Filed on behalf of: Apple Inc., *et al.*

Entered: June 6, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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APPLE INC., MOTOROLA MOBILITY LLC, and
TOSHIBA AMERICA INFORMATION SYSTEMS, INC.,
Petitioner

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner

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Case IPR2015-01173
U.S. Patent No. 7,329,970 B2

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

**PETITIONERS' REPLY IN SUPPORT OF THEIR PETITION FOR
INTER PARTES REVIEW OF U.S. PATENT NO. 7,329,970**

Case IPR2015-01173
U.S. Patent No. 7,329,970

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I. INTRODUCTION

Patent Owner Global Touch Solutions, LLC's opposition is noteworthy for what it does not say. Global Touch does not dispute that all the basic technical elements of its alleged invention were known and used by those skilled in the field of portable, battery-powered devices in the late 1990s: batteries, switches, microchips, touch sensors. Global Touch and its expert also nowhere dispute that there was ample motivation among those in the field to combine references with complementary disclosures to solve the familiar problem of how to readily determine and indicate to a user the remaining battery power in a portable device.

Rather, Global Touch attempts to save its patent by arguing, contrary to Federal Circuit precedent, that it would not have been obvious to combine the functions of two general purpose microchips in a single microchip. This is incorrect, and Global Touch confuses the standard for anticipation with that for obviousness. Further, Global Touch attempts to narrowly construe "location indicator" to exclude the activation of such an indicator by a touch sensor—which contradicts the claims and specification, and would not save the claims from invalidity. Finally, Global Touch distorts the word "function" in an attempt to avoid the prior art, relying on a tortured reading of the claims that is factually and legally unsound. These flawed arguments should be rejected and the Board should invalidate all of the challenged claims of the '970 patent.

II. THE PRIOR ART RENDERS OBVIOUS USING THE MICROCHIP TO CONTROL THE CONNECTION OF THE POWER SOURCE TO THE LOAD AND THE ACTIVATION OF THE INDICATOR.

Claim 52 of the '970 patent recites "using the microchip to control the connection of the power source to the load and the activation of the indicator." Global Touch does not dispute that the prior art Beard and Danielson patents, which have common inventors, were assigned to the same company, and which together describe the same Pen*Key device, disclose microchips that perform both functions: controlling the connection of the power source to the load and controlling the activation of the indicator. Instead, Global Touch argues that, because these references do not disclose *the same* microchip performing both functions, it would not have been obvious to implement both functions in the same microchip. (*Id.*) This argument is contrary to controlling law, misses the point, and should be rejected.

Beard describes an intelligent battery pack with a general purpose microchip. (Paper No. 4, "Petition" at 11-12 (citing Ex. 1005, "Beard" at 1:18-21).) It discloses that this microchip controls activation of the visible indication. (*Id.* at 56 (citing Beard at 7:59-63, Fig. 7, 11:14-22 and Fig. 11).) Danielson describes a portable electronic device that also has a general purpose microchip and that is powered by an intelligent battery pack like the one disclosed in Beard. (Petition at 17 (citing Ex. 1007, "Danielson" at Fig. 2).) Danielson discloses that

the microchip can be programmed to control the connection of the power source to the load. (Petition at 54 (citing Danielson at 23:27-34, Fig. 22).) Thus, the prior art discloses microchips that perform both required functions, with the microchip in the battery pack performing one function and the microchip in the portable device performing the other.

It would have been obvious to implement both functions on the same microchip. In *MCM Portfolio LLC v. Hewlett-Packard Company*, the Federal Circuit addressed precisely this issue. 812 F.3d 1284, 1293-94 (Fed. Cir. 2015). The relevant claim limitation required implementing "different functionalities in[] a single chip." *Id.* at 1293. The prior art disclosed implementing this functionality across two different chips. *Id.* The Board, in an *Inter Partes* Review, held that it would have been obvious to combine the functionality "on a single chip." *Id.* The Federal Circuit affirmed the Board's conclusion. *Id.* at 1294.

The same result follows here. Just like in *MCM Portfolio*, Beard and Danielson disclose the required functionality spread across two general purpose microchips. And just like in *MCM Portfolio*, it would have been obvious to implement this function in a single microchip—here, the microchip in the battery pack. *See MCM Portfolio*, 812 F.3d at 1294; *see also In re Yufa*, 452 F. App'x 998, 1001 (Fed. Cir. 2012) (non-precedential) (affirming a conclusion by the B.P.A.I. in a reexamination that it would have been obvious to implement

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