

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. 12

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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**Ex parte** KEITH A. WALKER

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Appeal No. 1999-1799  
Application No. 08/738,507

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ON BRIEF

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Before HAIRSTON, BARRETT, and DIXON, **Administrative Patent Judges**.  
DIXON, **Administrative Patent Judge**.

**DECISION ON APPEAL**

This is a decision on appeal from the examiner's final rejection of claims 1-8, which are all of the claims pending in this application.

We REVERSE.

## BACKGROUND

The appellant's invention relates to a system and method for associating prerecorded audio snippets with still photographic images using codes (rather than the audio data itself) associated at/near the scene for the photographic image. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A system for associating a prerecorded audio snippet with a photograph, comprising:

a) an audio data base containing a plurality of audio snippets, each snippet having a corresponding identification code;

b) a scene identification display including an identification code associated with the scene;

c) a camera having a sensor for sensing the identification code on the display and including a memory for storing the identification code in association with a photograph of the scene taken by the camera; and

d) means for retrieving the audio snippet corresponding to the identification code and reproducing the audio snippet in conjunction with the display of the photograph.

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

Yoshimura et al. (Yoshimura)	4,764,965	Aug. 16, 1988
Kinoshita	4,983,996	Jan. 08, 1991
Bell et al. (Bell)	5,276,472	Jan. 04, 1994

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Claims 1-8 stand rejected under 35 U.S.C. § 103 as being unpatentable over Yoshimura in view of Kinoshita or Bell.

Rather than reiterate the conflicting viewpoints advanced by the examiner and the appellant regarding the above-noted rejections, we make reference to the examiner's answer (Paper No. 11, mailed Jan. 19, 1999) for the examiner's reasoning in support of the rejections, and to the appellant's brief (Paper No. 10, filed Nov. 9, 1998) for the appellant's arguments thereagainst.

### OPINION

In reaching our decision in this appeal, we have given careful consideration to the appellant's specification and claims, to the applied prior art references, and to the respective positions articulated by the appellant and the examiner. As a consequence of our review, we make the determinations which follow.

“To reject claims in an application under section 103, an examiner must show an un rebutted *prima facie* case of obviousness. **See In re Deuel**, 51 F.3d 1552, 1557, 34 USPQ2d 1210, 1214 (Fed. Cir. 1995). In the absence of a proper *prima facie* case of obviousness, an applicant who complies with the other statutory requirements is entitled to a patent. **See In re Oetiker**, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). On appeal to the Board, an applicant can overcome a rejection by showing

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insufficient evidence of **prima facie** obviousness or by rebutting the **prima facie** case with evidence of secondary indicia of nonobviousness.” **In re Rouffet**, 149 F.3d 1350, 1355, 47 USPQ2d 1453, 1455 (CAFC 1998). Here, we agree with appellant that the examiner’s rejection lacks support in the prior art references applied for the invention as claimed. Therefore, we find that appellant has overcome the rejection by showing insufficient evidence to establish a **prima facie** case of obviousness.

Appellant argues Yoshimura, Kinoshita and Bell disclose the recordation of audio data with a still camera or system rather than having the audio snippets prerecorded in a database and using an associated identification code as recited in the language of claim 1. (See brief at page 3.) We agree with appellant. From our review of the applied prior art, the prior art merely recognizes the well-known association of audio data with picture data. The examiner has not identified any teaching or line of reasoning with respect to the use of a prerecorded database of audio snippets and associated identification codes nor the use of a scene identification display including an identification code associated with the scene.

The examiner maintains that Yoshimura teaches the use of a prerecorded database in voice data memory 9c. While this memory stores data for output, it is not audio data with an associated identification code which can be sensed by a camera as recited in element (c) of the instant claim 1. The examiner further maintains that Yoshimura teaches the use

of an identification code and identifies the use of the letter D with an image in Figure 8. (See answer at pages 3 and 5.) We disagree with the examiner. The Yoshimura reference is not clear as to the use of the letters (A, B, C, D) in Fig. 8 since some are associated with text and some letters with text in a map/image. Furthermore, the examiner has not identified in the written description where these letters are identified. In our view, Yoshimura does not teach or suggest the use of these or any other codes with respect to the acquisition of an image, but Yoshimura teaches the use of a code with respect to storage and retrieval for output of the data. This is not the invention to which claim 1 is directed.

The examiner further maintains that the use of the codes “\*3” etc. which designates an audio snippet would be used to retrieve the snippet. (See answer at page 6.) While these types of codes would be used in the output of the data, they are not disclosed as being used for the input of a picture and audio as discussed above. Therefore, we disagree with the examiner’s interpretation of the prior art teachings and suggestions from Yoshimura. Since the examiner has not shown the combination of elements, as claimed, were taught or suggested by the prior art references, we will not sustain the rejection of independent claim 1 and its dependent claims 2-7. Similarly, independent claim 8 contains similar limitations, and we will not sustain the rejection thereof.

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**CONCLUSION**

To summarize, the decision of the examiner to reject claims 1-8 under 35 U.S.C.  
§ 103 is reversed.

**REVERSED**

KENNETH W. HAIRSTON	)	
Administrative Patent Judge	)	
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	)	
	)	BOARD OF PATENT
LEE E. BARRETT	)	APPEALS
Administrative Patent Judge	)	AND
	)	INTERFERENCES
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	)	
JOSEPH L. DIXON	)	
Administrative Patent Judge	)	

JD/RWK

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