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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte DINESH CHANDRA VERMA and PARIDHI VERMA

Appeal 2012-007587
Application 12/057,950
Technology Center 2400

Before JOHNNY A. KUMAR, DANIEL N. FISHMAN, and
CATHERINE SHIANG, *Administrative Patent Judges*.

FISHMAN, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. § 134(a) of the final rejection of claims 1–3, 5–11, 13–17, 19, and 20, all remaining claims of the application.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

¹ In this Opinion, we refer to the Appeal Brief (“App. Br.,” filed December 6, 2011), the Examiner’s Answer (“Ans.,” mailed April 4, 2012), and the original Specification (“Spec.,” filed March 28, 2008).

STATEMENT OF THE CASE

THE INVENTION

Appellants' invention relates to measuring ease of use of software.

Spec. 1.

Claim 1, reproduced below, is illustrative:

1. A computer implemented method for quantitative determination of software ease of use, comprising the steps of:

using sensors to collect biometric data from each of a plurality of users engaged in using a software application operating on a computer or computer network;

monitoring and recording changes in the biometric data which occur while the software application is being used by each of the plurality of users;

combining recorded changes in the biometric data for each user into quantitative metrics;

averaging quantitative metrics across the plurality of users;

compiling the averaged quantitative metrics into a single quantitative measure for an ease of use index for the software application; and

providing an output as a user-independent index for ease-of-use of the software application.

THE REJECTION

Claims 1–3, 5–11, 13–17, 19, and 20 are rejected under 35 U.S.C. § 103(a) as unpatentable over Franz (US 6,040,821) and Kotzin (US 7,088,220 B2).

ISSUE

Appellants' arguments present the dispositive issue: Has the Examiner erred by finding Franz teaches or suggests "averaging quantitative metrics across the plurality of users," as recited in independent claim 1?

ANALYSIS

In rejecting claim 1, the Examiner finds Franz teaches the averaging step at column 23, lines 20–23. Ans. 11. Franz there discloses storing different sets of parameters for cursor tracking (in response to user force on a keycap), "perhaps one [set] for each of several users." Franz col. 23, ll. 21–22. We agree with Appellants that Franz fails to teach or reasonably suggest averaging the metrics *across a plurality of users*. App. Br. 28. Appellants contend the claimed averaging across a plurality of users would make no sense in the context of Franz where cursor tracking responsive to keycap forces is customized for each user's preference. *Id.* (see, e.g., Franz col. 2, ll. 22–26). We agree. Appellants further contend, in Franz, "one wants to have the cursor tracking device perform in the desired manner [(for each user)], not in a manner averaged among several users." *Id.* We agree.

The Examiner also points to Franz column 11, lines 9–11 as explicitly teaching the claimed averaging. Ans. 26. However, we find no teaching or suggestion there regarding averaging the biometric derived metrics *across a plurality of users*. Rather, the cited portion of Franz appears to describe some form of calibration or verification to determine whether the keyboard force sensors are operating within an expected range.

Thus, we find the Examiner erred by finding Franz teaches or suggests "averaging quantitative metrics across the plurality of users," as recited in

Appeal 2012-007587
Application 12/057,950

independent claim 1. Independent claims 7 and 15 include a similar limitation and are rejected for essentially the same reasons as claim 1. Therefore, we also find the Examiner erred in rejecting claims 2, 3, 5–11, 13–17, 19, and 20 for the same reason as claim 1.

Appellants raise additional issues in their Appeal Brief. We are persuaded of error with regard to the identified issue discussed *supra*, which is dispositive as to the rejection of all claims. We, therefore, do not reach the additional issues.

DECISION

For the above reasons, the Examiner's rejection of claims 1–3, 5–11, 13–17, 19, and 20 is reversed.

REVERSED