Trials@uspto.gov
571-272-7822

Paper 55
Entered: November 16, 2016

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

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

v.

GLOBAL TOUCH SOLUTIONS, LLC,
Patent Owner.

Case IPR2015-01173
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, Apple Inc., Motorola Mobility LLC, and Toshiba America Information

Systems, 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, and 51 of the '970 patent are unpatentable, but has not shown by a preponderance of the evidence that claim 52 of the '970 patent is unpatentable.

A. Procedural History

Petitioner filed a Petition for *inter partes* review of claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent. Paper 4 ("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 all asserted grounds of unpatentability. Paper 13 ("Institution Decision" or "Dec."). After institution, Patent Owner filed a Patent Owner Response, Paper 19 ("PO Resp."), and Petitioner filed a Reply to the Patent Owner Response, Paper 25 ("Pet. Reply"). A consolidated oral hearing for this case and several others was held on August 3, 2016. A transcript of the hearing has been entered into the record. Paper 52 ("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. 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.); *Global Touch Solutions, LLC v. Microsoft Corp.*, No. 3:15cv2750-JD (N.D. Cal.). Paper 8, 1–2. Petitioner also has filed petitions for *inter partes* review of related U.S. Patent Nos. 7,994,726 B2 (IPR2015-01171), 7,498,749 B2 (IPR2015-01172), 7,781,980 B2 (IPR2015-01174), and 8,288,952 B2 (IPR2015-01175). *Id.* at 2–3. The parties also identify as a related matter IPR2015-01149, which is a petition for *inter partes* review of the '970 patent filed by a different petitioner. Paper 7, 2; Paper 8, 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. The '970 patent also describes an embodiment in which a visible indicator such as a light emitting diode (LED) may be provided to indicate the condition of the battery. *Id.* at 9:47–55, Fig. 11.

D. Illustrative Claims

Among the challenged claims, only claims 1 and 52 are independent. Claims 1 and 52 read:

> 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.

52. A method of operating a product which includes a visible luminous indicator, an energy consuming load and a power source for powering the load, the method including the steps of operating a user interface switch, that is a touch sensor type switch which is not a serial link in a circuit from the power source to the load to power the load, to control the operation of a microchip, using the microchip to control the connection of the power source to the load and the activation of the indicator, and to activate the indicator to show at least one of the following when the load is not activated: a condition of the product, an activation of the switch, and a power level of the power source.

Id. at 13:60–14:13, 16:31–42.

E. Grounds of Unpatentability Instituted for Trial

We instituted an *inter partes* review of claims 1, 3–5, 10–14, 19, 48, 49, 51, and 52 of the '970 patent on the following grounds of unpatentability:

References	Basis	Challenged Claims
Beard[1] and Rathmann[2]	35 U.S.C. § 103(a)	1, 3, 5, 10–12, 14, 19, 48, and 49
Beard, Rathmann, and Danielson[3]	35 U.S.C. § 103(a)	4, 13, 51, and 52

Dec. 13–14.

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.

[1] U.S. Patent No. 5,898,290, issued Apr. 27, 1999 (Ex. 1005, "Beard").
[2] U.S. Patent No. 5,955,869, issued Sept. 21, 1999 (Ex. 1006, "Rathmann").
[3] U.S. Patent No. 5,710,728, issued Jan. 20, 1998 (Ex. 1007, "Danielson").

DOCKET ALARM

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.