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Paper 45
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

MICROSOFT CORPORATION and MICROSOFT MOBILE, INC.,
Petitioner,

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner.

Case IPR2015-01149
Patent 7,329,970 B2

Before JUSTIN BUSCH, LYNNE E. PETTIGREW, and BETH Z. SHAW, *Administrative Patent Judges*.

PETTIGREW, *Administrative Patent Judge*.

FINAL WRITTEN DECISION
35 U.S.C. § 318(a) and 37 C.F.R. § 42.73

I. INTRODUCTION

In this *inter partes* review, instituted pursuant to 35 U.S.C. § 314, Microsoft Corporation and Microsoft Mobile, Inc. (collectively, "Petitioner") challenge the patentability of claims 1, 3–5, 10–14, 19, 48, 49,

51, and 52 ("the challenged claims") of U.S. Patent No. 7,329,970 B2 (Ex. 1001, "the '970 patent"), owned by Global Touch Solutions, LLC ("Patent Owner"). We have jurisdiction under 35 U.S.C. § 6. This Final Written Decision is entered pursuant to 35 U.S.C. § 318(a) and 37 C.F.R. § 42.73. For the reasons discussed below, Petitioner has shown by a preponderance of the evidence that claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent are unpatentable.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of the challenged claims of the '970 patent. Paper 1 ("Pet."). Patent Owner did not file a Preliminary Response. On November 17, 2015, we instituted an *inter partes* review of the challenged claims of the '970 patent on the sole ground of unpatentability asserted by Petitioner—obviousness over the combination of Jahagirdar[1] and Schultz.[2] Paper 12 ("Institution Decision" or "Dec."). After institution, Patent Owner filed a Patent Owner Response, Paper 17 ("PO Resp."), and Petitioner filed a Reply to the Patent Owner Response, Paper 20 ("Pet. Reply"). A consolidated hearing for this case and several others was held on August 4, 2016. A transcript of the hearing has been entered into the record. Paper 42 ("Tr.").

B. Related Matters

Petitioner identifies the following district court proceedings that may be affected by a decision in this proceeding: *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 3:15cv2750-JD (N.D. Cal.); *Global Touch Solutions,*

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[1] U.S. Patent No. 6,125,286, issued Sept. 26, 2000 (Ex. 1004, "Jahagirdar").
[2] U.S. Patent No. 4,053,789, issued Oct. 11, 1977 (Ex. 1005, "Schultz").

LLC v. VIZIO, Inc., No. 3:15cv2747-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Apple Inc.*, No. 3:15cv2748-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Motorola Mobility LLC*, No. 3:15cv2749-JD (N.D. Cal.). Paper 7, 3. Petitioner also filed petitions for *inter partes* review of related U.S. Patent Nos. 7,994,726 B2 (IPR2015-01147), 7,498,749 B2 (IPR2015-01148), 7,781,980 B2 (IPR2015-01150), and 8,288,952 B2 (IPR2015-01151). *See* Pet. 4. Trials were instituted in those proceedings as well. The parties also identify as a related matter IPR2015-01173, which is a petition for *inter partes* review of the '970 patent filed by a different petitioner. *Id.* at 4–5; Paper 4, 2.

C. The '970 Patent

The '970 patent is directed to portable electronic devices that operate on exhaustible power sources such as batteries. Ex. 1001, Abstract. The '970 patent describes using a microchip-controlled switch that manages both current-conducting and user-interface functions in an electronic device such as a flashlight without the switch itself conducting current to the load. *Id.* at 3:41–46. A visible indicator such as a light emitting diode (LED) can be used to indicate the condition of the battery. *Id.* at 9:47–55, Fig. 11.

D. Illustrative Claim

Among the challenged claims, only claims 1 and 52 are independent. Claim 1 is illustrative and reads:

> 1. An electronic module for use with a product comprising an energy consuming load and a power source or a connection to a power source, said module comprising a microchip, and a switch;
>
> said switch being a user interface and does not form a serial link in a circuit that transfers power from the power source to power the load, and said microchip controlling a

> luminous visible location indicator that is not the load according to at least one configuration selected from the following group:
>
> a) wherein the visible indicator at least indicates a condition of the product upon receiving a signal from the user interface switch, and wherein the switch is a touch sensor type switch;
>
> b) wherein the visible indicator is activated at least to indicate an activation signal from the switch when the load is not activated; and
>
> c) wherein the visible indicator is also used to indicate a power level of the power source when the load is switched off and the product is not connected to a mains supply.

Id. at 13:60–14:13.

II. DISCUSSION

A. Claim Construction

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 Cuozzo Speed Techs., LLC v. Lee*, 136 S. Ct. 2131, 2144 (2016) (holding that 37 C.F.R. § 42.100(b) "represents a reasonable exercise of the rulemaking authority that Congress delegated to the Patent Office"). 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). 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).

In the Institution Decision, we adopted Petitioner's proposed construction of "not connected to a mains supply," recited in claim 1, as "not connected to the AC utility wiring system of a building." Dec. 5. Patent Owner does not challenge that construction. After considering the complete record, we maintain this construction of "not connected to a mains supply" for this Final Written Decision. To the extent it is necessary for us to construe any additional claim terms in this decision, we do so below in the context of analyzing whether the prior art renders the claims unpatentable.

B. Obviousness over Jahagirdar and Schultz

Petitioner contends that claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar and Schultz. Pet. 25–59. Relying in part on the testimony of Dr. Mark N. Horenstein, Petitioner explains how the combination of Jahagirdar and Schultz allegedly teaches all of the claim limitations and contends a person having ordinary skill in the art would have been motivated to combine the teachings of the references. *Id.* (citing Ex. 1012).

We have reviewed the Petition, Patent Owner Response, and Petitioner's Reply, as well as the relevant evidence discussed therein. For the reasons that follow, we determine Petitioner has shown by a preponderance of the evidence that the challenged claims would have been obvious in view of the combination of Jahagirdar and Schultz.

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