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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGG D. WILENSKY

Appeal 2010-009192
Application 11/524,219
Technology Center 2600

Before, ROBERT E. NAPPI, JUSTIN BUSCH, and
LYNNE E. PETTIGREW, *Administrative Patent Judges*.

NAPPI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 134(a) of the rejection of claims 1 through 63.

We reverse.

INVENTION

The invention is directed to a method of identifying pixels as either background or foreground pixels in a raster image. *See* page 2 of Appellant's Specification. Claim 1 is representative of the invention and reproduced below:

1. A computer-implemented method comprising:

identifying a first plurality of pixels in a raster image as foreground pixels and a distinct second plurality of pixels in the raster image as background pixels, each of the foreground pixels and background pixels having a respective color value;

solving for a color model of opacity, including determining coefficients of the color model of opacity using the color values of the foreground pixels and the color values of the background pixels, where the color model of opacity is a function that determines an opacity for a given pixel from a sum of products of color components of the respective color value of the given pixel, each product weighted by one of the coefficients, where the coefficients are determined so as to minimize error in a partition of the foreground and background pixels, and where the error is measured based on the foreground pixels that are in a background partition and the background pixels that are in a foreground partition; and

determining an opacity value for a pixel in the raster image using the color model of opacity;

wherein solving is performed by one or more processors.

REFERENCES

| | | |
|--------------|-----------------|---------------|
| Liguori | US 5,951,713 | Sep. 14, 1999 |
| Monro | US 6,078,619 | Jun. 20, 2000 |
| Cohen | US 6,337,925 B1 | Jan. 8, 2002 |
| Venkataraman | US 6,876,361 B2 | Apr. 5, 2005 |

REJECTIONS AT ISSUE

The Examiner has rejected claims 1 through 17, 19 through 40, 42 through 59 and 61 through 63 under 35 U.S.C. § 103(a) as being unpatentable over Cohen, Liguori, Appellant's admitted prior art and Monro. Answer 3-15¹.

The Examiner has rejected claims 18, 41, and 60 under 35 U.S.C. § 103(a) as being unpatentable over Cohen, Liguori, Appellant's admitted prior art, Monro and Venkataraman. Answer 15.

ISSUE

Appellant argues on pages 6 and 7 of the Appeal Brief and pages 2 through 4 of the Reply Brief that the Examiner's rejection of independent claims 1, 14 and 22 through 25 is in error.² These arguments present us with the issue: did the Examiner err in finding the combination of Cohen, Liguori, Appellant's admitted prior art and Monro teaches coefficients of a

¹ Throughout this opinion we refer to the Examiner's Answer mailed on April 16, 2010.

² Throughout this opinion we refer to Appellant's Appeal Brief dated December 10, 2009, and Reply Brief dated June 9, 2010.

color model of opacity are determined to minimize error in a partition of foreground and background pixels as claimed?³

ANALYSIS

We have reviewed Appellant's arguments in the Briefs, the Examiner's rejection and the Examiner's response to the Appellant's arguments. We concur with Appellant's conclusion that the Examiner erred in finding the combination of Cohen, Liguori, Appellant's admitted prior art and Monro teaches coefficients of a color model of opacity are determined to minimize error in a partition of foreground and background pixels. Each of independent claims 1, 14 and 22 through 25 recite a limitation directed to determining coefficients of a color model of opacity in such a manner. The Examiner in response to Appellant's argument finds that Monro teaches use of a measure of error (error threshold) to determine whether a selected block is a background. Answer 17. However, the Examiner has not shown how this error is used in a determination of coefficients as claimed. We note that in the statement of the rejection the Examiner finds that Liguori teaches use of coefficients, and "any blend method such as the one used by Liguori, attempts to minimize error between foreground and background pixels." Answer 4. We concur with the Examiner that Liguori teaches use of coefficients and color blending. However, we disagree with the Examiner's finding that Liguori attempts to minimize error in the determination of foreground and background pixels when determining the coefficients, as the Examiner has not cited sufficient evidence to support such finding.

³ We note that Appellant's arguments present additional issues however we do not reach these issues as this issue is dispositive.

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Accordingly, we will not sustain the Examiner's rejection under 35 U.S.C. § 103(a) of independent claims 1, 14 and 22 through 25 or dependent claims 2 through 13, 15 through 17, 19 through 21, and 26 through 40, 42 through 59 and 61 through 63.

Similarly, we will not sustain the Examiner's rejection of dependent claims 18, 41, and 60, as the rejection of these claims rely upon the same combination of Cohen, Liguori, Appellant's admitted prior art and Monro to teach the limitation determining coefficients.

ORDER

The decision of the Examiner to reject claims 1 through 63 is reversed.

REVERSED

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