



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/883,128	10/14/2015	Seung-yun Lee	0502-0399	1444
68103	7590	02/04/2020	EXAMINER	
Jefferson IP Law, LLP 1130 Connecticut Ave., NW, Suite 420 Washington, DC 20036			GEBRIEL, SELAM T	
			ART UNIT	PAPER NUMBER
			2696	
			NOTIFICATION DATE	DELIVERY MODE
			02/04/2020	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

usdocketing@jeffersonip.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SEUNG-YUN LEE

Appeal 2019-000443
Application 14/883,128
Technology Center 2600

Before JAMES R. HUGHES, JUSTIN BUSCH, and
MICHAEL T. CYGAN, *Administrative Patent Judges*.

HUGHES, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision rejecting claims 30–32, 34–42, and 44–49.^{2,3} Claims

¹ We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Samsung Electronics Co., Ltd. *See* Appeal Br. 2.

² We refer to Appellant's Specification (“Spec.”), filed Oct. 14, 2015 (claiming benefit of KR 10-2010-0072480, filed July 27, 2010); Appeal Brief (“Appeal Br.”), filed May 9, 2018; and Reply Brief (“Reply Br.”), filed Oct. 22, 2018. We also refer to the Examiner's Final Office Action (“Final Act.”), mailed Nov. 16, 2017; and Answer (“Ans.”) mailed Aug. 27, 2018.

³ The Examiner omits claim 32 from the “Disposition of Claims” in the Final Office Action. *See* Final Act. 1. Claims 30–32, 34–42, and 44–49 are

1–29, 33, and 43 have been canceled. *See* Appeal Br. 2. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

CLAIMED SUBJECT MATTER

The invention relates “to a digital photographing method and apparatus” (Spec. 1:11) for “[t]aking a series of consecutive photographs” (Spec. 1:14). *See* Spec. 1:20–5:19; Abstract. Claims 30, 40, and 49 are independent. Claim 30, reproduced below, is illustrative of the claimed subject matter:

30. A method for operating an electronic device comprising:

identifying a first object from the sequence of images;

identifying a second object different than the first object from the sequence of images;

identifying a first movement state corresponding to the first object or a second movement state corresponding to the second object;

determining, based at least in part on the first movement state or the second movement state, that a specified condition is met with respect to a proximity between the first object and the second object;

generating an image capturing signal based on the determining that a distance between the first object and the second object is within a reference distance range; and

photographing an image in response to the generated image capturing signal.

Appeal Br. 10 (Claims App.).

actually pending. *See* Final Act. 2; Appeal Br. 2. We find this omission to be harmless error.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Chen et al. (“Chen”)	US 2009/0316044 A1	Dec. 24, 2009
Hung et al. (“Hung”)	US 2009/0102935 A1	Apr. 23, 2009
Shimizu	US 2008/0291285 A1	Nov. 27, 2008

REJECTION⁴

The Examiner rejects claims 30–32, 34–42, and 44–49 under 35 U.S.C. § 103(a) as being unpatentable over Chen, Hung, and Shimizu. *See* Final Act. 2–14.

OPINION

Obviousness Rejection

The Examiner rejects independent claim 30 (as well as independent claims 40 and 49, and dependent claims 31, 32, 34–39, 41 42, and 44–48) over Chen, Hung, and Shimizu. *See* Final Act. 2–5; Ans. 16–17. Appellant contends Chen, Hung, and Shimizu do not teach the disputed limitations of claim 30. *See* Appeal Br. 5–9; Reply Br. 2–5. Specifically, Appellant contends, *inter alia*, that Chen (as well as Hung and Shimizu) does not teach identifying objects as well as movement states of the objects. *See* Appeal Br. 5–9; Reply Br. 2–5. Appellant further contends:

Chen does not teach the use of motion vectors of objects only motion vectors of **blocks** (Appeal Brief, page 7). The fact that one can observe the moving object, emphasized above, does not

⁴ The Leahy-Smith America Invents Act (“AIA”), Pub. L. No. 112–29, 125 Stat. 284 (2011), amended 35 U.S.C. § 103, e.g., to rename 35 U.S.C. § 103’s subsections. Because the present application has an effective filing date (July 27, 2010) prior to the AIA’s effective date for applications (March 16, 2013), this decision refers 35 U.S.C. § 103(a).

disclose or suggest that Appellant’s method for operating an electronic device, as in claim 30, identif[ies] a first movement state corresponding to the first object or a second movement state corresponding to the second object It is respectfully submitted that the Examiner confuses, an individual using Chen’s device or viewing Chen FIG. 4, with the function of Chen’s device, which is different.

Reply Br. 4.

We agree with Appellant that the Examiner-cited portions of Chen (in combination with Hung and Shimizu) do not describe a “method for operating an electronic device” including “identifying a first object,” “identifying a second object,” and “identifying a first movement state corresponding to the first object or a second movement state corresponding to the second object” as recited in claim 30 (Appeal Br. 10 (Claims App.)). *See* Appeal Br. 5–9; Reply Br. 2–5. The Examiner-cited portions of Chen (as well as Hung and Shimizu) describe determining motion vectors for blocks of image data, but do not describe identifying objects and the movement states thereof (the summed motion vector—*see* Spec. 17:4–15; Fig. 8). *See* Final Act. 2–5; Ans. 16–17 (citing Chen ¶¶ 20–25, Fig. 4; Hung ¶¶ 35, 36, 41, Fig. 3; Shimizu ¶¶ 41–45, Figs. 1, 5). The Examiner maintains that Chen’s Figure 4 describes identifying objects and movement states. *See* Final Act 2–3; Ans. 16 (citing Chen ¶¶ 20–25; Fig. 4). However, tracking objects using a panning camera (Chen ¶ 20) that are captured in image frames, as shown in Chen’s Figure 4, is distinct from dividing an image frame into blocks (as also shown in Chen’s Figure 4). *See* Chen Fig. 4, elements F0 and F2, 401–409, MB1-MB8. Nowhere does Chen describe identifying objects within an image frame (or sequence of frames) and determining movement of the objects. The Examiner does not sufficiently

explain how the cited portions of Chen (or of Hung and Shimizu—neither of which are relied upon for the steps of identifying a first and second object) at least suggest the disputed features.

Consequently, we are constrained by the record before us to find that the Examiner erred in finding that the combination of Chen, Hung, and Shimizu render obvious Appellant’s claim 30. Independent claims 40 and 49 include limitations of commensurate scope. Claims 31, 32, 34–39, 41, 42, and 44–48 depend on and stand with claims 30 and 40, respectively.

CONCLUSION

For the reasons discussed above, we determine that claims 30–32, 34–42, and 44–49 are not obvious in view of the cited prior art. Appellant has shown that the Examiner erred in rejecting claims 30–32, 34–42, and 44–49 under 35 U.S.C. § 103(a). We therefore do not sustain the Examiner’s rejection of claims 30–32, 34–42, and 44–49.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
30–32, 34–42, 44–49	103(a)	Chen, Hung, Shimizu	None	30–32, 34–42, 44–49

REVERSED