Filed on behalf of ABB, Inc.

DOCKET

By: Richard D. Mc Leod (Reg. No. 46,921) Rick.mcleod@klarquist.com John D. Vandenberg (Reg. No. 31,312) john.vandenberg@klarquist.com Klarquist Sparkman LLP One World Trade Center, Suite 1600 121 S.W. Salmon Street Portland, Oregon 97204 Telephone: (503) 595-5300 Facsimile: (503) 595-5301

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

ABB, INC. Petitioner

v.

ROY-G-BIV CORPORATION Patent Owner

> Case IPR2013-00062 Patent 6,516,236 B1

MOTION FOR RECONSIDERATION OF DECISION ON INSTITUTION OF *INTER PARTES* REVIEW (37 C.F.R. <u>§ 42.108)</u>

TABLE OF CONTENTS

		Page
I.	INTR	ODUCTION1
II.	STAT	TEMENT OF RELIEF1
III.	ARG	UMENT2
	A.	The Standard of Review for Rehearing is Abuse of Discretion
	В.	The Board Erroneously Held That The 236 Patent Defined "Primitive Operations"4
		1. Both "Move Relative" and "Move Absolute" Can Be Emulated7
		2. Motion Control Systems Exist That Do Not Require Both "Move Relative" and "Move Absolute"9
		3. The Construction For Primitive Operations Cannot Exclude The "Exemplary Software System"11
	C.	WOSA Is Directly Applicable11
IV.	CON	CLUSION15

Case IPR2013-00062 Patent 6,516,236 B1

TABLE OF AUTHORITIES

Cases

Merck & Co., Inc. v. Teva Pharms. USA, Inc., 395 F. 3d 1364 (Fed.Cir. 2005)	4
<i>Phillips v. AWH Corp.,</i> 415 F.3d 1303 (Fed. Cir. 2005)	4
<i>Renda Marine, Inc. v. U.S.,</i> 509 F.3d 1372 (Fed. Cir. 2007)	3
Research Mktg. Sys. v. Troy, 659 F.3d 1345 (Fed. Cir. 2011)	4
Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576 (Fed. Cir. 1996)	4

Case IPR2013-00062 Patent 6,516,236 B1

LIST OF EXHIBITS

Previously Filed

DOCKE.

- 1001 David W. Brown et al., U.S. Patent No. 6,516,236, "Motion Control Systems", Issued February 4, 2003.
- 1002 Gertz, M.W., *A Visual Programming Environment for Real-Time Control Systems.* Ph.D. dissertation, Carnegie Mellon University, Nov. 22, 1994 ("Gertz").
- 1003 Microsoft Corporation, WOSA (Windows Open Services Architecture) Extensions for Financial Services, April 14, 1994 ("WOSA/XFS").
- 1004 Stewart, D.B., *Real-Time Software Design and Analysis of Reconfigurable Multi-Sensor Based Systems*. Ph.D. dissertation, Carnegie Mellon University, April 1, 1994 ("Stewart").
- Morrow, J. Dan; Nelson, Bradley J.; and Khosla, Pradeep, Vision and Force Driven Sensorimotor Primitives for Robotic Assembly Skills.
 Institute for Software Research, paper 574, January 1, 1995 ("Morrow").
- 1006 Microsoft Press, MS Windows 3.1 Device Driver Adaptation Guide, © 1991, Chs. 1-2, 4, 10-12 ("DDAG").
- Hall, Marty and Mayfield, James, Improving the Performance of AI Software: Payoffs and Pitfalls in Using Automatic Memoization.
 Proceedings of Sixth International Symposium on Artificial Intelligence, Monterrey, Mexico, September 1993 ("Hall").
- 1008 Michael Wright et al., U.S. Patent No. 5,453,933, "CNC Control System," issued Sept. 26, 1995 ("Wright").
- 1009 David B. Stewart et al., *The Chimera II Real-Time Operating System for Advanced Sensor-Based Control Applications*. Institute for Software Research, paper 613, January 1, 1992 ("Chimera II").
- 1010 Cashin, J., WOSA: Windows Open Services Architecture, January 11, 1994 ("Cashin").
- 1011 Kevin Holloway, *Motion Software Heads Toward Friendlier User Environments*, published at www.roygbiv.com/XMCreview1.htm, January

21, 1997 ("Holloway").

- 1012 Plaintiff Roy-G-Biv Corporation's Opening Markman Brief, Roy-G-Biv Corp., v. Fanuc Ltd., et al. (E.D.Tex., Nov. 21, 2008) (CASE NO. 2:07-CV-0418-DF-CE) ("RGB Markman Brief").
- 1013 Claim Construction Order, Roy-G-Biv Corp., v. Fanuc Ltd., et al. (E.D.Tex., Nov. 21, 2008) (CASE NO. 2:07-CV-0418-DF-CE) ("Markman Order").
- 1014 U.S. Patent No. 5,881,230, "Method and System for Remote Automation of Object Oriented Applications," issued Mar. 9, 1999 ("Christensen").
- 1015 U.S. Patent No. 5,691,897, "Motion Control Systems," issued Nov. 25, 1997 ("the '897 Patent").
- 1016 U.S. Patent No. 5,867,385, "Motion Control Systems," issued Feb. 2, 1999 ("the 385 Patent").
- 1017 Jacob Tal, *Step by Step Design of Motion Control Systems*, Chapters 9 and 10, Galil Motion Control, Inc., 1994 ("Tal").
- 1018 Hewlett Packard, Matrix/Plotter Programming, HP 9831A Desktop Computer, 1977 ("HP77").
- 1019 Hewlett Packard, Interface and Programming Manual, HP 7550 Graphics Plotter, 3rd ed., 1986 ("HP86").
- 1020 Hewlett Packard, User's Guide, HP 7550 Plus Plotter, 1990 ("HP90")
- 1021 Martin L. Stone et al., *An Intelligent Plotter for High-Throughput, Unattended Operation*, Hewlett-Packard Journal, April, 1985 ("HP85")
- 1022 Preliminary Infringement Contentions, ROY-G-BIV Corp., v. ABB, Ltd. et al. (E.D.Tex., Sept. 14, 2012) (CASE NO. 6:11-CV-00622-LED) ("RGB PIC").
- 1023 Preliminary Infringement Contentions, Exhibit B, ROY-G-BIV Corp., v. ABB, Ltd. et al. (E.D.Tex., Sept. 14, 2012) (CASE NO. 6:11-CV-00622-LED) ("RGB PIC, Ex. B").

DOCKET A L A R M



Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.