

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 No. IPR2015-00533  
Patent 7,218,313

---

**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 ¶ 13.* 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 ¶¶ 2-15; 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 ¶¶ 2-15.* 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 ¶ 9; **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 ¶ 48. 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 ¶ 49.

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 ¶ 49; **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 ¶ 49. Nothing in this testimony contradicts or limits Dr. Welch's opinion. **Ex. 2051**, *Welch Dec. 17 Tr.* at 20:11-21:14.

Respectfully submitted,  
ERISE IP, P.A.

BY: /Abran J. Kean/  
Eric A. Buresh, Reg. No. 50,394  
Abran J. Kean, Reg. No. 58,540  
6201 College Blvd., Suite 300  
Overland Park, KS 66211  
P: (913) 777-5600  
F: (913) 777-5601  
eric.buresh@eriseip.com  
abran.kean@eriseip.com

*ATTORNEYS FOR PETITIONER*

**CERTIFICATE OF SERVICE ON PATENT OWNER**  
**UNDER 37 C.F.R. § 42.6**

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies that on January 8, 2016 the foregoing *Petitioner's Response to Patent Owner's Motion for Observation* was served via electronic filing with the Board on the following counsel of record for Patent Owner:

Michael Mauriel, USPTO Reg. No. 44,226  
Sherman W. Kahn (pro hac vice)  
MAURIEL KAPOUYTIAN WOODS LLP  
15 West 26<sup>th</sup> Street, 7th Floor  
New York, NY 10010  
Telephone: (212) 529-5131 Ex. 101  
Facsimile: (212) 529-5132  
E-mail: mmauriel@mkwllp.com  
skahn@mkwllp.com

Robert J. Gilbertson (pro hac vice)  
Sybil L. Dunlop (pro hac vice)  
X. Kevin Zhao (pro hac vice)  
GREENE ESPEL PLLP  
222 South Ninth Street, Ste. 2200  
Minneapolis, MN 55402  
Telephone: (612) 373-0830  
Facsimile: (612) 373-0929  
E-mail: bgilbertson@greeneespel.com  
sdunlop@greeneespel.com  
kzhao@greeneespel.com

Dated: January 8, 2016

Respectfully submitted,  
ERISE IP, P.A.

BY: /Abran J. Kean/  
Eric A. Buresh, Reg. No. 50,394  
Abran J. Kean, Reg. No. 58,540

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.