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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte RUSSELL SPEIGHT VANBLON, JIANBANG ZHANG,
and JOHN WELDON NICHOLSON

Appeal 2019-003472
Application 14/643,505
Technology Center 2100

Before JOHN D. HAMANN, JOYCE CRAIG, and
MATTHEW J. McNEILL, *Administrative Patent Judges*.

McNEILL, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellant appeals under 35 U.S.C. § 134(a) from the Examiner's rejection of claims 1, 2, 6, 7, 9, 11, 14, 15, 17–19, 21–25, and 30–33, which are all the claims pending in this application.¹ We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

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 Lenovo Singapore PTE. Ltd. Appeal Br. 2.

STATEMENT OF THE CASE

Introduction

Appellant's application relates to electronic devices that monitor the user's gaze along with input from an input device. Spec. 1. Claim 1 illustrates the appealed subject matter and read as follows:

1. An apparatus, comprising:
 - at least one processor;
 - a sensor accessible to the at least one processor;
 - a display accessible to the at least one processor; and
 - storage accessible to the at least one processor and bearing instructions executable by the at least one processor to:
 - receive first input from the sensor;
 - based on the first input, identify a location on the display at which a user is looking;
 - receive second input from a first input device in communication with the apparatus;
 - responsive to receipt of the second input and based on the location on the display, execute a function at the apparatus; and
 - present, on the display, a user interface (UI) comprising a first selector element that is selectable to enable the at least one processor to identify input from the first input device as left click input to select a display location at which the user is looking, the UI comprising a second selector element that is selectable to enable the at least one processor to identify input from the first input device as right click input to select a display location at which the user is looking.

The Examiner's Rejections

Claims 1, 7, 9, 15, 17, 19, and 31–33 stand rejected under 35 U.S.C. § 103 as being unpatentable over Lopez (US 2014/0204029 A1; July 24, 2014) and *Customizing Mouse Buttons with Logitech Control Center Software*, http://support.logitech.com/en_us/article/26975 (2014) (last viewed July 27, 2018) (“Logitech”). Final Act. 3–10.

To the base combination of Lopez and Logitech, the Examiner adds George-Svahn (US 2014/0247232 A1; Sept. 4, 2014) to reject claim 2 (*see* Final Act. 10); Cieplinski (US 2015/0067560 A1; Mar. 5, 2015) to reject claim 6 (*see* Final Act. 10–11); Cederlund (US 2015/0130740 A1; May 14, 2015) and Greenberg (US 2015/0304251 A1; Oct. 22, 2015) to reject claim 11 (*see* Final Act. 11–13); Hu (US 2010/0053082 A1; Mar. 4, 2010) to reject claims 14 and 18 (*see* Final Act. 13–14); Bellamy (US 2016/0128568 A1; May 12, 2016) to reject claims 21 and 24 (*see* Final Act. 14–16); DeLuca (US 2013/0145304 A1; June 6, 2013) to reject claim 22 (*see* Final Act. 16); Hu and Hennessey (US 2014/0184550 A1; July 3, 2014) to reject claim 23 (*see* Final Act. 16–17); Um (US 2015/0067580 A1; Mar. 5, 2015) to reject claim 25 (*see* Final Act. 17–18); and Um and Pen Display, Software User’s Manual, Version 1.0, Wacom (2008) (“Wacom”) to reject claim 30 (*see* Final Act. 18).

ANALYSIS

The Examiner finds the combination of Lopez and Logitech teaches or suggests all of the limitations of claim 1. Final Act. 3–4. In particular, the Examiner finds Lopez teaches all of the limitations except for the “present, on the display, a user interface” limitation. *Id.* at 4. The Examiner finds Logitech teaches this limitation and that an ordinarily skilled artisan would

have been motivated to combine Lopez and Logitech because the modification “provides an intuitive user interface for users to customize” either “their computer mouse” (*id.* at 4) or “the input apparatus” (Ans. 19).

Appellant argues the Examiner erred because the Examiner’s rationale for combining the references is insufficient. *See* Appeal Br. 5–7; Reply Br. 1–3. In particular, Appellant argues the rationale merely restates an alleged benefit of Logitech, ignoring the teachings of Lopez and how the combination would modify Lopez. *See* Appeal Br. 5. Appellant argues the Examiner’s rationale amounts to nothing more than a statement that the references could have been combined, rather than an explanation as to why an ordinarily skilled artisan would have been motivated to combine the references. *See id.* at 5–6.

Appellant has persuaded us of Examiner error. Lopez teaches an electronic device that monitors a user’s gaze, allowing the user to interact with the user interface by looking at user interface elements. *See, e.g.*, Lopez ¶ 15. Lopez teaches that in some embodiments, a left input portion and a right input portion may be enabled to function as a left click and a right click, respectively. *Id.* ¶ 34. The input portions may be any type of device capable of receiving inputs from a user, such as touch sensors, physical buttons, a mouse, a keyboard, etc. *Id.* ¶ 33. The input portions work in conjunction with gaze detection to allow the user’s gaze to function as a left click or right click. *Id.* ¶ 34.

Logitech teaches a software application that allows a user to reassign different functions to the inputs of a mouse. Logitech 3. The Examiner finds an ordinarily skilled artisan would have been motivated to combine the references to incorporate Logitech’s user interface into the teachings of

Lopez to “provide[] an intuitive user interface for users to customize” the input apparatus. Ans. 19.

We agree with Appellant that the Examiner’s rationale is insufficient to establish that an ordinarily skilled artisan would have been motivated to combine the teachings of the references. Lopez teaches gaze selection functioning as a left click input when the user engages the left input portion. Lopez ¶ 34. Lopez teaches gaze selection as a right click input when the user engages the right input portion. *Id.* The Examiner fails to explain why an ordinarily skilled artisan would have been motivated to replace this functionality, which allows Lopez’s dual inputs to each work in conjunction with the user’s gaze to customize gaze selection as either a left click or right click (*see id.* ¶¶ 33–34), with a software user interface that is selectable to allow the input from the user’s gaze to function as either a left click or right click. In short, the Examiner identifies a benefit of Logitech as it relates to customizing mouse inputs without explaining why an ordinarily skilled artisan would have been motivated to apply those teachings to gaze selection at the expense of Lopez’s existing functionality that provides the same benefit.

For these reasons, the Examiner fails to sufficiently establish that an ordinarily skilled artisan would have been motivated to combine the teachings of Lopez and Logitech in the manner proposed. We, therefore, do not sustain the Examiner’s obviousness rejection of independent claim 1. We also do not sustain the obviousness rejection of independent claims 15 and 19, which recite commensurate subject matter. We also do not sustain the obviousness rejection of dependent claims 7, 9, 17, and 31–33.

Claims 2, 6, 11, 14, 18, 21–25, and 30 stand rejected as unpatentable over the combination of Lopez, Logitech, and at least one additional reference. The deficiency in the rejection of claim 1 also exists in these obviousness rejections. We, therefore, do not sustain the obviousness rejections of claims 2, 6, 11, 14, 18, 21–25, and 30 for the same reasons.

SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1, 7, 9, 15, 17, 19, 31–33	103	Lopez, Logitech		1, 7, 9, 15, 17, 19, 31–33
2	103	Lopez, Logitech, George-Svahn		2
6	103	Lopez, Logitech, Cieplinski		6
11	103	Lopez, Logitech, Cederlund, Greenberg		11
14, 18	103	Lopez, Logitech, Hu		14, 18
21, 24	103	Lopez, Logitech, Bellamy		21, 24
22	103	Lopez, Logitech, DeLuca		22
23	103	Lopez, Logitech, Hu, Hennessey		23
25	103	Lopez, Logitech, Um		25
30	103	Lopez, Logitech, Um, Wacom		30
Overall Outcome				1, 2, 6, 7, 9, 11, 14, 15, 17–19, 21–25, 30–33

Appeal 2019-003472
Application 14/643,505

REVERSED