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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte APAAR TULI

Appeal 2017-010163
Application 13/053,888
Technology Center 2600

Before THU A. DANG, DENISE M. POTHIER, and
SCOTT B. HOWARD, *Administrative Patent Judges*.

DANG, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Final Rejection of claims 1–19, and 21–32. Claim 20 was previously canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

¹ We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Appellant identifies the real party in interest as Nokia Technologies Oy. Appeal Br. 2.

A. INVENTION

According to Appellant, embodiments of the invention “relate generally to user interface technology,” and particularly, to “a method and apparatus for providing sight independent activity reports responsive to a touch gesture.” Spec. ¶ 1.

B. ILLUSTRATIVE CLAIM

Claim 1 is exemplary:

1. A method comprising:

providing an application having activity associated therewith;

receiving an indication of a pulse gesture being performed by at least two fingers, wherein the pulse gesture comprises a touch event with at least two fingers held close together from initiation of the pulse gesture until recognition of the pulse gesture;

determining, in response to receipt of the indication of the pulse gesture, a status with respect to the activity associated with the application that occurred prior to receipt of the indication of the pulse gesture; and

in response to receipt of the indication of the pulse gesture, causing provision of haptic feedback of an activity report that provides information relating to the status that was determined with respect to the activity associated with the application that occurred prior to receipt of the indication of the pulse gesture, wherein causing provision of haptic feedback comprises causing provision of haptic feedback having one or more characteristics that are indicative of the status of the activity associated with the application that occurred prior to receipt of the indication of the pulse gesture.

C. REJECTIONS

Claims 1–19, 21, and 24–32 stand rejected under 35 U.S.C. § 103(a) over Choe et al. (US 2010/0004033; published Jan. 7, 2010, hereafter “Choe”), and Burrough et al. (US 2010/0156818 A1; published June 24, 2010, hereafter “Burrough”).

Claim 22 stands rejected under 35 U.S.C. § 103(a) over Choe, Burrough, and Migos et al. (US 2012/0030568 A1; published Feb. 2, 2012, hereafter “Migos”).

Claim 23 stands rejected under 35 U.S.C. § 103(a) over Choe, Burrough, and Aguilar (US 2011/0107272 A1; published May 5, 2011 hereafter “Aguilar”).

II. ISSUES

The principal issues before us are whether the Examiner has erred in finding the combination of Choe and Burrough teaches or *suggests* a method comprising the steps of:

“receiving an indication of a pulse gesture” that “comprises a touch event with *at least two fingers held close together* from initiation of the pulse gesture until recognition of the pulse gesture,” and

“*in response* to receipt of the indication of the pulse gesture, causing provision of *haptic feedback of an activity report* that provides information relating to the status that was determined with respect to the activity associated with the application that *occurred prior to receipt* of the indication.” Claim 1 (emphasis added).

III. FINDINGS OF FACT

The following Findings of Fact (FF) are shown by a preponderance of the evidence.

Choe

1. Choe discloses a mobile terminal that generates haptic effect with an intensity or pattern corresponding to the type and importance of an event occurred therein, and the user can identify the event based on the haptic effect. Choe, Abstract. A proximity sensor is installed which detects an object (such as the user's finger) approaching the display module, and which outputs a signal in response. *Id.* at ¶ 76. The controller may control the haptic module to generate a haptic effect in response to the user scrolling through a list displayed on the display module. *Id.* at ¶ 87. In one example, the controller may control the haptic module to generate a haptic effect in a display region area corresponding to the location and the number of messages currently being displayed in the display region. *Id.* at ¶ 90. Similarly, the controller may control the haptic module to generate a haptic effect to the location and the number of emails currently being displayed. *Id.* at ¶ 91. The controller may also control the haptic module to generate a haptic effect indicating the importance of a scheduled event, wherein the user can recognize the arrival of the scheduled time and the importance of the scheduled event based on a number of haptic effects generated by the mobile terminal. *Id.* at ¶ 94.

Burrough

2. Burrough discloses a method which comprises the steps of identifying a multi-touch gesture based on data from a multi-touch sensing device, and providing an appropriate multi-haptic response. Burrough, Abstract. In

Burrough, the apparatus is provided which includes a touch pad having a touch sensitive surface and a plurality of haptic feedback devices operatively coupled to the touch sensitive surface to provide tactile feedback at each of the at least two different locations on the touch sensitive surface in response to the multi-touch signal. *Id.* at ¶ 10. In an embodiment, one type of signal can be generated when at least two fingers are close together. *Id.* at ¶ 54.

IV. ANALYSIS

We have reviewed the Examiner's rejection in light of Appellant's arguments presented in this appeal. Arguments which Appellant could have made, but did not make in the Brief are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(iv) (2016). On the record before us, we are unpersuaded the Examiner has erred. We adopt as our own the findings and reasons set forth in the rejections from which the appeal is taken and in the Examiner's Answer, and provide the following for highlighting and emphasis.

Appellant contends that the cited references do not teach or suggest "the utilization of a pulse gesture to inject a query and to then receive an activity report, on demand, in response." App. Br. 8. In particular, Appellant contends "Choe discloses the provision of haptic feedback in response to certain events, such as the receipt of a message." *Id.* However, Appellant concedes that Choe also discloses that the haptic feedback may be provided "in response to certain cursor movements (e.g., scrolling) or the detection of certain object movements (e.g., the approach of a finger)." *Id.*

Further, according to Appellant, "the haptic feedback of Choe is not of an activity report" as claimed. *Id.* at 9. That is, "the haptic feedback of Choe is based on a characteristic of an event, but, in any event, is not of an

activity report” as claimed. *Id.* Similarly, Appellant contends that “the feedback provided by Burrough provides guidance to a user interacting with a touch screen, but is not of an activity report” as claimed. *Id.* Although Appellant concedes that “the activity associated with [Burrough’s] map application is responsive to the touch gesture,” Appellant contends that Burrough’s activity is “not an activity that ‘occurred prior to receipt of the indication of the pulse gesture.’” *Id.*

Appellant then contends that the “pulse gesture” of claim 1 “requires at least two fingers to be held close together throughout the gesture.” *Id.* at 10. Although Appellant concedes that Burrough discloses a gesture using two fingers held close together, Appellant contends that Burrough discloses “a pinching gesture” in which “the two fingers begin close together” but “then spread apart for a pinch-out gesture” (or vice versa). *Id.*

We are not persuaded by Appellant’s arguments.

As an initial matter of claim construction, we give the claims, as specifically recited, their broadest reasonable interpretation consistent with the Specification. *See In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997). While we interpret claims broadly but reasonably in light of the Specification, we, nonetheless, must not import limitations from the Specification into the claims. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993).

Although Appellant contends that the cited references do not teach or suggest “the utilization of a pulse gesture to inject a query and to then receive an activity report, on demand, in response” (App. Br. 8), such contention is not commensurate in scope with the recited language of the

claims. In particular, the claims do not require any injection of a “query” or receiving “on demand.” *Id.*; *see* claim 1, for example.

We are also unpersuaded by Appellant’s contention that “the haptic feedback of Choe is not of an activity report” as claimed because an “event . . . is not of an activity report.” App. Br. 9. As the Examiner points out, “the limitation[s] in the claim[s] such as ‘activity,’ ‘activity report’ and ‘application’ are very broad without further limiting a specific function.” Final Rej. 20. Here, the Specification and claims do not provide any specific definition for “activity report.” Instead, the Specification merely provides a non-limiting example: “[t]he activity reports may typically be the result of a status check associated with the application associated with the selectable object . . . being performed by the feedback manager.” Spec. ¶ 55.

We are also unpersuaded by Appellant’s contention that Burrough’s gesture using “two fingers held close together” is not a “pulse gesture” but rather “a pinching gesture.” App. Br. 10 (emphasis omitted). The Specification does not provide any specific definition for “pulse gesture,” but states that “pulse gesture may be defined by the contact of at least two fingers with the touch screen display, where the fingers are held close to each other.” Spec. ¶ 28. The claims merely require that the fingers are “held close together from initiation . . . until recognition” of the gesture. Claim 1. Given the broadest reasonable interpretation of the claims in view of the Specification and claims, we conclude that claim 1 merely requires the detection of a gesture comprising two fingers held close together until recognition.

Choe discloses receiving an indication of a user’s finger approaching the display module and outputting a signal in response. FF 1. In Choe, a

response includes a haptic response, such as, for example, a haptic effect corresponding to a number of messages or a number of emails. *Id.* The haptic effect can also indicate the importance of a scheduled event, and the user can recognize the arrival of the scheduled time and the importance of the scheduled event based on a number of haptic effects generated by the mobile terminal. *Id.* That is, Choe discloses detecting an indication of a gesture (which comprises movement of a user's fingers), and providing haptic responses, which comprise an indication of the number of messages or emails (that was received/occurred prior to receipt of the gesture) and/or which reflects the importance of the scheduled event (the event being scheduled prior to receipt of the indication). We find no error with the Examiner's reliance on Choe for teaching and suggesting a steps of "receiving" an indication of a gesture that comprises movement of fingers, and "causing provision of haptic feedback of an activity report" with respect to the activity "that occurred prior to receipt of the indication." Claim 1.

We are unpersuaded by Appellant's contention that, different from the claim invention, "Choe discloses the provision of haptic feedback in response to certain events." App. Br. 8. As Appellant concedes, Choe also discloses that the haptic feedback may be provided "in response to certain cursor movements (e.g., scrolling) or the detection of certain object movements (e.g., the approach of a finger)." App. Br. 8. Given the broadest reasonable interpretation of "activity report" in view of the Specification, we find no error with the Examiner's conclusion that "activity report"

encompasses Choe's haptic effect indicating the number of messages, emails or importance of any event. Final Rej. 20–21.

Burrough discloses identifying a multi-touch gesture wherein haptic feedbacks are provided in response to the multi-touch signal, the gesture includes at least two fingers held close together. FF 2. Even Appellant concedes that Burrough discloses a gesture using two fingers held close together in “a pinching gesture” in which “the two fingers begin close together.” App. Br. 10. Given the broadest reasonable interpretation of the claims, we find no error with the Examiner's reliance on Burrough to disclose and suggest “a pulse gesture” that comprises “a touch event with at least two fingers held close together from initiation of the pulse gesture until recognition of the pulse gesture” as claimed. Claim 1.

In view of the above, we find no error with the Examiner's finding and conclusion that the combination of Choe and Burrough teaches or at least suggests the contested limitations of claim 1. Appellant does not provide substantive arguments for independent claims 10 and 19 separate from those for claim 1. App. Br. 11. Accordingly, we also affirm the Examiner's rejections of claims 10 and 19 over Choe and Burrough.

As for claims 2, 3, 11, and 12, although Appellant contends that Choe fails to teach or suggest the limitations of the claims (App. Br. 11–13), we are unpersuaded that the Examiner erred in finding that Choe discloses a haptic effect that “may represent the type, importance and name of an event occurred.” Ans. 6; *see also* FF 1, Choe ¶ 78. Accordingly, we are

unpersuaded that the Examiner erred in rejecting claims 2, 3, 11, and 12 over Choe and Burrough.

As to claims 24–26, we are unpersuaded by Appellant’s contention that Burrough “fails to teach or suggest that the touch event comprises a static touch event.” App. Br. 13–14. Here, we find no error with the Examiner’s reliance on Burrough to teach and suggest such “static touch.” Final Rej. 15; *see also* FF 2.

As to claims 27, 29, and 31, although Appellant contends that Burrough fails to teach or suggest “the receipt of one of a variety of different pulse exit gesture” (App. Br. 14), we find no error with the Examiner’s reliance on Burrough’s two finger gesture over the map and exiting by moving the fingers apart, for teaching and suggesting the contested limitation. Final Rej. 15–17; *see also* FF 2.

As to claims 28, 30, and 32, we are unpersuaded by Appellant’s contention that “Burrough provides no teaching or suggestion that the application for which the status is determined is dependent upon the repetition of the pulse gesture.” App. Br. 15. As the Examiner finds, Burrough discloses “generating zoom in and zoom out,” wherein “bringing back the two fingers close together again read as repetition of the pulse gesture.” Final Rej. 15–16 (emphasis omitted); *see also* FF 2.

As for claim 23, although Appellant contends that Aguilar fails to teach or suggest a pulse gesture in which “the fingers are held next to each other for a predetermined minimum amount of time” (App. Br. 13), we find no error with the Examiner’s reliance the *combination* of Choe and Burrough in view of Aguilar for teaching and suggesting the contested limitation. Final Rej. 19. That is, we agree with the Examiner’s reliance on

Appeal 2017-010163
Application 13/053,888

the combination of Choe's gesture comprising two fingers held next to each other with Aguilar's pressing of a selection for a predetermined amount of time to teach and suggest the contested limitation. *See* FF 1.

Appellant does not provide substantive arguments for the other rejected claims. Accordingly, we also affirm the rejection of the other claims rejected over Choe and Burrough as well as claim 22 rejected over Choe, Burrough, in further view of Migos.

V. DECISION

We affirm the Examiner's rejection of claims 1–19, and 21–32 under 35 U.S.C. § 103(a).

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