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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte STEVE B. BRANTON, JEFFREY R. BAKER,
DAVID LEE STALLARD, and DUSTIN J. LUCK

Appeal 2010-010717
Application 11/192,619
Technology Center 2600

Before JOSEPH L. DIXON, ST. JOHN COURTENAY III, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

KRIVAK, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1, 2, and 5-24. Claims 3 and 4 have been canceled (App. Br. 2). We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

STATEMENT OF THE CASE

Appellants' claimed invention is directed to interface devices allowing humans to provide control input (Spec.1:7-8). Particularly, a scroll sensor enables a plurality of functions chosen bases on the location of a first contact with the scroll sensor. This allows different control functionalities without requiring pressing a button, choosing from a menu, or other discrete steps. Rather, choosing functionality "requires only that the rotational motion be initiated at a specific location." (Spec. 3:21-26)

Independent claim 1, reproduced below, is illustrative.

1. A method comprising:

dividing an annular touch pad into a plurality of regions;

assigning each of the plurality of regions to one of a plurality of control functions;

receiving a touch on the touch pad initiated at a given point on the touch pad; and

if the given point falls within one of the regions, selecting the control function assigned to the one of the regions and receiving the touch as parametric control input for the selected control function;

wherein selecting the control function requires that the touch has rotational motion initiated at the given point.

REFERENCES and REJECTIONS

The Examiner rejected claims 1, 2, and 5-19 under 35 U.S.C. § 103(a) based upon the teachings of Zadesky (US 7,046,230 B2) and Murasaki (US 5,867,158).¹

The Examiner rejected claims 20-24 under 35 U.S.C. § 103(a) based upon the teachings of Zadesky, Murasaki, and Grady (US Pat. App. Pub. No. 2007/0086724 A1).

ANALYSIS

Appellants contend the Examiner is incorrect in combining Zadesky and Murasaki as both disclose selecting a function based on a button being pressed (App. Br. 9; Reply Br. 4). Further, Appellants assert, “Zadesky does not teach or suggest assigning different portions of touch pad (110) with corresponding functions” as claimed (App. Br. 9). Thus, Appellants contend, Zadesky and Murasaki, alone or in combination, do not teach or suggest selecting a function assigned to a portion of the touch pad, initiated only if the touch has *rotational motion* (emphasis added) (App. Br. 9; Reply Br. 4). Rather, “[M]odifying Zadesky with Murasaki results in Zadesky’s buttons 112 which are not part of touch pad 110 being replaced with Murasaki’s buttons 16, 17 which are part of a touch pad” (Reply Br. 4).

The Examiner finds “in response to applicant’s arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of

¹ As noted above claims 3 and 4 have been canceled, thus claims 1, 2, and 5-19 are under this rejection.

references. See *In re Keller*, 642 F.2d 413 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091 (Fed. Cir. 1986)” (Ans. 7, 8) (parallel citations omitted).

We find the Examiner is unresponsive to Appellants’ contentions. Appellants, as noted above, have not argued the references separately, they have asserted how each of the cited references does not have the feature relied upon by the Examiner and thus contend the combination would not result in Appellants’ claimed invention. The Examiner bears the initial burden of presenting a prima facie case of obviousness, and Appellants have the burden of presenting a rebuttal to the prima facie case. *In re Oetiker*, 977 F.2d 1443, 1445 (Fed. Cir. 1992). Appellants have met their burden. The Examiner’s response is unavailing. Thus, we find the weight of the evidence does not support the Examiner’s ultimate legal conclusion of obviousness. Therefore, the Examiner’s rejection of claims 1, 2, and 5-19 is not sustained. The Examiner’s rejection of claims 20-24 is also not sustained for the same reasons since the Examiner has not identified how Grady remedies the noted deficiency.

DECISION

The Examiner’s decision rejecting claims 1, 2 and 5-24 is reversed.

REVERSED

Vsh/peb