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.
_____

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.*

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

I.   INTRODUCTION

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."). In response, Patent Owner, Aplix Holdings Corporation, filed a Preliminary Response. Paper 15 ("Prelim. Resp."). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted "unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition."

For the reasons set forth below, we institute an *inter partes* review of claims 1–20 of the '245 patent.

A. Related Matter

The '245 patent is involved in the following lawsuit: *Aplix IP Holdings Corporation v. Sony Computer Entertainment, Inc. et al.,* No. 1:14-cv-12745 (MLW) (D. Mass.). Pet. 59; Prelim. Resp. 2.

B. 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, 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

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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.

C. 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.

D. Prior Art Relied Upon

Petitioner relies upon the following prior art references:

Liebenow	US 2002/0118175 A1	Aug. 29, 2002	(Ex. 1003)
Andrews	WO 2000/59594	Oct. 12, 2000	(Ex. 1004)

Hedberg	WO 1999/18495	Apr. 15, 1999	(Ex. 1005)
Martin	US 7,336,260 B2	Feb. 26, 2008	(Ex. 1006)
Griffin	US 2003/0020692 A1	Jan. 30, 2003	(Ex. 1007)
Pallakoff	US 2002/0163504 A1	Nov. 7, 2002	(Ex. 1008)
Rekimoto	US 7,088,342 B2	Aug. 8, 2006	(Ex. 1009)

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Challenged Claims	Basis	References
1, 7, 10–12, 17, and 20	§ 102(b)	Liebenow
1–5, 7, 10–15, 17 and 20	§ 103(a)	Liebenow and Andrews
1, 7–12, and 17–20	§ 103(a)	Liebenow and Hedberg
1, 6, 7, 10, and 11	§ 103(a)	Liebenow and Martin
1, 10, 12, 16 and 20	§ 103(a)	Griffin and Liebenow
1–5, 10, 12–16, and 20	§ 103(a)	Griffin, Liebenow, and Andrews
1, 10, 12, 16, and 20	§ 103(a)	Pallakoff and Rekimoto
1–5, 10, 12–16, and 20	§ 103(a)	Pallakoff, Rekimoto, and Andrews

II.   ANALYSIS

A. *Claim Construction*

In an *inter partes* review, claim terms in an unexpired patent are given 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*, 778 F.3d 1271, 1281–1282 (Fed. Cir. Feb. 4, 2015) ("Congress implicitly adopted the broadest reasonable interpretation standard in enacting the AIA," and "the standard was properly adopted by PTO regulation."). Under the broadest reasonable interpretation standard, claim terms are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

Petitioner proposes constructions for the following claim terms: "delineated active area," (claims 1 and 12) and "the input element and the touch sensing input element are communicatively coupled to a host device," (claim 17). Pet. 7–9. Specifically, Petitioner proposes that delineated active areas "must at least include areas that are differentiated from each other either physically or tactilely to assist the user in locating the position on the sensor pad of the active areas." *Id.* at 8. Patent Owner argues that Petitioner has submitted an unduly narrow construction for "delineated active area." Prelim. Resp. 20–25. For purposes of this decision, we need not construe "delineated active area." Even assuming Petitioner has an unduly narrow construction for "delineated active area," we are persuaded that it has

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