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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/612,743	02/03/2015	Joshua Weaver	11-546-US-CON	5716
98929	7590	01/23/2020	EXAMINER	
McDonnell Boehnen Hulbert & Berghoff LLP/Google LLC 300 South Wacker Drive, Suite 3100 Chicago, IL 60606			LAM, VINH TANG	
			ART UNIT	PAPER NUMBER
			2628	
			MAIL DATE	DELIVERY MODE
			01/23/2020	PAPER

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* JOSHUA WEAVER and THAD EUGENE STARNER

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Appeal 2018-004859  
Application 14/612,743  
Technology Center 2600

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Before ERIC B. CHEN, BARBARA A. BENOIT, and JOHN R. KENNY  
*Administrative Patent Judges.*

KENNY, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 21–42. Final Act. 1; Appeal Br. 1. Claims 1–20 have been canceled. Final Act. 1. We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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<sup>1</sup> We use the word Appellant to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as Google LLC. Appeal Br. 1.

## SPECIFICATION

Appellant's Specification concerns augmented-reality devices, which blend computer-generated information with the user's perception of the physical world. Spec. ¶ 3. In particular, the Specification describes wearable computer devices with user interfaces and systems that "facilitate determining that a user of a wearable computing system is driving a vehicle (e.g., a car) and then selecting a driving user interface that is appropriate for driving." *Id.* ¶¶ 19, 21.

## CLAIMS

Claim 21 is illustrative and reads as follows, with a key limitation emphasized:

21. A computer-implemented method comprising:

at least one sensor integral to a wearable computing system detecting a plurality of movements;

*identifying*, from the detected plurality of movements, a threshold number of *sets of correlated movements* associated with movements caused by driving a vehicle, wherein the threshold number is two or greater, *wherein each set of correlated movements comprises (i) a first movement of the wearable computing system characteristic of a body movement associated with driving the vehicle and (ii) a second movement of the wearable computing system characteristic of a movement of the vehicle, wherein the body movement causes the movement of the vehicle*; and

in response to identifying the threshold number of sets of correlated movements associated with movements caused by driving the vehicle, causing the wearable computing system to select a driving user interface for the wearable computing system.

## REFERENCES

The references relied upon by the Examiner are:

<b>Name<sup>2</sup></b>	<b>Reference</b>	<b>Date</b>
Hartwell	US 2003/0071766 A1	Apr. 17, 2003
Garland	US 6,861,970 B1	Mar. 1, 2005
Boger	US 2011/0241976 A1	Oct. 6, 2011
Osterhout	US 2012/0206322 A1	Aug. 16, 2012
Moore	US 2012/0287040 A1	Nov. 15, 2012

## REJECTIONS

Claims 21–26, 28, 31–33, 36–38, 41, and 42 stand rejected under 35 U.S.C. § 102(e) as anticipated by Moore. Final Act. 2.

Claims 27, 30, and 35 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Moore and Osterhout. Final Act. 13.

Claims 29 and 34 stand rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Moore and Hartwell. Final Act. 16.

Claim 39 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Moore and Garland. Final Act. 17.

Claim 40 stands rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of Moore and Boger. Final Act. 18.

## ANALYSIS

### *Claim 21*

Appellant argues that Moore does not disclose:

identifying . . . sets of correlated movements . . . wherein each set of correlated movements comprises (i) a first movement of the wearable computing system characteristic of a body movement associated with driving the vehicle and (ii) a second movement of the wearable computing system characteristic of a

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<sup>2</sup> The first named inventor for each reference is identified.

movement of the vehicle, wherein the body movement causes the movement of the vehicle,  
as recited by independent claim 21. Appeal Br. 5–13. The Examiner finds that Moore discloses this correlated-movement limitation by describing a system that detects head azimuth, head pitch, and head tilt to track movement of the user’s head. Final Act. 2–8; Ans. 4–5 (citing Moore ¶ 16). Further, the Examiner determines that motion of Moore’s vehicle would affect Moore’s detected head movement due to the varying velocities, accelerations, directions, orientations and altitudes when flying an aircraft or due to uneven roads or curves when driving. Ans. 4–5. The Examiner determines that, thus, the user’s head movement is correlated with the motion of Moore’s vehicle. *Id.*

Appellant argues that these findings by the Examiner do not prove Moore’s tracking satisfies the correlated-movement limitation of claim 21. Appeal Br. 6–13; Reply Br. 3–6. We agree with Appellant. Although the Examiner has set forth how vehicle motion can affect the detected head movement in Moore, that alone does not satisfy the correlated-movement limitation, which requires identification of two correlated movements: (i) a first movement *characteristic of a body motion* associated with driving a vehicle and (ii) a second movement characteristic of movement of the vehicle, *where the body motion causes movement of the vehicle*. The Examiner identifies the movement of the user’s head as the first recited movement characteristic of a body motion. Ans. 4–5. The Examiner does not explain, however, how that identified head movement is characteristic of a body motion that causes movement of Moore’s vehicle. *Id.* To the contrary, the Examiner finds that external factors (e.g., unevenness of the

road) cause the identified vehicle motion. *Id.* Therefore, we do not sustain the rejection of claim 21.

*Claims 22–26, 28, 31–33, 36–38, 41, and 42*

Independent claims 31 and 36 have recitations<sup>3, 4</sup> that correspond to the correlated-movement limitation of claim 21. Claims Appendix. Dependent claims 22–26, 28, 32, 33, 37, 38, 41, and 42 each depend directly or indirectly from one of claims 21, 31, and 36. *Id.* Thus, we do not sustain the rejection of claims 22–26, 28, 31–33, 36–38, 41, and 42 for the reasons described above for claim 21.

*Claims 27, 29, 30, 34, 35, 39, and 40*

As set forth above, the Examiner rejects each of claims 27, 29, 30, 34, 35, 39, and 40 as obvious over Moore in combination with another reference. Claims 27, 29, 30, 34, 35, 39, and 40 each depend directly or indirectly from one of independent claims 21, 31, and 36. Claim Appendix. The analysis of the rejection of claims 27, 29, 30, 34, 35, 39, and 40 in the Final Action and in the Answer does not set forth any additional analysis

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<sup>3</sup> Claim 31: “instructions for identifying . . . sets of correlated movements . . . wherein each set of correlated movements comprises (i) a first movement of a wearable computing system characteristic of a body movement associated with driving the vehicle and (ii) a second movement of the wearable computing system characteristic of a movement of the vehicle, wherein the body movement causes the movement of the vehicle.” Claims Appendix.

<sup>4</sup> Claim 36: “wherein the controller is configured to: (a) identify . . . sets of correlated movements . . . wherein each set of correlated movements comprises (i) a first movement of the wearable computing system characteristic of a body movement associated with driving the vehicle and (ii) a second movement of the wearable computing system characteristic of a movement of the vehicle, wherein the body movement causes the movement of the vehicle.” Claims Appendix.

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regarding the correlated-movement limitation of claim 21 or the corresponding limitations of claims 31 and 36. Final Act. 13–19. Thus, we do not sustain the obviousness rejections of claims 27, 29, 30, 34, 35, 39, and 40 for the reasons described above for the anticipation rejection of claim 21.

### CONCLUSION

The Examiner’s rejections are reversed.

### DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
21–26, 28, 31–33, 36–38, 41, 42	102(e)	Moore		21–26, 28, 31–33, 36–38, 41, 42
27, 30, 35	103(a)	Moore, Osterhout		27, 30, 35
29, 34	103(a)	Moore, Hartwell		29, 34
39	103(a)	Moore, Garland		39
40	103(a)	Moore, Boger		40
<b>Overall Outcome</b>				21–40

REVERSED