

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 IPR2015-00476
Patent 7,218,313 B2

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

MOORE, *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 21–24, 26–29, 52–56 and 58–60 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 21–24, 26–29, 52–56, and 58–60 of U.S. Patent No. 7,218,313 B2 (Ex. 1001, “the ’313 patent”). Paper 2 (“Pet.”). Patent Owner, Aplix 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 21–24, 26–29, 52–56, and 58–60 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. 59–60.

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, remote controls having a keypad or one or more input elements. Ex. 1001, 1:5–11, 7:7–11. 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, claims 21 and 52 are the only independent claims. Claims 22–24 and 26–29 directly or indirectly depend either from claim 21 and claims 53–56 and 58–60 directly or indirectly depend from claim 52.

Claim 21, reproduced below, is illustrative.

21. A method for configuring a human interface and input system for use with a hand-held electronic device configured to run a plurality of applications, each application associated with a set of functions, the method comprising:

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

disposing on a second surface a second input assembly having one or more input elements configured to be manipulated by one or more of the human user's fingers, wherein at least one of the input elements of the second input assembly is further configured to selectively map to one or more input functions associated with the selected application; and

arranging the plurality of input elements of the first input assembly and the one or more input elements of the second input assembly to substantially optimize a biomechanical effect of the human user's hand.

Ex. 1001, 17:50–18:6.

E. Grounds of Unpatentability

We instituted an *inter partes* review of claims 21–24, 26–29, 52–56, and 58–60 on the following grounds:

Claims	Basis	References
21–24, 26, 52–56, and 58	§ 103(a)	Pallakoff ¹ and Liebenow ²
27	§ 103(a)	Pallakoff and Armstrong ³
28, 29, 59, and 60	§ 103(a)	Pallakoff and Hedberg ⁴

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,

¹ US 2002/0163504 A1, Nov. 7, 2002 (Ex. 1004).

² US 2002/0118175 A1, Aug. 29, 2002 (Ex. 1005).

³ US 6,469,691, Oct. 22, 2002 (Ex. 1007).

⁴ WO 99/18495, Apr. 15, 1999 (Ex. 1008).

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) (“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: “a plurality of delineated active areas” (claims 24 and 56) and “substantially optimize a biomechanical effect of the human user’s hand” (claims 21 and 52). Pet. 6–10. In our Decision to Institute, we determined that it was not necessary to construe “a plurality of delineated active areas” and “substantially optimize a biomechanical effect of the human user’s hand.” Dec. 6–7. Neither party has indicated that our determination in that regard was improper and we do not perceive any reason or evidence that now compels any deviation from our initial determination. Additionally, no other terms need to be construed explicitly for the purpose of this Decision.

C. Obviousness Over Pallakoff and Liebenow

Petitioner asserts that claims 21–24, 26, 52–56, and 58 are unpatentable under 35 U.S.C. § 103(a) as obvious over the combination of Pallakoff and Liebenow. Pet. 37. To support its contentions, Petitioner provides detailed explanations as to how the prior art meets each claim

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