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Knobbe, Martens, Olson & Bear, LLP AMAZON TECHNOLOGIES, INC. 2040 Main Street Fourteenth Floor Irvine, CA 92614			NGUYEN, LE V	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte PETER FRANK HILL

Appeal 2019-000872
Application 14/472,017
Technology Center 2100

Before J. JOHN LEE, DANIEL J. GALLIGAN, and
DAVID J. CUTITTA II, *Administrative Patent Judges*.

CUTITTA, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–6, 8–17, and 22–24.² We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ 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 Amazon Technologies, Inc. Appeal Br. 1.

² Claims 7 and 18–21 have been cancelled. Appeal Br. 16–18.

CLAIMED SUBJECT MATTER

According to Appellant, the claims are directed to a system that adjusts the size of an interactive object in a graphical user interface based on multiple users' interaction with the object, e.g., the size of the object is increased when multiple users are detected to have zoomed in on the object to enhance visibility.³ Spec. ¶ 24, Abstract. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A computer-implemented method, comprising:

programmatically by a touch target modification system that comprises one or more computing devices:

receiving and storing user interaction data reported by each of a plurality of user devices having touch screens, the user interaction data specifying user interactions with a network-accessible page on the user devices, the network accessible page including a user-selectable display element, the user interactions including at least (1) zoom interactions in which users zoom-in on the page, and (2) selection actions in which users select the user-selectable display element;

detecting, based on a programmatic analysis of the user interaction data, a problem experienced by users in selecting the user-selectable display element, wherein detecting the problem comprises detecting a recurring pattern in which users zoom-in on a portion of the page containing the user-selectable display element prior to selecting the user-selectable display element;
and

³ This Decision refers to: (1) Appellant's Specification filed August 28, 2014 ("Spec."); (2) the Final Office Action ("Final Act.") mailed December 15, 2017; (3) the Appeal Brief ("Appeal Br.") filed June 4, 2018; (4) the Examiner's Answer ("Ans.") mailed September 21, 2018; and (5) the Reply Brief ("Reply Br.") filed November 12, 2018.

selecting, based on the detected problem, an adjustment to be made to a touch target associated with the user-selectable display element to facilitate selection of the user-selectable display element, the adjustment including a modification to a size of the touch target relative to sizes of other display elements on the page.

REFERENCES AND REJECTIONS

Claims 1, 6, 10, 12, and 13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi⁴ (US 2008/0295018 A1, published Nov. 27, 2008), Gordon (US 2012/0278725 A1, published Nov. 1, 2012), Fujioka (US 2010/0281408 A1, published Nov. 4, 2010), and Seliger (US 2013/0246904 A1, published Sept. 19, 2013). Final Act. 3–8.

Claims 2–5 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi, Gordon, Fujioka, Seliger, and Anderson (US 2004/0095400 A1, published May 20, 2004). *Id.* at 8–11.

Claims 8 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi, Gordon, Fujioka, Seliger, and Ko (US 2002/0112082 A1, published Aug. 15, 2002). *Id.* at 11–12.

Claims 9 and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi, Gordon, Fujioka, Seliger, and Armstrong (US 2012/0169613 A1, published July 5, 2012). *Id.* at 12–13.

Claims 11 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi, Gordon, Fujioka, Seliger, Dal Lago (US 2009/0031426 A1, published Jan. 29, 2009), and Kim (US 2013/0305174 A1, published Nov. 14, 2013). *Id.* at 13–14.

⁴ All citations to the references use the first named inventor only.

Claims 22–24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nurmi, Gordon, Fujioka, Seliger, Ko, and Armstrong. *Id.* at 14–16.

Our review in this appeal is limited to the above rejections and the issues raised by Appellant. Arguments not made are waived. See MPEP § 1205.02; 37 C.F.R. § 41.37(c)(1)(iv).

OPINION

Appellant contends the Examiner improperly combined Nurmi and Gordon in rejecting independent claims 1 and 13. Appeal Br. 5, 10; Reply Br. 2–3, 8–9. Specifically, Appellant argues Nurmi’s “objective is to restore the zoom level . . . previously used by that particular user when viewing the same page” and, so, it would not have been obvious to combine Nurmi and Gordon in order to set the zoom level for that user based on the zoom levels of other users. Reply Br. 2–3, 8–9; Appeal Br. 5, 10.

We are persuaded that the Examiner erred. The Examiner relies on (Final Act. 3–4; Ans. 15) Nurmi’s description of storing a user’s “zoom history” such that “[w]hen the user subsequently visits a web page,” the web page browser “automatically sets the zoom control to the previous zoom level” used by the user (Nurmi ¶¶ 61–62). The Examiner also relies on (Final Act. 4; Ans. 15) Gordon’s description of aggregating “interactions, events, and other behavior and activities started, stopped, completed, made, or taken by users 116 as they engage with [a] user interface” (Gordon ¶ 151) (emphasis omitted). Based on those descriptions, the Examiner determines that a skilled artisan would have been motivated to combine or modify Nurmi with Gordon because “a larger pool of users provides validation and more accurate data.” Final Act. 4. The Examiner further elaborates that

it has been known for many years that the accuracy of recommendation engines and prediction of users' intent increase as the number of users and users' data increase and, further, as with any scientific experiment, the margin of error decreases when more data are collected. Therefore, common sense teach[es] us that the probability that data is less accurate with more data is unlikely.

Ans. 15.

Although we understand that there are cases in which accuracy is increased by gathering more data, the Examiner does not sufficiently explain why that technique would apply to and motivate the modification of Nurmi with Gordon. Nurmi replicates past interactions that *a specific user* has had with a web page for *that user's* future convenience, e.g., “if the user periodically visits a web page containing airline or train schedules . . . the user need not manually re-size/zoom the web page at each visit as the user is automatically provided with the last zoom level used on that particular web page.” Nurmi ¶ 64; *see id.* ¶¶ 29, 81–83. That is, Nurmi sets webpage preferences for a particular user based on that user's previous interactions with that webpage. The Examiner does not explain why gathering data from “a larger pool of users” results in “validation and more accurate data” for that specific user's particular webpage preferences. In particular, what is missing from the Examiner's Final Action and Answer (*see* Ans. 15; Final Act. 4) is any explanation addressing Appellant's argument that using other user's interactions “would not provide validation or improved accuracy” when adjusting webpage preferences for a particular user, e.g., the zoom level that particular user prefers (Appeal Br. 5, 10).

Accordingly, we are constrained by the record not to sustain the Examiner's obviousness rejection of independent claims 1 and 13 over the

stated combination of Nurmi and Gordon. Because we agree with at least one of the arguments advanced by Appellant, we need not reach the merits of Appellant’s other arguments (*see* Appeal Br. 5–13). Dependent claims 2–6, 8–12, 14–17, and 22–24 stand with their respective independent claims. Therefore, we reverse the Examiner’s decision to reject claims 1–6, 8–17, and 22–24 under 35 U.S.C. § 103(a).

CONCLUSION

In summary:

Claims Rejected	35 U.S.C. §	References/Basis	Affirmed	Reversed
1, 6, 10, 12, 13	103(a)	Nurmi, Gordon, Fujioka, Seliger		1, 6, 10, 12, 13
2–5, 14	103(a)	Nurmi, Gordon, Fujioka, Seliger, Anderson		2–5, 14
8, 16	103(a)	Nurmi, Gordon, Fujioka, Seliger, Ko		8, 16
9, 15	103(a)	Nurmi, Gordon, Fujioka, Seliger, Armstrong		9, 15
11, 17	103(a)	Nurmi, Gordon, Fujioka, Seliger, Dal Lago, Kim		11, 17
22–24	103(a)	Nurmi, Gordon, Fujioka, Seliger, Ko, Armstrong		22–24
Overall Outcome				1–6, 8–17, 22–24

REVERSED