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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* LOUIS B. ROSENBERG

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Appeal 2018-007326  
Application 14/071,701  
Technology Center 2600

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BEFORE DEBRA K. STEPHENS, TREVOR M. JEFFERSON, and  
PHILLIP A. BENNETT, *Administrative Patent Judges*.

STEPHENS, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant,<sup>1</sup> Immersion Corporation,  
appeals from the Examiner’s decision to reject claims 1–25 (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 Immersion  
Corporation (Appeal Br. 1).

### CLAIMED SUBJECT MATTER

According to Appellant, the claims are directed to a device using tactile feedback to deliver silent status information. Claim 1, reproduced below, is illustrative of the claimed subject matter:

- 1 A handheld device comprising:
  - a haptic feedback assembly;
  - a fingerprint sensor configured to detect a fingerprint;
  - a processor coupled to the fingerprint sensor, the processor configured to:
    - receive a signal associated with the fingerprint;
    - determine whether a user is a known user based in part on the fingerprint;
    - determine a haptic effect based on the fingerprint and whether the user is a known user; and
    - control the haptic feedback assembly to output the haptic effect, wherein the haptic feedback assembly comprises an actuator and an added mass to reduce a natural frequency of the actuator

(Appeal Br. 16 (Claims Appendix)).

### REFERENCES

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

Merjanian	US 5,546,471	Aug. 13, 1996
Rollins	US 6,078,126	June 20, 2000
Edgren	US 6,420,965 B1	July 16, 2002

### REJECTIONS

Claims 1–25 are rejected under 35 U.S.C. § 103(a) as unpatentable over Merjanian and Rollins (Final Act. 3–9).

Claims 1–25 are rejected under 35 U.S.C. § 103(a) as unpatentable over Merjanian and Edgren (*id.* at 9–15).

We have only considered those arguments that Appellant actually raised in the Briefs. Arguments Appellant could have made but chose not to make in the Briefs have not been considered and are deemed to be waived (*see* 37 C.F.R. § 41.37(c)(1)(iv)).

## OPINION

### *Obviousness – Merjanian and Rollins: Claims 1–25*

Appellant contends their invention as recited in claims 1–25, is not obvious over Merjanian and Rollins (Appeal Br. 12–41). The issue presented by the arguments is, does the combination of Merjanian and Rollins teach, suggest, or otherwise render obvious “determin[ing] a haptic effect based on the fingerprint and whether the user is a known user,” as recited in claim 1?

## ANALYSIS

Appellant argues the Examiner “does not address *how* the haptic effect is determined” (Appeal Br. 12). According to Appellant, the Examiner does not show “Merjanian discloses ‘determin[ing] a haptic effect *based on* the fingerprint *and* whether the user is a known user,’” as recited in claim 1 (*id.*). Appellant contends “each of . . . [the] three passages [of Merjanian cited by the Examiner,] plainly discusses feedback that identifies location” (*id.* at 13). Appellant argues “[d]etermining a haptic effect based on the location of the digit does not, by itself, disclose ‘determin[ing] a haptic effect based on the fingerprint *and* whether the user is a known user,’” as recited by claim 1.

Lastly, Appellant argues the Examiner “appears to be citing to edge 50 as outputting tactile feedback[; however, edge] 50 is nothing more than a mechanical guide” (Appeal Br. 13). More specifically, Appellant points to Figures 2 and 3 of Merjanian that illustrate, according to Appellant, “the edge 50 acts as a guide for the user’s finger, to ensure the finger is appropriately positioned on top of platen 30” (*id.*). Thus, Appellant argues “no basis [exists] to assert that a mechanical guide, such as edge 50, outputs a haptic effect ‘determine[d] . . . based on the fingerprint and whether the user is a known user,’” as recited in claim 1 (*id.* at 14).

We agree with Appellant that the Examiner has failed to show the combination of Merjanian and Rollins teaches or suggests “determin[ing] a haptic effect *based on the fingerprint and* whether the user is a known user,” as recited in independent claim 1 and as commensurately recited in independent claims 10 and 18. Specifically, as noted by Appellant, the cited portions of Merjanian teach providing “tactile feedback to the person whose print is being acquired of the location of the digit on the platen” (Merjanian, 2:36–38; *see also* Merjanian, 5:19–21 (“Between the platen top surface 31 and the planar surface 46 is an edge 50 that provides tactile feedback to the operator *as to the location of the digit 32 on the platen 30*”), Merjanian, 13:50–53 (“The housing of claim 1, further including tactile feedback means for providing tactile feedback to the person whose print is being acquired, *of the location of the digit on the platen*”)). The Examiner further relied on Merjanian’s claims 1–5 (Ans. 3); however, claims 1 and 2 discuss the housing for a fingerprint acquisition device and particularly, the shape of the housing to acquire “even pressure to the patent and a broad print of the chosen, fifth digit” and ramp means “such that the digit presses on the patent

at an increased number of locations . . . and a digit guiding means for guiding the person's digits onto the platen" (Merjanian claims 1–2). Claim 3 recites "tactile feedback means for providing tactile feedback to the person whose print is being acquired, of the location of the digit on the platen" and claims 4 and 5 recite the tactile feedback means location and structure (*id.* claims 3–5). The Examiner has not, however, identified where Merjanian teaches providing tactile feedback based on the fingerprint *and* whether the user is a known user.

Accordingly, we are persuaded the Examiner has failed to show the combination of Merjanian and Rollins teaches or suggests the limitations as recited in independent claim 1 and commensurately recited in independent claims 10 and 18. Dependent claims 2–9, 11–17, and 19–25 thus stand with their respective independent claims. Therefore, we cannot sustain the rejection of claims 1–25 under 35 U.S.C. § 103(a) for obviousness over Merjanian and Rollins.

*Obviousness — Merjanian and Edgren: Claims 1–25*

The Examiner once again relies on Merjanian to teach "determine a haptic effect based on the fingerprint and whether the user is a known user," as recited in independent claim 1 and commensurately recited in independent claims 10 and 18. Appellant, however, does not contend explicitly that their invention as recited in claims 1–25, is not obvious over Merjanian and Edgren (*see generally* Appeal Br.). Nonetheless, in light of our finding and conclusion that Merjanian fails to teach determin[ing] a haptic effect based on the fingerprint and whether the user is a known user,"

discussed above, we cannot sustain the rejection of claims 1–25 under 35 U.S.C. § 103(a) for obviousness over Merjanian and Edgren.

### DECISION

The Examiner’s rejections are REVERSED.

More specifically,

The rejection of claims 1–25 under 35 U.S.C. § 103(a) as being unpatentable over Merjanian and Rollins is reversed.

The rejection of claims 1–25 under 35 U.S.C. § 103(a) as being unpatentable over Merjanian and Edgren is reversed.

### DECISION SUMMARY

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–25	103	Merjanian, Rollins		1–25
1–25	103	Merjanian, Edgren		1–25
<b>Overall Outcome</b>				1–25

REVERSED