

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 IPR2015-00729
Patent 7,280,097 B2

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

MOORE, *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 corrected Petition requesting an *inter partes* review of claims 1–14, 16–19, 21–32, and 34–38 of U.S. Patent No. 7,280,097 B2 (Ex. 1001, “the ’097 patent”). Paper 4 (“Pet.”). In response, Patent Owner, Aplix IP Holdings Corporation, filed a Preliminary Response. Paper 12 (“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 1–14, 16–19, 21–32, and 34–38 of the ’097 patent.

A. Related Matter

The ’097 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 ’097 Patent

The ’097 patent relates to hand-held input acceleration devices that interface with electronic devices, such as cell phones, personal digital assistants (“PDAs”), pocket personal computers, smart phones, hand-held game devices, bar-code readers, MP3 players, and other similar input devices having a keypad or one or more input elements. Ex. 1001, 1:11–18.

The hand-held input acceleration device transfers data bi-directionally with a hand-held host device. *Id.* at Abstract.

C. Illustrative Claim

Claims 1, 16, and 27 are only independent claims. Claims 2–14, 17–19, 21–26, 28–32, and 34–38 depend from one of claims 1, 16, and 27.

Claim 1, reproduced below, is illustrative.

1. An input accelerator device for controlling a hand-held host device, the input accelerator device comprising:

a communication channel configured to interface with the hand-held host device;

an input assembly comprising a plurality of input elements, each input element being configured to be selectively mapped to one or more functions of a software application in order to minimize actuation required of at least one input element of the hand-held host device; and

an input controller communicatively coupled to the input assembly and the communication channel, the input controller being configured to generate an input signal upon actuation of at least one of the plurality of input elements and being further configured to relay the input signal to the communication channel for transmission to the hand-held host device to control execution of the one or more functions of the software application mapped to the actuated input element.

Ex. 1001, 20:31–50.

D. Prior Art Relied Upon

Petitioner relies upon the following prior art references:

Mollinari	WO 2004/007041 A2	Jan. 22, 2004	(Ex. 1003)
Nishiumi	US 5,903,257	May 11, 1999	(Ex. 1004)
Tu	US 2004/0139254 A1	July 15, 2004	(Ex. 1005)
Shima	US 2002/0198030 A1	Dec. 26, 2002	(Ex. 1006)

Kerr US 2004/0137983 A1 July 15, 2004 (Ex. 1007)
Lum US 2005/0221894 A1 Oct. 6, 2005 (Ex. 1008)

E. Asserted Grounds of Unpatentability

Petitioner asserts the following grounds of unpatentability:

Challenged Claims	Basis	References
1, 13, 14, 16, 17, 25–28, and 36–38	§ 102(b)	Mollinari
1–4, 7, 8, 13, 14, 16–18, 21, 23–29, 31, and 34–38	§ 103(a)	Mollinari and Nishiumi
1–4, 6–8, 13, 14, 16–18, 21–32, and 34–38	§ 103(a)	Mollinari, Nishiumi, and Tu
1–5, 7, 9, 16–19, 21, 23, 27–31, and 34	§ 102(b)	Shima
1, 10–14, 16, 17, 25–28, and 36–38	§ 102(b)	Kerr
1 and 10–12	§ 103(a)	Kerr and Lum

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). At this juncture, we do not need to explicitly construe any term.

B. Principles of Law

Anticipation requires the disclosure in a single prior art reference of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984). A patent claim is unpatentable under 35 U.S.C. § 103(a) if the differences between the claimed subject matter and the prior art are such that the subject matter, as a whole, would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. *KSR Int'l Co. v. Teleflex Inc.*, 550 U.S. 398, 406 (2007). The question of obviousness is resolved on the basis of underlying factual determinations including: (1) the scope and content of the prior art; (2) any differences between the claimed subject matter and the prior art; (3) the level of ordinary skill in the art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17–18 (1966).

In that regard, an obviousness analysis “need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ.” *KSR*, 550 U.S. at 418; *see also Translogic*, 504 F.3d at 1259. A prima facie case of obviousness is

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