

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. 36

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** ARMIN WALTER BRUDERLIN  
and  
CLINT HANSON

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Appeal No. 2004-1572  
Application No. 09/370,104

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ON BRIEF

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Before JERRY SMITH, RUGGIERO and MACDONALD, **Administrative Patent Judges**.

MACDONALD, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the final rejection of claims 1-61.

**Invention**

Appellants' invention relates to a system and method to provide a flexible technique for the digital representation and generation of realistic fur coats on geometric models of surfaces,

such as animals. In one embodiment, an innovative technique for placement, adjustment and combing of fur on surfaces is provided. In one embodiment, the continuity of fur across surface patch boundaries is maintained. In addition, in one embodiment, an innovative method to simulate wet fur is provided. In this method static clumping and animated clumping may be applied to regions on the surfaces. In one embodiment, a method for the symmetric and one-sided breaking of hairs along fur-tracks on surfaces is provided. The above processes can be iteratively applied in order to generate layers of fur, such as an undercoat and an overcoat.

Appellants' specification at page 3, lines 3-13.

Claim 1 is representative of the claimed invention and is reproduced as follows:

1. A method for generating hair comprising:

producing a plurality of hairs representative of a dry coat of hair; and

modifying at least one area of hair to provide a visual effect to the area of hair, comprising for each area;

identifying a hair of the plurality of hairs as a center hair,

identifying an area size,

indicating at least one area parameter selected from the group comprising clump-percent, clump-rate, break-rate, break-percent and break-vector,

determining hairs of the plurality of hairs that are within the area as area hairs, the area located according to the center hair and the area size, and

orienting the area hairs according to at least one area parameter.

### References

The references relied on by the Examiner are as follows:

Watanabe et al. (Watanabe), "A Trigonal Prism-Based Method for Hair Image Generation," IEEE, January 1992, pp. 47-53.

Van Gelder et al. (Van Gelder), "An Interactive Fur Modeling Technique," Computer Science Department, University of California, Santa Cruz, pp. 1-6.

### Rejections At Issue

Claims 1-8, 17-21, 29-33, 37-38, and 43-48 stand rejected under 35 U.S.C. § 103 as being obvious over Watanabe.

Claims (9-11, 34-36, and 49-51) and (12-16, 22-28, 39-42, and 52-61) stand rejected under 35 U.S.C. § 103 as being obvious over Van Gelder.

Throughout our opinion, we make references to the Appellants' briefs, and to the Examiner's Answer for the respective details thereof.<sup>1</sup>

### OPINION

With full consideration being given to the subject matter on appeal, the Examiner's rejections and the arguments of the Appellants and the Examiner, for the reasons stated **infra**, we reverse the Examiner's rejection of claims 1-61 under 35 U.S.C. § 103.

Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants could have made but chose not to make in the brief have not been

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<sup>1</sup> Appellants filed an appeal brief on September 29, 2003. Appellants filed a reply brief on February 6, 2004. The Examiner mailed an Examiner's Answer on December 3, 2003.

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considered and are deemed to be waived by Appellants [see 37 CFR § 41.37(c)(1)(vii) effective September 13, 2004 replacing 37 CFR § 1.192(a)].

Appellants have indicated that for purposes of this appeal the claims stand or fall together in two groupings:

Claims 1-8, **9-11**, 17-21, 29-33, 37-38, and 43-48, as Group I; and

Claims 12-16, 22-28, **34-36**, 39-42, **49-51**, and 52-61, as Group II.

See page 6 of the brief. Appellants argue each group of claims separately and explain why the claims of each group are believed to be separately patentable. See pages 7-18 of the brief and pages 2-8 of the reply brief. However, Appellants have not fully met the requirements of 37 CFR § 1.192 (c)(7) (July 1, 2003) as amended at 62 Fed. Reg. 53169 (October 10, 1997), which was controlling at the time of Appellants' filing of the brief. 37 CFR § 1.192 (c)(7) states:

*Grouping of claims.* **For each ground of rejection** which appellant contests and which applies to a group of two or more claims, the Board shall select a single claim from the group and shall decide the appeal as to the ground of rejection on the basis of that claim alone unless a statement is included that the claims of the group do not stand or fall together and, in the argument under paragraph (c)(8) of this section, appellant explains why the claims of the group are believed to be separately patentable. Merely pointing out differences in what the claims cover is not an argument as to why the claims are separately patentable.  
(Emphasis added)

The claims of Appellants' Group I are not all rejected under the same grounds of rejection. Therefore, we will, thereby, consider Appellants' claims as standing or falling together in three groups:

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Claims 1-8, 17-21, 29-33, 37-38, and 43-48, as Group I;

Claims 9-11, 34-36, and 49-51, as Group II; and

Claims 12-16, 22-28, 39-42, and 52-61, as Group III.

We will treat:

Claim 1 as a representative claim of Group I;

Claim 9 as a representative claim of Group II; and

Claim 12 as a representative claim of Group III.

If the brief fails to meet either requirement, the Board is free to select a single claim from each group and to decide the appeal of that rejection based solely on the selected representative claim.

**In re McDaniel**, 293 F.3d 1379, 1383, 63 USPQ2d 1462, 1465 (Fed. Cir. 2002). **See also In re Watts**, 354 F.3d 1362, 1368, 69 USPQ2d 1453, 1457 (Fed. Cir. 2004).

**I. Whether the Rejection of Claims 1-8, 17-21, 29-33, 37-38 and 43-48 Under 35 U.S.C. § 103 is proper?**

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 1-8, 17-21, 29-33, 37-38, and 43-48. Accordingly, we reverse.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the initial burden of establishing a **prima facie** case of obviousness. **In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). **See also In re Piasecki**, 745 F.2d 1468, 1472,

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223 USPQ 785, 788 (Fed. Cir. 1984). The Examiner can satisfy this burden by showing that some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art suggests the claimed subject matter. **In re Fine**, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988). Only if this initial burden is met does the burden of coming forward with evidence or argument shift to the Appellants. **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. **See also Piasecki**, 745 F.2d at 1472, 223 USPQ at 788.

An obviousness analysis commences with a review and consideration of all the pertinent evidence and arguments. “In reviewing the [E]xaminer’s decision on appeal, the Board must necessarily weigh all of the evidence and argument.” **Oetiker**, 977 F.2d at 1445, 24 USPQ2d at 1444. “[T]he Board must not only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency’s conclusion.” **In re Lee**, 277 F.3d 1338, 1344, 61 USPQ2d 1430, 1434 (Fed. Cir. 2002).

With respect to independent claim 1, Appellants argue at page 8 of the brief, “Watanabe fails to teach or suggest parameters such as *clump-percent*, *clump-rate*, *break-rate*, *break-percent*, or *break-vector*.” We agree. Appellants’ original specification specifically defines these terms at page 15, lines 10-14; page 17, lines 8-20; and page 21, line 12, to page 22, line 18.

Notwithstanding the Examiner’s position, we have reviewed the Watanabe reference and fail to find anything in the reference that teaches or suggests these parameters.

Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 103.

**II. Whether the Rejection of Claims 9-11, 34-36, and 49-51 Under 35 U.S.C. § 103 is proper?**

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 9-11, 34-36, and 49-51. Accordingly, we reverse.

With respect to dependent claim 9, we note that the Examiner has relied on the Van Gelder reference alone to reject claim 9 under 35 U.S.C. § 103. However, claim 9 depends from claim 4 which was rejected based on the Watanabe reference. The rejection of claim 9 before us is silent as to how the Van Gelder reference teaches or suggests the limitations of claim 4. Alternatively, the rejection is silent as to how the Van Gelder reference may be combined with the Watanabe reference as applied to claim 4. In either case, the Examiner has not met the initial burden of establishing a **prima facie** case of obviousness.

Therefore, we will not sustain the Examiner's rejection under 35 U.S.C. § 103.

**III. Whether the Rejection of Claims 12-16, 22-28, 39-42, and 52-61 Under 35 U.S.C. § 103 is proper?**

It is our view, after consideration of the record before us, that the evidence relied upon and the level of skill in the particular art would not have suggested to one of ordinary skill in the art the invention as set forth in claims 12-16, 22-28, 39-42, and 52-61. Accordingly, we reverse.

With respect to independent claim 12, Appellants argue at page 13 of the brief, "there is no teaching or suggestion in [Van] Gelder ... *identifying a hair of the plurality of hairs as a*

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*center hair, said center hair comprising a break line hair.*” We agree. Appellants’ original specification specifically discusses these terms at page 21, line 12, to page 22, line 18.

Notwithstanding the Examiner’s position, we have reviewed the Van Gelder reference and fail to find anything in the reference that teaches or suggests these claim limitations.

Therefore, we will not sustain the Examiner’s rejection under 35 U.S.C. § 103.

**Conclusion**

In view of the foregoing discussion, we have not sustained the rejection under 35 U.S.C. § 103 of claims 1-61.

**REVERSED**

JERRY SMITH	)	
Administrative Patent Judge	)	
	)	
	)	
	)	
	)	BOARD OF PATENT
JOSEPH F. RUGGIERO	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
	)	
	)	
	)	
ALLEN R. MACDONALD	)	
Administrative Patent Judge	)	

ARM:psb

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