

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 20

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RONALD S. COK and JOHN R. FREDLUND

Appeal No. 2000-0125
Application No. 08/681,646

ON BRIEF

Before KRASS, BARRETT, and BLANKENSHIP, Administrative Patent Judges.

BLANKENSHIP, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 from the examiner's final rejection of claims 1-3, 5-8, and 12-15, which are all the claims remaining in the application.

We reverse.

BACKGROUND

The invention is directed to a method of combining a captured, customer generated digital image with a prestored digital image. Representative claim 1 is reproduced below.¹

1. A method of combining at least one customer generated digital image with at least one prestored digital image to form a merged digital image, comprising the steps of:

a) selecting a prestored digital image, said prestored digital image having at least one predetermined location where a customer generated digital image may be placed, said prestored digital image having a design attribute of a predetermined value contributing to a visual characteristic when printed or displayed;

b) providing at least one capture means for obtaining at least one customer generated digital image in digital form;

c) providing at least one output means for printing, displaying, transferring or storing of a merged digital image formed of said at least one customer generated digital image and said prestored digital image;

d) capturing at least one customer generated digital image with said capture means, said customer generated digital image having a design attribute of a value differing from said predetermined value of said design attribute of said prestored digital image, and contributing to a visual characteristic when printed or displayed differing from the visual characteristic of said prestored digital image;

e) automatically analyzing said design attribute of said customer generated digital image to obtain an analyzed value of said design attribute of said customer generated digital image;

f) automatically adjusting said design attribute of said customer generated digital image or said prestored digital image based on the

¹ We note that claim 1 stands amended by appellants' paper filed March 8, 1999 (Paper No. 15), as indicated by the examiner's Advisory Action mailed March 23, 1999 (Paper No. 16). However, there has been no formal entry of the amendment in the file wrapper.

predetermined value of the design attribute of the prestored digital image and the analysis of the design attribute of said customer generated digital image, to establish a predetermined relationship between said predetermined value of said design attribute of said prestored digital image and said analyzed value of said design attribute of said customer generated digital image;

g) merging said customer generated digital image with said prestored digital image into a merged digital image with said predetermined relationship between said predetermined value and said analyzed value; and

h) forwarding said merged digital image to said output means.

The examiner relies on the following references:

Oshikoshi et al. (Oshikoshi)	5,042,078	Aug. 20, 1991
Ohnishi et al. (Ohnishi)	5,631,983	May 20, 1997 (filed Mar. 30, 1995)
Hirota	5,657,395	Aug. 12, 1997 (filed Jan. 9, 1995)

Claims 1, 2, 5, 7, 8, 12, 14, and 15 stand rejected under 35 U.S.C. § 102 as being anticipated by Oshikoshi.

Claims 6 and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over Oshikoshi and Hirota.

Claim 3 stands rejected under 35 U.S.C. § 103 as being unpatentable over Oshikoshi and Ohnishi.

We refer to the Final Rejection (mailed Jan. 6, 1999) and the Examiner's Answer (mailed Jun. 22, 1999) for a statement of the examiner's position and to the Brief (filed Jun. 1, 1999) for appellants' position with respect to the claims which stand rejected.

OPINION

Appellants contend (Brief at 2-4) that the section 102 rejection of claim 1 is in error. Appellants allege that Oshikoshi fails to teach or suggest automatically analyzing and adjusting images, and further fails to teach or suggest modifying one image with respect to the other.

The examiner responds that “[i]t is obvious that the CG [computer graphic] image and the human subject images would have different visual characteristics from each other, and that each image would have to be corrected to make them more visually compatible.” (Answer at 5.) The examiner also reasons (*id.* at 5-6) that controller 18 of Oshikoshi performs color correction of the images, implying that “automatic” processing is being performed.

Oshikoshi discloses that a human subject image may be captured by color TV camera 12 (Fig. 1). A digital form of the image is stored in frame memory 15. Computer graphic images are provided on diskette 17 (Fig. 1). Col. 3, ll. 22-47. Look-up table memory 20 contains data for gradation correction of the subject image and CG image according to lighting conditions, type of photographic film, CG images used, etc. Col. 3, l. 48 - col. 4, l. 2.

The image signals of the human subject and CG image, after color correction by circuit 21, are sent to a positive image look-up table memory 24a or a negative image look-up table memory 24b for further correction, based on processing of the images which is to be performed. Relative placement of the subject and CG image is

designated through keyboard 48, and written to specified areas of frame memory (video RAM) 25. The composite image is ultimately displayed on CRT 31, exposing photographic paper 34. Col. 4, l. 25 - col. 5, l. 16.

Oshikoshi describes at column 5, line 28 et seq., and illustrates in Figure 2, the manner of determining the data to be loaded into look-up table memory 20. Table data 50 and 51, for CG images and subject images, respectively, are written into memory 20 by means of an instruction entered through keyboard 48. The data which are to be written into memory 20 -- selected from table data 50 and 51 -- are "previously provided" in memory 49. See col. 5, ll. 35-38. The data for table memories 24a and 24b (for positive or negative film) are also previously provided -- i.e., the data are ROM-based or retrieved from a diskette. See col. 6, ll. 8-14. The reference at column 6, line 22 et seq. describes, and illustrates in Figure 6, selectively retrieving data from memory 49 for loading look-up table memory 22 in color correction circuit 21, in a manner similar to loading data for tables 20, 24a, and 24b.

Since the data in look-up table memory 20 (and tables 22, 24a, and 24b) for correction of the images are predetermined -- i.e., determined prior to image capture -- we do not find automatic analysis of a design attribute of a customer generated digital image to obtain an analyzed value of the design attribute, as required by step "e)" of instant claim 1. Nor do we find any disclosure in the reference of automatically adjusting the design attribute of the customer generated image, or the prestored digital

image, based on the design attribute of the prestored image and the analysis of the design attribute of the customer generated image, as required by step “f” of the claim.

We may agree with the examiner (Answer at 5) that, as a general matter, it may be considered obvious to correct images with respect to each other in order to form a better composite image (even though the reference does not expressly disclose such an operation).² However, a general notion that the images should be corrected for compatibility with each other does not speak to the specific requirements of instant claim 1.

We therefore do not sustain the section 102 rejection of claim 1, nor that of claims 2, 5, 7, 8, 12, 14, and 15 depending therefrom. The section 103 rejections of claims 3, 6, and 13 rely on Oshikoshi for the requirements found in base claim 1. (Answer at 4-5.) Since the rejections do not remedy the deficiencies we find in the Oshikoshi reference, we do not sustain the section 103 rejection of claims 6 and 13 over Oshikoshi and Hirota, nor the section 103 rejection of claim 3 over Oshikoshi and Ohnishi.

² Suggestion for matching components of a composite image may be found at column 1, lines 48 through 57.

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CONCLUSION

The rejection of claims 1-3, 5-8, and 12-15 is reversed.

REVERSED

ERROL A. KRASS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
LEE E. BARRETT)	APPEALS
Administrative Patent Judge)	AND
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HOWARD B. BLANKENSHIP)	
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