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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* HOWARD LOCKER, DARYL CROMER, and  
STEVEN R. PERRIN

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Appeal 2015-000517  
Application 13/331,664  
Technology Center 2600

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Before KALYAN K. DESHPANDE, DAVID M. KOHUT, and  
JUSTIN T. ARBES, *Administrative Patent Judges*.

KOHUT, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–3, 5–14, and 16–23, the only claims pending in the application on appeal.<sup>1</sup> We have jurisdiction over the appeal pursuant to 35 U.S.C. § 6(b).<sup>2</sup>

We AFFIRM.

The invention is directed to the communication of user input to the display of a mobile device. *See Spec.* ¶ 2.

Claims 1 is illustrative of the invention and is reproduced below:

1. An information handling device comprising:
  - a display device;
  - an input device not co-located with the display device;
  - one or more processors;
  - a memory storing program instructions accessible by the one or more processors;
  - wherein, responsive to execution of the program instructions accessible by the one or more processors, the one or more processors:
    - execute an ultra-mobile user interface displayed on the display device, the ultra-mobile user interface being comprised of one or more landing zones;
    - ascertain a user selected position within the ultra-mobile user interface based on user input communicated through the input device, the user selected position being ascertained by mapping user input direction within the input device to a nearest landing zone within the ultra-mobile user interface; and

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<sup>1</sup> Claims 4 and 15 were cancelled previously.

<sup>2</sup> Our decision will make reference to Appellants' Appeal Brief ("App. Br.," filed May 13, 2014) and Reply Brief ("Reply Br.," filed September 30, 2014), and the Examiner's Answer ("Ans.," mailed July 30, 2014) and Final Office Action ("Final Act.," mailed December 13, 2013).

snap a cursor location to the nearest landing zone based on the ascertained user selected position.

#### REFERENCES

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

Kimble	US 6,031,531	Feb. 29, 2000
Shimada	US 2004/0201576 A1	Oct. 14, 2004
Baudisch	US 2007/0192749 A1	Aug. 16, 2007
Won	US 2008/0202823 A1	Aug. 28, 2008
Vymenets	US 2009/0122018 A1	May 14, 2009
Van Der Westhuizen	US 2011/0047459 A1	Feb. 24, 2011 <sup>3</sup>

#### REJECTIONS AT ISSUE

Claims 1, 6, 7, 10–12, 17, 18, and 21–23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Won. Final Act. 2–7.

Claims 1, 6, 7, 10–12, 17, 18, and 21–23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won and Kimble. Final Act. 7–10.

Claims 2, 3, 13, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won and Van Der Westhuizen. Final Act. 10–12.

Claims 2, 3, 13, and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Van Der Westhuizen. Final Act. 10–12.

Claims 5 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won and Shimada. Final Act. 12–13.

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<sup>3</sup> Application filed November 9, 2010.

Claims 5 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Shimada. Final Act. 12–13.

Claims 8 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won and Baudisch. Final Act. 13–15.

Claims 8 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Baudisch. Final Act. 13–15.

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won and Vymenets. Final Act. 15–16.

Claims 9 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Vymenets. Final Act. 15–16.

#### ISSUES

Did the Examiner err in finding Won discloses, or in the alternative teaches or suggests, “a nearest landing zone within the ultra-mobile user interface,” as recited in independent claims 1, 12, and 23?

Did the Examiner err in finding the combination of Won and Kimble teaches “snap[ing] a cursor location to the nearest landing zone based on the ascertained user selected position,” as recited in independent claims 1 and 23, and similarly recited in independent claim 12?

Did the Examiner err in finding it would have been obvious to combine Won and Kimble to reject independent claims 1, 12, and 23?

Did the Examiner err in finding it would have been obvious to combine Won and Van Der Westhuizen to reject dependent claims 2 and 3?

Did the Examiner err in finding Won discloses “the input device comprises a touchpad input device,” as recited in dependent claim 6?

Did the Examiner err in finding it would have been obvious to combine Won and Baudisch to reject dependent claim 8?

Did the Examiner err in finding Won discloses “one or more processors map the input device to the ultra-mobile user interface,” as recited in dependent claim 10?

## ANALYSIS

### *Independent Claim 1*

#### *Won Rejections*

We select claim 1 as representative of the group<sup>4</sup> consisting of claims 1, 5, 7, 9, 11–14, and 16–23, as Appellants have not argued any of the other claims with particularity. 37 C.F.R. § 41.37(c)(1)(iv). Independent claim 1 is directed to an information handling device comprising one or more processors that execute an ultra-mobile user interface. Independent claim 1 recites mapping user input to “a nearest landing zone within the ultra-mobile user interface.”

Appellants argue that Won does not disclose landing zones because landing zones are used with touch screens and Won does not disclose a touch screen. App. Br. 15; Reply Br. 18. We do not find Appellants’ argument persuasive.

Appellants’ argument is not commensurate in scope with claim 1 because there is nothing in the claim or the Specification that requires landing zones to be only used with touch screens. Additionally, based upon

the language of claim 1, we interpret the term “landing zones” to include areas that can be selected using a user interface. Therefore, the Examiner’s finding that Won’s icons disclose the claimed landing zones is sufficient, as the icons are an area that can be selected using an input device. *See* Final Act. 3–4 (citing Won ¶ 110, Figs. 6A–C); Ans. 3. Thus, we do not find the Examiner erred.

In addition to the anticipation rejection based upon Won, the Examiner also made an alternative, obviousness rejection of claim 1 based upon the combination of Won and Kimble. Because Appellants argue some of the dependent claims that rely upon the rejection of independent claim 1 over this combination, we address Appellants’ arguments regarding the combination below.

*Won and Kimble Obviousness Rejection*

We again select claim 1 as representative of the group<sup>5</sup> consisting of claims 1, 5, 7, 9, 11–14, and 16–23, as Appellants have not argued any of the other claims with particularity. 37 C.F.R. § 41.37(c)(1)(iv). Independent claim 1 further recites “snap[ping] a cursor location to the nearest landing zone based on the ascertained user selected position.”

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<sup>4</sup> This group comprises claims rejected as anticipated by Won. This group also contains claims rejected as obvious over Won and additional references that incorporate the Examiner’s finding of anticipation based upon Won.

<sup>5</sup> This group comprises claims rejected as unpatentable over the combination of Won and Kimble. This group also contains claims rejected as unpatentable over Won, Kimble, and additional references that incorporate the Examiner’s finding of unpatentability based upon the combination of Won and Kimble.

Appellants argue that the Examiner erred in finding that Kimble teaches snapping a cursor location to the nearest landing zone. *See* App. Br. 16; Reply Br. 20. However, Appellants’ argument does not explain sufficiently why the Examiner’s citations and analysis of Kimble are incorrect, and, therefore, amounts to attorney argument without supporting evidence or explanation regarding the functionality of Kimble. In particular, the Examiner cites Kimble’s teaching of “a cursor object . . . immediately snapped toward a desired icon when entering a graphically magnetized domain surrounding the desired icon.” Final Act. 9 (citing Kimble, Abstract, Figs. 6a–b). We agree with the Examiner’s findings, and do not find Appellants’ attorney argument to be persuasive.

Appellants also argue that the Examiner’s combination of Won and Kimble is improper. *See* App. Br. 17–18; Reply Br. 21. Specifically, Appellants contend that the Examiner’s motivation to combine the references is conclusory because it fails to explain why it would have been convenient to “snap a cursor location” when the Won device does not use a cursor. App. Br. 17–18; Reply Br. 21. We do not find Appellants’ argument persuasive.

The Examiner combines the teachings of Won’s location selection using a touchpad and Kimble’s snapping a cursor to the location of a desired icon to teach “snap[ing] a cursor location to the nearest landing zone based on the ascertained user selected position.” *See* Final Act. 9 (citing Won ¶¶ 104–105, 112, 114, Figs. 6A–C; Kimble, Abstract, Figs. 6a, 6b). Thus, the Examiner relies upon Kimble to teach a cursor, not Won. Additionally, the Examiner finds that the teachings of Won and Kimble may be combined in order to make icon selection easier for the user. *Id.* As such, we find that

the Examiner provided an articulated reasoning with a rational underpinning to support the conclusion of obviousness. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007). Appellants have not explained sufficiently why the Examiner's analysis is incorrect. Thus, we are not persuaded that the Examiner erred in combining Won and Kimble.

Accordingly, we sustain the Examiner's rejections of claims 1, 5, 7, 9, 11–14, and 16–23.

*Dependent Claims 2 and 3*

Appellants argue that the Examiner's combination of Won and Van Der Westhuizen, used to reject claims 2 and 3, is improper. App. Br. 18–19; Reply Br. 21–22. Specifically, Appellants argue that the modification of Won's handheld device with Van Der Westhuizen's touch screen input and laptop device would render features of Won's device unnecessary. App. Br. 18–19; Reply Br. 21–22.

We are not persuaded by Appellants' argument. Appellants attempt to reduce the Examiner's combination to the wholesale replacement of Won's curved physical input device in a handheld unit with Van Der Westhuizen's touch screen and laptop. App. Br. 18–19. "The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference . . . . Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art." *In re Keller*, 642 F.2d 413, 425 (CCPA 1981); *In re Sneed*, 710 F.2d 1544, 1550 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."). Here, the Examiner has not bodily incorporated Van Der Westhuizen's touch screen and laptop into the

handheld device of Won. *See* Final Act. 11. The Examiner instead finds that the combination of Won’s handheld device and the concept of a touch screen provides an additional means for user input to Won’s device. Final Act. 11; Ans. 12. Additionally, the Examiner finds that it would have been obvious to have embodied Won’s device as a laptop to provide enhanced computational ability and improved viewing due to an increase in screen size. *See* Ans. 13. Thus, the Examiner has set forth an articulated reasoning with a rational underpinning to support a conclusion of obviousness. *Kahn*, 441 F.3d at 988. Appellants’ argument does not identify in the record before us persuasive evidence to show that the Examiner’s reasoning is incorrect or, for example, that the proposed combination would have been “uniquely challenging or difficult for one of ordinary skill in the art.” *Leapfrog Enters., Inc. v. Fisher-Price, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007). As such, we are not persuaded by Appellants’ argument.

Accordingly, we sustain the Examiner’s rejection of dependent claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Won and Van Der Westhuizen. Appellants do not argue separately the Examiner’s rejection of claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Won, Kimble, and Van Der Westhuizen.

Accordingly, we summarily sustain the Examiner’s rejection of claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Van Der Westhuizen.

#### *Dependent Claim 6*

Dependent claim 6 recites “the input device comprises a touchpad input device.” Appellants argue that Won fails to disclose a “touchpad” because the curved input device of Won “is squarely contrary to a proper

construction based upon the teachings of the underlying specification.” App. Br. 19; Reply Br. 22. We disagree because Appellants have not explained why the curved touchpad of Won is not a “touchpad input device” as claimed. Additionally, we note the Specification does not define the term “touchpad,” but does describe its role in making selections on the user interface. *See* Spec. ¶ 27. For example, the Specification states that “[w]hen a user touches the touchpad with his finger, the cursor or active area is selected wherever it is on the user interface and is moved in the direction of finger movement, if possible.” *Id.*

The Examiner finds that Won discloses a touchpad because the curved input device of Won is explicitly called a “touchpad” in the reference. Final Act. 4 (citing Won ¶ 63); Ans. 14. We also note that the touchpad of Won is used to make selections on the device’s interface, which is consistent with the Specification’s description. *See* Won ¶ 69. For these reasons, we agree with the Examiner’s findings.

Appellants also argue that the Examiner “does not even suggest any reasoning or attempt any explanation as to how claim 6 may be rejected” over the combination of Won and Kimble. App. Br. 19–20; Reply Br. 23. We disagree with Appellants and direct Appellants’ attention to pages 4 and 9–10 of the Final Action where the Examiner cites to Won, paragraph 63 and Figure 1, as well as the Examiner’s stated rejection of claim 1, from which claim 6 depends. We agree with and adopt the Examiner’s findings found there.

Accordingly, we sustain the Examiner’s rejections of claim 6 under both 35 U.S.C. §§ 102(b) and 103(a).

*Dependent Claim 8*

Dependent claim 8 recites “one or more processors determine one of the one or more landing zones which is nearest based on a straight line approximation.”

Appellants argue that the Examiner’s rejection of dependent claim 8 improperly changes the Examiner’s interpretation of the term “landing zones.” App. Br. 20; Reply Br. 23. Specifically, Appellants argue that the Examiner uses a “competing, and contradictory definition of ‘landing zones’” to reject claim 8, “without any attempt by the Office to coordinate it with the previously offered construction thereof.” App. Br. 20. As discussed above, we do not find that the Examiner erred in finding Won teaches “landing zones.” Additionally, we do not find Appellants’ argument persuasive because it fails to explain how the Examiner’s interpretation of the term “landing zone” in claim 8 alters the Examiner’s interpretation of the term in claim 1, from which claim 8 depends, or why the Examiner’s interpretation of “landing zones” in the Final Office Action and Answer are incorrect.

Appellants also argue that the Examiner has improperly combined Won and Baudisch because the icons displayed in Won’s device are already aligned with the curved input device, thereby precluding any need for straight line approximation. App. Br. 20; Reply Br. 24.

We are not persuaded by Appellants’ argument. Here, the Examiner concludes that it would have been obvious to modify Won’s handheld device with Baudisch’s concept of selecting a landing zone based upon a straight line approximation in order to enable a user to efficiently select an icon on a straight line trajectory. *See* Final Act. 14; Ans. 16–17; App. Br. 20; Reply

Br. 24. Appellants do not explain sufficiently why that determination is incorrect. Additionally, it would have been obvious to combine the teachings of Won and Baudisch because Baudisch suggests that straight line approximation makes it easier to select remote content shown on display devices, such as those taught in Won. Baudisch ¶ 2; *see KSR*, 550 U.S. at 417. As such, we are not persuaded that the Examiner improperly combined Won and Baudisch.

Accordingly, we sustain the Examiner’s rejection of dependent claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Won and Baudisch. Appellants do not argue separately the Examiner’s rejection of claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Baudisch. Accordingly, we summarily sustain the Examiner’s rejection of claim 8 under 35 U.S.C. § 103(a) as being unpatentable over Won, Kimble, and Baudisch.

*Dependent Claim 10*

Dependent claim 10 recites “one or more processors map the input device to the ultra-mobile user interface.”

Appellants argue that the Examiner fails to reject the claim, as recited, because the Examiner incorrectly finds that the location of a finger on a touchpad “map[s] the input device.” App. Br. 21; Reply Br. 24–25. We do not find Appellants’ argument persuasive. Appellants’ argument fails to demonstrate error in the Examiner’s reliance on Won’s disclosure of translating the location of the user’s finger on the touchpad to a corresponding location on the device’s interface to disclose “one or more processors map the input device to the ultra-mobile user interface,” as

recited in dependent claim 10. *See* Ans. 18–19 (citing Won ¶¶ 93, 112, 115).

We also do not find persuasive Appellants’ argument that the Examiner failed to explain how claim 10 has been rejected under 35 U.S.C. § 103(a) over the combination of Won and Kimble. App. Br. 21–22; Reply Br. 25. In rejecting claim 10 under both 35 U.S.C. § 102(b) as anticipated by Won and under 35 U.S.C. § 103(a) as unpatentable over the combination of Won and Kimble, the Examiner finds that Won discloses a system that uses processors to correlate a user’s input to the device’s interface, as shown in Figures 4 and 6A-6C and paragraph 0108 of Won. Final Act. 5, 9–10. Thus, we find the Examiner sufficiently explained how claim 10 is rejected over the combination of Won and Kimble.

Accordingly, we sustain the Examiner’s rejections of claim 10 under both 35 U.S.C. §§ 102(b) and 103(a).

## CONCLUSION

The Examiner did not err in finding Won discloses, or in the alternative teaches or suggests, “a nearest landing zone within the ultra-mobile user interface,” as recited in independent claims 1, 12, and 23.

The Examiner did not err in finding the combination of Won and Kimble teaches “snap[ing] a cursor location to the nearest landing zone based on the ascertained user selected position,” as recited in independent claims 1 and 23, and similarly recited in independent claim 12.

The Examiner did not err in finding it would have been obvious to combine Won and Kimble to reject independent claims 1, 12, and 23.

The Examiner did not err in finding it would have been obvious to combine Won and Van Der Westhuizen to reject dependent claims 2 and 3.

The Examiner did not err in finding Won discloses “the input device comprises a touchpad input device,” as recited in dependent claim 6.

The Examiner did not err in finding it would have been obvious to combine Won and Baudisch to reject dependent claim 8.

The Examiner did not err in finding Won discloses “one or more processors map the input device to the ultra-mobile user interface,” as recited in dependent claim 10.

#### DECISION

The Examiner’s decision to reject claims 1–3, 5–14, and 16–23 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED