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Paper 38
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

SONY COMPUTER ENTERTAINMENT AMERICA LLC,
Petitioner,

v.

APLIX IP HOLDINGS CORPORATION,
Patent Owner.

Case IPR2015-00230
Patent 7,463,245 B2

Before SALLY C. MEDLEY, BRYAN F. MOORE, and JASON J. CHUNG, *Administrative Patent Judges.*

MEDLEY, *Administrative Patent Judge.*

FINAL WRITTEN DECISION
Inter Partes Review
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

We have jurisdiction to hear this *inter partes* review under 35 U.S.C. § 6(c). This Final Written Decision is issued pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed herein, Petitioner has shown by a preponderance of the evidence that claims 1–20 of U.S. Patent No. 7,463,245 B2 are unpatentable.

A. Procedural History

Petitioner, Sony Computer Entertainment America LLC, filed a Petition requesting an *inter partes* review of claims 1–20 of U.S. Patent No. 7,463,245 B2 (Ex. 1001, "the '245 patent"). Paper 2 ("Pet."). Patent Owner, Aplix Holdings Corporation, filed a Preliminary Response. Paper 15 ("Prelim. Resp."). Upon consideration of the Petition and Preliminary Response, on May 14, 2015, we instituted an *inter partes* review of claims 1–20, pursuant to 35 U.S.C. § 314. Paper 16 ("Dec.").

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 19 ("PO Resp.")) and Petitioner filed a Reply (Paper 26 ("Pet. Reply")).

Patent Owner filed a Motion for Observations (Paper 31) and Petitioner filed a Response to the Observations (Paper 35).

An oral hearing was held on January 19, 2016, and a transcript of the hearing is included in the record (Paper 37; "Tr.").

B. Related Proceedings

The '245 patent is involved in the following lawsuit: *Aplix IP Holdings Corp. v. Sony Computer Entertainment, Inc.*, No. 1:14-cv-12745 (MLW) (D. Mass.). Pet. 59.

C. The '245 Patent

The '245 patent relates to hand-held electronic devices, such as cell phones, personal digital assistants ("PDAs"), pocket personal computers, smart phones, hand-held game devices, bar-code readers, and remote controls having a keypad or one or more input elements. Ex. 1001, 1:13–19. The hand-held device includes, on one surface, one or more software configurable input elements that can be manipulated by a user's thumb(s) or

stylus, and on the other surface, one or more software configurable selection elements that can be manipulated by a user's finger(s). *Id.* at Abstract.

D. Illustrative Claim

Of the challenged claims, claims 1 and 12 are the only independent claims. Claims 2–11 depend either directly or indirectly from claim 1 and claims 13–20 depend either directly or indirectly from claim 12.

Claim 1, reproduced below, is illustrative.

1. A hand-held device comprising:

> a processor configured to process a selected application having two or more functions;
>
> a first surface including at least a first input element mapped to at least a first function of the selected application; and
>
> a second surface including at least a second input element having a sensor pad comprising a selectively configurable sensing surface that provides more than one delineated active area based on the selected application, wherein at least a first delineated active area is mapped to a second function of the selected application and a second delineated active area is mapped to a third function of the selected application, further wherein the second surface is substantially in opposition to the first surface.

Ex. 1001, 15:28–43.

E. Grounds of Unpatentability

We instituted an *inter partes* review of claims 1–20 on the following grounds:

Claims	Basis	References
1–5, 7, 10–15, 17, and 20	§ 103(a)	Liebenow[1] and Andrews[2]

[1] Liebenow et al., US 2002/0118175 A1, Pub. Aug. 29, 2002 (Ex. 1003).
[2] Andrews et al., PCT WO 00/59594, Pub. Oct. 12, 2000 (Ex. 1004).

Claims	Basis	References
8, 9, and 17–19	§ 103(a)	Liebenow and Hedberg[3]
6	§ 103(a)	Liebenow and Martin[4]
16	§ 103(a)	Griffin[5] and Liebenow

II. ANALYSIS

A. Level of Skill of Person in the Art

We find that the level of ordinary skill in the art is reflected by the prior art of record. *See Okajima v. Bourdeau*, 261 F.3d 1350, 1355 (Fed. Cir. 2001); *In re GPAC Inc.*, 57 F.3d 1573, 1579 (Fed. Cir. 1995); *In re Oelrich*, 579 F.2d 86, 91 (CCPA 1978).

B. Claim Interpretation

In an *inter partes* review, we construe claim terms in an unexpired patent according to their broadest reasonable construction in light of the specification of the patent in which they appear. 37 C.F.R. § 42.100(b); *see also In re Cuozzo Speed Techs., LLC*, 793 F.3d 1268, 1278–79 (Fed. Cir. 2015), *cert. granted sub nom. Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 890 (mem.) (2016). Consistent with the broadest reasonable construction, claim terms are presumed to have their ordinary and customary meaning as understood by a person of ordinary skill in the art in the context of the entire patent disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed.

[3] Hedberg, PCT WO 99/18495, Pub. Apr. 15, 1999 (Ex. 1005).
[4] Martin et al., US 7,336,260 B2, Iss. Feb. 26, 2008 (Ex. 1006).
[5] Griffin et al., US 2003/0020692 A1, Pub. Jan. 30, 2003 (Ex. 1007).

Cir. 2007). Also, we must be careful not to read a particular embodiment appearing in the written description into the claim if the claim language is broader than the embodiment. *See In re Van Geuns*, 988 F.2d 1181, 1184 (Fed. Cir. 1993) ("limitations are not to be read into the claims from the specification"). However, an inventor may provide a meaning for a term that is different from its ordinary meaning by defining the term in the specification with reasonable clarity, deliberateness, and precision. *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994).

Petitioner proposes constructions for the following claim terms: "delineated active area" and "the input element and the touch sensing input element are communicatively coupled to a host device." Pet. 8–9. In our Decision to Institute, we determined that it was not necessary to construe "delineated active area" (claims 1 and 12) and agreed with Petitioner's construction for "the input element and the touch sensing input element are communicatively coupled to a host device" (claim 17). Dec. 6. Neither party has indicated that our determinations in that regard were improper and we do not perceive any reason or evidence that now compels any deviation from our initial determinations. Accordingly, the following construction applies to this Decision:

Claim Term	Construction
the input element and the touch sensing input element are communicatively coupled to a host device (claim 17)	occurs when a handheld device is connected to a host device over a network

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