

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* MARCEL VAN OS, FREDDY ALLEN ANZURES,  
SCOTT FORSTALL, GREG CHRISTIE, and  
IMRAN CHAUDHRI

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Appeal 2013-004862  
Application 12/364,470  
Technology Center 2100

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Before JEAN R. HOMERE, DANIEL N. FISHMAN, and  
BETH Z. SHAW, *Administrative Patent Judges*.

SHAW, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants seek our review under 35 U.S.C. § 134(a) of the Examiner's final rejection of claims 1–3, 5, 6, 8, 9, 11–25, and 31–41. We have jurisdiction under 35 U.S.C. § 6(b). An oral hearing was conducted on May 12, 2015.

We affirm-in-part.

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## INVENTION

The invention relates to user interfaces that use touch-sensitive displays and include an interface reconfiguration mode. *See Spec. ¶ 3.*

Claims 1, 38, and 40 are representative and are reproduced below, with disputed limitations italicized:

1. A portable electronic device, comprising:
  - a touch-sensitive display;
  - one or more processors;
  - memory; and
  - one or more programs, wherein the one or more programs are stored in the memory and configured to be executed by the one or more processors, the programs including instructions for:
    - displaying a first plurality of icons in a first region on the touch-sensitive display;
    - detecting a first predefined user action comprising a sustained touch, with respect to the touch-sensitive display at a first location on a first icon on the display, for initiating a predefined user interface reconfiguration process;*
    - simultaneously varying positions of multiple icons of the first plurality of icons in response to detecting the first predefined user action, wherein the simultaneously varying includes varying the positions of each icon of the multiple icons about a respective average position distinct from the respective average positions of other icons of the multiple icons;*
    - and
    - detecting movement of the touch from the first location on the display to a second location on the display at which a second icon is located, and in response to the detected movement, moving the first icon to the second location.*

38. A portable electronic device including a graphical user interface, comprising:
  - a touch-sensitive display configured to display the graphical user interface;

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a processor coupled to communicate with the touch-sensitive display; and

a machine-readable storage medium including a plurality of instructions that, when executed by the processor, cause the performing of operations including,

displaying a plurality of icons of the graphical user interface on the touch-sensitive display, the icons individually corresponding to applications to provide additional functionality through the portable electronic device;

detecting a first user touch on the touch-sensitive display, the first user touch of a first duration and at a location proximate a first icon of the plurality of icons;

interpreting the detected first user touch as an input to initiate the application corresponding to that first icon;

*detecting a second user touch on the touch-sensitive display, the second user touch of a second duration, longer than the first duration, and at a location proximate a second icon of the plurality of icons;*

*interpreting the detected second, longer, user touch as an input initiating an interface reconfiguration mode;* and

in response to subsequent user movement on the touch screen from the location proximate the second icon to a third location, moving the second icon from the second location to the third location.

40. A method of operating a portable electronic device including a graphical user interface implemented through a touch screen interface, comprising the acts of:

displaying a first plurality of icons of the graphical user interface on the touch sensitive display;

detecting a first user touch on the touch-sensitive display, the first user touch of at least an established duration and at a first location proximate a first icon of the plurality of icons;

*interpreting the detected first user touch as an input to initiate an interface reconfiguration mode, and in the absence of a further user input allowing movement of at least the first icon from the first location; and*



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*in response to user movement of the touch on the touch screen from the first location proximate the first icon to a second location, moving the first icon from the first location to the second location.*

#### REJECTIONS

The Examiner rejected claims 1–3, 5, 6, 8, 9, 11–25, and 31–37 under 35 U.S.C. § 103(a) as being unpatentable over Hawkins et al. (US 7,231,229 B1; June 12, 2007), Gillespie et al. (US 2002/0191029 A1; Dec. 19, 2002), and Krishnan (US 6,278,454 B1; Aug. 21, 2001). Final Act. 2–12.

The Examiner rejected claims 38–41 under 35 U.S.C. § 103(a) as being unpatentable over Hawkins and Gillespie. Final Act. 12–16.

#### ISSUES

We focus our discussion below on the following dispositive issues:

Did the Examiner err in finding the combination of Hawkins, Gillespie, and Krishnan teaches or suggests the disputed limitations of:

detecting a first predefined user action comprising a sustained touch, with respect to the touch-sensitive display at a first location on a first icon on the display, for initiating a predefined user interface reconfiguration process;

simultaneously varying positions of multiple icons of the first plurality of icons in response to detecting the first predefined user action, wherein the simultaneously varying includes varying the positions of each icon of the multiple icons about a respective average position distinct from the respective average positions of other icons of the multiple icons;

and

detecting movement of the touch from the first location on the display to a second location on the display at which a second icon is located, and in response to the detected

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movement, moving the first icon to the second location  
as recited in claim 1?

Did the Examiner err in finding the combination of Hawkins and  
Gillespie teaches or suggests the disputed limitations of:

detecting a second user touch on the touch-sensitive  
display, the second user touch of a second duration, longer than  
the first duration, and at a location proximate a second icon of  
the plurality of icons;

[and] interpreting the detected second, longer, user touch  
as an input initiating an interface reconfiguration mode;

as recited in claim 38?

Did the Examiner err in finding the combination of Hawkins and  
Gillespie teaches or suggests the disputed limitations of:

interpreting the detected first user touch as an input to  
initiate an interface reconfiguration mode, and in the absence of  
a further user input allowing movement of at least the first icon  
from the first location; and

in response to user movement of the touch on the touch  
screen from the first location proximate the first icon to a  
second location, moving the first icon from the first location to  
the second location

as recited in claim 40?

## ANALYSIS

### Claim 1

We conclude the Examiner erred in finding one skilled in the art  
would have recognized the combination of Hawkins, Gillespie, and Krishnan  
teaches or suggests teaches or suggests,

simultaneously varying positions of multiple icons of the first  
plurality of icons in response to detecting the first predefined

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user action, wherein the simultaneously varying includes varying the positions of each icon of the multiple icons about a respective average position distinct from the respective average positions of other icons of the multiple icons

as recited in claim 1.

The Examiner cites Krishnan as “disclos[ing] that the icons are animated to indicate a state of the participant.” Ans. 4.

[I]t would not have been unreasonable to a person of ordinary skill in the art at the time of the invention to glean the advantages of simultaneously varying positions of at least two of the icons as the state of the call participant changes. For instance, two callers being on hold, or two callers entering a conference call at the time [sic] same time, or two callers exiting the conference at the same time or two callers speaking at the same time.

Ans. 4.

However, although Krishnan describes that “icons . . . can also be animated to indicate a state,” (Krishnan 7:8–10) we agree with Appellants that the cited disclosure does not teach or suggest “simultaneously varying multiple icons **in response to detecting a predefined user action for initiating a user interface reconfiguration process.**” App. Br. 18; Reply Br. 11. We agree with Appellants that “even if there was a circumstance in Krishnan where multiple icons simultaneously varied their positions, multiple actions would be required to animate the multiple icons (i.e., multiple call participants would need to enter states that require user or operator attention), rather than a single action.” App. Br. 18; Reply Br. 11.

Because Appellants have shown at least one reversible error in the Examiner’s rejection, we need not reach Appellants’ remaining arguments. Accordingly, we do not sustain the rejection of claim 1. For the same



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reasons, we also reverse the rejection of independent claims 11, 16, and 21, and of each associated dependent claim.

Claim 38

We conclude the Examiner did not err in finding one skilled in the art would have recognized the combination of Hawkins and Gillespie teaches or suggests the disputed limitation of claim 38. Appellants argue Gillespie triggers an icon's single activated function, which "has nothing to do with initiating a user interface reconfiguration mode." App. Br. 22. However, the Examiner rejects claim 38 over the *combined* teachings of Hawkins and Gillespie, and what the combined teachings *would have suggested* to one of ordinary skill in the art. One cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. *See In re Merck & Co., Inc.*, 800 F.2d 1091, 1097 (Fed. Cir. 1986).

The Examiner concludes:

[i]t would have been obvious to one of ordinary skill in the art at the time that the invention was made to combine the teachings of Hawkins of initiating a mode for reconfiguring the positions of icons displayed on a touch-sensitive display by dragging the icons to a new position with the teachings of Gillespie of visually indicating to a user on a display when a predefined user interface reconfiguration mode has been entered into by the user by sustaining a touch on the user interface. One of ordinary skill in the art would have recognized that Gillespie's technique of entering a user interface reconfiguration mode in response to a user sustaining a touch in proximity to an icon displayed on the touchscreen would be an intuitive way for users of Hawkins' device to enter into the editing mode in which they could rearrange the icons corresponding to applications on the interface.

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Final Act. 15. We find the Examiner did not err by combining Gillespie's teachings of a user touch of a longer duration (*see* Gillespie, ¶ 71) and of a reconfiguration process (*see id.* at ¶ 61) with Hawkins' disclosure of an interface reconfiguration mode (Hawkins 17:44–54). *See* Final Act. 13–14. Accordingly, we sustain the Examiner's rejection of claim 38 under 35 U.S.C. § 103(a).

#### Claim 40

We conclude the Examiner did not err in finding one skilled in the art would have recognized the combination of Hawkins and Gillespie teaches or suggests the disputed limitation of claim 40. Appellants argue Hawkins “discloses a first user action for selecting a command to enter a new screen for editing a previous screen configuration, and a second, separate user action for dragging an icon on a current display from a first location to a second location.” App. Br. 24. However, the Examiner rejects claim 40 over the combined teachings of Hawkins and Gillespie, and what the combined teachings would have suggested to one of ordinary skill in the art. For the same reasons as discussed above with respect to claim 38, we are unpersuaded the Examiner erred in combining Hawkins's teaching of rearrangement of buttons and Gillespie's teaching of a steady touch and of adding or removing icons. *See* Ans. 5–6. Accordingly, we sustain the Examiner's rejection of claim 40 under 35 U.S.C. § 103(a).

Because Appellants have not presented separate patentability arguments or has reiterated substantially the same patentability arguments as those previously discussed for claim 38 and 40 (App. Br. 21–24), we also



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sustain the rejections of claim 39 and 41. *See* 37 C.F.R.  
§ 41.37(c)(1)(iv)(2012).

DECISION

We reverse the rejections of claims 1–3, 5, 6, 8, 9, 11–25, and 31–37.

We affirm the rejections of claims 38–41.

AFFIRMED-IN-PART

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