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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte AKITSUGU TSUCHIYA, YOSHIHIKO SUWA, and
TOMOHIRO OGAWA

Appeal 2020-000793
Application 15/547,741
Technology Center 3700

Before MICHAEL L. HOELTER, JEREMY M. PLENZLER, and
LEE L. STEPINA, *Administrative Patent Judges*.

PLENZLER, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant¹ appeals from the Examiner's decision to reject claims 1–17. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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 Sony Interactive Entertainment Inc. Appeal Br. 2.

CLAIMED SUBJECT MATTER

The claims are directed to an information processing apparatus.

Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. An information processing apparatus connected with a plurality of manipulation devices to receive manipulation inputs from a plurality of users, the information processing apparatus comprising:

a device management block configured to hold allocation information for allocating each of the plurality of manipulation devices to each of the plurality of users;

an allocation change notification block configured to display, on a screen of a display apparatus, a guide image including information for identifying a user before change and information for identifying the user after change if, in the allocation information, the user to whom one or more of the plurality of manipulation devices is allocated is changed;

an application execution block configured to process a game in which the users participate and further configured to output a request to the device management block for the allocation change as the game progresses, wherein the allocation change request specifies a type of manipulation device to allocate from one user to another user; and

a user management block configured to manage the users, wherein at least one user is a late participant who logs into the game after the game has started and one of the manipulation devices is allocated to the late participant during the game according to the allocation change request.

REFERENCES

The prior art relied upon by the Examiner is:

Name	Reference	Date
Miyamoto	US 2004/0229687 A1	Nov. 18, 2004
Bond	US 2011/0009193 A1	Jan. 13, 2011
Ikenaga	US 2013/0252741 A1	Sept. 26, 2013
Smith	US 2014/0342818 A1	Nov. 20, 2014
Kazuyuki	JP 2005312655 A	Nov. 10, 2005

REJECTIONS

Claims 1–4 and 8–17 are rejected under 35 U.S.C. § 112(b) as being indefinite.²

Claims 1–3 and 5–12 are rejected under 35 U.S.C. § 103 as being unpatentable over Miyamoto and Smith.

Claims 4, 14, and 17 are rejected under 35 U.S.C. § 103 as being unpatentable over Miyamoto, Smith, and Kazuyuki.

Claim 13 is rejected under 35 U.S.C. § 103 as being unpatentable over Miyamoto, Smith, and Bond.

Claims 15 and 16 are rejected under 35 U.S.C. § 103 as being unpatentable over Miyamoto, Smith, and Ikenaga.

OPINION

Indefiniteness

The Examiner rejects claims 1–17 as indefinite. Final Act. 3–7.³ In the Answer, the Examiner withdraws a portion of that rejection as it relates to the recitation of “a plurality of users,” “the plurality of users,” and “said

² This rejection was modified in the Examiner’s Answer. See Ans. 3, 23.

³ Although the rejection heading lists only claims 1–4 and 8–17, claims 5–7 are also addressed in the discussion of the rejection. See Final Act. 4, 6.

users” in claim 1 and the similar features recited in independent claims 5–7 and dependent claims 2–4 and 8–17. Ans. 23. The Examiner also withdraws a portion of that rejection as it relates to the recitation of “a plurality of manipulation devices,” “the plurality of manipulation devices,” and “said manipulation devices” in claim 1 and the similar features recited in independent claims 5–7 and dependent claims 2–4 and 8–17. *Id.*

The portions of the rejection withdrawn in the Answer are the only portions addressed in the Appeal Brief. *See* Appeal Br. 5–6.⁴ Other bases for the indefiniteness rejection of claims 1–17 are left uncontested by Appellant. *See* Final Act. 4–7.

Our rules state that Appellant’s “arguments shall explain why the examiner erred as to each ground of rejection contested by appellant.” *See* 37 C.F.R. § 41.37(c)(1)(iv). “When the appellant fails to contest a ground of rejection to the Board . . . the PTO may affirm the rejection of the group of claims that the examiner rejected on that ground without considering the merits of those rejections.” *Hyatt v. Dudas*, 551 F.3d 1307, 1314 (Fed. Cir. 2008). Accordingly, because there is no argument from Appellant, we summarily affirm the Examiner’s indefiniteness rejections of claims 1–17 that remain pending.

Obviousness – Claims 1–3, 5–7, 11, and 12

Appellant argues claims 1–3, 5–7, 11, and 12 as a group. Appeal Br. 7–8. We select claim 1 as representative. Claims 2, 3, 5–7, 11, and 12 stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

⁴ Appellant did not file a Reply Brief.

The Examiner finds that Miyamoto teaches many of the features recited in claim 1, including

an allocation change notification block configured to display, on a screen of a display apparatus, a guide image including information for identifying a user before change and information for identifying a user after change if, in the allocation information, a user to whom one or more of the plurality of manipulation devices is allocated is changed.

Final Act. 8. The Examiner acknowledges that Miyamoto does not specifically teach that “at least one user is a late participant who logs into the game after the game has started and one of said manipulation devices is allocated to said late participant during the game according to said allocation change request.” *Id.* at 9. The Examiner cites Smith as teaching the “late participant feature.” *Id.* The Examiner reasons that “[i]t would have been obvious to combine the . . . players operat[ing] characters as disclosed by Miyamoto with the method that decouples a fixed relationship between a user and a controller during gameplay as taught by Smith in order to permit a more flexible game experience.” *Id.* at 11.

Appellant responds that Smith does not teach the allocation features. *See* Appeal Br. 7 (“In Smith, players may change controllers, such as from wired to a wireless controller (Smith, [0017]), but the game itself does not assign a controller to a new player who joins after the game has started.”). Appellant contends that “Smith teaches away from allocating a controller by claiming to break the assigned one-to-one relationship between a user and a controller (Smith, [0016], [0025]).” *Id.* Appellant further contends that “Miyamoto fails to disclose that *one of said manipulation devices is allocated to a late participant during the game according to the allocation*

change request” and, again, reiterates the teaching away contention regarding Smith. *Id.* at 8. Appellant does not apprise us of Examiner error.

Appellant acknowledges that the Examiner relies on Smith only for the late participant addition. Appeal Br. 7–8. Appellant alleges inconsistencies with the Advisory Action and the Final Action, but we see none. The fact that Miyamoto does not teach a late participant means that it does not specifically teach the recited allocation features *for a late participant*. See Final Act. 9 (“Miyamoto makes no mention of whether players may join once the game has begun.”). However, the Examiner’s proposed modification with Smith makes one of Miyamoto’s users a late participant. See Final Act. 10, Ans. 28 (both stating that “players may join and leave as a game progresses (Smith [0017])”). Hence, the combined teachings of Miyamoto and Smith result in the “one user [being] a late participant who logs into the game after the game has started and one of the manipulation devices is allocated to the late participant during the game according to the allocation change request” as recited in claim 1. Appellant does not identify error in the Examiner’s findings because Appellant does not address the actual findings relied on by the Examiner.

Appellant alleges that Smith teaches away from the proposed modification. See Appeal Br. 7 (“Smith teaches away from allocating a controller by claiming to break the assigned one-to-one relationship between a user and a controller (Smith, [0016], [0025])”), 8 (“Smith does not remedy this deficiency of Miyamoto because Smith expressly teaches away from allocating controllers to players (see, Smith at paragraphs [0016], [0025]).”). Appellant’s teaching away contention is not pertinent to the proposed modification, which simply proposes to add a late participant in Miyamoto’s

game system. Certainly, Smith does not teach away from the addition of a later user, nor does Appellant even allege this to be the case. Moreover, to the extent the one-to-one relationship is at issue, the Examiner's rejection follows Smith's teachings, rather than diverging from them as alleged. *See* Final Act. 10–11 (finding that “Smith teaches an apparatus and method that decouples a fixed relationship between a user and a controller,” and reasoning that “[i]t would have been obvious to . . . decouple[] a fixed relationship between a user and a controller during gameplay as taught by Smith in order to permit a more flexible game experience”); *see also* Ans. 28 (“by combining Smith with Miyamoto, the result is that the manipulation devices of Miyamoto may be allocated to different players during the course of game play, some of which are players who join the game as the game progresses”). Accordingly, we are not apprised of error in the Examiner's proposed modification to Miyamoto's teachings.

Obviousness – Claim 8

Claim 8 depends from claim 1, and further recites that “the device management block stores an allocation management table for the manipulation devices.” The Examiner finds that “Smith further teaches wherein the device management block stores an allocation management table for the manipulation devices (Smith, mappings 160 show a four way mapping that relates a context to a controller and a user and an application [0025] and [Fig. 1]).” Final Act. 17. The Examiner finds that Smith's “[m]appings 160 [in Figure 1] show a four way mapping that relates a context to a controller (i.e., 7, 5 ... b) and a user (i.e., 2, 1 ... c) and an application (Smith [0025])” and “[d]ifferent mappings may involve a greater or lesser number of attributes (Smith [0025] and [Fig. 1]).” Ans. 29. The

Examiner finds that “[i]n one embodiment, mappings 160 may be updated in real time or near real time to reflect the current reality in the game space (Smith [0025]),” and “[t]hus the mappings show the assignment of controllers and users.” *Id.* The Examiner explains that “[a]s game play progresses, the mappings may be updated to reflect the current reality in the game space.” *Id.*

Appellant contends that “Smith maps controllers based on context at the time of an action, as is discussed in paragraph [0016] of Smith, not allocation as recited in Applicant’s claims.” Appeal Br. 8. As noted above, however, the Examiner does not rely on Smith for the allocation features. The Examiner relies on Smith’s teachings, generally, as related to using a table to store information regarding which controller is associated with a given user. Appellant does not identify error in the Examiner’s finding or reasoning for further modifying Miyamoto’s teachings. Appellant again reiterates a teaching away argument (*id.* at 8–9), which is unpersuasive for the reasons explained above.

Obviousness – Claim 9

Claim 9 depends from claim 8, and further recites that “the allocation management table includes the type of manipulation device allocated to each user and a user ID for each user to whom one of the manipulation devices was allocated.” The Examiner finds that Smith’s table includes both device type and user ID. Final Act. 17.

Appellant responds with arguments similar to those presented with respect to claim 8. *See* Appeal Br. 10 (contending that Smith does not allocate a device to a user). Appellant’s contentions are unpersuasive for the reasons discussed above relative to claim 8.

Obviousness – Claim 10

Claim 10 depends from claim 9, and further recites that “the type of manipulation device is selected from the group consisting of: a keyboard, a mouse, and a game controller.” The Examiner finds that Smith teaches “a controller may include, for example, a gamepad, a remote, a game guitar, a voice control apparatus, a gesture capture apparatus, haptic interfaces, natural user interfaces [(NUI)], or other apparatus [0016]” and “an NUI is an interface technology that enables a user to interact with a device in a ‘natural’ manner, free from artificial constraints imposed by input devices such as mice, keyboards, remote controls, and others [0063].” Final Act. 17.

Appellant responds that because Smith teaches using natural user interfaces, “Smith teaches away from using mice and keyboards as allocated input devices (Smith, [0063]).” Appeal Br. 11. As the Examiner correctly notes, however, Smith simply teaches use of a natural user interface as one of many possible options. *See* Ans. 33 (citing Smith ¶ 16). Smith explains that “[a] controller may include, for example, a gamepad, a remote, a game guitar, a voice control apparatus, a gesture capture apparatus, haptic interfaces, natural user interfaces, or other apparatus.” Smith ¶ 16. Accordingly, Appellant’s teaching away contention does not apprise us of Examiner error.

Obviousness – Claims 4 and 13–17

Appellant does not provide separate arguments for claims 4 and 13–17, which each depend from claim 1. For the reasons set forth above, we are not apprised of Examiner error in the rejection of these claims.

CONCLUSION

The Examiner's rejections are affirmed.

DECISION SUMMARY

In summary:

Claims Rejected	35 U.S.C. §	Reference(s)/Basis	Affirmed	Reversed
1-4, 8-17	112(b)	Indefiniteness	1-4, 8-17	
1-3, 5-12	103	Miyamoto, Smith	1-3, 5-12	
4, 14, 17	103	Miyamoto, Smith, Kazuyuki	4, 14, 17	
13	103	Miyamoto, Smith, Bond	13	
15, 16	103	Miyamoto, Smith, Ikenaga	15, 16	
Overall Outcome			1-17	

TIME PERIOD FOR 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