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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JIRO SHIMOSATO

Appeal 2012-006575
Application 11/406,951
Technology Center 2600

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 appeals under 35 U.S.C. § 134(a) from a Final Rejection of claims 2-7, 17, 19, 21, and 22 (App. Br. 2). Claims 1, 8-16, 18, and 20 have been cancelled (*id.*). We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

A. INVENTION

Appellant's invention is directed to an imaging apparatus having an Automatic Focus (AF) setting controller that enables still image shooting during movie recording; wherein, the AF area set for a movie recording mode and a hybrid movie recording/still image mode are larger than the AF area set for a still image shooting mode (Abstract).

B. ILLUSTRATIVE CLAIM

Claim 17 is exemplary:

17. An imaging apparatus that enables still image shooting in a movie recording mode, the imaging apparatus comprising:

an AF area setting controller configured to set a first AF area in a still image shooting mode, to set a second AF area in the case where still image shooting in the movie recording mode, and to set a third AF area in the movie recording mode, each of the second and third AF areas being larger than the first AF area; and

a focusing controller configured to control a focus state of an object image based on a signal corresponding to an AF area in an image set by said AF area setting controller.

C. REJECTIONS

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

Hashimoto	US 6,249,317 B1	June 19, 2001
Koreki	US 2004/0263674 A1	Dec. 30, 2004
Fujii	US 2005/0031325 A1	Feb. 10, 2005
Yamaguchi	US 2006/0008264 A1	Jan. 12, 2006

Claims 2, 3, 5, 17, 19, 21, and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koreki in view of Hashimoto.

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Koreki in view of Hashimoto and Yamaguchi.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Koreki in view of Hashimoto and Fujii.

II. ISSUE

The dispositive issue before us is whether the Examiner has erred in determining that the combination of Koreki and Hashimoto teaches or would have suggested “an AF area setting controller configured to set a first AF area in a still image shooting mode, to set a second AF area in the case where still image shooting in the movie recording mode, and to set a third AF area in the movie recording mode, *each of the second and third AF areas being larger than the first AF area*” (claim 17, emphasis added).

III. FINDINGS OF FACT

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

Koreki

1. Koreki discloses a digital camera 1 having Central Processing Unit (CPU) 9 that includes a still picture pick-up processing sequence, a moving picture pickup processing sequence, and a still picture pick-up during moving picture pick-up processing sequence (Figs. 2,3, and 6-10; ¶¶ [0059]-[0061]).

2. During either sequence, the CPU sets an AF area as a predetermined area at the center of the frame, a predetermined area of the frame that is selected by the user, or a predetermined area of the frame that is automatically selected (¶¶ [0072], [0103], [0107], and [0108]).

Hashimoto

3. Hashimoto discloses a video camera having an automatic exposure control apparatus that sets an AF area of a skin-colored portion (AF area 62) to be a size larger than a previous AF area 61; and, when the skin-colored portion of the image covers the entire AF area, the apparatus increases the size of the AF area (Figs. 17, 23A, and 23B; col. 2 ll. 25-44 and col. 15, ll. 57-60).

IV. ANALYSIS

Claims 2, 3, 5, 17, 19, 21, and 22

As to independent claim 17, Appellant contends that “Hashimoto does not disclose or suggest ‘the AF area required for covering a moving skin-colored object is larger than that required for covering a [sic] unmoving

skin-colored object’” (App. Br. 10). Appellant argues that “one of ordinary skill in the art would *not* combine the cited references in accordance with the Examiner’s proposed combination, at least because if the AF area is enlarged, Koreki would take longer time for the AF process because a larger area search should be done” (App. Br. 15).

However, the Examiner finds that Hashimoto “illustrates that another AF area 62 is needed to cover the object’s new positions;” wherein, “[t]his AF area 62 is larger than both the previous AF area 61 and the moved AF area 63” (Ans. 11).

Appellant’s argument that “Hashimoto does not disclose or suggest ‘the AF area required for covering a moving skin-colored object is larger than that required for covering a [sic] unmoving skin-colored object’” is not commensurate in scope with the specific language of claim 17 (App. Br. 10). In particular, claim 17 does not recite such “the AF area required for covering a moving skin-colored object is larger than that required for covering a [sic] unmoving skin-colored object” as Appellant argues.

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 17 does not place any limitation on what “AF area” means, includes, or represents other than the imaging apparatus sets a first, second, and third (corresponding to a still image shooting mode, still shooting in a movie recording mode, and a movie recording mode) and that the second and third are larger than the first. Thus, we give “each of the second and third AF areas being larger than the first AF area” its broadest reasonable interpretation as the AF areas relating to the movie recording modes are

larger than the AF area relating to the still shooting mode, as consistent with the Specification and claim 17.

Koreki discloses a digital camera includes a CPU having three modes of sequencing: a still picture pick-up processing sequence, a moving picture pickup processing sequence, and a still picture pick-up during moving picture pick-up processing sequence; wherein, an AF area is set during each mode (FF 1 and 2). We find that CPU includes an AF setting controller that sets AF areas during each of the three modes. That is, we find that Koreki's CPU comprises "an AF area setting controller configured to set a first AF area in a still image shooting mode, to set a second AF area in the case where still image shooting in the movie recording mode, and to set a third AF area in the movie recording mode" (claim 17).

In addition, Hashimoto discloses a video camera that sets an AF area which is a size larger than a previous AF area (FF 3). We find that the setting of a larger AF area includes at least one AF area relating to a movie recording mode that is larger than another AF area. That is, we find that Hashimoto's AF area setting comprises at least one "AF area[] being larger than the first AF area" (claim 17).

In view of our claim construction above, we find that the combination of Koreki and Hashimoto *at least suggests* providing "an AF area setting controller configured to set a first AF area in a still image shooting mode, to set a second AF area in the case where still image shooting in the movie recording mode, and to set a third AF area in the movie recording mode, each of the second and third AF areas being larger than the first AF area" (claim 17).

We also agree with the Examiner's explicit motivation that combining the references would be obvious "to make it easier to track objects in the image during moving picture shooting" (Ans. 6). The Supreme Court has stated that "[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results." *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 416 (2007).

Thus, we find no error in the Examiner's finding that the combination of Koreki's camera (including a CPU that sets AF areas for three modes of camera operation) with the video camera (including an automatic exposure control apparatus that sets one AF area to be larger than another), as disclosed in Hashimoto, produces a camera that sets an AF area relating to a movie recording mode larger than another relating to a still image shooting mode which would be obvious (Ans. 6; FF 1-3).

Accordingly, we find that Appellant has not shown that the Examiner erred in rejecting claim 17 under 35 U.S.C. § 103(a) over Koreki in view of Hashimoto. Further, independent claim 19 having similar claim language and claims 2, 3, 5, 21, and 22 (depending from claim 17) which have not been argued separately, fall with claim 17.

Claims 4, 6, and 7

Appellant argues that claim 4, 6, and 7 are patentable over the cited prior art for the same reasons asserted with respect to claim 17 (App. Br. 16).

As noted *supra*, however, we find that Koreki and Hashimoto *at least suggest* all the features of claim 17. We therefore affirm the Examiner's rejection of claim 4 under 35 U.S.C. § 103(a) over Koreki in view of

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Hashimoto and Yamaguchi and of claims 6 and 7 under 35 U.S.C. § 103(a) over Koreki in view of Hashimoto and Fujii.

V. CONCLUSION AND DECISION

The Examiner's rejection of claims 2-7, 17, 19, 21, and 22 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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