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NIXON & VANDERHYE, P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			FLORES, ROBERTO W	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte TOSHIAKI SUZUKI

Appeal 2018-007781
Application 13/961,114
Technology Center 2600

Before MAHSHID D. SAADAT, JOHNNY A. KUMAR, and
JAMES W. DEJMEK, *Administrative Patent Judges*.

KUMAR, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant¹ appeals under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1–18, which constitute all the claims pending in this application. 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(a) (2017). Appellant identifies the real party in interest as Nintendo Co., Ltd.. App. Br. 3.

STATEMENT OF CASE

Introduction

Appellant's Specification describes systems and methods for "displaying a part of an image on a portable display." Spec. ¶ 2.

Representative Claim

Representative claim 1 under appeal reads as follows:

1. A non-transitory computer-readable storage medium storing an information processing program to be executed by at least one computer for displaying at least an image on a portable display device having a sensor configured to output data based on a movement or an attitude of a main body of the portable display device and also having a direction indication device configured to enable a user operation input, the information processing program causing the computer to execute:

displaying an image in a first display range on the portable display device;

in accordance with a current attitude of the portable display device calculated based on the data output from the sensor, setting an attitude of a virtual camera in a three-dimensional virtual space;

before displaying an image using the attitude of the virtual camera set in accordance with the current attitude of the portable display device, further setting the attitude of the virtual camera in the virtual space in accordance with a current offset detected from the operation of the direction indication device, the offset being a finite, non-zero value; and

displaying an image in a second display range on the portable display device, the image displayed in the second display range being based on the set and further set attitude of the virtual camera.

References and Rejections on Appeal

Claims 1–18 are rejected under 35 U.S.C. § 112(a) as failing to comply with the written description requirement. Final Act. 3.

Claims 1–5 and 9–18 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Kasahara (U.S. Patent Publication No. 2011/0057880 A1; Mar. 10, 2011) (hereinafter Kasahara) in view of Takeda et al. (U.S. Patent Publication No. 2012/0026166 A1; Feb. 2, 2012) (hereinafter Takeda). Final Act. 4.

Claims 6–8 are rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Kasahara and Takeda as applied to claim 3 above, and further in view of Hiroi et al. (U.S. Patent Publication No. 2012/0038677 A1; Feb. 16, 2012) (hereinafter Hiroi). Final Act. 9.

ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellant’s arguments that the Examiner has erred. With respect to the rejections under 35 U.S.C. § 103(a), we agree with the Examiner’s findings and conclusion and adopt them as our own. However, regarding the rejection under 35 U.S.C. § 112(a) we are persuaded by Appellant’s contentions that the Examiner erred.

Rejection under 35 U.S.C. § 112(a)

The Examiner rejects independent claims 1–18 as failing to comply with the written description requirement because the limitation “before displaying” is not described in Appellant’s Specification. Final Act. 3. The Examiner finds “an image can be displayed before step S100 as shown

by the Appellant in figures 5–6 and [0061–0063].” Ans. 3.

To satisfy the written description requirement, the disclosure must reasonably convey to skilled artisans that Appellant possessed the claimed invention as of the filing date. *See Ariad Pharms., Inc. v. Eli Lilly & Co.*, 598 F.3d 1336, 1351 (Fed. Cir. 2010) (en banc). The exact level of detail required in the disclosure depends upon “the nature and scope of the claims and on the complexity and predictability of the relevant technology.” *Id.* We agree with Appellant’s contentions that the Specification reasonably conveys possession of the claimed subject matter. App. Br. 10–13; Reply Br. 2–4 (citing Spec. ¶¶ 87–95, and Figure 9).

In particular, we agree with Appellant that one of ordinary skill in the art would understand that steps [A] and [B] are performed before the image is displayed in step [C] in the annotated drawing below of Figure 9 of the Specification. (App. Br. 11; Reply Br. 3).

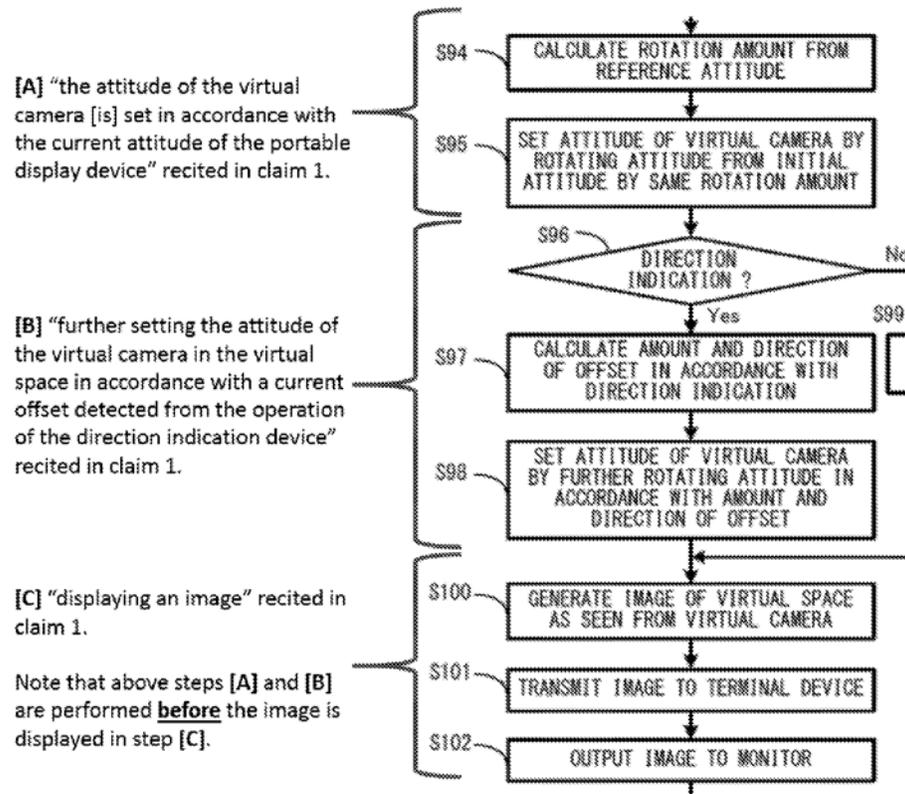


FIG. 9 shows an annotated flowchart of a non-limiting example of second half of the processing operation executable by the information processing device 3.

Accordingly, we do not sustain the Examiner’s rejection of claims 1–18 under 35 U.S.C. § 112(a).

Rejections under 35 U.S.C. § 103

We have reviewed the Examiner’s rejections in light of Appellant’s arguments (App. Br. 13–15; Reply Br. 4–5) that the Examiner has erred, but we disagree with Appellant’s conclusions. The Examiner has provided a comprehensive response, supported by sufficient evidence, to each of the contentions raised by Appellant. *See* Ans. 3–6. We adopt as our own (1) the

findings and reasons set forth by the Examiner in the action from which this appeal is taken and (2) the reasons set forth by the Examiner in the Examiner's Answer in response to Appellant's Appeal Brief (*id.*). We highlight the following points for emphasis.

In rejecting claim 1, the Examiner finds Kasahara teaches all the recited claim limitations, but not "setting an attitude of a virtual camera in a three-dimensional virtual space," for which the Examiner relies on Takeda. *See* Final Act. 4–6. The Examiner finds the combination would have been obvious to one of ordinary skill in the art "to set a virtual camera in a virtual space as taught by Takeda into Kasahara with the benefit that virtual camera should be used to define the changing view in 3D space as stated by Takeda in [0059]." Final Act. 6.

Appellant contends the combination of Kasahara and Takeda fails to teach or suggest:

before displaying an image using the attitude of the virtual camera set in accordance with the current attitude of the portable display device, further setting the attitude of the virtual camera in the virtual space in accordance with a current offset detected from the operation of the direction indication device, the offset being a finite, non-zero value; and
displaying an image in a second display range on the portable display device, the image displayed in the second display range being based on the set and further set attitude of the virtual camera, as required by independent claim 1 and its dependents. Similar comments apply to independent claims 15–17.

App. Br. 13.

In particular, Appellant contends "Kasahara has first a scroll mode, then a drug mode which are used in combination only in a *sequential*

fashion. Both inputs are not used at once as in the invention of claim 1.”

Reply Br. 5.

The Examiner finds, and we agree, claim 1

does not recite scroll and drug operation (both) at the same time as appear to be argued by the Appellant. Claim 1 does not recite that the device does not display an image after only using attitude of the portable device, or before displaying any image using the attitude of the portable device, further setting the attitude of the virtual camera as appear to be argued by the Appellant.

...

Kasahara teaches in figures 9 a-c and [0077], user can make browsing without complicated operations by **combination** of the tilt of the casing 10a and the screen operation. In addition, [0077] recites a seamless transition is made from the scroll mode to the drug mode, and fine adjustment of the display screen is performed by a GUI operation or the like. Thus, Kasahara disclose using both the attitude of the device and the offset from the direction device according to [0077] and figures 9a-c during scroll and drug.

Ans. 4–5.

In other words, with respect to Appellant’s contention about using the scroll mode and the drug mode in a *sequential* fashion, we agree with the Examiner that the broadest reasonable interpretation of the claim language, consistent with the Specification, does not preclude Kasahara’s sequential operations.

Therefore, Appellant’s arguments do not persuade us of error in the Examiner’s position with respect to the rejection of independent claims 1, and 15–17, as well as the remaining dependent claims, which are not argued separately. *See* App. Br. 13–15. We, therefore, sustain the 35 U.S.C. § 103 rejections of claims 1–18.

CONCLUSION

Claims Rejected	35 U.S.C §	Reference(s)/Basis	Affirmed	Reversed
1-18	112(a)	Written Description		1-18
1-5, 9 - 18	103(a)	Kasahara, and Takeda	1-5, 9 - 18	
6 - 8	103(a)	Kasahara, Takeda, and Hiroi	6 - 8	
Outcome			1-18	

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