

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

PRIME FOCUS CREATIVE SERVICES CANADA INC.,
Petitioner,

v.

LEGEND3D, INC.,
Patent Owner.

Case IPR2016-01243
Patent 7,907,793 B1

Before LYNNE E. PETTIGREW, CARL M. DEFRANCO, and
KAMRAN JIVANI, *Administrative Patent Judges*.

JIVANI, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

Petitioner Prime Focus Creative Services Canada Inc. requested, on June 21, 2016, *inter partes* review of claims 1–20 (the “Challenged Claims”) of U.S. Patent No. 7,907,793 B1 (“the ’793 patent”). Paper 1 (“Petition” or “Pet.”). On September 23, 2016, Patent Owner Legend3D, Inc. filed a Preliminary Response. Paper 14 (“Prelim. Resp.”).

Under 35 U.S.C. § 314(a), an *inter partes* review may not be instituted unless it is determined that there is “a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.” Based on the information presented in the Petition and Preliminary Response, we are persuaded that there is a reasonable likelihood Petitioner would prevail with respect to claims 1–20. Accordingly, we institute *inter partes* review of claims 1–20 on the grounds specified below. Our factual findings and conclusions at this stage of the proceeding are based on the evidentiary record developed thus far. This is not a final decision as to patentability of claims for which *inter partes* review is instituted.

II. BACKGROUND

A. *The ’793 patent (Ex. 1001)*

The ’793 patent relates to an image sequence depth enhancement system and method that allows for the rapid conversion of a sequence of two-dimensional images into three-dimensional images. Ex. 1001, 1:21–25. The ’793 patent describes two tasks: colorizing black-and-white feature films (*id.* at 1:27–65) and converting two-dimensional images to three-dimensional images (*id.* at 1:65–2:16). To perform either of these tasks, the

'793 patent classifies elements from movie scenes into two separate categories: "either background elements (i.e. sets and foreground elements that are stationary) or motion elements (e.g., actors, automobiles, etc.) that move throughout the scene." *Id.* at 2:21–25. In one embodiment, the background elements are combined to create a composite background image, and colorization or depth information is applied to the background elements. *Id.* at 15:15–25. In another embodiment, the motion elements are masked throughout a scene, and colorization or depth information is applied to the masked motion elements. *Id.* at 2:29–3:5.

B. Illustrative Claims

Claims 1, 13, and 20 are independent claims. Claims 1 and 13 are reproduced below.

1. A method for modifying a set of time ordered digital images comprising:

associating a plurality of images comprising common background elements;

obtaining a composite background comprising said plurality of images wherein said composite background excludes a set of motion objects moving in relation to said common background elements;

setting at least one depth parameter associated with a region within said composite background;

applying said at least one depth parameter to at least one image selected from said plurality of images using a computer.

13. A method for modifying a set of time ordered digital images comprising:

associating a first mask with a motion object in a first image;

copying said first mask to create a second mask associated so with a second image;

moving said second mask to a location of said motion object in said second image;

reshaping said second mask to fit said motion object in said second image using a computer;

setting at least one depth parameter associated with said first mask;

applying said at least one depth parameter to said second image using said computer.

C. Evidence Relied Upon

Petitioner relies on the following references:

1. Sandrew, U.S. Patent No. 7,181,081 B2 (“the ’081 patent”) (Ex. 1003).
2. Sandrew, U.S. Patent No. 7,333,670 B2 (“the ’670 patent”) (Ex. 1004).
3. Passmore, U.S. Patent App. Pub. No. 2009/0219383 A1, issued Sept. 3, 2009 (Ex. 1005, “Passmore”).
4. Sullivan et al., U.S. Patent No. 7,573,475 B2, issued Aug. 11, 2009 (Ex. 1006, “Sullivan”).

Petitioner further relies on the Declaration of David Forsyth, Ph.D. (Ex. 1009).

D. Proposed Grounds of Unpatentability

Petitioner advances the following grounds of unpatentability under 35 U.S.C. § 103(a) (Pet. 3–4):

References	Challenged Claims
'081 patent and Passmore	1, 2, and 7–12
'081 patent and Sullivan	1–12
'670 patent and Passmore	13, 14, and 19
'670 patent and Sullivan	13–19
'081 patent, '670 patent, and Passmore	20
'081 patent, '670 patent, and Sullivan	20

E. Related Proceedings

The '793 patent is the subject of ongoing litigation between the parties: *Prime Focus Creative Services Canada Inc. v. Legend3D, Inc.*, Central District of California, Case No. 2:15-cv-2340-MWF-PLA, filed on April 21, 2016.¹ Pet. 1.

III. ANALYSIS

A. Overview of Cited References

1. The '670 and '081 Patents

Both Sandrew patents upon which Petitioner relies are parents of the '793 patent, the instant challenged patent. Specifically, the '793 patent is a continuation-in-part of U.S. Patent No. 7,577,312, which is a continuation of

¹ Additionally, *inter partes* review of U.S. Patent No. 8,922,628 is currently proceeding before this Board and involves the instant parties, but is not related to the '793 patent. *Legend3D, Inc. v. Prime Focus Creative Services Canada Inc.*, No. IPR2016-00806 (PTAB Mar. 28, 2016).

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.