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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte SHAWN GETTEMY

Appeal 2015-005530
Application 12/019,506¹
Technology Center 2600

Before CARL L. SILVERMAN, MELISSA A. HAAPALA, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 2, 6–10, 16–20, 24, and 25, which are all the claims pending in this application.² We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ According to Appellant, the real party in interest is Qualcomm Incorporated. App. Br. 1.

² Claims 3–5, 11–15, and 21–23 have been canceled. App. Br. 2.

STATEMENT OF THE CASE

Introduction

Appellant's application relates to a user interface for a portable electronic device comprising a flexible display panel and a flexible touch sensor. Abstract. Claim 1 is illustrative of the appealed subject matter and reads as follows:

1. A user interface for a portable electronic device, said user interface comprising:

a) a display panel, said display panel forming a first portion of said user interface; and

b) a flexible sensor coupled with said display panel, said flexible sensor forming a second portion of said user interface, wherein said flexible sensor detects a position where contact is made with a surface of said user interface, wherein said position on said user interface corresponds to a particular command for controlling said portable electronic device, wherein said flexible sensor comprises a fabric disposed within said display panel, such that said flexible sensor is interwoven within said display panel.

The Examiner's Rejections

Claims 1, 2, 8, 9, and 20 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sirola (US 6,415,138 B2; July 2, 2002), Binstead (US 4,954,823; Sept. 4, 1990), and Gibson (US 4,659,873; Apr. 21, 1987). Final Act. 2–5. The Examiner added Lui (US 6,256,009 B1; July 3, 2001) to reject claims 7 and 25 (Final Act. 7) and Sandbach (US 6,333,736 B1; Dec. 25, 2001) to reject claims 6 and 24 (Final Act. 8–9).

Claims 10, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Kikinis (US 5,634,080; May 27, 1997), Binstead, and Gibson. Final Act. 5–7. The Examiner added Lui to reject claim 17 (Final Act. 8) and Sandbach to reject claim 16 (Final Act. 9–10).

ANALYSIS

Claim 1

Appellant argues the Examiner erred in rejecting claim 1 because the combination of Sirola, Binstead, and Gibson does not teach or suggest “wherein said flexible sensor comprises a fabric disposed within said display panel, such that said flexible sensor is interwoven within said display panel.” App. Br. 5–8; Reply Br. 2–3³. The Examiner finds Binstead teaches this limitation by disclosing a visual display unit 1010 with sensors disposed inside the unit. Ans. 3 (citing Binstead, Fig. 25 (items 1010 and 1021), 13:54–56). The Examiner relies on the description of Fig. 25, which states “FIG. 25 is a cross section of a display unit 1010, such as a fluorescent or liquid crystal display where the sensors are on the inside of the front glass panel of the unit.” Binstead 13:54–56.

Appellant argues Binstead does not teach sensors disposed within the visual display unit (the claimed “display panel”). App. Br. 6–7. Appellant argues “the unit” in the cited section of Binstead refers to the entire interface device, not the visual display unit 1010. App. Br. 7. Appellant argues the sensors are, therefore, disposed outside the visual display unit 1010.

Appellant has not persuaded us of Examiner error. The Examiner finds, and we agree, Binstead teaches a display unit 1010 where “the sensors are inside of the front glass panel of the unit.” Ans. 3 (citing Binstead, Fig. 25 (items 1010 and 1021), 13:54–56). Fig. 25 of Binstead is reproduced below:

³ Page numbers were not included on the Reply Brief, but an attempt has been made to count the pages for each citation.

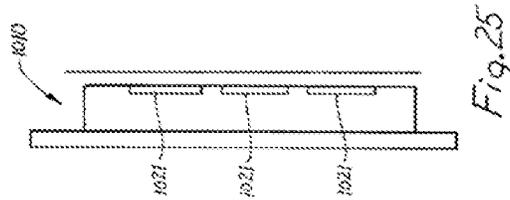


Figure 25 depicts a visual display unit 1010. Sensors 1021 are underneath the top layer of the unit, disposed within the center rectangle. *Id.*

Accordingly, Appellant has not persuaded us Binstead fails to teach or suggest “wherein said flexible sensor comprises a fabric disposed within said display panel, such that said flexible sensor is interwoven within said display panel.” We, therefore, sustain the rejection of claim 1.

Claim 9

Claim 9 recites:

9. The user interface of claim 1 wherein said user interface further comprises:

an additional display panel, said additional display panel coupled to said user interface and disposed beneath a support shelf, whereby two-sided viewable display functionality is provided to said user interface; and

an additional sensor, wherein said additional sensor comprises a fabric disposed within said additional display panel, such that said additional sensor is interwoven within said additional display panel.

Appellant argues the Examiner erred in rejecting claim 9 because the combination of Sirola, Binstead, and Gibson fails to teach or suggest “an additional display panel, said additional display panel coupled to said user interface and disposed beneath a support shelf, whereby two-sided viewable display functionality is provided to said user interface.” App. Br. 9–12; Reply Br. 3.

The Examiner finds the combination of Sirola, Binstead, and Gibson teaches the limitations of claim 9, and reasoned that “two-sided panel [display] is a combination of two display[s] back to back. To use additional display and additional sensor still is obvious variation of prior art of the record.” Ans. 4. The Examiner finds “it would have been obvious to one of ordinary skill in the art at the time of invention to interchange value the number of sensors and display panels.” Final Act. 5 (citing *In re Rose*, 220 F.2d 459, 105 U.S.P.Q. 237 (C.C.P.A. 1955)).

Appellant argues the Examiner’s reliance on *In re Rose* is misplaced because the case merely holds that creating multiple bundles of wood rather than a single bundle of wood is not inventive. App. Br. 10 (citing *In re Rose*, 220 F.2d at 463). Appellant argues claim 9 “implicates far more than a mere change in size.” App. Br. 11.

Appellant has persuaded us of Examiner error. Claim 9 recites an additional display panel “disposed beneath a support shelf, whereby two-sided viewable display functionality is provided to said user interface.” The Examiner has failed to establish that the combination of Sirola, Binstead, and Gibson teaches or suggests this claim limitation, which recites more than a change in quantity or size. Accordingly, on the record before us, we do not sustain the rejection of claim 9.

CONCLUSIONS

On the record before us and in view of the analysis above, we are not persuaded by Appellant’s contentions that the Examiner erred in rejecting claim 1 as unpatentable over Sirola, Binstead, and Gibson. Therefore, we sustain the rejection of claim 1. Appellant argues the patentability of

independent claims 10 and 20 for the same reasons as claim 1. *See* App. Br. 6–9. Accordingly, we sustain the rejection of claims 10 and 20. We also sustain the rejection of claims 2, 6–8, 16–18, 24, and 25 which were not argued separately from their respective independent claims. *See* App. Br. 6–9.

On the record before us and in view of the analysis above, Appellant has persuaded us that the Examiner erred in rejecting claim 9. Therefore, we do not sustain the rejection of claim 9. We also do not sustain the rejection of claim 19 for the same reasons as claim 9. *See* App. Br. 12–13.

DECISION

We affirm the decision of the Examiner to reject claims 1, 2, 6–8, 10, 16–18, 20, 24, and 25.

We reverse the decision of the Examiner to reject claims 9 and 19.

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-IN-PART