

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.*

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

I. INTRODUCTION

Microsoft Corporation and Microsoft Mobile, Inc. (collectively,
“Petitioner”) filed a Petition for *inter partes* review of claims 1, 3–5, 10–14,

IPR2015-01149
Patent 7,329,970 B2

19, 48, 49, 51, and 52 (“the challenged claims”) of U.S. Patent No. 7,329,970 B2 (Ex. 1001, “the ’970 patent”). Paper 1 (“Pet.”). Global Touch Solutions, LLC (“Patent Owner”) did not file a Preliminary Response. Institution of an *inter partes* review is authorized by statute when “the information presented in the petition . . . and any response . . . 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.” 35 U.S.C. § 314(a); *see* 37 C.F.R. § 42.108. Upon consideration of the Petition, we conclude the information presented shows there is a reasonable likelihood that Petitioner would prevail in establishing the unpatentability of claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the ’970 patent.

A. 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., et al.*, No. 3:15cv2750-JD (N.D. Cal.); *Global Touch Solutions, LLC v. Toshiba Corp.*, No. 3:15cv2746-JD (N.D. Cal.); *Global Touch Solutions, 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 has filed petitions for *inter partes* review of related U.S. Patent Nos. 8,035,623 (IPR2015-01023), 7,772,781 (IPR2015-01024), 7,265,494 (IPR2015-01025), 7,994,726 (IPR2015-01147), 7,498,749 (IPR2015-01148), 7,781,980 (IPR2015-01150), and 8,288,952 (IPR2015-01151). *See* Pet. 4. 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. Pet. 4–5; Paper 4, 2.

B. 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.

C. 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.

D. Asserted Grounds of Unpatentability

Petitioner contends that claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent are unpatentable under 35 U.S.C. § 103(a) as obvious over Jahagirdar¹ and Schultz.² Pet. 25–59. In its analysis, Petitioner relies on the declaration testimony of Dr. Mark N. Horenstein. *See* Ex. 1012.

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). 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).

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”).

Petitioner proposes constructions for “does not form a serial link” and “not connected to a mains supply.” Pet. 11–13. For purposes of this decision, we determine that only the second term requires express construction.

Petitioner contends that the broadest reasonable construction of “not connected to a mains supply,” recited in claim 1, is “not connected to the AC utility wiring system of a building.” *Id.* at 12. As Petitioner points out, the written description of the ’970 patent does not use the term “not connected to a mains supply.” *Id.* Petitioner relies on Dr. Horenstein’s declaration testimony to support its proposed construction. *Id.* (citing Ex. 1012 ¶¶ 27–28). For purposes of this decision, we adopt Petitioner’s proposed construction as the broadest reasonable construction consistent with the Specification of the ’970 patent.

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 on the testimony of Dr. 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).

1. Jahagirdar

Jahagirdar describes a mobile phone that has a microchip-controlled user interface and mechanical push-button switches. Ex. 1004, 3:59–67; Ex. 1012 ¶ 31. Figures 1 and 2 of Jahagirdar (with Petitioner’s annotations) are reproduced below:

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.