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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and MICROSOFT MOBILE INC.,
Petitioners

v.

GLOBAL TOUCH SOLUTIONS, LLC
Patent Owner

Case IPR2015-01149
Patent No. 7,329,970 B2

PATENT OWNER'S RESPONSE, 37 C.F.R. §42.120

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I. INTRODUCTION

Petitioners challenge claims 1, 3-5, 10-14, 19, 48, 49, 51, and 52 of U.S. Patent No. 7,329,970 (hereinafter “the ‘970 Patent”) as obvious 35 USC §103(a) over a combination of two (2) references, U.S. Patent No. 6,125,286, (hereinafter referred to “Jahagirdar”) taken in view of U.S. Patent No. 4,053,789, (hereinafter referred to as “Schultz”). Patent Owner Global Touch Solutions, LLC (hereinafter referred to “PO”) opposes that Petition, and responds herein to the Petition on four separate bases.

First, the combination of references does not disclose or suggest a luminous visible location indicator as recited in claim 1. Petitioners and Dr. Horenstein appear to ignore the location indicating function of the luminous visible location indicator. However, each operation of display element 516 of Jahagirdar (the alleged luminous visible location indicator) requires a touching of the mobile station 102 such that the location of the mobile station 102 is necessarily known by the user. The indicated location may be, for example, a location of the device or a location of an area for touch input. In order for a location to be indicated, however, the location must be at least partially unknown. And, if a user is touching the device, the user necessarily knows the location of the device.

Second, the combination of references is not one that would be made by those of skill in the art. Indeed, the motivation for combination that is advanced by Petitioners and their expert – reduction of inadvertent actuation – is in fact exacerbated by the proposed substitution. Because virtually any touch of an animal (human or pet) actuates the touch switch, causing it to send a signal, and because the flip phone of the principal reference requires switches to be on the exterior of the phone – simply picking up the phone to use it guarantees the occurrence of inadvertent actuation. If in fact one wishes to minimize contamination and similar factors addressed by Petitioners’ expert Horenstein, other solutions, such as membrane switches, were known to those of skill in the art as suitable substitutes. The combination of art is one made in hindsight, propelled by the clear description in the ‘970 Patent of the value of a marriage of technologies not previously made.

Third, even if one accepts the combination at face value, the requirements of independent Claims 1 and 52 are not met. Claims 1 and 52 provide a requirement that a visible indicator be provided that is activated in response to a microchip receiving a user interface switch signal when the load is not activated by the user. In claim 1, this feature is provided as an alternative requirement, and such alternative requirement is selected in dependent claims 3-5, 10-14, and 19.

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