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

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte DENNIS L. VENABLE

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Appeal No. 2002-1458
Application 08/785,109

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ON BRIEF

_____

Before FLEMING, BARRY, and SAADAT, ***Administrative Patent Judges***.

FLEMING, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1 through 17, all the claims pending in the instant application.

Invention

The invention relates to an automatic characterization and editing of a plurality of image objects placed on the platen of an image input device. See page 1 of Appellant's specification. Referring to figures 1 and 2, system 20 includes a computer 22

capable of receiving digital data representing an image of an original document 24 placed upon a platen of scanner 26. Computer 22 initially stores the digital input data from scanner 26 in memory 52. See page 8 of Appellant's specification. Referring to figure 10, the user may place a number of photographs on the scanner platen. Once placed thereon, the user may then select an operation from region 410 of figure 10 to cause the computer system 22 to initiate scanning by scanner 26. See page 19 of Appellant's specification. After the Gang and Edit (412) is made, system 20 scans the objects placed on platen 24 and temporarily stores the data in the file using the information reflected in region 420 of the user interface screen. Once the image is scanned, it is analyzed to identify the image objects. The image objects may be manipulated by smart scanning system to automatically orient and position the images. The various image objects (A, B, C and D) may be found within the image as illustrated in figure 11. See page 20 of Appellant's specification.

Independent claim 1 present in the application is representative of the claimed invention and is reproduced as follows:

1. An imaging apparatus, including:

an image input device having a platen, said image input device scanning a plurality of undersized originals on the platen and producing a single digitized image including representations of each of the plurality of undersized originals imaged by said device;

a programmable computer capable of processing the digitized image, said computer including a first memory for storing at least a portion of the digitized image and program memory for the storage of executable code suitable for causing said computer to execute image processing operations on the digitized image,

said computer, in accordance with preprogrammed instructions, determining a background of the digitized image, identifying the plurality of digitized undersized originals as objects within the digitized input image based on the determined background, determining boundaries of the plurality of objects, modeling shapes representing the boundaries of each of the identified plurality of objects, and characterizing each of the identified plurality of objects by parameters including shape, position and orientation; and

said computer automatically composing an output document including a representation of at least one of the plurality of objects.

References

The references relied on by the Examiner are as follows:

Aono et al. (Aono)	5,267,333	Nov. 30, 1993
Suzuki	5,289,570	Feb. 22, 1994
Venable et al. (Venable)	5,485,568	Jan. 16, 1996

Venable et al., Technical Association of the Graphic Arts. vol. 1, pp. 372 - 385 (1995) herein referred as TAGA.

Rejections at Issue

Claims 1 through 3, 5 through 7,and 10 through 12 stand rejected under 35 U.S.C. § 102 as being anticipated by Aono.

Claims 13 through 17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aono in view of Suzuki.

Claims 8 and 9 stand rejected under 35 U.S.C. § 103 as being unpatentable over Aono in view of TAGA.

Claim 4 stands rejected under 35 U.S.C. § 103 as being unpatentable over Aono in view of Venable.

Throughout our opinion, we make reference to the briefs[1] and answer for the respective details thereof.

Opinion

With full consideration being given the subject matter on appeal, the Examiner's rejections and the arguments of Appellant and the Examiner, for the reasons stated ***infra***, we reverse the Examiner's rejection of claims 1 through 3, 5 through 7, and 10 through 12 under 35 U.S.C. § 102, and we will reverse the

[1] Appellant filed an appeal brief on March 19, 2001. Appellant filed a reply brief on November 9, 2001. The Examiner mailed out an office communication on November 28, 2001, stating that the reply brief has been entered.

Examiner's rejection of claims 4, 8, 9, and 13 through 17 under 35 U.S.C. § 103.

We will first address the rejection of claims 1 through 3, 5 through 7, and 10 through 12 under 35 U.S.C. § 102. It is axiomatic that anticipation of a claim under § 102 can be found only if the prior art reference discloses every element of the claim. ***See In re King***, 801 F.2d 1324, 1326, 231 USPQ 136, 138 (Fed. Cir. 1986) and ***Lindemann Maschinenfabrik GMBH v. American Hoist & Derrick Co.***, 730 F.2d 1452, 1458, 221 USPQ 481, 485 (Fed. Cir. 1984).

Appellant argues that Aono fails to teach "an image input device having a platen, said image input device scanning a plurality of undersized originals on the platen and producing a single digitized image including representations of each of the plurality of undersized originals imaged by said device" as recited in Appellant's claims 1 and 13. See pages 5 through 7 of Appellant's brief. Appellant also argues that Aono fails to teach "said computer, in accordance with preprogrammed instructions, determining a background of the digitized image, identifying the plurality of digitized undersized originals as objects within the digitized input image based on the determined

background, determining boundaries of the plurality of objects . . .", as recited in Appellant's claims 1 and 13. See pages 7 through 10 of the Appellant's brief. Also see Appellant's reply brief, pages 1 through 5.

The Examiner responds to Appellant's arguments by stating

> Aono certainly discloses that a user performs editing functions to the image (column 10, lines 39-60), this is done AFTER the extracted processing section (4) performs a process of separating the background image and the object image so as to form region information (column 9, lines 50-62), this process is done based on a display program (column 7, lines 2-19). The extracted processing part separates the object image from the background (column 10, lines 13-25), which clearly reads on using preprogrammed instructions to determine the background of the digitized image. The user edits the image AFTER the background has been determined by the extracted processing part, and uses the region information generated from the extraction process to edit the image, since "human eyes generally have high spatial resolution, and hence are highly sensitive to any offset to lines and planes, i.e. to edges" (column 10, lines 39-51).

See pages 12 and 13 of the Examiner's answer.

Upon our review of Aono, we find that Aono teaches in section 3 a Method of Compressing Full-Color Pictorial Parts. This is found in column 9, line 44, through column 15, line 34. Aono discloses that this method is a method for compressing and coding only a selected partial region of a full-color image. See column 9, lines 45 through 46. Referring to figure 12, Aono teaches that image data 1, 2, such as an original, picture or a photograph to be processed, are stored in the image data base 32

shown in figure 8. Numeral 4 denotes an extracted processing section which is in receipt of the pictorial part. See column 9, lines 50 through 62. Aono teaches that when the input image is appointed to be pictorial parts, the extracted processing section 4 conducts the separation of the object image from the component background image. See column 10, lines 13 through 16. As shown in figure 15, "0" and "1" are allocated to the component background image and the object image, thus forming a region information. This process is conducted by the user who determines whether "1" or "0" is to be allocated through the interactive method. See column 10, lines 20 through 27. Thus, we fail to find that Aono teaches a computer, "in accordance with preprogrammed instructions, determining a background of the digitized image, identifying the plurality of digitized undersized originals as objects within the digitized input image based on the determined background, determining boundaries of the plurality of objects" as recited in Appellant's claims 1 and 13. Therefore, we will not sustain the Examiner's rejection of claims 1 through 3, 5 through 7, and 10 through 12 under 35 U.S.C. § 102.

In regard to the 35 U.S.C. § 103 rejections, we note that the Examiner has relied on Aono for the above limitation.

Furthermore, we fail to find that the cited references teach the above limitation. Therefore, we will not sustain the Examiner's rejections under 35 U.S.C. § 103.

In view of the foregoing, we have not sustained the Examiner's rejection of claims 1 through 3, 5 through 7, and 10 through 12 under 35 U.S.C. § 102 and we have not sustained the Examiner's rejection of claims 4, 8, 9, and 13 through 17 under 35 U.S.C. § 103.

REVERSED

MICHAEL R. FLEMING Administrative Patent Judge	)	
LEONARD LANCE BARRY Administrative Patent Judge	)	BOARD OF PATENT APPEALS AND INTERFERENCES
MAHSHID SAADAT Administrative Patent Judge	)	

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