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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MOON-HEUI LEE

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Appeal 2011-004816  
Application 11/377,290  
Technology Center 2600

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Before THU A. DANG, JAMES R. HUGHES,  
and GREGORY J. GONSALVES, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

## I. STATEMENT OF THE CASE

Appellant appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-3, 5, 6, and 8-14 (App. Br. 2). Claims 4 and 7 have been canceled (App. Br. 8-9 and Ans. 2). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

### A. INVENTION

Appellant's invention is directed to a method for displaying image data of a moving picture on a portable terminal as a thumbnail image; wherein, the file format of the moving picture includes one frame of the moving picture data that is used as thumbnail image data which is added to the moving picture data separate from a header (Abstract; Spec. 8:25-9:10).

### B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary:

1. A method for displaying image data in a portable terminal, the method comprising:

photographing a moving picture in a moving picture photographing mode, the moving picture having one or more frames; and

if a moving picture storage option is selected during photographing, adding one of the frames of the photographed moving picture as item display data to the photographed moving picture and storing the photographed moving picture,

wherein the item display data is stored in an additional field added at the end of the last field of the format of the photographed moving picture, separately from a header in the photographed moving picture.

### C. REJECTION

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Anderson	US 5,903,309	May 11, 1999
Sasagawa	US 7,417,668 B2	Aug. 26, 2008 (filed Apr. 08, 2004)

Claims 1-3, 5, 6, and 8-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasagawa in view of Anderson.

### II. ISSUE

The dispositive issue before us is whether the Examiner has erred in determining that the combination of Sasagawa and Anderson teaches or would have suggested that “the *item display data is stored in an additional field* added at the end of the last field of the format of the photographed moving picture, separately from a header in the photographed moving picture” (claim 1, emphasis added).

### III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

#### *Sasagawa*

1. Sasagawa discloses a digital camera that records and plays back both still and moving picture (col. 4, ll. 14-18).
2. When the last recorded video file is a moving picture file, the image of the leading frame is displayed on a monitor 30 (col. 7, ll. 20-25).
3. The file format includes a header followed by moving picture data and a data index (Fig.6; col. 7, ll. 3-5).

*Anderson*

4. Anderson discloses a digital camera that records movie clips having a file format 470 that includes a header field 462 and JPEG data field 464 followed by a thumbnail image 466, an information field 472, and a sound field 474 (Figs. 9 and 10; col. 5, ll. 50-55 and col. 6, ll. 29-35).

5. The camera also includes a multiple image file format 480 having a header 482 that points to a series of extended file formats 470 including at least one thumbnail (Fig. 10; col. 7, ll. 19-34).

IV. ANALYSIS

*Claims 1-3, 5, 6, and 8-14*

Appellant contends that “the thumbnail included in the extended file format 470 and the file format 480 of Anderson is not stored in the additional field added at the end of the last field of the file format, separately from a header in the photographed moving picture” (App. Br. 6).

However, the Examiner finds that:

Anderson reference clearly teaches each of the extended file formats 470 in a multiple image file format 480 wherein the thumbnail, information field, and sound field can be considered as item display data which is stored in an additional field added at the last field of the format of the multiple image format file, separately from the header 482 in the multiple image format file (Ans. 11).

We give the claim its broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). Claim 1 merely defines “item display data” as “one of the frames [i.e., images,] of the photographed moving picture [that is added] to the

photographed moving picture,” i.e., data associated with images of a picture that is to be added to the data of the picture.

Although claim 1 also recites that the “item display data is stored in an additional field added at the end of the last field of the format of the photographed moving picture, separately from a header in the photographed moving picture,” we note that the “additional field,” “last field” and “header” are merely data structures that the item display data is stored therein and thus the limitation “stored in...” merely describes the item display data. However, how data is stored does not alter the functionality of or provide any additional function to the claimed adding step of the claimed method for displaying data as recited in claim 1. That is, the limitation is essentially nonfunctional descriptive material in that the limitation simply describes data to be added and displayed but the underlying functionality remains the same regardless of how the data is stored. *Ex parte Nehls*, 88 USPQ2d 1883, 1889 (BPAI 2008) (precedential). *See Ex parte Curry*, 84 USPQ2d 1272, 1274 (BPAI 2005) (informative) (Fed. Cir. Appeal No. 2006-1003), *aff’d*, Rule 36 (June 12, 2006) .

Thus, we interpret claim 1 to merely require adding data associated with an image of a photographed moving picture to the data relating to the photographed moving picture, as consistent with the Specification and claim 1.

Sasagawa is directed to a digital camera that captures moving picture videos; wherein, the image of the leading frame is used as an icon to be displayed (FF 1 and 2). The file format includes a header followed by the moving picture data and a data index (FF 3). We find that leading frame of the moving picture data comprises data associated with an image. That is,

we find that Sasagawa's leading frame comprises "item display data" (claim 1).

In addition, Anderson is directed to a digital camera that records movie clips having an extended file format including a header, JPEG data, thumbnail image, information field and the sound field arranged in that particular order with the header being the first field (FF 4). A multiple image file format includes a header that points to a series of extended file formats (FF 5). We find that the extended file format comprises data associated with an image that is added to the JPEG data separate from the header. In particular, we agree with the Examiner's finding that Anderson's extended file format comprises "item display data [that] is stored in an additional field added at the end of the last field of the format of the photographed moving picture, separately from a header in the photographed moving picture" (claim 1).

In view of our claim construction above, we find that the combination of Sasagawa and Anderson *at least suggests* providing "item display data [that] is stored in an additional field added at the end of the last field of the format of the photographed moving picture, separately from a header in the photographed moving picture," as required by claim 1.

Accordingly, we find that Appellant has not shown that the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) over Sasagawa in view of Anderson. Further, independent claims 5 and 9 having similar claim language and claims 2, 3, 6, 8, and 10-14 (depending from claims 1, 5, and 9), which have not been argued separately, fall with claim 1.

Appeal 2011-004816  
Application 11/377,290

V. CONCLUSION AND DECISION

The Examiner's rejection of claims 1-3, 5, 6, and 8-14 under 35 U.S.C. § 103(a) is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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