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CHOI, DAVID E

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Please find below and/or attached an Office communication concerning this application or proceeding.

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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LUCAS JACOBUS FRANCISCUS GEURTS,
ANTON OGUZHAN ALFORD ANDREWS,
JUDITH ANGES JOSEPHINA PEETEN, and
ROBERT KORTENOEVEN

Appeal 2017-005500
Application 12/299,811
Technology Center 2100

Before DEBRA K. STEPHENS, LINZY T. McCARTNEY, and JESSICA C. KAISER, *Administrative Patent Judges*.

McCARTNEY, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants[1] appeal under 35 U.S.C. § 134 from a final rejection of claims 1, 2, and 4–11. Appellants have canceled claim 3. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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[1] Appellants identify Koninklijke Philips Electronics, N.V. as the real party in interest.

BACKGROUND

The present patent application concerns a device, method, and computer program product that allow a user to select a menu option. *See* Spec. 1, filed November 6, 2008. Claims 1, 8, and 10 are independent. App. Br. 16–18, filed October 12, 2016. Claim 1 illustrates the claimed subject matter:

> 1. An electronic device comprising:
>
> electronic circuitry to:
>
> detect selection of a position on a screen;
>
> in response to the selection of the position on the screen, display a plurality of circular selection areas, each circular selection area having a menu option identifier and a circumference proportional to a distance between a respective menu option identifier and the selected position on the screen, wherein the selected position on the screen is located at an off-center location within a first circular selection area of the plurality of circular selection areas;
>
> detect selection of a given circular selection area of the plurality of circular selection areas; and
>
> activate a menu option identifier located in the given circular selection area, in response to the detected selection of the given circular selection area.

App. Br. 16.

In a prior appeal, we affirmed the Examiner's rejection of an earlier version of the claims at issue as obvious over prior art combinations that included the Vernier[2] reference. *See* Decision on Appeal 2–7, mailed October 15, 2015. Vernier is not part of the rejections before us in the current appeal. *See* Final Office Action 3–10, mailed June 1, 2016.

[2] Vernier et al. (US 6,791,530 B2; issued Sept. 14, 2004).

REJECTIONS

Claims Rejected	Basis	Reference(s)
1, 2, and 8–11	§ 103(a)	Selker,[3] Hoffman,[4] and Rostom[5]
4–7	§ 103(a)	Selker, Hoffman, Rostom, and Su[6]

ANALYSIS

Claim 1 recites "each circular selection area having a . . . circumference proportional to a distance between a respective menu option identifier and the selected position on the screen." App. Br. 16. Appellants contend the Examiner erroneously concluded a combination of Selker, Hoffmann, and Rostom teaches or suggests this limitation. *See* App. Br. 9–11; Reply Br. 3–6, filed February 14, 2017. In particular, Appellants take issue with the Examiner's finding that Hoffmann's Figure 3 teaches or suggests the recited circumference, arguing that Figure 3 "merely provides a visual representation of formulas within software." Reply Br. 5. According to Appellants, "Hoffman does not actual[ly] teach or suggest the display of anything" and "has absolutely nothing to do with the features of claim 1." Reply Br. 5.

We are persuaded by Appellants' arguments. The Examiner found Hoffmann's Figure 3 teaches the recited "circumference proportional to a distance between a respective menu option identifier and the selected position on the screen." *See* Ans. 5; Final Office Action 4, mailed June 1, 2016. Hoffmann's Figure 3 shows a series of nested ovals that represent

[3] Selker (US 2002/0122072 A1; published Sept. 5, 2002).
[4] Hoffmann et al. (US 2006/0059417 A1; published Mar. 16, 2006).
[5] Rostom (US 2006/0095865 A1; published May 4, 2006).
[6] Ling Su et al. (US 2006/0190836 A1; published Aug. 24, 2006).

nested or layered formulas. *See* Hoffmann ¶ 21, Figure 3. We agree with Appellants that the Examiner has not set forth with sufficient specificity how this figure teaches or suggests "a circumference proportional to a distance between a respective menu option identifier and the selected position on the screen." Neither Figure 3 nor its accompanying description indicates the circumferences of the depicted ovals are proportional to "a distance between a respective menu option identifier and the selected position on the screen." *See* Hoffmann ¶¶ 28–29, Figure 3. As put by Appellants, "[j]ust because there are circles in [Hoffmann] . . . does not make [Hoffmann] map onto every claim reciting a circumference or a circle." Reply Br. 5–6.

For the above reasons, we are constrained by the record to reverse the Examiner's rejection of claim 1 and its dependent claims. Because the Examiner relies on the same findings and reasoning to address similar limitations in independent claims 8 and 10, *see* Final Office Action 5, we also are constrained by the record to reverse the Examiner's rejections of these claims and their respective dependent claims.

CONCLUSION

Claims Rejected	Basis	References	Affirmed	Reversed
1, 2, and 8–11	§ 103(a)	Selker, Hoffman, and Rostom		1, 2, and 8–11
4–7	§ 103(a)	Selker, Hoffman, Rostom, and Su		4–7
Summary				1, 2, and 4–11

REVERSED