

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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SONY COMPUTER ENTERTAINMENT AMERICA LLC  
Petitioner

v.

APLIX IP HOLDINGS CORPORATION  
Patent Owner

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Case No. IPR2015-00229  
Patent 7,667,692

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

**PURSUANT TO 37 C.F.R. § 42.120**

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## I. INTRODUCTION

The specification of the '692 Patent claims that there was a purported novelty in providing input controls, such as a touchpad, on the back of a handheld device so that the device could be operated with either the thumbs or the fingers. It has now been established that this concept was never novel. Confronted with prior art that shows exactly the same concept, and an overwhelming record of obviousness, Patent Owner ("PO") is forced to resort to arcane distinctions that are totally absent from the claims. Even PO's own expert does not agree that the claims should be interpreted so narrowly.

There are two substantive arguments in PO's Response, and both should be rejected. First, PO argues that claim 3 should be interpreted narrowly, and limited to PO's interpretation of an embodiment in the specification. *See generally Paper 18, Response* at 17-20. In PO's view, the claim term "providing" means that an application must draw keyboard delineations rather than selecting a keyboard from one or more defaults. This distinction does not exist anywhere in the claim language. For support, PO relies heavily on the opinion of its expert witness Dr. Karon MacLean. But Dr. MacLean testified that she is unfamiliar with claim construction requirements or the principle that it is improper to read limitations from the specification into the claims. Moreover, Dr. MacLean testified that the claims are not limited to the narrow scope that PO proposes in its Response. The Board should reject

PO's improperly narrow claim interpretation, and find that under the broadest reasonable interpretation Liebenow and Armstrong disclose the limitations of claim 3.

Second, PO argues that it would not have been obvious for a person having ordinary skill in the art ("PHOSITA") in October 2003 to add the gyroscope described in Hedberg to the device described in Liebenow. *See generally Paper 18, Response* at 6-15 and 21-25. There are two layers to this argument. PO first argues that Hedberg is not analogous art. But PO has not offered a proposed boundary for the field of endeavor, and the field explicitly identified by the '692 specification encompasses Hedberg. PO's purported evidence for its conclusion, the opinion of Dr. MacLean, is flawed because she admitted that in considering the field of endeavor she relied on the problems that the '692 Patent and Hedberg were allegedly trying to solve. There is no credible evidence to support PO's narrow view of the field of endeavor, and the devices used to implement Hedberg are exactly the same type of devices described in the '692 Patent. PO further argues that there is no motivation to combine Liebenow and Hedberg. But both references explicitly discuss orientation, and Dr. MacLean agrees that landscape and portrait views could be useful in a data entry context. Including a gyroscope would provide this functionality. The Board should reject PO's improperly narrow view of analogous art, and find that it would have been obvious to a PHOSITA to combine the gyroscope from Hedberg with the device described in Liebenow.

Ultimately, the flaw in PO's reasoning throughout its Response is faulty generalization. That is, PO focuses on a specific portion of a document and then infers, incorrectly, that the document *only* teaches X, or completely *fails to* teach Y. As applied to prior art, this reasoning leads PO to focus exclusively on one teaching of a reference and then conclude that the references fail to teach anything else. That is how PO overlooks explicit teachings elsewhere in the references. As applied to claim interpretation, this reasoning leads PO to focus on specific embodiments and to then conclude that examples from the specification should be read in as limitations required by the claims. This flawed reasoning also explains PO's procedural criticisms. PO focuses on particular headings, ignoring context and evidence in the Petition, to conclude that there is no evidence of obviousness. The Board should rely on the entire record, rather than the limited and oversimplified view that PO promotes, and find that all of the Challenged Claims are unpatentable.

## II. ARGUMENT

### A. The Instituted Grounds Are Properly Supported

In its Response, PO renews an argument presented in its Preliminary Response that the Petition does not map Armstrong to claims 1-3, 5, and 7-10, and that the Petition does not map Hedberg to claims 12-13, 15-18, and 20. *See Paper 18, Response* at 3-5. According to PO, the Board's decision to proceed on obviousness grounds instead of anticipation created a fatal flaw in this proceeding, and PO would

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