

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(2) is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ROBERT CLAIR

Appeal No. 1997-1304
Application 08/084,345¹

ON BRIEF

Before THOMAS, MARTIN and HECKER, Administrative Patent
Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

Appellant has appealed to the board from the examiner's
final rejection of claims 1 through 6, which constitute all
the claims in the application.

¹ Application for patent filed June 28, 1993.

Representative claim 1 is reproduced below:

1. A method of selectively repeating a unit image cell in a pixelmap image datafile comprising a grid of pixel locations, the method comprising the steps of:

a. defining the unit image cell by specifying a bounded region of pixels to be copied;

b. defining an origin point on the grid;

c. defining two cartesian placement vectors such that at least one placement vector is oriented vertically or horizontally and the other diverges therefrom by an angle equal to or less than 90°;

c.[d.] generating linear combinations of the placement vectors that collectively specify a set of copying locations in the pixelmap relative to the origin point; and

d.[e.] sequentially copying the unit image cell into the pixelmap datafile such that a predetermined location within the copied cell coincides with pixel [sic] specified by each said linear combination of placement vectors.

The following references are relied on by the examiner:

Yan et al. (Yan) 4,615,013 Sep. 30, 1986

Weyl, Symmetry, "Ornamental Symmetry" pp. 83-113²

² There appears to be no identifiable date as to this reference. It appears that it was originally supplied to the Office to be considered as prior art as part of the submission on June 28, 1993 in appellant's prior art statement of that date. Therefore, for purposes of its use as applied prior art within 35 U.S.C. § 103, appellant appears to have admitted by the submission that it was prior art to him.

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Claims 1 through 6 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner relies upon Yan in view of Weyl.

Rather than repeat the positions of the appellant and the examiner, reference is made to the briefs and the answers for the respective details thereof.

OPINION

We reverse the rejection of claims 1 through 6 under 35 U.S.C. § 103.

In reviewing the examiner's statement of the rejection at pages 2 and 3 of the answer, the examiner asserts that certain portions of Yan teach the claimed feature of generating linear combinations of the placement vectors. In the middle of page 3 of the answer, however, the examiner then indicates that the reference does not explicitly teach that feature but only suggests it in a different location in the reference. In the statement of the rejection as well as the responsive arguments portion of the answer, the examiner does not return to or effectively rely upon in any manner this reference as a basis to explain the combinability or correlation of its teachings

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to the claimed invention of representative claim 1, for example, on appeal.

For appellant's part, we generally agree with the appellant's characterization of this reference to Yan in the principal brief on appeal where appellant makes reference at page 11 of this brief to the earlier noted conflicting positions of the examiner as to the feature of generating linear combinations of placement vectors.

We conclude the examiner has not set forth a prima facie case of obviousness of the claimed invention in light of the collective teachings of the two references relied upon because of the above noted weaknesses in the examiner's position as to Yan and the fact that the examiner does not attempt to correlate the individual features of representative independent claim 1 on appeal, for example, to the teachings and showings in Weyl. There is no explicit teaching in this reference of placement vectors per se, let alone a linear combination of them in the manner claimed. There is, however, in Weyl an apparent historical development of a mathematical basis of vector algebra as applied to images that are effectively duplicated or translated from one position to

another. However, Weyl's discussion is in the abstract and not in the context of any application to pixelmap images in a data file as claimed. There appears to be no relevance of the teaching value of Weyl's ability to effectively replicate or translate images to the portions of Yan that the examiner has relied upon (Figures 2-6 and column 10) and thus to the claimed invention of representative independent claim 1 on appeal. The examiner has also not made a persuasive showing of such correlation or relevance.

Notwithstanding these considerations, we do not agree with appellant's characterization that Yan does not deal in any manner with image copying, and the examiner has not indicated or apparently appreciated that Yan does teach a methodology of repeating what may amount to unit image cells. Column 18 begins a discussion of Yan's so-called "tile method" of minimizing storage spaces for replicated storage elements where any given identifiable tile image is repeated in adjacent or surrounding tiles to form a supertile of an image which will be operated upon to achieve the overall approach of textured imaging to the viewer by the circuitry of Figure 11. The examiner has therefore not correlated any teaching value

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of the translation of images utilizing vector algebra of Weyl to these teachings in Yan. We are, therefore, left to conjecture on our own any applicability of the combined teachings from the references to the presently claimed invention on appeal. This we will not do.

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In view of the foregoing, the examiner's decision to
reject claims 1 through 6 under 35 U.S.C. § 103 is reversed.

REVERSED

	James D. Thomas)	
	Administrative Patent Judge)	
)	
)	
)	
	John C. Martin)	BOARD OF
PATENT	Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
)	
	Stuart N. Hecker)	
	Administrative Patent Judge)	

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