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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413 UNITED STATES OF AMERICA			CHOWDHURY, AFROZA Y	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte ITAY KATZ and AMNON SHENFELD

Appeal 2018-007358
Application 15/144,209
Technology Center 2600

Before JOHNNY A. KUMAR, JASON J. CHUNG, and
NORMAN H. BEAMER, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ Appellants have filed related Appeals in copending applications: U.S. Patent Application No. 14/345,592; U.S. Patent Application No. 15/060,533; U.S. Patent Application No. 15/090,527; U.S. Patent Application No. 15/096,674; and U.S. Patent Application No. 15/256,481. Br. 3.

STATEMENT OF CASE

Appellants² appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 57–76. Claims 1–56 have been cancelled. Br. 30–34. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Illustrative Claim

Illustrative claim 57 under appeal reads as follows:

57. An augmented reality device, comprising:
at least one processor configured to:
 receive, from an image sensor, video frames of
 image information associated with a real world scene;
 detect, in the image information, a predefined hand
 gesture performed by a user;
 designate an area of selected image information in
 the video frames, wherein the selected image information
 is associated with the real world scene that does not
 include the user's hand, the designated area being
 associated with the detected predefined hand gesture; and
 track the selected image information associated
 with the real world scene in the designated area.

Rejection on Appeal

Claims 57–76 are rejected under 35 U.S.C. § 102(e) as being anticipated by Ota (US 2013/0050069 A1, published Feb. 28, 2013).

Appellants' Contentions

1. Appellants contend that the Examiner erred in rejecting claims 57, 68, and 76 under 35 U.S.C. § 102(e) because

Ota fails to disclose, for example, “**designat[ing] an area of selected image information** in the video frames, wherein the selected image information is associated with the

² Appellants identify eyeSight Mobile Technologies Ltd., as the real party in interest. Br. 2.

real world scene that **does not include the user’s hand . . . ;**
and **track[ing] the selected image information**” as recited in
claim 57, and similarly recited in independent claims 68 and 76.

Br. 8–21.

2. Appellants contend that the Examiner erred in rejecting claims 58
and 69 under 35 U.S.C. § 102(e) because

Ota fails to disclose “wherein the predefined hand gesture
includes **drawing a contour of the designated area,**” as
recited in claims 58 and 69.

Br. 21–24.

3. Appellants contend that the Examiner erred in rejecting claim 63
under 35 U.S.C. § 102(e) because

Ota fails to disclose “captur[ing] a frame from the video frames
of image information in associated with a second predefined
hand gesture detected,” as recited in claim 63.

Br. 24–23.

Issue on Appeal

Did the Examiner err in rejecting claims 57–76 as being anticipated?

ANALYSIS

We have reviewed the Examiner’s rejection in light of Appellants’
arguments that the Examiner has erred. We disagree with Appellants’
conclusions. Except as noted herein, we adopt as our own: (1) the findings
and reasons set forth by the Examiner in the action from which the appeal is
taken (Final Act. 3–15); and (2) the reasons set forth by the Examiner in the
Examiner’s Answer (Ans. 2–7) in response to the Appellants’ Appeal Brief.
We concur with the conclusions reached by the Examiner. We highlight the
following.

As to Appellants' above contention 1, we are not persuaded the Examiner erred. We agree with the Examiner that Ota teaches all the claim elements of claims 57, 68, and 76. Final Act. 10–12; Ans. 2–7 (citing Ota ¶¶ 45, 48–50, and 61). In particular, we agree with the Examiner's finding regarding Ota's disclosure:

Note: any real world content or object (e.g. knob, slide bar, picture, etc.) without user's touch (before superimposed) is interpreted as "the selected image information is associated with the real world scene that does not include the user's hand")

Once the user's hand or other object is detected the feature point can be continuously tracked in time to detect the motion of the hand).

Ans. 3–4 (emphasis omitted).

As to Appellants' contentions 2 and 3 regarding claims 58, 63, and 69 (Br. 8–28), the Examiner has rebutted each of those arguments supported by sufficient evidence. (Ans. 5–7). Therefore, we adopt the Examiner's findings and underlying reasoning, which are incorporated herein by reference. We see no error in these unrebutted findings.

Accordingly, we sustain the Examiner's § 102 rejection of claims 57, 58, 63, 68, 69, and 76 as well as dependent claims 59, 60–62, 64–67, and 70–75 not separately argued.

We observe no Reply Brief is of record to rebut the Examiner's findings and responses to Appellants' arguments about the disputed features. Therefore, in the absence of persuasive rebuttal evidence or argument to persuade us otherwise, we adopt the Examiner's findings and underlying reasoning, which are incorporated herein by reference. Consequently, we sustain the rejection of claims 57–76.

Appeal 2018-007358
Application 15/144,209

DECISION

We affirm the Examiner's rejections of claims 57–76 as being anticipated under 35 U.S.C. § 102(e).

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