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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/019,646	09/05/2024	10656754	SITL.P0002US.RE	1086
32425	7590	03/07/2025	EXAMINER	
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			ART UNIT	PAPER NUMBER
			3992	
			MAIL DATE	DELIVERY MODE
			03/07/2025	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/019,646 .

PATENT UNDER REEXAMINATION 10656754 .

ART UNIT 3992 .

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Office Action in Ex Parte Reexamination	Control No. 90/019,646	Patent Under Reexamination 10656754	
	Examiner MICHAEL R ROSWELL	Art Unit 3992	AIA (First Inventor to File) Status No

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

- a. ☒ Responsive to the communication(s) filed on 14 November 2024.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on _____.

b. ☐ This action is made FINAL.

- c. ☒ A statement under 37 CFR 1.530 has not been received from the patent owner.

A shortened statutory period for response to this action is set to expire 2 month(s) from the mailing date of this letter. Failure to respond within the period for response will result in termination of the proceeding and issuance of an *ex parte* reexamination certificate in accordance with this action. 37 CFR 1.550(d). **EXTENSIONS OF TIME ARE GOVERNED BY 37 CFR 1.550(c)**. If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. ☐ Notice of References Cited by Examiner, PTO-892. | 3. ☐ Interview Summary, PTO-474. |
| 2. ☐ Information Disclosure Statement, PTO/SB/08. | 4. ☐ _____. |

Part II SUMMARY OF ACTION

- 1a. ☒ Claims See Continuation Sheet are subject to reexamination.
- 1b. ☒ Claims See Continuation Sheet are not subject to reexamination.
2. ☐ Claims _____ have been canceled in the present reexamination proceeding.
3. ☒ Claims See Continuation Sheet are patentable and/or confirmed.
4. ☒ Claims 2,101,108,118-120 and 225 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ The drawings, filed on _____ are acceptable.
7. ☐ The proposed drawing correction, filed on _____ has been (7a) ☐ approved (7b) ☐ disapproved.
8. ☐ Acknowledgment is made of the priority claim under 35 U.S.C. 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the certified copies have
 - 1 ☐ been received.
 - 2 ☐ not been received.
 - 3 ☐ been filed in Application No. _____.
 - 4 ☐ been filed in reexamination Control No. _____.
 - 5 ☐ been received by the International Bureau in PCT application No. _____.
- * See the attached detailed Office action for a list of the certified copies not received.
9. ☐ Since the proceeding appears to be in condition for issuance of an *ex parte* reexamination certificate except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte* Quayle, 1935 C.D. 11, 453 O.G. 213.
10. ☐ Other: _____

cc: Requester (if third party requester)

Continuation of Part II SUMMARY OF ACTION 1a. Claims are subject to reexamination: 2,83,85-86,101,108-115,118-120,123-127,130-132,134,136-137,142-148,150-186,188,193,195-196,198,205-208,217-221,225,230 and 232

Continuation of Part II SUMMARY OF ACTION 1b. Claims are not subject to reexamination: 1,3-82,84,87-100,102-107,116-117,121-122,128-129,133,135,138-141,149,187,189-192,194,197,199-204,209-216,222-224,226-229,231 and 233-365

Continuation of Part II SUMMARY OF ACTION 3. Claims are patentable and/or confirmed: 83,85-86,109-115,123-127,130-132,134,136-137,142-148,150-186,188,193,195-196,198,205-208,217-221,230 and 232

DETAILED ACTION

The present application is being examined under the pre-AIA first to invent provisions.

This Office Action addresses claims 2, 83, 85, 86, 101, 108-115, 118-120, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 225, 230, and 232 of US Patent 10,656,754 to **Smith** (“the ‘754 Patent”), for which it has been determined in the Order Granting *Ex Parte* Reexamination (hereafter the “Order”) mailed 14 November 2024 that at least one substantial new question of patentability was raised in the Request for *Ex Parte* Reexamination filed on 5 September 2024 (hereafter the “Request”).

Claims 2, 101, 108, 118-120, and 225 are rejected herein. **Claims 83, 85, 86, 109-115, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 230, and 232** are confirmed.

This is a **Non-Final Office Action**.

Reexamination

The Patent Owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving US Patent 10,656,754 throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding through the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

Extensions of time under 37 CFR 1.136(a) will not be permitted in these proceedings because the provisions of 37 CFR 1.136 apply only to “an applicant” and not to parties in a reexamination proceeding. Additionally, 35 U.S.C. 305 requires that reexamination proceedings

“will be conducted with special dispatch” (37 CFR 1.550(a)). Extension of time in *Ex Parte* reexamination proceedings are provided for in 37 CFR 1.550(c).

In order to ensure full consideration of any amendments, affidavits or declarations, or other documents as evidence of patentability, such documents must be submitted in response to this Office Action. Submissions after the next Office Action, which is intended to be a Final Action, will be governed by the requirements of 37 CFR 1.116, after final rejection and 37 CFR 41.33 after appeal, which will be strictly enforced.

Patent Owner is notified that any proposed amendment to the specification and/or claims in this reexamination proceeding must comply with 37 CFR 1.530(d)-(j), must be formally presented pursuant to 37 CFR 1.52(a) and (b), and must contain any fees required by 37 CFR 1.20(c).

References and Declarations Submitted by Requester

The following four references have been cited as establishing a substantial new question of patentability, as discussed in the Order mailed 14 November 2024:

- **Beaumier** – US Publication 2011/0283236, filed 26 January 2011
- **Chaudhri** – US Publication 2009/0198359, published 6 August 2009
- **Wang** – US Publication 2012/0206399, filed 24 March 2011
- **Shiplacoff** – US Publication 2010/0095240, published 15 April 2010

Claim Summary

The status of the claims in this *Ex Parte* Reexamination proceeding are as follows:

- Claims 2, 83, 85, 86, 101, 108-115, 118-120, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 225, 230, and 232 are subject to the current reexamination.

- Claims 1, 3-82, 84, 87-100, 102-107, 116, 117, 121, 122, 128, 129, 133, 135, 138-141, 149, 187, 189-192, 194, 197, 199-204, 209-216, 222-224, 226-229, 231, and 233-365 **are not** subject to the current reexamination.
- **Claims 2, 101, 108, 118-120, and 225 are rejected**, as discussed below.
- **Claims 83, 85, 86, 109-115, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 230, and 232 are confirmed**, as discussed below.

Claim Rejections

In the event the determination of the status of the application as subject to AIA 35 U.S.C. 102 and 103 (or as subject to pre-AIA 35 U.S.C. 102 and 103) is incorrect, any correction of the statutory basis (i.e., changing from AIA to pre-AIA) for the rejection will not be considered a new ground of rejection if the prior art relied upon, and the rationale supporting the rejection, would be the same under either status.

The following are quotations from the MPEP regarding the types of rejections to be utilized below:

35 USC § 102

The following is a quotation of the appropriate paragraphs of pre-AIA 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Beaumier

Claims 2, 101, 108, 118-120, and 225 are rejected under pre-AIA 35 U.S.C. 102(e) as being anticipated by **Beaumier** (US Publication 2011/0283236, filed 26 January 2011).

Regarding independent claim 2, Beaumier discloses

An apparatus (Beaumier discloses a digital jukebox system allowing users to select and play songs, at [0004]), comprising:

at least one non-transitory memory (the digital jukebox system includes a memory, such as a hard drive, at [0053]);

a touch screen (the digital jukebox system may include a touch screen, at [0053]); *and one or more processors in communication with the at least one non-transitory memory, and the touch screen, wherein the one or more processors execute instructions in the at least one non-transitory memory* (the digital jukebox system may include one or more microprocessors, at [0053]), *to cause the apparatus to:*

display an object and at least one other object (**Beaumier** discloses a graphical user interface including multiple objects that may be navigated and interacted with, at [0102-0104] and illustrated in Figs. 11-13) *and;*

detect at least part of a gesture on the touch screen (the touch screen of **Beaumier** enables user input selections by “touching the screen” (i.e., detecting input gestures), at [0053]. In particular, **Beaumier** discloses input gestures such as swipes and press and hold gestures, at [0058]); *and*

during detection of at least a portion of the gesture before a completion thereof is detected, blur, based on a change in a magnitude of the gesture being detected on the touch screen, at least a portion of the at least one other object (**Beaumier** discloses utilizing “various

techniques” to “help bring focus to patron-selectable elements”, such as blurring, fading, and enlarging objects on the graphical user interface, at [0127]. In particular examples illustrated in Figs. 22a and 22c and described in [0127], a “center selection” may be highlighted by a colorized “blob”, while non-selectable elements may be blurred, and a selected album jacket is enlarged to highlight its selection, while further user interface objects (including other selectable album jackets) may be blurred. Fig. 13 and [0104] appear to illustrate a user interface “wheel” of objects that may be rotated in accordance with a user touch input. As noted in the 14 November 2024 Order at 8-9:

The specification of the ‘754 Patent does not provide a standard for the “completion” of a gesture. For example, the specification variously states that a gestures with two contact points “is completed by altering the contact pressures on the two contact points such that the pressure exerted on [contact point] 2004 now exceeds that being exerted on [contact point] 2002” (see the ‘754 Patent at col. 62, lines 9-24), but also that such a gesture “is completed by ending one or both contacts, or by performing a different gesture” (*infra* at col. 63, lines 35-48). As a result, the broadest reasonable interpretation (BRI) of the term gesture “completion” is the performance of a different gesture.

Blurring of background objects is effected as the result of a gestural selection input being recognized, at [0127]. As no further input is required to blur the background objects, it can be said that the blur is a result of detection of a least a portion of a gesture “before a completion thereof” (i.e., prior to the input of a further gesture), commensurate with the teachings of the ‘754 patent specification.

The 14 November 2024 Order at 9 further states:

The term “based on” similarly provides no definition as to the correlation between the change in magnitude of a gesture and the blur effect itself. The examiner contends that the BRI of the limitation “blur, based on a change in magnitude of the gesture being detected on the touch screen” is analogous to implementing any level of a blur effect in response to any change in magnitude of an associated gesture.

Beaumier at [0102] indicates that a press and hold gesture may be used to select a particular object on the graphical user interface. As in [0084], a press and hold gesture typically includes a related hold time threshold that must be met for the gesture to be recognized. At

least the time element of the press and hold gesture may be considered a magnitude.

Subsequently, the blur effect disclosed by **Beaumier** may result from a change in the time magnitude of an associated press and hold selection gesture).

Claim 225 recites limitations analogous in subject matter to **claim 2**, and as a result is rejected under similar rationale.

Regarding claim 101, Beaumier discloses

The apparatus of claim 2, wherein the apparatus is configured such that, when the magnitude, including a duration magnitude, of the gesture detected on the touch screen is detected to increase above a duration threshold, a menu is displayed with at least one option (**Beaumier** discloses wherein a press and hold gesture may be utilized to indicate selection of a graphical user interface object, such as an album jacket, *supra*. Further, **Beaumier** illustrates at Fig. 22b that responsive to an album jacket selection, the user interface may present relevant options, such as “PLAY” and “SHOW LYRICS”, which are analogous to the claimed menu).

Regarding claim 108, Beaumier discloses

The apparatus of claim 101, wherein the apparatus is configured such that, in response to a detection of a touch on the at least one option of the menu, the object is opened for accessing information associated with the object (**Beaumier** illustrates at Fig. 22b what appears to be the selectable objects “PLAY” and “SHOW LYRICS”. **Beaumier** explicitly discloses the wherein lyrics may be displayed on the user interface, at [0135]. User input sufficient to play a selected song and/or display related lyrics is analogous to opening an object for accessing information associated with the object, as claimed. **Beaumier** further discloses the display of selectable “control elements” allowing a user to interact with the functionality of the digital jukebox system, at [0116]).

Regarding claim 118, Beaumier discloses

The apparatus of claim 101, wherein the apparatus is configured such that the menu is accompanied by a window including information associated with the object (as seen in Fig. 22b, the enlargement of the selected album jacket (i.e., “window”) includes associated information, such as song title, album title, and artist. See further [0127]).

Regarding claim 119, Beaumier discloses

The apparatus of claim 118, wherein the apparatus is configured such that the window is sharpened and magnified when displayed (**Beaumier** discloses that various graphical techniques may be used to “help bring focus to patron-selectable elements”, at [0127]. As an example, **Beaumier** discloses the enlargement of a selected album jacket and further blurring of background UI elements to “help bring focus to the selected album”. It is noted that neither the specification nor the claims of the ‘754 patent particularly set forth a limiting definition for how a window is “sharpened” or “magnified”. For example, the specification refers to displaying an “area” with “a sharp boundary” (col. 39, lines 12-14), and “sharpening previously blurry display layers as the grow closer” (col. 71, lines 4-9). However, neither of those recitations particularly defines how “a window” is sharpened. The claims are similarly silent with respect to the particulars of window sharpening. Likewise, the mere recitation of magnification in the specification and claims fails to set forth a particular definition for window magnification. As a result, the Examiner contends that the enlargement of a selected album jacket and blurring of background UI elements as disclosed by **Beaumier** in [0127] effectively amounts to providing a magnified and sharpened window upon selection for focus).

Regarding claim 120, Beaumier discloses

The apparatus of claim 101, wherein the apparatus is configured such that the menu is sharpened and magnified when displayed (with reference to the discussion of window

sharpening and magnification, *supra*, the specification and claims likewise fail to particularly define how a menu is sharpened and magnified. As a result, the enlargement of a selected album jacket containing menu items “PLAY” and “SHOW LYRICS”, as in Fig. 22b, as well as the blurring of non-selected background UI elements, amounts to an effective sharpening and magnification of the menu presented as a part of the album jacket).

Patentable Subject Matter

Claims 83, 85, 86, 109-115, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 230, and 232 are confirmed.

Regarding claim 83, the prior art of record fails to explicitly disclose “when a distance magnitude of the gesture detected on the touch screen is detected to increase above a distance threshold, and a duration magnitude of the gesture detected on the touch screen is detected to increase above a duration threshold, a menu is displayed with at least one option”, as claimed. As a result, claim 83 is confirmed. **Claims 85 and 86** are similarly confirmed as a result of their dependency from claim 83.

Regarding claim 109, the prior art of record fails to explicitly disclose “based on the change in the magnitude of the gesture being detected on the touch screen, the object is pulsed before the menu is displayed”, as claimed. As a result, claim 109 is confirmed. **Claims 110-115** recite limitations similar to claim 109, in that a graphical technique is employed on a selected object “based on the change in magnitude of the gesture being detected on the touch screen” and “before the menu is displayed”. As such, **Beaumier** and **Chaudhri** fail to explicitly disclose the limitations of claims 110-115, and the claims are confirmed.

Regarding claim 123, the prior art of record fails to explicitly disclose at least “in response to the completion of the gesture being detected while the magnitude, including a duration magnitude, of the gesture detected on the touch screen is detected to remain below a

duration threshold, information associated with the object is opened utilizing another interface associated with the particular application”, as claimed. As a result, claim 123 is confirmed.

Claims 124-127, 130-132, 134, 136, and 137 are similarly confirmed as a result of their dependency from claim 123.

Regarding claim 142, the prior art of record fails to explicitly disclose at least “in response to the completion of the gesture being detected while the magnitude, including a duration magnitude, of the gesture detected on the touch screen is detected to remain below a duration threshold, information associated with the object is opened utilizing another interface associated with the particular application; and when the duration magnitude of the gesture detected on the touch screen is detected to increase above the duration threshold, a view of the information associated with the object and a menu including at least one option are sharpened and magnified in connection with a display thereof”. As a result, claim 142 is confirmed.

Claims 143-148 and 150 are similarly confirmed as a result of their dependency from claim 142.

Regarding claim 151, the prior art of record fails to explicitly disclose at least “in response to the completion of the gesture being detected while the magnitude, including a duration magnitude, of the gesture detected on the touch screen on the object is detected to remain below a duration threshold, information associated with the object is opened utilizing an interface associated with the particular application”, as claimed. As a result, claim 151 is confirmed. **Claims 152-164** are similarly confirmed as a result of their dependency (directly or indirectly) from claim 151.

Regarding claim 165, the prior art of record fails to explicitly disclose at least “in response to the completion of the gesture being detected while the magnitude, including a duration magnitude, of the gesture detected on the touch screen on the object is detected to remain below a duration threshold, information associated with the object is opened utilizing an interface associated with the particular application; when the duration magnitude of the gesture

detected on the touch screen on the object is detected to increase above the duration threshold, a menu is magnified and sharpened to include at least one option for performing at least one action”, as claimed. As a result, claim 165 is confirmed. **Claims 166-185** are similarly confirmed as a result of their dependency (directly or indirectly) from claim 165.

Regarding claim 186, the prior art of record fails to explicitly disclose at least “a magnitude of the blurring is continuously increased as a continuous function of an increase in the magnitude of the gesture being detected on the touch screen; a magnitude of the blurring is continuously decreased as a continuous function of another change”, as claimed. As a result, claim 186 is confirmed. **Claims 188, 193, 195, 196, 198, and 205-207** are similarly confirmed as a result of their dependency (directly or indirectly) from claim 186.

Regarding claim 208, the prior art of record fails to explicitly disclose at least “when the magnitude, including a distance magnitude, of the gesture detected on the touch screen is not detected to increase above a distance threshold, a home screen for choosing among a plurality of application is displayed; and when the magnitude, including the distance magnitude, of the gesture detected on the touch screen is detected to increase above the distance threshold, a multitasking interface for choosing among a plurality of active applications is displayed, such that: the multitasking interface is displayed in at least one first virtual display layer that appears above a second virtual display layer including the at least portion of the at least one other object that is blurred, and the multitasking interface remains displayed after the completion of the gesture”, as claimed. As a result, claim 208 is confirmed. **Claim 217** is similarly confirmed as a result of its dependency from claim 208.

Regarding claim 218, the prior art of record fails to explicitly disclose at least “when the magnitude, including a distance magnitude, of the gesture detected on the touch screen is not detected to increase above a distance threshold or a duration magnitude of the gesture detected on the touch screen is not detected to increase above a duration threshold, the home screen for choosing among the plurality of applications remains displayed; and when the

magnitude, including the distance magnitude, of the gesture detected on the touch screen is detected to increase above the distance threshold and the duration magnitude of the gesture detected on the touch screen is detected to increase above the duration threshold: a multitasking interface for choosing among a plurality of active applications is displayed, such that: the multitasking interface is displayed in at least one first virtual display layer that appears above a second virtual display layer including the at least portion of the at least one other object that is blurred, and the multitasking interface remains displayed after the completion of the gesture”, as claimed. As a result, claim 218 is confirmed. **Claims 219-221** are similarly confirmed as a result of their dependency (directly or indirectly) from claim 218.

Regarding claim 230, the prior art of record fails to explicitly disclose “wherein, in response to the magnitude, including a distance magnitude, of the gesture detected on the touch screen being detected to increase above a distance threshold, a menu is displayed with at least one option”, as claimed. As a result, claim 230 is confirmed. **Claim 232** is similarly confirmed as a result of its dependency from claim 230.

Conclusion

Subsequently, claims 2, 101, 108, 118-120, and 225 are rejected. Claims 83, 85, 86, 109-115, 123-127, 130-132, 134, 136, 137, 142-148, 150-186, 188, 193, 195, 196, 198, 205-208, 217-221, 230, and 232 are confirmed.

All correspondence relating to this *Ex Parte* reexamination proceeding should be directed:

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Any inquiry concerning this communication should be directed by telephone to Michael Roswell, at 571-272-4055.

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