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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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Ex parte ARSHAM HATAMBEIKI, JEFFREY KOHANEK, and
PAMELA EICHLER KEILES

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Appeal 2019-002026
Application 15/902,007
Technology Center 2600

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Before JEFFREY S. SMITH, JASON V. MORGAN, and
JOHN R. KENNY, *Administrative Patent Judges*.

Opinion of the Board by MORGAN, *Administrative Patent Judge*.

Opinion Dissenting by SMITH, *Administrative Patent Judge*.

MORGAN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Introduction

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the

Examiner's decision to reject claims 2–19. This appeal is related to appeal

number 2014-005267 (decided April 4, 2016) and appeal number 2019-

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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 the real party in interest as Universal
Electronics Inc. Appeal Br. 2.

000458 (decided October 4, 2019). Appeal Br. 2. We have jurisdiction under 35 U.S.C. § 6(b). We AFFIRM.

Summary of the disclosure

Appellant's claimed subject matter relates to a controlling device that: (1) "senses an activation of at least one of the plurality of switches when caused by a movement of the touch sensitive panel resulting from an input at an input location upon the touch sensitive surface" and (2) "responds by transmitting a signal to an appliance wherein the signal is reflective of the input location upon the touch sensitive surface." Spec., Abstract.

Representative claim (key limitations emphasized)

2. A method for remotely controlling one or more devices and/or a user interface, the method comprising:

detecting a user input event at a portion of a user input element of a remote control;

determining whether the user input event is a click event or a touch event;

selecting from a library of control commands stored in a memory of the remote control a control command based on whether the user input event is a click event or *a touch event and on the portion of the user input element at which the user input event was detected*; and

for a particular portion of the user input element at which the user input event was detected, causing a first control command selected from the library of control commands to be executed in response to determining that the user input event is a click event and causing a second control command selected from the library of control commands to be executed in response to determining that the user input event is a touch event;

wherein a threshold associated with a depression of the user input element is used to determine whether the user input event is a click event or a touch event.

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The Examiner's rejections and cited references

The Examiner rejects claims 2–5, 7–15, and 17–19 under 35 U.S.C. § 103(a) as being unpatentable over Fisher et al. (US 2010/0149127 A1; published June 17, 2010) ("Fisher") and Arling et al. (US 2008/0005764 A1; published Jan. 3, 2008) ("Arling"). Final Act. 2–9.

The Examiner rejects claims 6 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Fisher, Arling, and Rigazio et al. (US 2009/0262073 A1; published Oct. 22, 2009) ("Rigazio"). Final Act. 9–10.

ANALYSIS

In rejecting claim 2 as obvious, the Examiner finds Fisher's use of signals produced by a touch pad to detect events—such as a motion to perform actions such as scrolling through a list—teaches or suggests mapping "a control command based on whether the user input event is . . . a touch event and on the portion of the user input element at which the user input event was detected." *See* Final Act. 3 (citing, e.g., Fisher Fig. 26, ¶¶ 130–31); Ans. 4 (citing, e.g., Fisher ¶¶ 42, 150). The Examiner does not rely on Fisher to teach or suggest that the control commands are selected "from a library control commands stored in a memory of the remote control," but the Examiner instead relies on Arling's command code library to teach or suggest modifying Fisher to include such a library. *See* Final Act. 4; Ans. 3 (citing, e.g., Arling ¶¶ 22, 24). The Examiner concludes that it would have been obvious to include a command code library in Fisher because such incorporation would have merely represented the combination of "prior art elements according to known methods to yield predictable results." Final Act. 5.

Appellant contends the Examiner erred because in Fisher's "'touch mode' it is <u>not</u> the location of a touch upon the touchpad but . . . instead *the reported <u>change</u> in the position* of the finger upon the touchpad that is important for the device . . . to operate as intended." Appeal Br. 6 (citing Fisher ¶ 131). That is, Appellant argues Fisher "<u>never</u> expressly describes that a control command is executed based upon a determination of a *particular portion* of the user input element at which the touch-based[] user input event was detected." Reply Br. 2.

Appellant's arguments are not commensurate with the scope of claim 2 and thus are unpersuasive. Specifically, the disputed recitation of "the portion of the user input element at which the user input event was detected" does not preclude the portion of the user input element being determined by prior user input events. Indeed, the Specification discloses accepting "finger sliding gestures on either axis for translation into navigation step commands in an X or Y direction." Spec. 7, ll. 11–12.[2] Thus, a broad, but reasonable interpretation of "the portion of the user input element" encompasses a portion of the user input element contacted at the end of a gesture that is relative to the portion of the user input element contacted at the beginning of the gesture (e.g., above, below, left, right).

The Examiner correctly finds that Fisher teaches a touch event based on gestures such as linear motion. Ans. 4 (citing Fisher ¶ 42). Such gestures,

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[2] The dissent, in agreeing with Appellant, states that "a co-pending application, not this application, describes such finger sliding gestures and resulting commands." *See below* (citing Spec. 7–8). Such descriptions, however, support rather than show error in our claim construction because the Specification incorporates the co-pending application (U.S. 12/522,761) "by reference in its entirety." Spec. 8.

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like the finger slide gestures disclosed in the Specification, would end with contact on one portion of the user input element relative to the contact point at the beginning of the gesture. *See, e.g.*, Fisher Fig. 26. Therefore, we agree with the Examiner that Fisher teaches or suggests "a control command based on whether the user input event is . . . a touch event and on the portion of the user input element at which the user input event was detected," as recited in claim 2. *See* Final Act. 3.

Appellant argues "the system of Fisher operates on the principle of reporting the absolute coordinates of the location of a touch" and that "eliminating/changing this functionality from the device of Fis[]her would impressimbly change [its] principle of operation." Appeal Br. 8; *see also* Reply Br. 3–4. Appellant's arguments, however, relate to Fisher's "absolute mode" rather than to Fisher's "relative mode," which "can report the direction and/or distance of change, for example, left/right up/down." Fisher ¶ 131. The Examiner's findings, which we address above and find persuasive, are based on Fisher's "relative mode." *See* Ans. 4. Therefore, Appellant's arguments are not responsive to the Examiner's findings and are, therefore, unpersuasive.

Appellant further argues the Examiner erred in concluding that it would have been obvious to modify Fisher based on the Arling library of commands because Fisher "already includes a library of command codes stored in memory and already selects from the library of control commands stored in the memory a command *based on the click event and on the portion of the touchpad at which the click event was detected*." Appeal Br. 7–8. That is, Appellant argues Fisher "only discloses tracking a touching

<u>movement</u> of a finger on a touch pad for purposes of controlling a scrolling operation." Reply Br. 5.

Appellant's arguments are unpersuasive because they do not persuasively distinguish Fisher's scrolling operation controls from the claimed control commands. *Id.*; *see also* Ans. 4. Moreover, the Examiner's conclusion that it would have been obvious to select such control commands from a *library* of control commands is bolstered, rather than undercut, by Appellant's acknowledgment that—at least when a user input event is a click event—Fisher teaches selecting a control command from a library of control commands. *See* Appeal Br. 7–8. As the Examiner only relies on Arling to teach or suggest "'a library' storing control commands" (Ans. 3), and, according to Appellant, Fisher already teaches the use of such a library (Appeal Br. 7–8), we agree with the Examiner that the combination of Arling's library of control commands with Fisher's teachings and suggestions would have represented the combination of familiar elements according to known methods to yield predictable results (Final Act. 4–5).

Accordingly, we sustain the Examiner's 35 U.S.C. § 103(a) rejection of claim 2, and claims 3–19, which Appellant argues are patentable for similar reasons. *See* Appeal Br. 8–9.

CONCLUSION

Claims Rejected	35 U.S.C. §	References	Affirmed	Reversed
2–5, 7–15, 17–19	103(a)	Fisher, Arling	2–5, 7–15, 17–19	
6, 16	103(a)	Fisher, Arling, Rigazio	6, 16	
Overall Outcome			2–19	

TIME PERIOD FOR RESPONSE

No time period for taking subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

UNITED STATES PATENT AND TRADEMARK OFFICE
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BEFORE THE PATENT TRIAL AND APPEAL BOARD
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Ex parte ARSHAM HATAMBEIKI,
JEFFREY KOHANEK, and
PAMELA EICHLER KEILES
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Appeal 2019-002026
Application 15/902,007
Technology Center 2600
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Before JEFFREY S. SMITH, JASON V. MORGAN, and
JOHN R. KENNY, *Administrative Patent Judges*.

SMITH, *Administrative Patent Judge*, dissenting.

Claim 2 recites "selecting from a library of control commands stored in a memory of the remote control a control command based on whether the user input event is a click event or a touch event and on the portion of the user input element at which the user input event was detected." Appellant contends that Fisher teaches a relative mode, in which the direction of the touch, not the particular location of the touch, determines the command. Reply Br. 2–3. In particular, Appellant contends that Fisher teaches that "when the user touches on a portion of the touchpad . . . and rotates the finger in a clockwise/counterclockwise direction, a user interface displayed on a screen would be scrolled in a corresponding direction (e.g., up/down)." *Id.* at 3. Appellant contends that determining a command based on a

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direction of a touch as disclosed by Fisher does not teach "selecting . . . a control command based . . . on the portion of the user input element at which the user input event was detected" as claimed. *See id.* at 4.

I agree with Appellant. In my view, the broadest reasonable interpretation of the claimed "selecting . . . a control command based . . . on the portion of the user input element at which the user input event was detected," read in light of the Specification, does not encompass a direction or distance of change of touch. Although the Specification discloses a touch pad that accepts finger sliding gestures for translation into navigation commands, the Specification discloses that a co-pending application, not this application, describes such finger sliding gestures and resulting commands. Spec. 7–8. In this application, the Specification discloses the claimed "portion of the user input element at which the user input event was detected" as a location, in X,Y coordinates, of a finger position. Spec. 10–11, Fig. 5. Figure 5 shows such portion as location 512 corresponding to a left arrow when in navigation mode, and as location 512' corresponding to the numeric digit 4 when in digit entry mode. *Id.* at 10–11; *see id.* at 12–14, Fig. 6 (Step 618 "Interpret X,Y position data as navigation keys," step 620 "Interpret X,Y position data as number pad.").

Fisher discloses that "[i]n relative mode, touch pad 2534 can report the direction and/or distance of change [and] can direct movement on the display screen in a direction similar to the direction of the finger as it may be moved across the surface of touch pad 2354." Fisher ¶ 131. Fisher does not disclose that the touch pad in relative mode reports "the portion of the user input element at which the user input event was detected," as recited in claim 2. The command resulting from a touch described in Fisher's relative

mode will be based on the reported direction or distance, regardless of which portion of the user input element the user touches. Therefore, Fisher's relative mode does not teach "selecting . . . a control command based . . . on the portion of the user input element at which the user input event was detected" as claimed.

I find claim 2 patentable over the combination of Fisher and Arling. Because claims 3–19 recite, or depend from a claim that recites, a similar limitation, I find these claims patentable over the prior art applied by the Examiner in the rejections of claims 3–19.