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EXAMINER
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JIANCHENG TAO, HONG WONG, XIAOGUO LIANG,
YANBING SUN, JUN LIU, and WAH YIU KWONG

Appeal 2019-002617
Application 15/282,475
Technology Center 2600

Before JEAN R. HOMERE, BARBARA A. BENOIT, and
JOHN R. KENNY, *Administrative Patent Judges*.

KENNY, *Administrative Patent Judge.*

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant[1] appeals from the
Examiner's decision to reject claims 1–11, 24–30, 32, 33, and 59–63, which
constitute all of the claims pending in this appeal. Final Act. 1; Appeal Br.
2. Claims 12–23, 31, and 34–58 have been canceled. Claim Appendix. We
have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

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[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 Intel Corporation.
Appeal Br. 2.

SPECIFICATION

Appellant's Specification relates to the "dynamic modification of a graphical user interface." Spec. ¶ 1.

CLAIMS

Claims 1, 24, and 61 are the pending independent claims. Claim Appendix. Claim 1 is illustrative and reads as follows:

1. A computing system, comprising:

a sensor to collect data representative of a viewing distance between a display and a user of the display; and

a scaler to adjust an operating system setting based on the viewing distance to adjust a size of at least one of a pointer or a cursor to be displayed by the display.

Id.

REJECTIONS

Claims 1–11, 24–30, 32, 33, and 59–63 stand rejected under 35 U.S.C. § 112(a) for failing to comply with the written description requirement. Final Act. 8.

Claim 2 stands rejected under 35 U.S.C. § 112(b) as being indefinite. Final Act. 11.

Claim 2 stands rejected under 35 U.S.C. § 112(d) as being of improper dependent form. Final Act. 12.

ANALYSIS

A. 35 U.S.C. § 112(f)

The Examiner determines that the phrase "a sensor to" in claim 1 invokes 35 U.S.C. § 112(f), and Appellant disputes this determination. Final Act. 4–6; Appeal Br. 6–12. This dispute, however, does not affect any pending rejection. The Examiner does not rely on any limitations imposed by 35 U.S.C. § 112(f) to support the pending rejections for a lack of written

description, indefiniteness, or improper dependent form. Final Act. 7–12.
And Appellant does not argue that construing the phase "a sensor to" as
invoking 35 U.S.C. § 112(f) affects any pending rejection. Appeal Br. 6–18.
Thus, we do not need to address this dispute regarding 35 U.S.C. § 112(f).
Final Act. 4–6; Appeal Br. 6–12.

B. Written Description Rejection

The Examiner determines that the Specification does not describe the
following limitations of independent claims 1, 24, and 61:

- "a scaler to adjust an operating system setting based on the
  viewing distance to adjust a size of at least one of a pointer or a
  cursor to be displayed by the display," recited by claim 1;

- "adjusting an operating system, by executing an instruction with
  a processor, to adjust a size of at least one of a pointer or a
  cursor to be displayed by the display based on the viewing
  distance," recited by claim 24; and

- "adjust an operating system setting to adjust a size of at least
  one of a pointer or a cursor to be displayed by the display based
  on the viewing distance," recited by claim 61.

Final Act. 8–9.

The Examiner finds that the Specification does not describe the above
limitations because the Specification does not convey adjusting an operating
system setting to adjust the size of a pointer or cursor. Final Act. 9. In
particular, the Examiner finds: The Specification discloses adjusting
operating system settings to control settings other than the size of a pointer
or a cursor. *Id.* The Specification further discloses adjusting an application
setting to control navigation elements, such as a cursor or a pointer, but the
Specification does not disclose adjusting operating system settings to control
the size of navigational elements, such as a pointer or a cursor. *Id.*

Appellant argues that the following passages from paragraphs 34, 39, 68, and 73 of the Specification describe adjusting an operating system setting to adjust the size of a pointer or cursor:

> As noted above, changes to a display mode may include, by way of example, *a change to an operating system setting (e.g., a display resolution,* a display bit rate, a display contrast, a display sharpness, etc.) *and/or an application setting* (e.g., adjustments to one or more application software graphical element(s), navigation element(s), text, image(s), font(s), etc.), via the scaler 120, *to thereby adjust a size of at least one object displayed by the display* based on the viewing distance from the display. [Spec. ¶ 34 with emphasis by Appellant]

> Accordingly, as the user moves away from the display device 180, and the user's ability to read the text of the navigation elements 420a-420f would otherwise decrease, *the application software 170 and/or operating system 165 is adjusted to cause the display 410 to increase the size of the navigation elements 420a-420f* to a degree that enables the user to discern and appropriately use the navigation elements 420a-420f. [Spec. ¶ 39 with emphasis by Appellant]

> Example 3 includes the computing system as defined in Example 2, *wherein the at least one object includes* a graphical element, *a navigation element,* text, an image, a font, or a combination thereof. [Spec. ¶ 68 with emphasis by Appellant]

> Example 8 includes the computing system as defined in Example 3, *wherein the navigation element includes* at least one of a menu, a window, a selectable element, a soft key, an icon, a widget, a graphical control element, a tab, a button, *a pointer, or a cursor.* [Spec. ¶ 73 with emphasis by Appellant].

Appeal Br. 15.

The Examiner disagrees, making the following findings: Paragraph 34 (and other portions of the Specification) disclose that scalar 120 controls application settings, not operation system settings, to adjust navigational

elements. Ans. 13–15. Regarding paragraph 39's disclosure of adjusting application software 170 and/or operating system 165 to cause display 410 to increase the size of navigational elements 420a–420f, paragraph 39 is silent as to the actor of computing system 105 that makes that adjustment. *Id.* at 13–14. And, in light of the Specification's disclosure as a whole, the actor that makes that adjustment is not scalar 120.[2] *Id.* at 14–15.

We agree with Appellant. The Examiner correctly notes that portions of the Specification disclose that scalar 120 uses application software 170 to adjust navigational elements on display 180. Ans. 13–15; Spec. ¶¶ 19, 34. Paragraph 39, however, describes that "application software 170 and/or *operating system 165*" make such an adjustment. *Id.* ¶ 39 (emphasis added). Although paragraph 39 does not expressly state that scalar 120 controls operating system 165 to make that adjustment, paragraph 39 discloses that computing system 105 adjusts the magnification of navigational elements 420a–420f. *Id.* And computing system 105 uses scalar 120 to control operating system 165 to adjust content on display 180. *Id.* ¶ 20. Further, it is undisputed that the navigational elements described in paragraph 39 encompass cursors and pointers. *Id.* ¶ 75; Ans. 13–14. Thus, we find that the Specification describes a scalar that adjusts an operating system setting to adjust the size of a pointer or cursor.

Accordingly, we do not sustain the pending written description rejection.

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[2] As set forth above, claim 1 recites "a scalar to adjust an operating system setting." Claim Appendix. Claims 24 and 61 do not recite a scalar. *Id.* Our analysis in this Decision, however, is not affected by claim 1's recitation of a scalar or claims 24 and 61's lack of recitation of a scalar.

C. Indefiniteness/Dependent Form

The Examiner determines that claim 2 is indefinite because (i) it recites "further including the display" and (ii) claim 1 from which it depends also recites a display. Final Act. 11; Ans. 12–13. For the same reasons, the Examiner determines that claim 2 has an improper dependent form. Final Act. 12; Ans. 12–13.

Appellant argues that claim 1 does not recite a display as an element and, thus, claim 1 is neither indefinite nor does it have an improper dependent form. App. Br. 13–14; Reply Br. 5–9. We agree with Appellant.

Claim 1 recites a sensor "to collect data representative of a viewing distance between a display and a user." Claim 1 further recites a scalar "to adjust an operating system setting based on the viewing distance to adjust the size of at least one of a pointer or a cursor." Claim Appendix. Neither recitation, however, requires a display. Each merely recites respectively the capability of collecting representative data and adjusting an operating system setting based on a viewing distance between a display and a user. *Id.* Neither recitation requires that the sensor or scalar actually collect that data or adjust that setting, and, therefore, neither recitation requires a display. *Id.* Thus, claim 2's recitation of "including the display" narrows claim 1. *Id.*

Therefore, we do not sustain the rejections of claim 2 for indefiniteness or improper dependent form.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Basis	Affirmed	Reversed
1–11, 24–30, 32, 33, 59–63	112(a)	Written Description		1–11, 24–30, 32, 33, 59–63
2	112(a)	Indefiniteness		2
2	112(a)	Improper Dependent Form		2
Overall Outcome				1–11, 24–30, 32, 33, 59–63

REVERSED