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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TETSUJIRO KONDO and MASANORI KANEMARU

Appeal 2011-000480
Application 10/552,467
Technology Center 2600

Before MAHSHID D. SAADAT, JASON V. MORGAN,
and JOHNNY A. KUMAR, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

Appellants appeal under 35 U.S.C. § 134(a) from the rejection of claims 1-16. Claims 17-20 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ An Oral Hearing for this appeal was held on January 17, 2013.

STATEMENT OF THE CASE

Appellants' invention relates to image processing wherein using a motion vector mitigates motion blurring that occurs in the moving object in an image (*see* Spec. 2:18 – 3:6).

Exemplary independent claim 1 reads as follows:

1. An apparatus for processing an image, said apparatus comprising:

motion vector detection means for detecting a motion vector about a moving object that moves in multiple images, each of the multiple images being made up of multiple pixels and acquired by an image sensor having time integration effects, and tracking the moving object;

motion-blurring-mitigated object image generation means for generating a motion-blurring-mitigated object image in which motion blurring of the moving object is mitigated using the motion vector detected by the motion vector detection means; and

output means for combining the motion-blurring-mitigated object image generated in the motion-blurring-mitigated object image generation means into a space-time location in each of the multiple images based on the motion vector detected by the motion vector detection means, to output it as a motion-blurring-mitigated image.

The Rejection

The Examiner rejected claims 1-16² under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement and containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the

² The Examiner entered a new ground of rejection on page 3 of the Examiner's Answer to include dependent claims 2-7 and 9-14 in this ground of rejection which was previously presented only for the independent claims.

inventor(s), at the time the application was filed, had possession of the claimed invention.³

Appellants' Contentions

Appellants refer to pages 15 and 16 of the originally filed Specification (App. Br. 5-7) and contend that:

[t]he motion-blurring-mitigated object image is output to a position that ***tracks the moving object***, and the motion-blurring-mitigated object image ***of the moving object*** is combined into the image of the object being tracked ***in both images***, and the placement of the motion-blurring-mitigated object image ***in both positions correspond to this detected motion vector***.

(App. Br. 7). Appellants further conclude that the cited portions of the Specification provide support for the disputed claim feature “. . . combining the motion-blurring-mitigated object image . . . into a space-time location in each of the multiple images . . .” (App. Br. 7).

Issue

Does the evidence of record support the Examiner's conclusion that the limitation of “combining the motion-blurring-mitigated object image . . . into a space-time location in each of the multiple images based on the motion vector . . .” in claim 1 lacks written description support in the Specification?

PRINCIPLES OF LAW

The function of the written description requirement of the first paragraph of 35 U.S.C. § 112 is to ensure that the inventor has possession, as

³ The appeal with respect to various claim rejections under 35 U.S.C. § 103(a) is dismissed because the Examiner has withdrawn all the § 103 rejections (*see* Ans. 4).

of the filing date of the application relied on, of the specific subject matter later claimed by him. *In re Wertheim*, 541 F.2d 257, 262 (CCPA 1976); *Vas-Cath, Inc. v. Mahurkar*, 935 F.2d 1555, 1563 (Fed. Cir. 1991). In establishing a basis for a rejection under the written description requirement of the statute, the Examiner has the initial burden of presenting evidence or reasons why persons skilled in the art would not recognize in an applicant's disclosure a description of the invention defined by the claims. *Wertheim*, 541 F.2d at 265.

Further, as stated in *Ariad Pharmaceuticals, Inc. v. Eli Lilly and Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010),

[T]he hallmark of written description is disclosure [T]he specification from the perspective of a person of ordinary skill in the art. Based on that inquiry, the specification must describe an invention understandable to that skilled artisan and show that the inventor actually invented the invention claimed.

ANALYSIS

The Examiner has taken the position that the claimed recitation of “combining the motion-blurring-mitigated object image . . . into a space-time location in each of the multiple images . . .,” based on the motion vector is not supported by the instant Specification (Ans. 4)(emphasis original). The Examiner argued that the disclosure describes “a motion-blurring-mitigated object image of the moving object is combined into a position of a target pixel in an image or a position that corresponds to a target pixel in the other image,’ not each of the multiple images” (Ans. 5.) (emphases original).

Based on a review of Appellants' Specification, we agree that Appellants' description of how the motion-blurring-mitigated object image of the moving object is generated and combined into the image of the object being tracked in both images. We specifically find unpersuasive the Examiner's analysis of how the claimed subject matter is not supported by Appellants' disclosure based on the Examiner's pictorial representations (*see* Ans. 6-8). In fact, we agree with Appellants (App. Br. 7) that the Specification depicts mitigating motion blurring of the moving object in Figures 24A-25F and provides a general teaching for the claimed generating the motion-blurring-mitigated object image to be used for mitigating motion blurring as tracking the moving object OBF through each of the images.

While the Examiner correctly finds that the Specification does not *ipsis verbis* disclose the specific language of the claim, *ipsis verbis* support is not required. *Fujikawa v. Wattanasin*, 93 F.3d 1559, 1570 (Fed. Cir. 1996). We agree with Appellants (Reply Br. 3-5) that the disputed claim term is reasonably supported by the cited portions of the Specification (e.g., Spec. 14-16 and 47).⁴

CONCLUSION

In view of the above discussion and considering the presented facts and the arguments made by Appellants and the Examiner, we find that the

⁴ Additionally, Appellants refer to the original claims 1, 8, and 15, which recite “. . . combining the motion-blurring-mitigated object image . . . into a space-time location, in each image, corresponding to the motion vector . . .,” as additional evidence that the disputed claim term are supported by the original disclosure (Reply Br. 2). While we agree with Appellants, we observe that this position is presented for the first time in the Reply Brief.

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evidence of record does not support the Examiner's conclusion that the limitation of "combining the motion-blurring-mitigated object image . . . into a space-time location in each of the multiple images based on the motion vector" in claim 1 lacks written description support in the Specification. Therefore, because Appellants' disclosure indicates that Appellants were in possession of the claimed subject matter at the time of filing of the application, the rejection of claims 1-16 under the first paragraph of 35 U.S.C. § 112 cannot be sustained.

DECISION

The Examiner's decision rejecting claims 1-16 is reversed.

REVERSED

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