



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
13/604,942	09/06/2012	Yoshie Maeda	0124/0141	7388
21395 7590 01/28/2015 LOUIS WOO LAW OFFICE OF LOUIS WOO 717 NORTH FAYETTE STREET ALEXANDRIA, VA 22314			EXAMINER LEE, NICHOLAS J	
			ART UNIT 2626	PAPER NUMBER
			MAIL DATE 01/28/2015	DELIVERY MODE 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.

Office Action Summary	Application No. 13/604,942	Applicant(s) MAEDA, YOSHIE	
	Examiner NICHOLAS LEE	Art Unit 2626	AIA (First Inventor to File) Status No

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

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTHS FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 9/6/2012.
☐ A declaration(s)/affidavit(s) under **37 CFR 1.130(b)** was/were filed on ____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.

4) ☐ Since this application is in condition for allowance 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.

Disposition of Claims*

5) ☒ Claim(s) 1-13 is/are pending in the application.
5a) Of the above claim(s) ____ is/are withdrawn from consideration.

6) ☐ Claim(s) ____ is/are allowed.

7) ☒ Claim(s) 1,3,5,12 and 13 is/are rejected.

8) ☒ Claim(s) 2,4 and 6-11 is/are objected to.

9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

* If any claims have been determined allowable, you may be eligible to benefit from the **Patent Prosecution Highway** program at a participating intellectual property office for the corresponding application. For more information, please see http://www.uspto.gov/patents/init_events/pph/index.jsp or send an inquiry to PPHfeedback@uspto.gov.

Application Papers

10) ☐ The specification is objected to by the Examiner.

11) ☒ The drawing(s) filed on 9/6/2012 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

Certified copies:

a) ☐ All b) ☐ Some** c) ☐ None of the:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. ____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

** See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☒ Information Disclosure Statement(s) (PTO/SB/08a and/or PTO/SB/08b)
Paper No(s)/Mail Date 9/6/2012

3) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____

4) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.
3. Claim 13 is drawn to a "program" *per se*, therefore, fail(s) to fall within a statutory category of invention.

A claim directed to a computer program itself is non-statutory because it is not:

A process occurring as a result of executing the program, or

A machine programmed to operate in accordance with the program, or

A manufacture structurally and functionally interconnected with the program in a manner which enable the program to act as a computer component and realize its functionality, or

A composition of matter.

See MPEP § 2106.01. Data structures not claimed as embodied in computer readable media are descriptive material *per se* and are not statutory because they are not capable of causing functional change in the computer. See, e.g., *Warmerdam*, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure *per se* held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claimed aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed

computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Objections

4. Claims 2-11 are objected to because of the following informalities: Claims 2-11 recite "An electronic apparatus as recited in" and should be amended to read "**The** electronic apparatus as recited in". Appropriate correction is required.

Allowable Subject Matter

5. Claims 2, 4 and 6-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

6. The following is a quotation of pre-AIA 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1 and 12-13 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2007/0229471 A1 to Kim et al ("Kim") in view of US Patent Pub. 2008/0168403 A1 to Westerman et al ("Westerman").

As to claim 1, Kim discloses an electronic apparatus (**See Fig. 1**) comprising:

- a display (**120**);
- an indicating section for indicating objects on the display (**See Fig. 2A**);
- a touch panel superposed on the display (**¶ 0044, "touch screen"**);
- an acquiring section for detecting user's touches to the touch panel and acquiring positions of the user's touches to the touch panel as touch positions (**See Fig. 2B; ¶ 0052**); and

the selecting section being further for setting a rectangular area with respect to the display and selecting an object or objects contained in the rectangular area (**See Fig. 2C**);

wherein two opposite corners of the rectangular area are respectively coincident with the first and second touch positions occurring at an initial stage of the user's touches to the touch panel (**See Fig. 2C, first point and second point**).

Kim fails to disclose a selecting section for deciding whether or not first

and second touch positions are acquired by the acquiring section, for calculating a distance between the first and second touch positions, and for deciding whether or not the calculated distance between the first and second touch positions decreases in accordance with the lapse of time.

Westerman discloses a method for deciding whether or not first and second touch positions are acquired by the acquiring section, for calculating a distance between the first and second touch positions, and for deciding whether or not the calculated distance between the first and second touch positions decreases in accordance with the lapse of time **(See Fig. 12)**.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Kim with the teachings of Westerman for deciding whether or not first and second touch positions are acquired by the acquiring section, for calculating a distance between the first and second touch positions, and for deciding whether or not the calculated distance between the first and second touch positions decreases in accordance with the lapse of time, as suggested by Westerman thereby using known configurations for detecting gesture input by two fingers for controlling a graphical user interface.

As to claim 12, the same rejection or discussion is used as in the rejection of claim 1.

As to claim 13, the same rejection or discussion is used as in the rejection of claim 1.

8. Claims 3 and 5 are rejected under pre-AIA 35 U.S.C. 103(a) as being unpatentable over US Patent Pub. 2007/0229471 A1 to Kim et al ("Kim") in view of US Patent Pub. 2008/0168403 A1 to Westerman et al ("Westerman"), and further in view of US Patent Pub. 2010/0007630 A1 to Chang.

As to claim 3, Kim discloses an apparatus comprising a selection gesture for selecting objects within a rectangular selecting section **(See Fig. 2B-C)**.

Kim in view of Westerman fails to disclose further comprising a moving section for deciding whether or not the distance between the first and second touch positions is substantially constant, for deciding whether or not the first and second touch positions are slid in substantially a same direction after the object or objects contained in the rectangular area are selected by the selecting section, and for, in cases where it is decided that the distance between the first and second touch positions is substantially constant and the first and second touch positions are slid in substantially a same direction, moving the selected object or objects along said same direction **(See Fig. 10G; ¶ 0063-0064; Chang discloses command gestures (i.e. two touches moving in the same direction) which can correspond to commands performed on objects (i.e. translate).)**.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Kim in view of Westerman with the teachings of Chang of a moving section for deciding whether or not the distance between the first and second touch positions is substantially constant, for deciding whether or

not the first and second touch positions are slid in substantially a same direction after the object or objects contained in the rectangular area are selected by the selecting section, and for, in cases where it is decided that the distance between the first and second touch positions is substantially constant and the first and second touch positions are slid in substantially a same direction, moving the selected object or objects along said same direction, as suggested by Chang thereby using known combinations of gestures with commands for manipulating objects on graphical user interfaces.

As to claim 5, Kim discloses an apparatus comprising a selection gesture for selecting objects within a rectangular selecting section **(See Fig. 2B-C)**.

Kim in view of Westerman fails to disclose further comprising a deleting section for deciding whether or not the first and second touch positions are rotated in a same direction after the object or objects contained in the rectangular area are selected by the selecting section, and for deleting the selected object or objects in cases where it is decided that the first and second touch positions are rotated in a same direction.

Chang discloses further comprising a deleting section for deciding whether or not the first and second touch positions are rotated in a same direction, and for deleting the object or objects in cases where it is decided that the first and second touch positions are rotated in a same direction **(See Fig. 10F; ¶ 0063-0064; Chang discloses command gestures (i.e. two touches rotating in the same direction) which can correspond to commands performed on objects**

(i.e. delete).).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to have modified Kim in view of Westerman with the teachings of Chang of a deleting section for deciding whether or not the first and second touch positions are rotated in a same direction, and for deleting the object or objects in cases where it is decided that the first and second touch positions are rotated in a same direction, as suggested by Chang thereby using known combinations of gestures with commands for manipulating objects on graphical user interfaces.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS LEE whose telephone number is (571)270-7354. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Claire Pappas can be reached on 571-270-1051. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NICHOLAS LEE/
Primary Examiner, Art Unit 2626

Notice of References Cited	Application/Control No. 13/604,942	Applicant(s)/Patent Under Reexamination MAEDA, YOSHIE	
	Examiner NICHOLAS LEE	Art Unit 2626	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-2007/0229471	10-2007	Kim et al.	345/173
*	B	US-2008/0168403	07-2008	Westerman et al.	715/863
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.