

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 IPR2015-00533
Patent 7,218,313 B2

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

CHUNG, *Administrative Patent Judge*.

DECISION
Institution of *Inter Partes* Review
37 C.F.R. § 42.108

I. INTRODUCTION

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.”). In response, Patent Owner, Aplix IP Holdings Corporation, filed a Preliminary Response. Paper 10 (“Prelim. Resp.”). We have jurisdiction under 35 U.S.C. § 314, which provides that an *inter partes* review may not be instituted “unless . . . the information presented in the petition . . . shows that there is a reasonable likelihood that the petitioner would prevail with respect to at least 1 of the claims challenged in the petition.”

For the reasons set forth below, we institute an *inter partes* review of claims 15, 16, 20, 37–42, and 44–51 of the ’313 patent.

A. Related Matter

The ’313 patent is involved in the following lawsuit: *Aplix IP Holdings Corporation v. Sony Computer Entertainment, Inc. et al.*, No. 1:14-cv-12745 (MLW) (D. Mass.). Pet. 59.

B. 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.

C. 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.

D. Prior Art Relied Upon

Petitioner relies upon the following prior art references:

Liebenow	US 2002/0118175 A1	Aug. 29, 2002	(Ex. 1003)
Pallakoff	US 2002/0163504 A1	Nov. 7, 2002	(Ex. 1004)
Ishihara	JP 2002-77357	Mar. 15, 2002	(Ex. 1005)
Armstrong	US 6,469,691	Oct. 22, 2002	(Ex. 1006)
Hedberg	WO 1999/18495	Apr. 15, 1999	(Ex. 1007)

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Challenged Claims	Basis	References
37–39 and 49	§ 102(b)	Liebenow
15, 20, 37, and 49	§ 103(a)	Pallakoff and Ishihara
15, 16, 20, 37–42, 46, and 49	§ 103(a)	Pallakoff, Ishihara, and Liebenow
37–42, 46, and 49	§ 103(a)	Liebenow and Ishihara
37–41 and 44–49	§ 103(a)	Liebenow and Armstrong
37–39 and 49–51	§ 103(a)	Liebenow and Hedberg
15, 20, 37, and 49–51	§ 103(a)	Pallakoff, Ishihara, and Hedberg

II. ANALYSIS

A. Claim Construction

In an *inter partes* review, claim terms in an unexpired patent are given 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*, 778 F.3d 1271, 1281–1282 (Fed. Cir. 2015) (“Congress implicitly adopted the broadest reasonable interpretation standard in enacting the AIA,” and “the standard was properly adopted by PTO regulation.”). Under the broadest reasonable interpretation standard, claim terms are given their ordinary and customary meaning as would be understood by one of ordinary skill in the art in the context of the entire disclosure. *In re Translogic Tech., Inc.*, 504 F.3d 1249, 1257 (Fed. Cir. 2007).

1. “*substantially optimize a biomechanical effect of the human user’s hand*” (claims 15 and 37)

Petitioner proposes that “substantially optimize a biomechanical effect of the human user’s hand,” (claims 15 and 37) should be construed as “any configuration designed to take advantage of any biomechanical effect.” Pet. 7–10. At this juncture, Patent Owner argues that Petitioner fails to demonstrate why construction of the phrase is necessary. Prelim. Resp. 21–25. We have reviewed Petitioner’s proposed construction and portions of the Specification of the ’313 patent that Petitioner relies on for the proposed construction. Based on the record before us at this juncture, we determine that Petitioner’s proposed construction is consistent with the broadest

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