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Terrile, Cannatti & Chambers, LLP - Dell
P.O. Box 203518
Austin, TX 78720

EXAMINER	
ABOU EL SEOUD, MOHAMED	

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte GERALD R. PELISSIER, VINH X. BUI, and ALAN LUECKE

Appeal 2019-001530
Application 13/832,782
Technology Center 2100

Before KALYAN K. DESHPANDE, CHARLES J. BOUDREAU, and SHARON FENICK, *Administrative Patent Judges*.

BOUDREAU, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the Examiner's decision to reject claims 1, 2, 4–8, 10–14, and 16–18, which are all of the pending claims. We have jurisdiction under 35 U.S.C. § 6(b)(1).

We AFFIRM.[2]

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[1] We use the word "Appellant" to refer to "applicant" as defined in 37 C.F.R. § 1.42. Appellant identifies Dell Products L.P. as the real party in interest. Appeal Br. 1.

[2] This Decision refers to Appellant's Appeal Brief ("Appeal Br.," filed Aug. 7, 2018) and Reply Brief ("Reply Br.," filed Dec. 11, 2018), the Examiner's Final Office Action ("Final Act.," mailed Apr. 18, 2018) and Answer

STATEMENT OF THE CASE

The Claimed Invention

Appellant's invention relates to managing the active area of a touch-sensitive display, e.g., automatically resizing the dimensions of the active area. Spec. ¶¶ 1, 8.

Claims 1, 7, and 13 are independent. Claim 1, reproduced below, is illustrative of the subject matter on appeal (emphasis added):

> 1. A computer-implementable method for managing the active area of a touch-sensitive display, comprising:
>
> providing an information handling system with a touch screen, the touch screen comprising a touch-sensitive display and a bezel associated with the touch-sensitive display, the bezel being raised relative to the touch-sensitive display, the bezel enclosing optical sensors positioned around a perimeter of the touch-sensitive display;
>
> receiving user input data from a user, the user input data comprising a request to resize the active area of the touch-sensitive display, the active area comprising a predetermined area of the touch-sensitive display that is operable to display an image and to receive user input;
>
> processing active area data to determine the relationship of the current dimensions of the active area to the inside dimensions of the bezel associated with the touch-sensitive display; and
>
> processing the user input data to initiate active area resizing operations; and wherein
>
> ***the active area resizing operations automatically resize the dimensions of the active area to a set of predetermined dimensions, the set of predetermined dimension being based***

("Ans.," mailed Oct. 11, 2018), and the original Specification filed Mar. 15, 2013 ("Spec.").

> ***upon the bezel being raised relative to the touch-sensitive display***;
>
> the difference between the set of predetermined dimensions and the inside dimensions of the bezel comprises an inactive area of the touch-sensitive display that is configured to not display an image when the active area is automatically resized; and
>
> ***the difference between the set of predetermined dimensions and the inside dimensions of the bezel comply with a predetermined certification requirement***, compliance with the predetermined certification requirement providing compliance with a Windows Hardware Quality Labs (WHQL) testing requirement.

Appeal Br. 7 (App. A).

References and Rejections

The Examiner relies on the following references as evidence of unpatentability:

Parent et al.	US 2004/0145598 A1	July 29, 2004
Shin et al.	US 2010/0289825 A1	Nov. 18, 2010
Susani	US 2012/0038571 A1	Feb. 16, 2012

Claims 1, 2, 5–8, 11–14, 17, and 18 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Susani in view of Parent and Applicant's admitted prior art ("AAPA"). *See* Final Act. 2–9.

Claims 4, 10, and 16 stand rejected under pre-AIA 35 U.S.C. § 103(a) as being unpatentable over Susani in view of Parent, AAPA, and Shin. *See* Final Act. 9–10.

ANALYSIS

Claims 1, 2, 5–8, 11–14, 17, and 18

Addressing independent claims 1, 7, and 13, Appellant argues that "Parent does not disclose or suggest providing a resizing operation where the difference between the set of predetermined dimensions and the inside dimensions of the touch-sensitive display's bezel compl[ies] with a predetermined certification requirement." Appeal Br. 4. According to Appellant, the portion of Parent cited by the Examiner is a "mere disclosure of the Windows Hardware Quality Labs (WHQL) testing requirement to ensure a base level of compliance among certified graphic display subsystems," and "[t]his deficiency of Parent is not cured by Susani or the Background Section." *Id.* (citing Parent ¶ 4). Appellant further argues that the proposed combination of Susani, Parent, and AAPA, and in particular Susani, fails to teach "the active area resizing operations automatically resizing the dimensions of the active area to a set of predetermined dimensions which are based upon the bezel being raised relative to the touch-sensitive display." Reply Br. 1; *see* Appeal Br. 5.

These conclusory statements, lacking evidence or explanation, are unpersuasive. *See Ex parte Belinne*, Appeal No. 2009-004693, 2009 WL 2477843 at *3–4 (BPAI Aug. 10, 2009) (informative) (available at https://www.uspto.gov/sites/default/files/ip/boards/bpai/decisions/inform/fd09004693.pdf) (finding Appellant did not show error in the Examiner's rejection where the Examiner made extensive specific fact finding with respect to each of the argued claims and, in response, Appellant restated elements of the claim language and simply argued that the elements were missing from the reference); *In re Lovin*, 652 F.3d 1349, 1357 (Fed.

Cir. 2011) ("[W]e hold that the Board reasonably interpreted Rule 41.37 to require more substantive arguments in an appeal brief than a mere recitation of the claim elements and a naked assertion that the corresponding elements were not found in the prior art."); *In re Kahn*, 441 F.3d 977, 985–86 (Fed. Cir. 2006) (explaining that, on appeal to the Board, Appellant has the burden to demonstrate error in the Examiner's rejection); *In re De Blauwe*, 736 F.2d 699, 705 (Fed. Cir. 1984) ("[M]ere argument and conclusory statements . . . cannot establish patentability.") (citations omitted). Appellant has not shown error in the Examiner's finding of obviousness based on the combination of Susani, Parent, and AAPA.

Furthermore, we agree with the Examiner that a resizing operation in which "the difference between the set of predetermined dimensions and the inside dimensions of the bezel comply with a predetermined certification requirement" as claimed would have been obvious in view of a combination of Susani's teaching of automatically resizing the active area of a touch-sensitive display with Parent's teaching of the Windows Hardware Quality Labs (WHQL) certification program, which requires "any touch implementation that has a raised bezel to also have a 20mm border around the active display area in order to facilitate ease of operation for edge swipe gestures," as taught by AAPA (Spec. ¶ 5). *See* Final Act. 3–6 (citing Susani ¶¶ 54–57; Parent ¶ 4; Spec. ¶ 5); Ans. 6–8. We also agree with the Examiner that "automatically resiz[ing] the dimensions of the active area to a set of predetermined dimensions, the set of predetermined dimensions being based upon the bezel being raised relative to the touch-sensitive display" as claimed would have been obvious over a combination of Susani's teaching of automatically resizing the active area of a touch-

sensitive display with AAPA's teaching of the WHQL requirement for touch implementations having a raised bezel to have a 20 mm border around the active display area. *See* Final Act. 3, 5–6 (citing Susani ¶¶ 54–55; Spec. ¶ 5).

Accordingly, we sustain the Examiner's rejection of independent claims 1, 7, and 13, as well as dependent claims 2, 5, 6, 8, 11, 12, 14, 17, and 18 not separately argued by Appellant, under 35 U.S.C. § 103(a) as being unpatentable over Susani in view of Parent and AAPA.

Claims 4, 10, and 16

Addressing dependent claims 4, 10, and 16, Appellant argues that "nowhere within Susani, Parent, [AAPA] and Shin is there any disclosure or suggestion of . . . the active area resizing operations incrementally resiz[ing] the dimensions of the active area in predetermined increments." Appeal Br. 5. Appellant acknowledges that "the examiner cites to a portion of Shin which discloses image zooming where the image is zoomed from a magnification of 1.1 to a magnification of 3 in increments of 0.1." *Id.*; *see* Final Act. 9–10 (citing Shin ¶ 68).

Similar to above, we are unpersuaded by Appellant's argument because it is a conclusory statement without evidence or explanation. Appellant has not shown error in the Examiner's finding of obviousness based on the combination of Susani, Parent, AAPA, and Shin.

Furthermore, we agree with the Examiner that "the active area resizing operations incrementally resiz[ing] the dimensions of the active area in predetermined increments" as claimed would have been obvious over a combination of Susani's teaching of automatically resizing the active area of a touch-sensitive display with Shin's teaching of incremental image zooming

on a touch-sensitive display. *See* Final Act. 3, 9–10 (citing Susani ¶¶ 54–55; Shin ¶ 68); Ans. 8–9. In particular, we agree with the Examiner that it would have been obvious to one of ordinary skill in the art to combine the teachings of Susani and Shin to provide incremental resizing of the active area in order to "provide a simple way to provide the user with a better way to control the resizing process." *See* Ans. 9 (citing Shin ¶ 8 ("provide an easy and fast image zooming method for a mobile terminal having a touch screen"); Final Act. 10.

Accordingly, we sustain the Examiner's rejection of dependent claims 4, 10, and 16 under 35 U.S.C. § 103(a) as being unpatentable over Susani in view of Parent, AAPA, and Shin.

CONCLUSION

The Examiner's rejections of claims 1, 2, 4–8, 10–14, and 16–18 under 35 U.S.C. § 103(a) are affirmed.

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
1, 2, 5–8, 11–14, 17, 18	103(a)	Susani, Parent, AAPA	1, 2, 5–8, 11–14, 17, 18	
4, 10, 16	103(a)	Susani, Parent, AAPA, Shin	4, 10, 16	
Overall Outcome			1, 2, 4–8, 10–14, 16–18	

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