

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 IPR2015-00533  
Patent 7,218,313 B2

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

CHUNG, *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 15, 16, 20, 37–42, and 44–51 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 15, 16, 20, 37–42, and 44–51 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 15, 16, 20, 37–42, and 44–51, 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 (“Reply”)). Patent Owner filed a Motion for Observations (Paper 26) 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, 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, claims 15 and 37 are the only independent claims. Claims 16 and 20 depend directly from claim 15 and claims 38–42 and 44–51 depend either directly or indirectly from claim 37.

Claim 37, reproduced below, is illustrative.

37. 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 disposed on a first surface of the electronic device, wherein the first input assembly comprises a plurality of input elements configured to be actuated by a human user's hand, wherein at least one of the input elements of the first input assembly is configured to map to one or more input functions of the set of functions associated with the selected one of the plurality of applications; and

a second input assembly disposed on a second surface so as to substantially optimize a biomechanical effect of the human user's hand, wherein the second input assembly comprises 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 a selectively configurable sensing surface so as to provide a plurality of delineated active areas, further wherein one or more of the delineated active areas is mapped to one or more functions associated with the selected application, further wherein the memory is further configured to store for each application a mapping of the selectively configurable sensing surface to the plurality of delineated active areas.

Ex. 1001, 19:56–20:17.

*E. Grounds of Unpatentability*

We instituted an *inter partes* review of claims 15, 16, 20, 37–42, and 44–51 on the following grounds:

<b>Claims</b>	<b>Basis</b>	<b>References</b>
15 and 20	§ 103(a)	Pallakoff <sup>1</sup> and Ishihara <sup>2</sup>
16	§ 103(a)	Pallakoff, Ishihara, and Liebenow <sup>3</sup>
37–42, 46, and 49	§ 103(a)	Liebenow and Ishihara
44, 45, 47, and 48	§ 103(a)	Liebenow and Armstrong <sup>4</sup>
50 and 51	§ 103(a)	Liebenow and Hedberg <sup>5</sup>

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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<sup>1</sup> U.S. Patent Publication No. 2002/0163504 A1, published Nov. 7, 2002 (Ex. 1004, “Pallakoff”)

<sup>2</sup> JP 2002-77357, Mar. 15, 2002 (Ex. 1005, “Ishihara”)

<sup>3</sup> U.S. Patent Publication No. 2002/0118175 A1, published Aug. 29, 2002 (Ex. 1003, “Liebenow”)

<sup>4</sup> U.S. Patent No. 6,102,802, Aug. 15, 2000 (Ex. 1006, “Armstrong”)

<sup>5</sup> WO 1999/18495, Apr. 15, 1999 (Ex. 1007, “Hedberg”)

*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 a construction for the terms “substantially optimize a biomechanical effect of the human user’s hand,” (claims 15 and 37) “delineated active areas,” (claim 37) “a game function that is substantially optimized for actuation by the human user’s thumb,” (claim 44) and “a game function that is substantially optimized for actuation by one or more of the human user’s fingers” (claim 46). Pet. 7–13. In our Decision to Institute, we determined that it was not necessary to construe “delineated active area” (claims 3, 5, and 13) and agreed with Petitioner’s construction

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