

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 13

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ANTHONY F. MAY

Appeal No. 94-2161
Application 07/860,944¹

ON BRIEF

MAILED

DEC 7 - 1995

U.S. PATENT OFFICE
CASSIDY, DREW APPEALS
SECTION

Before HAIRSTON, KRASS, and CARDILLO, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from claims 1 through 20, constituting all the claims in the application.

¹ Application for patent filed March 31, 1992.

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The invention is directed to a data compression technique the nature of which is readily apparent from a review of representative independent claim 1, reproduced as follows:

1. A method of performing data compression comprising the following steps:

calculating a measured difference between all positionally corresponding data blocks in a first data frame with those data blocks in a second data frame;

determining a discrete distribution function of the calculated data block differences;

determining an Adaptive Threshold for transmitting updated information based upon the calculated data block difference and data transmission rate;

compressing the data blocks above the Adaptive Threshold;

creating a bit map for identifying updated and compressed data;

transmitting the updated data and the bit map; and
receiving and decoding transmitted compressed data.

The examiner relies on the following references:

Mounts	3,553,361	Jan. 5, 1971
Widergren et al. (Widergren)	4,302,775	Nov. 24, 1981
Santamaki et al. (Santamaki)	4,855,825	Aug. 8, 1989
Guichard et al. (Guichard)	4,979,038	Dec. 18, 1990

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Claims 1 through 20 stand rejected under 35 U.S.C. 103. As evidence of obviousness, the examiner cites Santamaki, Guichard and Widergren with regard to claims 1 through 16 and Santamaki and Mounts with regard to claims 17 through 20.²

Reference is made to the brief and answers for the respective arguments of appellant and the examiner.

OPINION

At the outset, we note that, in accordance with appellant's statement at page 6 of the brief, claims 1 through 16 will stand or fall together and claims 17 through 20 will stand or fall together. Accordingly, we will limit our discussion herein to independent claims 1 and 17.

² Although claims 1 through 16 were finally rejected under the second paragraph of 35 U.S.C. 112, the principal answer reiterates this rejection only against claims 1 through 8. In response to a remand to the examiner (Paper No. 11; April 27, 1995), the examiner's supplemental answer (Paper No. 12; May 4, 1995) now indicates that in response to an amendment after final (Paper No. 7; September 13, 1993), all rejections under 35 U.S.C. 112, second paragraph, have been withdrawn. The examiner also indicates, in the supplemental answer, that in order to place the claims in better form, an examiner's amendment has been made. That amendment includes: deleting "the" before "data blocks" on claim 1, line 11; changing "block" to --frame-- at claim 9, line 5; and substituting "the" with --a-- after "determining" in claim 9, line 6.

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Turning first to instant claim 1, it is our view that the examiner has failed to establish a prima facie case of obviousness. The claimed method recites a specific sequence of steps which includes the determination of an adaptive threshold for transmitting updated information based upon the calculated data block difference and data transmission rate. It is after this determination step that data blocks are compressed and a bit-map is created.

We find nothing in Santamaki with regard to the transmission rate information, but even if we assume the examiner is correct in the allegation that such information is "inherent" in Santamaki, we find no suggestion therein, or in any other applied reference, for using that data transmission information, along with the calculated data block difference, to determine the adaptive threshold, as claimed. As appellant explains, at the bottom of page 8 of the brief, the use of the data transmission, or transfer, rate "will provide a differing number of picture areas for transmission for each frame depending upon motion content..." We find no teaching or suggestion of this claimed use of the data transmission rate in any of the applied references.

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Moreover, as alleged by appellant on page 7 of the brief, in Santamaki, it would appear that the "entire digitization, compression and transmission process is completed before the change threshold is adjusted based upon measured changes..." Instant claim 1, however, recites a determination of an adaptive threshold prior to the compression and transmission steps.

Further, instant claim 1 requires "creating a bit map for identifying updated and compressed data." While the examiner recognizes this deficiency in Santamaki, the examiner relies on Widergren for its teaching of a bit map. However, the examiner has not convinced us of any reason the artisan would have been led to employ a bit map, for the claimed purpose, in Santamaki.

Accordingly, since the examiner has not established a prima facie case of obviousness with regard to the subject matter of instant claim 1, we will not sustain the rejection of claims 1 through 16 under 35 U.S.C. 103, independent claim 9 containing limitations similar to those of claim 1.

Turning now to independent claim 17, we will sustain the rejection of this claim and, accordingly, of claims 18 through 20.

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Appellant's sole argument with regard to the rejection of claim 17 [page 10 of the brief] is that Santamaki does not teach the use of threshold values for minimizing quantization effects, use of data blocks within a frame, bit map usage or periodic restarting and that while Mounts "partially address a replenishment scheme there is no teaching in the prior art of record that advocates combining the cited references..."

However, the only teaching lacking by Santamaki of concern here is the "periodic restarting" since this is the only cited limitation appearing in claim 17. The examiner recognizes this and applies Mounts for such a teaching. Appellant does not argue that any of the limitations in claim 17 are lacking in the applied references and presents no specific reason as to why the reference teachings would not be combined. Appellant argues only that there is no teaching in the prior art that advocates the combination. The law does not require that the references explicitly advocate the combination, only that there is some suggestion or teaching within the prior art references or within the common knowledge of skilled artisans that would have led the artisan to the claimed subject matter.

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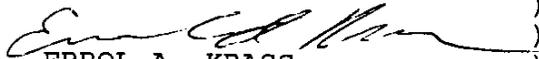
Since appellant's argument, in toto, amounts only to the allegation that the prior art does not specifically advocate the applied combination, this argument must fall. Accordingly, since the examiner's allegations regarding the unpatentability of claim 17 in view of the combination of Santamaki and Mounts are essentially un rebutted, we will sustain the examiner's rejection of claims 17 through 20 under 35 U.S.C. 103.

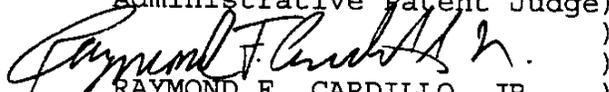
We have sustained the rejection of claims 17 through 20 under 35 U.S.C. 103 but we have not sustained the rejection of claims 1 through 16 under 35 U.S.C. 103. Accordingly, the examiner's decision is affirmed-in-part.

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

AFFIRMED-IN-PART


KENNETH W. HAIRSTON
Administrative Patent Judge)


ERROL A. KRASS
Administrative Patent Judge)


RAYMOND F. CARDILLO, JR.
Administrative Patent Judge)

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