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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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WINTEK CORPORATION

Petitioner

v.

TPK TOUCH SOLUTIONS INC.  
Patent Owner

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Case No. IPR2013-00568  
U.S. Patent No. 8,217,902

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**PETITIONER'S REPLY TO PATENT OWNER'S RESPONSE**

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Petitioner Wintek Corporation (“Wintek”) replies to Patent Owner TPK Touch Solutions, Inc.’s (“TPK”) Response to Wintek’s Petition (Paper 28, “Response” or “Resp.”) and the Board’s decision to institute *inter partes* review (Paper 10, “Decision”) of U.S. Patent No. 8,217,902 (“the ’902 patent”). TPK’s arguments should be rejected at least for the reasons set forth in the Petition (Paper 2), the testimony of Wintek’s expert (Exs. 1013, 2009), and for the reasons below.

### **I. TPK’S CLAIM CONSTRUCTIONS ARE UNREASONABLE**

The Board’s constructions of “conductor cells” and “conduction lines” are the broadest reasonable constructions and are supported by the evidence. *See* Decision, 10. While TPK calls the Board’s constructions “tortured,” its own constructions add limitations to the claims and introduce ambiguities that make it impossible to ascertain the claim scope. Resp., 14-18; Ex. 2002, ¶¶ 79, 83.

TPK does not explain what it means for a “conductor cell” to be “discrete” and “self-contained.” While its expert tried to relate them to “geometric characteristics,” he could not explain how. Ex. 1026, 56:21-57:3; *see also id.*, 35:14-36:3. He also could not determine where a conduction line ends and a conductor cell begins for the ’902 patent’s structures, or “imagine a situation” where such distinction was necessary. Ex. 1026, 107:8-112:21; Exs. 1019-1021. Nor could he explain how his own exemplary touch panel structure contained such characteristics. Ex. 1026, 64:19-66:11; Ex. 2002, ¶ 84.

Contrary to TPK's position, the '902 patent simply describes that a "capacitance variation signal" is induced when a finger touches adjacent conductor cells, not that a cell senses capacitance. *See* Ex. 1001, 3:49-62, 5:62-6:3; Ex. 1026, 88:18-19, 88:21-89:2, 89:4-6.<sup>1</sup> TPK's position that conduction lines are "not part of the capacitive structure" also cannot be reconciled with its expert's testimony that conduction lines have capacitance and, while not part of the "sensor measurement," are needed for such features since the "system would stop working" if they were removed. Ex. 2002, ¶ 79; Ex. 1026, 39:3-8, 89:12-90:17. Nor could Dr. Smith define how low the capacitive coupling for conduction lines needs to be so that it is not part of the "capacitive structure." Ex. 1026, 42:24-44:4. Even TPK's documentation relied on by its expert explains that conduction lines between cells also provide mutual capacitance sensing capabilities. Ex. 2008, 21.

TPK's expert also testified that the terms must be construed based on the intended function and design of a touch panel system that may contain such structures. Ex. 1026, 39:10-14, 41:5-13, 43:4-44:4, 47:14-48:3, 50:5-51:4. But neither the '902 patent nor any of the other evidence provides such subjective intent of an unknown system designer. TPK's positions are also suspect and should be given little weight since its expert admittedly never reviewed or considered the

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<sup>1</sup> Wintek's expert never agreed with TPK's constructions. Resp., 13-14; Ex. 2009, 300:7-12 (stating simply that cells are involved in sensing aspects).

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