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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte CHRISTOPHER WILLIAM WOOD
and JONAS OVE ARBSJÖ

Appeal 2016-001344
Application 13/541,477¹
Technology Center 2600

Before HUNG H. BUI, KEVIN C. TROCK, and MICHAEL J. ENGLE,
Administrative Patent Judges.

ENGLE, *Administrative Patent Judge.*

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of claims 1–25. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

Technology

The application relates to a camera with a touch screen. Spec.
Abstract.

Illustrative Claim

Claim 1 is illustrative and reproduced below with disputed limitations emphasized:

¹ According to Appellants, the real party in interest is BlackBerry Limited, Research In Motion TAT AB. Br. 3.

1. A camera device, comprising:

a sensor for providing an electronic signal corresponding to an image;

a touch screen having a region for displaying the image and receiving single touch input, the region having at least one subregion; and

a processor enabled to:

display the image in the region;

execute a shutter command to store the image in a memory when the single touch input is received in the region but not in the at least one subregion when the at least one subregion contains a graphical control, the graphical control for controlling the camera device, the graphical control including a focal control area and, when the single touch input is received in the at least one subregion containing the graphical control, the shutter command is prevented from being executed;

change displaying of the graphical control; and, in response,

dynamically change a position of the at least one subregion within the region.

Rejection

Claims 1–25 stand rejected under 35 U.S.C. § 103(a) as obvious over the combination of Finkelstein et al. (US 2009/0033786 A1; Feb. 5, 2009), Higashino (US 2007/0018069 A1; Jan. 25, 2007), and Hyodo et al. (US 7,034,881 B1; Apr. 25, 2006). Final Act. 3.

ISSUE

Did the Examiner err in finding the combination of Finkelstein, Higashino, and Hyodo teaches or suggests “execute a shutter command to store the image in a memory when the single touch input is received in the

region but not in the at least one subregion” and “when the single touch input is received in the at least one subregion containing the graphical control, the shutter command is prevented from being executed,” as recited in claim 1?

ANALYSIS

Claim 1 recites a camera device comprising “a touch screen having a region for displaying the image and receiving single touch input.” Within that region is “at least one subregion” that includes “a focal control area.” “[W]hen the single touch input is received in the at least one subregion [e.g., to control the focus] . . . , the shutter command is prevented from being executed.” On the other hand, the camera device is enabled to “execute a shutter command to store the image in a memory when the single touch input is received in the region but not in the at least one subregion.” Thus, touching the subregion once does *not* take a picture, whereas touching the region outside the subregion *does* take a picture. Moreover, the camera device is enabled to “dynamically change a position of the at least one subregion within the region.” Independent claims 15 and 22 contain commensurate limitations.

Finkelstein “discloses that a user may tap the touch screen a first time to set the focal point and then a second time to take the picture, for example anywhere on the touchscreen, including the focal point area, which is the OPPOSITE of the presently claimed subject matter.” App. Br. 8–9 (citing Finkelstein ¶ 68); Ans. 3.

Higashino discloses “a focal control area which is moveable on a touch screen,” but “to acquire a photo in Higashino, a conventional shutter

button (i.e. an actual physical button) of a camera is manipulated.” App. Br. 9 (citing Higashino Figs. 4–5).

The Examiner finds:

Finkelstein et al. in view of Higashino fail to clearly teach the idea of when the single touch input is received in the at least one subregion containing the graphical control, the shutter command is prevented from being executed (Note: the examiner may broadly still consider Higashino as reading this limitation since when the touch input is received in the AF frame in at least figure 5 of Higashino there is no shutter command processed . . .).

Final Act. 4. Thus, the Examiner finds Higashino’s disclosure of a physical shutter button “teach[es] the idea of touching the focus area does not trigger the shutter command.” Ans. 4 (citing Higashino Figs. 4–5, ¶ 73). “Note the primary reference [Finkelstein] already teaches tapping on the screen to function the shutter command. When Higashino is combined with Fink[el]stein the shutter command will be due to the area outside of the focus window being tapped.” *Id.* (citing Final Act. 4).

We do not agree with the Examiner that the combination of Finkelstein and Higashino teaches “the shutter command will be due to the area outside of the focus window being tapped.” Ans. 4. The Examiner has not explained sufficiently how either Finkelstein or Higashino teaches a difference in shutter behavior depending on whether a tap is inside or outside the focus window. Instead, these two references teach (A) tapping *anywhere* activates the shutter command (as in Finkelstein) or (B) tapping *anywhere* does not activate the shutter command (as in Higashino).

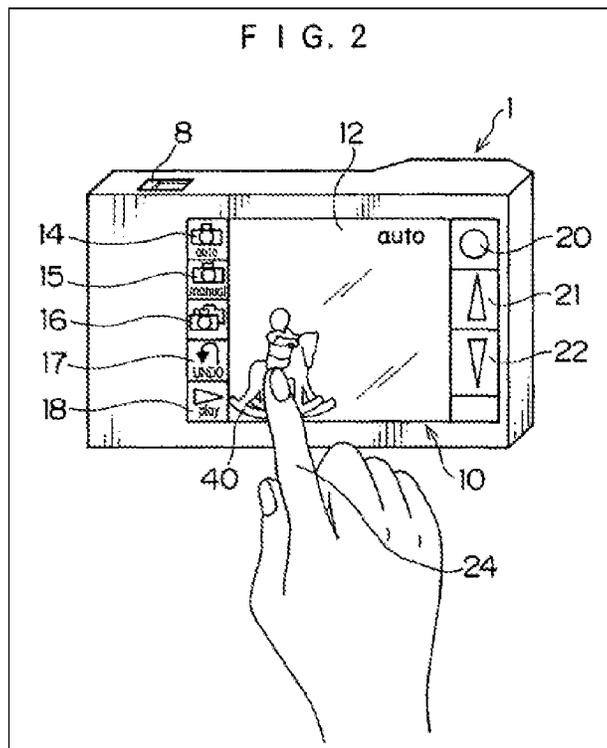
The Examiner then relies on Hyodo “to clarify” how the prior art teaches a subregion that does not execute a shutter command when tapped. Final Act. 4.

[Hyodo's] figures 2, 7, 9, 11 - 13, and 17 show the idea of when the single touch input is received in the at least one subregion containing the graphical control, the shutter command is prevented from being executed; wherein *the subregion can be considered any area other than [sic] the area of item 20.*

Ans. 4-5 (emphasis added); Final Act. 5.

Appellants argue Hyodo teaches “when a single touch occurs once anywhere on the touchscreen, that area is designated as a principal subject [i.e., focus area]” but “to store a picture, a *physical* release button is touched or the touchscreen is ‘touched twice in rapid succession (double-clicked).’” App. Br. 10 (quoting Hyodo 8:14-16) (emphasis added). Thus, “there is no distinction between regions with regards to touch input that leads to a photo being acquired.” *Id.*

The Examiner has not sufficiently addressed Appellants’ arguments. In particular, the Examiner has not addressed Appellants’ point that item 20 in Hyodo may be a *physical* button. Figure 2 of Hyodo is reproduced below.



“FIG. 2 shows the electronic camera 1” in which “a touch panel 12 with light permeability is provided over the display part 10” and a “variety of buttons are provided at the right and left edges of the display part 10,” including “a release (execution) button 20.” Hyodo 5:21–27. In Figure 2, “touch panel 12” is labeled separately from “button 20.” The Examiner has not explained whether button 20 is a *physical* button or is a part of touch panel 12. If button 20 was a physical button, then what the Examiner has identified as a “subregion” (i.e., any area other than button 20) would not teach or suggest a *sub*-region of the touch screen because it would instead be the *entire* touch screen.

Moreover, even if button 20 were part of the touch screen, the Examiner has not explained how the limitation “dynamically change a position of the at least one subregion within the region” would be met given the Examiner’s finding that “the subregion can be considered any area other than [sic] the area of item 20.” Ans. 5. It is unclear how the entire image other than button 20 could have its position changed. The Examiner relies on Higashino for this limitation, and as discussed above, Higashino teaches moving a focus area within a displayed image, but Higashino—like Hyodo—does not teach moving an entire displayed area other than a shutter/release button. Thus, it is not clear how the Examiner is combining the different teachings of the different prior art references. As the Supreme Court has said, “a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art.” *KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 418 (2007).

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Accordingly, we do not sustain the Examiner's rejection of independent claims 1, 15, and 22, and their dependent claims 2–14, 16–21, and 23–25.

DECISION

For the reasons above, we reverse the Examiner's decision rejecting claims 1–25.

REVERSED