The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FRANK Z. BRILL and BRUCE E. FLINCHBAUGH

Appeal No. 2003-1420
Application No. 09/338,202

ON BRIEF

Before HAIRSTON, FLEMING, and DIXON, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

ON REQUEST FOR REHEARING

Appellants have requested that we reconsider our September 9, 2004 decision wherein we affirmed the rejection of claims 16, 21, 22, 36 and 41 under 35 U.S.C. § 103(a) based upon the teachings of Courtney.

Courtney teaches (column 7, lines 52 through 57) that the motion based event detection system (Figures 1, 5 and 6) generates a set of features referred to as a video-object or V-

object to represent each region of the video information. The V-object also includes a shape mask of its corresponding region (column 7, lines 57 through 60). According to Courtney (column 12, lines 33 through 35), "[t]he mask is efficiently run-length encoded; the V-object image data is then JPEG-encoded as well."

Appellants argue (request, pages 3 and 4) that:

> Courtney discloses the region mask is "run-length encoded." This is appropriate for a compressed image free of contrast information. However, Courtney does not disclose display of this region mask. Instead Courtney discloses that the V-object image data is displayed. This V-object image is JPEG encoded and then decoded. JPEG encoding is appropriate for full contrast image information. Such JPEG encoding and decoding is employed to recover the original image. Mapping this decoded image data corresponding to a detected object to the reference image substantially recovers the original image with all its original contrast. Accordingly, Courtney fails to teach display of the compressed image free of contrast information as claimed.

We agree with the appellants' statement that the region mask "is appropriate for a compressed image free of contrast information," however, we disagree with the appellants' argument that Courtney does not display the region mask. Courtney clearly explains (column 12, lines 35 through 38) that on playback the V-object region masks are used in the process of mapping the V-object images onto the reference frame. The monitor 19 (Figure 5) is used for the display of the image information. With

respect to appellants' argument concerning the JPEG encoded and decoded V-object image, we find that Courtney is silent as to whether or not the V-object image is "free of contrast information." In order to find that each displayed image in Courtney is "free of contrast information[1]" as claimed, we would have to resort to speculation. Since a proper prima facie case of obviousness should not be based upon speculation, we have no choice but to reverse our finding of obviousness in our September 9, 2004 decision.

Appellants' request that we reconsider our decision has been granted, and our decision is hereby modified to reflect our agreement with the appellants. Accordingly, the affirmance of the obviousness rejection of claims 16, 21, 22, 36 and 41 is reversed.

[1] The images in Figures 7(d) through 7(f) are "free of contrast information," but they are not "overlain upon corresponding pixels of the reference image" as claimed.

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

REHEARING
GRANTED

KENNETH W. HAIRSTON Administrative Patent Judge	)	
MICHAEL R. FLEMING Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
JOSEPH L. DIXON Administrative Patent Judge	)	

KWH/hh

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