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yvonne.bailey@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GLENN A. WONG and MARK C. SOLOMON

Appeal 2015-007931
Application 13/192,990
Technology Center 2600

Before JOHN A. EVANS, SCOTT B. HOWARD, and SCOTT E. BAIN,
Administrative Patent Judges.

EVANS, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants¹ seek our review under 35 U.S.C. § 134(a) of the Examiner's Final Rejection of Claims 1, 2, 4–10, 13, 14, 16–18, and 21–27; Claims 3, 11, 12, 15, 19, and 20 are canceled. App. Br. 13. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.²

¹ The Appeal Brief identifies Hewlett-Packard Development Company, LP, as the real party in interest. App. Br. 1.

² Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed March 23, 2015, "App. Br."), the Reply Brief (filed August 27, 2015, "Reply Br."), the Examiner's Answer (mailed July 2, 2015, "Ans."), the Final Action (mailed October 22, 2014, "Final Act."), and the Specification (filed July 28, 2011, "Spec.") for their respective details.

STATEMENT OF THE CASE

The claims relate to a device to detect a directional hand gesture. *See* Abstract.³

Claims 1, 9, and 16 are independent. An understanding of the invention can be derived from a reading of exemplary Claim 1, which is reproduced below with some formatting added:

1. A method for managing input for a device comprising:
detecting a directional hand gesture with a sensor of the device;
identifying an input mode of the device associated with the directional hand gesture, where identifying the input mode comprises:
 identifying a virtual keyboard interface mode in response to the directional hand gesture including motion across a touch display screen of the device in a first direction, and
 identifying a further input mode in response to the directional hand gesture including motion across the touch display screen in a second direction different from the first direction;
launching the identified input mode and modifying a user interface on the touch display screen based on the identified input mode; and
modifying a setting of the sensor based on whether the identified input mode uses a virtual keyboard.

³ “[F]amiliarity with the background of this case is assumed and presented herein only to the extent necessary to provide context for the analysis that follows. *See U.S. Ethernet Innovations, LLC v. Acer, Inc.*, 646 Fed.Appx. 929, n.1 (Fed. Cir. April 25, 2016).

References and Rejections

The Examiner relies upon the prior art as follows:

Andre, et al.,	US 2007/0247442 A1	Oct. 25, 2007
Backlund, et al.,	US 2012/0068937 A1	Filed Sept. 16, 2010
Abdo, et al.,	US 2011/0248941 A1	Oct. 13, 2011 ⁴

The claims stand rejected as follows:

1. Claims 1, 2, 4–10, 13, 14, 16–18, 21, 22, and 24–26 stand rejected under pre-AIA 35 U.S.C. 103(a) as obvious over Abdo and Andre. Final Act. 3–11.
2. Claims 23 and 27 stand rejected under pre-AIA 35 U.S.C. 103(a) as obvious over Abdo, Andre, Backlund. Final Act. 11–13.

ANALYSIS

We have reviewed the rejections of Claims 1, 2, 4–10, 13, 14, 16–18, and 21–27 in light of Appellants' arguments that the Examiner erred. We consider Appellants' arguments *seriatim*, as they are presented in the Appeal Brief, pages 6–11.

CLAIMS 1, 2, 4–8, 16, 18, 21, 22, AND 24–26:

OBVIOUSNESS OVER ABDO AND ANDRE.

The Examiner finds Andre teaches thumb swipe (i.e., a gesture in a first direction) activates a virtual keyboard and Abdo teaches a two-finger pinch (i.e., a gesture in a second direction) identifies a second input mode. Final Act. 4. Thus, The Examiner finds it would have been obvious to

⁴ Abdo claims priority to provisional applications filed March 17, 2010 and July 21, 2010.

combine Andre's thumb-swipe, to activate a virtual keyboard, with Abdo's finger-pinch as a "gesture in a direction opposite to the thumb swipe." *Id.*

Appellants contend the combination of Abdo and Andre fails to teach the combination of features according to Claim 1, wherein hand gestures in different directions are used for identifying different input modes, i.e., a virtual keyboard interface mode and a further input mode. App. Br. 7. Therefore, Appellants argue the combination fails to teach "identifying a further input mode in response to the directional hand gesture including motion across the touch display screen in a second direction different from the first direction," as recited in Claim 1. *Id.* Appellants argue Abdo's "pinch" ("gesturing") input can be used to scroll or zoom what is displayed in a display device. However, Appellants contend the pinch gesture is not used to identify an input mode, and more specifically, "identifying a further input mode in response to the directional hand gesture including motion across the touch display screen in a second direction different from the first direction." App. Br. 7-8.

The Examiner finds Appellants disclose five "Input Modes" that are associated with hand gestures. Ans. 3 (citing Spec., Figure 3, Table 370). The Examiner finds one such mode results in changing the layout of a virtual keyboard, which is a listed mode. *Id.* The Examiner finds Abdo's pinch gesture causes the layout of information displayed on the touchscreen to be changed. The Examiner construes "further input mode" as a modification to an input mode. In view of this construction, The Examiner finds Abdo teaches "identifying a further input mode." *Id.*

Appellants reply that as explained in their Appeal Brief, scrolling or zooming information in a display, as taught by Abdo, does not identify “**a further input mode**,” as claimed. Reply Br. 2–3. Appellants argue Abdo’s gesture, cited by the Examiner, provides user input to the device, i.e., scrolls or zooms the content, but that gesture does not result in changing the input **mode**. *Id.* at 3. Appellants refer to their Specification, ¶ 18, for examples of input modes. *Id.*

We agree with Appellants. The Examiner finds scrolling of data in a display, as taught by Abdo, is the equivalent of changing the layout of a virtual keyboard. Ans. 3. Appellants are persuasive that a person of ordinary skill in the art would not be convinced of such equivalence.

CLAIMS 23 AND 27: OBVIOUSNESS OVER ABDO, ANDRE, BACKLUND

Appellants contend dependent Claims 23 and 27 are patentable in view of their arguments in favor of the independent claims. App. Br. 11. The Examiner stands by the finding made regarding the independent claims. Ans. 6. In view of the foregoing, we decline to sustain the rejection of Claims 23 and 27.

DECISION

The rejection of Claims 1, 2, 4–10, 13, 14, 16–18, and 21–27 under 35 U.S.C. § 103 is REVERSED.

REVERSED