

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.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. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte YASUHIRO TSUTAMORI  
and  
TAKASHI KANEKO

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Appeal No. 1998-2990  
Application No. 08/433,642

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ON BRIEF

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Before HAIRSTON, LALL, and GROSS, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 31.

The disclosed invention relates to an image analyzing method and apparatus for analyzing an image contained in a region of interest defined by a pattern.

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Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. An image analyzing apparatus comprising image data storing means for storing image data, display means for displaying an image based on image data selected from the image data stored in the image data storing means and processed in a predetermined manner, graphic data storing means for storing graphic data corresponding to a plurality of patterns to be displayed on the display means, quantitative processing means for quantitatively processing image data corresponding to the images contained in regions of interest defined by the patterns, quantitative data storing means for storing quantitative data produced by the quantitative processing means, and background management means for producing and storing background data relating to background values corresponding to noise components for each of the patterns.

The references relied on by the examiner are:

Shiraishi et al. (Shiraishi)	4,777,597	Oct. 11, 1988
Endo et al. (Endo)	5,012,521	Apr. 30, 1991
Lee et al. (Lee)	5,012,333	Apr. 30, 1991
Poulsen et al. (Poulsen)	5,420,628	May 30, 1995

(effective filing date of Feb. 4,  
1993)

Claims 1 through 6, 8 through 12, 15, 16, 21 through 26 and 28 through 31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Poulsen in view of Endo.

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Claims 7 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Poulsen in view of Endo and Lee.

Claims 13, 14 and 17 through 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Poulsen in view of Endo and Shiraishi.

Reference is made to the final rejection (paper number 8), the briefs (paper numbers 13 and 15) and the answer (paper number 14) for the respective positions of the appellants and the examiner.

#### OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejections of claims 1 through 31.

We agree with the examiner (final rejection, page 5) that Poulsen discloses the steps of storing image data (column 4, lines 24 through 28), displaying image data (column 4, lines 61 through 65), displaying graphic data on the display (column 14, lines 18 through 22), quantitatively processing image data (column 14, lines 42 through 50), and producing background data corresponding to noise (column 11, lines 21 through 27). Appellants and the examiner both agree that Poulsen does not

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disclose graphic data storing means for storing graphic data corresponding to a plurality of patterns (brief, page 4; final rejection, page 5).

For such a teaching, the examiner turns to the graphics recognition teachings of Endo. In the Endo system, "[w]hen a pattern is manually drawn on a tablet with an electronic pen, a computer executes a graphic processing to display on a CRT a geometrically defined pattern which best resembles the manually drawn pattern" (Abstract). In short, we agree with the examiner (final rejection, pages 5 and 6) that Endo can recognize a plurality of manually inputted patterns (column 1, lines 6 through 10 and column 2, lines 25 through 38). Based upon the teachings of Endo, the examiner concludes (final rejection, page 6) that "[i]t would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Endo et al. with Poulsen et al. because Endo et al. can interpret a shape drawn on the screen as a circle which will surround an image better if the image is circular."

Appellants argue inter alia that "while Poulsen may teach a one-dimensional technique for processing data in a single

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pattern and Endo may teach drawing additional patterns on a screen, neither reference teaches or suggests how to process the data in regions defined by these additional patterns" (reply brief, page 2). We agree. The examiner's "circular" reasoning lacks supporting evidence as well as a discussion of how non-circular images are to be processed by the combined teachings of Poulsen and Endo. Since "there is no suggestion to combine Endo's pattern drawing technique with Poulsen's device" (brief, page 5), the examiner has failed to present a prima facie case of obviousness. As a result thereof, the 35 U.S.C. § 103(a) rejection of claims 1 through 6, 8 through 12, 15, 16, 21 through 26 and 28 through 31 is reversed.

The 35 U.S.C. § 103(a) rejections of claims 7, 13, 14, 17 through 20 and 27 are likewise reversed because the teachings of Lee and Shiraishi fail to cure the noted shortcoming in the teachings of Poulsen and Endo.

DECISION

The decision of the examiner rejecting claims 1 through 31 under 35 U.S.C. § 103(a) is reversed.

REVERSED

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KENNETH W. HAIRSTON	)	)
Administrative Patent Judge	)	
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	)	BOARD OF PATENT
PARSHOTAM S. LALL	)	
Administrative Patent Judge	)	APPEALS AND
	)	
	)	INTERFERENCES
	)	
ANITA PELLMAN GROSS	)	
Administrative Patent Judge	)	

KWH:hh

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