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. IPR2015-00396
Patent 7,218,313

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PETITIONER'S RESPONSE TO PATENT OWNER'S

MOTION FOR OBSERVATION

I.   INTRODUCTION

Petitioner respectfully requests that the Board consider the record, rather than Patent Owner's ("PO") characterizations of the record, in determining patentability of U.S. Patent No. 7,218,313 ("the '313 Patent"). PO's observations are misleading, because the observations either mischaracterize the record, or include assertions that are not supported by the record.

II.   RESPONSES TO OBSERVATIONS

1.   PO's observation is not relevant. As Dr. Welch explained, his reliance on Rekimoto is just as an exemplary reference used to rebut opinions offered by Dr. MacLean. *See* **Ex. 2051**, *Welch Dec. 17 Tr.* at 8:9-18; **Ex. 1042**, *Welch Supp. Decl.* at ¶ 14. Specifically, the reference is used to rebut Dr. MacLean's opinion that multi-touch technology was not available in October 2003. *See id.* There is no rule that rebuttal evidence is limited to prior art used in instituted grounds.

2.   PO's observation is not relevant. Petitioner has not argued, and Dr. Welch has not opined, that Ishihara explicitly discloses multi-touch capability. *See* **Paper 21**, *Petitioner's Reply* at 11-12; **Ex. 1042**, *Welch Supp. Decl.* at ¶¶ 2-16; **Ex. 2051**, *Welch Dec. 17 Tr.* at 9:16-16:1. Rather, Dr. Welch opines that multi-touch technology was well known before October 2003, and he provides several examples. **Ex. 1042**, *Welch Supp. Decl.* at ¶¶ 2-16. Nothing in this testimony contradicts or limits Dr. Welch's opinion. *See* **Ex. 2051**, *Welch Dec. 17 Tr.* at 9:16-16:1.

3.   PO's observation is not relevant, and PO's assertion about the impact of this testimony on the significance of Dr. Welch's testimony is not accurate. Petitioner has not argued, and Dr. Welch has not opined, that Itaya explicitly discusses using multi-touch on a hand-held scale. *See* **Paper 21**, *Petitioner's Reply* at 11-12; **Ex. 1042**, *Welch Supp. Decl.* at ¶ 10; **Ex. 2051**, *Welch Dec. 17 Tr.* at 16:20-17:25. As Dr. Welch testified, a PHOSITA would understand that "everything taught in [Itaya] could be realized at a variety of scales and probably was." **Ex. 2051**, *Welch Dec. 17 Tr.* at 17:16-20.

4.   PO's characterizations of this testimony are not accurate. The quotation included in PO's motion is not Dr. Welch opining on what the document "shows," as PO suggests. *See* **Ex. 2051**, *Welch Dec. 17 Tr.* at 19:3-12. Dr. Welch was simply asked to read a portion of the document into the record. *Id.*; *see also* **Ex. 1051**, *AMD Specification Sheet* at p. 2. The purpose of Dr. Welch's supplemental declaration on this point was simply to show that Mr. Lim's assumption that Intel/AMD x86 based processors would not work on anything other than a PC was unfounded. *See* **Ex. 1042**, *Welch Supp. Decl.* at ¶ 19. Nothing in this testimony or in the document contradicts Dr. Welch's opinion or supports Mr. Lim's assumption. *See* **Ex. 2051**, *Welch Dec. 17 Tr.* at 19:3-12. Further, nothing in this testimony contradicts Dr. Welch's other opinions that other processor families supported I/O controllers for small handheld devices. *See* **Ex. 1042**, *Welch Supp. Decl.* at ¶ 20.

5.   PO's observation is not relevant. Petitioner has not argued, and Dr. Welch has not opined, that Aebli teaches an input controller inside a mobile phone. *See generally* **Paper 21**, *Petitioner's Reply*; **Ex. 1042**, *Welch Supp. Decl.* at ¶ 21; **Ex. 2051**, *Welch Dec. 17 Tr.* at 20:11-21:14. Rather, Dr. Welch simply opines that Aebli "provides a further example of handheld devices using input controllers…." **Ex. 1042**, *Welch Supp. Decl.* at ¶ 21. Nothing in this testimony contradicts or limits Dr. Welch's opinion. **Ex. 2051**, *Welch Dec. 17 Tr.* at 20:11-21:14.

6.   PO's characterizations of this testimony are not accurate. Once again, in the testimony cited in PO's observation, Dr. Welch was simply asked to read into the record a portion of the document. *See* **Ex. 2051**, *Welch Dec. 17 Tr.* at 23:10-27:13. Dr. Welch testified that this discussion in Willner was referring to the specific example of chording to generate alphabetic characters, and even that limited example allowed for some use of chording. *See id.* PO's assertion that Pallakoff and Willner have opposite teachings about depressing multiple keys is not supported by this testimony (or any other evidence in the record). *See id.*

Respectfully submitted,
ERISE IP, P.A.

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