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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* ROB VAN SEGGELEN and BREGHT BOSCHKER

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Appeal 2019-001146  
Application 12/733,297  
Technology Center 2100

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Before BRADLEY W. BAUMEISTER, JEREMY J. CURCURI, and  
SCOTT RAEVSKY, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 36–53, which constitute all of the pending claims.<sup>1</sup>

Appeal Br. 9–18. We have jurisdiction under 35 U.S.C. § 6(b).

The Board conducts a limited *de novo* review of the appealed rejections for error based upon the issues identified by Appellant, and in light of the arguments and evidence produced thereon. *Ex parte Frye*, 94 USPQ2d 1072, 1075 (BPAI 2010) (precedential).

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. Appellant identifies TomTom Navigation, B.V. as the real party in interest. Appeal Brief filed June 11, 2018, as amended July 27, 2018 (“Appeal Br.”) 1.

## CLAIMED SUBJECT MATTER

Appellant describes the present invention as follows:

A communications apparatus includes a processing resource arranged to support, when in use, a main application and a user interface. The apparatus, in at least one embodiment, also includes a data store and a user interface host entity arranged to access, when in use, a user interface template selectable in response to a received message. The user interface template includes an expression of a number of user interface elements. The user interface is arranged to translate the user interface template selected from the expression of the number of user interface elements into a user interface instantiation.

Abstract.

Independent claim 36, reproduced below with emphasis added to the disputed claim language, illustrates the appealed claims' subject matter:

36. A communications apparatus, comprising:

a processing resource arranged to provide a user interface for controlling one or more functions of a main application and at least one external application relative to the main application;

a communications interface arranged to support communication with the at least one external application via a communications network;

a data store comprising a plurality of user interface templates, each user interface template comprising a predetermined expression of a number of user interface elements; and

a user interface host entity arranged to access a user interface template from the data store selectable in response to a received message, and to translate a selected user interface template selected from the predetermined expression of the number of user interface elements into a user interface instantiation;

*wherein the user interface host entity is arranged to:*

*receive messages from the main application and the at least one external application comprising a priority level for the respective application, and permit the application having the higher priority level to select the user interface template that is translated into the user interface instantiation;*

receive at least one message from the external application with configuration data specifying information to be rendered for display for at least one user interface element of the selected user interface template;

generate event data in response to a user interaction with the at least one user interface element of the selected user interface template; and

send the generated event data to the external application for interpretation thereby.

#### STATEMENT OF THE REJECTIONS

Claims 36, 38–50, and 52 stand rejected under 35 U.S.C. § 103 as being unpatentable over Falcon (US 2006/0106965 A1; published May 18, 2006) and Skwarek (US 2005/0231529 A1; published Oct. 20, 2005). Final Act. 6–14.<sup>2</sup>

Claims 37, 51, and 53 stand rejected under 35 U.S.C. § 103 as being unpatentable over Falcon, Skwarek, and Tanaka (US 2005/0055154 A1; published Mar. 10, 2005). Final Act. 14–15.

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<sup>2</sup> Rather than repeat the Examiner’s positions and Appellant’s arguments in their entirety, we refer to the above-mentioned Appeal Brief, as well as the following documents for their respective details: the Specification filed February 23, 2010, as amended September 22, 2017 (“Spec.”); the Final Action mailed December 28, 2017 (“Final Act.”) and the Examiner’s Answer mailed September 10, 2018 (“Ans.”).

## DETERMINATIONS AND CONTENTIONS

The Examiner finds that Falcon discloses most of the limitations of independent claim 36, with the exception of the following language:

wherein the user interface host entity is arranged to:

receive messages from the main application and the at least one external application comprising a priority level for the respective application, and permit the application having the higher priority level to select the user interface template that is translated into the user interface instantiation.

Final Act. 9. The Examiner finds that Skwarek teaches this language and that motivation existed to incorporate this teaching into the Falcon's interfaces. *Id.* at 9–10.

More specifically, the Examiner interprets the claimed “main application” as reading on Skwarek's program 7, which is contained within display controller 4. Final Act. 16 (“the vehicle can be interpreted as the main application”); Ans. 8 (“a message for display control 4 of *the system/vehicle (e.g., program 7)*”) (emphasis added); *see also* Skwarek, FIG. 1 (depicting display controller 4 as including program 7).

The Examiner further interprets the claimed “external applications” as reading on Skwarek's programs 13, 15, 16, which correspond to the telephone, radio, and navigation system. Final Act. 16 (“the ‘radio’, ‘navigation’, ‘email’, etc. can be interpreted as the external application”); Ans. 8; *see* Skwarek, FIG. 1 (depicting applications 8–10, which include programs 13, 15, 16).

The Examiner reasons, “[t]he main application of the vehicle determines or assigns priorities of the external programs/applications.” Final Act. 16. The Examiner further explains,

If the information in one of the low-priority data sources (e.g., the telephone 8, the radio 9, and the navigation system 10) has changed, a message for display control 4 of *the system/vehicle* (e.g., *program 7*) is generated by the respective program of the data sources due to the change in the information and is transmitted over the bus 11 to display controller 4 of the system/vehicle (e.g., *program 7*). Thus, **Skwarek**[] teaches not only displaying data sources based on a list of priorities stored in a memory[,] but also receiving messages from the main application/program and the at least one external application comprising a priority level for the respective application (e.g., the program 13 of the telephone 8, the program 15 of the radio 9, the program 16 of the navigation system 100).

Ans. 8 (emphasis added).

Appellant asserts,

Skwarek's display controller/program, [which is] based on a list of priorities stored in a memory (element 5, FIG. 1), sets aside areas for each data source for which a priority has been selected.[] Skwarek does not describe or suggest data sources communicating their own priorities, selecting templates generally, and/or the data sources themselves selecting templates based on a priority of the data sources. Skwarek also does not describe or suggest that the display controller/program either: (1) has a priority or (2) displays its own information in the main area or the secondary areas – the display controller/program simply displays information received from the data sources in corresponding areas of the display based on the priority of corresponding subjects.

Appeal Br. 11 (citing Skwarek ¶ 26).

Appellant continues, “what actually controls what is displayed in Skwarek's display window by the display controller/program **is the prior selection of priorities.**” *Id.* According to Appellant, “Skwarek describes how the subjects are assigned to areas in a display window based on a priority (i.e., from the . . . list of priorities in memory – not from any

indication of priority in a message from the data sources).” Appeal Br. 11–12 (citing Skwarek ¶¶ 30–32). Appellant further urges, “Skwarek describes how a user or a factory sets a priority for certain subjects.” Appeal Br. 11 (citing Skwarek, ¶¶ 26, 27).

## ANALYSIS

We agree with the Examiner that Skwarek’s external data sources 8–10 (and, hence, also their associated programs or applications 13, 15, 16) have priority levels respectively assigned. *See* Skwarek FIG. 1 (depicting display controller table 5 listing the respective priorities of the subjects, “Telephone,” “Radio,” “Navigation,” and “E mail”). However, claim 36 requires more than the external applications just having a priority level for the respective applications. Claim 36 additionally requires that the user interface host entity receive messages from the main application, as well as the external applications, *and that these messages comprise data that sets forth the respective priority levels.*

So even if we agree with the Examiner that the display controller’s program 7 reasonably corresponds to the claim main application, this fact would not establish a *prima facie* case of obviousness. The Examiner has not established that the claimed priorities are received from either Skwarek’s program 7 or external programs 13, 15, 16. Skwarek, instead, discloses the source priorities are contained in the memory 5 of the display controller 4. Skwarek ¶ 26; FIG. 1. Furthermore, this memory 5 is separate from the display controller’s program 7. That is, we agree with Appellant (Appeal Br. 5) that Skwarek retrieves the priorities from the memory 5—not any of the applications.

Because Appellant's arguments are persuasive of Examiner error, we reverse the obviousness rejection of independent claim 36. We, likewise, reverse the obviousness rejection of claims 38–50 and 52, which either depend from claim 36 or otherwise recite similar claim language.

With respect to the remaining rejection of dependent claims 37, 51, and 53, the Examiner does not rely on the additionally cited reference, Tanaka, to cure the deficiency of the obviousness rejection, noted above. Final Act. 14–15. We, therefore, reverse this obviousness rejection for the reasons set forth above in relation to claim 36.

#### DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
36, 38–50, 52	103	Falcon, Skwarek		36, 38–50, 52
37, 51, 53	103	Falcon, Skwarek, Tanaka		37, 51, 53
<b>Overall Outcome</b>				36–53

REVERSED