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NIXON & VANDERHYE, P.C. 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			ZHANG, YINGCHUAN	
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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* KEI YAMASHITA AND TAKAFUMI AOKI  
\_\_\_\_\_

Appeal 2019-002570  
Application 15/444,786  
Technology Center 3700  
\_\_\_\_\_

Before BRETT C. MARTIN, MICHAEL J. FITZPATRICK, AND  
ARTHUR M. PESLAK, *Administrative Patent Judges*.

MARTIN, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant,<sup>1</sup> NINTENDO CO., LTD.,  
appeals from the Examiner’s decision to reject claims 1–24. We have  
jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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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(b). Appellant identifies the real party in interest as Nintendo  
Co., Ltd. Appeal Br. 3.

CLAIMED SUBJECT MATTER

The claims are directed “to a vibration control system, a vibration control method, vibration output apparatus, a game controller, a storage medium having stored therein a vibration output program, a vibration output method, a vibration control apparatus, and a storage medium having stored therein a vibration control program.” Spec. ¶ 1. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A vibration control system, including at least a first apparatus and a second apparatus, for vibrating a vibration apparatus,
  - the first apparatus comprising a computer processor configured to:
    - receive vibration instruction data transmitted from the second apparatus;
    - generate vibration state data indicating a vibration state of the vibration apparatus;
    - store data related to the received vibration instruction data in a memory;
    - vibrate the vibration apparatus using the data stored in the memory; and
    - transmit the vibration state data to the second apparatus,
  - the second apparatus comprising a computer processor configured to:
    - receive the vibration state data transmitted from the first apparatus;
    - based on the received vibration state data, determine vibration instruction data to be transmitted next to the first apparatus; and
    - transmit the determined vibration instruction data to the first apparatus.

## REFERENCES

The prior art relied upon by the Examiner is:

Katsumoto	US 6,004,209	Dec. 21, 1999
Ohta	US 2007/0222750 A1	Sept. 27, 2007

## REJECTIONS

Claims 1–4 and 6–24 stand rejected under 35 U.S.C. § 102(a)(1) as being anticipated by Ohta. Ans. 3.

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Ohta and Katsumoto. Ans. 8.

## OPINION

Appellant’s main argument against the Examiner’s rejection is that Ohta teaches transmitting position data rather than vibration state data and that “one of ordinary skill in the art would clearly understand, *position* and *vibration state* are different parameters.” Reply Br. 2. Appellant’s argument appears focused more on the labeling of the data in Ohta rather than the Examiner’s explanation as to how position data corresponds to the Specification’s description of at least one version of vibration state data.

As the Examiner explains, “[n]either the specification nor the claim has a specific definition regarding the structural component for ‘vibration state data.’” Ans. 10. The Examiner also points out that the examples in the Specification illustrate that vibration state data may be:

data indicating whether or not the terminal apparatus 3 vibrates when the report data is transmitted, or data indicating a vibration parameter for the vibration of the terminal apparatus 3 when the data report is transmitted (e.g., the amplitude and the frequency of the vibration) may be the information indicating the vibration state included in the report data.

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Ans. 10 (emphasis omitted). As such, the Examiner makes a broad, but reasonable, interpretation of “vibration state data” to mean “any data indicating whether or not the vibration apparatus vibrates.” *Id.* The Examiner indicates that Ohta uses position data to change amplitude and/or frequency of the vibration. Ans. 10–11 (citing Ohta ¶ 143). In this manner Ohta’s position data indicates a state of the data related to the vibration information data. It is clear that, in Ohta, the state of the vibration can be altered based upon the position of the controller, for example, in relation to the console. *See* Ohta ¶ 143. As such, Ohta teaches that the position data is sufficiently related to vibration state data so as to indicate a vibration state of the controller such that it meets the broad meaning in light of Appellant’s Specification.

Appellant further argues that Ohta fails to disclose generation of vibration state data because “[t]he position of Ohta’s controller 7 is calculated by a game apparatus 3, not the controller itself.” Reply Br. 4. Similar to the discussion above, Appellant focuses more on the labeling of the data rather than the Examiner’s interpretation that the data at issue need merely be *related* to the vibration state data as broadly disclosed in the Specification. The Examiner adequately explains how the data in Ohta relates to the vibration state data so as to meet the claim language at issue. Ans. 12. Accordingly, we are not persuaded of error in the Examiner’s rejection of claim 1. Regarding the remaining claims, Appellant relies on the same arguments, which we have already found unpersuasive. *See, e.g.*, Reply Br. 6–7. As such, we sustain the Examiner’s rejections for the same reasons as stated above with regard to claim 1.

DECISION

The Examiner's rejections are AFFIRMED.

DECISION SUMMARY

<b>Claims Rejected</b>	<b>Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-4 and 6-24	§ 102(a)(1) over Ohta	All	None
5	§ 103 over Ohta and Katsumoto	5	None

FINALITY AND RESPONSE

No time period for taking any 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