrounding points*."

26. FARO provided side-by-side images of a "raw" scan and the "Smooth" filtered counterpart to illustrate the destructions and/or alterations caused by "Smooth" filter to scans, as seen in the manual entitled E603 FARO Scene 4.5 Manual p. 24/155, as below,

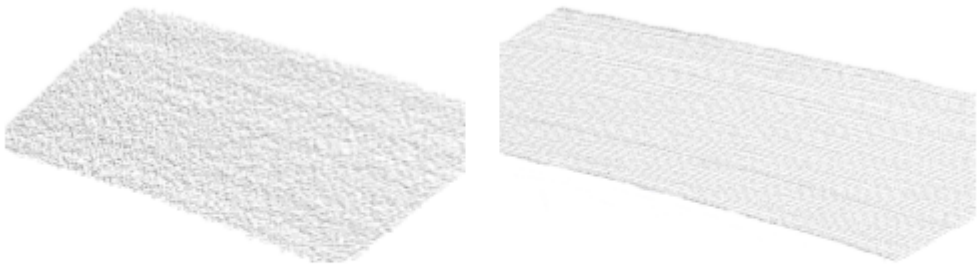


Figure 4-7: Smoothing of the floor

The smoothing filter is ideally suited for reducing the noise in the scans. However, you should not apply the filter to edges or highly detailed objects as the filtering will have a smoothing effect, causing some features to be blended into the surrounding points.

27. In 2010, Askan invented his technology in, "Smoothing point cloud surfaces from noisy raw 3D laser scanner generated data".

28. Askan's invention smoothes noisy point cloud surfaces whilst accentuating fine surface details, such as edges and fine features.

29. Raw scan of Par. 15 and 17 treated by Askan's inventive steps produces accurate 3D modeling of the scanned surfaces, as shown below,

30. FARO's "Smooth" filtering replaces a point distance value with the average of neighboring distance values.

31. By FARO's own admission, FARO's "Smooth" filtering function applied on raw noisy point clouds is destructive.

32. Askan's method iteratively replaces a point distance value with the average of neighboring distance values.

33. Askan's method enhances the point-cloud fine features, as shown in Par 29 images.

34. A repetitive application of a destructive method becoming or developing into a useful technique is counterintuitive.

35. Nuclear Engineers Institute in London published Askan's invention in the Nuclear Future Journal Volume 7, Issue 4 date June 2011.

36. FARO was sent an email notification of this issue.

37. FARO received and studied Askan's article in this issue.

38. FARO evaluated Askan's invention presented in this article.

39. FARO posted the article on their FARO.com website in various languages.

40. FARO later destroyed most of these versions.

41. FARO did not destroy the German version.

42. German version is still visible at, [https://media.faro.com/-/media/Project/FARO/FARO/FARO/Resources/2021/01/29/00/36/Case-Study-GEOPTICKS--NUKLEARE-SICHERHEIT--REMOTE-DEPLOYMENT-MIT-LASERSCANNERN-DEU.pdf?rev=22149c9d095f459a875042af3ef3a2ff]

"Gegenwärtig produziert FARO die effektivsten und kostengünstigsten 3D-Laserscanner auf dem Markt: Focus^{3D}."
YOLDAS ASKAN
CHIEF EXECUTIVE BEI GEOPTICKS

FARO user story 08/2011

Nukleare Sicherheit – Remote Deployment mit Laserscannern in kontaminierten Umgebungen mit Software zur Abbildung von Deformationen für 3D-Punktewolken-Modelle

EIN ZENTRALER SICHERHEITSASPEKT *beim* ployment mit Laserscannern in kontaminierten darin, dass jede präzise vernetzte Flächennor-

4 Portabel: Mit einem Gewicht von lediglich 5,0 kg ist der Laser Scanner einfach zu transportieren

WWW.FARO.COM/FOCUS

men, erhöht sie doch den Nutzen von Laserscannern in einem Bereich, in dem noch so kleine, aber mitunter bedeutende Abmessungsveränderungen mittels kontaktloser Methoden gemessen werden müssen. Wir freuen uns, dass uns diese neue Technologie nun zur Verfügung steht."

Dank der hervorragenden Oberflächengestaltung können mathematische Operationen durchgeführt werden – die Subtraktion der überlappenden Normalenlängen erlaubt die Berechnung des Abstands zwischen zwei vernetzten Oberflächen oder, mit anderen Worten, die Feststellung der Breite von Oberflächenablenkungen oder -verformungen.

Abbildung 4 zeigt die akkurate Überlagerung zweier durch Point Cloud Engineering erzeugter Punktewolkenmodelle. Der Vergleich mit der Punktewolke aus einem früheren Scan deckt in der Zwischenzeit aufgetretene Oberflächendefekte auf. Die 2D-Darstellung in Abbildung 4 zeigt alle Deformationen – ob Ausdehnungen oder Kontraktionen. Die Präzision der mit einem bearbeiteten Scan erkannten Oberflächendefekte liegt bei Verwendung eines Phase-Shift-Laserscanners mit mittlerer Reichweite im Bereich von erstaunlichen 0,1–1.000 mm. Die einzigartige S-DELTA-Software von Geopticks zur präzisen Abbildung von Oberflächen mit Hilfe einer kontaktlosen Methode ist eine aktuelle Errungenschaft, die in der Lage ist, Oberflächendefekte, -deformationen und topographische Merkmale zu erkennen. Die Möglichkeit der Identifizierung kleinster Oberflächenveränderungen mit S-DELTA erlaubt die Feststellung und Quantifizierung von Schäden direkt nach deren Auftreten. Darüber hinaus liefern die umfassenden Abbildungen von Oberflächendeformationen nicht

Wartung und unterstützen den Außerbetriebnahmeprozess. Sie tragen in bedeutendem Maß zu den Sicherheitsstandards im sicherheitskritischen Nuklearsektor bei. Yoldas Askan, Chief Executive bei Geopticks, dazu:

„Gegenwärtig produziert FARO die effektivsten und kostengünstigsten 3D-Laserscanner auf dem Markt: Focus^{3D}. Nach umfassender Recherche und Analyse kamen wir zu dem Schluss, dass der FARO-Scanner überlegen ist, weil seine Rohdaten sich als einzige Punktewolkendaten in rauschfreie, glatte Oberflächen umwandeln lassen, bei denen dennoch die Originaldichte der Punktewolke erhalten bleibt."

ÜBER GEOPTICKS

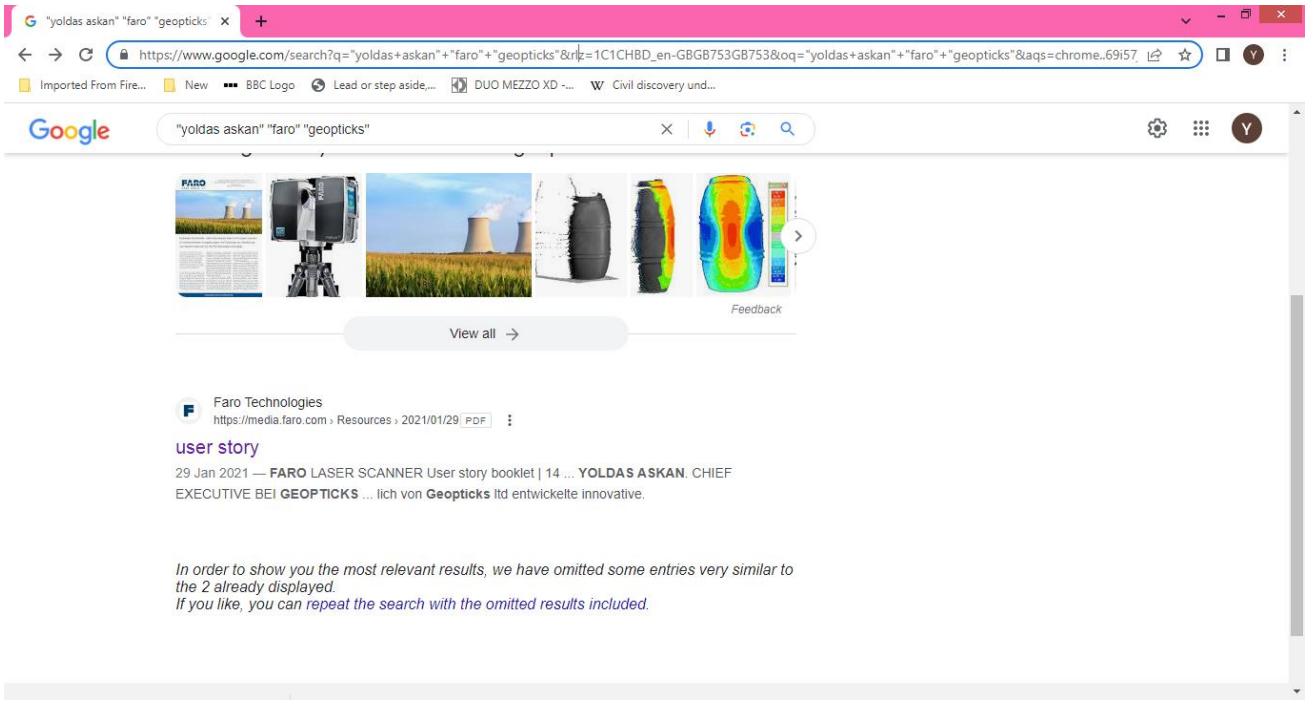
Geopticks ist ein Laserscanning-Unternehmen mit Sitz in Bedford, Großbritannien. Geopticks hat einen wissenschaftlichen Ansatz für das 3D-Laserscanning und Point Cloud Engineering entwickelt, mit dem eine rauschfreie Punktewolke erzeugt werden kann. Damit stellt das Unternehmen der Vermessungsbranche sowie den Ingenieurwissenschaften bisher unbekannte Technologien und Möglichkeiten, wie z. B. präzise Deformationsmodellierung, zur Verfügung.Die Software S-DELTA von Geopticks genießt weit verbreitete Anerkennung und wird erfolgreich angewandt. S-DELTA ist das einzige Software-Tool, das Oberflächendeformationen mithilfe von 3D-Laserscannern, wie z. B. den FARO-Laserscannern Photon oder Focus^{3D}, abbilden kann. Anwendungsbereiche von Geopticks-Produkten: Atomindustrie, Transportwesen, Unfall- und forensische Untersuchungen, Denkmalpflege, geologische

43. FARO is expected to destroy the German version of the page, as FARO now knows the website is still active.

44. Between the first issue of the complaint filed in May 18, 2023 and present amendment, FARO destroyed the website evidence cited in Par 42.

45. Google search however still shows the archive of the website in Par 42 with Plaintiff name, his business and his technology on Defendants website FARO.COM

[https://www.google.com/search?q=%22yoldas+askan%22+%22faro%22+%22geopticks%22&rlz=1C1CHBD_en-GBGB753GB753&oq=%22yoldas+askan%22+%22faro%22+%22geopticks%22&aqs=chrome..69i57j33i10i160l2.16136j0j15&sourceid=chrome&ie=UTF-8]



46. On June 26, 2023, Askan notified the Defendants that the website evidence was deliberately destroyed in order to deny the allegations. Plaintiff Askan asks for a copy of the destroyed article attached to this complaint.


Gmail - FARO destroyed website

mail.google.com/mail/u/0/?ik=f2c9a94baf&view=pt&search=all&permmsgid=msg-a:r-5191298177092337119&simpl=msg-a:r-5191298177092337119

Imported From Fire... New BBC Logo Lead or step aside,... DUO MEZZO XD -... Civil discovery und...

Gmail

Yoldas Askan <yoldas.askan@gmail.com>

FARO destroyed website evidence in order for you to deny the allegations.

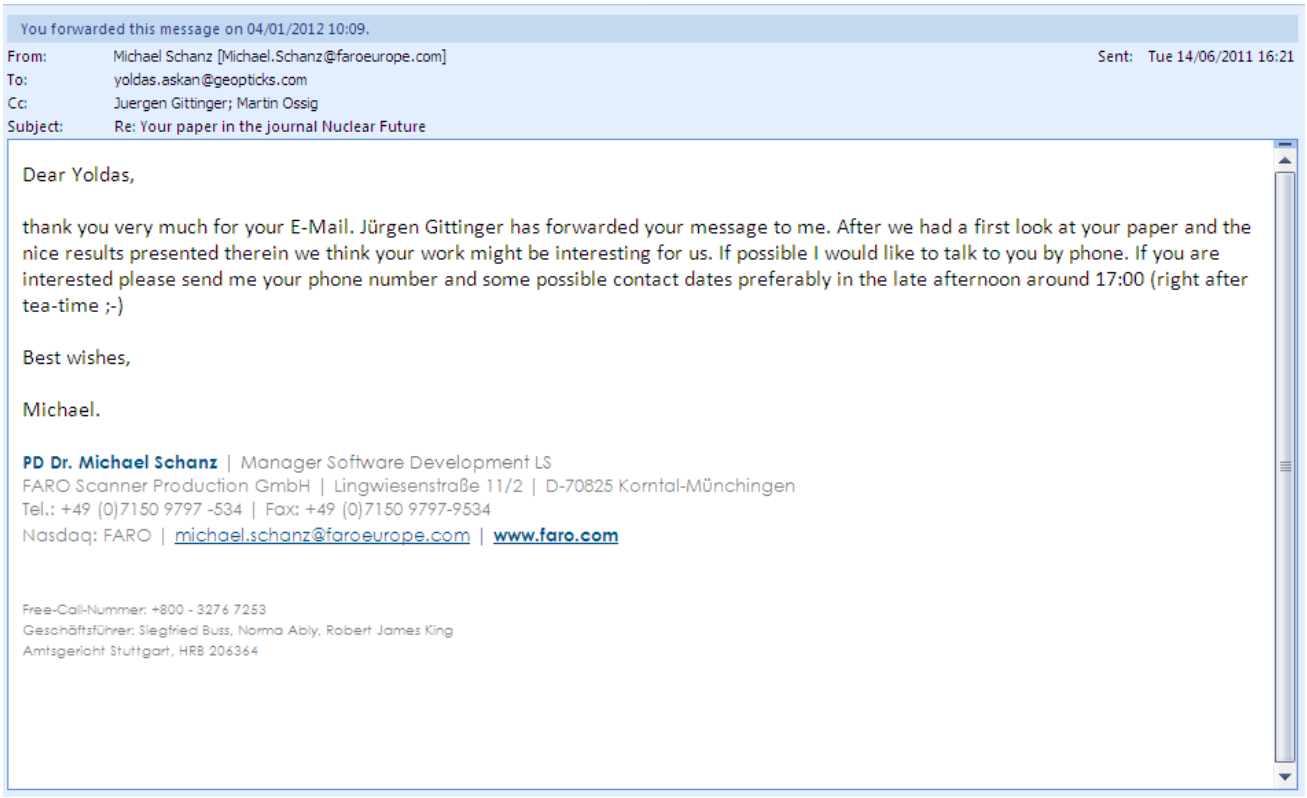
CY ASKAN <yoldas.askan@gmail.com> Mon, Jun 26, 2023 at 9:46 AM
To: Lloyd Farr <Lloyd.Farr@nelsonmullins.com>, Nicolette Vilmos <nicolette.vilmos@nelsonmullins.com>

FARO destroyed the website evidence:

https://media.faro.com/-/media/Project/FARO/FARO/FARO/Resources/2021/01/29/00/36/Case-Study-GEOPTICKS--NUKLEARE-SICHERHEIT--REMOTE-DEPLOYMENT-MIT-LASERSCANNERN-DEU.pdf?rev=22149c9d095f459a875042af3ef3a2ff

47. FARO requested to implement Askan's technology in FARO scanners.

48. FARO's Software Development LS Manager, PD Dr. Michael Schanz wrote, "*After we had a first look at your paper and the nice results presented therein we think your work might be interesting for us.*" Where "*your paper*" refers to the publication referred to in Par 35.



You forwarded this message on 04/01/2012 10:09.

From: Michael Schanz [Michael.Schanz@faroeurope.com] Sent: Tue 14/06/2011 16:21
To: yoldas.askan@geopticks.com
Cc: Juergen Gittinger; Martin Ossig
Subject: Re: Your paper in the journal Nuclear Future

Dear Yoldas,

thank you very much for your E-Mail. Jürgen Gittinger has forwarded your message to me. After we had a first look at your paper and the nice results presented therein we think your work might be interesting for us. If possible I would like to talk to you by phone. If you are interested please send me your phone number and some possible contact dates preferably in the late afternoon around 17:00 (right after tea-time ;-)

Best wishes,

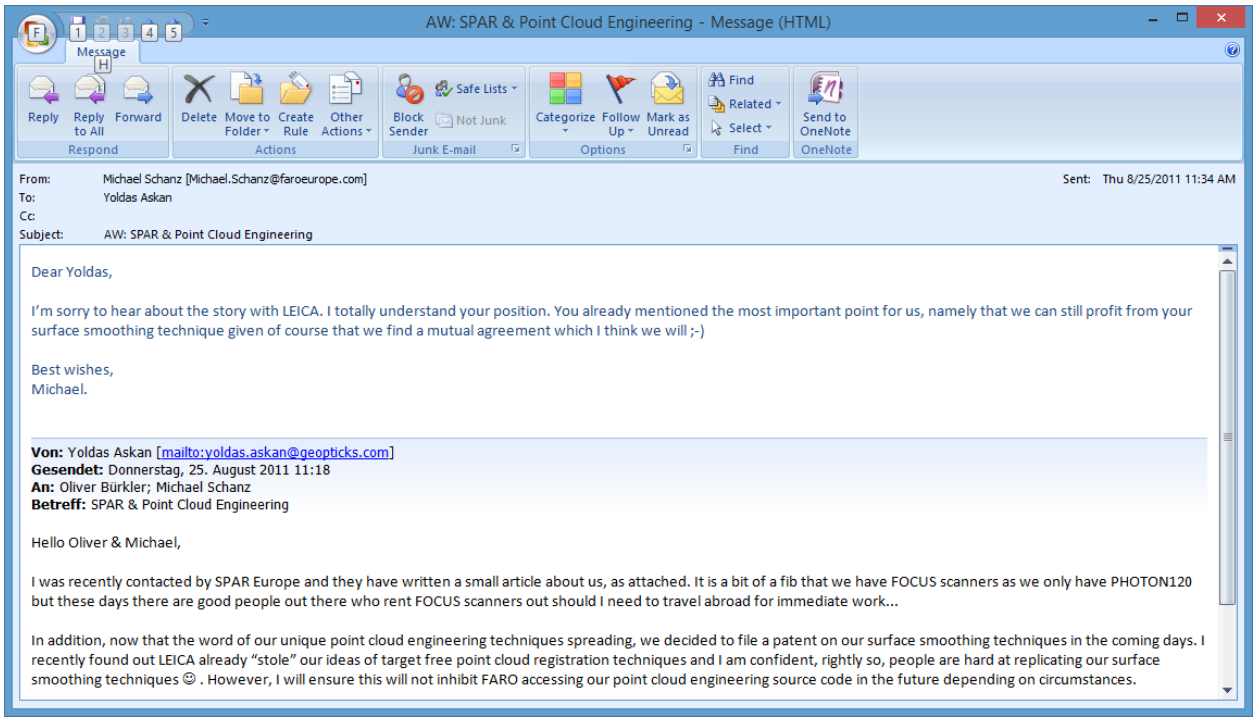
Michael.

PD Dr. Michael Schanz | Manager Software Development LS
FARO Scanner Production GmbH | Lingwiesenstraße 11/2 | D-70825 Korntal-Münchingen
Tel.: +49 (0)7150 9797 -534 | Fax: +49 (0)7150 9797-9534
Nasdaq: FARO | michael.schanz@faroeurope.com | **www.faro.com**

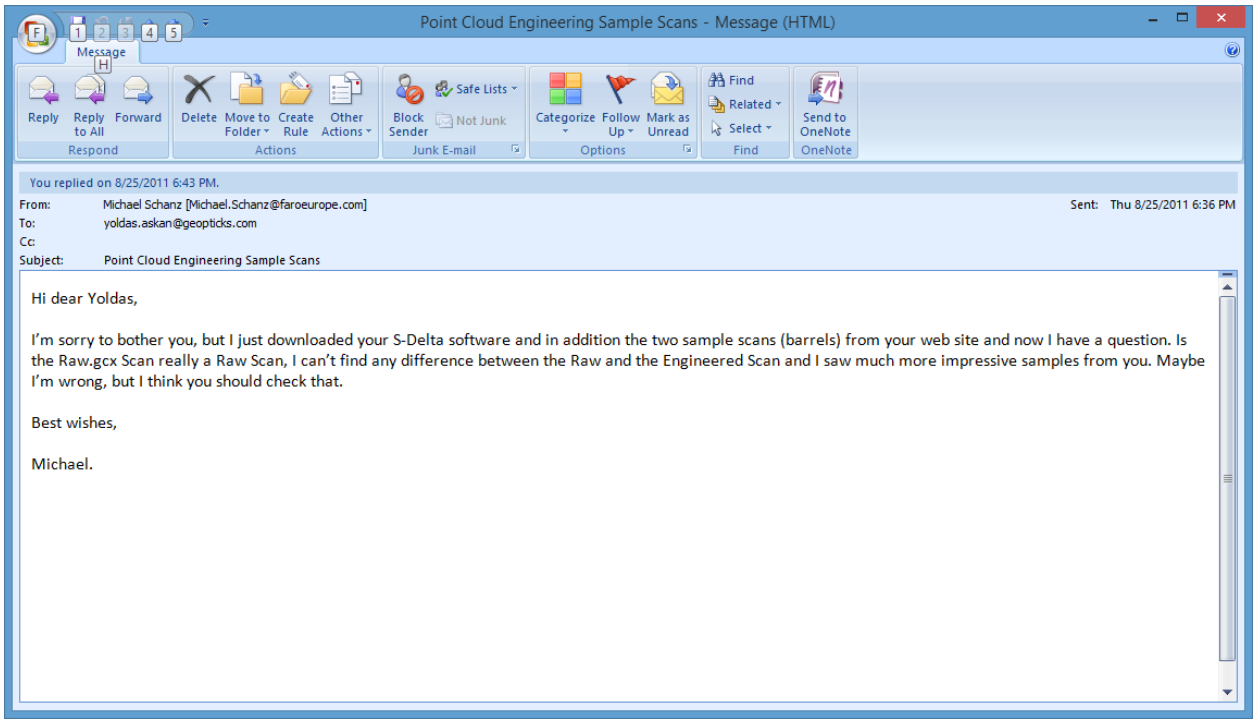
Free-Call-Nummer: +800 - 3276 7253
Geschäftsführer: Siegfried Buss, Norma Ably, Robert James King
Amtsgericht Stuttgart, HRB 206364

49. FARO wanted to profit from Askan's invention.

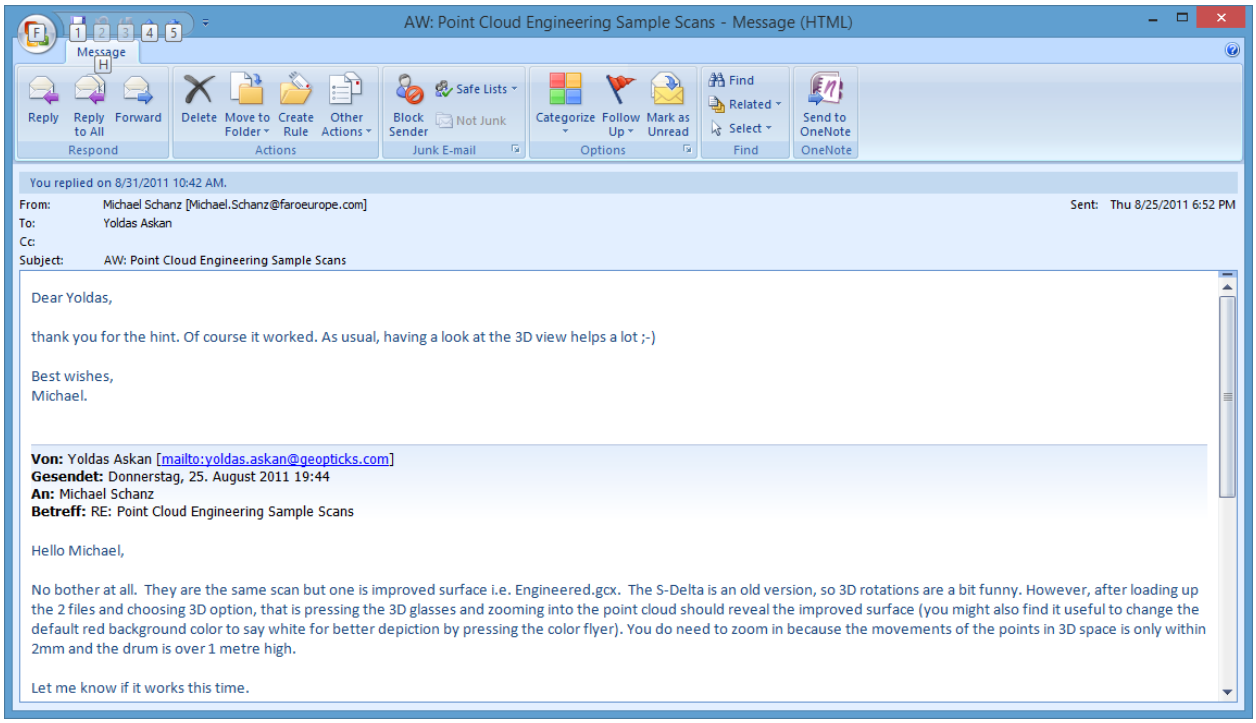
50. FARO's Software Development LS Manager, PD Dr. Michael Schanz on Aug 25, 2011, wrote an email in which mentioned, "*the most important point for us, namely that we can still profit from your surface smoothing technique given of course that we find a mutually agreement which I think we will ;-)*"



51. FARO downloaded Askan's software,



52. FARO studied and reverse engineered Askan's scans and software,



53. FARO learnt Askan's inventive steps.

54. FARO begun to treat raw data inside their in-camera processor.

55. In October 8, 2013, FARO ran an article on SPAR 3D website claiming, "*New Focus3D scanner cuts noise by 50% at nearly 3x range*". https://www.spar3d.com/news/hardware/new-focus3d-scanner-cuts-noise-by-50-at-nearly-3x-range/ [Destroyed evidence] https://www.geoweeknews.com/news/new-focus3d-scanner-cuts-noise-by-50-at-nearly-3x-range [Active link created on October 8, 2013]

56. FARO's software developer Juergen Gittenger based in Germany (Juergen.Gittinger@faroeurope.com) emailed Askan in November 08, 2011 15:00hrs, months after inquiring about Askan's software and confirmed the use of Askan's

technology, "*taking the distance measurements of 4 or more neighboring scan points together and calculating the mean value of it*".

57. Indeed in the related prior case, 6:21-cv-01366, FARO employee Jurgen Gittinger confirmed use to Askan's technology:

> 9. Once SCENE has read the scan data from the FOCUS scanner, portions of each of the 2019 Code and the 2020 Code can change the distance values of scan points by replacing the distance value of a given scan point with a mean distance value of scan points within a 2D grid, provided certain criteria are met. The source code executing, setting variables used by, and invoking such functions in the 2019 Code did not change in the 2020 Code and was also the same in all SCENE versions from the 2019 Code to SCENE version 2022.0. Neither the 2019 Code nor the 2020 Code, nor any other version from the 2019 Code to SCENE version 2022.0, executes any other algorithm that addresses averaging distance values of scan points. As such, that functionality of averaging distance values in the 2019 Code was not modified in the 2020 Code or in any SCENE code through SCENE 2022.0.

58. Par 55 confirms FARO moved Askan's invention inside their in-camera processor.

59. It is axiomatic fact that FARO would not operate their original "Smooth" filtering function inside their in-camera processor, which FARO recognized as destructive.

60. FARO believes, because it had an external tool that averaged point cloud data, it has a right to deploy repetitive averaging, thereby producing smooth point cloud surfaces.

61. FARO now filters the data according to Askan's invention and outputs noise free scans.

62. FARO redefined their Noise Compression function and released a two page backdated "Software Tips and Tricks" paper containing the description outlined in Gittenger email.

63. FARO does not have a patent in a non-destructive smooth point cloud technology.

64. Askan patented his invention and obtained his three patents, U.S. Patent No. 8,705,110 (“the ’110 patent”), U.S. Patent No. 9,300,841 (“the ’841 patent”), and U.S. Patent No. 10,032,255 (“the ’255 patent”).

65. Askan sued FARO in June 21, 2018 for infringement of two U.S. patents that name him as the inventor:’841 patent and ’255 patent. Complaint, No. 6:18-cv-1122.

66. Askan sued FARO in August 20, 2021 for infringement of two U.S. patents that name him as the inventor:’841 patent and ’255 patent. Complaint, No. 6:21-cv-01366.

67. Askan filed Application Number 16/006,534 on 06-12-2018, which is pending claims the benefit of ’841 patent.

68. In the prior related cases, FARO stated, "*FARO also lacked any knowledge that any use of the FARO Focus 3D scanner would infringe*" on Askan patents.

69. In July 12, 2012 FARO's Vice President of Sales (Europe) David Homewood wrote a letter to Askan and inquired about Askan's patents, provided here,

FARO Technologies UK Ltd., 9-10 The Cobalt Centre, Siskin Park East
Middlemarch Business Park, CV3 4PE Coventry, UK

Mr Askan
Geopticks
25 Osborne Court
Ampthill
Bedford
MK42 9JE

Editor	Your ref	Our ref
David Homewood		
email	Phone / Fax	Place , Date
david.homewood@faroeurope.com	02476 217690	Coventry. 12.07.2012

Dear Mr Askan,

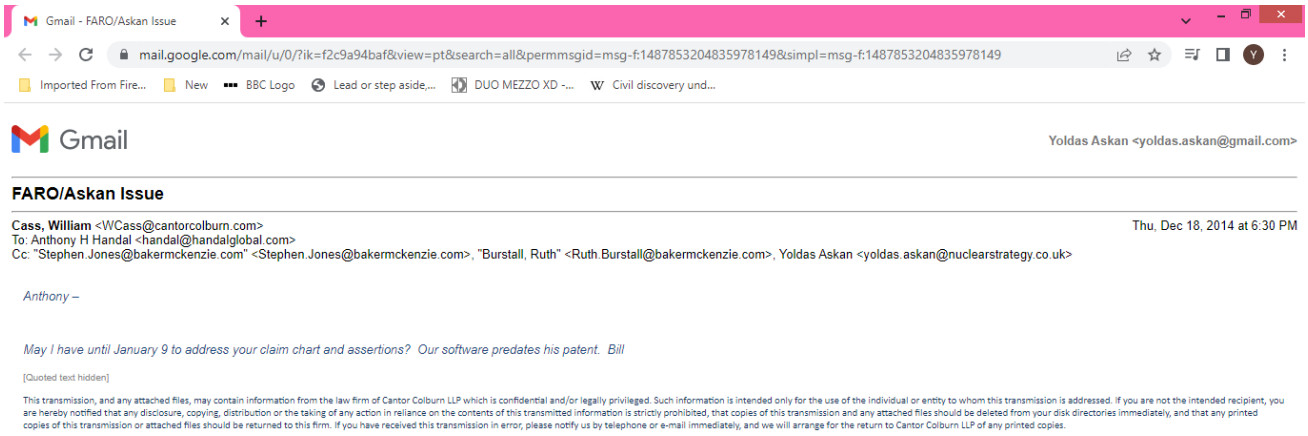
This letter has been written to respond to your various communications concerning whether FARO would be interested in exploring an enhanced business relationship beyond the integration of the Geopticks software that is currently provided under the FARO SDK agreement (software development kit).

As I understand from your recent discussions with my colleagues, you have made several enquires to determine whether FARO is interested in reselling or acquiring the Geopticks software. You have also mentioned a patent or patent application that you believe may be of interest. To the extent you believe there is an applicable patent or patent application of interest, please send it to my attention and we will consider it. At this point, FARO is not interested in acquiring your company's software or acting as a reseller. This is not a typical business model for FARO. Please address any future enquires to the undersigned.

Yours sincerely,

David Homewood
Vice President of Sales – Europe
FARO Technologies UK Ltd

70. On December Dec 18, 2014 FARO attorney William Cass emailed Askan representative Anthony Handal and stated, "*May I have until January 9 to address your claim chart and assertions? Our software predates his patent. Bill*",



Gmail - FARO/Askan Issue

mail.google.com/mail/u/0/?ik=f2c9a94baf&view=pt&search=all&permmsgid=msg-f:1487853204835978149&simpl=msg-f:1487853204835978149

Imported From Fire... New BBC Logo Lead or step aside,... DUO MEZZO XD -... Civil discovery und...

Gmail

Yoldas Askan <yoldas.askan@gmail.com>

FARO/Askan Issue

Cass, William <WCass@cantorcolburn.com> Thu, Dec 18, 2014 at 6:30 PM
To: Anthony H Handal <handal@handalglobal.com>
Cc: "Stephen.Jones@bakermckenzie.com" <Stephen.Jones@bakermckenzie.com>, "Burstall, Ruth" <Ruth.Burstall@bakermckenzie.com>, Yoldas Askan <yoldas.askan@nuclearstrategy.co.uk>

Anthony –

May I have until January 9 to address your claim chart and assertions? Our software predates his patent. Bill

[Quoted text hidden]

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71. FARO software using repetitive averaging could not predate Askan invention.

72. Otherwise, FARO would not query how Askan obtained his results.

73. FARO would have applied its patents.

74. In fact, Askan invented the technology.

75. Moreover, FARO was in full knowledge of Askan patents.

76. FARO committed perjury by stating it was not aware of Askan patents in the prior suits.

77. On March 26, 2023, a settlement conference between FARO and Askan took place.

78. FARO's so called Rule 408 meetings were disingenuous and rehash of earlier offers, which were rejected.

79. FARO's Rule 408 meeting was made in bad faith.

80. FARO's Rule 408 meeting was made in bad faith because FARO stated, "*Faro wants to pay Askan for dismissal of the case and pay US$300,000; Faro requests the transfer of Askan patents over to Faro; Faro has not valued Askan patents*".

81. In other words, Faro does not want to accept and acknowledge Askan's invention.

82. Faro simply wants bypass and safeguard itself from future Askan lawsuits.

83. "*Rule 408 amendment distinguishes statements and conduct (such as a direct admission of fault) made in compromise negotiations of a civil claim from an offer or acceptance of a compromise of such a claim. An offer or acceptance of a compromise of any civil claim is excluded under the Rule if offered against the defendant as an admission of fault. In that case, the predicate for the evidence would be that the defendant has admitted the validity and amount of the civil claim, and that this admission has sufficient probative value to be considered as evidence of guilt. See, e.g., Fishman, Jones on Evidence, Civil and Criminal, §22:16 at 199, n.83 (7th ed. 2000) ("A target of a potential criminal investigation may be unwilling to settle civil claims against him if by doing so he increases the risk of prosecution and conviction.")*".

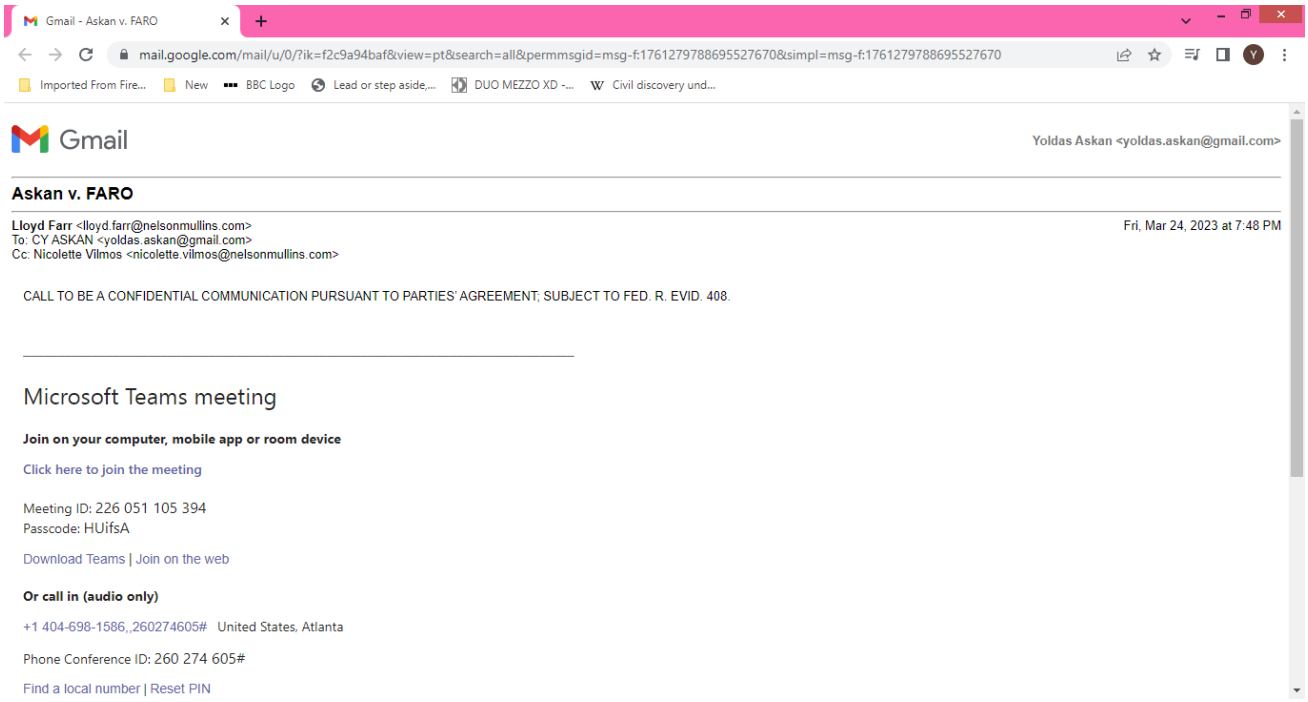
84. FARO set up March 26, 2023 Rule 408 meeting to cover earlier offers, which were not discussed under Rule 408.

85. Therefore, Plaintiff Askan has disclosed the Rule 408 meeting details according to the applicable law and in good faith.

86. Because of FARO's opposition, during the June 22, 2023 conferral meeting, Plaintiff Askan offered FARO to remove the discussion of Rule 408 meeting from the amended complaint in the understanding that it was disclosed in good faith.

87. FARO rejected Askan's offer of removal of Rule 408 discussion from the amended complaint.

88. FARO rejected Askan's offer because it is valuable to FARO to paint Askan as a bad character who publicly discloses FARO's confidential material and use that as an excuse to continue to hide the infringing source code.



89. During the March 26, 2023 settlement conference, FARO stated, "*FARO recognizes the strategic value of your patents*".

90. During the March 26, 2023 settlement conference, FARO requested transfer of ownership of Askan patents over to FARO.

91. FARO CEO Michael Burger total yearly compensation is between US$3m and US$5m, comprised of roughly 20.0% salary and 80.0% bonuses, including company stock and options.

92. FARO offered Askan one off US$300,000 payment for permanent transfer ownership of Askan patents over to FARO.

93. That is less than the 10% yearly salary of FARO CEO.

94. FARO's exploitation of Askan patents and offer of pittance to take over Askan patents demonstrates FARO's greed.

95. Askan dismissed FARO's offer.

96. Askan offered FARO to license its products.

97. FARO refused to license its infringing products.

98. Subsequently, FARO denied stating, "*FARO recognizes the strategic value of your patents*".

99. FARO used to sell scanners outputting raw data.

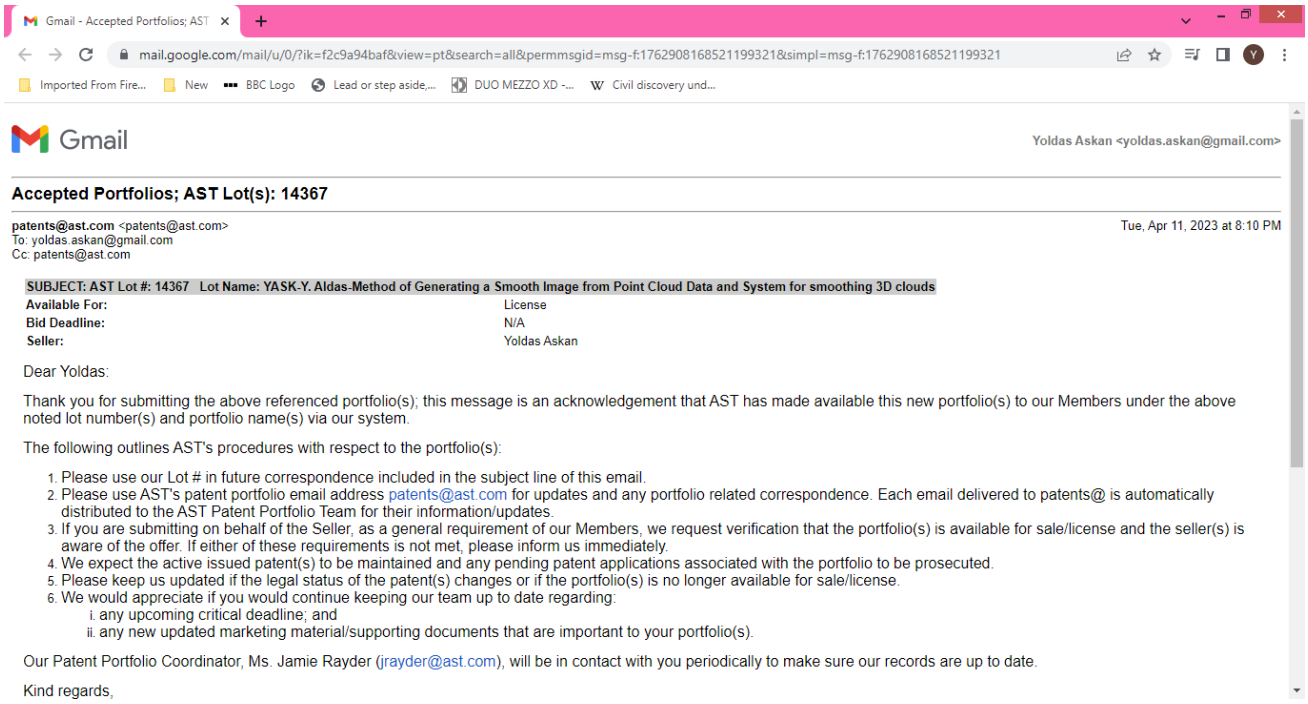
100. If FARO does not value Askan inventions then it can stop deploying it, clandestinely.

101. Askan set up his business, Geopticks, to sell his inventive technology.

102. If FARO stops using Askan technology, then Askan can bring back his firm Geopticks.

103. Askan offered his patents to a firm specializing in patent risk mitigation solutions, Allied Security Trust (AST).

104. Acceptance of Askan patents by AST on Apr 11, 2023 is shown in the below email,



Gmail - Accepted Portfolios; AST

mail.google.com/mail/u/0/?ik=f2c9a94baf&view=pt&search=all&permmsgid=msg-f:1762908168521199321&simpl=msg-f:1762908168521199321

Imported From Fire... New BBC Logo Lead or step aside,... DUO MEZZO XD -... Civil discovery und...

Gmail

Yoldas Askan <yoldas.askan@gmail.com>

Accepted Portfolios; AST Lot(s): 14367

patents@ast.com <patents@ast.com>
To: yoldas.askan@gmail.com
Cc: patents@ast.com

Tue, Apr 11, 2023 at 8:10 PM

SUBJECT: AST Lot #: 14367 Lot Name: YASK-Y. Aldas-Method of Generating a Smooth Image from Point Cloud Data and System for smoothing 3D clouds

Available For:	License
Bid Deadline:	N/A
Seller:	Yoldas Askan

Dear Yoldas:

Thank you for submitting the above referenced portfolio(s); this message is an acknowledgement that AST has made available this new portfolio(s) to our Members under the above noted lot number(s) and portfolio name(s) via our system.

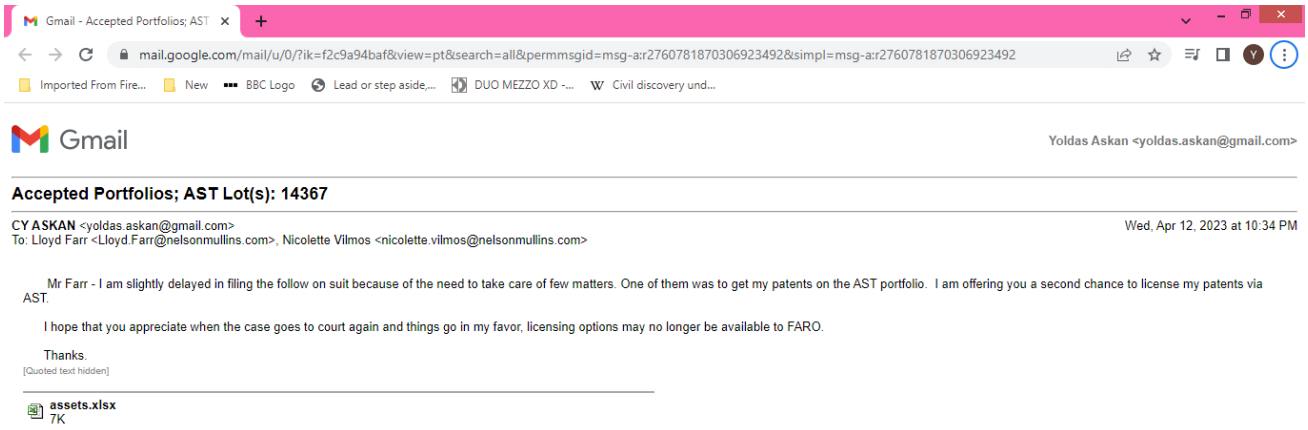
The following outlines AST's procedures with respect to the portfolio(s):

1. Please use our Lot # in future correspondence included in the subject line of this email.
2. Please use AST's patent portfolio email address patents@ast.com for updates and any portfolio related correspondence. Each email delivered to patents@ is automatically distributed to the AST Patent Portfolio Team for their information/updates.
3. If you are submitting on behalf of the Seller, as a general requirement of our Members, we request verification that the portfolio(s) is available for sale/license and the seller(s) is aware of the offer. If either of these requirements is not met, please inform us immediately.
4. We expect the active issued patent(s) to be maintained and any pending patent applications associated with the portfolio to be prosecuted.
5. Please keep us updated if the legal status of the patent(s) changes or if the portfolio(s) is no longer available for sale/license.
6. We would appreciate if you would continue keeping our team up to date regarding:
    i. any upcoming critical deadline; and
    ii. any new updated marketing material/supporting documents that are important to your portfolio(s).

Our Patent Portfolio Coordinator, Ms. Jamie Rayder (jrayder@ast.com), will be in contact with you periodically to make sure our records are up to date.

Kind regards,

105. Askan emailed on Apr 12, 2023 and encouraged FARO to license its products, below email,



Gmail - Accepted Portfolios; AST

mail.google.com/mail/u/0/?ik=f2c9a94baf&view=pt&search=all&permmsgid=msg-a:r2760781870306923492&simpl=msg-a:r2760781870306923492

Imported From Fire... New BBC Logo Lead or step aside,... DUO MEZZO XD -... Civil discovery und...

Gmail

Yoldas Askan <yoldas.askan@gmail.com>

Accepted Portfolios; AST Lot(s): 14367

CY ASKAN <yoldas.askan@gmail.com>
To: Lloyd Farr <Lloyd.Farr@nelsonmullins.com>, Nicolette Vilmos <nicolette.vilmos@nelsonmullins.com>

Wed, Apr 12, 2023 at 10:34 PM

Mr Farr - I am slightly delayed in filing the follow on suit because of the need to take care of few matters. One of them was to get my patents on the AST portfolio. I am offering you a second chance to license my patents via AST.

I hope that you appreciate when the case goes to court again and things go in my favor, licensing options may no longer be available to FARO.

Thanks.

[Quoted text hidden]

assets.xlsx
7K

106. FARO did not respond.

107. In the lawsuit 6:18-cv-1122-Orl-40DCI FARO did not comply with Askan's discovery request, provided junk material, such as flyers, newsletters etc. but nothing pertinent to the patent infringement case was disclosed.

108. FARO expressed Askan's production were unreliable, in the previous lawsuit 6:18-cv-1122, FARO's "*Motion to Compel Responses to Request for Production*" dated December 5, 2018 FARO alleged, "*Documents such as e-mails, blogs, and webpages have all been altered by cutting and pasting them into various formats such as PDF, GIF, PNG, and JPEG*".

109. Hon. Judge Irick believed FARO that Askan in bad faith failed to comply with FARO discovery and Case 6:18-cv-1122-Orl-40DCI was dismissed with prejudice.

110. In the lawsuit 6:21-cv-01366 included notarized and apostilled emails between Yoldas Askan and the Defendant FARO Technologies as Exhibit 4.

111. Nothing Askan provided was therefore "unreliable".

112. FARO simply had to cover up facts, rewrite history, and behave in a deceptive way.

113. In the lawsuit 6:21-cv-01366 Askan served identical discovery.

114. Askan emailed FARO several times as a follow up on the identical discovery.

115. FARO ignored communication on collaboration with the discovery.

116. Askan stated that if FARO complies with Askan's discovery then FARO should fulfill its own.

117. FARO provided nothing pertinent to the discovery.

118. Throughout both prior related cases, all of FARO arguments were disingenuous, lacking in credibility and aimed at bullying Askan.

119. For example, in the related cases, FARO argued a baseless and spurious pretext that the accused source code is highly confidential.

120. In the related cases, FARO argued that Askan is an unreliable person.

121. Judge Byron agreed that Askan might not be an appropriate custodian of such information, namely FARO's source code, which FARO initially wanted to profit from.

122. Askan disclosed his invention and his source code in his patents from the day patent number 8,705,110 was filed in 2011.

123. FARO was aware that Askan source code was publicly available.

124. FARO is aware that Askan source code is publicly available because FARO accessed the Askan patent file wrapper and filed Askan source code in Askan patents with this Court and the Federal Circuit Court under appeal case number 2022-2117.

125. District Court accused Askan of being an unreliable person and not an appropriate custodian of FARO's source code.

126. District Court did not consider Askan's invention, which FARO wanted to benefit from, was publicly available in Askan patent wrapper files.

127. When Askan raised the point that a mere inspection of FARO source code on a computer screen would open up the possibly for FARO hide the infringing source code and Askan cannot test the accused source code appropriately, the Court responded, "*that issue is speculative and premature. If this issue ripens, Plaintiff may seek appropriate relief once the inspection has occurred*."

128. District Court should have applied the equal measure when considering Askan arguments.

129. For example, Askan supposedly making FARO source code public was also speculative and premature.

130. Further, Askan invention and source code was already in the public domain.

131. This civil action is for patent infringement only.

132. Thus, no factual allegations of copyright infringement is made in this civil action.

133. Copyright registration details is provided as another possible source where FARO could have copied and copied Askan source code and apportioned it in its products.

134. FARO behaved as if it were untouchable.

135. In the related case Judge Byron admitted, "*Sanction imposed by the undersigned for continued discovery abuse was too stern*".

136. FARO's accused source code was not revealed and the case was closed prematurely.

137. FARO has concealed Askan inventive steps inside its products for over a decade.

138. District Court has not helped with the disclosure of the accused product.

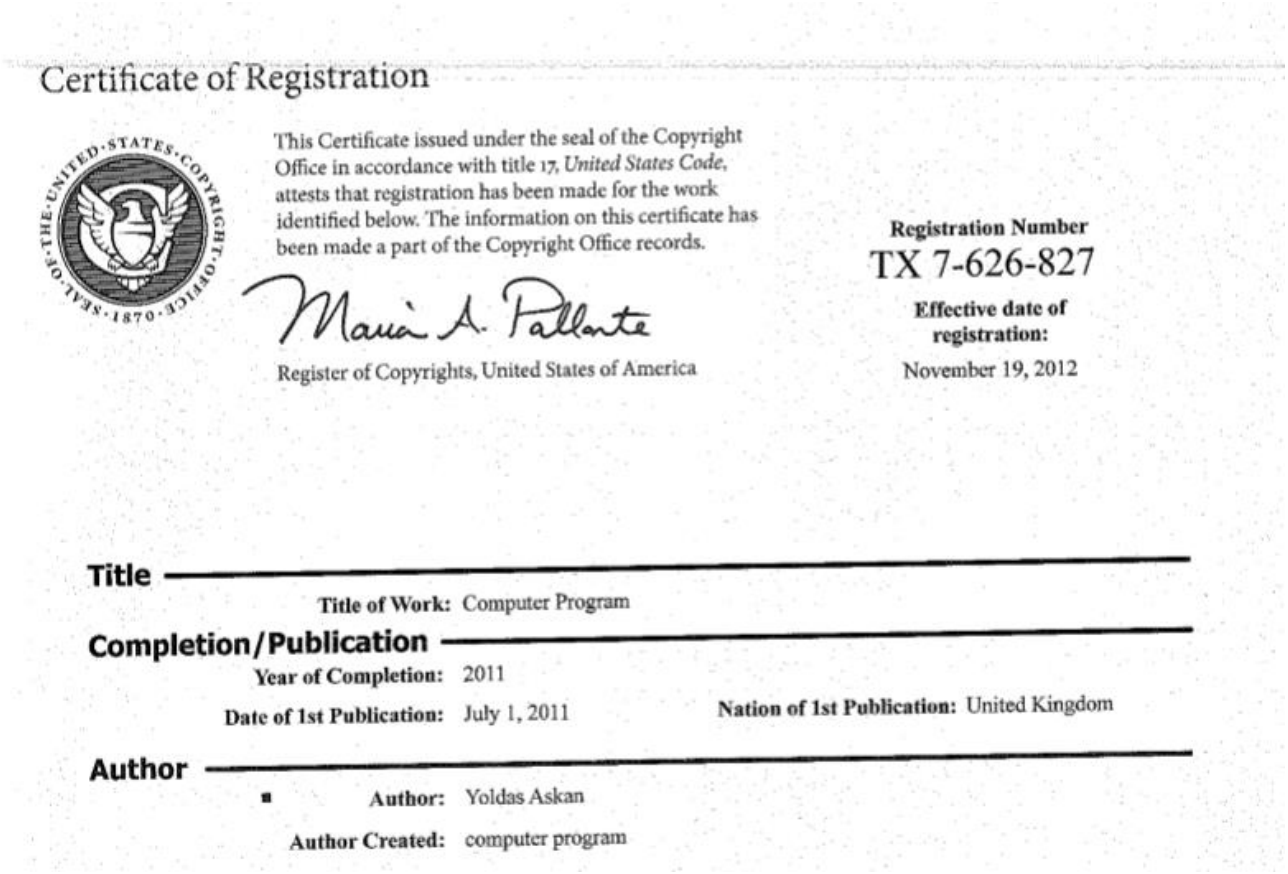
139. The decision by the court not allow FARO source code inspection leaves unresolved significant legal questions that the courts will continue to face related to Askan patents infringement by FARO.

140. Judge Byron lack of interest has caused pain, stress and anxiety to Askan.

141. A plaintiff having to cope with this level of struggle is not justified.

142. Askan invented a system and patented it.

143. As well as the patents, Askan's invention is also a Copyrighted art with registration number TX 7-626-827.



Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
TX 7-626-827

Effective date of registration:
November 19, 2012

Title

Title of Work: Computer Program

Completion/Publication

Year of Completion: 2011

Date of 1st Publication: July 1, 2011 **Nation of 1st Publication:** United Kingdom

Author

- **Author:** Yoldas Askan

Author Created: computer program

144. Therefore, Judge Byron should not reside over this case.

145. Another judge, who has more experience and appreciative of the patent law, should reside over this new case.

146. FARO, which has been benefiting from Askan invention for over the past decade, should finally get its comeuppance.

147. If FARO believes that it is not infringing, then FARO does not need to make feeble excuses.

148. For example, frivolous arguments such as Askan is an unreliable person.

149. For example, FARO's claim that if Askan publicly divulges FARO's source code for point cloud smoothing then the disclosed source code would become available to FARO's competitors.

150. FARO did not explain why FARO's competitors could not utilize the already disclosed software code for smoothing noisy point cloud from Askan's patent wrapper files of from his Copyrighted art.

151. Plaintiff Askan asserts that FARO does not have a competitor in the United States - that is, FARO is the exclusive laser scanner manufacturer in the United States.

152. FARO should list all its competitors selling 3-D scanners in the United States.

153. FARO should list all the competitors selling 3-D scanners producing unfiltered, raw point cloud data according to Par. 15 and 17.

154. Once FARO filters data in its in-camera software then a further filtering of the point cloud becomes obsolete.

155. The record shows FARO requested to benefit from Askan invention.

156. At that time, Askan was "*Hi dear Yoldas*". Par 47 & 48 email from FARO.

157. After FARO implemented Askan invention in its products and bankrupted Askan's firm Geopticks, Askan became "*an unreliable*" person

158. FARO should make the accused in-camera post processing of the point-cloud data tool available, attached to their response to this complaint, with an accompanying statement of truth.

159. Prior related suits between FARO and Askan were not litigated on the merits.

160. That is, the merits of the prior cases was not decided, or the question "*has infringement occurred*" was not answered.

161. In general, an earlier suit, if there was one, could not have covered asserted infringing activities of future products.

162. In this case, there was an earlier suit, namely, two of them.

163. Neither of the prior related cases could have covered infringing activities of future products of FARO.

164. The Kessler doctrine is a unique patent law that is separate from claim and issue preclusions. The doctrine is meant to take care of any gaps left by issue preclusion and claim preclusion that the patent owner would utilize to file a lawsuit against a product that has been cleared of patent infringement.

165. In the prior related case, 6:21-cv-01366, FARO stated, "*(1) a final judgment on the merits was entered;*" and, "*As explained above, there was a prior judgment on the merits*".

166. However, FARO was never cleared of patent infringement.

167. FARO deceived the court by stating that there was a prior judgment on the merits.

168. FARO should provide the details of the prior judgment on the merits, that is, where courts decided FARO did not infringe on Askan patents.

169. An agreement between FARO and Microsoft has led FARO to claim; "*A free app from FARO turns Microsoft Kinect and other popular motion sensors into smart 3D scanners*"

170. Microsoft Kinect and FARO collaboration [DESTROYED LINK] https://www.faro.com/en-gb/news/3d-scanning-for-everybody/

171. Microsoft Kinect and FARO collaboration [ACTIVE LINK - created on February 08th 2013] https://3dprintingindustry.com/news/free-scenect-app-opens-up-3d-scanning-to-a-wider-audience-5349/

172. FARO disclosed a German student paper, "*Improved Laplacian Smoothing of Noisy Surface Meshes*" by J. Vollmer R. Mencl H. Müller as a "potential" prior art to Askan patents [herein Vollmer].

173. Third author Prof. Heinrich Muller presently works/lectures at the University of Dortmund.

174. I, Yoldas Askan, Plaintiff, under the United States penalties of perjury, do solemnly swear and affirm that the email communications with Prof. Heinrich Muller provided in this complaint as Exhibit 1 are the truth, the whole truth, and nothing but the truth.

175. Muller informed, "*He [Vollmer] submitted his diploma thesis (equivalent to a master's thesis in other countries) in 1998" and, "The [Vollmer research] paper emerged from the thesis*".

176. Muller informed, Vollmer paper contains, "*important steps to make 3D scan useful*".

177. Muller informed, "*The thesis is not in the catalog of the library of the university. Thus it is not publicly available from the university. You have to be referred to the owner of the copyright, Joerg Vollmer, or any public sources if there are any*".

178. The Vollmer article is nowhere named or found listed in the "*publications, PhD theses, diploma theses, and master theses*" or any other part of the on the Dortmund University server.

179. Wiley uploaded Vollmer on their website around in 2016. Internet Archive Wayback machine first saved the paper on July 11, 2016, suggesting that the Wiley link is recent (https://web.archive.org/web/*/http://onlinelibrary.wiley.com/doi/10.1111/1467-8659.00334/abstract).

180. When asked, "*why major laser scanner manufacturers recently (compared to the age of the paper) implemented the Vollmer technology*" Muller explained, "*the possibly increasing visibility of the paper on Joerg Vollmer' website which seem to be quite new*".

181. The appearance of Vollmer was also new on ResearchGate [German publication site for scientists], as the uploaded was Muller. ResearchGate confirmed, "*As far as we can see, there was but one article uploaded to our site on May 9, 2015. The uploader was Heinrich Müller, who appears to be one of the authors. Public records we have accessed suggest that he is associated with Technische Universität Dortmund, Faculty of Computer Science, Dortmund, North Rhine-Westphalia, Germany.*"

182. Muller has said no copyright and patent exist but despite all that, FARO provided "the seal" from Library of Congress for Vollmer in the case 6:18-cv-1122-Orl-40DCI.

183. FARO digitally added the Library of Congress stamp on a tampered version Vollmer paper and filed it with the District Court (6:18-cv-1122).

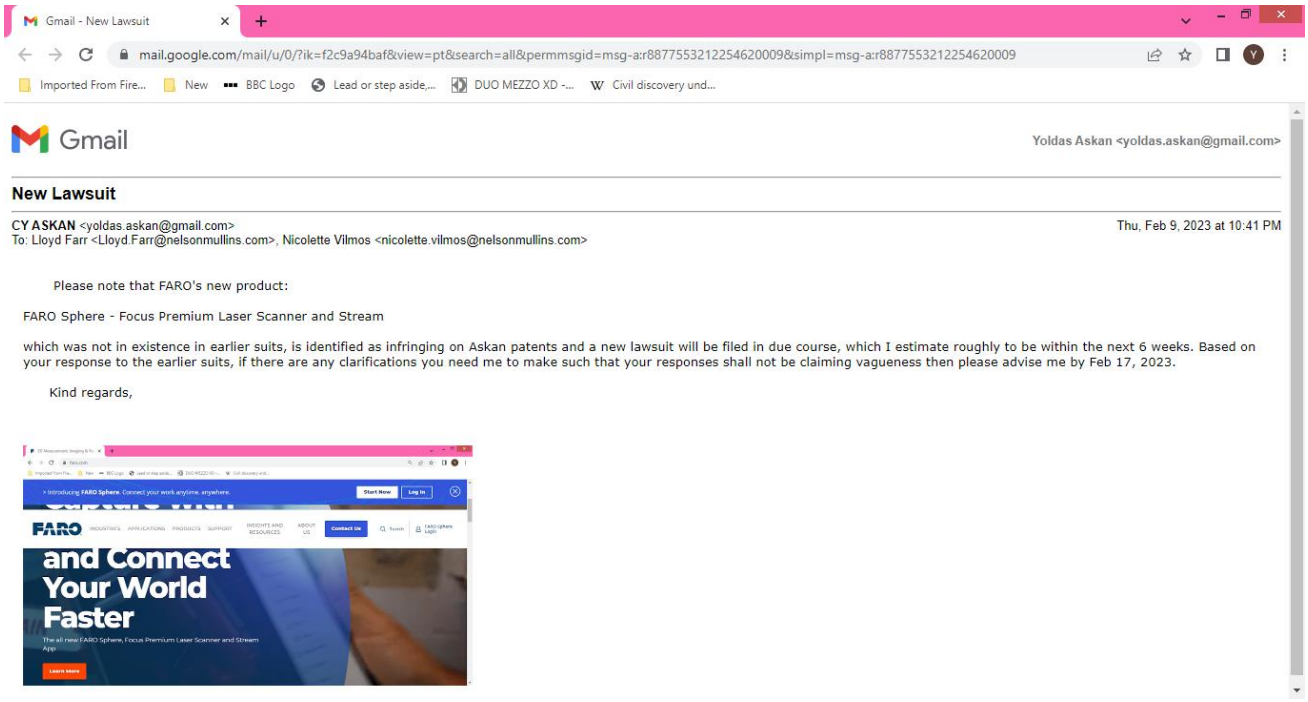
184. FARO knowingly and intentionally committed perjury.

185. FARO introduced new products since the termination of the case 6:21-cv-01366.

186. FARO's new products are, "FARO Sphere", "Focus Premium Laser Scanner", "Focus Core Laser Scanner" and "Stream". [https://www.faro.com/en/LP/FARO-Sphere] and [https://www.faro.com/en/Products/Hardware/Focus-Laser-Scanners?utm_source=google&utm_medium=search&utm_campaign=Product%20Pages%20Paid%20Search&cid=7013p0000016GPLAA2&ls=Search%20Advertising&pint=Laser%20Scanner&mc=9073112&psint=MULTI&vrt=AEC&lcs=Requested%20Demo&gclid=CjwKCAjwv8qkBhAnEiwAkY-ahuVPW_2PS-FENjvKrLhA-7_CaIocy_BiQydPfwQEpcoDPjeknX54gxoCfkwQAvD_BwE]

187. Askan emailed FARO on Feb 9, 2023 and wrote, "*FARO Sphere - Focus Premium Laser Scanner and Stream, which was not in existence in earlier suits, is identified as infringing on Askan patents and a new lawsuit will be filed in due course, which I estimate roughly to be within the next 6 weeks. Based on your response to the*

earlier suits, if there are any clarifications you need me to make such that your responses shall not be claiming vagueness then please advise me by Feb 17, 2023."



188. FARO did not respond.

189. FARO admitted its products average scan point distance values.

190. Askan US Patent for System for smoothing 3D clouds Patent (Patent # 10,032,255) state,

"*generating second distance values from the first point cloud data set, at least one of the second distance values based on at least two neighboring points*;"

191. Therefore, averaging one scan point one time is protected under Askan patent rights.

192. Therefore, FARO products identified in this lawsuit infringe on Askan patents because a raw data collected by FARO Focus Premium and FARO Focus Core are

displayed as smooth point cloud surface in the FARO Stream app and FARO Sphere environments.

193. FARO's introduction of new products identified in this lawsuit since the dismissal of the case 6:21-cv-01366 is therefore the cause of action of this complaint

194. FARO's belief that it can infringe on Askan's patents in perpetuity is therefore the cause of action of this complaint.

195. On June 21, 2023, Federal Circuit decided the appeals case from 6:21-cv-01366.

196. The case was affirmed.

197. Federal circuit wrote; "*Mr. Askan asserts that the district court failed to consider that the current litigation involves a new product, ostensibly suggesting that any preclusive effect of the prior litigation does not extend to the accused products in the current litigation. See Appellant's Br. 30–31, 38, 46–47; Appellant's Reply Br. 26–28. Mr. Askan did not raise this argument before the district court and, instead, only argued that the Kessler doctrine did not apply because there was no judgment of non-infringement in the prior litigation. See Order, 2022 WL 12058559, at *5 (explaining that Mr. Askan "does not attempt to rebut [FARO]'s factual assertions and opts instead to stand on the argument that the Kessler doctrine does not apply because the 2018 case was not decided on the merits"); Suppl. App. 2191–209 (failing to challenge the products being essentially the same in both cases). Thus, Mr. Askan forfeited this argument. In re Google Tech. Holdings LLC, 980 F.3d 858, 862 (Fed. Cir.2020).*"

198. Complaint 6:21-cv-01366 Par. 47 asserted; "*In Oct 27, 2020, FARO introduced a new/revised/updated product SCENE 2020.0.3, after the dismissal of the case 6:18-cv-1122-Orl-40DCI, Exhibit 5.*"

199. In June 24, 2021, Plaintiff's Responded to Defendant's Motion to Dismiss Under FRCP 12(b)(4) and 12(b)(5) D.E. 7 6:21-cv-01366-PGB-DCI.

200. And stated, " *That complaint made clear that the cause of action was because of FARO's changed product "SCENE 2020.0.3" that was introduced as an infringing product on Askan's patented technologies after the dismissal of the earlier lawsuit (6:18-cv-1122-Orl-40DCI), par 47 & 48.*"

201. FARO responded; "*FARO admits that it released a version of its FARO SCENE software in October, 2020 as Patch Release 2020.0.3 ("SCENE Patch Release 2020.0.3"). FARO admits that the previous litigation, 6:18-cv-1122-Orl-40DCI, was dismissed prior to October, 2020, including October 27, 2020. In all other aspects FARO denies the allegations of Paragraph 47 of the Complaint and demands strict proof thereof."*

202. Therefore, Askan has argued and Defendant accepted that the litigation involved a new product.

203. On that basis the case, 6:21-cv-01366 set to continue; Court writing at Doc. 57, "*...Plaintiff should recognize that Defendant has apparently abandoned its motion to dismiss in filing that answer. Doc. 17. Thus, Plaintiff's case is now set to move forward.*"

204. Therefore, there was no need to argue the newness point, which was already accepted.

205. Federal Circuit decision is not uniform with its previous decisions.

206. On that basis, Plaintiff Askan will appeal at the Federal Circuit Court Rule Pursuant to Rule 35 En Banc Determination.

207. In computer science, compilation is, "*the process the computer takes to convert a high-level programming language into a machine language that the computer can understand*".

208. Since Askan's patents are computer programs, the infringing source code must be turned into machine language.

209. Visual inspection cannot turn a computer program into machine language.

210. Source code must be compiled on a computer, turned into machine language, take an input file and produce an output file.

211. The inspection of the input and output files from a computer program must be inspected.

212. Such as, inspection of Par. 17 and Par. 29 images which shows smoothened point cloud surfaces.

213. For that reason, Defendant must provide infringing source code in a text file to ascertain infringement. See par 15, 17 and 29.

214. Plaintiff Askan asked for evidence where Defendant attempted to recover court ordered fines from Plaintiffs previous representative Wayne Harper.

215. Defendant should provide these details.

216. Plaintiff Askan has tried to pay the previously ordered court fines.

217. Defendant is not engaging in a meaningful way such that Plaintiff can fulfill these fines.

218. However, discussions are taking place where defendant is offering money to Plaintiff Askan to make the lawsuits "go away".

219. Defendant is willing to pay Plaintiff Askan $300,000 to eliminate lawsuits and transfer of Plaintiffs patents over to FARO.

220. Referring to the Defendants Technology Tutorial notes held for the case 6:21-cv-01366 on February 15, 2022, there is no mention of repetitive averaging to achieve smooth point cloud surfaces.

221. The depth/extend of noise observed in laser scanner generated point cloud surfaces, such as Par. 15 and 17 figures, cannot be smoothened - without destroying the fine surface details - by a single neighboring pixel averaging. [Because, fluctuations in distance values due to noise are most often larger than actual surface deviations; for example - if the scanner scanned a planar surface then the actual surface deviation is zero.]

222. Therefore, a repetitive averaging must be operated to successfully depress noise.

223. Defendants expert witness Dr. Kazhdan covered up this information.

224. Defendant's expert witness Dr. Kazhdan was under oath to tell the truth.

225. Hon. Judge Byron thanked Defendant's expert witness Dr. Kazhdan for his explanation of the technology, which was not accurately disclosed.

COUNT I
Literal Infringement of the '841 Patent by FARO

226. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

227. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that directly infringe, at least claim 1 of the '841 Patent.

228. FARO has been and continues to infringe one or more of the claims of the '841 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

229. FARO's wrongful conduct has caused Askan to suffer irreparable harm resulting from the loss of his lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

230. FARO's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '841 Patent, and unless FARO is enjoined by this Court, such acts of willful infringement will continue. Therefore, Askan is without adequate remedy at law.

231. Askan is entitled to recover damages adequate to compensate for the infringement of the '841 Patent, as well as additional damages for willful infringement.

COUNT II
Literal Infringement of the '255 Patent by FARO

232. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

233. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that directly infringe, at least claim 1 of the '255 Patent.

234. FARO has been and continues to infringe one or more of the claims of the '255 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

235. FARO's wrongful conduct has caused Askan to suffer irreparable harm resulting from the loss of his lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

236. FARO's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '255 Patent, and unless FARO is enjoined by this Court, such acts of willful infringement will continue. Therefore, Askan is without adequate remedy at law.

237. Askan is entitled to recover damages adequate to compensate for the infringement of the '255 Patent, as well as additional damages for willful infringement.

COUNT III
Infringement by Equivalents of the '841 Patent by FARO

238. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

239. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that infringe by equivalents, at least claim 1 of the '841 Patent.

240. FARO has been and continues to infringe one or more of the claims of the '841 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

241. FARO's wrongful conduct has caused Askan to suffer irreparable harm resulting from the loss of his lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

242. FARO's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '841 Patent, and unless FARO is enjoined by this Court, such acts of willful infringement will continue. Therefore, Askan is without adequate remedy at law.

243. Askan is entitled to recover damages adequate to compensate for the infringement of the '841 Patent, as well as additional damages for willful infringement.

COUNT IV
Infringement by Equivalents of the '255 Patent by FARO

244. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

245. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that infringe by equivalents, at least claim 1 of the '255 Patent.

246. FARO has been and continues to infringe one or more of the claims of the '255 Patent through the aforesaid acts, and will continue to do so unless enjoined by this Court.

247. FARO's wrongful conduct has caused Askan to suffer irreparable harm resulting from the loss of his lawful patent rights to exclude others from making, using, selling, offering to sell and importing the patented inventions.

248. FARO's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '255 Patent, and unless FARO is enjoined by this Court, such acts of willful infringement will continue. Therefore, Askan is without adequate remedy at law.

249. Askan is entitled to recover damages adequate to compensate for the infringement of the '255 Patent, as well as additional damages for willful infringement.

COUNT V
Inducement of Infringement of the '841 Patent by FARO

250. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

251. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that directly infringe or infringe by equivalents, at least claim 1 of the '841 Patent.

252. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use of products, FARO Focus Premium, FARO Focus Core, FARO Stream app and FARO Sphere that directly infringe or infringe by equivalents one or more of the claims of the '841 Patent.

253. FARO, by making, using, selling, offering to sell and/or importing into the United States for subsequent sale or use of products FARO Focus Premium, FARO Focus Core, FARO Stream app and FARO Sphere to users that directly infringe or infringe by equivalents one or more of the claims of the '841 Patent with knowledge of the infringement, FARO possessed specific intent to encourage its customers to infringe one or more claims on the '841 Patent.

254. Askan previously informed FARO of the '841 Patent and its relevance to FARO's business and products.

255. Notwithstanding FARO's knowledge, FARO continued to induce infringement by its 3D scanner customers.

256. Defendant's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '841 Patent, and unless Defendant are enjoined by this Court, such acts of willful infringement will continue. Therefore, Plaintiffs are without adequate remedy at law.

257. Askan is entitled to recover damages adequate to compensate for the infringement of the '841 Patent, as well as additional damages for willful infringement.

COUNT VI
Inducement of Infringement of the '255 Patent by FARO

258. Askan restates the allegations set forth in paragraphs 1 to 225 above and incorporates them herein by reference.

259. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use products, services, methods or processes that directly infringe, or which employ systems, components and/or steps that make use of other systems or processes that directly infringe or infringe by equivalents, at least claim 1 of the '255 Patent.

260. FARO makes, uses, sells, offers to sell and/or imports into the United States for subsequent sale or use of products FARO Focus Premium, FARO Focus Core, FARO Stream app and FARO Sphere that directly infringe or infringe by equivalents one or more of the claims of the '255 Patent.

261. FARO, by making, using, selling, offering to sell and/or importing into the United States for subsequent sale or use of products FARO Focus Premium, FARO Focus Core, FARO Stream app and FARO Sphere to users that directly infringe or infringe by equivalents one or more

of the claims of the '255 Patent with knowledge of the infringement, FARO possessed specific intent to encourage its customers to infringe one or more claims on the '255 Patent.

262. Askan previously informed FARO of the '255 Patent and its relevance to FARO's business and products.

263. Notwithstanding FARO's knowledge, FARO continued to induce infringement by its 3D scanner customers.

264. Defendant's infringement has been willful, deliberate and with knowledge of Plaintiffs' rights under the '255 Patent, and unless Defendant are enjoined by this Court, such acts of willful infringement will continue. Therefore, Plaintiffs are without adequate remedy at law.

265. Askan is entitled to recover damages adequate to compensate for the infringement of the '255 Patent, as well as additional damages for willful infringement.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims so triable.

PRAYER FOR RELIEF

WHEREFORE, Askan prays for relief, as follows:

A. A judgment that FARO has infringed, contributorily infringed, and/or induced infringement of one of more claims of each of the patents-in-suit;

B. An order and judgment preliminarily and permanently enjoining FARO and its officers, directors, agents, servants, employees, affiliates, attorneys, and all others acting in privity or in concert with them, and their parents, subsidiaries, divisions, successors and assigns from further acts of infringement of the patents-in-suit;

C. A judgment awarding Askan all damages adequate to compensate for FARO's infringement of the Askan Patents, and in no event less than a reasonable royalty for FARO's acts of infringement, including all prejudgment and post judgment interest at the maximum rate permitted by law;

D. A judgment awarding Askan all damages, including treble damages, based on any infringement found to be willful, under 35 U.S.C. § 284, together with prejudgment interest;

E. Actual damages suffered by Askan as a result of FARO's unlawful conduct, in an amount to be proven at trial, as well as prejudgment interest as authorized by law;

F. A judgment that this is an exceptional case and an award to Askan of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285;

G. A judgment awarding Askan all damages, including treble damages, based on any infringement found to be willful, pursuant to 35 U.S.C. § 284, together with prejudgment interest;

H. A judgment that this is an exceptional case and an award to Askan of its costs and reasonable attorneys' fees incurred in this action as provided by 35 U.S.C. § 285;

I. And such other relief as this Court deems just and proper.

Dated: June 26, 2023

/s/ Yoldas Askan

Yoldas Askan
Plaintiff Yoldas Askan

51 Pinfold Street,
Suite 542,
Birmingham
B2 4AY
United Kingdom

E: yoldas.askan@gmail.com
T: +44 7539593978

Exhibit 1 UNIVERSITY OF DORTMUND COMMUNICATIONS

jayrobertsonx@yahoo.com - Yah
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Elimination von lokalem und glo
uk.mail.yahoo.com/d/folders/1/messages/19
Apps
Imported From Fire...
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Starred
Drafts
2
Sent
Archive
Spam
Deleted Items
Less
Views
Hide
Photos
Documents
Subscriptions
Deals
Travel
Folders
Hide
Heinrich Muller <mueller@ls7.cs.uni-dortmund.de>
To: jayrobertsonx@yahoo.com
Cc: elke.dickinson@mathematik.tu-dortmund.de, heribert.blum@mathematik.tu-dortmund.de, heike.rapp@tu-dortmund.de, kanzler@tu-dortmund.de, himmel@verwaltung.tu-dortmund.de
Tue, 4 Oct 2016 at 06:41
Dear Mr. Robertson,
the history of the paper can be reconstructed from information in the paper and on the internet.
Joerg Vollmer has been a student of the Department of Computer Science of the University of Dortmund. He submitted his diploma thesis (equivalent to a master's thesis in other countries) in 1998, see reference 5 in the paper you have attached. The diploma thesis has been supervised by Robert Mencl, who has been a PhD student in my group, and me. The paper emerged from the thesis. It has been submitted to the conference Eurographics 1999, and it has been accepted for the conference in a peer-reviewing process. The paper appeared in the conference proceedings series published as special issues of the Wiley-Journal "Computer Graphics Forum". The respective issue is No. 18(3), 1999. It is available on the home page of the journal,
http://onlinelibrary.wiley.com/doi/10.1111/cgf.1999.18.issue-3/issuetoc.
The version of the paper you have attached seems to be slightly different from the version in the proceedings. I assume that it is the version which has been submitted to the conference and which has been revised according to the comments of the reviewers for publication in the proceedings. The differences may be found out by comparison of the two versions.

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Find messages, documents, photos or people
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Subscriptions
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Spam
(http://graphics.stanford.edu/data/3Dscanrep/).
There have been university institutes like
http://www.3d-shape.com/up_down_load/presse/cva_reverse_engineering.pdf
who have produced data sets. It also seems that Cyberware
(http://cyberware.com/)
provided selected data sets to everybody at that time.
Concering "whyhave the laser scanning manufacturers implemented your
techniques
as recently as in the past few months when the technology required
seemingly existed
for almosttwo decades", I have no hard facts which can explain this.
However, besides
the possibly increasing visibility of the paper on Joerg Vollmer' website
which seem to
be quite new, the method also might have been disseminated by students.
At least
since 2008 I am teaching every year two courses
("Mensch-Maschine-Interaktion",
"Geometrisches Modellieren") in which I present, among other topics, mesh
processing
and point based graphics. This includes Laplacian smoothing, and a
reference to the
Vollmer paper is given. During those years, several hundred students have
attended to
those courses. Hence there is some chance that at least one of those students
has been hired by a 3D-laser scanning company.
> Now, if you do not mind, I am going to put you on thedefense; I will
throw you an
> account of what could have happened:
https://cat.nl.eu.criteo.com/delivery/ck.php?cppv=3&cpp=XKt5_GoDW2fMjWtUyYC4Ecz-fl_Mlim2zEPNTD3riL4clBjRQG6eNPdDuSWynD7czScweKeleHfAhaG_GaUy5PJzbbtG9-LFyeLdQyMJGNFYRRIZEFeGj0J88tTpzeecFWWDiM7xk2FLbTjK-3m1ke0Kto_...

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Find messages, documents, photos or people
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Subscriptions
Deals
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Move
Delete
Spam
Jay Robertson Dear Prof. Dr. Muller, I was unable to reply to your email sooner however, thank you for the information provided. I will be emailin Fri, 4 Nov 2016 at 16:28
Heinrich Muller <mueller@ls7.cs.uni-dortmund.de> Tue, 8 Nov 2016 at 05:57
To: jayrobertsonx@yahoo.com
Cc: kanzler@tu-dortmund.de, rektorin@tu-dortmund.de
Dear Mr. Robertson,
concerning the question of availability of the diploma thesis of Joerg Vollmer which has been left open in my last email, the message is that the thesis is not in the catalog of the library of the university. Thus it is not publicly available from the university. You have to be referred to the owner of the copyright, Jorg Vollmer, or any public sources if there are any.
> 1) Microsoft has applied for a patent Application number US13/566.796,
> Publication number US20130321393 A1, titled: "Smoothing androbust normal
> estimation for 3d point clouds" with Filing date Aug 3,
> 2012[https://www.google.com/patents/US20130321393]. This technology
> essentially coverstechniques of Vollmer paper. Leaving any discussions of
> the technology asideand simply accepting that both approaches attain a
> "smooth pointcloud" how would you comment on:a) the gap in time of Vollmer
> publication date [1999] and Microsoftpatent application date [2012]?b)
> have Microsoft behaved unlawfully by submitting this patentapplication,
> because it covers the technology of Vollmer which you say inventedin
> 1999?
https://www.googleadservices.com/pagead/aclk?sa=L&ai=CwvE9IY4HX56TK8OC-waOnZ-gB_qOsJFessWAq_oLv-EeEAEgypz3I2C7hoCA4AqgAaXjhdkDyAECqAMByAPJBKoEuwFP0MNiCRCKO61yhoaRBVQZa8Wj9AeXuav0xeR0kMv3A-Oq_tLkomj1IzxN...

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Spam
Deleted Items
Less
Views Hide
Photos
Documents
Subscriptions
Deals
Travel
Folders Hide
Back
Archive
Move
Delete
Spam
On Tuesday, 11 October 2016, 17:06, Heinrich Muller <mueller@ls7.cs.uni-dortmund.de> wrote:
Dear Mr. Robertson,
in the following am trying to answer your questions:
> 1) The "internet age" of the article [ImprovedLaplacian Smoothing of Noisy Surface
> Meshes] on Wiley website is young; in fact,less than one year. Whilst I contacted
> Wiley for some clarification and waitingon their response, can you let me know,
> when was this paper first released by the University of Dortmund onWiley website?
The paper appeared in the printed version of the journal in 1999. I don't know when Wiley started to publish Computer Graphics Forum online. I have not been further involved.
> 2) You state, "The paper [Improved Laplacian Smoothingof Noisy Surface
> Meshes] emerged from the [Joerg Vollmer] thesis." Now Ican see Joerg
> Vollmer master thesis listed on the Informatik website
> (http://ls7-www.cs.tu-dortmund.de/cms/en/node/2729).The translation of
> Vollmer thesis "Elimination von lokalem und globalem Rauschen in

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Deleted Items
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Deals
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Delete
Spam
> (http://is/-www.cs.tu-dortmund.de/cms/en/node/2/29). I he translation of
> > Vollmer thesis "Elimination von lokalem und globalem Rauschen in
> > ungeordneten Punktmengen auf dreidimensionalen Oberflächen" into English
> > is "Elimination of local and global noise in disordered sets of points on
> > three-dimensional surfaces", according to Google. Assuming that you agree
> > with the translation, would it be correct to assume the Wiley version
> > might differ from Vollmer 1998 thesis? How can one obtain the Vollmer1998
> > thesis?
The translation is correct. The copyright is at Jörg Vollmer. According to reference 5 in the paper, he had made his diploma thesis available on the internet in 1998 and gave a link. However, it seems that the link is now dead.
I assume that the paper content is a subset of the content of the diploma thesis. The reason is that diploma theses can treat topics more extensively since they don't have a page limit, in contrast to the Wiley publication.
3) The Wiley paper uses theterms a "3-D scanner" and a "Laplacian
> method". Whereas in the Vollmer 1998 thesis, it is not obvious whether if
> a laser scanner is used or a Laplacian method is invoked. So, at what
> point did the University of Dortmundenter into the world of 3-D Laser
> Scanning? And who paid for the scanner (inthe late 1990's the price of a
> 3-D laser scanner was as much as $200,000 [twohundred thousand U.S.
> Dollars]).

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Sent
Archive
Spam
Deleted Items
Less
Views Hide
Photos
Documents
Subscriptions
Deals
Travel
Folders Hide
Back
Archive
Move
Delete
Spam
paint;
> hisaccomplices would take care of aging process and its infiltration to themarket.
> About Wiley, if they created a new website for Vollmerarticle then they would print
> few copies to go with it, something they did inthe past and possibly do in the future
> (#).Unless the Computer Graphics Forum copyright certified eachcopies of their
> journal, I shall not be visiting another library soon.
The paper has been published before Blackwell merged with Wiley.
Under item 2), I have mentioned two major libraries which seem to have printed versions of CGF.
Many other libraries might meanwhile have destroyed the paper version in order to save space.
> https://www.worldcat.org/title/eurographics-99-the-european-association-for-computer-graphics-20th-annual-conference-milano-italy-september-7-11-1999/oclc/429210972?referer=di&ht=edition(#)
> http://www.nytimes.com/2005/04/30/technology/steve-jobss-review-of-his-biography-ban-it.html?_r=0.
> "But then I decided to check WorldCat.org (*)public record. This show,
only eleven
> libraries in the world actually keep hardcopies of this journal and,
half of them just
> happen to be at your doorstep."
If the libraries you got are the same as I got, those seem to be indeed strange. However, according to the headline, only libraries close to Dortmund seem to be listed, and possibly all of them independent from having CGF. Possibly the query as to be improved.

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uk.mail.yahoo.com/d/folders/1/messages/19
Apps
Imported From Fire...
New
yahoo!mail
Find messages, documents, photos or people
Jay
Home
Compose
Inbox
Unread
Starred
Drafts 2
Sent
Archive
Spam
Deleted Items
Less
Views Hide
Photos
Documents
Subscriptions
Deals
Travel
Folders Hide
Back
Archive
Move
Delete
Spam
3. It seems that Computer Graphics Forum is also archived by the US
Library of Congress. I did not check for this in detail, but you might
enter "Computer Graphics
Form" in the Web Interface and do it by yourself.
The relation between computer graphics and 3D (laser) scanning can be
explained as
follows. A subfield of computer graphics geometry processing, which in
turn has,
besides other, the subfields "mesh processing" and "point-based graphics",
cf. e.g.
https://graphics.ethz.ch/research/geometry_proc/.
Point-based graphics deals of all aspects of point clouds independent from
their type of acquisition (e.g. 3D scanning by stereo vision, by
structured light, by tactile scanners, by computer tomography (CT, MR, ...)
and more). A particularly active time has been between 1995 and 2010, and
many results are documented in the book "Point-Based Graphics (The Morgan
Kaufmann Series in Computer Graphics) which appeared in 2007
https://www.amazon.com/Point-Based-Graphics-Morgan-Kaufmann-Computer/dp/0123706041
More recently the field has been driven by low-cost 3D scanning devices
like the Microsoft Kinect and the Leap Motion controller. Such devices
probably influenced developments like the Point Cloud Library
(http://pointclouds.org/). Many methods presented there are independent
from the scanning device and may be applied to 3D-laser-scanning data as
well, as the method in Vollmer's paper.
> 3) My pertinent question, which you seem to gloss over: "whyhave the
laser scanning
> manufacturers implemented your techniques as recentlyas in the past few
months
> when the technology required seemingly existed for almosttwo
decades"?You do not

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uk.mail.yahoo.com/d/folders/1/messages/19
Apps
Imported From Fire...
New
yahoo!mail
Find messages, documents, photos or people
Jay
Home
Compose
Back
Archive
Move
Delete
Spam
Inbox
Unread
Starred
Drafts 2
Sent
Archive
Spam
Deleted Items
Less
Views Hide
Photos
Documents
Subscriptions
Deals
Travel
Folders Hide
> when the technology required seemingly existed tor almosttwo decades"?You do not
> own a 3-D laser scanner, nobody sponsoring thiswork; noisy nature of the point
> cloud is not at the forefront of advertisements,there are no evidence of any online
> laser-scanning community sharing pointcloud data in 1998 and, no laser scanning
> hire registered in 1998. Yet,somewhat extraordinarily, you come to known about the
> laser scanningindustries' noise problem, solve it, release a paper in 1999, over
> 300citations made but it takes seventeen years for the laser scanning firms todiscover
> the techniques of your method and implement? In the internet age thatwe live? What
> would be the coherent explanation of this? Why nobody picks upthe phone, call the
> 3-D laser scanner manufacturer [there is one not too faraway from you] and share
> your results? ------
Concering "there are no evidence of any online laser-scanning community sharing
point cloud data", I would like to note that I did not refer to
laser-scanning data, but to
point cloud data in general. Indeed, it seems that most of the early data sets ar not
acquired by laser scanners. Several data sets came from the pioneering work by
Hugues Hoppe (http://hhoppe.com/recon.pdf). An old collection which contains some of those data sets is the "Stanford 3D Scanning Repository" (http://graphics.stanford.edu/data/3Dscanrep/).

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REQUEST FOR LEGAL INVESTIGA
mail.google.com/mail/u/0/?tab=rm&ogbl#search/dale.shaw%40uspto.gov+not+pertinent/FMfcgxmTnrdPsDTbZRkKFrSWvKvqgpsr
Apps
Imported From Fire...
New
Gmail
dale.shaw@uspto.gov not pertinent
Compose
Inbox 6
Starred
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Drafts 23
Trash
Categories
Social
Meet
Start a meeting
Join a meeting
Chat
Yoldas
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8 of 8
Patents Ombudsman Program PatentsOmbudsmanProgram@uspto.gov via usptogov.onmicrosoft.com
Fri, Jun 16, 2017, 2:40 PM
to Inc.
Mr. Askan, the Patents Ombudsman program cannot review your inquiry. On the website, we clearly state the following:
"The Patents Ombudsman provides assistance to applicants and attorneys throughout the application process including initial filing, patent examination, and post examination. We assist applicants when the normal processing has stalled, helping to get applications back on track. The Patents Ombudsman Program is not intended to circumvent normal communication between applicants or their representatives and examiners or supervisory patent examiners (SPEs) or TC Directors." In short the Patents Ombudsman Program is neither pro Applicant nor pro Examiner. We are pro Process, and see that the process continues to work for everyone. In your application the process is working.
Secondly, you are asking for a legal opinion on the validity of the Vollmer reference. The Patents Ombudsman opinion cannot give you a legal opinion on the validity of a reference. If you want an legal analysis of a document, you will need to contact legal counsel to obtain such an opinion. The Patents Ombudsman Program does not give legal opinions to anyone.
Thirdly, the Vollmer reference was not cited as pertinent in your application or in Patent No. 9,082,220, therefore, there is no reason for the Patent Ombudsman Program to review an article that is not cited in your application.
Lastly, the Vollmer was attached to the end of the David A. Field reference filed 1/18/2005. This reference was filed by the applicant on the IDS filed on 1/18/05, and is the second reference listed on the IDS. It appears that it was filed, by applicant in error.
Therefore, the Patents Ombudsman Program, will not do an investigation into the validity of the Vollmer article. I am sorry.
Dale M. Shaw
Deputy Director Stakeholder Outreach and Patents Ombudsman
United States Patent and Trademark Office