

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

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICARDO L. DE QUEIROZ

Appeal No. 2005-1985
Application No. 10/037,905

ON BRIEF

Before: THOMAS, GROSS, and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134 of the final rejection of claim 25. For the reasons stated *infra* we affirm the examiner's rejection of this claim.

Invention

The invention relates to a method to determine if a digital image has been compressed in the past. The method is useful in printing systems which, when a determination of compression is made, can use an image cleaning process to improve the printed image and remove undesirable artifacts. See page 4 of appellant's specification.

Claim 25 is representative of the invention and reproduced below:

25. A method to detect if an image is compressed, comprising the steps of:

(a) detecting blocking artifacts presented in the form of discontinuities across block boundaries in the image, said blocking artifacts thereby being indicative of compression; and

(b) providing an output indicative of compression in response to the detection of the blocking artifacts.

Reference

The reference relied upon by the examiner is:

Golin	5,787,207	July 28, 1998
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Rejection at Issue

Claim 25 stands rejected under 35 U.S.C. § 102 as being anticipated by Golin; the rejection is set forth on pages 3 and 4 of the answer. Throughout the

opinion we make reference to the briefs¹ and the answer for the respective details thereof.

Opinion

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration, in reaching our decision, appellant's arguments set forth in the briefs along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer.

With full consideration being given to the subject matter on appeal, the examiner's rejection and the arguments of appellant and the examiner, and for the reasons stated *infra*, we sustain the examiner's rejection of claim 25 under 35 U.S.C. § 102.

Appellant asserts, on page 5 of the supplemental brief, that Golin does recognize "the problem noted by Appellant (that block boundary discontinuities are known to be noticeable compression artifact caused by compression.)" However, appellant argues that the examiner's reliance on Golin's disclosure of the side information does not meet the claim limitation of step (b) because "'side information' is generated during *encoding* and *not* in response to a detection of

¹ There are three briefs in this application: first, a Appeal Brief (hereinafter Brief), dated December 12, 2003, which address a rejection based upon Hintzman (U.S. Patent 5,818,364) that has been withdrawn by the examiner (See page 2 of the Examiner's Answer); second a supplemental Appeal Brief, (hereinafter Supplemental Brief) dated June 14, 2004, which addresses both the rejection based upon Hintzman and Golin; and third, a Reply Brief dated October 11, 2004, which addressess the rejection based on Golin.

blocking artifacts.” Further, appellant argues, in the paragraph bridging pages 5 and 6 of the supplemental brief:

At best, Golin teaches only an output made during encoding that denotes the presence of a discontinuity, and there is no description or suggestion therein of an output indicating image compression, nor is there such an output provided in response to a detection of blocking artifacts.

In response the examiner states, on page 5 of the answer:

Golin discloses the detection of these discontinuities (column 7, lines 28-29, & 38-41), and the production of an output in response to this detection (column 7, lines 41-46).

If the described image compression were not carried out, the described encoding process for implementing the image compression (the image prediction and the prediction error encoding) would not occur. If the image prediction does not occur, there will be no discontinuities resulting from the (non-existent) prediction. Therefore, an image that was not compressed via this encoding would not have any such discontinuities. Conversely, the detection of such a discontinuity is possible only if image compression via this encoding occurred.

We concur with the examiner. Claim 25 requires detecting blocking artifacts in the form of discontinuities; these artifacts are indicative of compression. There is no disagreement that Golin teaches this limitation. Further, claim 25 requires an output if there is a determination of compression, if the artifacts indicative of compression are found. We find no limitation in claim 25 that precludes the output from being generated during encoding, thus we are not convinced by appellant’s argument that Golin’s “side information” can not be read on the claimed step (b).

We find that Golin teaches that discontinuities, artifacts, can be determined in the step of encoding. See column 7, lines 35-38. The discontinuities are the result of image compression. See column 1, lines 31-40.

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The side information is used to provide an output “1” if there is a discontinuity and “0” if there is none. See column 7, line 41-45. We find that since the discontinuity is the result of compression and the output in the side information is indicative of the discontinuity, the output in the side information is necessarily indicative of compression. Thus, we are not convinced by appellant’s arguments and sustain the examiner’s rejection of claim 25 under 35 U.S.C. § 102.

Only those arguments actually made by appellant have been considered in this decision. Arguments which appellant could have made but chose not to make in the brief or by filing a reply brief have not been considered and are deemed waived by appellant (see 37 CFR § 41.37(c)(1)(vii)). Support for this rule has been demonstrated by our reviewing court in *In re Berger*, 279 F.3d 975, 984, 61 USPQ2d 1523, 1528-1529 (Fed. Cir. 2002), wherein the Federal Circuit stated that because the appellant did not contest the merits of the rejections in his brief to the Federal Circuit, the issue was waived. **See also In re Watts**, 354 F.3d 1362, 1368, 1369 USPQ2d 1453, 1458 (Fed. Cir. 2004).

In summary, we sustain the examiner’s rejection of claim 25 under 35 U.S.C. § 102. The decision of the examiner is affirmed.

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No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

JAMES D. THOMAS)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
ANITA PELLMAN GROSS)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
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Administrative Patent Judge)	

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