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EXAMINER

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte MARTIN CHAKIROV

Appeal 2015-006327
Application 13/460,270
Technology Center 2600

Before CARLA M. KRIVAK, HUNG H. BUI, and
JEFFREY A. STEPHENS, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant¹ seeks our review under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1, 4, 5, 7–14, and 16–23, which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

¹ The real party in interest is identified as BlackBerry Limited. (App. Br. 2.) Throughout this opinion we refer to the corrected Appeal Brief filed December 29, 2014.

Claimed Subject Matter

The claimed invention relates to a method and device for processing user input to display a display object representative of an action that will subsequently be performed on continuation of the user input. (Abstract.) The display object can also appear at a different rate from a rate of performance of the user input. (Abstract.)

Independent claims 1 and 13, reproduced below, are exemplary of the subject matter on appeal.

1. A method for generating display data, the method comprising:

detecting user input via an input interface, the user input comprising a first input; and

operating a processor in communication with the input interface to:

in response to detecting user input, generate display data comprising a display object for display by a display device, wherein the display object symbolizes an action that will subsequently be performed by the processor on completion of the first input; and

output the display data on the display device whilst a common initial input of the first input is being detected;

determine whether completion of the first input has occurred; and

perform the action only if completion of the first input is detected;

wherein the first input comprises a first additional input which is detectable by the processor after the common initial input,

wherein the display object is indicative of the first additional input which must be detected by the processor for it to determine that the user input comprises the first input.

13. A method for generating display data, the method comprising:

detecting user input via an input interface, the user input comprising a first input; and

operating a processor in communication with the input interface to:

in response to detecting user input, generate display data comprising a display object for display by a display device, wherein the display object symbolizes content that will subsequently be output by the processor on completion of the user input; and

output the display data on the display device whilst a common initial input of the first input is being detected in such a way that the display object is caused to appear on the display device as the common initial input is being detected, wherein the rate at which the display object appears is different to the rate of detection of the common initial input,

wherein the first input comprises a first additional input which is detectable by the processor after the common initial input,

wherein the display object is indicative of the first additional input which must be detected by the processor for it to determine that the user input comprises the first input.

Rejections²

Claims 1, 4, 5, and 7–13 stand rejected under 35 U.S.C. § 103(a) as obvious over Lee et al. (US 2010/0313158 A1; pub. Dec. 9, 2010) (“Lee”) and Anzures et al. (US 2007/0150826 A1; pub. June 28, 2007) (“Anzures”). (Final Act. 6–11.)

² The drawings are objected to under 37 C.F.R. § 1.83(a). (See Final Act. 2–3.) Drawing objections are a petitionable matter, and, thus, are not addressed herein. See 37 C.F.R. § 1.113(a).

Claims 14 and 16–23 stand rejected under 35 U.S.C. § 103(a) as obvious over Lee, Anzures, and BianRosa et al. (US 2013/0179812 A1; pub. July 11, 2013) (“BianRosa”). (Final Act. 11–12.)

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments (App. Br. 9–34; Reply Br. 1–3). We summarily sustain the Examiner’s obviousness rejection of independent claims 14, 20, and 23, as well as dependent claims 16 and 17, based on Lee, Anzures, and BianRosa, because Appellant does not present arguments against the Examiner’s rejection of these claims (App. Br. 9).³ See *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential) (“If an appellant fails to present arguments on a particular issue — or, more broadly, on a particular rejection — the Board will not, as a general matter, unilaterally review those uncontested aspects of the rejection.”).

With respect to the remaining claims, we agree with Appellant’s contention the Examiner has not shown the combination of Lee, Anzures, and BianRosa teaches or suggests the following limitations recited in independent claims 13, 19, and 22:

output[ting] the display data on the display device whilst a common initial input of the first input is being detected in such a way that the display object is caused to appear on the display device as the common initial input is being detected, wherein the rate at which the display object appears is different to the rate of detection of the common initial input.

³ Except for our ultimate decision, these claims are not discussed further herein.

We are not persuaded by Appellant’s contentions as to claims 1, 4, 5, 7–12, 18, and 21. For claims 1, 4, 5, 7–12, 18, and 21, we adopt as our own the findings and reasons set forth by the Examiner in the Action from which this appeal is taken and in the Answer (*see* Ans. 2–4, 6–7).

We highlight and address specific arguments and findings for emphasis as follows.

Claims 1, 4, 5, 7–12, 18, and 21

Appellant argues Lee fails to teach operating a processor in communication with an input interface to: “in response to detecting user input, generate display data comprising a display object for display by a display device, wherein the display object symbolizes an action that will subsequently be performed by the processor on completion of the first input,” as recited in claim 1. (App. Br. 9–16; Reply Br. 1–3.) Appellant contends Lee’s “undo signal” is not a display object because the undo signal is not displayed on the display screen. (App. Br. 13–15 (citing Lee ¶¶ 126, 133, 142, undo signal 1550).) The Examiner, however, also finds that Lee’s handler and progress bar are displayed objects “symboliz[ing] an action of ‘TEXT EDITING’ that will be subsequently performed if a user will slide his/her finger right or left long enough to complete the first input and . . . delete or restore at least one character from the text shown on the display.” (Ans. 3 (citing Lee Figs. 6A–6D, progress bar 1540, handler 1541); *see also* Final Act. 8 (citing Lee Figs. 7C–7D).) Lee teaches the handler and progress bar are displayed in association with a user’s text input and deletion. (*See* Lee ¶¶ 140, 142–143.) Thus, we agree with the Examiner that Lee’s handler and progress bar symbolize, to a user, a text editing action

that will subsequently be performed by the processor on completion of the user's slide/drag input. (Ans. 3–4.)

Appellant responds that Lee's "progress bar 1540 and the handler 1541 do not symbolize *a next action that will occur* but merely allow a user to control the extent of *a current action*" and "merely provide a tool for the user to delete text." (Reply Br. 2–3 (emphasis added).) Appellant does not provide persuasive evidence that Lee's text editing action is performed prior to receiving the input from the user that causes the deletion or addition of text. Moreover, claim 1's requirement that an action will subsequently be performed by the processor *on completion* of the first input includes performing the action *at the time of completion* of the first input. We agree with the Examiner that Lee's handler and progress bar symbolize a text deletion or reinstatement action will occur upon receiving the user's slide/drag input on the touch screen. (Ans. 3–4 (citing Figs. 6A–6D).) Additionally, Figures 7A–7D and paragraphs 148–149 of Lee describe text addition and deletion performed on completion of a user's drag input that drags the handler. (See Lee Figs. 7A–7D, ¶¶ 148–149 ("*The user may touch and drag . . . the handler 1641 to the left hand side. Then, the controller 180 may continuously and sequentially delete the inputted data.*" (emphasis added)).)

Appellant also contends Lee's handler and progress bar are not a display object in response to detecting user input as recited in claim 1 because the handler and progress bar "are not presented in response to the drag gesture disclosed in *Lee* (which is being offered as the claimed first touch)." (Reply Br. 2.) We do not agree. Appellant's argument does not address the Examiner's findings that Lee's handler and progress bar are

displayed in response to detecting user's initial touch input of a progress bar display signal (1530). (Ans. 4; *see also* Lee ¶¶ 140–141 (“in a case the *user uses a pointing device to input a progress bar display signal 1530* on the touch screen, the controller **180** may *display a progress bar 1540 including a handler 1541 on the touch screen.*” (emphasis added)).)

Appellant additionally argues Lee does not “output the display data on the display device whilst a common initial input of the first input is being detected, . . . wherein the first input comprises a first additional input which is detectable by the processor after the common initial input,” as recited in claim 1. (App. Br. 16.) We are not persuaded by Appellant's argument. We agree with the Examiner's findings that a user's drag input is a first additional input detectable by the processor, after a common initial input including the user's initial touch input (at progress bar display signal 1530). (Final Act. 7–8 (citing Lee Figs. 6C–6D, 7C–7D, ¶¶ 141–142, 148); *see also* Ans. 4.) Appellant's arguments have not rebutted the Examiner's specific findings regarding Lee's initial touch and subsequent drag inputs, with which we agree.

Accordingly, we are not persuaded the Examiner erred in rejecting claim 1 under 35 U.S.C. § 103(a) over Lee and Anzures. Thus, we sustain the rejection of claim 1, and, for the same reasons, the rejection of claims 4, 5, and 7–12, which are not argued separately. For the same reasons, we sustain the rejection of independent claims 18 and 21 argued for substantially the same reasons as claim 1. (App. Br. 24–26, 29–31.)

Claims 13, 19, and 22

Independent claim 13 recites, *inter alia*, operating a processor in communication with an input interface to:

. . . output the display data on the display device whilst a common initial input of the first input is being detected in such a way that the display object is caused to appear on the display device as the common initial input is being detected, wherein the rate at which the display object appears is different to the rate of detection of the common initial input.

The Examiner finds Lee teaches a display object appearing on a display device as a common initial input is being detected. (Ans. 5 (citing Lee Figs. 6A–6D); Final Act. 11 (citing Lee ¶¶ 141–146).) The Examiner further finds Anzures teaches a rate at which a display object appears can be set at any suitable rate in relation to a rate of detection of a common initial input. (Ans. 5 (citing Anzures Fig. 2, display visual cues of unlock action 204, contact touch sensitive display 206; ¶ 50); *see also* Ans. 6 (citing Anzures Figs. 2, 4, detect contact with touch sensitive display 208, unlock image 402).)

Appellant argues neither Lee nor Anzures discloses a rate at which a display object appears is different from a rate of detection of the common initial input, as required by independent claim 13. (App. Br. 22–24.) Appellant contends Anzures at most describes transitioning a touch screen device from one state (lock) to another (unlock) at any suitable rate, which is different from a display object appearing at a different rate from a rate of input detection. (App. Br. 23–24 (citing Anzures Fig. 2, ¶ 50).)

We agree with Appellant the Examiner has not shown that Anzures teaches the claimed rate at which the display object appears is different from the rate of detection of the common initial input as recited in claim 13. The

cited portions of Anzures disclose a user input drags an unlock image on a touch screen and transitions the device to an unlock state at any suitable rate (*see* Anzures Figs. 2, 4, ¶ 50), but do not teach two different rates as claimed, and do not disclose a rate at which a display object/unlock image appears is different from a rate of detection of user's input. (App. Br. 23–24.)

Additionally, we agree with Appellant that the Examiner has not provided reasoning as to why it would have been obvious for one of ordinary skill to modify Lee based on Anzures to obtain the claimed different rates that are not disclosed by either Lee or Anzures. (App. Br. 24.) Although the Examiner states the reasoning for combining Lee and Anzures “is provided in relation to claim 1” (Ans. 5), the Examiner's rejection of claim 1 based on Lee and Anzures does not account for the different rates recited in claim 13.

The Examiner has not identified sufficient evidence to support the Examiner's finding that the references teach or make obvious the claimed rate at which the display object appears is different from the rate of detection of the common initial input, as recited in claims 13, 19, and 22. Therefore, we do not sustain the Examiner's rejection of claim 13 under 35 U.S.C. § 103(a) as obvious over Lee and Anzures.

Appellant's arguments regarding claims 19 and 22 present the same issues as claim 13. App. Br. 26–29, 31–34. Thus, for the same reasons, we do not sustain the rejection of claims 19 and 22 as obvious over Lee, Anzures, and BianRosa.

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DECISION

The Examiner's decision rejecting claims 1, 4, 5, 7–12, 14, 16–18, 20, 21, and 23 is affirmed.

The Examiner's decision rejecting claims 13, 19, and 22 is reversed.

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