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McClure, Qualey & Rodack, LLP 3100 Interstate North Circle Suite 150 Atlanta, GA 30339			TUNG, DAVID	
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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* HSIANG-YI CHEN, YAO-JEN HSIEH,  
HENG-SHENG CHOU, MING-JONG JOU, and SHIH-YI LIAO

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Appeal 2016-001040  
Application 12/263,554  
Technology Center 2600

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Before JEAN R. HOMERE, AARON W. MOORE, and  
DAVID J. CUTITTA II, *Administrative Patent Judges*.

MOORE, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants<sup>1</sup> appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1, 6, 7, 15, 16, 18, and 21, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

## THE INVENTION

The application is directed to “[a] control method for a touch screen device.” (Abstract.) Claim 1, reproduced below, is exemplary:

1. A control method for a touch screen device, comprising:
  - enabling an active mode of a touch screen display panel;
  - defining at least one active area on the touch screen display panel such that a non-active area, which is on the touch screen display panel and outside the active area, is defined;
  - inputting a touch input into any one position on the touch screen display panel; and
  - determining whether the touch input exists in the active area by performing a detection for the touch input;wherein the detection is only performed on the active area and is not performed on the non-active area while determining whether the touch input exists in the active area.

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<sup>1</sup> Appellants identify AU Optronics Corporation as the real party in interest. (See App. Br. 2.)

### THE REFERENCES

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

Fujita et al.	US 6,118,435	Sept. 12, 2000
Rudd	US 2002/0180704 A1	Dec. 5, 2002
Gunn et al.	US 2008/0088599 A1	Apr. 17, 2008

### THE REJECTION

Claims 1, 6, 7, 15, 16, 18, and 21 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Fujita and Rudd. (*See* Final Act. 10–16.)

### APPELLANTS' CONTENTIONS

Appellants argue the rejection is in error for the following reasons:

1. “[N]either of Fujita nor Rudd (nor their combined teachings) teaches the claimed feature ‘wherein the detection is only performed on the active area and is not performed on the non-active area while determining whether the touch input exists in the active area,’ as recited in claim 1.” (*See* App. Br. 5–11.)
2. “[T]he combination of Fujita and Rudd is improper and therefore does not render the claims obvious.” (*See* App. Br. 11–17.)

## ANALYSIS

Appellants' claim 1 recites a control method for a touch screen device that generally includes the steps of enabling an active mode of a touch screen panel, defining on the touch screen panel an active area and a non-active area outside the active area, inputting a touch input into any position on the touch screen panel, and determining whether the touch input exists in the active area by performing a detection for the touch input. The claimed method further requires that "the detection is only performed on the active area and is not performed on the non-active area while determining whether the touch input exists in the active area."

The Examiner finds that Fujita teaches each of the limitations of claim 1, except that "Fujita does not explicitly teach wherein the detection is only performed on the active area and is not performed on the non-active area while determining whether the touch input exists in the active area." (Final Act. 11.) The Examiner further finds, however, that "Rudd teaches the concept of a control method for an input device, wherein detection is only performed on an active area and is not performed on a non-active area while determining whether the touch input exists in the active area" and that "it would have been obvious . . . to modify the method of Fujita, such that detection is only performed on the active area and is not performed on the non-active area while determining whether the touch input exists in the active area." (*Id.*)

Appellants argue (1) "the term 'disable' [as used in Rudd] is different from the claimed feature 'the detection is not performed on the non-active area' in claim 1" and (2) "the combination of Fujita and Rudd is improper

and therefore does not render the claims obvious.” (App. Br. 8, 11, emphasis omitted.) We are not persuaded of Examiner error.

We agree with the Examiner that Rudd’s teachings that the touchpad may be “disabled or ignored,” is sufficient to teach or suggest that “detection . . . not [be] performed on [a] non-active area.” One of skill in the art would understand that, if an input area has been “disabled,” or is being “ignored,” detection is not, or need not be, performed in that area. Appellants’ argument that “the disablement of the touch panel is performed by the logic circuit electrically coupled to the touch panel, and the detection of touch input on the touch panel is still performed” (App. Br. 7–8) is directed to Fujita, not Rudd, which separately teaches disabling or ignoring.<sup>2</sup> The combination contemplates that a system like Fujita’s would be *modified* with the teachings of Rudd to disable detection in portions of the input area.

Appellants’ attack on the combination is also unpersuasive because we find the Examiner’s stated motivations to combine (*see* Ans. 5) sufficient to provide the required rational underpinning. *See In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Appellants’ argument that the power saving rationale

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<sup>2</sup> Although not necessary to our decision, we observe that the language Appellants argue on appeal (“wherein the detection is only performed on the active area and is not performed on the non-active area”) was not in the original claims and does not appear to find support in the specification, which states that “the touch panel detects the touch input or press performed by the user (Step 108), and whether the foregoing touch input or press is in any position of the active area is then determined (Step 110).” (Spec. ¶ 3:18–20; *see id.* Fig. 1 & 5:13–19.) If only the active areas detect touches, it would be superfluous to determine “whether . . . touch input . . . is in any position of the active area,” because *all* detected touches would be in an active area. Should prosecution continue, we leave it to the Examiner to consider whether the requirements of 35 U.S.C. § 112 have been met.

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“should be regarded as a new ground of rejection[,] . . . ignored by the Board[,] and removed from the record” (Reply Br. 4) is misplaced. In the event of a new ground in an Answer, an appellant may either reopen prosecution or continue the appeal with the filing of a reply brief. *See* 37 CFR 41.39(b). In this case, Appellants elected to file a reply.

We accordingly sustain the Examiner’s rejection of claims 1, 6, 7, 15, 16, 18, and 21 under 35 U.S.C. § 103(a).

#### DECISION

The rejection of claims 1, 6, 7, 15, 16, 18, and 21 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