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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GREGORY N. CHRISTIE, MARCEL MWA VAN OS,
STEVE LEMAY, EVAN DOLL, and JUSTIN SANTAMARIA¹

Appeal 2015-001096
Application 11/969,903
Technology Center 2600

Before JEFFREY S. SMITH, JON M. JURGOVAN, and
AMBER L. HAGY, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*.

DECISION ON APPEAL

¹ Appellants identify Apple Inc. as the real party in interest. App. Br. 3.

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the rejection of claims 1, 3–5, 7, 9, 11, and 12, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Illustrative Claim

1. A non-transitory program storage device, readable by a processor and having instructions stored thereon to cause one or more processors to:

present, on a first user interface of a mobile device, one or more messages that have each been transmitted from the mobile device to a first set of two or more intended recipient devices, wherein the first user interface includes an identification of each of the two or more intended recipient devices for each of the one or more messages;

detect that a subset of intended recipient devices in the first set failed to receive a first message of the one or more messages;

present a graphical object on the first user interface proximate to the identification, for the first message, of each of the intended recipient devices in the subset of intended recipient devices, wherein the graphical object visually associates the first message with the subset of intended recipient devices that failed to receive the first message;

receive a selection of the graphical object;

present, in response to the received selection, a second user interface that includes a user interface element to resend the first message;

receive an input to resend the first message; and

resend the first message to only the subset of intended recipient devices.

Prior Art

Windl	US 2002/0070972 A1	June 13, 2002
Fulton	US 2005/0041793 A1	Feb. 24, 2005
O’Neal	US 2007/0224979 A1	Sept. 27, 2007

Examiner’s Rejections

Claims 1, 3, 5, 7, 9, and 11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fulton, O’Neal, and Windl.

Claims 4 and 12 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fulton, O’Neal, Windl, and Murphy.

ANALYSIS

We adopt the findings of fact made by the Examiner in the Final Action and Examiner’s Answer as our own. We agree with the conclusions reached by the Examiner for the reasons given in the Examiner’s Answer. We highlight the following for emphasis.

Appellants disclose a messaging application on a mobile device for determining whether a message was successfully transmitted to a group of specified recipients. Spec. ¶¶ 4, 22. If the transmitted message fails to reach one of the intended recipients, an indicator is displayed near the failed transmission. Spec. ¶¶ 22–23; Fig. 1B. Figure 1B is reproduced below.

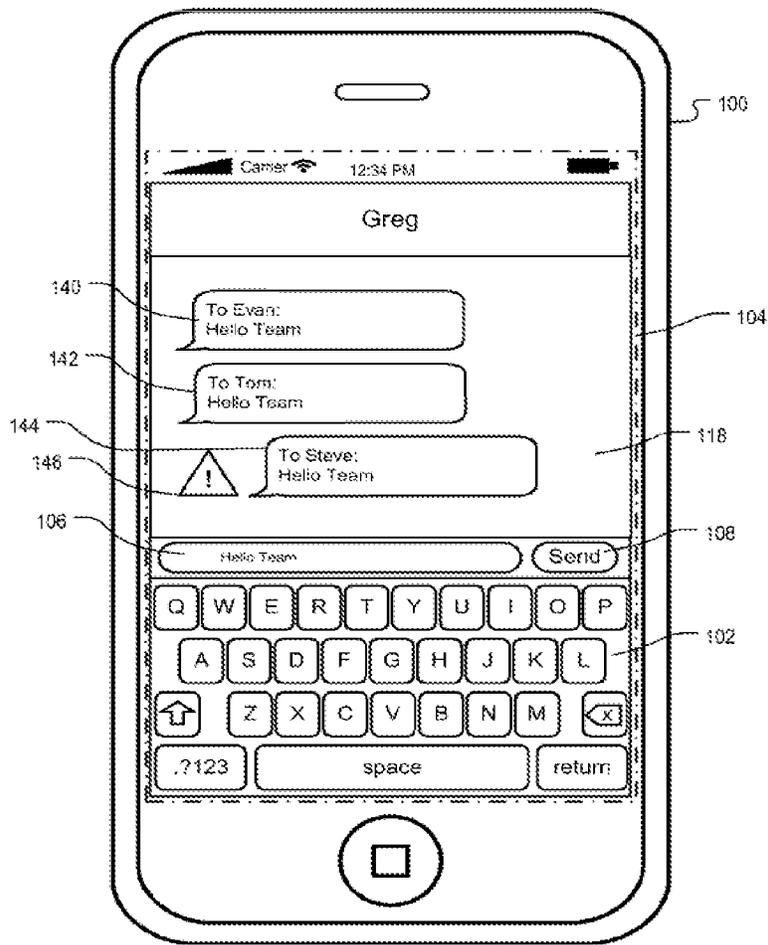


Figure 1B above shows touch screen 104 of mobile device 100. Chat area 118 of the touch screen shows a message sent to multiple recipients 140, 142, and 144. Spec. ¶ 22. Indicator 146 is shown next to recipient 144, to indicate the intended recipient did not receive the message. Spec. ¶ 23. The user can select indicator 146 to display a button for resending the failed message only to the recipient that did not receive the message. Spec. ¶ 28. Figure 2B is reproduced below.

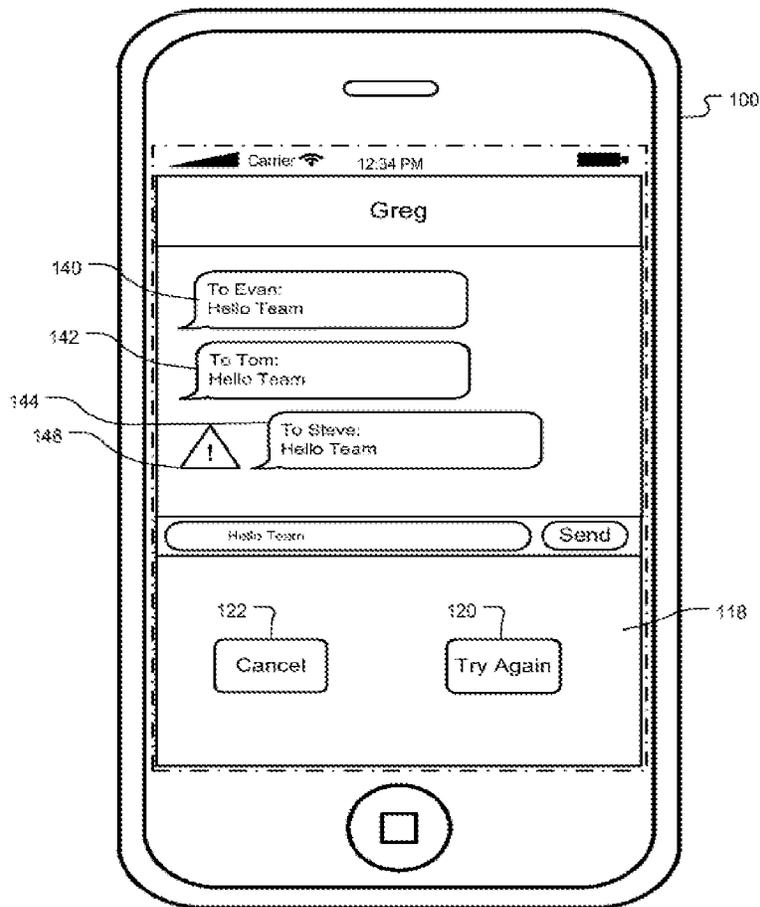


Figure 2B above shows an interface for resending a failed message. Spec. ¶ 28. After selecting indicator 146, virtual keyboard 102 of Figure 1B is replaced with a retry screen including try again button 120 shown in Figure 2B. Spec. ¶ 29. If the user selects button 120, failed message 144 is resent to the recipient who did not receive the message. Spec. ¶ 28.

Claim 1 recites “receive selection of the graphical object,” where “the graphical object visually associates the first message with the subset of intended recipient devices that failed to receive the first message,” which encompasses a user touching indicator 146 shown in Figure 1B. Claim 1 also recites “present, in response to the received selection, a second user interface that includes a user interface element to resend the first message,” which encompasses displaying try again button 120 shown in Figure 2B.

Appellants contend the combination of Fulton, O’Neal, and Windl does not teach the claimed “receive selection of the graphical object,” where “the graphical object visually associates a first message with a subset of intended recipient devices that failed to receive the first message.” App. Br. 9–11; Reply Br. 3–4. Appellants also contend Windl does not teach the claimed “present, in response to the received selection, a second user interface that includes a user interface element to resend the first message.” App. Br. 11–12.

The Examiner relies on the combination of Fulton and O’Neal to teach a graphical object that visually associates a first message with a subset of intended recipient devices that failed to receive the first message. Final Act. 3–4; Ans. 4–5. Figure 18 of O’Neal is reproduced below.

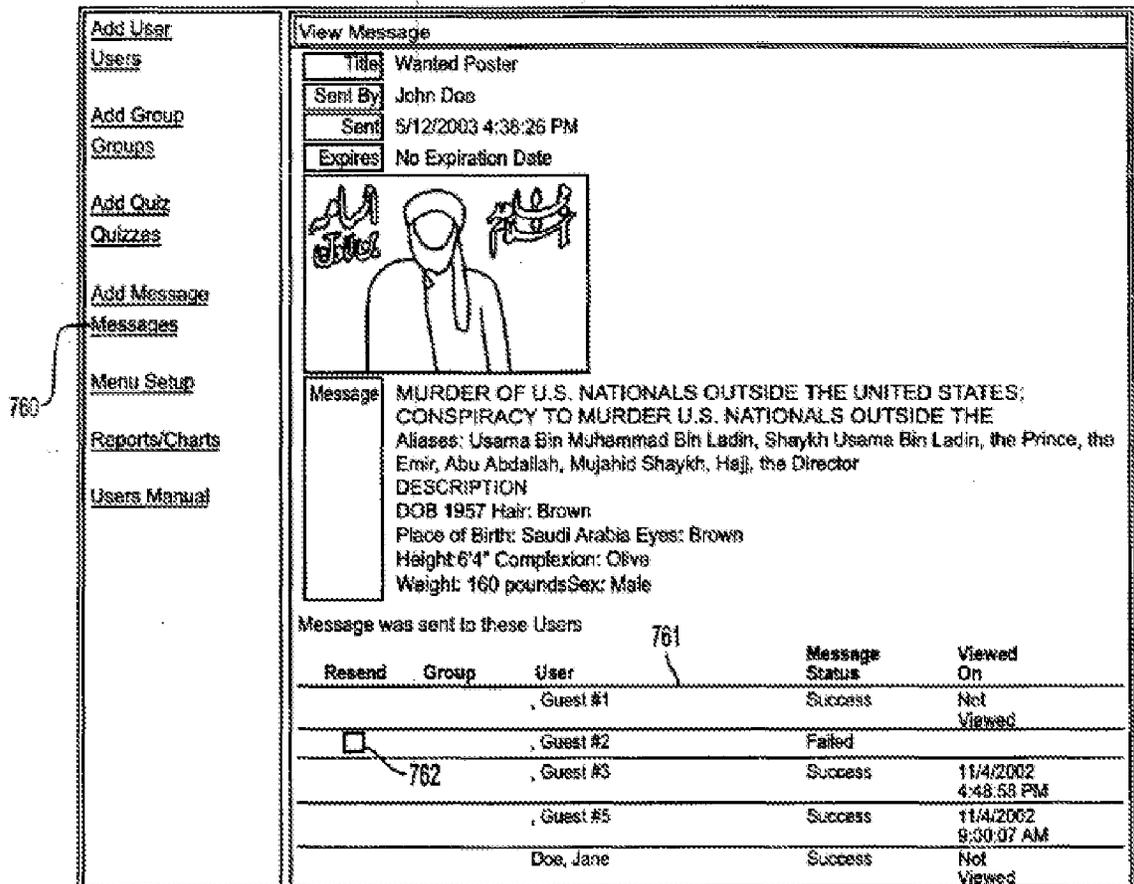


Figure 18 of O’Neal above shows an interface for reviewing sent messages. O’Neal ¶ 42. Region 761 identifies the status of delivery attempts for the message to indicate whether the message was successfully delivered to each user. O’Neal ¶ 92. The message status of “Failed” indicates Guest #2 failed to receive the message. Selecting resend selection item 762 results in resending the failed message to the associated user. *Id.*

We find the “Failed” message status shown in Figure 18 of O’Neal teaches a graphical object that “visually associates a first message with a subset of intended recipient devices that failed to receive the first message,” as recited in claim 1. We find resend item 762 teaches “present . . . a user interface element to resend the first message,” as claimed. Although the interface shown in Figure 18 of O’Neal is not on a cell phone, we agree with the Examiner’s findings that Fulton teaches displaying the failed message status and resend selection item on a cell phone was within the level of ordinary skill in the art. Ans. 4 (citing Fulton, ¶¶ 99, 158, and 211).

The Examiner relies on Windl to teach receiving selection of a graphical object, and in response to the received selection, presenting a second user interface. Final Act. 4; Ans. 5. Paragraph 19 of Windl discusses displaying a message indicator, selecting the displayed message indicator, then causing a pop-up menu to appear in the display, which we find teaches “receive selection of the graphical object” and “present, in response to the received selection, a second user interface,” as claimed.

Selecting a message indicator to cause a pop-up menu to appear as taught by Windl, where the menu includes O’Neal’s resend item, yields the predictable benefit of displaying the resend item in a space-saving, as-

needed manner as taught by Windl. *See KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Appellants contend Windl is not analogous to Fulton or O'Neal. App. Br. 12–13. In particular, Appellants contend Windl seeks to present information in a way that is minimally obtrusive to the user, which is a problem not faced by Fulton or O'Neal. App. Br. 13. However, the test for analogous art is “whether the reference still is reasonably pertinent to the particular problem *with which the inventor is involved.*” *In re Klein*, 647 F.3d 1343, 1348 (Fed. Cir. 2011) (emphasis added). Here, as shown in Figures 1B and 2B of Appellants' Specification, the problem faced by the inventors was presenting resend button 120 to a user in a display space already occupied by virtual keyboard 102. The pop-up menu of Windl is reasonably pertinent to this problem because it provides a way of presenting items to the user in a space-saving, as-needed manner.

We sustain the rejection of claim 1 under 35 U.S.C. § 103. Appellants do not present arguments for separate patentability of claims 3–5, 7, 9, 11, and 12, which fall with claim 1.

DECISION

The rejection of claims 1, 3, 5, 7, 9, and 11 under 35 U.S.C. § 103(a) as unpatentable over Fulton, O'Neal, and Windl is affirmed.

The rejection of claims 4 and 12 under 35 U.S.C. § 103(a) as unpatentable over Fulton, O'Neal, Windl, and Murphy 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). *See* 37 C.F.R. § 41.50(f).

AFFIRMED