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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
12/304,608	12/12/2008	Joel R. Jaffe	247079-002243USPX	7033
70243	7590	11/15/2016	EXAMINER	
NIXON PEABODY LLP 70 West Madison, Suite 3500 CHICAGO, IL 60602			LEE, WEI	
			ART UNIT	PAPER NUMBER
			3714	
			NOTIFICATION DATE	DELIVERY MODE
			11/15/2016	ELECTRONIC

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOEL R. JAFFE and BENJAMIN GOMEZ

Appeal 2014-006036
Application 12/304,608
Technology Center 3700

Before LINDA E. HORNER, BRANDON J. WARNER, and
LEE L. STEPINA, *Administrative Patent Judges*.

STEPINA, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134 from the Examiner's decision to reject claims 3–7, 13–16, 18, 21–26, and 32–40. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

CLAIMED SUBJECT MATTER

The claims are directed to a wagering machine having three-dimensional game segments. Spec. 1 (Title). Claim 32, reproduced below, is illustrative of the claimed subject matter:

32. A method comprising:

presenting a wagering game upon which monetary value may be wagered, the wagering game including one or more segments, the one or more segments having a scripted environment, the scripted environment having multiple scenes for simulating an illusion of continuous movement of a point of reference through a three-dimensional graphical environment along a predetermined track that forms at least one loop;

storing the predetermined track in a memory as a plurality of tiles, each tile having scene data for a respective one of the multiple scenes:

under the control of one or more processors, serially transitioning through the multiple scenes of the scripted environment, along the predetermined track, the transitioning including:

reading scene data for one of the multiple scenes from the memory;

determining a set of one or more graphical elements to be displayed for the scene;

determining a set of one or more graphical characteristics associated with the scene;

rendering the scene of the three-dimensional graphical environment from the point of reference; and

rendering the set of one or more graphical elements for the scene within the three dimensional space in accordance with the set of one or more graphical characteristics for the scene defined by the scene data, the rendering including moving one or more of the set of graphical elements within the scene;

receiving, via an input device, an input indicating a change in the illusion of continuous movement through the three-dimensional graphical environment;

in response to the input, updating the set of one or more graphical elements of the scene, determining an outcome *based*

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*on whether the point of reference is substantially close to a graphical element, and providing an award for the segment of the wagering game based on the closeness of the graphical element and the reference point; and
determining a next scene.*

Appeal Br. 25 (Claims App.) (emphasis added).

REFERENCES

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

Ngai	US 5,174,569	Dec. 29, 1992
Wood	US 2002/0103021 A1	Aug. 1, 2002
Baerlocher	US 2002/0107068 A1	Aug. 8, 2002
Cannon	US 2002/0183105 A1	Dec. 5, 2002
Yamaguchi	US 6,602,139 B2	Aug. 5, 2003
Matsumoto	US 2003/0190950 A1	Oct. 9, 2003
Vancura	US 6,997,805 B2	Feb. 14, 2006
Hein	US 2007/0010315 A1	Jan. 11, 2007

REJECTIONS

(I) Claims 3, 6, 13, 15, 16, 18, 21, 22, 24–26, 32, and 34–39 are rejected under 35 U.S.C. § 103(a) as unpatentable over Baerlocher and Matsumoto.

(II) Claim 4 is rejected under 35 U.S.C. § 103(a) as unpatentable over Baerlocher, Matsumoto, and Hein.

(III) Claim 5 is rejected under 35 U.S.C. § 103(a) as unpatentable over Baerlocher, Matsumoto, and Vancura.

(IV) Claim 7 is rejected under 35 U.S.C. § 103(a) as unpatentable over Baerlocher, Matsumoto, and Cannon.

(V) Claim 14 is rejected under 35 U.S.C. § 103(a) as unpatentable over Baerlocher, Matsumoto, and Wood.

(VI) Claim 23 is rejected under 35 U.S.C. 103(a) as unpatentable over Baerlocher, Matsumoto, and Yamaguchi.

(VII) Claims 33 and 40 are rejected under 35 U.S.C. 103(a) as unpatentable over Baerlocher, Matsumoto, and Ngai.

OPINION

Rejection (I)

The Examiner finds that Baerlocher discloses most of the steps recited in claim 32, including “determining an outcome based on whether the point of reference is substantially close to a graphical element, and providing an award for the segment of the wagering game based on the closeness of the graphical element and the reference point.” Final Act. 6–7 (citing Baerlocher ¶¶ 10, 12, 13, 34, 41, 47, 48, Fig. 4). The Examiner finds that Baerlocher does not disclose “storing the predetermined track in a memory as a plurality of tiles, each tile having scene data for a respective one of the multiple scenes,” and relies on Matsumoto to teach this feature. Final Act. 8 (citing Matsumoto ¶ 119).

Appellants assert that Baerlocher does not disclose determining whether a player (point of reference) is substantially close to a graphical element or using such “closeness” as the basis for an award as recited in claim 32. Appeal Br. 12–13. According to Appellants, “Baerlocher simply discusses a failed or successful attempt at passing a car.” Appeal Br. 13.

In response, the Examiner finds that a displayed “preceding” car in Baerlocher corresponds to the graphical element, and the player’s car corresponds to the point of reference recited in claim 32. Ans. 12. The Examiner determines that a failed attempt to pass the preceding car may result in the player’s car trailing the preceding car by 20 inches. Ans. 12.

The Examiner further determines that a successful attempt to pass the preceding car may result in the player's car leading the preceding car by 50 inches. Ans. 12. The Examiner concludes that, "since the award of the segment is based on the successful or the fail[ed] attempt of passing the preceding car, it is also based on the closeness of the graphical element (the preceding car) and the reference point (the player's car) (i.e.,] 20 inches or 50 inches)." Ans. 12.

In reply, Appellants contend that the distance between any of the cars disclosed in Baerlocher has no effect on an award, and, in fact, Baerlocher randomly determines whether an attempt to pass a preceding car is successful or not. Reply Br. 2–5 (citing Baerlocher ¶ 45).

We find Appellants' arguments persuasive. Paragraph 45 of Baerlocher states, "[w]hen the player selects a choice of action, the processor makes a *random* determination based on a database of predetermined probabilities contained in the memory device **38** as to whether the player has made the right choice or not." Emphasis added. Baerlocher further explains that, if the player successfully passes the preceding car, the probability of making correctly the next choice decreases. Baerlocher ¶ 49. Figure 6 of Baerlocher depicts a series of screens showing a decreasing probability of success at each stage in passing from last place to first place in a nine-car race where an award (bonus multiplier) is determined based on the order in which the player's car finishes the race. *See* Baerlocher ¶¶ 63–66. In other words, Baerlocher makes an award based on the player's rank at the end of the race, and this rank is based on a series of choices, with each choice having a lower probability of success than the previous choice. None of the above-noted gameplay in Baerlocher bases any result on the proximity (closeness) of one car to another. Moreover, the

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Examiner's discussion of a player's car trailing another car by 20 inches or leading that car by 50 inches (Ans. 12) is not taught by Baerlocher. Thus, the Examiner's finding that Baerlocher discloses providing an award for the segment of a wagering game based on the closeness of a graphical element and a reference point is not supported by a preponderance of the evidence, and we reverse the Examiner's rejection of claim 32, and claims 3, 6, 13, 15, 16, 18, 21, 22, 24–26 depending therefrom, as unpatentable over Baerlocher and Matsumoto.

Independent claims 34 and 39 recite similar features to those discussed above regarding the rejection of claim 32, and for same reasons discussed above, we reverse the Examiner's rejection of claim 34, claims 35–38 depending therefrom, and claim 39.

Rejections (II)–(VII)

The Examiner's use of Hein, Vancura, Cannon, Wood, Yamaguchi, and Ngai does not remedy the deficiencies discussed above regarding Examiner's proposed combination of Baerlocher and Matsumoto. Accordingly, we reverse Rejections (II)–(VII).

DECISION

The Examiner's decision to reject claims 3–7, 13–16, 18, 21–26, and 32–40 is reversed.

REVERSED