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Paper 32
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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 IPR2015-00396
Patent 7,218,313 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 and 3–14 of U.S. Patent No. 7,218,313 B2 are unpatentable.

A. Procedural History

Petitioner, Sony Computer Entertainment America LLC, filed a Petition requesting an *inter partes* review of claims 1 and 3–14 of U.S. Patent No. 7,218,313 B2 (Ex. 1001, "the '313 patent"). Paper 2 ("Pet."). Patent Owner, Aplix IP Holdings Corporation, filed a Preliminary Response. Paper 10 ("Prelim. Resp."). Upon consideration of the Petition and Preliminary Response, on June 22, 2015, we instituted an *inter partes* review of claims 1 and 3–14, pursuant to 35 U.S.C. § 314. Paper 11 ("Dec.").

Subsequent to institution, Patent Owner filed a Patent Owner Response (Paper 15 ("PO Resp.")) and Petitioner filed a Reply (Paper 21 ("Pet. Reply")). Patent Owner filed a Motion for Observations (Paper 25) and Petitioner filed a Response to the Observations (Paper 29). An oral hearing was held on January 19, 2016, and a transcript of the hearing is included in the record (Paper 31; "Tr.").

B. Related Proceedings

The '313 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 '313 Patent

The '313 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, 1:5–11. 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, claim 1 is the only independent claim. Claims 3–14 depend either directly or indirectly from claim 1.

Claim 1, reproduced below, is illustrative.

1. A hand-held electronic device comprising:

a memory configured to store a plurality of applications, wherein each application is associated with a set of functions;

a processor configured to process a selected one of the plurality of applications;

a first input assembly having a plurality of input elements on a first surface configured to receive input from a human user through manipulation of the plurality of input elements, wherein at least one of the input elements on the first surface is configured to selectively map to one or more input functions of the set of functions associated with the selected one of the plurality of applications;

a second input assembly having one or more input elements on a second surface configured to be manipulated by one or more of the human user's fingers, wherein at least one of the input elements on the second surface is further configured to be selectively mapped to one or more input functions of the set of functions corresponding to the selected one of the plurality of applications, further wherein the plurality of input elements on the first surface and the one or more input elements on the second surface are arranged so as to substantially optimize a biomechanical effect of the human user's hand; and

wherein at least one of the input elements of the second input assembly is a sensor pad configured to selectively represent a plurality of delineated active areas, wherein manipulation of a delineated active area causes the input function of one or more input elements of the first input assembly to change.

Ex. 1001, 15:46–16:10.

E. Grounds of Unpatentability

We instituted an *inter partes* review of claims 1 and 3–14 on the following grounds:

Claims	Basis	References
1, 3, 5, 6, 8–10, and 12	§ 103(a)	Pallakoff,[1] Ishihara,[2] and Martin[3]
4	§ 103(a)	Pallakoff, Ishihara, and Liebenow[4]
7	§ 103(a)	Pallakoff, Ishihara, and Armstrong[5]
11	§ 103(a)	Pallakoff, Ishihara, and Willner[6]
13 and 14	§ 103(a)	Pallakoff, Ishihara, and Hedberg[7]

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).

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[1] Pallakoff, US 2002/0163504 A1, Pub. Nov. 7, 2002 (Ex. 1006).
[2] Ishihara, JP 2002/77357, Pub. Mar. 15, 2002 (Ex. 1007).
[3] Martin et al., US 6,563,487 B2, Iss. May 13, 2003 (Ex. 1009).
[4] Liebenow et al., US 2002/0118175 A1, Pub. Aug. 29, 2002 (Ex. 1008).
[5] Armstrong, US 6,469,691 B1, Iss. Oct. 22, 2002 (Ex. 1010).
[6] Willner et al., US 5,874,906, Iss. Feb. 23, 1999 (Ex. 1011).
[7] Hedberg, PCT WO 99/18495, Pub. Apr. 15, 1999 (Ex. 1012).

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. 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) ("[L]imitations 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: "a plurality of delineated active areas" (claim 1) and "substantially optimize a biomechanical effect of the human user's hand" (claim 1). Pet. 6–10. In our Decision to Institute, we determined that it was not necessary to construe "a plurality of delineated active areas" (claim 1) and agreed with Petitioner's construction for "substantially optimize a biomechanical effect of the human user's hand" (claim 1). Dec. 6–7. Neither party has indicated that our determinations in that regard were improper and we do not perceive any

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