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Paper No. 13
Entered: June 17, 2014

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

WINTEK CORPORATION,
Petitioner,

v.

TPK TOUCH SOLUTIONS, INC.,
Patent Owner.

Case IPR2014-00541
Patent 8,217,902 B2

Before JOSIAH C. COCKS and RICHARD E. RICE, *Administrative Patent Judges.*

PER CURIAM.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. BACKGROUND

Pursuant to 35 U.S.C. § 311, Wintek Corporation ("Wintek") filed a Petition (Paper 2, "Pet.") to institute an *inter partes* review of claims 20, 23, 28, and 30 (the "challenged claims") of US Patent No. 8,217,902 B2, issued July 10, 2012 (Ex. 1001, "the '902 patent"). TPK Touch Solutions, Inc. ("TPK") timely filed a Preliminary Response (Paper 12, "Prelim. Resp.") contending that the Petition should be denied as to all challenged claims.

The '902 patent is involved in an ongoing district court litigation, *TPK Touch Solutions, Inc. v. Wintek Electro-Optics Corp.*, No.3:13-cv-02218 (N.D. Cal. 2013). Pet. 3. In addition, Wintek filed an *ex parte* reexamination request (Control No. 90/012,869) for the '902 patent, which was granted on June 20, 2013. *Id.* at 2. Lastly, Wintek filed two Petitions to institute *inter partes* reviews of all claims of the '902 patent, IPR2013-00567 and 568. *Id.* at 2-3. In the two cases, the Board instituted *inter partes* reviews on all claims of the '902 patent, with the exception of dependent claims 23 and 30. *Id.*

We conclude that Wintek has shown, under 35 U.S.C. § 314(a), a reasonable likelihood that it would prevail with respect to claims 20, 23, 28, and 30.

A. The '902 Patent

The '902 patent relates to a conductor pattern for a capacitive touch panel. Ex. 1001, col. 1, ll. 6-8. Prior to the '902 patent, capacitive touch panels were utilized on personal digital assistants ("PDAs"), electrical appliances, and game machines. *Id.* at col. 1, ll. 12-21. Conventional touch panels consisted of an array of electrodes often arranged in orthogonal rows and columns formed on a substrate (e.g., glass). *Id.* at col. 1, ll. 24-31, col. 1, l. 42–col. 3, l. 3. The rows of electrodes were separated from the columns of electrodes by a sheet of insulating material.

Id. at col. 2, ll. 57-63. The inventors of the '902 patent found this mode of separation undesirable as it resulted in a thick panel (*id.* at col. 2, ll. 63-64) and required a complicated manufacturing process to provide holes through the substrate and circuit layering (*id.* at col. 2, l. 64–col. 3, l. 4).

The '902 patent discloses a capacitive touch panel wherein the electrode array is formed on the same surface of the substrate. *Id.* at col. 3, ll. 20-31. Figure 1 of the '902 patent is reproduced below.

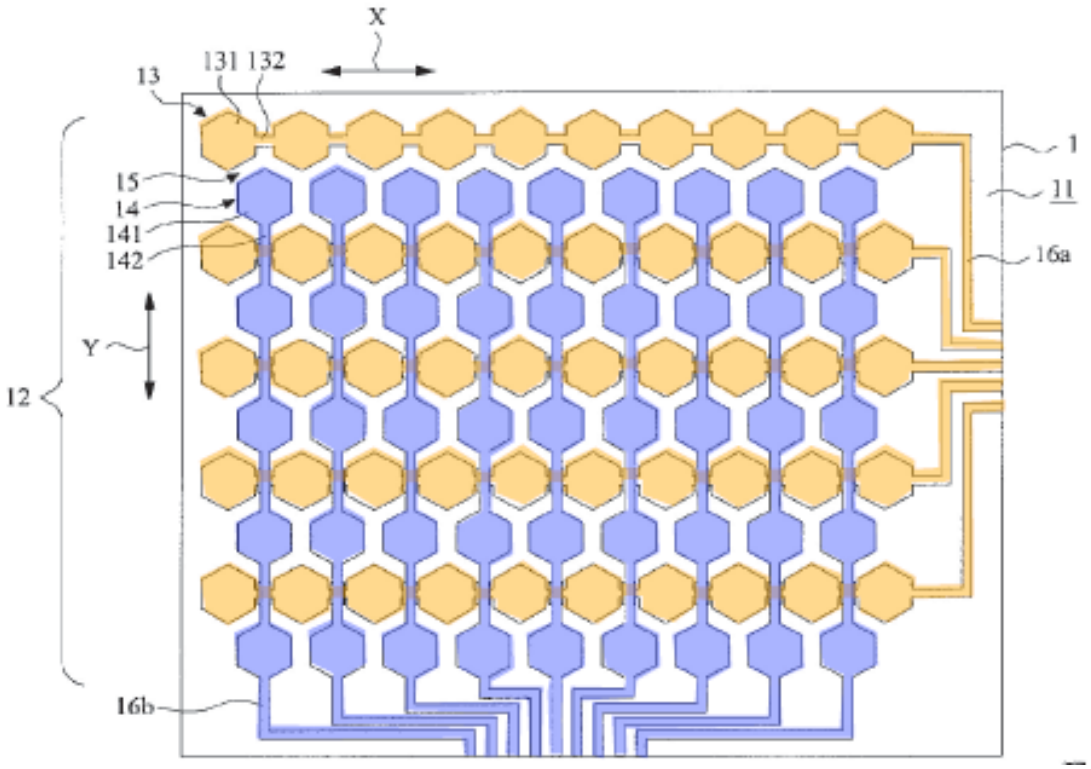

Figure 1 of the '902 patent (colors added).

More specifically, the '902 patent discloses in Figure 1 (a colorized version of which is included above) capacitive touch panel 12. *Id.* at col. 4, ll. 41-48. Two orthogonal arrays of conductor assemblies 13, 14, each comprised of a row or column of cells (i.e., 131, 141), are formed on top surface 11 of substrate 1. *Id.* at

col. 4, ll. 45-58. Rows of cells 131, depicted in orange, are arranged in parallel to a first or X-axis, whereas columns of cells 141, depicted in purple, are parallel to a second or Y-axis. *Id.* at col. 4, ll. 49-58. Within each row of first-axis cells 131, cells 131 are electrically connected to one another with one first-axis conduction line 132. *Id.* at col. 5, ll. 3-13. The rows are further connected to signal transmission lines 16a. *Id.* Similarly, within each column of second-axis cells 141, the cells are electrically connected by second-axis conduction line 142, and each column is further connected to signal transmission line 16b. *Id.* at col. 5, ll. 24-34. At the intersections of first-axis conduction lines 132 and second-axis conduction lines 142, lays an insulation layer, not depicted in Figure 1. *Id.* at col. 5, ll. 14-23. The portion of substrate surface 11 delimited between adjacent first-axis assemblies 13 and adjacent first-axis conductor cells 131 is disposition zone 15. *Id.* at col. 4, l. 67–col. 5, l. 2. Thus, second-axis assemblies 14 are set in disposition zone 15. *Id.* at col. 5, ll. 22-23.

In operation, touch panel 12 functions in the following manner. Assume something (e.g., a user's finger) touches panel 12 in contact area A. *See id.* at Fig. 5. First-axis conductor cell 131 and second-axis conductor cell 141, which are covered by contact area A, induce a capacitor effect there between, and a signal is transmitted through the signal transmission lines 16a, 16b to a control circuit, which performs the necessary computation to determine the point of contact A. *Id.* at col. 5, l. 62–col. 6, l. 5.

Insulation layer 17, which is not depicted in Figure 1, may be seen in the partial cross-section depicted in Figure 3, shown in colorized form below.

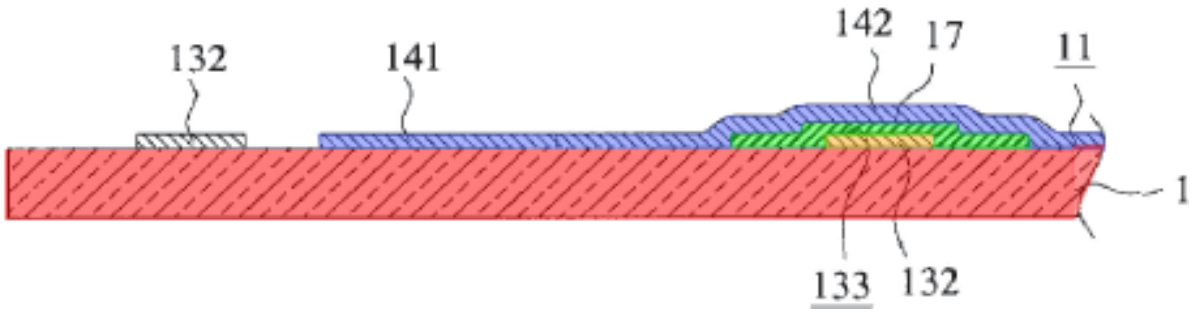

Figure 3 of the ’902 patent (colors added).

Insulation layer 17 (depicted in green) is shown between upper surface 133 of first-axis conduction line 132 (depicted in orange) and the lower surface of second-axis conduction line 142 (depicted in purple). *Id.* at col. 5, ll. 41-47. Thus, unlike the prior art described in the Background section of the ’902 patent, the rows and columns of electrodes are not separated by a sheet of insulation; only the intersections of the rows and columns are separated by insulation.

The ’902 patent also relates to a method for constructing a conductor pattern of a capacitive touch panel. First-axis conductor cells 131, second-axis conductor cells 141, first-axis conduction lines 132, and signal transmission lines 16a, 16b are formed together on surface 11 of substrate 1. *Id.* at col. 6, ll. 20-23; *see* Fig. 7. Next, insulating layer 17 is applied to cover top surfaces 133 of first-axis conduction lines 132, which intersect with second-axis conduction lines 142. *Id.* at col. 6, ll. 24-27; *see* Fig. 8. Lastly, second-axis conduction lines 142 are formed. *Id*. at col. 6, ll. 27-33; *see* Fig. 9. Standard methods (e.g., etching, sputtering, screen printing) are employed for carrying out the three construction steps. *Id.* at col. 6, ll. 34-41.

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